

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

ARBITRATION AWARD

In the Matter of:	:	Case No. 2020-A-0172
	:	
City of Bridgeport	:	Date of Award: March 31, 2023
	:	
And	:	Hearing Dates: October 27,
	:	December 19, 22, 2022 and
	:	January 26, 2023
Bridgeport Police Union Local 1159, AFSCME,	:	
Council 4, AFL-CIO	:	
	:	38 Wolcott Hill Road
Ronald Mercado, Grievant	:	Wethersfield, CT 06109

APPEARANCES: Robert Murray, Attorney at Law (For the City)
 Kelly Rommel, Attorney at Law (For the Union)

I. ISSUE: (Agreed to by the Parties)

Whether the City of Bridgeport had just cause on April 8, 2020 to suspend Lt. Ronald Mercado for ten (10) days without pay? If not, what shall the remedy be?

II. PROCEDURAL BACKGROUND:

The Bridgeport Police Union, Local 1159, AFSCME, Council 4, AFL-CIO (hereinafter referred to as the "Union") filed a grievance asserting that the City of Bridgeport (hereinafter referred to as the "City") did not have just cause when it suspended then Lt. Ronald Mercado (hereinafter referred to as "Lt. Mercado" or the "Grievant") for ten (10) days.

The grievance was not resolved during the grievance procedure and was appealed to arbitration. Arbitration hearing were held in person on October 17, December 19 and 22, 2022 and January 26, 2023. Both parties were provided an opportunity to offer testimony and cross-examine witnesses. The City and the Union both filed briefs by February 24, 2023 as agreed. The Panel held an Executive Session on March 8, 2022.

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 and Arbitration.

III. STATEMENT OF FACTS:

There are few, if any, factual disputes in this case. At the time of the hearing, the Grievant was a twenty-one (21) year veteran of the Bridgeport Police Department. On March 2, 2019, there were two (2) lieutenants in charge of the second shift; the Grievant and Lt. Jeffrey Grice (hereinafter referred to as "Lt. Grice")

On that date, Sgt. Mark Belinkie (hereinafter referred to as "Sgt. Belinkie") did not report to work at the Bridgeport Police Department as scheduled. Lt. Mercado and Sergeant Geremia went to Sgt. Belinkie's residence in Milford to perform a wellness check. Upon entering the residence, Lt. Mercado and Sergeant Geremia, discovered that Sgt. Belinkie had shot himself. Lt. Mercado's efforts to resuscitate Sgt. Belinkie were unsuccessful. Sgt. Belinkie had expired as a result of suicide. The officers contacted emergency services in Milford. Milford Police and Emergency Services arrived at Sgt. Belinkie's residence and basically took over the scene.

Lt. Mercado and Sgt. Belinkie were classmates in the Academy and were friends. Lt. Mercado contacted Sgt. Belinkie's wife and drove to the Stamford railroad station to pick her up and drove her back to Milford. Lt. Mercado used his police vehicle to drive to Stamford. Sgt. Geremia also went to Stamford with Lt. Mercado. Lt. Mercado turned off his body camera and the camera in the vehicle. He did not call Lt. Grice. Lt. Mercado did not notify anyone in authority at the Bridgeport Police Department that he was going to Stamford to notify Ms. Belinkie of her husband's death. Lt. Mercado also turned off his City cellphone or at least did not accept any phone calls on that phone from police personnel attempting to contact him.

A Command Level Investigation was conducted by Captain Lonnie Blackwell (hereinafter referred to as "Captain Blackwell") and was signed on April 30, 2019. (C - Ex. 1) According to the Investigation report:

"Beginning on March 2, 2019, Lt. Mercado went AWOL for nine (9) days without contacting his Command Staff at the city of Bridgeport Police Department, and continued to be insubordinate to Bridgeport Police Chief Armando Perez on multiple occasions after his disappearance. This includes failure to appear before the police chief and failure to provide a mandated report ordered by Police Chief Armando Perez. . . .

