

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between
WINNEBAGO COUNTY (SHERIFF'S DEPARTMENT)

and

**WINNEBAGO COUNTY SHERIFF'S PROFESSIONAL POLICE ASSOCIATION,
LOCAL 107, LABOR ASSOCIATION OF WISCONSIN, INC.**

Case 340
No. 60489
MA-11633

(Daniels Grievance)

Appearances:

Mr. John A. Bodnar, Corporation Counsel, Winnebago County, 415 Jackson Street, P.O. Box 2808, Oshkosh, WI 54903-2808, on behalf of the County.

Mr. Patrick J. Coraggio, Labor Consultant, Labor Association of Wisconsin, Inc., 2835 North Mayfair Road, Suite 24, Wauwatosa, WI 53222, on behalf of the Union.

ARBITRATION AWARD

According to the terms of the 2001-2003 labor agreement between Winnebago County and Winnebago County Sheriff's Professional Police Association, the parties jointly requested that the Wisconsin Employment Relations Commission designate Sharon A. Gallagher, a member of its staff, to serve as impartial arbitrator to hear and resolve a dispute between them regarding whether the County had just cause to issue a written warning to the Grievant, Kenneth Daniels, concerning an August 3, 2001, incident. A hearing was scheduled and held at Oshkosh, Wisconsin, on January 30, 2002. No stenographic transcript of the proceedings was made. The parties jointly requested to make oral argument at the close of case in lieu of filing written briefs. This request was granted by the Arbitrator and the record herein was closed on January 30, 2002.

To maximize the ability of the parties we serve to utilize the Internet and computer software to research decisions and arbitration awards issued by the Commission and its staff, footnote text is found in the body of this decision.

ISSUES

The parties stipulated that the following issues should be determined by the Arbitrator in this case:

Did the County issue a written warning to Officer Kenneth Daniels for just cause? If not, what is the appropriate remedy?

RELEVANT CONTRACT PROVISIONS

ARTICLE 2 MANAGEMENT RIGHTS

Except to the extent expressly abridged by a specific provision of this Agreement, the County reserves and retains, solely and exclusively, all of its Common Law, statutory, and inherent rights to manage its own affairs, as such rights existed prior to the execution of this or any other previous Agreement with the Association. Nothing herein contained shall divest the Association from any of its rights under Wisconsin Statutes, Section 111.70.

ARTICLE 6 DISCIPLINE AND DISCHARGE

The County may only discipline or discharge a non-probationary employee for just cause, pursuant to Sec. 59.26(8), Stats. Demotions, suspensions and dismissals of non-probationary employees shall be processed under the provisions of Section 59.26(8), Stats.

All disciplinary actions shall be presented in person to the employee within a reasonable time of the date of the infraction. All disciplinary actions shall be in writing.

Written warnings shall state the nature of the infraction under Section 59.26(8), Stats., only written reprimands that have occurred within the last twelve (12) months from the date of the most recent infraction can be used for purposes of establishing an appropriate penalty under progressive discipline.

An employee shall have rights of access to his personnel file in accordance with Section 103.13, Wisconsin Statutes.

RELEVANT WORK RULES

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RC.22 Unbecoming Conduct on duty

Each employee shall be courteous toward the public. The employee shall not use coarse, violent, profane, or insolent language or gestures.

The employee shall not express any prejudice concerning race, religion, politics, national origin, life-style, sex, or other personal characteristics.

. . .

BACKGROUND

The Winnebago County Jail is located in Oshkosh, Wisconsin, and it houses an average of 126 incarcerated inmates as well as 156 work release (Huber) inmates. Geoffrey Anderson has been the County Jail Administrator for the past 5 years. Lieutenant Michael Powers has been employed by the County Sheriff's Department (Department) for the past 23 years. Powers was shift commander in charge of all departments operations (including the jail) on the swing shift, which covers first, second and third shifts during all relevant times. Powers was shift commander of the third shift on August 3 and 14, 2001.

The Grievant, Kenneth Daniels, (Daniels) has been employed by the County as a Correctional Officer/Deputy for the past four years on the third shift (10:00 p.m. to 6:10 a.m.) in the Jail. Daniels was previously employed as a Correctional Officer by the State of Wisconsin at the Oshkosh prison for four years. Daniels was never disciplined by the State or by the County prior to the discipline at issue in this case. Daniels is a respected Correctional Officer who has been designated Officer-In-Charge of the County Jail from time to time, if the Jail Corporal is absent on the third shift.

