

CANANDAIGUA POLICE DEPARTMENT

21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424

PATRICK W. MCCARTHY
CHIEF OF POLICE

DATE: September 16, 1993

TO: Ralph J. Liberatore
Police Officer

FROM: Patrick W. McCarthy
Chief of Police

RE: Discipline for Misconduct
Final Warning Regarding Termination from Employment

On July 31, 1993, you were told by Dispatcher Virginia DeMay to provide backup to Police Officer Jeffrey Cook for a dispute on Wood Street. At the time, you were filling out an Aided Card, and you acknowledged Ms. DeMay's request. You did not respond by immediately leaving the Dispatch Office and proceeding to your patrol car. Rather, you continued doing paperwork and Ms. DeMay had to again remind you about the need for backup. You acknowledged that you had understood her the first time.

You then proceeded to leave the Dispatch Office and take the elevator to the garage, whereupon you left the Police Station to provide the necessary backup.

Our records show an elapsed time of 3 minutes and 17 seconds from when the first call came in and Ms. DeMay told you to back up until the time that the door was opened for you to exit from the station in your patrol car. As I informed you during the interview held to discuss this matter, at which you were represented by legal counsel, I had personally computed the time necessary to walk from the Dispatch Office, get in a patrol car and proceed to the overhead door, as 26 seconds. Since the interview, we have also computed the time it would take by using the elevator, considering that the elevator car might have either been one floor above or one floor below and have to be summoned. In either case, the longest that it would take to have proceeded promptly (but without running) and use the elevator would be a maximum of 52 seconds.

While I do not approve of the fact that you used the elevator, as you have no documented medical condition and admitted using the stairs in your own home, the use of the elevator did not cause the delay in your response.

Later that evening, Sergeant Bardeen sought to counsel you about your failure to provide timely backup to Officer Cook. You lost control and used foul and offensive language toward your Command Sergeant, and you made vulgar and derogatory remarks about Dispatcher DeMay.

Standing alone, your inordinate delay in responding to the backup request is inexcusable and warrants your immediate discharge from employment with the City of Canandaigua Police Department. It is inconceivable that a police officer with your years of experience would delay so long before going to assist another officer. I can think of few offenses that could be characterized as more serious than this.

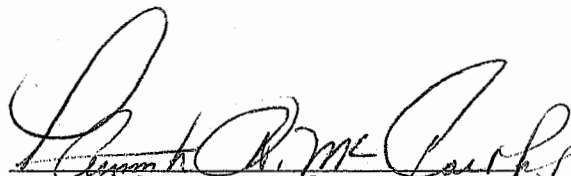
I further find that your actions towards Sergeant Bardeen constitute serious misconduct. It is his job as a Command Officer to correct inappropriate actions of those whom he supervises. Your loss of control and your use of obscene language only exacerbates this serious violation. Finally, your remark about the dispatcher, even if made in anger, shows that you have little respect for others.

I want you to know that I have struggled with the decision as to whether to write this memorandum at all -- or simply to proceed directly with the Civil Service charges seeking your termination for misconduct. In doing so, I reviewed your disciplinary record since late 1989. I will not review your record in this memorandum, since I know you are familiar with it. Let me remind you, however, that you received two weeks' discipline in 1989, a three-day disciplinary suspension in 1990, with a final warning, and a reprimand (with another final warning), three-day suspension and fine in late 1991. Moreover, in February of 1992, you were counseled about an offensive remark you made to Dispatcher Leach.

I am going to offer you one last chance to prove to this Department that you should continue to be employed here as a Police Officer. As a penalty for your misconduct, I am hereby ordering that you forfeit ~~fifteen~~ ¹⁵ paid leave days (starting with any vacation you may have left for this year), write a formal letter of apology to Sergeant Bardeen (subject to my prior approval) and that you understand that this is your last final warning. To put it more specifically, because these incidents (and particularly your failure to provide backup in a timely fashion) are so serious and are grounds for discharge, any future violation of rules or procedure, poor performance or attendance, or any misconduct whatsoever will result in your immediate termination. M.S. EL.


If you do not wish to accept the conditions outlined in the above paragraph, then I will prefer formal disciplinary charges against you pursuant to Civil Service Law Section 75 seeking your dismissal from employment, and you will be suspended without pay pending a hearing and determination, as provided by law. I recommend that you seek advice from your legal counsel and/or union representative concerning this matter. If you do choose to accept this discipline, I must receive a signed copy of this memorandum not later than 4:30 p.m. on Tuesday, September 21, 1993. In my absence, you may deliver your response to either Lieutenant Sheridan or Lieutenant Wittenberg who are both aware of this memorandum.

PWMcC:cb

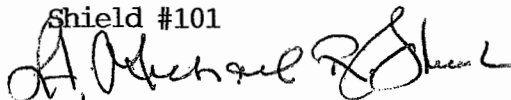

 Patrick W. McCarthy
 Chief of Police

I hereby accept the discipline and the conditions set forth in this memorandum. I acknowledge my misconduct and I waive all rights to a hearing of any kind concerning this situation, including any grievance proceeding or a hearing pursuant to Civil Service Law Section 75. I acknowledge that I am entering into this agreement voluntarily, and that I have been advised to seek the advice of counsel.

DATE: September 21, 1993


 Ralph J. Liberatore
 Police Officer
 Shield #101

Witness:


 9/21/93

CANANDAIGUA POLICE DEPARTMENT

21 ONTARIO STREET
CANANDAIGUA, NEW YORK 14424

716-394-3311

Aug 5, 1993
2100 hrs.

