

In the Matter of Arbitration Between:

**BRISTOL TOWNSHIP POLICE
BENEVOLENT ASSOCIATION**

and

BRISTOL TOWNSHIP

**Gr: Termination of Officers Shawn Lyons and
Charles Pritchett; Suspension of Officers Kevin
Jackson and John Lancieri**

Walt De Treux, Esq., Arbitrator

*Hearing Dates: 1/11/21, 1/25/21, 2/8/21,
4/7/21, 4/13/21*

Briefs Received: 7/8/21

Decision Date: 9/2/21

Appearances: For the PBA – Richard G. Poulson, Esq., *WILLIG WILLIAMS & DAVIDSON*
For the Township – Neil A. Morris, Esq., Gabriel V. Celli, Esq.,
OFFIT KURMAN P.C.

Introduction and Statement of Relevant Facts

On the evening of February 19, 2020, Bristol Township Police Officers Shawn Lyons, Charles Pritchett, Kevin Jackson, John Lancieri, John Yeiter, and Joshua Bausch had dinner at Maggie’s Waterfront Cafe in Northeast Philadelphia to celebrate a fellow officer’s move to Colorado Springs. The six officers continued their night out at Harrington’s Irish Pub before ending the night at the 7C Lounge, a bar and restaurant located adjacent to Fraternal Order of Police Lodge #5 headquarters. Only law enforcement personnel and their guests are permitted into the bar after hours.

Soon after their arrival around 2:15am on February 20, 2020, Daniel Flanagan approached the group of officers. A clearly-intoxicated Flanagan asked the officers which district they worked in. They informed him that they were Bristol Township police officers. Flanagan, a parking enforcement officer for the Philadelphia Parking Authority, recounted a

story about his interaction with Bristol Township police four years earlier. He complained about the “fat” and “bald” officer who stopped him at the accident scene. Officer Lyons told Flanagan and the group that the description of the officer sounded like Jason Mancuso. Officer Lyons suggested that Flanagan call Officer Mancuso and “tell him how you feel.” Officer Charles Pritchett pulled out his phone and gave Flanagan Officer Mancuso’s personal cell phone number and allowed Flanagan to take a picture of his phone screen. Flanagan called Officer Mancuso’s phone three times, sent two texts, and attempted a FaceTime call while standing with and around the six officers. Officer Lyons disconnected the FaceTime call before it went through.

While the six officers were interacting with Flanagan, Officer Mancuso was home sleeping in bed with his wife and two year old son who was not feeling well. He had worked on February 19 and was scheduled to work day shift on February 20. Around 2:47am, his cell phone rang, but he did not answer it because he did not recognize the number. Approximately 30 seconds later, it rang again. When Officer Mancuso answered, the caller said, “I’m coming to Dickerson to put a bullet in your head.” Officer Mancuso lives on Dickinson Drive. A third phone call went to voicemail with the message, “Yo, you handled my accident. Call me back 215-516-9533. Let’s go, brother. Yeah, bro.” Officer Mancuso did not listen to the voicemail until several hours later. He next received two texts, one calling him “a pussy.”

The second call rattled Officer Mancuso. He did not want to wake and upset his pregnant wife. He debated whether to call the police, worried that his dog would “go crazy.” He retrieved a firearm from his gun safe and laid awake in bed. After not receiving further phone calls, he decided to report the incident when he went to work in the morning.

That morning, Officer Mancuso told Sergeant Sean Cosgrove that he received a “strange” phone call. He relayed the threat to the sergeant, let him listen to the voice mail, and showed him the text messages. He and Sgt. Cosgrove ran the phone number through the Department computer system and connected it to Flanagan and the 4-year old accident. Officer Mancuso did not handle that accident. Sgt. Cosgrove directed the officer to document the communication from Flanagan in a memorandum.

Officer Mancuso prepared a memorandum that read,

“Sgt. Cosgrove,

Several weeks ago I received multiple calls from an unknown phone number in the middle of the night. The number was (215) 516-9533. I did not answer and no voicemail was left on my phone.