The Department has work rules and policies which are interpreted as requiring that indigent inmates are entitled to five pieces of paper, one stamped envelope and a flexy-pen if they have been incarcerated for seven days in the County Jail and have less than \$1.00 on account at the Jail. On this point, Sec. 902.07 of Department Policy states:

Inmates will purchase postage for all outgoing mail. If an inmate is indigent, the County shall provide postage for one letter per week.

1. All requests for free postage will be made in writing.
2. The correction officer will check the inmate's account to determine indigence eligibility . . .

Jail inmates can make requests for various items on canteen forms (not made a part of this record) or on "inmate request forms." On the latter form, inmates can check boxes requesting haircuts, their release date, Huber laundry and to be placed on the Huber list. The inmate request form also has a six-line space for inmates to describe the "nature" of their request. Inmates must sign and date these requests or they will be returned, as stated on the form. These forms have an eight-line space for a "response" which includes a place for "supervisor signature," badge number and date of response.

Canteen forms are made available to inmates every Monday and those requests for canteen items (such as writing paper and franked envelopes) are normally filled the following day, Tuesday, after the inmate's account is checked to determine his/her ability to pay for the items ordered.

The record evidence showed that no written or oral directives have been issued from management at the Jail indicating that it is inappropriate for Correctional Officers to correct inmate spelling on inmate request forms, and no officer has ever received a written warning for correcting inmate spelling on such a form or for denying an inmate request before the instant case arose. It is also clear that no inmate requests have ever been denied by Correctional Officers prior to August 3, 2001. It is also undisputed herein that more than 50% of inmate request forms contain misspellings. There is no rule that states Correctional Officers cannot ask inmates to re-submit their request forms or that Correctional Officers cannot deny inmate requests.

FACTS

On August 3, 2001, Correctional Officer Daniels received an "Inmate Request Slip" from inmate M.C. 1/, which read in relevant part as follows:

NATURE OF REQUEST: It's a shame I have to waste a hole peice of paper to get my Indigent. Five peice's of paper and 1 envelope. today is Friday Please look in to this for me. I should of got it tuesday 7-31-01 thank you Dosn't mean much to you, But it means everything to me.

This form was signed by M.C. and dated 8-3. Daniels recalled that he received this inmate request slip through channels, not from M.C. personally. Daniels placed his initials in the "supervisor signature" space, and his badge number in the space provided therefor as well as the date of 8/3 in the response area of M.C.'s request form. Daniels also wrote the following response to M.C.'s request on the form:

"HOLE" is spelled WHOLE
"PEICES" is spelled PIECES

please re-order

M.C.'s request was apparently returned to M.C. the following day, which was August 4, 2001, a Saturday.

1/ The identity of the inmate is being masked.

Sometime after August 3, 2001, even though M.C. had not requested that Jail Administrator Geoffrey Anderson receive a copy of his Inmate Request Slip, a copy thereof was placed in Anderson's in-box by an unknown person. Anderson read the slip and was concerned with the tone of Daniels' response. Anderson stated herein that he felt that Daniels' response to M.C.'s request did not answer that inmate's needs as Anderson would have expected. Anderson stated that he normally gets approximately ten inmate request slips per week and that the majority of these contain misspellings and incorrect grammar.

Anderson decided to ask Lieutenant Powers to formally question Daniels regarding his apparent response on M.C.'s Inmate Request Form of August 3, 2001. On August 14, 2001, Lieutenant Powers questioned Officer Daniels as he had been requested to do by Captain Geoffrey Anderson. Following his interview with Daniels, Powers dictated the content of that interview from his notes which was typed by Sheriff's Department personnel and returned to Powers with a copy to Anderson sometime approximately three days after August 14, 2001. Powers' memo regarding his interview with Daniels read as follows 2/ :

. . .

On August 14, 2001, at 3:54 a.m. I had an occasion to interview Officer Ken Daniels of the Jail Division in regards to a response that he put on an inmate request slip. I first informed Officer Daniels that he must be truthful during my questioning as discipline could arise from this. He did have a right to have a union rep present. At that time he did ask me what might possibly be the discipline that we are talking about. I told him that would not be up to me that it would be up to Captain Anderson and he would have to look at his own career and remember if he had ever been warned for an infraction of this type before. The type of discipline at this time would hinge on whether he was a repeat offender or not. At that time Officer Daniels told me he would not be requesting a union rep to be present at this time. He said he has never been confronted with this type of incident before in his career.

