

STATE OF CONNECTICUT
DEPARTMENT OF LABOR
STATE BOARD OF MEDIATION AND ARBITRATION

ARBITRATION AWARD

In the Matter of:	:	Case No. 2021-A-00094
Town of Windsor	:	Date of Award:
And	:	
Windsor Police Department Employees Association	:	Hearing Dates: June 14, August 5, August 30, September 24, December 9, 2021
Kristen Manfredi, Grievant	:	

APPEARANCES: Kevin M. Deneen, Attorney at Law
(For the Town)
David S. Taylor and Stephen F. McEleney, Attorneys at Law
(For the Union)

I. ISSUE: (Agreed to by the Parties)

Did the Town of Windsor have Just Cause to discipline Officer Kristen Manfredi with a Written Reprimand? If not, what shall the remedy be?

II. PROCEDURAL BACKGROUND:

The Windsor Police Department Employees Association (hereinafter referred to as the "Union") filed a grievance asserting that the Town of Windsor (hereinafter referred to as the "Town") did not have just cause when it gave Officer Kristen Manfredi (hereinafter referred to as "Officer Manfredi" or the "Grievant") a written reprimand.

The grievance was not resolved and was appealed to arbitration. The Union filed a motion to remove Arbitrator Yelmini from the Panel due to residing in the Town. The

Motion was denied. All arbitration hearings were held via Zoom. Arbitrator Robert Brown served on the Panel at the June 24, August 5 and August 30 hearings. Mr. Brown was too ill to attend the hearing on September 24. Mr. Franzo was substituted for Mr. Brown for the fifth day of hearing and was provide the notes of the prior days of hearing by the Union. Mr. Franzo attended the last day of the hearing on December 9 and participated in the Executive Session and the decision in this case.

The parties have complied with the grievance and arbitration provisions of the collective bargaining agreement. This grievance is properly before the Connecticut State Board of Mediation. Both parties were provided an opportunity to offer testimony and cross-examine witnesses.

The Town and the Union both filed post hearing briefs on January 28, 2022, as agreed. The parties reserved the right to file reply briefs by February 11, which they both subsequently declined. The Panel held an Executive Session on February 22, 2022, via ZOOM.

III. STATEMENT OF FACTS:

Officer Manfredi had been employed for approximately nine (9) years as a Patrol Officer with the Town and had no prior discipline at the time of the incident. Prior to that time, she had been a military police officer for thirteen (13) years.

On January 17, 2020, Officer Manfredi was on patrol on the day shift. Administrators of Sage Park Middle School called Police indicating that a thirteen (13) year old black male student had left school without permission. Apparently, no other information was provided to the Dispatcher who received the call as to why the student

left the school and/or why the administrators were calling the Police asking for assistance. Testimony was provided that it was unusual for the school to call the Police when a student merely walked away from school.

Dispatch placed an alert and Officer Manfredi responded. Eventually other officers also responded. As Dispatch received no other information, no information was provided to the officers, including Officer Manfredi. The student was described as wearing a red hoodie.

Officer Manfredi located an individual fitting the description provided. She stopped her vehicle and pursued the individual on foot. [The interaction between the Grievant and the individual was recorded on her dashcam.] The juvenile continued walking. Eventually the Grievant stepped in front of the juvenile and placed her hand on his upper arm. The Chief and Captain Powers testified that this action was not inappropriate. The Grievant asked the individual to identify himself and he refused.

Officer Izquierdo arrived on the scene next followed quickly by Officer Johnson, the school resource officer. Two (2) or three (3) school personnel arrived (nonpolice) and looking at the various videos, it does not appear that they identified themselves as such. Officer Izquierdo testified that he did not know they were school personnel.

The Grievant attempted to have the juvenile get into Officer Johnson's vehicle to be returned to school and he refused. She then said word to the effect "Get in the damn car" and he objected to her language. Officer Izquierdo testified that he believed the juvenile was getting out of control and that he was either going to run or become violent.

Officer Izquierdo then forced the juvenile up against the patrol car. Officer Izquierdo indicated to the Grievant that she should handcuff the juvenile, which she did.

The juvenile was placed in Officer Johnson's vehicle and transported back to the school in handcuffs. Officer Johnson removed the handcuffs once they arrived back at the school. The juvenile's mother was at the school. The mother filed a complaint solely against Officer Manfredi. The Complaint was investigated. After an inquiry was made regarding its status, the investigation was completed approximately six (6) months later.

The investigation, interviews and *Loudermill* hearing were conducted by Captain Powers who also administered the discipline. Chief Melanson made the discipline decision.

Officer Izquierdo retired in February of 2020. No one other than Officer Manfredi was disciplined in connection with the events of January 17, 2020.

IV. PERTINENT LANGUAGE FROM VARIOUS DOCUMENTS

COLLECTIVE BARGAINING AGREEMENT (Town Ex. 9)

ARTICLE IV.

SECTION 4.6. Just Cause. No employee shall be discharged, terminated, demoted, suspended or disciplined in another other manner except for just cause.

ARTICLE V. DISCIPLINARY PROCEDURE

SECTION 5.5. Arbitration Limitations. Any arbitrators shall be limited to ruling on interpretations as to the application or meaning of the terms of this Agreement, and shall have no power to add to, or subtract from, or modify any of the terms of this Agreement.

2021 Connecticut Law Enforcement Officers' Field Manual
(Town Ex. 1)

Effective August 15, 2017, truancy and defiance of school rules matters were removed from the jurisdiction of the Juvenile Court.