This morning at 0247 hours the same number began to call my phone. I ignored the first call and picked up the second at 0248 hours. A male caller who sounded intoxicated said, “I’m coming to Dickerson to put a bullet in your head.” I live on Dickinson Drive in Lower Makefield Township. I did not respond and hung up the phone. The number called back at 249 hours and 254 hours.

I received two texts from the number at 0250 hours. The first read, “You handled my accident.” The second read, “You’re a pussy.”

When I arrived at 0700 hours on 02/20/2020, I notified you my immediate supervisor. We checked the phone number in our system. One incident was found, which was an auto accident handled on 06/28/2016 by Officer Schwarzwald. The incident number was 16-14146. No other incidents are linked to this number and the person with the number has no other involvement with our police department.

Daniel Flanagan is the linked person to the number. The address in our file is 9657 Evans Street, Philadelphia, PA 19115. His D.O.B. is 02/18/1998.

At your request I prepared this memorandum so that further investigation could be conducted.

Respectfully submitted,
Officer Jason Mancuso #139

Sgt. Cosgrove sent Officer Mancuso’s memorandum to his supervisors. Upon learning of the incident, Chief Robert Coulton ordered an investigation led by Detective William O’Keefe. Detective O’Keefe located and interviewed Flanagan, who related his interaction with the six

Bristol Township officers at the FOP lounge. The detective went to the FOP and obtained video footage from the early morning hours of February 20. Detective O'Keefe reported to Lt. Ralph Johnson that Bristol Township officers were involved in the incident. The Department turned the investigation over to the Bucks County Detectives to determine whether any criminal conduct occurred.

Lt. David Kemmerer and Detective Michael Walp of Bucks County Detectives interviewed the six Bristol Township officers at their residences. The interviews were recorded (and later transcribed by the Bristol Township Police Department). After investigation, Bucks County District Attorney Matthew Weintraub declined to bring criminal charges against the officers.

With the criminal investigation closed, the Department resumed its administrative investigation. The six officers were required to prepare written statements and submit to investigatory interviews. On June 19, 2020, the Department issued *Loudermill* notices to the six officers outlining the events of February 20, 2020 and the officers' conduct during the investigation. The notice admonished the officers as follows, "You are well aware that you should not be soliciting, encouraging an inebriated individual, not known to you, to take private, personal information about another police officer, to commit a crime of harassment against that officer." It also warned, "it may be determined that you submitted false reports and false unsworn testimony...intentionally calculated to cover up your involvement in the harassment and threats made to Officer Mancuso." On July 21, 2020, after *Loudermill* hearings, Chief Coulton issued a Statement of Charges to each officer. He recommended to the Township Manager that Officers Lyons and Pritchett be discharged. Chief Coulton recommended a 15-

day suspension for Officer Jackson, a 20-day suspension for Officer Lancieri, a 10-day suspension for Officer Yeiter, and a 5-day suspension for Officer Bausch. The Chief justified the varying levels of discipline by citing to the officers' varying degrees of involvement, alleged false statements, and expressions of remorse. The Township Manager accepted in full Chief Coulton's disciplinary recommendations.

Each officer grieved his discipline. The parties were unable to resolve the grievances through the contractual steps. The grievances were consolidated and referred to arbitration. The parties settled the grievances of Officers Yeiter and Bausch prior to arbitration. On January 11 and 25, February 8, April 7 and April 13, 2021, hearings were held on the remaining grievances at the Township building in Bristol, Pennsylvania. At the hearing, the parties had a full and fair opportunity to present documentary and other evidence, examine and cross-examine witnesses, and offer argument in support of their respective positions. The parties filed post-hearing briefs, and the matter was submitted to the Arbitrator for a decision.

Issue

The parties stipulated to the following issue,

Did Bristol Township have just cause to discharge Officer Shawn Lyons and Officer Charles Pritchett and to suspend Officer Kevin Jackson and Officer John Lancieri? If not, what shall be the remedy?

Analysis and Decision

Bristol Township terminated Officers Lyons and Pritchett and suspended Officers Jackson and Lancieri for their conduct at the 7C Lounge in the early morning hours of February 20, 2020 and for their conduct during the Bucks County criminal investigation and the Department's administrative investigation. The Township cited numerous violations of the Department's Standard Operating Procedures Manual and Police Duty Manual, the Civil Service Rules and Regulations, and the Pennsylvania Crimes Code. Other than the alleged Crimes Code violations, the numerous charges can be very broadly categorized as conduct unbecoming a police officer for the Grievants' actions during the incident and withholding information and providing false statements during the investigations.