Subsequently, on March 12, 2019, Lt. Mercado was suspended from duty without pay. . . . On Friday, April 12, 2019 at 1430 hours Lt. Mercado was scheduled for and attended a Loudermill hearing to respond for two (2) charges of insubordination to Police Chief Armando Perez." (C - Ex. 1, p. 4)

Lt. Mercado received a ten (10) day suspension for insubordination based upon the above in May of 2019. The Union filed a grievance and as a result of a Stipulated Agreement, the suspension was removed from Lt. Mercado's personnel file and he was made whole for the ten (10) day suspension. (U - Ex. 2).

IV. PERTINENT LANGUAGE FROM THE COLLECTIVE BARGAINING AGREEMENT (Jt. Ex. 1) and RULES AND REGULATIONS (Jt. Ex. 8)

ARTICLE 11

DISCIPLINARY ACTION

Section 11.1 – No permanent employee shall be removed, dismissed, discharged, suspended, fined, reduced in rank, or otherwise disciplined except for just cause.

Section 11.2 – The Chief or Acting Chief may impose upon any officer discipline, including suspensions, provided that the Chief or Acting Chief shall first provide the officer with a written statement of the specific charges (rule and regulation violated) against him, and the information upon which the charges are based, and provide the officer with the opportunity to respond to said charges. The Chief or Acting Chief's decision shall be in writing and if a holiday falls within the period of suspension, shall indicate whether the holiday is to be without pay as a part of the suspension. The Chief or Acting Chief may terminate any officer provided that the Chief or Acting Chief shall first provide the officer with a written statement of the specific charges (rule and regulation violated) against him, and the information upon which the charges are based, and provide the officer with the opportunity to respond to said charges. The Chief or Acting Chief's decision shall be in writing. The parties agree that they shall use best efforts to schedule an arbitration hearing within forty-five (45) days of termination. In addition, in accordance with the City's practice terminated employees shall retain medical coverage until an arbitration award is issued.

Section 11.3 – An employee in the bargaining unit who is alleged to have committed a disciplinary offense shall be charged with a specific violation of a department rule or regulation by the Chief of Police or his designee and such charge shall be the only basis for discipline. The Chief or his designee shall, prior to the commencement of a hearing, have the right to amend the statement of charges. In the event the amended charges are delivered to the Union and the employee less than five (5) working days prior to the commencement of the hearing, then at the request of the Union the hearing shall be rescheduled for a new date not less than five (5) working days from the date of delivery of the amended charges.

Section 11.4 – Notwithstanding the above, an employee charged with a disciplinary offense under Section 2 or 3 may be suspended without pay or placed on administrative leave with pay or placed on administrative status and may be prohibited from working or may be assigned to work other than his regular duties within his own division or in a non-biddable position, at the discretion of the Chief or his designee until such charges have been

drafted and/or heard and a decision rendered. In the event the employee is placed on administrative leave with pay or placed on administrative status and assigned to inside work, he shall not be entitled to outside overtime, but shall be entitled to inside overtime in the position to which he is assigned. Any such employee assigned to inside work may still seek a make whole remedy for lost overtime.

When an employee is placed on administrative leave or administrative status, the reasons for such placement must be presented in writing to the member and copied to the union within five (5) calendar days of the action. No member shall be on administrative status for more than one hundred eighty (180) days absent agreement or legitimate business reasons. In the event the City alleges that it cannot meet the one hundred and eighty (180) day deadline due to legitimate business reasons, it shall provide these reasons to the Union in writing. The Union shall have the right to file for expedited arbitration with the American Arbitration Association ("AAA") on the sole issue of legitimate business reasons in accordance with AAA rules.

The Union shall not process any grievance for any other employee whose overtime opportunities are adversely affected by the employee on suspension with pay and/or administrative status assigned in accordance with this Section. Any such immediate suspension without pay may only be imposed and continued in cases where the officer has been arrested for felony charges, or is unavailable for duty because of incarceration; or because of institutionalization in connection with actions that would constitute a felony. If any employee is suspended without pay under this Section 4, he shall, within ten (10) work days of such suspension, have a hearing with reference to the charges against him commenced by the Chief of Police. With the mutual agreement of all parties, which may not be unreasonably denied, the ten (10) day requirement can be waived, however, a hearing on the charges shall be commenced within sixty (60) days of the date of suspension and continuance for commencement of the hearing shall only be granted beyond sixty (60) days upon request of the accused and/or his representative; however, a hearing shall be held within a reasonable period of time.

