

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)	
)	
POLICE OFFICER MICHAEL COUGHLIN,)	No. 18 PB 2949-1
STAR No. 16614, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO, AND)	
)	
POLICE OFFICER JOSE TORRES,)	No. 18 PB 2949-2
STAR No. 3783, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	
)	(CR No. 1081642)
RESPONDENTS.)	

FINDINGS AND DECISIONS

On September 26, 2018, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Michael Coughlin, Star No. 16614, and Police Officer Jose Torres, Star No. 3783 (hereinafter sometimes referred to as “Respondents”), recommending each Respondent be discharged from the Chicago Police Department (“CPD”) for violating several Rules of Conduct, which set forth expressly prohibited acts.

A hearing on these charges against the Respondents took place before Hearing Officer Allison Wood on August 8, August 9, October 29, and November 7, 2019. Following this evidentiary hearing, the members of the Police Board read and reviewed the record of the proceedings, including the Hearing Officer’s Report and Respondents’ responses to this report,¹ and viewed the video recording of the entire evidentiary hearing. Hearing Officer Wood made an oral report to and conferred with the Police Board before it rendered its findings and decisions.

¹The Hearing Officer Report sets forth a summary of the evidence presented at the hearing and includes information on witness credibility. The report is not meant to be a comprehensive statement of the evidence. The parties’ responses to the report are limited to addressing any material omissions or inaccuracies in the report (Police Board Rules of Procedure, Section III-G.) The Board considers only those portions of the responses that comply with its Rules of Procedure.

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. Each 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 each 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, each Respondent appeared in person and was represented by legal counsel.

Introduction and Factual Background

4. Police Officer Michael Coughlin has been with the Department since 2014. Police Officer Jose Torres has been with the Department since 2013. They became partners in January 2016, working as a “rapid response team” that served as back-up to other officers. The charges against the Respondents stem from the following events.

On July 28, 2016, while on duty and in a marked police vehicle (hereinafter the “police vehicle” or “squad car”), the Respondents heard over their radio a report that a stolen Jaguar was being pursued by other officers in the vicinity (hereinafter the “stolen vehicle”); it was later determined that the stolen vehicle was driven by Paul O’Neal and had one passenger, a minor, M.W. In response, Respondents drove to 75th Street and South Merrill Avenue, near the area where they had been informed that the stolen vehicle was being pursued by other officers. The area surrounding 75th Street and South Merrill Avenue is residential, comprised mainly of

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single-family homes lining each side of the street. At all times, Officer Torres was driving the squad car. While Officer Torres was driving, and in anticipation of their arrival at the scene, Officer Coughlin unholstered his firearm, a 9-millimeter Glock 19.

Once they arrived in the area, and in anticipation of attempting to prevent the stolen vehicle from escaping, Officer Torres drove the wrong way down on a one-way street before stopping the squad car in the middle of the street to block access should the stolen vehicle emerge. The squad car was positioned in a way such that the stolen vehicle would need to stop—or at least slow down—to avoid hitting it.

The following events then occurred in rapid succession. After blocking street access with their police vehicle, Officer Torres exited the police vehicle and immediately moved into the grass near the sidewalk. Within seconds, the stolen vehicle appeared, driving in the direction of Coughlin and Torres's squad car (northbound on Merrill Avenue) with an unmarked vehicle in pursuit behind it. At that point, Officer Coughlin exited the squad car with his firearm raised, quickly moved to the front of the squad car and, as evidenced by video footage of the incident, began immediately shooting at the moving stolen vehicle. As the stolen vehicle continued northbound on Merrill Avenue it was able to pass the squad car, but in order to do so, had to veer near the area where Officer Torres was standing on the grass. Officer Torres jumped out of the way of the stolen vehicle. Officer Coughlin continued to shoot at the stolen vehicle as it passed by him. Based on the video footage of the incident, it was clear that when the stolen vehicle was passing by Officer Torres, Officer Coughlin was shooting not only at the stolen vehicle, but also in the direction of Officer Torres.

Despite the shots fired by Officer Coughlin, the stolen vehicle continued driving north down Merrill Avenue, past Officers Coughlin and Torres and toward a second police vehicle that

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was occupied by two officers who were also responding to the scene. The officers in the second vehicle (Officers Mohammad Baker and Jose Diaz) were in their vehicle (hereinafter the “second police vehicle”) as the stolen vehicle drove toward them. Officer Coughlin continued to fire shots at the rear of the stolen vehicle after it passed him and as it drove toward the second police vehicle; Officer Torres fired one shot at the rear of the stolen vehicle after it passed him and as it drove toward the second police vehicle. The stolen vehicle crashed into second police vehicle. Based on the video footage of the incident, it is clear that as the stolen vehicle was driving toward the second police vehicle Respondents were shooting not only at the stolen vehicle, but also in the direction of Officers Baker and Diaz.² According to Officer Torres’s bodycam footage, the amount of time from when Officer Torres exited his squad car until the stolen vehicle crashed into the second police vehicle was approximately six seconds.