Chief Coulton testified that he wanted to terminate all six officers involved, but settled on terminations for Officers Lyons and Pritchett and suspensions for the other officers based on advice of counsel who, according to the Chief, thought that "through the arbitration process, six terminations would not be upheld."¹ The Chief later mentioned that six terminations would

¹ The Township's brief included several references that conveyed a deeply cynical view of arbitration and the role of the arbitrator. Professionally, I find the statements offensive. It is not how I practice arbitration and not how the vast majority of my colleagues practice arbitration. Arbitrators who decide cases based on anything other than

have depleted his patrol staff by 15-18%. In the end, he decided to terminate Officer Lyons because he considered him the “leader” of the group as he had the most contact with Flanagan. Chief Coulton found that Officer Lyons gave Flanagan Officer Mancuso’s name and manipulated and provoked Flanagan into calling Officer Mancuso. He found that Officer Lyons had no remorse for his conduct, and to the contrary, attacked Officer Mancuso’s credibility. Chief Coulton terminated Officer Pritchett because he found him as culpable as Officer Lyons. He noted that Officer Pritchett gave Flanagan Officer Mancuso’s phone number and allowed Flanagan to take a picture of the contact information. Chief Coulton suspended Officer Jackson for 15 days because he was a passive participant who took no action to stop the “prank” and was evasive throughout the investigation. Chief Coulton suspended Officer Lancieri for 20 days for the same reasons he suspended Officer Jackson. The Chief testified that Officer Lancieri’s suspension was five days longer because Officer Jackson showed some remorse by apologizing during his *Loudermill* hearing while Officer Lancieri remained unapologetic. The Chief suspended Officers Yeiter and Bausch for lesser periods of time, 10 and 5 days respectively, because they showed remorse earlier in the investigation. He found that all officers had provided false statements to some degree.

The Association argues that the Township failed to conduct a full and fair investigation. It asserts that the Department’s administrative investigation was biased and geared toward its pre-investigation conclusion that Grievants had heard Flanagan threaten Officer Mancuso. The PBA further maintained that the evidence presented at hearing failed to prove the charges

the evidence and the arguments usually have very short careers. Counsel would be wise to avoid arbitrators he views as less than fair and impartial and to refrain from making broad, unsubstantiated criticisms of the profession in his written argument.

brought by the Chief in his recommendation of discipline. The Association also contends that the discipline imposed was excessive when properly considering Grievants' roles in the incident.

The parties spent considerable time at hearing and in their briefs arguing whether Flanagan threatened, "I'm coming to Dickerson to put a bullet in your head." Throughout the investigation, Grievants maintained that Officer Mancuso fabricated the threat. Officer Pritchett suggested that Officer Mancuso lied about the threat to "elevate its importance" and get the matter investigated quickly. Officer Jackson posited that Officer Mancuso embellished his statement in case he had to use deadly force on an intruder into his home. Officers Pritchett and Jackson's explanations make no sense. If Flanagan did not make any threat but simply harassed Officer Mancuso, Officer Mancuso would have no reason to have those calls investigated quickly. He would not have been concerned about using deadly force on a home intruder unless he received a threat to his home and to his family's safety.²

Grievants have not offered any plausible reason why Officer Mancuso would lie about the threat. When he reported it to Sgt. Cosgrove, he had no idea that six of his colleagues were involved in the "prank." He had no incentive to "elevate the importance" of Flanagan's calls, texts, and voicemail. The threat and his report of those communications from Flanagan disrupted his family life, upset his pregnant wife, and forced his family to take safety precautions. Officer Mancuso had no conceivable reason to unnecessarily introduce such turmoil into his personal life.

² The investigations did not reveal how Flanagan learned the name of Officer Mancuso's street. Three officers had been to Officer Mancuso's house on previous occasions. None admitted remembering the street name, and none admitted providing that information to Flanagan.

