

**BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO**

**IN THE MATTER OF CHARGES FILED AGAINST )**  
**POLICE OFFICER JOSE D. VELAZQUEZ, )** **No. 19 PB 2967**  
**STAR No. 19316, DEPARTMENT OF POLICE, )**  
**CITY OF CHICAGO, )**  
**RESPONDENT. )** **(CR No. 1078888)**

**FINDINGS AND DECISION**

On October 23, 2019, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Jose D. Velazquez, Star No. 19316 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be suspended from the Chicago Police Department for one-hundred-twenty (120) days for violating several Rules of Conduct, which set forth expressly prohibited acts.

A hearing on these charges against the Respondent took place before Hearing Officer Lauren A. Freeman on March 9, 2020. Following this evidentiary hearing, the members of the Police Board read and reviewed the record of the proceedings, including the Hearing Officer’s Report (neither party filed a response to this report), and viewed the video recording of the entire evidentiary hearing. Hearing Officer Freeman made an oral report to and conferred with the Police Board before it rendered its findings and decision.

**POLICE BOARD FINDINGS**

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.

2. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon the Respondent not fewer than five (5) days before the date of the initial status hearing for this case.

3. Throughout the hearing on the charges, Respondent appeared in person and represented himself.

### **Introduction**

4. Respondent was hired by the Chicago Police Department (CPD) in December 2013, and is currently assigned to work as a patrol officer in the 007th District.

The testimony and evidence adduced at the evidentiary hearing are as follows. On Saturday, January 16, 2016, at approximately 2:00am, Respondent and his friend, civilian Jorge Arteaga, entered the Spectrum Bar and Grill (“Spectrum”) located at 233 South Halsted Street in Chicago. Velazquez was off duty, wearing jeans and a button-down shirt, and was armed with his service weapon, which he wore in a holster on his right hip. He testified that he had been drinking alcohol since completing his CPD shift earlier that night but thought it safer to bring his gun to the bar with him rather than to leave it in his car.

When he and Arteaga entered Spectrum, they sat at the corner of the U-shaped bar next to complainant Pedro Perez, who they had not known previously. The three men conversed cordially and eventually, the group was joined by Respondent’s friend Nancy Mesa, and her boyfriend, Raul Rosales, who was also an off-duty Chicago police officer.

### **Pedro Perez’s Testimony**

The Board finds that Pedro Perez testified clearly and credibly as to what followed. He arrived at Spectrum alone after getting off work and expected his girlfriend to meet him there. While Perez was talking to Respondent and Arteaga, they were drinking alcoholic beverages and

drank some shots together.

The conversation remained friendly until Perez began talking directly to Mesa. Officer Rosales became angry at Perez for talking to Rosales's girlfriend and told Perez to leave them alone. Respondent then began backing up Rosales and threatened Perez by saying something like, "Go away or do you want me to take care of you with this?" Simultaneously, Respondent lifted up Respondent's shirt and held his hand momentarily on his gun, which had been concealed but remained visible thereafter. Perez then left the bar and repeatedly called "911" until the police arrived approximately 15 minutes later. Perez was angry and upset, feeling that first the bouncer and then the police had ignored him. Perez testified that he was not intoxicated during the incident.

### **Spectrum Video Surveillance Footage**

The Board finds that Spectrum's surveillance video footage (Superintendent's Exhibit #2) corroborates Perez's account of the incident. It shows that at approximately 2:40am, Respondent is gathered at the corner of the bar with Arteaga, Officer Rosales, Mesa, and Perez, when Rosales begins talking firmly to Perez. Respondent then appears to say something to Perez and makes a small gesture in front of him with his hand as if telling Perez to go away. While speaking, Respondent moves his right hand to his hip and momentarily places his hand on his gun. The gun had not been visible before this moment but then remained outside of Respondent's shirt. Respondent appears to say something to Perez and Perez then leaves the group.

