

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER DANIEL OTERO,) **No. 22 PB 3006**
STAR No. 10058, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
RESPONDENT.) **(CR No. 1092474)**

FINDINGS AND DECISION

On August 31, 2022, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Daniel Otero, Star No. 10058 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department (“Department” or “CPD”) for violating CPD’s Rules of Conduct.

A hearing on the charges against Respondent took place before Hearing Officer Michael Panter on May 9 and 10, 2023. 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. The Hearing Officer made an oral report to and conferred with the Board before it rendered its findings and decision.

During the proceedings of this case, from the filing of charges through the evidentiary hearing, the Hearing Officer made rulings and entered orders. None of the Hearing Officer’s rulings and orders is overruled or reversed.

POLICE BOARD FINDINGS

As a result of its hearing on the charges, the Police Board finds and determines that:

1. 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 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 and was represented by legal counsel.

Introduction

4. In the early morning of April 3, 2016, Officer Otero and his partner responded to the call of a woman who said she was awakened in her apartment to see a stranger shining a flashlight on her. She screamed, jumped out of bed, and ran to her neighbor's apartment. The intruder fled. She called 911. Her wallet, purse and cellphone were missing. She met two uniformed officers in the hallway of her apartment building. Officer Patrick O'Malley was the reporting officer who interviewed her. Officer O'Malley reported she was frightened. He testified, "clearly frightened." Officer Otero testified she was in disarray, bothered and uncomfortable.

Officer Otero helped Officer O'Malley search the apartment and surroundings for evidence. [Y.L.], the crime victim, did not want to be left alone. She sat with the officers in their patrol car while Officer O'Malley completed his report. She then asked to be taken to a public place instead of returning to her apartment. Officer Otero accompanied her back to her apartment to get some of her things. When they were alone in the elevator, he said, she began flirting and touching him. She went into her apartment, got some of her things and gave him her email address which she wrote on a piece of printing paper. She asked him to contact her to hang out later. He said she was an attractive woman, and he was flattered by her attention. He said she

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was not frightened or vulnerable at that time. He said she was fine when she gave him her email and asked him to hang out.

The officers left [Y.L.] at a nearby Starbucks and returned to the station. Officer O'Malley completed his report, and it was approved by the supervisor and assigned to a detective. Officer Otero said that completed his work on the case and he had no further involvement.

Before the end of his shift, Officer Otero emailed [Y.L.] who said she wanted to meet him. He picked her up at the Starbucks after 6:30 a.m. when his shift concluded. She said she wanted him to go with her to her apartment. Officer Otero testified that at this point, [Y.L.]'s demeanor was fine. At her apartment, she began touching him, unbuckling his pants, and initiating oral sex. She got a condom, she undressed, and got on top of him. After sexual intercourse, he remained at the apartment with her for several hours. She accidentally burned his prized Cubs jacket with her cigarette while they were kissing on her balcony. A detective went to her apartment sometime later to interview [Y.L.]. He had no difficulty contacting her. She could not identify the perpetrator. She mentioned nothing of her interactions with Officer Otero. The case was subsequently closed.

In an email to [Y.L.] the next day, Officer Otero said he hoped she was doing better since the incident. They continued to exchange emails for a period of months until she stopped responding. Officer Otero did nothing more to pursue the relationship. They never met again. Four years later, [Y.L.] sent a complaint to COPA. It is unclear if she retracted the charges, but she declined to have any involvement in any disciplinary proceedings. She did not testify. The case was thoroughly investigated, and Officer Otero gave multiple statements. He provided his emails and was fully cooperative.

Charges Against the Respondent

5. Police Officer Daniel Otero, Star No. 10058, is **guilty of violating Rule 2**, in that the Superintendent proved by a preponderance of the evidence the following charge set forth in Specification No. 1:

On or about April 3, 2016, approximately sometime between the hours of 7:00 a.m. and 9:00 a.m., at or near [xxxx] North Dearborn Street in Chicago, Police Officer Daniel Otero engaged in an improper sexual relationship with [Y.L.] at her apartment shortly after his shift ended. Officer Otero had just met [Y.L.], who was twenty-two years old at the time, because she was the victim of a crime that Officer Otero responded to while on duty and in the course of his duties as a Chicago police officer earlier that morning: specifically, [Y.L.] called 911 at approximately 3:00 a.m. on April 3, 2016, and noted that she woke up to an unknown man in her apartment, shining a light on her, or words to that effect. Officer Otero thereby violated 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.¹

See the findings set forth in Section No. 4 above, which are incorporated here by reference.

It is undisputed that no CPD directive, such as a General Order or Special Order, specifically prohibits an officer from having sexual relations with a crime victim. The Superintendent argues Officer Otero abused his position of authority to seek a personal relationship with a woman in a vulnerable state who had summoned the police for help after a frightening encounter.

The Respondent denies he abused his authority, denies he brought any disrepute to the Department, and denies he impeded any oral or written department policy. He notes he was not charged with violations of Rule 4 (using official position for personal gain), Rule 6

¹ Respondent was also charged with violating Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals. The Board finds that the conduct specified in the charges does not violate Rule 3. The Superintendent has not met the burden of proving that the conduct with which Officer Otero is charged constitutes an "omission or failure to act by any member of the Department, whether on or off duty, which act would be required by the stated policy, goals, rules, regulations, orders and directives of the Department." (Rules and Regulations of the Chicago Police Department, Article V, Comment to Rule 3.)

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(disobedience of any oral or written directive), or Rule 8 (maltreatment of any person). While it is true that Officer Otero is not charged with violations of those rules, the Board believes—in spite of his denial—that he did bring disrepute upon the Department. The Board finds that his conduct violated Rule 2.