Grievants suggest that Officer Mancuso's written memo of the communications from Flanagan contains misstatements or inconsistencies that render not credible his claim that he was threatened. Officer Mancuso wrote in the memo that he had received unanswered calls from that same number several weeks earlier. He was wrong. He may have received calls from an unknown number, but it was not Flanagan's number. His error does not negatively impact the overall credibility of his report of the threat. He admitted he did not check his phone history to confirm that claim prior to reporting it. The mistaken statement was not central to the report of threatening and harassing communications from Flanagan. Grievants' focus on that error serves only to distract from the events that happened early that morning in the bar.

Grievants also point to Officer Mancuso's failure to mention Flanagan's voicemail in the written memo. Like the misstatement about the previous calls, the omission of the voicemail does not detract from the credible report of the threat. Although Officer Mancuso did not refer to the voicemail in the statement, he played the voicemail for Sgt. Cosgrove the very morning he wrote the memo. He had no reason to hide the voicemail. In fact, reference to yet another form of communication from Flanagan would serve to increase the degree of harassing behavior.

Grievants' attack on Officer Mancuso as a liar who fabricated the threat is both confusing and inconsistent. Grievants insist that the threat was not made because none of them heard it. At the same time, they all sought to distance themselves from Flanagan, stating that they were not close enough to him to know what he was saying. To various degrees, they grudgingly admit that the threat may have occurred without them knowing about it. But they inevitably return to their position that Officer Mancuso lied about the threat. Officer Lancieri

may have been most truthful when he said Flanagan was “rambling” and he could not hear what he was saying. It is puzzling why Grievants insist the threat was not made while, at the same time, conceding it could have been made out of their hearing range.

Bucks County District Attorney Matthew Weintraub³, who had “plenty of professional interactions” with Officer Mancuso, described him as “an officer of the highest caliber...a man of integrity...one of the good guys.” The Bucks County detectives did not question Officer Mancuso’s credibility. Department investigators did not doubt Officer Mancuso’s report of a threat.⁴ As discussed above, Grievants have not offered any plausible reason for concluding that Officer Mancuso fabricated the threat made by Flanagan. I credit Officer Mancuso’s testimony and find that Flanagan did threaten to “come to Dickerson and put a bullet in [his] head.”

The PBA bases its argument that there was not a full and fair investigation on the premise that the Department, namely Chief Coulton, decided from the outset that Officer Mancuso was threatened and the six officers were fully aware and part of the threat. The Association notes that the Department never interviewed Officer Manusco after he wrote his statement and after the other officers denied the threat and accused him of lying. The Union believes that serious discipline was imposed because of the threat.

³ The District Attorney declined to bring criminal charges against the officers. Although the Township cited the officers for engaging in the crime of harassment by communication and conspiracy, it is not necessary to determine whether any crimes were committed to decide the present grievances. Grievants admitted at hearing that they and Flanagan harassed Officer Mancuso.

⁴ Now-retired Bristol Township Detective William O’Keefe initially handled the administrative investigation before it was turned over to the Bucks County detectives. He testified that the statement about the previous phone calls may have been an embellishment, but he did not question the credibility of the threat allegation.

At the start of the investigation, Chief Coulton believed Officer Mancuso's assertion that he was threatened. By the end of the investigation, he believed that the officers had to have heard the threat. A review of the video shows Officers Lyons, Yeiter, and Bausch closest to Flanagan when he placed the threatening phone call. It is difficult to believe that they did not hear the threat. Officers Pritchett, Lancieri, and Jackson were nearby, but may have been out of close hearing range as they deliberately walked away as Flanagan was making the call. Officer Lancieri testified that Flanagan was "rambling," and he could not understand what he was saying.

Grievants' emphasis on the threat misses the central reason for the discipline. In the Statement of Charges and the Chief's testimony, he was clearly convinced that a threat was made and Grievants heard it. But in those charges and his testimony, he explained that the crux of the violations was Grievants' reckless, cavalier, and inappropriate release of Officer Mancuso's name and contact information to an unknown stranger who was upset with a Bristol Township officer. The *Loudermill* notice warned the officers, "You are well aware that you should not be soliciting, encouraging an inebriated individual, not known to you, to take private, personal information about another police officer, to commit a crime of harassment against that officer." In the lengthy Statement of Charges, Chief Coulton admonished Grievants for volunteering Officer Mancuso's name, suggesting to Flanagan that he call Officer Mancuso to express his displeasure, and providing the means to make those calls and texts. As the Chief wrote, "Flanagan was incapable of making the harassing calls and threats to Mancuso without your assistance and provocation as he had neither the motivation nor means on his own."

