

BEFORE THE ARBITRATOR

-----

In the Matter of the Arbitration	:
of a Dispute Between	:
	:
WISCONSIN PROFESSIONAL POLICE	: Case 84
ASSOCIATION/LEER DIVISION	: No. 45685
	: MA-6702
and	:
	:
JACKSON COUNTY	:
	:

-----

Appearances:

Cullen, Weston, Pines & Bach, by Mr. Gordon E. McQuillen, on behalf of the Association.  
Weld, Riley, Prenn & Ricci, by Ms. Kathryn J. Prenn, on behalf of the County.

ARBITRATION AWARD

The above-entitled parties, herein the Association and the County, are privy to a collective bargaining agreement providing for final and binding arbitration before a Wisconsin Employment Relations Commission staff arbitrator. Pursuant thereto, I heard this matter on July 8, and 9, and August 14, 1991, in Black River Falls, Wisconsin. The hearing was transcribed and both parties filed briefs and reply briefs which were received by November 6, 1991.

Based upon the entire record, I issue the following Award.

ISSUES

The parties have agreed to the following issues:

1. Did the County have just cause to suspend grievant James B. Haldeman and, if not, what is the appropriate remedy?
2. Did the County have just cause to terminate grievant James B. Haldeman and, if not, what is the appropriate remedy?

DISCUSSION

Detective Haldeman has been employed by the County since 1972, during which time he received numerous letters of commendation regarding his work.

On October 30, 1984, he received a one-day suspension without pay for improperly discharging his shotgun at a grouse and for damaging a barn in the process. He did not grieve said suspension.

On August 28, 1987, then-Sheriff Gary J. Cummings filed a complaint with the Jackson County Law Enforcement Committee charging him with:

1. Improperly interrogating and obtaining an individual confession from a suspect on June 5, 1987, after the latter invoked his Miranda right to remain silent.
2. Improperly filing a false police report on June 9, 1987, which claimed that he did not try

to interrogate said suspect after he invoked his Miranda rights.

3. Improperly conducting a search and seizure on August 11, 1987, for a stolen tool and die set without a search warrant.
4. Improperly telling the victim of said theft on August 11, 1987, that he should not tell the Sheriff's Department about Haldeman's role in recovering said tool and die set.
5. Improperly filing an incident report on August 20, 1987, involving said matter.
6. Improperly conducting an illegal search for drugs on March 6, 1985, without a search warrant.
7. Improperly filing a police report on March 12, 1985 regarding said incident and which failed to mention said search.

Haldeman grieved said proposed discipline and the parties eventually resolved said matter by having Haldeman serve a 45-day suspension without pay.  
1/

The events leading up to the instant matter center on Haldeman's actions on December 8, 1990, at a local bar and his involvement with the Jennifer Wesho murder case which he helped investigate.

At about 11:00 p.m. on Saturday, December 8, 1990, when he was off duty, Haldeman had an encounter with Dennis J. Gaede, his wife Loreli J. Gaede, and their mutual friends Jerry P. Stolfi and Rick Dorn in Pete's Keg and Kettle - a bar in the township of Brockway. There is a sharp testimonial conflict as to what then transpired.

Dennis Gaede, who was doing undercover work for a drug enforcement group, testified that Haldeman, who was also a patron, came over to where the four of them were by the bar; that after everyone shook hands, Haldeman opened Gaede's jacket and asked if he owned a Harley-Davidson; that Haldeman put his arm around Ms. Gaede and leaned against her; that Ms. Gaede finally pushed him aside and that Haldeman said, "I better move before I get slapped"; that Dennis Gaede then said that he hits harder than his wife; that Haldeman said, "this scares me", as he pointed to a motorcycle badge on Gaede's motorcycle jacket; that Haldeman identified himself as a detective in the Jackson County Sheriff's Department; that when Gaede asked whether Haldeman knew police officers Rick Pomeroy and Mark Homegreen, Haldeman replied that both were "dickheads"; that Haldeman accused Gaede of being "dirty" -- i.e. engaged in criminal activity; that Gaede then identified himself as an undercover agent with the MEG unit, i.e. the West Central Metropolitan Enforcement Group; that Haldeman said, "You mean, I could have just sold you some pot and I would have been arrested by my own people?"; that Haldeman added that the MEG unit is "bullshit"; that

---

1/ Haldeman also filed civil suits against the County charging, inter alia, that it had not complied with the terms of the settlement agreement. One of those actions is still pending. Furthermore, the County asserts, contrary to the Association, that Haldeman was demoted at the time - an issue which does not need to be resolved here.