In discipline cases of suspension without pay, if a hearing has been commenced within sixty (60) days of the date of suspension, but remains incomplete, such employee's pay shall be reinstated on the sixty-first (61st) day.

A. All disciplinary investigations referred by the Chief to the Office of Internal Affairs must be completed by Internal Affairs within one hundred and twenty (120) days of the referral. The one hundred and twenty (120) day timeline shall not apply in cases involving an arrest or in circumstances where the investigation cannot be completed within the one hundred and twenty (120) day timeline for legitimate business reasons. The Chief shall

have thirty (30) days from receipt of the Internal Affairs report to notice a hearing on the charges. The hearing shall commence within fourteen (14) days from said notice. In the event the City alleges that it cannot meet the one hundred and twenty (120) day deadline due to legitimate business reasons, it shall provide these reasons to the Union in writing. The Union shall have the right to file for expedited arbitration with the American Arbitration Association ("AAA") on the sole issue of legitimate business reasons in accordance with AAA rules.

B. Any disciplinary investigation not referred to Internal Affairs must be completed with a decision issued by the Chief within one hundred and twenty (120) days of its inception. The one hundred and twenty (120) day timeline shall not apply in cases involving an arrest or in circumstances where the investigation cannot be completed within the one hundred and twenty (120) day timeline for legitimate business reasons. A hearing shall be noticed by the Chief within fourteen (14) days of receipt of the investigation report. In the event the City alleges that it cannot meet the one hundred and twenty (120) day deadline due to legitimate business reasons, it shall provide these reasons to the Union in writing. The Union shall have the right to file for expedited arbitration with the American Arbitration Association ("AAA") on the sole issue of legitimate business reasons in accordance with AAA rules.

Section 11.5 - At least seven (7) work days prior to any hearing before the Chief, the Union and employee shall be provided with all evidentiary information to which they are entitled pursuant to the Municipal Employee Relations Act.

Section 11.6 - Any employee charged with a disciplinary offense may enter a plea of no contest and accept an agreed upon discipline in lieu of a hearing or an employee during the case of a disciplinary hearing may accept an agreed upon discipline in lieu of completing the hearing. In either event the employee shall sign a written waiver of right of appeal and neither the employee nor the Union shall have any authority to appeal the discipline and the discipline shall be final and binding on all parties.

Section 11.7 - If an officer is disciplined under Sections 2 or 3 and the employee and Union both feel that the action was without just cause, the Union may, no later than ten (10) days after receipt by the Union of the written decision, submit said dispute to arbitration before the Connecticut Board of Mediation and Arbitration for Discipline other than terminations or the American Arbitration Association for involving termination Discipline. The arbitrator shall hear the dispute and render a decision that shall be final and binding on all parties. The arbitrator shall have the power to uphold the action of the City or to rescind or modify such action, and such power shall include, but shall not be limited to the right to reinstate a suspended or discharged employee with full back pay. The City shall pay all costs of the arbitrator and the American Arbitration Association.

Section 11.8- The time limits specified herein may be extended by agreement of the parties in writing.

Section 11.9 - Working days, as used in this Article, exclude weekends and holidays.

Section 11.10 - Notwithstanding any other rights the Chief possesses under this Article, the Chief may assign an employee to administrative status with pay where the Chief certifies in writing, stating the basis for such certification, that a condition exists which might compromise, limit, or prohibit the employee from effectively performing his or her duties or expose the City to liability. An employee placed on administrative status may be assigned to inside work with or without a department weapon at the Chief's discretion or may be placed on off duty administrative status with pay. Any employee assigned to administrative status where overtime is available, may work such overtime if consistent with his assignment, but may not work outside overtime. If an employee is placed on administrative status with pay the Union may request that the American Arbitration Association assign an arbitrator to hear the matter on an expedited basis in lieu of any other proceedings under the grievance procedure. The arbitrator shall have the power to decide whether or not the administrative status was appropriate or whether or not the administrative status should be continued and, if so, the length of time it should be continued, with the arbitrator retaining continuing jurisdiction, if necessary, and to make whole the employee if it is determined the employee was placed improperly on administrative status. The cost of the arbitrator shall be paid for equally by the parties.