The Department certainly could have interviewed Officer Mancuso beyond his written statement, but its failure to do so does not render its investigation unfair or biased. Neither the Department nor the Bucks County Detectives had any reason to question the veracity of Officer Mancuso's allegations. As discussed previously, the error as to previous phone calls and the failure to mention the voicemail in his written memo were not so significant that they impacted the overall credibility of the report. Before resuming the administrative investigation, the Department did not receive any concerns from the Bucks County detectives that the threat allegation may have been fabricated. It is only Grievants who deny a threat occurred only because they did not hear it. In conducting its investigation, the Department's early determination that the threat occurred did not prejudice the fairness and thoroughness of the investigation.

The Association further argues that the Township failed to prove its case because it targeted Flanagan's third call as the one in which he made the threat. In fact, Flanagan made the threat during the second call. The PBA contends that none of the officers could have heard the threat because they were not in close proximity to Flanagan when the call was made. It is true that Officers Pritchett, Jackson, and Lancieri walked away at the start of the second call. Lyons, however, remained seated at the bar directly in front of Flanagan, easily within hearing range. The officers may not have heard the threat if they stepped out of hearing range or simply were not listening. But again, the discipline is not based simply on whether or not they heard a threat. The discipline is based on the fact that the officers set in motion the circumstances and means by which Flanagan could threaten Officer Mancuso, did nothing to

stop the “prank” as it played out, and were evasive or untruthful in the disciplinary and criminal investigations.

I do find fault with the Chief’s Statement of Charges to the extent he lumps many of the same facts and conclusions into each officer’s Statement of Charges. His disciplinary recommendations, however, properly considered the varying degrees of culpability between the officers. Although the grievances were consolidated and heard together, a careful analysis of the case requires that each Grievant’s conduct be considered separately.

Officer Shawn Lyons

Chief Coulton dubbed Officer Lyons “the leader” of the group in manipulating the drunken Flanagan. Flanagan was drawn to Officer Lyons. When he first approached the group, he spoke to a few of the officers before settling on Officer Lyons. He stayed close in front of Officer Lyons, who was seated at the bar, and often put his arm on or around his shoulder and, at one point, rubbed his head. When Flanagan raised his complaint about his previous contact with the Bristol Township Police, it was Officer Lyons who gave him Officer Mancuso’s name. It was Officer Lyons who suggested to Flanagan that he call Officer Mancuso and tell him how he felt. Flanagan showed Officer Lyons his phone before he made the calls, and Officer Lyons did not discourage those calls. If the officers were truly pranking Officer Mancuso with no ill intent, a FaceTime call would have revealed the pranksters so everyone would have a good laugh. Instead, Officer Lyons took control of Flanagan’s phone to disconnect the attempted FaceTime call. Chief Coulton’s identification of Officer Lyons as the instigator is well supported by the evidence, including Officer Lyons’ own admissions.

This case reduced to its core involves officers giving up a fellow officer's name and personal contact information to a drunken stranger who had a complaint with one of their colleagues. It was an incredibly reckless and thoughtless "prank" that ignored the potentially dangerous consequence of their actions and the foreseeable impact on Officer Mancuso and his family when he is harassed in the middle of the night. Officer Lyons led that charge. His actions at the FOP lounge warrant termination without considering his conduct during the investigation. His evasiveness and equivocation during the investigation, however, cemented the appropriateness of Chief Coulton's recommendation to terminate Officer Lyons.

During the criminal and disciplinary investigations, Officer Lyons denied touching Flanagan's phone although he handled it twice and looked at it directly when Flanagan showed it to him before making the calls. He denied knowing how Flanagan received Officer Mancuso's phone number when he was sitting at the bar right next to Flanagan when Officer Pritchett showed him the contact information and allowed him to take a picture of it. He denied seeing the picture being taken. That evasiveness and untruthfulness during the investigations provide further cause for his discharge.