I then went on to ask Officer Daniels if he in fact did write the response after showing him the inmate request slip and he said yes he did. He was the one that wrote it. I asked him if he was told to write this response by any superior and he told me no he wrote it on his own. I asked him why he wrote this type of response and he went on to tell me that he feels he gets along very well with inmate C. and he has joked around with him in the past. He did this somewhat to correct his spelling but it also was done in a joking attitude. Ken said that it surely was not done to demeanor [sic] the inmate in any fashion. I questioned Officer Daniels as to what would have happened if the inmate wanted his paper to contact an attorney and Ken went on to tell me that if any inmate would contact him person to person and request something of the nature and indicate that the reason [sic] for an attorney, he would immediately get the paper and envelope for him without making him go through the request slip and wait a

week. He said that he has done this for other inmates and in fact has gotten items tonight, 08/14/01, for inmates that have asked for things other than going through the request slip.

Ken said he was never doing this in a belittling manner and that is not like him to operate in that fashion. Officer Daniels said that in the time that inmate M.C. has been in the Jail, he has never had a problem with him. Inmate C. has a problem with seizures and he is actually looked [sic] on more times than a standard inmate would be because of the medical condition that he has. Officer Daniels also stated that I could look through other request slips that he has made a response to and I would not find a problem with any of those slips. He stated that if M., meaning the inmate, was offended by the response he would certainly apologize to him because it was certainly not intended to be derogatory in any way.

...

2/ Powers testified herein that he had no reason to believe that Daniels was lying when he (Powers) interviewed him on August 14th.

After Anderson received the above-quoted report from Powers, he conferred with Assistant Chief Gary Boyce as well as the Chief Deputy and the Sheriff to determine what, if any, discipline should issue to Daniels for his written response on M.C.'s Inmate Request Slip of August 3, 2001. As a result of their discussions, Anderson typed up and had the third shift sergeant issue Daniels the following written warning dated August 20, 2001. This warning stated that it was intended "to remind you to improve your conduct and/or your work or further action will be taken." The written warning describes the type of infraction as "Rules and/or Policy Infractions" as well as "Conduct, Behavior, Attitude." The detailed comments regarding the infraction read as follows:

...

On August 3, 2001 you answered an Inmate Request Slip by responding "Hole is spelled Whole, Pieces is spelled Pices, please re-order." This response was inappropriate and in violation of Winnebago County Sheriff's Office Rule of Conduct RC.22, UNBECOMING CONDUCT ON DUTY.

This rule reads, "Each employee shall be courteous toward the public and fellow employees. The employee shall not use coarse, violent, profane, or insolent language, acts, or gestures. 3/ The employee shall not express any prejudice concerning race, religion, politics, national origin, life-style, sex, or other personal characteristics."

Any further violations of this type could result in greater discipline to include suspension or termination.

. . .

The written warning also indicated that Daniels had not been warned prior to this offense.

3/ The underlined words do not appear in RC 22 which was made a part of this record.

Anderson stated herein that he found Daniels' correction of M.C.'s spelling and Daniels' indication that M.C. should reorder the paper, pen and envelope condescending, demeaning and possibly inflammatory and that he (Anderson) did not believe that Daniels had done his job by writing the response that he wrote on the bottom of M.C.'s request. Anderson stated that no legitimate purpose could be served by Daniels' response. Anderson stated that he felt that M.C., as an inmate, was a member of the public under RC 22; that Daniels had not been courteous to M.C. and had violated RC 22 by the condescending and insolent act of writing the response on M.C.'s Inmate Request Slip when Daniels knew that M.C. wanted writing materials. Anderson stated that if RC 22 did not exist, he would still have disciplined Daniels for his failure to follow Policy No. 902.07, and for not acting in a professional manner toward M.C.

Anderson admitted, however, that he did not interview M.C. regarding the request slip nor did he seek to determine why M.C.'s July 31, 2001 request for writing material had not been filled by the Correction Officer who had received that original request. Anderson also stated that M.C. did not complain about Daniels' conduct toward him and that he (Anderson) did not request Powers to make any recommendation regarding whether Daniels should be disciplined following Powers' investigation. Anderson also admitted that he did not investigate how the Inmate Request Slip had been placed in his in-box and that he (Anderson) never talked to either Daniels or M.C. or any other witnesses regarding this incident. Anderson stated that he directed his sergeant to make sure that M.C. received his writing materials after the incident.