The footage shows that about 20 minutes later, Respondent improperly displays his gun a second time. The footage shows that at 3:04am, after Perez has left the camera's view, Respondent removes his gun from his holster and shows it to Mesa before Officer Rosales takes a "selfie" of the group. Moments later, a CPD sergeant and two additional officers enter the bar

and place Respondent under arrest.

### **The Arresting Officers' Testimony**

All three officers testified (two of them via stipulation) that Respondent appeared intoxicated when arrested. In addition to describing Respondent's intoxicated condition, Sergeant Orozco's testimony (via stipulation) also corroborated Perez's testimony that Respondent's threat had included a reference to Respondent's gun. Sergeant Orozco testified that upon his arrival at Spectrum, Perez told him that Respondent had threatened Perez by stating something like, "You want to get shot?"

### **Respondent's Breathalyzer Test**

Respondent was transported to the 012th District station where CPD Sergeant Cochran conducted Breathalyzer testing of Respondent at 7:07am (Superintendent's Ex. #4). The test results (Superintendent's Ex. #18) showed that at the time he was tested, more than four hours after his encounter with Perez, Respondent had a blood alcohol concentration of .183. Although a backward extrapolation analysis was not performed in this case, the Board concludes that Respondent's blood alcohol levels at the time of his interaction with Perez and at the time he unholstered his gun for the selfie were even higher.

### **Respondent's Hearing Testimony**

At the beginning of the hearing, Respondent pled guilty to Specification #1(b) and (c) as well as Specification #2(d). When pleading guilty to those specific provisions, Respondent admitted that he had been intoxicated (thereby violating Rule 15), possessed a weapon while intoxicated (thereby violating Rule 6), and that he unnecessarily displayed his handgun to Pedro Perez (thereby violating Rule 38).

Respondent, however, pled not guilty to Specification #1(a) and Specification #2(a), (b),

and (c). In so doing, he argued that his conduct did not impede the Department's efforts to achieve its policy and goals or bring discredit upon the Department (Rule 2), did not amount to disrespect or maltreatment of Pedro Perez (Rule 8), and did not amount to an unjustified verbal or physical altercation with Pedro Perez (Rule 9).

Respondent testified both adversely and on his own behalf as follows, in summary. He brought his weapon into the bar that night because he had decided to stop for a drink on the way home from work and believed it was more dangerous to leave a gun in the car where it could be stolen than to take it inside of a liquor establishment. The Board finds that this testimony alone shows a disturbing lack of judgment and disregard for Department rules.

He explained that he and Officer Rosales had intervened only because Mesa kept telling them that Perez would not leave her alone. He felt that Perez should have just left them alone and that because Perez was a little intoxicated himself, Perez's perspective might have been skewed. Respondent could not recall exactly what he said to Perez, but believes he probably said something like, "Back off; Leave us the fuck alone. Do you want to get beat up?" He admitted that when he and Perez were talking, Respondent momentarily placed his hand on or near his gun.

He further testified that he never intentionally displayed his gun to Perez to threaten him; it was inadvertently displayed because he was stretching or because he habitually touches his weapon. Before he viewed the video during his testimony, Respondent tried to support his claim by contending that when he lifted his shirt and touched his gun, he was not directly in front of Perez but on the other side of the bar, away from him. The surveillance video footage, however, shows that although Perez was just around the corner of the bar counter from Respondent, he was still just feet away and facing him when Respondent handled his gun.

He explained that he pled guilty to Rule 38 because the video footage shows that the gun was over his shirt and displayed while talking to Perez and that later he unholstered it when Arteaga took the selfie. He can now see how Perez could have believed it was a reaction to their conversation, but Respondent did not intend it as a threat. He admitted that he did have a “lapse in judgment” because it wasn’t smart to take the picture with his handgun out (and he was therefore pleading guilty to Rule 38) but pointed out that at that time Perez was already outside and there was no physical threat toward him.

He admitted that he should have left the bar and gone home to his wife and kids and let Officer Rosales handle his own battle. He believes this was just a big, unfortunate misunderstanding and the incident does not reflect who he is as a person.