Chief Coulton testified that he did not think Officer Lyons could be rehabilitated by lesser discipline and return as a productive officer. At the arbitration hearing, Officer Lyons offered the insincere and frankly absurd explanation that he was upset that "someone on the street," i.e., Flanagan, was mistreated and wanted to assist him by telling him to call Officer Mancuso, albeit in the middle of the night to his personal cellphone. Officer Lyons did not express remorse for his actions, and that excuse offered at hearing clearly confirms Chief Coulton's determination that lesser discipline would not positively impact his future conduct.

For all these reasons, I find that the Township had just cause to terminate Officer Shawn Lyons.

Officer Charles Pritchett

Officer Pritchett, like Officer Lyons, was a main protagonist in Flanagan's harassment of Officer Mancuso. Officer Pritchett, who only had four years with the Department, gave Flanagan Officer Mancuso's personal cell phone number. He took Flanagan's phone from him and admits he possibly could have sent a text to Officer Mancuso. He allowed Flanagan to take a picture of Officer Mancuso's contact information from his phone screen. Like Officer Lyons, during the criminal and disciplinary investigations, he denied handling Flanagan's phone, denied allowing Flanagan to take a picture of the phone, and asserted that he "never really had a conversation" with Flanagan and was "ignoring him." The video footage shows that Officer Pritchett had more conversation with Flanagan than any of the other officers besides Officer Lyons. Although at hearing, he expressed some remorse and realized giving out the phone number was "wrong," he continued to insist that no threat was made and asserted that there was no risk in giving out the phone number since Flanagan could only call Officer Mancuso.

Chief Coulton recommended discharge because the incident would not have happened if Officer Pritchett had not so carelessly and cavalierly shared Officer Mancuso's phone number. The Chief found that Officer Pritchett's untruthfulness during the investigations resulted in a loss of credibility that renders him unfit to be a police officer. Chief Coulton's assessment of Officer Pritchett's role during the incident and investigations is supported by substantial evidence.

For these reasons, I find that the Township had just cause to discharge Officer Charles Pritchett.

Officer Kevin Jackson

Officer Jackson described himself as detached from the events that occurred at the FOP lounge. While it is true he was not an active participant like Officers Lyons and Pritchett, he was present and seemingly aware of what was happening. When Officer Pritchett is first handling Flanagan's phone and seemingly inputting some information, Officer Jackson is right next to Flanagan. When Flanagan takes a picture of Officer Pritchett's phone, Officer Jackson is right off Flanagan's shoulder. When Flanagan makes the first call, Officer Jackson, who was talking with the bartender, turns directly toward Flanagan who is next to him and watches him as he makes the call. When Flanagan begins to make the second call, Officers Pritchett, Jackson, and Lancieri briefly huddle together before dispersing. Officer Jackson moves toward the bar and puts his head down then walks across the room. When Flanagan presumably sends a text, Officer Jackson leans in and looks at Flanagan's phone. He engages in conversation with Flanagan. When Officer Lyons handles the phone a short time later, presumably to disconnect the FaceTime call, Officer Jackson leans in again to look at the phone.

It is clear that Officer Jackson, while not initiating any action, knew what Flanagan and Officers Lyon and Pritchett were doing. He was the closest observer to all the calls, except the second one. In his statements during the investigations, Officer Jackson was evasive, if not untruthful. He called the night "a blur" and denied knowing who gave Flanagan Officer Mancuso's name and number. Given his close proximity to the main players, Officer Jackson's

failure to recall that information was more likely a misguided effort to protect Officers Lyons and Pritchett.

In recommending a 15-day suspension, Chief Coulton found that Officer Jackson was aware of what was happening and did not attempt to stop it. He also found that he had made false statements when he denied knowledge of certain acts when the video shows he was clearly present and proximate during those acts. He recommended a suspension five days less than Officer Lancieri because Officer Jackson expressed some remorse during the *Loudermill* hearing.

Chief Coulton's assessment of Officer Jackson's role during the incident and during the investigations is supported by substantial evidence. Accordingly, I find that he had just cause to suspend Officer Kevin Jackson for 15 days.