Section 11.11 - Written warnings shall not be used to support progressive discipline if the officer at issue has exhibited good behavior, with no pending discipline against him/her, for the prior two (2) year period. Verbal warnings shall not be used to support progressive discipline if the officer at issue has exhibited good behavior, with no pending discipline against him/her, for the prior one (1) year period.

ARTICLE 12

ADJUSTMENT OF GRIEVANCE PROCEDURES

Should any employee, or the Union, feel aggrieved concerning their wages, hours or conditions of employment, which wages, hours or conditions of employment are controlled by this agreement, adjustment shall be sought as follows:

(A) The Union shall submit such grievance in writing to the Chief of Police, at the Union President's discretion, or if voted by the majority of the Grievance Committee, which shall be comprised of the Executive Board of the Union, setting forth the nature and particulars of the grievance. Any

such grievance must be submitted in writing to the Chief of Police within thirty (30) days of the date that the Union or aggrieved employee knew or reasonably should have known of the act which gave rise to the grievance, whichever date is earlier. Failure to submit such grievance in a timely manner as set forth above, or failure to advance said grievance within the time limits set forth below (unless said time limits are extended as set forth in subsection (E), below) shall constitute a waiver of said grievance. Within seven (7) days after said Chief, or his representative, receives such grievance, he shall arrange to and shall meet with the representatives of the Union Grievance Committee, for the purpose of adjusting or resolving such grievance.

(B) In the event said meeting with the Chief of Police is not arranged, as stated above within seven (7) days from date of submitting the grievance, the Union may, at its option, present such grievance in writing directly to the Board of Police Commissioners in accordance with paragraph (C) of this Article.

(C) If in the sole judgment of the Director of Labor Relations the grievance involves issues which could have a substantial effect on the administration of the collective bargaining agreement or involve issues which could affect the administration of other collective bargaining agreement(s), a meeting with the Director of Labor Relations of the purpose of adjusting or resolving the grievance shall be held instead of a meeting with the Board of Police Commissioners.

(D) If such grievance is not resolved to the satisfaction of the Union by the Police Board or the Director of Labor Relations as the case may be within five (5) days after such meeting, the Union may present such grievance in writing within ten (10) days thereafter of the written decision by the Board of Police Commissioners or the Director of Labor Relations as the case may be to the Connecticut State Board of Mediation and Arbitration as provided in Article 11 except the Union or City shall have the right to submit/transfer the grievance to the American Arbitration Association ("AAA"). Grievance arbitration shall be conducted in accordance with the rules and regulation of the agency where the grievance is filed/transferred. The parties agree to use Gerald Weiner, Mike Ricci or Peter Blum as the neutral arbitrator in any grievance that is submitted to the AAA. The aforementioned arbitrators shall rotate based on the aforementioned order for any cases they are assigned relative to this agreement. Said Board shall hear and act on such dispute in accordance with its rule and render a decision which shall be final and binding on all parties.

(E) The time limits specified in the preceding sections of this Article may be extended by agreement of all parties which shall not be unreasonably denied.

(F) The Union shall, at each step of this grievance procedure, provide the City's Labor Relations Director with written notification prior to the hearing of the grievance by the Chief of Police and/or the Board of Police Commissioners. Such notice shall contain a copy of the grievance.

(G) The fee of the arbitrator and the administration expense of arbitration, if any, shall be shared equally by the parties, but other expenses shall be borne by the party incurring them, including payments to representatives, witnesses, etc.

(H) Expedited arbitration at the State Board of Mediation and Arbitration shall be used for grievances involving shift assignments.

RULES AND REGULATIONS

1.2.18 AUTHORITY AND RESPONSIBILITY

BPD is an organization with an assignment of responsibility and accountability throughout the rank structure. The organizational structure, set forth by the Board of Police Commissioners in the Table of Organization, establishes authority and responsibility for members to carry out their duties.

Supervisors are given full authority to make decisions necessary for the effective execution of their responsibilities. It is also understood that all employees are accountable for the use of delegated authority as well as the failure to use it.

1.2.21 SUPERVISOR ACCOUNTABILITY

All supervisory personnel shall be held accountable for the performance of employees under their immediate control.