Haldeman cautioned Gaede against revealing his undercover identity so easily; that Haldeman walked over to someone in the bar - later identified as his brother-in-law Richard Lee - and pointed to Dennis Gaede as if identifying him; that once outside the bar, Gaede said that Haldeman was a dirty cop and Ms. Gaede asked to see his badge; that Haldeman displayed his badge; and that Haldeman told him to call him on Monday.

His wife Loreli Gaede corroborated this testimony by in essence repeating the aforementioned account of what happened and by saying that Haldeman ran his hand across her back and across her "butt" several times, at which point she elbowed him away. She also said that Haldeman treated her husband like "a dirt bag".

Stolfi testified in substance to the same effect.

Haldeman, who had been drinking for much of the day, contradicted much of the above testimony by claiming that he never improperly touched Ms. Gaede; that his questions were all friendly; and that "when we left and parted company, I felt that there was no animosity or hard feelings about anything that had been said." He testified that he was surprised and concerned over Gaede's safety after he blurted out that he worked for the MEG unit; that he tried to warn Gaede over his mistake; that he revealed Gaede's status to his brother-in-law only because he has total confidence that he will keep such information to himself; that he went outside the bar to check out the license plate of Gaede's car to ascertain whether Dennis Gaede in fact was an undercover agent; and that he showed his badge only in response to Ms. Gaede's request. He admitted, however, that he did say that some of Dennis Gaede's "colors" frightened him and that he did refer to Pomeroy and Homegreen as "dickheads".

The Gaedes and Stolfi on December 10, 1990, complained to Chief Deputy Garth Rolbiecki of the Jackson County Sheriff's Department about Haldeman's conduct by filing a written complaint against him that day. 2/

In response to said complaint, then-Sheriff Cummings appointed James McFarlane, a retired Police Chief from Eau Claire, Wisconsin, to investigate said matter and to report back. McFarlane and another investigator from outside the Department subsequently conducted an investigation during which time he met and spoke with the Gaedes, Haldeman, and others. 3/

On January 14, 1991, McFarlane submitted a written report to newly-elected Sheriff Richard M. Galster finding that Haldeman had violated Departmental Policy 100.15 by putting his hands on Ms. Gaede; by putting his hands on Mr. Gaede's jacket and by saying "this scares me"; by engaging in "aggressive and intimidating behavior"; by identifying Dennis Gaede in the bar as an undercover agent to his brother-in-law; and by being under the influence of alcohol.

Thereafter, Galster by letter dated February 8, 1991, suspended Haldeman without pay for five days by finding that his actions on December 8, 1990, were violative of Section 100.15 of the Jackson County Policy and Procedure. Haldeman on February 12, 1991, grieved said suspension on the ground that it was an "off-duty incident" which had no effect on his on-duty time and that the suspension was an "overreaction to an outside interest".

---

2/ Dorn did not attend said meeting because he had been jailed.

3/ Stolfi did not show up for his scheduled interview.

Haldeman also became involved in a second controversy involving his actions in the Jennifer Wesho murder case. Wesho, who was 9 years old, was beaten, raped, tortured, and murdered in August, 1989. The circumstances surrounding her death made this one of the highest-profile cases in the office and one of the most difficult to solve.

Haldeman was initially assigned to the Wesho case, but was subsequently taken off it because of complaints lodged against him by Native Americans who claimed that he was heavy-handed in his investigation of the matter. On January 2 and 5, 1990, Haldeman was told by Reserve Officer Thomas Cooper that he, Cooper, had spoken to H.B., 4/ who told him that she and several others, including C.M., killed Wesho. On January 5, 1990, and pursuant to Haldeman's request, Cooper gave Haldeman a written report of his interview with H.B. which Haldeman kept in his own file, as opposed to putting it in the main office file. Haldeman, in turn, interviewed H.B. on January 8, 1990, but he never made out a report of the interview and he likewise never put any of his interview notes in the office's main file.

Earlier, Haldeman interviewed C.M. on July 23, 1990, who told him that he heard D.F. admit that he murdered the Wesho girl. Haldeman never had C.M.'s July 23, 1990, interview tape transcribed and he likewise never put any of his interview notes in the office's main file.