Officer John Lancieri

Like Officer Jackson, Officer Lancieri denied any direct involvement in the "prank." Unlike Officer Jackson, the video bears out his assertion to some degree. Officer Lancieri clearly knew that Officers Lyons and Pritchett were offering up Officer Mancuso's name and contact information to Flanagan so that Flanagan could call Officer Mancuso. Officer Lancieri contends, however, that he assumed they had given Flanagan Officer Mancuso's Department voicemail. He testified that in the past, officers had pranked each other by giving citizens "with mental abilities" officers' work phone numbers so that they could leave rambling messages. It is conceivable that Officer Lancieri did not realize calls were going to Officer Mancuso's personal cell phone. Officer Lancieri was next to Officer Pritchett when Officer Pritchett first took

Flanagan's phone. After that, however, he walked away each time Flanagan took his phone out. He would either move closer to the bar and talk to the bartender or watch TV or pace around the bar and restaurant area. His conduct indicated that he knew a "prank" was being pulled, but may not have known the extent of it and did not want to be part of it. In fact, he testified that he was thinking, "You guys are fucking idiots." He was shown laughing and slapping other officers on the back as Flanagan called Officer Mancuso. But again, he may not have known that Officer Mancuso was being called at home. He credibly admitted that he heard Flanagan on the phone but could not make out what was being said as Flanagan was "rambling."

Officer Lancieri's conduct during the incident warrants discipline because he at passively participated and did not attempt to stop Officers Lyons and Pritchett from sharing another officer's number, be it work or personal, with a drunken stranger. During the investigation, he took a particularly harsh attitude toward Officer Mancuso, a former friend in whose wedding he served as a groomsman. He accused Officer Mancuso of lying about the threat while admitting that he did not hear what Flanagan was saying. Officer Lancieri seemed more aggrieved at the attack on his own integrity than he did at the emotional impact of the "prank" on Officer Mancuso. That said, I am not persuaded he lied to any material degree during the investigations. He was combative during the administrative interviews, which muddied some of his answers, but his responses were generally in accord with his perception or misperception of the "prank."

Officer Lancieri admitted wrongdoing at hearing. He acknowledged that he should have stopped the other officers' manipulation of Flanagan and Flanagan's attempts to call Officer

Mancuso. Discipline is clearly warranted. Chief Coulton recommended a 20-day suspension, five more days than he recommended for Officer Jackson, because Officer Lancieri showed no remorse and accused Officer Mancuso of lying.

I find Chief Coulton's reasoning for the difference in discipline between Officers Jackson and Lancieri unsupported by the evidence. As noted, Officer Jackson directly observed most of the events during the incident, did not attempt to stop it, and was evasive, if not untruthful, during the investigations. Officer Lancieri knew generally what was happening that night but purposely distanced himself from it. He did not attempt to stop it, but he did not make materially false statements to the investigators. The Chief's imposition of a longer disciplinary suspension likely stems more from Officer Lancieri's bullishness during the disciplinary process. Officer Lancieri's obstinance appears, however, to have arisen from the perceived attack on his own integrity. He was grouped with other officers who much more clearly made false statements. Officer Lancieri's conduct during the investigation, absent sufficient proof of untruthfulness, does not warrant a more severe penalty than Officer Jackson. To the contrary, the evidence establishes that Officer Jackson was more culpable than Officer Lancieri.

For these reasons, I find that the Township had just cause to suspend Officer John Lancieri, but the length of the suspension is inconsistent with just cause. A 10-day suspension is a more appropriate penalty when comparing Officer Lancieri's conduct with Officer Jackson, who received a 15-day suspension.

Award and Remedy

The grievance of Officer Shawn Lyons is denied.

The grievance of Officer Charles Pritchett is denied.

The grievance of Officer Kevin Jackson is denied.

The grievance of Officer John Lancieri is denied in part and sustained in part. The Township had just cause to suspend the Grievant, but the length of the suspension does not comport with just cause. To remedy the violation, the Township is directed to reduce Officer Lancieri's suspension from 20 days to 10 days and to compensate him for 10 days' pay lost during the 20-day suspension.

The Arbitrator shall retain jurisdiction of the case for the sole purpose of resolving any dispute over the implementation of the remedy.

Walt De Treux

WALT De TREUX