1.3.4 KNOWLEDGE OF DEPARTMENT RULES AND REGULATIONS

1. Members of the Department shall familiarize themselves with these rules and regulations and each member shall confirm to and abide by the same.

2. These rules are a basis for action and are not meant to be all-inclusive. No member of the Department will be excused from action in accordance with the sound judgment merely because a situation is not covered by a rule.

1.3.5 VIOLATION OF RULES

Officers shall not commit any acts that constitute a violation of the rules, regulations, directives or other orders of the Department whether or not stated in this manual, Rules, regulations, directives, or other orders shall be posted at Area Commands, in bureaus and divisions, as well as other departmental areas that are deemed appropriate.

1.3.6 CONFORMANCE TO RULES/REGULATIONS

All members of the Department shall be subject to and shall obey all rules and regulations, orders, instructions or requirements, whether mentioned in regard to a specific assignment or rank, or in the General Regulations, or emanating from a competent authority from time to time, insofar as may be applicable.

1.3.9 NEGLECT OF DUTY

No officer shall be absent from assigned duty or post without authorized leave.

- Notify a CAD operator before leaving post.
- Notify a CAD operator upon return to post.

1.3.12 INCOMPETENCE

An officer shall maintain competency to perform his duty and to assume responsibility of his position. Incompetence may be deemed by demonstrating the following but is not limited to:

- 1) A lack of knowledge of the application of laws that are required to be enforced.
- 2) 2) An unwillingness or inability to perform assigned tasks.
- 3) 3) A failure to conform with work standards established for the officer's rank, grade or position.

1.3.28 WITHHOLDING INFORMATION

Members of the Department shall not withhold information from their superior officers relating to police business for the purpose of personal advancement or for any other improper purpose.

1.3.34 DEPARTMENTAL REPORTS/OFFICIAL CORRESPONDENCE

- 1) Every member of the Department shall, without unnecessary delay, transmit to their superior officer any information of any unusual occurrence, important casualty, serious crime or unsafe condition

existing or occurring in the member's presence or which the member is made aware of and shall take proper police action with regard thereto.

- 2) Officers shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by officers shall be truthful and complete. No officer shall knowingly enter or cause to be entered any inaccurate, false or improper information.
- 3) Accurate and concise entries shall be made in Department records in chronological order without delay using blue ink.
- 4) Department reports or forms should be signed using first full name, middle initial and surname.
- 5) Corrections on Department records should be made by drawing an ink line through the incorrect information. Enter the correction immediately above and initial the change.
- 6) No member of the Department shall enter into official Departmental correspondence over the member's signature except in accordance with the administrative orders of the Chief of Police.
- 7) Numerals should be used when entering dates on Department forms, e.g., 1/1/2000. (Note to reader: the date format used in this manual is dd mmm yy.)

1.1.7 APPENDIX B – LAW ENFORCEMENT CODE OF ETHICS

1.1.7.2 PERFORMANCE OF DUTIES OF A POLICE OFFICER

A police officer shall perform all duties impartially, without favor or affection or ill will and without regard to status, sex, race, religion, political belief or aspiration. All citizens will be treated equally and with courtesy, consideration and dignity.

Officers will never allow personal feelings, animosities or friendships to influence official conduct. Laws will be enforced appropriately and courteously and, in carrying out their responsibilities, officers will strive to obtain maximum cooperation from the public. They will conduct themselves in appearance and deportment in such a manner as to inspire confidence and respect for the position of public trust that they hold.

1.3.21 UNBECOMING CONDUCT

Officers shall not engage in any manner of misconduct or offensive behavior that brings the Department into disrepute or that reflects discredit upon the

officer as a member of the Department, or that impairs the operation or efficiency of the Department or the officer.

G.O. 5.24 BODY WORN CAMERAS

II. POLICY

The Bridgeport Police Department is committed to the belief that on-officer body-worn camera system is an important and valuable tool for law enforcement. On-officer video is essential audio-video documentation of a police officer's investigative and enforcement activities from the perspective of the officer's person.

The use of body-worn camera systems provides documentation of law enforcement interaction with the public by providing recorded evidence of actions, conditions and statements that may be used for court proceedings, internal review, or review by the public through formal request.

