

In the Matter of the Arbitration)	
)	
Between)	FMCS Case No. 050809-05133-8
)	
THE CITY OF NEWARK)	FINAL OPINION AND AWARD
)	
And)	Re: COOK TERMINATION
)	
THE FRATERNAL ORDER OF POLICE/ OHIO LABOR COUNCIL)	

The Hearing took place on Monday March 13, 2006 at the Newark Police Department. The Hearing convened at 10:00 A.M. and adjourned at 3:00 P.M. Both sides were afforded the opportunity to present evidence and defend/explain their respective positions on the issue.

ISSUE: Was the grievant terminated for just cause? If not, what is the proper remedy?

Appearances for the Union:

Paul Cox, Attorney for the FOP/OLC
Eric Cook, Grievant
Frank Arnold, Staff Representative FOP/OLC
Renee Englebach, Paralegal FOP/OLC
Darrin Logan, Officer Coordinator for the FOP/OLC

Appearances for the City of Newark:

Kathleen Madden, Attorney for the City of Newark
Jonathan Downes, Attorney for the City of Newark
Kathleen Barch, City of Newark Safety Director
H. Darrel Pennington, City of Newark Chief of Police
Donna Sears, City of Newark Human Resource Director

Arbitrator:

Dennis M. Byrne

Introduction:

Eric Cook, the grievant, was an eleven-year veteran patrolman with the Newark Police Department. With a few exceptions, his personnel file shows that he was a hardworking, conscientious patrolman for most of his career. However, during the fall of 2004, he became the focus of a criminal investigation for allegedly raping a young woman. Officer Cook was officially informed that he was under investigation on November 4, 2004, but it appears that he was aware of the investigation prior to the official notification. Cook testified that knowing he was under investigation caused him great anguish; and as a result, his job performance suffered, e.g., he had trouble coming to work because he felt he was the object of discussion (ridicule) by his fellow officers and others within the Department.

His immediate supervisor, Sergeant Haren, was aware of Cook's problems and counseled him to try to find some way(s) to try to relieve the stress he was under. One suggestion that Haren offered was that Cook should make use of the City's Employee Assistance Program (EAP). Haren also suggested that Cook accept a reassignment to a less stressful position within the Department, and Cook agreed with that suggestion. Consequently, on November 23, 2004, Cook was reassigned to non-patrol duty in the Records Bureau. At the same time he was asked to surrender his badge and firearm and report to work in civilian clothes. Cook accepted this reassignment with no complaint.

The criminal investigation continued throughout the remainder of 2004, and the result was that the County Prosecutor refused to take the case before a Grand Jury because, "...there is simply no reasonable likelihood of a successful prosecution in this matter" (Union Exhibit No. 2). The Prosecutor made this determination in December

2004 and transmitted the finding to the investigating officer, Detective Vanoy, in a letter dated January 7, 2005 (Union Exhibit 2).

After the criminal investigation was completed, the Department started its own Chain of Command (COC) investigation into the matter. This was standard operating procedure because the Department had to be sure that Cook's actions had not violated applicable departmental rules and regulations even if there was not enough evidence to go forward with a criminal complaint. The Department's internal investigation dragged on throughout the early spring of 2005. During this period, Cook continued to be assigned to the Records Bureau.

In early April Cook stopped reporting to work. He claimed that he was still under great stress from the ongoing COC investigation and that he was reevaluating his future with the Department in light of what he considered to be his unfair treatment during the fall of 2004 and the spring of 2005. At this time any number of individuals counseled him to return to work, but he refused. Moreover the grievant and Chief Pennington both testified that Cook was ordered to report to the forensic lab on April 18, 2005, and that he chose not to report (Transcript).

The Department decided to discipline Cook for his actions and on May 25, 2005, a pre-disciplinary hearing was convened. The Hearing Officer found that Cook had violated a number of Department Rules and Regulations and that he had voluntarily terminated his employment with the City by refusing to report to work. Consequently, Cook was terminated on May 31, 2005. Cook filed a grievance over his termination on June 16, 2005. That grievance is the basis for the instant arbitration.

