

In the matter of Arbitration between:

**State of Ohio, Department of Public Safety-Ohio State highway Patrol
Employer**

And

Case # DPS-2018-00722-01

Dispatcher Mary E. Skal

**Ohio State Troopers Association
Union**

In attendance for the Ohio State Troopers: Ms. Elaine Silveira-Advocate, Mr. Larry Phillips, Staff Rep., Dispatcher Kari Root, Ms. Mary Skal(witness).

In attendance for the Ohio State Highway Patrol: Mr. Michael D. Wood-Advocate, Sgt. Jennifer Burkhardt(witness), Mr. Victor Dandridge-LRA/OCB, Lt. Jacob D. Pyles-2nd Chair, Dispatch Supervisor James M. Stegner(witness).

INTRODUCTION:

This matter was heard at the Ohio State Troopers Association, Gahanna, Ohio. The Hearing was held on June 11, 2018, at 9:00am. All witnesses were sworn. There were no procedural issues raised. The following were submitted as Joint Exhibits: Jt. #1-Collective Bargaining Agreement, Units 1 & 15(CBA); Jt. #2-Eletronic Grievance-DPS-2018-00722-01; Jt.#3- Discipline Trail, composed of-Statement of Charges, Pre-discipline Notice, Pre-discipline Letter, Deportment Record. The following were introduced as Management Exhibits: ME-#1 Administrative Investigation(AI) #2017-0671 Dispatcher Mary Skal; ME-#2 DPS Policy-501.05 EMPLOYEE STANDARDS OF CONDUCT; ME-#3 Sign Off Report BY User. The following was introduced as a Union Exhibit: UE-#1 Evaluations, Dispatcher Skal, dated 5/27/2015 & 3/28/2017.

ISSUE:

In conformance with Article 20, Section 20.08 of the Collective Bargaining Agreement the parties submit the Following Statement of issue for resolution by the arbitrator.

Was the Grievant issued a one (1) day fine for just cause? If not, what shall the remedy be?

BACKGROUND:

On November 20, 2017, at approximately, 5:15pm, two calls came onto the West Jefferson Dispatch Center. The Dispatch Center is located at the West Jefferson Ohio State Patrol(OSP) Post. There were two Dispatchers on Duty. Dispatcher Mary skal was dispatching for the West Jefferson Post, and Dispatcher Wolford was dispatching for the Circleville Post(ME-1). Dispatcher Skal received a call from a male caller in Madison County, on I-70. The caller claimed that he was being followed. Dispatcher Wolford was already on a call which he believed was related to Dispatcher Skal's call. Dispatcher Wolford was talking to the driver of the vehicle following Dispatcher Skal's caller. According to the AI and testimony, this incident of alleged "road rage" originated at Dispatcher Wolford's caller's residence. Dispatcher Wolford's caller claimed that Ms. Skal's caller(a Juvenile) came to his property looking for a fight. The property owner was alleged to have a gun. The juvenile and his friend left the property in their vehicle and wound up on I-70 east, in Madison County. They were followed by the adult property owner(Wolford's caller)(ME-1).

Dispatchers' Skal and Wolford were talking to both parties involved in this incident. When Dispatcher Skal received her call, the parties were on I-70. The property owner was following the two juveniles. Dispatcher Skal's caller claimed that the property owner had a gun and fired shots(ME-1, att. C). Per the AI, Dispatcher Wolford told his caller that he was the aggressor, and he needed to stop following

the other persons. Before both calls were terminated, the Dispatchers determined that the aggressor had separated from the juvenile's vehicle. Other calls regarding this incident were received later by the West Jefferson Post, including the mother of the juvenile driver(ME-1).