The Superintendent has the burden to prove by a preponderance of the evidence that Respondents engaged in actions or conduct that impeded the Department’s efforts to achieve its policies and goals or brought discredit upon the Department, that Respondents disobeyed orders or directives, and that they were inattentive to their duties.

The Superintendent presented the testimony of Officer Coughlin (as an adverse witness), Officer Torres (as an adverse witness), Officer Jose Diaz, Officer Muhammad Baker, Chet Epperson (expert witness), and Officer Trak Silapaduriyang as a rebuttal witness.

The Superintendent also presented the following exhibits: (1) General Order G03-02-03 Deadly Force (effective date February 10, 2015); (2) General Order G-03-03-01 Emergency

²Officers Baker and Diaz testified that they thought the shots they heard were coming from the stolen vehicle, which was heading toward them and crashed into them. The driver of the stolen vehicle fled after the crash, and was pursued and fatally shot by Officer Diaz. The shooting of the driver itself is not under consideration by this Board. After an investigation by the Civilian Office of Police Accountability, Officer Diaz’s shooting was deemed justified. The Board has not been asked to review that finding.

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Vehicle Operations—Pursuits (effective date March 28, 2016); (3) General Order G03-03-02
Emergency Vehicle Operations—Non-Pursuits (effective June 1, 2003); (4) Uniform and
Property U04-02-01 (effective date July 28, 2015); (5) Officer Coughlin’s Body Camera Video;
(6) Officer Torres’s Body Camera Video; (7) In-Car Camera Video from Beat 406C (Officers
Coughlin and Torres); and (8) In-Car Camera Video from Beat 406B (Officers Baker and Diaz).

Officer Coughlin testified on his own behalf and presented the following character
witnesses: Commander Noel Sanchez, Lieutenant Andre Hasan, Reverend Dr. Wayne Basch, and
Marie Coughlin (Officer Coughlin’s wife). Patrick McGee testified as an expert witness for both
Respondents. Officer Coughlin presented the following exhibits: (1) Map of the intersection of
74th and South Merrill; (2) General Order G03-02-03 Deadly Force (effective date February 10,
2015); (3) Complimentary and Disciplinary History; and (4) United States Marine Corps
Honorable Discharge, Awards, and Certificates.

Officer Torres testified on his own behalf and presented the following character witnesses:
Commander Noel Sanchez, Lieutenant Andre Hasan, Gerardo Arriaga, and Sylvia Torres (Officer
Torres’s wife). Officer Torres presented the following exhibits: (1) Still-frame photograph from
Officer Torres’s Body Camera; (2) Audio File—911 Call from Anonymous Citizen; (3) Audio
File—Office of Emergency Management Communications recording; (3a) Transcript of 911 Call
from Anonymous Citizen and Office of Emergency Management Communication recording; (4)
CPD Use of Force Model Paradigm; (5) Complimentary and Disciplinary History; (5a)
Honorable Mentions Awards and Certificates; (5b) United States Marine Corps Honorable
Discharge, Awards, Certificates, and Letters of Recommendation; and (5c) Cook County Sheriff’s
Department Employment Certificates.

As described in more detail below, because the CPD General Orders prohibit firing a

weapon into or at a moving vehicle, the majority of the Board finds Officer Coughlin **guilty** of all charges against him. By repeatedly firing his weapon at the moving stolen vehicle, Officer Coughlin endangered the lives of everyone around him, including his own partner and fellow officers as well as the occupants of the stolen vehicle, one of whom was a minor. Officer Coughlin's actions were contrary to CPD rules and policy intended to keep police officers and bystanders safe.

Similarly, because CPD General Orders also prohibit the violation of basic traffic safety requirements, the majority of the board finds Officer Torres **guilty** of all charges against him. His decisions to drive the wrong way down a one-way street, park in the middle of the street to attempt to block the stolen vehicle, and then fire at the rear of the stolen vehicle after it passed by him violated Department rules and policies and endangered the lives of his fellow officers and the occupants of the fleeing vehicle, including a minor.