Galster learned about the C.M. and H.B. statements in late April, 1991 in response to a motion filed by the attorney representing D.F. who had been charged with the murder. The discovery of those statements led to the immediate dismissal of the murder charges lodged against D.F., as the District Attorney then requested that they be dropped without prejudice. After conducting an internal investigation and determining that Haldeman violated departmental policy by not telling others about the C.M. and H.B. statements and by not placing them in the office's main file, Galster suspended Haldeman on May 2, 1991, and on May 10, 1991, recommended to the Jackson County Law Enforcement Committee that Haldeman be terminated and he subsequently was. Haldeman grieved said termination.

In support of the first grievance dealing with Haldeman's suspension, the Association primarily argues that the County failed to meet several parts of the seven-pronged test enunciated by Arbitrator Carroll R. Daugherty in Enterprise Wire Co., 46 LA 359 (1966), because Galster never forewarned Haldeman that he, Galster, would adhere "more strictly" to the Department's rules; because Haldeman's actions on December 8, 1990, did not adversely affect either the Department's operations or efficiency; because no one interviewed the people that Haldeman was with at the bar, hence undermining the fairness of the investigation; because the discipline here differed from that imposed against other officers in similar situations; and because the discipline in any event was "excessive".

As to the termination, the Association argues that Haldeman "became the scapegoat for a bungled job out of the District Attorney's office" and that Haldeman in fact never attempted to hide any of the information he uncovered in the Wesho case. It also argues that the County never gave him forewarning that his actions were improper; that "there was no meaningful rule for which

---

4/ Because this is such a sensitive issue and because of the ongoing investigation of this matter, initials are used to identify the people in the Wesho case.

termination is sought"; that no fair investigation was conducted into this matter; that there is no proof that Haldeman violated any Departmental rules; and that he has not been treated equally or equitably.

As a remedy, the Association seeks a traditional make-whole remedy and Haldeman's reinstatement.

The County, in turn, maintains that it had just cause to suspend Haldeman because he "brought the Sheriff's Department into the situation the moment he stated he worked for the..." Sheriff's Department; that McFarland's investigation was "thorough, fair and objective"; and that his serious misconduct on December 8, 1990, warranted the discipline imposed. It likewise asserts that it had just cause to subsequently fire him over his failure to tell others about important information he learned in the Wesho investigation and his failure to properly record that information to the appropriate investigatory office files. The County thus contends that "the impact of not having the proper procedures followed is devastating" because it caused "irreparable harm" in the Wesho investigation.

Turning first to Haldeman's suspension, the record indeed shows, as noted by the Association, that Haldeman was off duty on December 8, 1990, when he ran into the Gaedes. The normal rule is that an employe cannot be disciplined for off-duty conduct unless there is a clear nexus between such misconduct and one's employment relationship. 5/

Here, Sheriff's Department Policy 100.15, entitled "Conduct", recognizes that some off-duty conduct can be regulated because it provides that:

"Employees shall conduct themselves both on and off duty in such a manner as not to reflect unfavorably on the Department. Unbecoming conduct shall include that which tends to bring the Department into disrepute or reflects discredit upon the employee as a member of the Department or that which tends to impair the operation and efficiency of the Department or employee."

Haldeman brought his employment into the situation on December 8, 1990, when he announced that he worked for the Sheriff's Department. From that point on, he no longer was a private person engaging in small chit-chat, but rather, an official from the Sheriff's Department who expected his questions to be answered. Policy 100.15 therefore was binding upon him in such a situation.

While Haldeman denies that he engaged in any misconduct during this incident, I discredit his account and find otherwise. Thus, I credit Ms. Gaede's testimony who said that Haldeman put his hand on her backside in a highly offensive manner. Haldeman's pawing of her, which she deeply resented by elbowing him away, was unprofessional and totally uncalled for.

The same was true for his overbearing and hostile questioning, which was reinforced by his disclosure that he was a law enforcement officer. Haldeman simply had no business whatsoever in engaging in such questioning and he, rather than Dennis Gaede, who is not a certified police officer, was primarily

---

5/ The County cites several cases where arbitrators have found that certain off-duty conduct warranted discipline: W.E. Caldwell Co., 28 LA 434 (Kesselman, 1957); Inland Container Corp., 28 LA 312 (Fergesen, 1957); St. Croix County, 80 LA 518 (Roumell, 1983); and Polk County, Iowa, 80 LA 639 (Stanford, 1983).

responsible for the unpleasantness which followed.