Rule 2 “applies to both the professional and private conduct of all members. It prohibits any and all conduct which is contrary to the letter and spirit of Departmental policy or goals or which would reflect adversely upon the Department or its members. It includes not only all unlawful acts by members but also all acts, which although not unlawful in themselves, would degrade or bring disrespect upon the member or the Department....” (Rules and Regulations of the Chicago Police Department, Article V, Comment to Rule 2.) Officer Otero’s conduct falls squarely within Rule 2’s ambit. He engaged in a sexual relationship with a young woman mere hours after she experienced a traumatic event that frightened her and caused her to call for emergency police assistance.

The undisputed facts of this case make clear that Officer Otero showed remarkably poor judgment and that the sexual relationship was improper given the circumstances. Officer Otero’s actions “reflect adversely upon the Department or its members” and could ultimately impede the Department’s efforts to achieve its policy and goals. His conduct undermines public confidence in the judgment of CPD officers and the Department’s mission. In particular, members of the public are more likely to be hesitant to call for police assistance for themselves or others if they are concerned that responding officers may later attempt to engage in a sexual relationship with them when they are frightened or may feel vulnerable. Effective law enforcement depends upon a high degree of cooperation between the police department and the public it serves. Conduct such as Respondent’s erodes the public’s trust of and confidence in police officers, thereby

impeding the Department's efforts to achieve the important goal of reducing crime.

The Board does not find persuasive Respondent's arguments that he is not culpable because [Y.L.] is the one who issued the invitation, or that she waited four years to make a complaint, or that she declined involvement in the investigation of the complaint. Further, the fact there is no specific prohibition in a CPD directive² does not absolve Respondent from his duty to not violate the Department's Rules of Conduct, including Rule 2. Officer Otero frankly admitted the events of that morning. He sees no deficiency in his actions. Officers are expected to understand the consequences of their actions, even their private conduct, and Officer Otero, as experienced and decorated an officer as he was, certainly should have understood that returning to have sex with [Y.L.] hours after she called 911 because of a home intruder is conduct that brings discredit upon the Department and impedes its mission.

The Board finds that Officer Otero violated Rule 2. The public and victims of crime must know that it is the prime mission of the CPD that officers protect members of the public, and that engaging in a sexual relationship with someone soon after their call for service undermines that mission.

Disciplinary Action

6. The Board has considered the facts and circumstances of the conduct of which it has found Respondent guilty and the evidence he presented in mitigation.

Respondent became a CPD officer in 2004. He is a decorated officer with 75 awards and

² While the Board is not persuaded by Respondent's argument that he is innocent of misconduct because there is no CPD directive that explicitly prohibits engaging in a sexual relationship or other intimate personal conduct with a person after responding to that person's call for service, the Board believes that the public and officers would benefit from a specific CPD policy in this area. The Board strongly recommends that the CPD and the City's Community Commission for Public Safety and Accountability develop such a policy.

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has no sustained complaints on his disciplinary history. He called three witnesses in mitigation who spoke positively about his credibility and moral character.

After considering thoroughly Respondent's evidence in mitigation and taking into account the nearly three-year delay in bringing a complaint and the lack of evidence that Respondent aggressively pursued a sexual relationship, the Board finds that these factors as well as Respondent's accomplishments as an officer and the positive evaluations of him do not fully mitigate the seriousness of his misconduct. Respondent displayed a profound lack of judgment by engaging in a sexual relationship with a woman hours after he responded to her 911 call. He also seems unwilling to acknowledge that his actions could be seen as inappropriate. As noted above, this conduct brings discredit upon the Department and undermines the public's trust of and confidence in CPD officers, thereby impeding the Department's efforts to achieve the important goal of reducing crime. Respondent's violation of Rule 2 warrants severe disciplinary action. The Board finds that a suspension without pay of two-hundred-seventy (270) days is appropriate discipline on the facts of this particular case.

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POLICE BOARD DECISION

The members of the Police Board of the City of Chicago hereby certify that they have read and reviewed the record of the 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, Steven Block, Aja Carr-Favors, Mareil  Cusack, Nanette Doorley, Michael Eaddy, Jorge Montes, and Andreas Safakas) to 0 opposed, the Board finds Respondent **guilty** of violating Rule 2 and **not guilty** of violating Rule 3, as set forth in Section No. 5 above.

As a result of the foregoing and for the reasons set forth in Section No. 6 above, the Board, by a vote of 8 in favor (Wolff, Block, Carr-Favors, Cusack, Doorley, Eaddy, Montes, and Safakas) to 1 opposed (Foreman), hereby determines that cause exists for suspending Respondent from his position with the Department of Police and from the services of the City of Chicago for a period of two-hundred-seventy (270) days.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Daniel Otero, Star No. 10058, as a result of having been found guilty of a charge in Police Board Case No. 22 PB 3006, shall be suspended without pay 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 two-hundred-seventy (270) days.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Paula Wolff, Steven Block, Aja Carr-Favors, Mareil  Cusack, Nanette Doorley, Michael Eaddy, Jorge Montes, and Andreas Safakas.

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DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY
OF JULY, 2023.

Attested by:

/s/ PAULA WOLFF
Vice President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

I concur with the majority's finding that Respondent is guilty of violating Rule 2. However, I find that his actions undermine public confidence in the judgment of CPD officers and the Department's mission in an especially serious way, and therefore more severe disciplinary action is justified in this case.

GHIAN FOREMAN

RECEIVED A COPY OF
THESE FINDINGS AND DECISION
THIS ____ DAY OF _____, 2023.

FRED L. WALLER
Interim Superintendent of Police