(IV) C. DEACTIVATION OF BODY-WORN CAMERA SYSTEMS

C. Operational Prohibitions/Restrictions

- 1.** Officers shall not modify, tamper, dismantle, or attempt to make repairs to the body-worn camera, or who fails to activate or deactivate the system required by this policy without justifiably (sic) reason, will be held accountable and subject to criminal and/or internal disciplinary action.

V. DISCUSSION

As in most disciplinary matters, the Panel must decide whether the City had just cause to discipline the Grievant. 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.

In determining whether or not just cause exists, many arbitrators utilize the Seven Elements of Just Cause first outlined by Arbitrator Carol Daugherty in *Enterprise Wire Co.*, 46 LA 359 (1966). Under a traditional view, if any of the questions proffered under the *Daugherty* test is answered in the negative, then just cause does not exist. Today, this formulaic analysis of the Test has been rejected by many arbitrators.

The Panel is not constrained by the *Daugherty* test and rejects its formulaic application. However, that does not negate the *Daugherty* test as it can be helpful in determining whether just cause exists.

Daugherty Elements of Just Cause

1. Was the Worker Given Advance Warning of the Probable Consequences of his Conduct?
2. Was the Controlling Rule, Order or Standard Reasonably Related to Efficient and Safe Operations?
3. Was the Alleged violation of the Rule or Order fully investigated Before Discipline?
4. Was the investigation fair and objective?

5. Did the investigation uncover substantial proof of guilt?
6. Was the employer's treatment even-handed and non-discriminatory?
7. Was the disciplinary action reasonable related to the worker's record and the gravity of the offense?

The elements will not be separately discussed, however, since the Union argued its elements, the Panel would note the following:

Investigation: It is troubling that the Department assigned the investigation to Captain Blackwell. Lt. Mercado had previously filed a Threat, Harassment and Intimidation Complaint against Captain Blackwell. As a result of the Complaint, the Department made significant efforts to limit the interactions between Captain Blackwell and Lt. Mercado. It was well-known to the Department and Chief Perez that there was a great deal of personal animosity between Captain Blackwell and Lt. Mercado. To assign an individual who has a recognized issue with the subject of an investigation, leads to unnecessary questions of potential bias. The assignment of Captain Blackwell as the lead investigator was not cured by the involvement of Captain Masek who did not testify.

Additionally, Captain Blackwell was Lt. Mercado's self-identified supervisor and had direct involvement in the events of March 2, 2019. It was inappropriate for a witness to the events being investigated to have been charged with conducting the investigation.

Captain Blackwell did not interview one person as part of the investigation. He relied completely on the written statements of the various individuals. This is very unusual and it is hard to believe that an investigator would not have had additional questions that could have been posed in an interview.

Captain Blackwell also included other disciplinary actions against Lt. Mercado that were subsequently resolved. While this may be understandable, the inclusion of these other charges could have been cured with a supplemental investigation outlining the resolution of those various issues, since they were resolved generally to the benefit of Lt. Mercado.

The Union offered a number of arguments in support of its claim that the Grievant should not receive any discipline. Some of the arguments are noted below.

The City divides the incidents of March 2, 2019 into two separate parts: (1) The wellness check and (2) the events following the discovery of Sgt. Belinkie. It is an appropriate division.

Wellness Check: According to the testimony, a wellness check is performed when an officer does not report to work for a scheduled shift and cannot be reached by phone. Apparently, the Bridgeport Police Department has a long-standing practice of performing wellness checks. According to the testimony, a wellness check is performed by another officer going to the absent officer's residence to determine the reason for the individual's absence. This appears to be performed regardless of how far the absent officer resides from Bridgeport.

Former Chief Armando Perez (hereinafter referred to as "Chief Perez") testified that he performed more than one hundred (100) wellness checks over his career. He testified that he typically notified someone that he was leaving to perform a wellness check, but admitted there was no policy requiring notification. Chief Perez testified that

the "someone" he informed was not necessarily a supervisor and at many times it was a coworker.