Charges Against Police Officer Michael Coughlin

5. Respondent Police Officer Michael Coughlin, Star No. 16614, charged herein, is **guilty** of violating Rule 2 and Rule 6 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Michael Coughlin, without justification, used force likely to cause death or great bodily harm without a reasonable belief that such force was necessary when he fired one or more shots at Paul O'Neal. Officer Coughlin 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; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed General Order 03-02-03.

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

The Supreme Court held in *Graham v. Connor*, 490 U.S. 386 (1989), that determining whether a police officer engaged in the justified use of force requires a judgment under the Fourth Amendment’s “reasonableness” standard. The Supreme Court stated:

As in other Fourth Amendment contexts, however, the “reasonableness” inquiry in an excessive force case is an objective one: the question is whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. An officer’s evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer’s good intentions make an objectively unreasonable use of force constitutional. The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. *Id.* at 396–97.

The Board’s determination as to reasonableness in this case is heavily guided by Department policy that expressly prohibits—and makes presumptively unreasonable—the firing of a weapon into a moving vehicle. *See* Section III.E of General Order G03-02-03 (“[f]iring at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person” is prohibited).³ As described above, Officer Coughlin did that which is expressly prohibited—he shot into a moving vehicle nine times. Rather than attempt to get out of the way of the stolen vehicle, he exited his squad car and immediately began firing at it. Not only that, but he continued to shoot at the stolen vehicle after it had passed.

This use of force—in direct contravention of CPD policy—was not reasonable. Indeed, Officer Coughlin’s use of force compromised the safety of everyone around him. The trajectory of the nine shots fired by Officer Coughlin illustrates the point. Three of Coughlin’s shots were

³Officer Coughlin admitted that he was aware of this rule.

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recovered from *inside* the stolen vehicle—meaning any one of those bullets could have killed an occupant of the stolen vehicle, which included the driver, Paul O’Neal, and a minor, M.W. And the remaining bullets hit the back of the stolen vehicle, meaning there were multiple shots fired after the stolen vehicle had passed Officer Coughlin—shots that thus were fired in the direction of the approaching officers who were responding to the scene. In addition, there is evidence that one bullet hit the hood of Officer Coughlin and Torres’s squad car, illustrating that the shots were also fired near—or in the direction of—his own partner. Officer Coughlin’s reactive decision to shoot—and keep shooting—created a chaotic situation in which any person present could have been killed.

The situation—a driver of a stolen vehicle attempting to avoid apprehension—did not warrant a deviation from the General Order’s provision that shooting into a moving vehicle is off limits. Indeed, at the time that Officer Coughlin first arrived at the scene where he would ultimately encounter the stolen vehicle, he had already unholstered his firearm. As is evidenced by the video recording, Officer Coughlin began shooting at the stolen vehicle immediately upon exiting his vehicle. At no time prior to his first shot did the driver or any occupant of the vehicle make any gesture to indicate the situation was elevating past that which *does not* justify the use of force. And nothing about that changed as Officer Coughlin continued to shoot at the stolen vehicle after it drove past him and his partner.⁴ Where, as here, there are no facts to indicate this situation

⁴The Superintendent’s expert testimony on this point was credible and compelling. Chet Epperson , who has been in law enforcement for 34 years, opined that none of the nine shots fired by Officer Coughlin was justified and his actions were not in accordance with the Department’s policies. Officer Coughlin admitted that he did not have any information about the stolen vehicle or its driver. There was no compelling reason for Officer Coughlin to unholster his firearm while still in his own moving vehicle and before he even saw the stolen vehicle. Further, there was no compelling reason for Officer Coughlin to exit the squad car and immediately start shooting at the stolen vehicle. Mr. Epperson opined that since the only information known at the time was that the vehicle was stolen, the driver of the circumstances did not warrant the use of deadly force. Officer Coughlin needlessly put at risk his partner, Officer Torres, the occupants of the stolen vehicle, and the officers in the second police vehicle. The testimony of the Respondents’ expert was not persuasive. Patrick McGhee, who became a police officer in 1977, opined that there are

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was anything more than a driver of a stolen vehicle attempting to get away, there is no reason to deviate from the General Order's rule prohibiting the firing at a moving vehicle. The General Orders are in place for a reason—to protect the safety of all humans—and the Board will not find contrary to those orders absent facts that warrant it.