Discussion:

There is no disagreement over the facts given in the preceding paragraphs. The difference is the parties' view of their contract and the severity of the discipline given to Cook. The Union argues that Cook's actions do not warrant termination, but are covered under the progressive discipline language contained in Article 18 (Progressive Discipline) of the labor agreement. Furthermore, the Union believes that the Department was aware of the fragile state of Cook's psyche during the fall of 2004 and the spring of 2005 and that it did not make any attempt to help him cope with the situation.

The City disagrees with this analysis and argues that Cook abandoned his post and, in effect, voluntarily resigned from the Department along with violating a laundry list of Department Rules and Regulations. The City contends that when all the facts are examined it is clear that Cook was treated fairly. Furthermore, the City argues that the language in the progressive discipline clause of the contract is intended to cover relatively minor offenses and that Cook's actions were more serious than the situations the parties envisioned when Article 18 was crafted. The City is adamant that Cook deserted his position and that the discipline meted out was proper when all the facts of the situation are examined.

Factually, Cook was accused of raping a young woman; and this allegation led to a criminal investigation into the matter. When Cook learned of the investigation, it began to weigh heavily on him. Consequently he began to miss work and his performance suffered. His immediate supervisor, Sergeant Haren, talked to him about the amount of sick time that he was using. Haren noted that Cook had used almost all of his accumulated sick leave, which is highly unusual for an eleven-year employee. As a result

of these conversations, Haren ordered Cook to produce a doctor's excuse for any further absences (City Exhibit 5b). This conversation(s) had little effect and Cook continued to miss work. The City introduced evidence that Cook refused to supply the requested documentation and was given a written reprimand for his actions (City Exhibits 5e – 5g).

During the course of the fall and in light of his discussions with Cook, it became apparent to Haren that Cook was being affected by stress. Therefore, Haren suggested that Cook accept a reassignment from his patrolman's position to a less stressful environment (City Exhibit 5c). Given the requirements of a police officer's job and the responsibility that goes with carrying a firearm, this was a reasonable response to the situation. The Chief signed off on the requested reassignment, and Cook was assigned to the Records Bureau (City Exhibit 5d).

It should be noted that the Newark Police Department does not have any light duty assignments. Therefore, the Department had to assign Cook to duties that were outside the realm of usual police duties. The City testified that it placed Cook in the Records Bureau because it was the only place where there was a position for him. Unfortunately, there was very little work for Cook in the Records Bureau and he often reported for work and sat around wasting time. That is, he would report to work, do nothing (very little), and then go home. He testified that he was not trained for his new position, and that he was essentially unsupervised (Grievant's Testimony).

When he was reassigned to the Records Bureau, Cook's badge and gun were taken from him and he was ordered to report in civilian clothes. That is, his police powers were suspended and he could no longer make arrests, etc. Because he still considered himself a sworn police officer, he began to carry his personal weapon when

he was working. When the Department found out that he was still carrying a firearm, it was confiscated, and he was told that he was not to carry a weapon until the internal investigation into his behavior was completed and he was returned to fulltime status as a patrolman (City Exhibit 6a). Cook testified from the time his personal weapon was taken from him until he was terminated that he did nothing productive during his working hours and that he no longer felt that he was a member of the Department in anything but name.

After he was informed that the Prosecutor had decided not to present the case to a Grand Jury, Cook seems to have believed that he would be returned to fulltime status relatively quickly. Cook has always been adamant that he did nothing wrong and was the real victim in this entire series of events. He believes that the investigation into the rape allegation was seriously flawed and that a careful investigation would have quickly cleared him. Moreover, he seems to believe that there is some ulterior motive, relating to a prior disciplinary incident, behind the COC investigation (City Exhibit 4j). He understands that Department policy mandates an internal investigation into the matter, but he assumed that this investigation would quickly lead to his exoneration. However, the internal investigation dragged on for months. It is not clear why the investigation took so long, but the fact remains that the Department did not close its COC investigation during the first four or five months of 2005.

These events weighed on Cook. He felt isolated and alone. He believed that his situation was being discussed within the department, and he felt ashamed. Furthermore, Cook is an ex-Marine with a strong sense of duty and he wanted to return to productive activity. He believed that the Department was not treating him fairly and that he was being forgotten. Cook testified that he felt that he had to do something to move the

situation off of dead center because he had been transferred to "Siberia" and forgotten (Grievant's Testimony).

