

Arbitration Between:

Ohio Department of Public Safety, Division of the State Highway Patrol And

Ohio State Troopers Association

Grievance of Adam Brown; DPS-2020-00135-01

State Highway Patrol Representatives

Lt. Aaron Williams

Staff Lt. Jacob Pyles

Cullen Jackson, OCB

OSTA Representatives

Larry Phillips

Elaine Silveira

*Witnesses for the Grievant:* Grievant, Dispatcher Adam Brown

*Witnesses for the OHSP:* Sgt. Anthony Percy and Dispatch Manager Lydia Frey

ARBITRATOR OPINION AND AWARD

The Ohio Department of Public Safety, Division of the State Highway Patrol (OHSP), issued a one-day working suspension to Dispatcher Adam Brown (Grievant) for a violation of Ohio State Highway Patrol Rules and Regulations, DPS 501.05-1.2, failure to carry out and/or follow policies, procedures, administrative regulations, and/or written or verbal directives. On October 29, 2019, the Grievant received a phone call from a motorist, Kimberly Leffew. Ms. Leffew stated that she hit a deer with her vehicle and was now sitting on the side of the road, with her car hood up. She said that she did not know what to do and that she was not sure whether her hood would go down. She also stated that she was on a highway, near Cincinnati-Dayton Road. She stated that she would need to file an insurance claim. The Grievant told her that not all insurance companies require a report of a deer crash in order to process an accident

claim and suggested to her that she ask her insurance company if a report was necessary in order to file a claim. The Grievant told her she had 24 hours to file the claim and that, if a trooper responded to the scene and created a report, the crash would become an entry on her driving record, which might result in increased insurance rates. Troopers were available during the time frame of the call and could have been dispatched to the scene to assist the stranded motorist and assess the deer's situation. Instead, the motorist waited an hour and a half by the side of Interstate 75 for another trooper to come by and assist her. The deer was in poor condition and had to be euthanized. The motorist subsequently filed a complaint about the phone call with the Grievant.

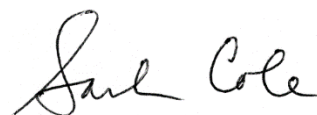
OSHP disciplined the Grievant because he failed to dispatch an officer to a call for service for a motorist involved in a crash. OSHP contended that Grievant's handling of the call violated OSHP Policy, which requires that a dispatcher ask the caller for her name, her exact location, whether she had any injuries or whether the deer was injured and/or still in the roadway. Dispatch Manager Lydia Frey testified that a dispatcher should have asked all of these questions of the caller and that the Grievant should also have logged the call on the CAD system, which Grievant also failed to do. Similarly, Sergeant Percy testified that, in his opinion, the call should have been treated as an emergency call because the motorist might have been injured, might be blocking the road, or that other problems might exist that would remain unaddressed, like the deer suffering injury or blocking the roadway, leading to risks for other motorists. Both Percy and Frey agreed that the Grievant's actions violated OSHP policy and the priorities of OSHP, which is to ensure public safety.

The Grievant, who has worked for the OHSP for eleven years, countered that he did not consider the call an emergency and was trying to help the caller avoid increased insurance rates.

He experienced a similar situation and was attempting to help Ms. Leffew. He believed that encouraging her to call back if she need the report was sufficient aid under the circumstances. He also testified that he did not log the call. He stated that, given the number of calls he receives during the night shift, it is impossible to log all of them.

The OSHP policy, OSP-400.17, governing emergency calls states that it is critical for a dispatcher to obtain the following information: “type of emergency, name, address, and callback number of the person calling, exact location of the emergency”, whether there are injuries, what type of response is needed and whether traffic is blocked. The OSHP trained the Grievant on this policy. The Grievant states that the call was not an emergency call but, rather, an information call. An information call, also contained in OSHP policy 400.17, seeks information such as, but not limited to, “local telephone books, maps, road atlas, Ohio Revised Code, List of State and County Offices and their numbers.” The call unquestionably falls into the category of an emergency call. The motorist was not seeking information about making an insurance claim – her statement, that she would have to file a claim with her insurance company, is not a request for information. A motorist, sitting in her vehicle, after hitting a deer, with a potentially undriveable vehicle, is in an emergency and needs aid. While the Grievant may have been trying to help the motorist, his job was not to provide insurance information. Instead, he was required to, and should have, taken more information from her, as described above, and dispatched a trooper to the scene. With previous discipline on his record, I find that the discipline issued in this case, a one-day working suspension, was appropriate and should be upheld.

Date: September 16, 2020

A handwritten signature in cursive script, reading "Sarah R. Cole". The signature is written in dark ink and is positioned above a horizontal line.

Arbitrator Sarah R. Cole