D. CHILDREN INVOLVED IN NON-DELINQUENT MISCONDUCT

When a police officer receives a report about a child, under age 18, who has engaged in non-delinquent misconduct, i.e., the child has run away, is beyond control, or has engaged in indecent, immoral or prohibited sexual behavior, the officer's duties are as follows:

1. promptly attempt to locate the child;
2. if located, the location of the child shall be reported to the parent or guardian;
3. The officer than **may** do one of the following:
 - a. transport the child to the home of the child's parent, guardian or other person;
 - b. ...

An officer should not attempt to forcibly take custody of a runaway person under 18 to return them home unless the person is in an environment that endangers their health, safety or welfare.

GENERAL ORDER 9.0

JUVENILE ARRESTS, DETENTION AND DIVERSION

(Union Ex. 3)

Suitable Adult: Adult in which a juvenile can be placed into the custody of when the parent or guardian is not physically available. [would include school] . . .

2. In less serious or non-criminal matters, . . . , a child can be:
 - a. Given a verbal warning and placed with a parent for discipline . . .
3. c. Transport Juveniles to Residence and:
 - 1) Release to Parent/Guardian . . .
 - d. Release Juveniles in the field to a Parent/Guardian or Suitable Adult. The parent/guardian, if possible, should be informed of the situation prior to releasing to a suitable adult.

V. DISCUSSION

According to the Union Exhibit 1 and Town Exhibit 3, Officer Manfredi received a written reprimand for grabbing the juvenile's left bicep and telling him to stop (paragraph 2), and detaining and handcuffing the student (paragraph 4). The letter claims that the "actions were against policy and not required and not necessary". Further, the letter goes on to provide that Officer Manfredi (and Officer Izquierdo) should not have physically grabbed the student for being delinquent from school and defiance (sic) of school rules. This was a school matter and should have been handled by school personnel."

Captain Powers and Chief Melanson both testified under oath that both the initial grabbing/touching of the juvenile's left bicep and requiring him to stop were appropriate. Therefore, neither of these actions by the Grievant can constitute just cause. Further, the

Chief testified that the initial stop of the juvenile constituted a valid *Terry* stop. Additionally, the juvenile's refusal to provide his name and date of birth permitted the Police to arrest him for interference with a police officer.

Therefore, the Panel is left with whether or not the involvement of the Grievant in the handcuffing of the juvenile represents excessive use of force and is just cause for the written reprimand the Grievant received. Just cause is typically defined as: "A reason that is legally acceptable or sufficient" and whether the employer was guided by reasonableness and fairness. In its simplest form, there must be satisfactory proof that the employee engaged in the act upon which the discipline is based. If the proof is insufficient that the employee committed a violation, discipline cannot stand. Here, we know that the Grievant handcuffed the juvenile. The Grievant admitted that she did and a review of the dashcam confirms that fact.

From all the evidence presented, it was Officer Izquierdo who placed the juvenile up against the police vehicle and attempted to restrain him. The juvenile attempted to get away and began kicking at Officer Izquierdo. Based upon the student's reactions, Officer Izquierdo believed the student created a safety risk to the officers and/or to himself. Officer Izquierdo restrained the juvenile and looked over at Officer Manfredi. She took that as an indication that Officer Izquierdo wanted her to handcuff the juvenile. The Grievant then handcuffed the juvenile.

Officers Manfredi and Izquierdo reported the incident to Sgt. John Simon upon their return to the Police Station. Sgt. Simon was the Supervising Sergeant of the Patrol

Division. Sgt. Simon admitted that if he had been in Officer Manfredi's shoes, he, likewise, would have assisted Officer Izquierdo and would have handcuffed the juvenile.

Whether or not Officer Izquierdo or others should have been disciplined is not before this Panel. As the incident occurred on January 17, 2020 and Officer Izquierdo retired **as planned** in February 2020, no discipline was imposed on him. This is especially true since the investigation was not completed for at least six (6) months following the date the incident occurred and after the complainant (mother) inquired as to its status.

The Panel unanimously concurs with the last sentence of the written warning. Why did the school call the police department if the juvenile merely had walked away from school and they were pursuing him? It was un rebutted that it was very unusual for the school to call the police department when a student merely walked away from school. None of the police officers had any information regarding what occurred at the school necessitating the call to the police department requesting their involvement with the student. The officers reasonably believed that something serious had occurred at the school involving the student. In fact, Officer Izquierdo testified that he thought that a crime had been committed at the school or that the student had some type of mental health issue.

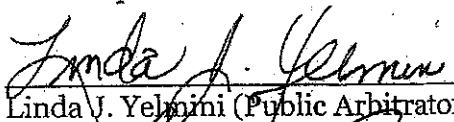
When the school personnel arrived at the scene, they took no action to take control of the situation. While it may be understandable that because the police officers were "in control" school personnel may have been reluctant to take any action at the scene, they

made no complaint once they returned to the school regarding the actions of Officers Manfredi, Izquierdo or others.

VI. AWARD

For the reasons set forth herein, the majority of the Panel finds that the Town did not have just cause to discipline the Grievant. The written reprimand shall be removed from the Grievant's personnel file.

BY THE ARBITRATION PANEL:

 2/26/2022
Linda J. Yelmini (Public Arbitrator & Chairperson)


Santo Franzo (Labor Arbitrator)

David A. Ryan, Sr. (Management Arbitrator) [dissenting]