Consequently, sometime during the week of April 3, 2005, he decided to bring the matter to a head by not reporting to work; and as a result of his decision, he stopped reporting to the Records Bureau on April 6th. Sergeant Davis visited Cook on April 8th and told him to report for work that evening, but Cook refused to come in. Subsequently, Sergeants Haren and Frey contacted him to talk to him and find out what was going on. While it appears that neither Sergeant directly ordered Cook to report to work, it is clear that they discussed the issue with him (City Exhibit 3b). Cook also stated he knew that he was required to come to work, but that he chose not to report (City Exhibit 3b).

Cook continued his "strike" during the second week of April, and the Department contacted him a number of times to ascertain his intentions. Sergeant Davis in a memo dated April 15, 2005 stated that he had told Cook to report to work on April 7, 2005 and that he had not returned to work as of April 15th. Missy Davis, a personal friend of both Cook and his wife, was asked by Sergeant Webster about the situation sometime during the middle of April, and she wrote a long memo to the "Administration" on April 16, 2005. In this memo Davis stated that she had talked to Cook about his job and the need to report to work and that he said that he would not come back. A reading of Davis' memo indicates that Cook had made a decision to force the Department to either clear him and return him to full-time duty or he was walking away from an organization that did not care about him and that he believed was making no attempt to help him (City Exhibit 4j).

Cook tried to impugn the contents of Davis' memo. He stated that he believed that she wrote the memo under duress because of pressure put on her by Sergeant Snow, who was involved in the internal investigation. Parenthetically, it must be noted that Sergeant Snow denies that he ever put any pressure on Davis. Moreover, there is nothing in the record that supports a finding that Davis was pressured into writing her memo. Davis does state that she wrote the memo at the "request" of the Administration. This request was made by Sergeant Webster and was a follow-up to a conversation he had with Davis about Cook and his plans vis-à-vis his job and the Department (City Exhibit 4r). However, the record also shows that Cook and Davis were friends and that it was known that she communicated with him. Therefore, a request asking for her input into an investigation of his behavior seems reasonable. The Department would have been remiss if it did not try to determine why Cook was absent without leave and whether he intended to quit his job. Ultimately, Cook was terminated for failing to report to work and for violating a number of Departmental Rules and Regulations. In effect, the Department found that he quit his job.

The Union made two separate arguments in response to the Department's actions in terminating Cook. First, the Union argues that Cook was absent from work and that the language in Article 18 of the parties' labor agreement covers that situation. The Union also makes a subsidiary point on this issue. It argues that the grievant was not working in any real sense and that his absence had no practical impact on any Departmental operation. The Union's second defense is that Cook was ill and his behavior was caused by stress. The Union believes that the Department should have

helped Cook rather than terminating him. The City disagrees with the Union's contentions, and each point will be discussed below.

With regard to the Union's first point, i.e., that the language in Article 18 controls in this situation, the language in question reads:

Article 18: PROGRESSIVE DISCIPLINE

The employer may discipline employees for just cause. The principles of progressive disciplinary action shall be followed with respect to chargeable minor offenses such as, but not necessarily limited to, tardiness and excessive absenteeism; where the Employer and/or supervisor determines the appropriate progression of disciplinary action which shall include the following order: oral reprimand, written reprimand, and suspension for the same or similar offenses prior to dismissal.

The Union claims that this language covers the situation in question for two reasons.

First, the Union explicitly argued that Cook's major rules infraction was excessive absence. This contention is somewhat reinforced by the May 31, 2005, Finding from Disciplinary Procedure, authored by the Director of Public Safety, Kathleen Balch, which states, "The next step of progressive discipline is an unpaid suspension, which I would find to be appropriate for failing to report to work as scheduled" (City Exhibit 2f).

Following up on this point, the Union argued implicitly that Cook's offense was relatively minor because he was not doing any work when he was present for duty at the Records Bureau.

The City disagrees with this analysis. The City contends that Cook voluntarily abandoned his post and that this offense does not correspond to the language in Article 18 with respect "to chargeable minor offenses." The City argues that this is a major offense; and, as such, is not covered under the progressive discipline language.