### **Charges Against the Respondent**

5. The Respondent, Police Officer Jose D. Velazquez, Star No. 19316, charged herein, is **guilty** of violating Rule 2, Rule 6, and Rule 15 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about January 16, 2016, at or near Spectrum Bar, 233 South Halstead Street, Chicago, Officer Velazquez was intoxicated, and/or was in possession of his weapon while intoxicated and/or when there was a likelihood that he would be consuming alcoholic beverages which may impair his physical and/or mental abilities. Officer Velazquez thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed Department Directive U04-02, “Department Approved Weapons and Ammunition”; and
- c. Rule 15, which prohibits intoxication on or off duty.

See the findings set forth in section no. 4 above, which are incorporated herein by

reference.

As noted above, Respondent pled guilty to (b)<sup>1</sup> and (c) of this specification but pled not guilty to (a), contending that while his conduct reflected poorly on himself, it did not impede the Department's efforts to achieve its policy and goals or bring discredit upon the Department. Respondent contended that he did violate this rule because he was off duty, the entire incident was blown out of proportion, he did not *purposely* try to discredit the Department, and he was not representing the Department at that moment. The Board disagrees.

The Chicago Police Department Rules and Regulations state the following:

*Every member must...be constantly aware that while technically off duty he is subject to respond to any emergency requiring his service. The off duty use of intoxicants must therefore, be moderate in order to allow the mental and physical requirements for immediate response. An off-duty member under the influence of any intoxicant represents a danger to himself and to others and cannot, therefore, be permitted.*

The Rules and Regulations further provide:

*Since the Conduct of a member, on or off duty, does reflect directly upon the Department, a member must at all times conduct himself in a manner which does not bring discredit to himself or the Department.*

On January 16, 2016, Respondent chose to enter several drinking establishments and drink to excess. When Breathalyzed approximately 4 hours after the incident, he had a blood alcohol concentration of .183, more than twice the legal limit. By choosing to consume copious amounts of alcohol while off-duty, Respondent clearly impeded the Department's efforts to

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<sup>1</sup>Department Directive U04-02(C) provides, in part; "While sworn members are permitted to carry firearms during nonduty hours, they are instructed to refrain from doing so when there is a likelihood that they will be consuming alcoholic beverages or medications which may impair their physical and/or mental abilities."

achieve its policy and safety goals and brought discredit to the Department. He compounded that misconduct by choosing to wear his loaded gun while drinking, leading to an alarming risk of harm to himself, to Mr. Perez, and to the other members of the public.

6. The Respondent, Police Officer Jose D. Velazquez, Star No. 19316, charged herein, is **guilty** of violating Rule 2, Rule 8, Rule 9, and Rule 38 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about January 16, 2016, at or near Spectrum Bar, 233 South Halstead Street, Chicago, Officer Velazquez displayed his weapon to Pedro Perez and/or stated to Pedro Perez “do you want me to take care of you” and/or “do you want to get shot” and/or “wanna get hurt” and/or words to the effect of those statements. Officer Velazquez thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department;
- b. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty;
- c. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty; and
- d. Rule 38, which prohibits unlawful or unnecessary use or display of a weapon.

See the findings set forth in section nos. 4 and 5 above, which are incorporated herein by reference.

As noted above, Respondent pled guilty to (d) of this specification but pled not guilty to the rule violations alleged in (a), (b), and (c). By so pleading, he admitted that he unnecessarily displayed his handgun to Pedro Perez but argued that his conduct did not violate Rule 2, Rule 8, or Rule 9.

For the same reasons set forth in paragraph 5 above, the Board finds that Respondent’s conduct violated Rule 2 in that it impeded the Department’s efforts to achieve its policy and



goals and brought discredit upon the Department.