Haldeman then compounded the situation by telling his brother-in-law in the bar that Dennis Gaede was an undercover agent, hence compromising Gaede's continued effectiveness. In this connection, the Association rightly notes that Dennis Gaede should not have disclosed that he was with the MEG unit. Moreover, the record shows that Haldeman was genuinely concerned with Gaede's safety and that is why he cautioned him against revealing his undercover status so easily. But having said that, Haldeman was still wrong in telling his brother-in-law about Gaede's identity.

Each of those acts, even if standing alone, warranted some form of discipline. When they are combined, it is clear that the County had just cause to impose the five-day suspension it did, as that was not an unreasonable disciplinary penalty for the sum total of Haldeman's misconduct on December 8, 1990.

The Association complains that Haldeman was "not treated equitably or equally" because other employes who engaged in other misconduct were not disciplined as much as Haldeman. (The Association also makes the same claim regarding Haldeman's termination.)

I disagree. The record establishes that Galster has been even-handed in disciplining other officers and that varying forms of discipline have been meted out to others because of the unique factual circumstances surrounding individual acts of misconduct. Thus, for instance, Galster suspended an officer for three days because he told a friend who told someone else that Haldeman was responsible for the dismissal of charges against D.F. This discipline appears appropriate because he had no business to relate such a sensitive matter to someone outside the department, just as Haldeman had no business telling his brother-in-law about Dennis Gaede's undercover status. Since Haldeman also improperly touched Ms. Gaede and engaged in hostile and inappropriate questioning, it was entirely reasonable that his suspension was two days longer than the one given to the other officer.

I also find without merit this Association's assertion that Haldeman was never told ahead of time that Galster "intended to adhere more strictly to any rules of the Department" and that Galster in fact indicated the contrary when he told Haldeman that he, Galster, would treat all employes on a "clean slate".

This "clean slate" remark, in fact, only referred to Galster's intention to treat all employes fairly and independently of how they got along with the prior sheriff. Hence, it never was meant to indicate that Galster intended to ignore Haldeman's actions on December 8, 1990, and the investigation it generated, as Galster specifically told Haldeman before he became Sheriff that he would look at the results of the investigation once it had been completed. 6/ As for prior notice, the record establishes that Policy 100.15 is not a new policy and that it in fact preceded Galster's term as Sheriff. Accordingly, it was not necessary for Galster or anyone else to forewarn Haldeman about the Policy since he had been living under it for some time during which time he was expected to follow it.

The Association also argues that Policy 100.15 is "anything but a model of reasonableness or clarity." This language is broad. But that does not mean that it must fall under the just cause standard, as it is simply impossible for any such prohibition to list all of the myriad of situations involving a law

---

6/ I credit Galster's testimony on this point.

enforcement officer's off-duty conduct. Here, Haldeman either knew or should have known that once he identified himself as being with the Sheriff's Department, it was wrong for him to engage in hostile questioning and to put his hand on Ms. Gaede's backside since such actions reflected unfavorably on the Department. By revealing Dennis Gaede's undercover status to his brother-in-law, Haldeman likewise interfered with the Department's operations because other law enforcement officers have stated that they do not want to work with Haldeman because of this leak and because said leak could compromise Dennis Gaede's continued undercover work in Jackson County.

The Association also complains that the investigation here was unfair because the bouncer and other patrons, including Haldeman's brother-in-law and sister, in the bar were not interviewed.

On this score, I credit McFarlane's testimony that Haldeman never requested that he contact his brother-in-law and that he, McFarlane, did interview everyone else that Haldeman wanted interviewed. I also find that the investigation was completely fair and that the County complied with its duty to fairly investigate the December 8, 1990 incident.

The Association asserts that the February 8, 1991, suspension letter from Galster to Haldeman states that he only is being disciplined for displaying his badge and that, as a result, the County is precluded from disciplining him over his other behavior.

Said letter should have spelled out the specifics of Haldeman's misconduct in greater detail. However, it did refer to "consuming alcoholic beverages" and to revealing Gaede's undercover status. In addition, it asserted that Haldeman had violated Policy 100.15 without expressly stating that said violation centered only on Haldeman's disclosure of Gaede's undercover status. A fair reading of said letter therefore shows that the discipline being imposed was not limited to the fact that Haldeman identified himself as being with the Sheriff's Department.