In evaluating the Union's position(s) on this issue, the Arbitrator notes that the Department's concerns over Cook's use of sick leave and his spotty attendance record run through the entire record. Sergeant Haren talked to Cook about his use of sick leave and pointed out to him that his sick leave bank was exhausted in the fall of 2004. In addition, in the Spring of 2005, Cook was notified by the Human Resource Department that he had excessive sick leave use under the terms of the Collective Bargaining Agreement during the preceding calendar year and, consequently, that he was to be placed on the progressive discipline ladder for his actions (City Exhibit 4p and 4q).

Therefore, the Union's contention that Cook's actions are minor offenses related to excessive absences from work is not borne out by the facts. There is a differentiation in the record between 1) Cook's overall attendance record and 2) his refusal to report to work in April 2005. It is clear that Cook's actions during April 2005 were not considered to be a continuation of his habitual use of sick leave by either the grievant or the Department (City Exhibits 4a through 4n; 4r through 4t).

The Union's emphasis of the use of progressive discipline in this instance is understandable. However, that language cannot be used as a defense for Cook's actions. The language of Article 18 relates to "chargable minor offenses." A consistent, willful failure to report for duty is not a minor offense. The record shows that Cook was told (ordered) to return to work by Sergeant Davis and that he refused to obey that order. Sergeants Haren and Frey also talked with Cook. While they may not have specifically ordered him to return to work, there can be no doubt that they did discuss the entire situation with him and told him that his failure to report to work would have serious consequences. These conversations had no effect on Cook, and he refused to return to

work. The Chief testified that any police department is a paramilitary organization and that a refusal to report for duty coupled with a disregard for a lawful order cannot be tolerated because these actions adversely affect discipline and job performance. The Department contends Cook's actions placed him beyond the pale and cannot be tolerated under any circumstance.

Furthermore, a friend, Missy Davis also tried to convince Cook to return to work because he was creating trouble for himself, but he refused to take her advice. Therefore, the record shows that any number of individuals met with Cook and explained to him that he was placing himself in serious trouble as far as his job was concerned.

Based on all of this evidence, the Arbitrator finds that Cook's actions were not "chargable minor offenses" within the meaning of that phrase used in Article 18. Rather, Cook's actions were a serious infraction of a number of Departmental Rules and Regulations.

In response to the Union's subsidiary point of this issue, the City tried to show that Cook did have duties to perform while he was assigned to the Records Bureau. However, the record shows that he was not given any training or specific tasks when he was reassigned. He occasionally answered the phone or filled out some paper work; but after his personal weapon was confiscated, he did nothing beside report for duty. In order to fill time, he read, did puzzles, and slept. He was never disciplined for these actions, although there is some evidence that the Department was investigating his behavior (City Exhibits 6d and 6e). Regardless of that fact, the record is clear that for the vast majority of time that he was assigned to the Records Bureau he was not working while on duty.

However, it is also true that the Department found a place for Cook because of his problems and kept him on the payroll. He was assigned to the Records Bureau, and it is within the realm of possibility that he would be needed to fill in for someone who was ill, etc. The fact that he was underemployed does not excuse the fact that he decided to stop coming to work.

The Union made another argument in defense of Cook. It argued that he was acting unusually because he was under great stress and that it was the Employer's duty to help him. As a rule, if an employee is sick and needs help and the Employer is aware of the situation, then the Employer should make an attempt to help the affected employee. In this situation the Union advanced the argument that Cook was having psychological problems (depression) and needed help. The Union's contention is that any number of individuals recognized or should have recognized that Cook needed medical help and that he should have been put on medical leave. This is a reasonable assertion given all the facts of the matter.

To buttress its contention, the Union's Post-Hearing Brief contained an arbitration award dealing with these issues (UMW Dist. 6, 110 LA 84 -92). In his award Arbitrator Ruben overturned the termination of a secretary whose work had deteriorated to the point that it was riddled with mistakes. In that case the grievant slipped slowly into a severe depression because of personal problems and was hospitalized for a number of months. After her release from the hospital, she underwent outpatient counseling and rehabilitation. The Employer terminated her for unsatisfactory performance. However, the Arbitrator found that the cause of her problems was her depression. Because she was a long-term employee with an exemplary record, he reinstated her and made her whole

for any lost wages and benefits. The Arbitrator found that her need for medical care was the root cause of her job issues, and that when she completed her treatment, there was every reason to expect that she could do her job successfully.