In his own defense, Officer Coughlin testified that, while he was aware that he was not permitted to shoot into a moving vehicle, this situation was different for two reasons. First, Officer Coughlin testified that during roll call, he was told that gang members had been stealing luxury cars from the suburbs in order to commit crimes in the city and that, generally, when these same stolen cars were pursued by officers, the driver would slow down, stop, and then exit the vehicle on foot. Officer Coughlin thus believed that shooting at the stolen vehicle would force the driver to stop and exit the vehicle. The Board is not moved by this argument. Possessing information that a stolen vehicle may stop once pursued does not give an officer justification to shoot at it. No one during roll call told Officer Coughlin to shoot at such a vehicle if he encountered one and no one said the General Order does not apply to these stolen vehicles. To the contrary, the information relayed at roll call leads to the opposite conclusion—the drivers of these stolen vehicles will stop if pursued, and therefore shooting at the vehicle would not only be dangerous but also unnecessary.

Second, Officer Coughlin testified that he believed the stolen vehicle was being used as a weapon to attempt to murder his partner, Officer Torres. While the Board credits the fact that the situation quickly became chaotic, Officer Coughlin's act of unholstering his firearm *before* he exited his car and the fact that he shot his firearm *immediately* defeats his defense. And while there

no rules to prohibit an officer from unholstering a firearm in a moving vehicle, and that Officer Coughlin was justified to take precautions to protect himself since he didn't know if the driver of the stolen vehicle was armed. He also opined that Officer Coughlin was justified to shoot at the stolen vehicle because it was being used as a weapon against Officer Torres, and he is expected to do whatever it takes to protect his partner. However, for the reasons set forth above, the Board finds Mr. McGhee's testimony unconvincing.

was a brief period in which the stolen vehicle veered towards Officer Torres, the shots fired by Officer Coughlin started before—and continued after—that occurrence. As such, the Board declines to view this as a situation in which the General Order’s “Affirmation of Protection of Life Policy”⁵ warranted the use of force. Indeed, rather than protecting Officer Torres, Officer Coughlin endangered Officer Torres’s life when he fired at the stolen vehicle and in the direction of Officer Torres.

Therefore, because Officer Coughlin’s use of force was unreasonable and unjustified at all points it occurred, and because Officer Coughlin fired shots in the direction of the stolen vehicle, of which Paul O’Neal was the driver, Officer Coughlin is guilty of violating Rule 2 and Rule 6.

6. Respondent Police Officer Michael Coughlin, Star No. 16614, charged herein, is **guilty** of violating Rule 2 and Rule 6 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Michael Coughlin, without justification, used force likely to cause death or great bodily harm without a reasonable belief that such force was necessary when he fired one or more shots at M.W., a minor. Officer Coughlin 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; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed General Order 03-02-03.

See the findings set forth in Paragraph Nos. 4 and 5 above, which are incorporated herein by reference. As stated above, the Board finds that Officer Coughlin’s use of force was unjustified and unreasonable at all points in the occurrence. Officer Coughlin’s unjustified shots were fired in

⁵ “Sworn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.” (General Order 03-02-03, Section IV.)

the direction of the minor, M.W., who was sitting in the passenger seat of the stolen vehicle.

Indeed, one of the shots by Officer Coughlin traveled through the front passenger seat headrest, ultimately landing in the front passenger side window. And Officer Coughlin admitted that this shot could have caused serious injury or death to the minor, M.W. Officer Coughlin is thus guilty of violating Rule 2 and Rule 6.

7. Respondent Police Officer Michael Coughlin, Star No. 16614, charged herein, is **guilty** of violating Rule 2 and Rule 6 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Michael Coughlin fired one or more shots at or into a moving vehicle driven by Paul O'Neal when the vehicle was the only force used against Officer Coughlin or another person. Officer Coughlin 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; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed General Order 03-02-03.

See the findings set forth in Paragraph Nos. 4 – 6 above, which are incorporated herein by reference. As indicated above, General Order G03-02-03 expressly prohibits officers from firing into a moving vehicle when the vehicle is the only force being used against the officer or another person. As described throughout, the evidence clearly establishes that Officer Coughlin violated this General Order. Officer Coughlin is guilty of violating Rule 2 and Rule 6.

8. Respondent Police Officer Michael Coughlin, Star No. 16614, charged herein, is **guilty** of violating Rule 2 and Rule 10 in that the Superintendent proved by a preponderance of the

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evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Michael Coughlin fired one or more shots at or near Police Officer Jose Torres. Officer Coughlin 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; and
- b. Rule 10, which prohibits inattention to duty.

See the findings set forth in Paragraph Nos. 4 – 7 above, which are incorporated herein by reference. While the Board credits Officer Coughlin's testimony that he did not intend to shoot in the direction of Officer Torres, the video evidence establishes that he did shoot in Torres's direction. While Officer Torres stood on the sidewalk and the stolen vehicle veered in the direction of Officer Torres as it passed him, Officer Coughlin continued to shoot at the stolen vehicle. Officer Coughlin could have inadvertently hit his partner with a stray bullet. Officer Coughlin is guilty of violating Rule 2 and Rule 10.