Former Lt. Jeffrey Grice (hereinafter referred to as "Lt. Grice") was also a Lt. working second shift on March 2, 2019. Lt. Grice testified that he subsequently knew that Mercado performed a wellness check on Sgt. Belinkie on that day. Lt. Grice also testified that Lt. Mercado did not inform him that he was doing so.

The City in its Brief emphasized the fact that Lt. Mercado failed to notify Lt. Grice that he was going to perform a wellness check. However, both Lt. Grice and Chief Perez testified that they had no problem with Lt. Mercado's failure to notify anyone that he was going to the next town to perform a wellness check on Sgt. Belinkie. As Chief Perez was the person who imposed discipline, the issue of the wellness check cannot be a basis for the discipline imposed on Lt. Mercado. This means that the claim of being negligent must fail.

Conduct of Lt. Mercado following discovery of Sgt. Belinkie: Chief Perez found fault with Lt. Mercado's conduct that evening following the discovery of Sgt. Belinkie's body. Chief Perez also had serious problems with Lt. Mercado's conduct in the days/weeks following March 2, 2019. The issues that Chief Perez had with Lt. Mercado's conduct in the days/weeks following March 2, 2019 were resolved by the parties generally through the grievance procedure and were not considered by the Panel despite their inclusion in Captain Blackwell's report.

Lt. Mercado was charged with a number of policy violations which were enumerated in his letter of discipline and outlined earlier herein. Without going into each charge separately, the Panel notes the following:

The parties all acknowledge that the events of March 2, 2019 were horrific. They were both personally and professionally devastating to the officers of the Bridgeport Police Department. They were especially devastating to Lt. Mercado. The Milford Emergency Medical Services and Police Department were notified by the officers almost immediately after the discovery of Sgt. Belinkie. The Milford Police Department took charge of the scene. Lt. Mercado and Sgt. Geremia waited for the Milford personnel and officers to arrive. Milford officers took charge of the scene which, of course, was in Milford. During this time, Lt. Mercado contacted Sgt. Belinkie's wife and her companions.

Lt. Mercado and Sgt. Geremia then drove to the Stamford railroad station and picked up Ms. Belinkie and her companions. Lt. Mercado drove at a high rate of speed and at various times turned off the dash board camera in the cruiser.

Lt. Mercado was charged with violating a number of Rules and Regulations of the Department. Some are general in nature while some are specific. The Panel notes the following with regard to the specific alleged Rule violations.

Chief Perez found Lt. Mercado to be Incompetent as outline in Rule 1.3.12. As Lt. Mercado was performing a wellness check and left Lt. Grice in charge of the shift, a majority of the Panel finds that the City failed to meet its burden that Lt. Mercado violated Rule 1.3.12.

As Lt. Mercado did not withhold information for personal advancement or “for any other improper purpose”, a majority of the Panel fines he did not violate Rule 1.3.28.

It can be argued that Lt. Mercado did not comply with Rule 1.3.34. However, a majority of the Panel finds that superior officers were notified of Sgt Belinkie’s suicide by others. Lt. Mercado’s primary objective was to comply with General Order 6.16 and notify Ms. Belinkie of the death of her husband in accordance with that General Order.

Lt. Mercado was also charged with violating the Department’s Code of Ethics. A majority of the Panel finds that Lt. Mercado did not violate that Code.

Lt. Mercado suffered from significant psychological impacts due to the events of March 2, 2019. He made the Department aware that he was seeking treatment because of having to deal with those events. Yet, instead of offering Lt. Mercado assistance in dealing with those impacts, the Department chose to discipline Lt. Mercado.

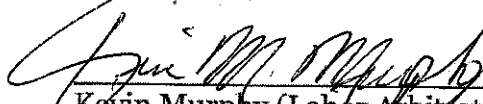
VI. AWARD

For the reasons set forth herein, a majority of the Panel finds that the City did not have just cause to impose a ten (10) day suspension on the Grievant. The discipline shall be removed from the Grievant's personnel file and the Grievant shall be made whole for the ten (10) day suspension.

BY THE ARBITRATION PANEL:

 3/29/2023

Linda J. Yelmini (Public Arbitrator & Chairperson)



Kevin Murphy (Labor Arbitrator)

 *Dissenting*

Robert Massa (Management Arbitrator) - dissenting