During my C-tour on 7-31-93 a call came in concerning a neighbor dispute on Wood Street. I dispatched PO Cook (he was in the southern part of the City) with PO Liberatore (in Dispatch office) as back-up. PO Liberatore was filling out a card. He continued to fill out the card to completion and left the Dispatch office. I received a least two more calls reporting the same neighbor dispute on Wood Street, one of which stated an involved party had a tire iron and was threatening the other with it. I gave this information out to PO Cook and PO Liberatore. Sgt. Barden was in the Dispatch office doorway when I looked at the back door monitor and saw a police vehicle backing out of its parking space. I stated to the Sergeant that it was PO Liberatore leaving, enroute to Wood Street. He stated PO Liberatore was still in the building waiting for the elevator to go to his vehicle in the basement. A few

(continued
on back)

moments later, PO Ball (STOP DWI - not originally dispatched to the Wood Street complaint) went 10-97 on Wood Street and PO Liberator went 10-97 a few moments after that.

I feel that PO Liberator took a longer time than was necessary to leave the building for a neighbor dispute call in progress which had escalated to a point where a "weapon" was involved.

Virginia S DeMay
Dispatcher

LT. WITTENBERG

08-24-93

RE: CONVERSATION BETWEEN PO. LIBERATORE AND
SGT. BARDEEN ON 07-31-93.

ON 07-31-93, AT OR ABOUT 2315 HRS, I WAS IN THE BOOKING AREA OF THE CANANDAIGUA POLICE DEPARTMENT - SECURING A PRISONER WITH PO. J. COOK. THE PRISONER WAS [REDACTED] WHO HAD BEEN ARRESTED ON WOOD ST. A SHORT TIME EARLIER. AS I WALKED UP THE STAIRS TO ~~THE~~ GO TO THE DISPATCH CENTER FOR AN INFORMATION, I HEARD OFFICER LIBERATORE SCREAMING AT THE TOP OF HIS LUNGS IN SGT. BARDEEN'S FACE. OFFICER LIBERATORE AND SGT. BARDEEN WERE STANDING JUST OUTSIDE THE DOORWAY TO DISPATCH - BY THE MAIL BOXES. I COULD NOT UNDERSTAND WHAT LIBERATORE WAS SAYING, HE WAS YELLING SO LOUD THAT HE WAS UNINTELLIGIBLE. SGT. BARDEEN TOLD LIBERATORE TO CALM DOWN SEVERAL TIMES AND TOLD LIBERATORE TO COME OUTSIDE WITH HIM TO TALK ABOUT WHAT EVER IT WAS THAT WAS BOTHERING LIBERATORE. DISPATCHER G. DEMAY THEN TOLD THEM TO GO SOMEWHERE ELSE AND TALK BECAUSE SHE COULDN'T HEAR HER PHONES.

(2)

Officer Liberatore continued to yell in Sgt. Bardeen's face - approximately ① foot away from Bardeen. Liberatore would not listen to Sgt. Bardeen's directions to go outside to talk with him. I was standing by the chief's secretary's desk at this time waiting for Liberatore to move away from the dispatch door so I could get my information. I saw Ralph Liberatore's back as he continued to yell at Sgt. Bardeen. Sgt. Bardeen then escorted Liberatore to the back door when I heard Liberatore tell Sgt. Bardeen that he had been the first one on the scene at Wood Street. I then asked Liberatore where he was because he was not the first officer at the Wood Street complaint - I was. I told Liberatore that he was not telling the truth. Liberatore then stated, loudly, that I wasn't even dispatched to the scene. I told him that when a tire iron is involved, in a complaint - everyone responds! Liberatore was then escorted out of the building, yelling "I know what you two are trying to do." or something

(5)

like THAT. When LIBERATORE WAS OUT BACK WITH SGT. BARDEEN - I COULDN'T SEE HIM BUT I COULD HEAR HIM YELLING PROFANITIES. When LIBERATORE WAS INSIDE WITH BARDEEN, I REMEMBER THAT HE STATED THAT HE WAS BEING FUCKED OR SOMETHING TO THAT EFFECT.

When I ~~then~~ WAS IN DISPATCH A SHORT TIME LATER I OVERHEARD DISPATCHER DEMAY TELLING ENGLED, (FROM THE ONTARIO COUNTY SHERIFFS DEPARTMENT DISPATCH CENTER) THAT LIBERATORE HAD TAKEN HIS TIME RESPONDING TO THE WOOD STREET COMPLAINT.

THE ABOVE IS ALL TRUE TO THE BEST OF MY ABILITY TO REMEMBER. I AM AWARE OF MY PERJURY STATUTES AND RECOGNIZE THEM HEREIN.

Dan
Ball

September 29, 1993

To: Sgt. Bardeen

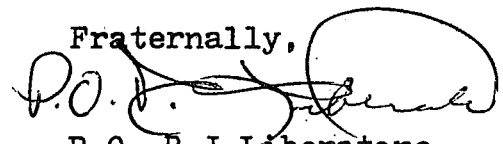
From: P.O. R.J.Liberatore

Re: Fulfill agreement of 09-21-93

This letter is intended to fulfill my obligations to an agreement reached between myself and the City of Canandaigua, along with the advice of counsel, in regards to an incident that took place on 07-31-93.

With this letter I want to apologize for my conduct towards you on the night in question. I trust that this incident will not hamper our working relationship and that we both can put this unfortunate situation behind us, and grow from it in the future.

Fraternally,



P.O. R.J.Liberatore

Shield #101