In addition, there is no evidence that Haldeman himself ever asked for greater specificity of the charges against him, hence showing that he himself knew what he was being disciplined for. Moreover, the record establishes that McFarland previously asked Haldeman about each of the allegations lodged against him by the Gaedes and that Haldeman was given the opportunity to refute them one-by-one.

Given all this, there simply is no merit to the claim that the County's suspension violated the procedural safeguards surrounding the contractual just cause requirement. Hence, said suspension stands.

Moving on now to Haldeman's role in the Wesho case and his subsequent discharge, it appears that Haldeman was effectively taken off the case in early 1990 or late 1989 <sup>7/</sup> and that, furthermore, he and Detective Rick Pomeroy - who took over that investigation - were just barely on speaking terms with each another. As a result, Haldeman cannot be faulted for minor problems surrounding any lack of communication on his part. Furthermore, as an experienced detective, Haldeman was free to use very broad professional judgment during his investigation of the Wesho murder case without being second-guessed over the nuances of how he conducted said investigation.

---

7/ Haldeman testified that he "never was told that I was being removed from the Wesho investigation" and that it happened "by osmosis."

The question then becomes whether, measured by these standards, he nevertheless conducted himself in such manner so as to warrant his termination.

Both parties have spent considerable time arguing over whether Haldeman should be faulted for not transcribing his interview with C.M. Haldeman claims that he was not required to have the tapes transcribed under applicable office practice because no suspect confessed to a crime; that his actions in the Wesho case were consistent with what he has done in the past; and that Rolbiecki specifically told him not to transcribe the C.M. tape. That is why the Association argues that newly-elected Sheriff Galster was required to tell him that he was instituting new record-keeping policies.

But even if this latter point is conceded, the fact remains that Haldeman was required to at least file written reports regarding the H.B. and C.M. interviews. Indeed, Haldeman testified here that he was wrong in not doing so, and he earlier admitted that to Galster on April 30, 1991, when he said that he felt "super bad" because of his negligence in not making a report regarding C.M.'s statement. As a result, Haldeman clearly violated that part of Office Policy 100.15 requiring officers to write and file such written reports. This is why there is no merit to the Association's assertion that "Haldeman cannot be fired for the violation of a new rule."

Haldeman nevertheless asserts that he did pass on the information regarding C.M. to Rolbiecki and that he told Tomaselli, who is with the Wisconsin Department of Justice and who assisted in the Wesho murder investigation, and Rolbiecki about H.B.'s statement. They, however, flatly denied that he did so and assert that they did not find out about said statements until the end of April, 1991, when Sheriff Galster launched his investigation into this matter.

I credit this latter testimony because they testified in a more credible manner than Haldeman, who I find generally tried to shade his testimony in his own behalf. Moreover, had Haldeman in fact given this critical information, there should have been some express mention of it somewhere in the case files - when in fact there is none.

The Association asserts that these statements in any event are not that critical because "there is nothing in the materials obtained from Haldeman's file which could exonerate him", i.e. D.F., and lead to the dismissal of the charges against him. That is not true; H.B. admitted that she was the one who helped killed Wesho. Furthermore, H.B.'s admission could be used against her for impeachment purposes if she testified against D.F., as the District Attorney originally intended. C.M.'s statements also were important because they helped pinpoint the date that D.F. supposedly talked to him. In short, these statements were extremely important to the Wesho case and the failure to disclose them earlier had a major negative impact on how that case was handled and it has generated a lot of extra work in reworking the investigation.

The Association also argues that it is unfair to discipline Haldeman because the County never disciplined Reserve Officer Cooper over his failure to follow the correct procedure. It was Haldeman, however, who asked Cooper for a written report regarding H.B.'s admission and Cooper complied with his request by giving it directly to Haldeman on January 5, 1991, as ordered.

It thus was entirely reasonable for Cooper to have concluded that Haldeman would take care of it from that point on, particularly when Cooper gave Haldeman all three copies of his report, hence putting Haldeman on notice that Cooper was not keeping any copies for himself for proper placement in the Wesho files. As the much more experienced officer, Haldeman likewise should have known that it was his responsibility to pass this information on to others

- a point which Haldeman himself has acknowledged.

The Association also claims that the investigation here was inadequate because it forced Haldeman to respond to questions without first reviewing his own files; because it was not conducted by someone outside the Department as was the case surrounding Haldeman's earlier suspension; because Galster never made any real effort to "ascertain departmental practices which existed prior to his appearance on the scene"; and because Galster was a "biased investigator".