9. Respondent Police Officer Michael Coughlin, Star No. 16614, charged herein, is **guilty** of violating Rule 2 and Rule 10 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Michael Coughlin fired one or more shots at or near Police Officer Mohammad Baker. Officer Coughlin 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; and
- b. Rule 10, which prohibits inattention to duty.

See the findings set forth in Paragraph Nos. 4 – 8 above, which are incorporated herein by reference. When the stolen vehicle passed Officer Coughlin and Torres's squad car and drove in

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the direction of a second police vehicle in which Mohammad Baker was the driver, Officer Coughlin continued to fire his gun at the back of the stolen vehicle. The Board credits Officer Coughlin's testimony that he did not intend to shoot in the direction of Officers Baker and Diaz, but the video evidence establishes that he did shoot in their direction. In addition, during his testimony, Officer Coughlin admitted that he shot in the direction of the second police vehicle. While Officer Coughlin testified that he considered the risk to the passengers in the second police vehicle to be minimal, it is clear that he fired in the general direction of the officers in the second vehicle—Officers Baker and Diaz—and that Officer Coughlin's shots could have hit either of his fellow officers. Officer Coughlin is guilty of violating Rule 2 and Rule 10.

10. Respondent Police Officer Michael Coughlin, Star No. 16614, charged herein, is **guilty** of violating Rule 2 and Rule 10 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Michael Coughlin fired one or more shots at or near Police Officer Jose Diaz. Officer Coughlin 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; and
- b. Rule 10, which prohibits inattention to duty.

See the findings set forth in Paragraph Nos. 4 – 9 above, which are incorporated herein by reference. Officer Coughlin fired in the direction of Officer Diaz when he continued to shoot his gun at the stolen vehicle after it had passed by officer Coughlin's police vehicle and moved toward the second police vehicle, occupied by Officers Diaz and Baker. Officer Coughlin is guilty of violating Rule 2 and Rule 10.

11. Respondent Police Officer Michael Coughlin, Star No. 16614, charged herein, is **guilty** of violating Rule 2 in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, after Paul O’Neal had been shot and required immediate medical attention, Police Officer Michael Coughlin stated words to the effect of “Fuck man I’m gonna be on the desk for thirty goddamn days now. Fucking desk duty for thirty days now. Motherfucker. I shot.” Officer Coughlin 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.

See the findings set forth in Paragraph Nos. 4 – 10 above, which are incorporated herein by reference. Officer Coughlin admitted that, after he had become aware that the driver of the stolen vehicle had been shot and that an ambulance had been called, he said words to the effect, “Fuck man I’m gonna be on desk for thirty goddam days now. Fucking desk duty for thirty days now. Motherfucker. I shot.” Officer’s Coughlin’s crude language and disregard for the life of the driver brought discredit upon the Department. He is guilty of violating Rule 2.

Charges Against Police Officer Jose Torres

12. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 2 in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7400 South Merrill Avenue, Chicago, Police Officer Jose Torres drove his police vehicle, Beat 406C, southbound on Merrill Avenue, a one-way northbound street, directly towards a northbound moving vehicle driven by Paul O’Neal, and/or stopped his police vehicle, Beat 406C, in the middle of Merrill Avenue in a manner intended to prevent the passage of the moving vehicle driven by Paul O’Neal, thereby escalating or increasing the risk of confrontation with Paul O’Neal. Officer Torres thereby violated:

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- 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.

See the findings set forth in paragraph no. 4 above, which are incorporated herein by reference. As set forth in more detail above, after hearing the report of a reported stolen vehicle, Officer Torres drove to the vicinity where the stolen vehicle was seen and turned southbound on Merrill Avenue, which is a one-way northbound street. He then stopped the police vehicle in the middle of the street to prevent the stolen vehicle from being able to pass through the street and continue north. Both such actions not only created a situation that endangered the lives of anyone who happened to be in the vicinity, but are also in violation of the Department's policy.

Driving the wrong way down a one-way street directly violates the CPD General Order requiring officers to abide by basic traffic safety rules. *See* General Order G03-03-02, Emergency Vehicle Operations—Non-pursuits, Section III.A.3 (“When engaged in nonpursuit emergency vehicle operation, the operator will adhere to basic traffic-safety practices.”). And the tactic employed by Officer Torres in parking in a manner to block the stolen vehicle from passing, which is commonly referred to as “boxing in,” is also strictly prohibited by the General Orders. *See* Section V.E.1, General Order G03-03-01, Emergency Vehicle Operations—Pursuits (“boxing in” is prohibited during the course of a motor vehicle pursuit).