The Union in this instance is making a similar argument. The Union points out that Cook was a long-term employee with a good, albeit not perfect, disciplinary record, and that his problems were situational. That is, once the rape allegations and COC investigation were completed, the stress affecting him would be gone and he would, most likely, successfully return to his position with the Police Department. The Union's demand for movement along the progressive discipline ladder, coupled with its assertion that Cook was eligible for Family Medical Leave Act (FMLA) time off, can be seen as a demand that Cook be reinstated and given time off until the COC investigation is completed. Put in the proper temporal setting, the Union believes that Cook should have been given a leave and disciplined for his behavior, but returned to work when he was exonerated.

The Arbitrator agrees that unexpected events and/or illness may be a defense against poor job performance and excessive absenteeism. Moreover, the Arbitrator also believes that a long-term, loyal employee deserves some consideration when his/her performance suffers because of unforeseen problems. However, the Arbitrator does not believe that a defense of unforeseen illness can be accepted without examination.

There are a number of differences between the situation facing Arbitrator Ruben and the facts of this matter. First, Ruben found that the breakdown of the grievant was entirely unexpected. She left work on Friday fully intending to return Monday and was hospitalized over the weekend. Her coworkers and the employer were unaware of the

seriousness of her condition. That is not what happened here. Sergeant Haren urged Cook to get help for his problems and recommended the EAP. Cook went to the EAP and received counseling and medication for his condition. Therefore, the Employer's representative pointed Cook in the right direction, and he followed that advice.

A second difference is that in the situation facing Arbitrator Ruben, the grievant's breakdown led to her hospitalization and the Employer never faced the question of whether to place her in a different position. In this case, Cook was placed in a position where everyone concerned believed that he would be under less stress. That is, the Department placed Cook in a position where he would continue to work and receive his paycheck, but where he would not have to deal with the day-to-day stress involved with a police officer's job. This action was taken with the expectation that Cook would be able to adequately function in the Records Bureau until a disposition of the investigation into his actions was complete.

Finally, the grievant in the Ruben case was not willfully insubordinate. She was charged with insubordination because she did not successfully complete the assignments given to her; i.e., she did not follow instructions. Ruben determined that insubordination implies a willful action. That is, a person must make a conscious decision to act in a given way. He found that the grievant tried to do her job to the best of her ability. However because of her illness, she could not satisfactorily perform her duties. Arbitrator Ruben found that the Employer did not make any reasonable accommodation for the grievant's illness when it terminated her.

In this case, the grievant knowingly and willfully disobeyed lawful orders. He refused to report to work as a way to make a statement. An argument can also be

advanced that Cook was attempting to put pressure on the Department to complete the COC investigation and reinstate him. He knew that he should go to work, but he decided not to do it. There is a question of whether Cook's actions were reasonable and whether his actions would lead to his desired result, but that is somewhat beside the point. The Employer responded to Sergeant Haren's request to reassign Cook. The record shows that the Department reassigned him to the least stressful environment that it could. Therefore, the Department did attempt to help Cook through a very stressful period and it did not simply terminate him for poor job performance.

The steps that the Department took to try to help Cook proved fruitless because Cook was unwilling to help himself. The main problem is that Cook wanted the Department to exonerate him and return him to duty as a patrolman *quickly* (emphasis added). Cook decided that the COC investigation was not being conducted in a professional manner, and that determination was the catalyst for his subsequent behavior. Cook believed that he was the victim of a callous and uncaring Employer. He believed that he was innocent of all the charges leveled against him and that he should have been exonerated and returned to work in February or March of 2005. When the COC investigation dragged on into April, he determined that he had to do something. He decided that he would bring matters to a head by refusing to report to work. Any number of individuals from the Chief of Police down to personal friends tried to convince him that his actions were creating problems for him; but he chose to ignore this advice.

In hindsight, this course of action was irrational; and at this point in time the grievant would probably agree. However, to use that fact to claim that the Department was at fault in this situation is unreasonable. Haren informed Cook that he should seek

help from the EAP, and Cook took this advice. He put himself under a Doctor's care and started taking medication to help his depression. Subsequently, he chose to stop seeing his therapist and stop taking his medicine. His behavior with regard to his medical treatment is questionable, and the fact that he stopped taking his medication probably affected his attitude toward his situation. Regardless of his motivation, he made the decision to stop reporting for work. It is unclear what, if anything, that the Department could have done to ameliorate the situation in Cook's mind except complete its COC investigation in a way that he approved of. However, absent some evidence that the Employer was intentionally dragging out the investigation as a way to purposely cause problems for Cook, the Arbitrator does not find the Employer was showing any animus toward the grievant in this matter. As a rule, the person under investigation cannot dictate the pace of the investigation.