The Board also finds that Respondent clearly violated Rules 8 and 9. Respondent maintains that he did not violate Rule 8 because his conduct was never serious enough to constitute “disrespect” or “maltreatment” of Perez. The Board disagrees. By his own admission, when Respondent told Perez to leave the group, he said something like, “Back off; Leave us the fuck alone; Do you want to get beat up?” This alone constitutes “disrespect” and “maltreatment.” There is no evidence that Perez had been harassing the group, had refused to leave them alone, or had acted inappropriately toward Ms. Mesa. In fact, Respondent admitted that the reason Rosales had become angry in the first place was that Perez had been talking to Rosales’s girlfriend. The video footage corroborates Perez’s testimony that when Respondent threatened him, Respondent placed his hand on his gun. The Board finds that this was not coincidental as Respondent claims, but rather a gestural, purposeful threat.

Respondent argues he did not violate Rule 9 because his encounter with Perez never rose to the level of a verbal or physical “altercation”; it was just a disagreement and Perez misunderstood his intentions. Respondent reasoned that both he and Perez had been drinking and that Perez also had lapses in judgment that night as evidenced by Perez’s behavior when Perez later grabbed at Sergeant Orozco’s gun. This argument lacks merit. Perez explained that he had been upset at the police response to his repeated “911” calls and when he touched Sergeant Orozco’s gun, he was simply showing the sergeant where Respondent was wearing his weapon. Sergeant Orozco likewise testified he did not believe Perez was trying to disarm him. Most importantly, Pedro Perez is a civilian. He is not a Chicago police officer. Police officers are held to a higher standard than civilians. Their professional and private lives must be beyond reproach. Perhaps most importantly, the public allows them to carry loaded

weapons and trusts that they will not abuse the power that accompanies that responsibility.

The Board finds that Respondent abused that power and violated that trust. After crediting Perez's testimony and viewing the video footage, the Board finds that Respondent engaged in an unjustified altercation with Perez, thereby violating Rule 9.

### **Penalty**

7. The Police Board has considered the facts and circumstances of the conduct of which it has found Respondent guilty and the evidence Respondent presented in his defense and mitigation.

Respondent testified on his own behalf in mitigation and did not present any additional witnesses. He testified that he is married and has two children, a six-year-old and eight-year-old. He and his siblings came from hard-working immigrant parents and became successful despite growing up in a rough area of Little Village. Before working for CPD, he served eight years as a U.S. Marine and was deployed twice to Afghanistan. When he left military service, he worked as a certified welder, earned an automotive technology degree from Truman College, and then worked for Cicero Police Department for about 6 years, where he earned several awards and complimentary letters from citizens. He testified that he has always wanted to help others and is currently taking classes at Lewis University to obtain his Criminal and Social Justice degree. He maintained that the night he was arrested, he made a big mistake that has affected his whole family and rather than just accept his suspension, he wanted to tell his side of the story and let people know that he is a much better person than the person in the video.

In addition, Respondent's complimentary history consists of 17 total awards, including ten Honorable Mentions, four Emblems of Recognition—Physical Fitness, and one Attendance

Recognition Awards; he has no sustained complaints on his disciplinary history.

Nevertheless, after thoroughly considering Respondent's evidence in mitigation and service as a police officer, the Board finds that his accomplishments as an officer and the positive evaluations of him do not mitigate the seriousness of his misconduct in this case. The Board finds that Respondent's misconduct warrants a severe penalty, greater than that recommended by the Superintendent.<sup>2</sup>

The Board acknowledges Respondent's remorse for his actions and found him to be generally sincere and contrite while testifying. The Board also agrees with Respondent that he should not be defined based solely on a single incident as shown on the video footage. The Board feels, however, that Respondent acted in a highly irresponsible and dangerous manner on the night of the incident. His decisions to possess his weapon while drinking alcohol and to threaten a man in a bar display a gross disregard for the safety of members of the public and a serious lack of judgment and self-control. When an officer carries a gun, he has the power of life and death in his hands. When he possesses that power and chooses to consume alcohol, he places others at a disturbingly greater risk of harm.