While Respondents' expert testified that Officer Torres had not successfully “boxed in” the stolen vehicle because there was a bit of room to the side of the police vehicle by which the stolen vehicle could have passed, albeit at a slowed down speed, the video recordings made clear that the stolen vehicle likely would have not have been able to pass the police vehicle in the street without hitting it. That conclusion is corroborated by the fact that the stolen vehicle was seen swerving toward where Officer Torres was standing on the grass in order to avoid hitting the police vehicle.

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Officer Torres is guilty of violating Rule 2.

13. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 2 and Rule 6 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7400 South Merrill Avenue, Chicago, Police Officer Jose Torres failed to adhere to basic traffic-safety practices when he drove a police vehicle, Beat 406C, southbound on Merrill Avenue, a one-way northbound street, directly towards a northbound moving vehicle driven by Paul O'Neal, and/or stopped his police vehicle, Beat 406C, in the middle of Merrill Avenue in a manner intended to the prevent passage of the moving vehicle driven by Paul O'Neal. Officer Torres 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; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed General Order 03-03-02.

See the findings set forth in Paragraph Nos. 4 and 12 above, which are incorporated herein by reference. As stated above, Officer Torres ignored the basic traffic-safety practices when he drove the wrong way on a one-way street and attempted to "box in" the stolen vehicle, both of which are in violation of CPD's General Order. Officer Torres is guilty of violating Rule 2 and Rule 6.

14. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 2 and Rule 6 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Jose Torres, without justification, used force likely to cause death or great bodily harm without a reasonable belief that such force was necessary when he fired one or more shots at Paul O'Neal. Officer Torres thereby violated:

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- 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; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed General Order 03-02-03.

See the findings set forth in Paragraph Nos. 4 – 13 above, which are incorporated herein by reference. As with Officer Coughlin, the analysis of whether the use of force – shooting at the stolen vehicle – was justified is governed by *Graham*. And like with Officer Coughlin, shooting into a moving vehicle is generally prohibited. It is undisputed that Officer Torres fired a single shot at the stolen vehicle after it passed by him and Paul O'Neal was the driver of the stolen vehicle. For all of the reasons discussed at length above, the shot fired by Officer Torres was unreasonable and unjustified and in violation of the General Order prohibiting such shots. There were no facts introduced at the hearing to indicate that any occupant of the stolen vehicle had elevated the situation beyond that in which a driver of a stolen vehicle was attempting to escape – and so there was no justification for Officer Torres to shoot after the vehicle had passed by him.

Officer Torres testified in his own defense, stating that the use of force was justified because the stolen vehicle had almost hit him as it drove by and because he believed that the stolen vehicle would hit the second police vehicle (and Officers Baker and Diaz) if he did not shoot. But Officer Torres shot at the back of the stolen vehicle after it had passed him—and a shooting cannot be justified based on an exigency that has passed. And General Order G03-02-02 expressly prohibits officers from firing into a moving vehicle when the vehicle is the only force being used against the officer or another person. As for his argument that he was attempting to protect Officers Baker and Diaz, while the Board credits his testimony that the situation was chaotic, that does not change the fact that Officer Torres's actions actually heightened the level of danger to his fellow

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officers. Officer Torres's shooting in their direction placed his fellow officers directly in harm's way.

Because Officer Torres's unreasonable and unjustified shot was fired in the direction of the stolen vehicle, and Paul O'Neal was its driver, Officer Torres is guilty of violating Rule 2 and Rule 6.

15. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 2 and Rule 6 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Jose Torres, without justification, used force likely to cause death or great bodily harm without a reasonable belief that such force was necessary when he fired one or more shots at M.W., a minor. Officer Torres 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; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed General Order 03-02-03.

See the findings set forth in Paragraph Nos. 4 – 14 above, which are incorporated herein by reference. As set forth in more detail above, Officer Torres was unjustified and unreasonable in shooting at the back of the stolen vehicle. As set forth above, M.W., a minor, was riding as the passenger of the stolen vehicle. Because the shot was fired in his direction, Officer Torres is guilty of violating Rule 2 and Rule 6.

16. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 2 and Rule 6 in that the Superintendent proved by a preponderance of the evidence

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the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Jose Torres fired one or more shots at or into a moving vehicle driven by Paul O'Neal when the vehicle was the only force used against Officer Torres or another person. Officer Torres 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; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed General Order 03-02-03.