Daniels stated herein that he has been Vice-President of the Union since January 1, 2001. Daniels stated that he is familiar with M.C. as M.C. has been in the Winnebago County Jail since the Spring of 2001. Daniels stated that when he received M.C.'s Inmate Request Slip, he did not provide the writing materials to M.C. because he thought M.C. was asking him (Daniels) to check into why he had not previously been given his indigent writing materials pursuant to Policy No. 902.07. Daniels stated that he believes he has discretion to refuse to provide the indigent writing material package to inmates and to deny other inmate requests. Anderson asserted that he did not refuse to provide the indigent writing material package to M.C. because he was not there when M.C. originally ordered it on July 31, 2001.

Daniels stated he did not know which officer originally denied M.C.'s request for the indigent writing material package. When asked why he corrected M.C.'s spelling on the August 3, 2001, Inmate Request Slip, Daniels stated that he had a joking, bantering and kidding rapport with M.C. over the approximately 3-5 months he had been in the Jail; that there was no hostility between himself and M.C.; that when he (Daniels) corrected M.C.'s spelling, he thought he was joking with M.C. and he did not mean to demean M.C. or to punish him by his actions.

Daniels stated that the County Jail has a philosophy in which the County encourages Correctional Officers to have more interaction with inmates if it is possible. Daniels stated that this is what he was doing when he wrote the response on M.C.'s Inmate Request Slip. Daniels stated that he had never had to discipline M.C. as an inmate and that M.C. has never complained about Daniels' treatment of him (M.C.). Daniels stated that the description of his interview with Lieutenant Powers was accurate and that he told Powers the truth. Anderson stated that when he corrected M.C.'s spelling on the August 3, 2001, request slip he did not knowingly violate RC 22 and that he (Daniels) had never been told or received any written directives not to correct an inmate's spelling. Anderson stated that he was proud of his employment record and that he would like the written warning removed from his record because he did not believe he did anything wrong on August 3, 2001.

On cross-examination, Daniels admitted that the Inmate Request Slip did not constitute a formal complaint lodged by M.C. Daniels also asserted that it was not reasonable to conclude that M.C. was asking for five pieces of paper and an envelope on his Inmate Request Slip, even though the form that M.C. submitted was on an Inmate Request Slip. Although Daniels asserted that if M.C. had asked for an indigent writing material package, he would have told M.C. to put his request on a canteen sheet on Monday night for receipt the following Tuesday, Daniels admitted that he did not attach a canteen request form to the August 3, 2001, Inmate Request Slip that M.C. had submitted to him as part of his response thereto. Daniels stated that it was not fair to conclude that M.C. still wanted an indigent writing material package by his written request of August 3, 2001, but only that he was asking that a Correctional Officer look into why he (M.C.) had not received the original writing package he had requested on July 31, 2001. However, Daniels also admitted that he never checked into the matter for M.C. and that he did not explain to M.C. why M.C. did not get his indigent writing material package in the response area of the August 3, 2001, Inmate Request Slip, which he returned through channels to M.C. Daniels admitted he does not know whether M.C. ever got his indigent writing material package. Finally, Daniels admitted that he never before refused an inmate request because of spelling errors during his tenure with the County and that he did not speak to M.C. about the incident so he did not know whether M.C. was offended by his response on the August 3, 2001, Inmate Request Slip. For these reasons, Daniels never apologized to M.C.

POSITIONS OF THE PARTIES

The parties agreed to orally argue this case at the close of the hearing. They, therefore, waived the right to file any briefs herein. The parties' arguments can be summarized as follows.

The County

The County argued that the documents in this case are clear on their face; that without regard to Daniels' past history as a good employee, he clearly intended to and did in fact "jerk M.C. around" by his (Daniels') written response on M.C.'s August 3, 2001, Inmate Request Slip. The County noted that Daniels could have simply obtained or reordered the indigent writing package for M.C. However, Daniels chose not to do either of these things. In the County's view, M.C. clearly requested an indigent writing material package on August 3, 2001. Daniels failed to get that package for M.C. and therefore failed to do his job. The County urged that this is an issue of a lack of general courteousness toward the public; that Captain Anderson looked into the situation as any manager should do and found that Daniels had violated RC 22, as well as Daniels' general duty to be courteous to inmates. However, even if RC 22 did not exist, there would have been sufficient cause to discipline Daniels simply on the basis of his lack of courtesy to M.C. under Section 902.07 of the Department Policy. Therefore, the County urged that the Arbitrator deny the grievance and allow the written warning to stand.