The Board finds that a longer suspension is in order to help ensure that Respondent does not engage in such behavior again. The Board finds that a suspension of one-hundred-eighty (180) days is warranted on the facts of this particular case.

As the Board has noted in several of its recent decisions, the length of time for disciplinary cases to reach the Board is in many instances excessive. The Board continues to be deeply troubled by cases such as this, in which the charges arising from a January 2016 incident

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<sup>2</sup>The Police Board has the authority to order a penalty greater than that recommended by the Superintendent. See *Lesner v. Police Board*, 2016 IL App (1st) 150545.

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were filed with the Board in October, 2019.<sup>3</sup> While the delay had no effect on the Board's decisions as to the facts or outcome of this case, it is noted for the purpose of providing yet another example of excessive delay to help ensure that keeping delays to a minimum continues to be a priority in resolving allegations of misconduct.

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<sup>3</sup>The timeline filed in this case indicates that the Superintendent approved the recommended suspension in October 2017. Charges were filed with the Board two years later after the Fraternal Order of Police decided to not advance this matter to arbitration. There is no evidence in this case that the delay prejudiced Officer Velazquez.

### **POLICE BOARD DECISION**

The members of the Police Board of the City of Chicago who have participated in this disciplinary action hereby certify that they have read and reviewed the record of proceedings, viewed the video-recording of the entire evidentiary hearing, received the oral report of the Hearing Officer, and conferred with the Hearing Officer on the credibility of the witnesses and the evidence. The Police Board hereby adopts the findings set forth herein by the following votes.

By votes of 9 in favor (Ghian Foreman, Paula Wolff, Matthew Crawl, Michael Eaddy, Steve Flores, Jorge Montes, John P. O'Malley Jr., Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 2, Rule 6, Rule 8, Rule 9, Rule 15, and Rule 38, as set forth in section nos. 5 – 6 above.

As a result of the foregoing, the Board, by a vote of 7 in favor (Crowl, Eaddy, Flores, Montes, O'Malley, Sweeney, and Zopp) to 2 opposed (Foreman and Wolff), hereby determines that cause exists for suspending the Respondent from his position as a police officer with the Department of Police and from the services of the City of Chicago, for a period of one-hundred-eighty (180) days.

**NOW THEREFORE, IT IS HEREBY ORDERED** that the Respondent, Police Officer Jose D. Velazquez , Star No. 19316, as a result of having been found **guilty** of all charges in Police Board Case No. 19 PB 2967, be and hereby is **suspended** from his position as a police officer with the Department of Police and from the services of the City of Chicago **for a period of one-hundred-eighty (180) days**.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Matthew Crawl, Michael Eaddy, Steve Flores, Jorge Montes, John P. O'Malley

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Jr., Rhoda D. Sweeney, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18<sup>th</sup> DAY  
OF JUNE, 2020.

Attested by:

/s/ MATTHEW C. CROWL  
Board Member

/s/ STEVE FLORES  
Board Member

/s/ MAX A. CAPRONI  
Executive Director

**DISSENT**

We concur with the majority of the Board that Respondent is guilty of all charges. However, we dissent from the majority's decision to suspend Respondent. We find that Respondent's conduct on the night in question is incompatible with continued service as a police officer. His going out drinking and becoming highly intoxicated with his gun show an unacceptable lack of judgment, self-control, and concern for public safety. We are also concerned that Respondent tried to deny the charges until confronted with the video evidence, suggesting he was not truthful and was remorseful only after clear evidence of his guilt was made available to the Board. Returning Respondent to duty as a sworn officer, armed and authorized to use deadly force in situations both on and off duty, would pose an unacceptable risk to the safety of the public.

/s/ GHIAN FOREMAN  
President

/s/ PAULA WOLFF  
Vice President

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RECEIVED A COPY OF  
THESE FINDINGS AND DECISION  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020.

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DAVID O. BROWN  
Superintendent of Police