See the findings set forth in Paragraph Nos. 4 – 15 above, which are incorporated herein by reference. By shooting at the back of the stolen vehicle after it passed him, without independent justification to do so, Officer Torres disobeyed General Order 03-02-03 and is guilty of violating Rule 2 and Rule 6.

17. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 2 and Rule 10 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Jose Torres fired one or more shots at or near Police Officer Mohammad Baker. Officer Torres 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; and
- b. Rule 10, which prohibits inattention to duty.

See the findings set forth in Paragraph Nos. 4 – 16 above, which are incorporated herein by reference. As described above, it is evident from the video recording that when Officer Torres shot at the back of the stolen vehicle, the stolen vehicle was driving in the direction of a second police vehicle in which Officers Baker was driving and Diaz was a passenger. During his testimony,

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Officer Torres also admitted that he shot in the direction of the second police vehicle. Officer Torres's shot could have inadvertently hit a fellow officer, including Officer Baker. Officer Torres is guilty of violating Rule 2 and Rule 10.

18. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 2 and Rule 10 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, at approximately 7:36 p.m., at or near 7354 South Merrill Avenue, Chicago, Police Officer Jose Torres fired one or more shots at or near Police Officer Jose Diaz. Officer Torres 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; and
- b. Rule 10, which prohibits inattention to duty.

See the findings set forth in Paragraph Nos. 4 – 17 above, which are incorporated herein by reference. As set forth above, when Officer Torres fired a shot at the back of the stolen vehicle, he also fired in the direction of a second police vehicle in which Officer Diaz was a passenger, and his shot could have inadvertently hit Officer Diaz. Officer Torres is guilty of violating Rule 2 and Rule 10.

19. Respondent Police Officer Jose Torres, Star No. 3783, charged herein, is **guilty** of violating Rule 6 and Rule 10 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about July 28, 2016, Police Officer Jose Torres possessed a weapon, specifically a Glock Model 17 9MM semi-automatic pistol bearing serial no. PMR357 loaded with two different types of ammunition. Officer Torres thereby violated:

- a. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, in that he disobeyed Directive U04-02; and
- b. Rule 10, which prohibits inattention to duty.

The CPD directive U04-02-01, Department Approved Semiautomatic Pistols and Ammunition, requires that semiautomatic pistols will be “fully loaded” with only one manufacturer and style of prescribed ammunition (same bullet type and grain weight).⁶ Officer Torres admitted that his firearm was loaded with two different types of ammunition. Officer Torres is thus guilty of violating Rule 6 and Rule 10.

Penalties

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

Police Officer Michael Coughlin

Two of Officer Coughlin’s supervisors, a commander and a lieutenant, testified that Officer Coughlin is a hard-working, dependable, trustworthy officer who did outstanding work. The pastor of the church Officer Coughlin attends testified positively about Officer Coughlin’s character, as did Officer Coughlin’s wife. In addition, Officer Coughlin served honorably in the United States Marine Corps before joining the Chicago Police Department in May of 2014. As a police officer he has earned eleven total awards, including eight honorable mentions, one joint operations award, and one attendance recognition award. He has no sustained complaints on his disciplinary history.

⁶The Superintendent’s expert explained why this General Order matters. Lack of uniformity in bullet type creates confusion in determining the source of a bullet recovered during examination of a scene.

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Nevertheless, after thoroughly considering Officer Coughlin's service as Marine and a police officer, the testimony about his character, and the lack of prior disciplinary history, 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 Officer Coughlin's misconduct is incompatible with continued service as a police officer.

Officer Coughlin violated Department rules and policy by firing nine shots at a moving vehicle without justification. He shot as the stolen vehicle was passing by him, in the direction of his partner, Officer Torres, and continued to shoot multiple times at the rear of the stolen vehicle after it passed him, in the direction of responding Officers Baker and Diaz. In so doing, Officer Coughlin endangered the lives of the driver and the minor in the stolen vehicle and the lives of Officers Torres, Baker, and Diaz. While the Board understands that Officer Coughlin was faced with a difficult and stressful fast-moving situation, his failure to follow his training and the rules and policy governing the use of deadly force indicate a gross disregard for the safety of members of the public and his fellow officers, and a lack of judgment so serious as to warrant his discharge from the Chicago Police Department. The Board finds that returning Officer Coughlin to duty as a police officer, armed and authorized to use deadly force, poses an unacceptable risk to the safety of the public and Chicago police officers.