Another factor that must be considered is that Cook had other avenues of appeal open to him. He could have approached the Chief of Police, the Safety Director and/or the Human Resource Director to discuss either his problems or the status of the COC investigation. He chose not to go to these individuals. His excuse is that Sergeant Snow told him not to discuss the investigation with anyone. This statement does not adequately explain his actions. A request to discuss the status of the investigation and the overall situation with the Chief of Police would not have been out of line. The Chief would or should already know what was going on, and such a discussion would allow Cook to make his desire to return to active duty known.

Finally, the real avenue open to Cook for some resolution of his problems was the Labor Agreement and his Union representative. Unions exist in order to help their

members. If Cook believed that he was being treated unfairly, the way to address the problem was to go to his union representative and ask for help. Unions are the venue through which employees can approach management with problems. He tried to explain his lack of openness by stating that he was embarrassed by the situation and felt that he could not talk to anyone. However from the testimony at the hearing, it is clear that he talked to any number of individuals about his problems and his decision to stop reporting for duty. Therefore, this statement is a rationalization, not a justification, for his decision to stop reporting to work, i.e., going AWOL.

The record shows that the Department did try to help Cook. He was put in a position where he faced less stress. In effect, all he had to do to continue to receive his paycheck was report to work. He argues that he wanted to work and that he was underemployed. This may be true, but the Department did not abandon him. He remained on the Department's roster of employees and it is reasonable to assume that he ultimately would have been returned to active duty. The record implies that the Department's COC investigation was not pursued with great vigor, but it was going forward. The grievant had a number of ways to protest the pace of the investigation and the way he chose was to absent himself from work. This is unacceptable.

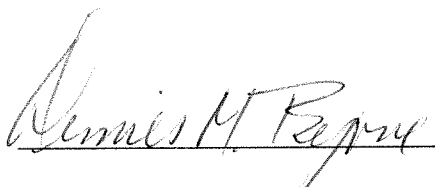
Different employers faced with the same set of facts might act differently. Given the facts of this matter, it is possible that a decision might have been made to severely discipline the grievant and then return him to duty. However, in this instance the Employer decided to terminate Cook for his actions. There is nothing in the record that shows that Cook was unfairly treated. Lacking some finding that the Employer made a

mistake, had a personal animus toward the grievant, etc., the Arbitrator does not believe that he should substitute his judgment for that of the Employer.

The Arbitrator finds that the record supports a finding that the grievant voluntarily left his position with the Newark Police Department. He committed any number of infractions of the Department's Rules and Regulations including insubordination. Therefore, the Department was justified in terminating his employment.

AWARD: The grievance is denied.

Signed this 23rd day of May 2006, at Munroe Falls, Ohio

A handwritten signature in cursive script that reads "Dennis M. Byrne". The signature is written in dark ink and is positioned above a horizontal line.

Dennis M. Byrne, Arbitrator

LIST OF WITNESSES

For the City:

1. Eric Cook, Grievant
2. Donna Sears, City of Newark Director of Human Relations
3. Dave Hiren, Sergeant City of Newark Police Department
4. Darrel Pennington, Chief City of Newark Police Department
5. Scott Snow, Detective Sergeant City of Newark Police Department
6. Kathleen Barch, Safety Director City of Newark

For the Union:

1. Eric Cook, Grievant

LIST OF EXHIBITS

Employer:

The Employer submitter a notebook with nine (9) tabs which contained all of its exhibits. Tabs one (1) and two (2) are the contract between the parties and the grievance packet. The parties agreed that these were joint exhibits.