The Union

The Union argued that the issue here is whether a written warning was issued to Daniels for just cause. The Union urged that the County did not meet the just cause standard in this case. Although Captain Anderson claimed to be appalled that a prisoner did not get his indigent writing package, Anderson was not appalled enough to find out why M.C. did not get the writing package the first time he requested it on July 31, 2001. The Union also argued that Daniels did not refuse M.C.'s request. In this regard, the Union noted that officers cannot assume that prisoners want an indigent writing package from verbiage on a request slip; that Correctional Officers are trained to be responsive, not intuitive. The Union argued that Daniels' response on M.C.'s Inmate Request Slip shows that he was joking with M.C. and that he did not deny M.C. his indigent writing package. Indeed, it should have been a sufficient response for Daniels to simply state, as he did on the Inmate Request Slip, "please re-order."

The Union contended that there was no specific rule that was violated here, the County having failed to prove that it had ever directed the Correctional Officers not to correct inmate's spelling errors. In the Union's view, the use of the catch all "rule" regarding conduct unbecoming simply was not specific enough to base discipline upon. Indeed, the Union noted that Human Resources Director Wagner characterized Daniels' actions as "harassment" in a September 4, 2001, letter answering the grievance. If this were in fact so, the Union queried why Captain Anderson did not investigate Wagner's allegation of "harassment." The Union argued that Daniels was treated differently from other employees; that Daniels had no prior discipline on his record and that he should not have received a written warning based on the evidence in this case.

Indeed, the Union noted that Correctional Officers have been directed to have regular contact with inmates under the County's Jail philosophy of direct contact. This is in fact what Daniels was doing when he wrote his response to M.C.'s Inmate Request of August 3, 2001,

and Daniels did not know that he would be disciplined for kidding with M.C. by correcting his spelling on the form. Thus, the Union urged that there was no basis for the written warning in just cause and it urged the Arbitrator to sustain the grievance and expunge Daniels' record of all reference to this written warning.

DISCUSSION

In the written warning issued to Daniels by Captain Anderson, Anderson described Daniels' response to M.C.'s August 3, 2001, Inmate Request Slip as "inappropriate and in violation of . . . RC 22." Anderson then misquoted RC 22 (as noted *infra*) and stated that "further violations . . . could result in greater discipline. . . ." Thus, the initial inquiry in this case must be whether Daniels' written response to M.C. violated RC 22 or was otherwise inappropriate.

In order to judge this first point, it is reasonable to look at Daniels' response in light of M.C.'s request. In his August 3rd request, M.C. was clearly angry and upset (using judgmental words such as "shame" and "waste") that he had requested an indigent writing package the week before but had not yet received it. M.C. then clearly requested "please look in to this for me." M.C. then expressed his frustration, his vulnerability, and a feeling of self-pity: "Dosn't mean much to you, But it means everything to me." To this request, Daniels' responded by correcting two of M.C.'s misspelled words and adding a cryptic "please re-order." Given the emotional tenor of M.C.'s request, Daniels response was, on its face, at least insensitive and non-responsive.

An analysis of RC 22 is necessary at this point. RC 22 states that employees "shall be courteous toward the public." The Union asserted herein that as an inmate of the County Jail, M.C. should not be considered a member of the "public." 4/ I disagree. Based upon the broad language of RC 22, one could reasonably conclude that the word "public" means all non-employees of the County. In addition, it would be unreasonable and illogical for the County to enjoin its employees to be courteous to non-inmate members of the public while allowing its officers to treat inmates otherwise. Therefore, I conclude that M.C. must be considered covered by RC 22 as a member of the public. 5/

4/ *Although Captain Anderson made errors in quoting RC 22 in the written warning he issued to Daniels, these errors do not materially affect this dispute.*

5/ *The facts of this case failed to support a conclusion that Daniels violated the second or third sentences of RC 22.*

The Union argued that the County never directed officers to refrain from correcting inmates' spelling and grammar. I find this argument to be too restrictive of the issues in this

case. Here, the County has established work rules which (based on this record) the Union has not grieved. RC 22, although broadly written, is reasonably related to the delivery of County services at the Jail where Daniels was employed.