The Board finds that Officer Coughlin's conduct is sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something that the law recognizes as good cause for him to no longer occupy his office.

Police Officer Jose Torres

Two of Officer Torres's supervisors, the same commander and lieutenant who appeared on behalf of Officer Coughlin, also testified that Officer Torres is a hard-working, dependable, trustworthy officer who did outstanding work. The principal of the school attended by Officer Torres's children testified positively about Officer Torres's character, as did Officer Torres's wife. In addition, Officer Torres served honorably in the United States Marine Corps before joining the Chicago Police Department in March of 2013. As a police officer, he has earned eight total awards—one Department commendation, six honorable mentions, and one joint operations award. He has no sustained complaints on his disciplinary history.

Nevertheless, after thoroughly considering Officer Torres's service as Marine and a police officer, the testimony about his character, and the lack of prior disciplinary history, 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 Officer Torres's misconduct is incompatible with continued service as a police officer.

Officer Torres, like Officer Coughlin, shot at the rear of the stolen vehicle after it passed him and without justification. His intentional firing of his weapon violated the Department's General Order on use of deadly force and endangered the lives of the driver and a minor in the stolen vehicle and the lives of Officers Baker and Diaz. The Board understands that Officer Torres was in a difficult and stressful situation that was rapidly developing, with Officer Coughlin firing multiple shots, including one in Torres's direction. However, Officer Torres's action in this situation—shooting to try to hit the driver of a fleeing vehicle that had already passed him in a residential neighborhood—indicates a gross disregard for the safety of members of the public and his fellow officers, and a lack of judgment so serious as to warrant his discharge from the Chicago

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Police Department. The Board finds that returning Officer Torres to duty as a police officer, armed and authorized to use deadly force, poses an unacceptable risk to the safety of the public and Chicago police officers.

In addition, immediately prior to the shooting, Officer Torres drove the squad car the wrong way down a one-way street and stopped in the middle of the street in an attempt to prevent the stolen vehicle from being able to pass. Officer Torres thus violated two General Orders separate and apart from his unjustified use of deadly force, and, in so doing, created a situation placed the lives of those around him in danger.

The Board finds that Officer Torres's conduct is sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something that the law recognizes as good cause for him to no longer occupy his office.

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POLICE BOARD DECISIONS

The members of the Police Board of the City of Chicago 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.

Respondent Michael Coughlin

By votes of 8 in favor (Ghian Foreman, Paula Wolff, Matthew C. Crowl, Michael Eaddy, Steve Flores, John P. O'Malley Jr., Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds Respondent Michael Coughlin **guilty** of violating Rule 2, Rule 6, and Rule 10, as set forth in paragraph nos. 5 – 11 above.

As a result of the foregoing, the Board, by a vote of 8 in favor (Foreman, Wolff, Crowl, Eaddy, Flores, O'Malley, Sweeney, and Zopp) to 0 opposed, hereby determines that cause exists for discharging Respondent Michael Coughlin from his position as a police officer with the Department of Police and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that Respondent Police Officer Michael Coughlin , Star No. 16614, as a result of having been found **guilty** of all charges in Police Board Case No. 18 PB 2949, be and hereby is **discharged** from his position as a police officer with the Department of Police and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Matthew C. Crowl, Michael Eaddy, Steve Flores, John P. O'Malley Jr., Rhoda D. Sweeney, and Andrea L. Zopp.

Respondent Jose Torres

By votes of 8 in favor (Ghian Foreman, Paula Wolff, Matthew C. Crawl, Michael Eaddy, Steve Flores, John P. O'Malley Jr., Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds Respondent Jose Torres **guilty** of violating Rule 2, Rule 6, and Rule 10, as set forth in paragraph nos. 12 – 19 above.

As a result of the foregoing, the Board, by a vote of 8 in favor (Foreman, Wolff, Crawl, Eaddy, Flores, O'Malley, Sweeney, and Zopp) to 0 opposed, hereby determines that cause exists for discharging Respondent Jose Torres from his position as a police officer with the Department of Police and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that Respondent Police Officer Jose Torres, Star No. 3783, as a result of having been found **guilty** of all charges in Police Board Case No. 18 PB 2949, be and hereby is **discharged** from his position as a police officer with the Department of Police and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Matthew C. Crawl, Michael Eaddy, Steve Flores, John P. O'Malley Jr., Rhoda D. Sweeney, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF MARCH, 2020.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

The following members of the Board hereby dissent from the Findings and Decisions of the majority of the Board.

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISIONS

THIS ____ DAY OF _____, 2020.

CHARLIE BECK
Interim Superintendent of Police