1. Labor Agreement between the City of Newark and the FOP Lodge 127 dated January 1, 2004.
2. Grievance Packet
 - 2a. Recommendation of Charges dated April 27, 2005.
 - 2b. Notification of Completion of Investigation dated April 27, 2005.
 - 2c. Pre-Disciplinary Conference Notification dated May 18, 2005.
 - 2d. Disciplinary Recommendation dated May 24, 2005.
 - 2e. Pre-Disciplinary Hearing Findings dated May 27, 2005.
 - 2f. Findings from Disciplinary Procedure dated May 31, 2005.
 - 2g. Notice of Termination dated May 31, 2005.
 - 2h. Grievance Report Form dated June 16, 2005.
 - 2i. Agreement to Proceed to Arbitration dated July 8, 2005.
3. Internal Investigation Documents
 - 3a. Internal Affairs Administrative Order dated April 21, 2005.
 - 3b. Transcript of Interview with Eric Cook dated April 21, 2005.
4. Internal Investigation Documents
 - 4a. Request to Conduct Chain of Command Investigation to Captain Phillips dated April 8, 2005.
 - 4b. Request to Conduct Chain of Command Investigation to Sergeant Davis dated April 8, 2005.
 - 4c. Request to Conduct Chain of Command Investigation to Sergeant Frey dated April 8, 2005.
 - 4d. E-mail dated April 11, 2005.
 - 4e. Request for Continued Investigation dated April 12, 2005.
 - 4f. Notification to Cook re: Internal Investigation dated April 12, 2005.
 - 4g. Memorandum to Cpt. Phillips dated April 14, 2005.
 - 4h. Memorandum to Sgt. Davis dated April 15, 2005.
 - 4i. E-mail from Angie Abrams dated April 16, 2005.
 - 4j. Memorandum to Missy Davis dated April 16, 2005.
 - 4k. E-mail from Angie Abrams dated April 17, 2005.
 - 4l. E-mail from Jackie Ardsley dated April 17, 2005.
 - 4m. E-mail from Cpt. Zellner dated April 18, 2005.
 - 4n. E-mail from Cpt. Stollard dated April 18, 2005.
 - 4o. Cook's Request for Leave of Absence dated April 21, 2005,
 - 4p. Notification to Chief of Excessive Absences dated April 21, 2005.
 - 4q. Notification to Chief of Excessive Absences dated April 22, 2005.
 - 4r. Summary of Investigation from April 8, 2005 to April 26, 2005.
 - 4s. Sick Log from March 27, 2005 through April 26, 2005.

- 4t. Notification to Captain Stollard dated April 27, 2005.
- 4u. Notification of Non-Pay Status dated April 28, 2005.
- 4v. Approval of Request for 30 day Leave of Absence dated April 28, 2005.
- 4w. Notification of Approval of Leave without Pay dated April 28, 2005.
- 4x. Notification of Non-Pay Status dated May 4, 2005.
- 5. Prior Discipline and Notification Documents
 - 5a. Documents Re: Suspension – April through June 2002 (Not Admitted into the record.)
 - 5b. Notification of Sick Leave Usage – November 8 and November 11, 2004.
 - 5c. Memorandum from Sgt. Haren re: Reassignment dated November 22, 2004.
 - 5d. Notification of Reassignment dated November 23, 2004.
 - 5e. Memorandum from Sgt. Haren re: Written Reprimand dated December 28, 2004.
 - 5f. Call-In Sick Time Form dated December 27, 2004.
 - 5g. Written Reprimand dated January 6, 2005.
- 6. Disposition of Other Pending Internal Investigations
 - 6a. Notification to Cease Carrying Firearm dated January 20, 2005.
 - 6b. Notification to Report for Interview re: pending Rape Investigation dated April 12, 2005.
 - 6c. Notification of Rape Investigation dated June 1, 2005.
 - 6d. Request for Investigation re; Sleeping on Duty dated April 1, 2005.
 - 6e. Notification re: Status of Sleeping on Duty Investigation dated June 1, 2005.
- 7. Personal History Record.
- 8. Newark Division of Police General Orders
 - 8a. Oath of Office
 - 8b. Code of Ethics
 - 8c. Code of Conduct
 - 8d. Internal Affairs Policy.
- 9. Memoranda from Sgt. Haren
 - 9a. File Memorandum dated October 13, 2004
 - 9b. Memorandum to Cook dated October 27, 2004.

Union Exhibits:

- 1. Letter from Chief Pennington to Captain Stollard dated December 13, 2004.
- 2. Letter from Assistant Prosecutor Oswald to Det. Vanoy dated January 7, 2005.