The record shows, however, that: (1), Haldeman was not prejudiced in responding to Galster's inquiries without first checking his own files; (2), the just cause standard does not require that such investigations be conducted by outside sources; and (3), Haldeman himself recognizes that he was required to file written reports of his C.M. and H.B. interviews and to tell others in the Wesho case about what they had said.

There likewise is no merit to the Association's claim that Sheriff Galster was a "biased investigator", as the record shows that Haldeman and Galster have been friends for some time; and that Galster even visited Haldeman's home; that Haldeman participated in Galster's election campaign; and that while others may have investigated this matter differently, Galster's investigation nevertheless was fairly conducted because he made an honest effort to ascertain why H.B. and C.M.'s statements were not passed on to others and because Haldeman was given the opportunity to respond before discipline was imposed.

In this connection, the Association argues that Galster overlooked "Rolbiecki's statements tending to establish that he had, in fact, discussed these matters with Haldeman..." It is true that the two did discuss H.B. and Haldeman's continuing investigation into her activities after January 5, 1990.

But that is not necessarily inconsistent with Haldeman's failure to disclose H.B.'s admission to Cooper since Haldeman and Rolbiecki were also focusing on other aspects of the Wesho case which were unrelated to H.B.'s admission.

The Association also questions why Haldeman was disciplined when Pomeroy was never disciplined over his failure to cooperate and to share information with Haldeman in the Wesho case. This is a closer question because one would think that professionalism dictates a mutual exchange of information in such an investigation. Here, though, since Haldeman was effectively taken off the case, Pomeroy was not required to share information with Haldeman once that happened because he testified that he did not feel himself to be the lead worker on the case, but rather, only assisting Tomaselli.

The Association also calls into question District Attorney Alan D. Moeller's supposed remark that the County was "going to get (Haldeman) this time." Moeller's supposed remark was contained in a newspaper story which was never introduced into the record and Moeller himself was never asked about this during his questioning. Since this statement is strictly hearsay, little weight can be given to it.

It thus must be concluded that the County had just cause to discipline Haldeman over his failure to report and prepare written reports regarding the H.B. and C.M. statements. The question then becomes whether - in light of his prior disciplinary record - the County had just cause to terminate him.

As noted above, Haldeman received a one-day suspension in 1984 for

improperly firing his gun and damaging a barn and a 45-day suspension in 1987 over various acts of misconduct. The Association asserts that this latter suspension must be disregarded because Haldeman's pending lawsuit seeks to overturn it on the ground that the County has failed to comply with the settlement agreement.

But the fact remains that Haldeman did serve that suspension; that as of today it has not been set aside; and that there is no evidence that the parties then ever agreed that said suspension could not be relied upon by the County in the future if it ever again tried to discipline Haldeman over other matters. Absent any such limiting language - which is quite common when there is an agreement to that effect - it is entirely proper to consider that suspension in determining whether the County had just cause to terminate Haldeman.

Once that is done, we see that Haldeman over the years has engaged in serious misconduct and that he was suspended on three prior occasions before being finally terminated in 1991. Given the seriousness of his failure to properly report and record critical parts of the Wesho investigation, the County therefore had just cause to fire him over that matter, as his negligence there was part of an ongoing pattern of misconduct which showed no signs of otherwise letting up.

Moreover, even assuming arguendo that the 1987 suspension should be disregarded as the Association urges, the County still had just cause to fire him on the heels of Haldeman's prior 5-day suspension because his failure to properly report and record the statements in issue demonstrated a fundamental failure on his part to follow well-established and basic principles of good law enforcement.

Lastly, the Association asserts that Haldeman was the victim of disparate treatment because other employes were not terminated over similar acts of misconduct. Having reviewed all of those situations, I find otherwise, as all of them involved difficult factual circumstances. Moreover, even if Haldeman's 1987 suspension is disregarded, there still would not be any disparate treatment since his 1991 suspension and failure to properly report and record the information herein distinguishes his situation from these other employes.

In light of the above, it is my

AWARD

1. That the County had just cause to suspend grievant James B. Haldeman.
2. That the County had just cause to terminate James B. Haldeman.

Dated at Madison, Wisconsin this 12th day of February, 1992.

By Amedeo Greco /s/  
Amedeo Greco, Arbitrator