It was determined that when Dispatcher Skal received her call from the juveniles, they were located in her county(ME-1). As a result of this incident, an AI was conducted and Dispatcher Skal was issued discipline. According to management testimony, a claim of weapons involvement elevates the incident to a serious situation. Therefore, Dispatcher Skal should have immediately broadcast the call for service, which was not done. No Computer Aided Dispatch System(CAD) records of the incident were created by Dispatcher Skal. Additionally, per management, MS. Skal did not obtain pertinent necessary information during the call, such as the caller's name and call back number(ME-1).

Dispatcher Skal was charged with violating DPS Rule 501.05-1.30(A)—Failure to carryout a work assignment or the exercise of poor judgement in carrying out an assignment. Through the AI it was found that Dispatcher Skal failed to take appropriate action after a caller alleged he was involved in an incident involving a firearm. She failed to gather pertinent information, failed to dispatch the call, and failed to create a CAD incident on a call for service(JT.-3). A pre-disciplinary meeting was scheduled for February 26, 2018, which was waived by Dispatcher Skal on February 26, 2018. On February 26, 2018, Dispatcher Skal was notified that she was to be fined for an amount equivalent to one (1) workday's pay, effective in pay period ending March 3, 2018(JT.-3).

Dispatcher Skal filed a Grievance on 2/28/2018. She claimed that the discipline was rather harsh and that the discipline should be of a lessor degree(JT.-2). A Step 2 telephone conference was conducted on 3/6/2018. The Union claimed that the Employer violated Sections 19.05-Progressive Discipline, and 21.03-Application of the Collective Bargaining Agreement, when the Grievant received a 1-day fine. The

Union alleged that the Employer did not follow the principles of progressive discipline and that work rules were unevenly applied. Management denied the Grievance. Management claimed that the Grievant's inaction could have possibly put citizens at risk and her inaction was much greater than Welford's, who received a Written Reprimand(JT.-2). The union appealed the Grievance to Arbitration. By mutual agreement between the parties, the Arbitration was scheduled for June 11, 2018. At the Hearing, the parties agreed that the Grievance was properly before the arbitrator.

DISCUSSION AND OPINION:

Evidence and testimony shows that a potential dispute occurred on 11/20/2017, at a private residence. The incident involved the property owner(Travis) and two juveniles. Travis brandished a gun, in alleged self-defense, and the juveniles left in a vehicle. Travis followed the juveniles and wound up on I-70 east in Madison County. While on I-70 both vehicle drivers were talking with the two Dispatchers at the West Jefferson Post(ME-1). Dispatcher Skal was in phone contact with juveniles. They claimed that they were being followed by Travis and he fired shots(ME-1, att. C). Weapons and fired shots being alleged, elevates the situation to a high risk status, according to management testimony. A dispatcher handling a call of this nature needs to follow certain protocols, claims management. According to management testimony, the Grievant had a responsibility to broadcast the incident, record it on CAD, and get necessary callback information.

Dispatcher Skal handled this call alleging shots being fired. This incident was handled by Dispatchers' Skal and Welford. It was short lived without escalation, and the participants separated as instructed. Although this incident ended without injury or damage the end does not always justify the means. Another similar incident could have serious consequences.

The incident did occur in Madison County in the Grievant's dispatch area.

Therefore, the duty to broadcast, get the necessary identity and callback information, and record this call for service on CAD, was that of the Grievant's, in the arbitrator's opinion.

The Union argues that the Discipline Grid is not in the Contract. The CBA(Article 4) reserves for the Employer the right to establish rules and regulations. However, as in this case, the Union through the Grievance Procedure has the right to challenge management's application of their rules and regulations(JT-1).

I do not find that the Employer failed to apply and interpret their application of work Rule 501.05-1.30(A) uniformly in this case. The alleged claim of shots fired occurred on the Grievant's phone call and the incident was occurring in the Grievant's dispatch area. Therefore, the Grievant's infraction was more severe than Dispatcher Wolford's, in the arbitrator's opinion.

AWARD:

The Grievance is denied.

This concludes the Arbitration decision.

Respectfully submitted, this 23rd day of June, 2018.

E. William Lewis
Arbitrator
/s/