The Union also argued in this case that the County should have investigated Human Resources Director Wagner's characterization of Daniels' actions as "harassment" in his September 4, 2001 letter answering the grievance as a part of applying a just cause standard in this case. I disagree. Clearly, Mr. Wagner's use of the word "harassment" merely expressed his personal assessment of the tenor of Daniels' reply and did not allege a separate violation or separate misconduct by Daniels. As such, no investigation of Mr. Wagner's personal views of Daniels' conduct would have been appropriate.

Finally, the Union has argued that Daniels was merely following departmental policy to have regular contact with inmates at the County Jail by his written response to M.C.'s August 3rd request. I do not find this argument particularly persuasive, as Daniels admitted that he never had personal contact with M.C. concerning his August 3, 2001 Inmate Request Slip.

The County has relied solely upon the language of M.C.'s request slip and Daniels' written response thereto to support its decision to discipline Daniels. This is troubling. Although I have found that Daniels' response to M.C.'s request of August 3rd to be insensitive on its face and essentially non-responsive, I cannot conclude based on this record that Daniels was discourteous to M.C. by his written comments to M.C., given Daniels' uncontraverted testimony that he had a joking, bantering and kidding rapport with M.C. It is also significant that M.C. did not file a complaint against Daniels concerning Daniels' response to his August 3rd request, and that the County never interviewed M.C. to determine whether M.C., in fact, felt that Daniels' response was discourteous to him or inappropriate in some other way.

6/

6/ However, the Union's argument that Daniels never refused M.C.'s request is also unpersuasive. By writing the words that he wrote in the response area of M.C.'s August 3rd request form, Daniels effectively denied M.C.'s implicit request for the indigent writing package on August 3, 2001, and Daniels also failed to "look in to" why M.C. had not previously received a writing package per his July 31st request.

It is also troubling that the County failed to investigate M.C.'s request regarding why his original July 31st request for an indigent writing package had not been filled. Yet the County proceeded to warn Daniels for his response to M.C.'s August 3rd request, although no officer had ever before been disciplined for violating RC 22 and no Departmental memos or programs have addressed RC 22 or proper responses to inmate requests.

But even assuming Daniels was merely kidding with M.C. when Daniels wrote the response to M.C.'s August 3rd request, and assuming that M.C. and Daniels' relationship would have reasonably supported such an approach, the facts of this case showed that Daniels failed to respond to M.C.'s request (in its literal form) by not checking into why M.C.'s July 31st request for an indigent writing package had been denied or ignored. Because of these facts, it would be reasonable to conclude that Daniels' conduct merited some discipline. However, given the fact that Daniels had a clean work record prior to August 3, 2001, that the County had never instructed employees regarding RC 22 or proper responses to inmate requests, that the County had never before disciplined any employee for violating RC 22, that the County failed to fully investigate why M.C.'s prior request had not been filled, it would have been more appropriate for the County to have issued Daniels an oral warning for his failure to properly respond to M.C.'s request. In the Arbitrator's view, the County failed to forewarn Daniels that returning an Inmate Request form unfilled would result in his being issued a written warning for violating RC 22. 7/ Therefore, based on the relevant evidence and argument herein and my analysis thereof, I do not believe the County was justified in issuing Daniels a written warning for his response to M.C.'s August 3rd request, and I issue the following

7/ Daniels asserted in this case that it was not reasonable to conclude, based on M.C.'s request form, that M.C. was in fact requesting an indigent writing package by the language M.C. employed in that request form. I need not decide this issue, as I have found that Daniels failed to respond to M.C.'s clearly stated request that someone check into the fact that he (M.C.) had not received an indigent writing package even though he had requested it approximately one week earlier on July 31st.

AWARD

The County did not have just cause to issue Officer Ken Daniels a written warning for his response to inmate M.C.'s August 3, 2001 Inmate Request Form. Therefore, the written warning and any reference thereto issued to Officer Daniels shall be expunged from his file. The grievance is, therefore, sustained in its entirety.

Dated at Oshkosh, Wisconsin, this 9th day of April, 2002.

Sharon A. Gallagher /s/

Sharon A. Gallagher, Arbitrator