

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER JEANNETTE O'BRIEN,) **No. 20 PB 2973**
STAR No. 18406, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
)
) **(CR No. 1092038)**
RESPONDENT.)

FINDINGS AND DECISION

On June 9, 2020, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Jeannette O'Brien, Star No. 18406 ("Respondent"), recommending that Respondent be discharged from the Chicago Police Department for violating several Rules of Conduct.

A hearing on these charges against Respondent took place before Hearing Officer Lauren Freeman on December 15 and 23, 2020, via Zoom video conferencing. 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 Respondent's response to this report (the Superintendent did not file a response), 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

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 more 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. Respondent is 58 years old and has worked as a Chicago police officer for over 27 years. At the time the charges in this case were filed in 2020, she was assigned to the First District Homeless Outreach Team, where for approximately 10 years she developed unique close relationships both with downtown's homeless population and the business community.

On December 13 and 14, 2018, Respondent was scheduled to work from 6:00 a.m. until 2:30 p.m. Prior to the beginning of her December 13 shift, she called her district, reported that she had cold/flu symptoms, and was then placed on "Stationary Recuperation" status on the Department's medical roll. When on Stationary Recuperation status, an officer may only leave her home "for a reasonable period of time to acquire medical services or products, obtain food, vote, attend religious services or attend to an emergency situation." (Employee Resource E03-01-02.) When an officer leaves her residence for one of those acceptable purposes, the officer must notify her district. In accordance with Respondent's limited plea of guilty, there is no dispute that on December 13, 2018, Respondent left her home during her duty hours without notifying her district and traveled to an unapproved location, Pampered Paws.

On December 14, 2018, at approximately 5:30 a.m., while still on Stationary Recuperation status, Respondent called her district and spoke with an unidentified district

employee. The employee recorded on the district's Sickness Report/Absence from Home Log that Respondent reported that she would be leaving her home that day to attend a "doctor's appointment" in Park Ridge. The employee listed Respondent's "departure time" as 0900 hours and her "estimated time of return" as 1500 hours. There is no dispute that on December 14, 2018, Respondent did not go to her doctor's office or to any medical facility. Instead, between the times of approximately 8:45 a.m. and 11:30 a.m., she went to various other locations without notifying her district: Firestone Auto Care, Big Lots, CD One Price Cleaners, Bank of America, and a private residence.

Charges Against the Respondent

5. Police Officer Jeannette O'Brien, Star No. 18406, pleaded **guilty** to violating Rules 6 and 24 and the Board also finds that the Superintendent proved by a preponderance of the evidence the following charges:

On or about December 13, 2018, Officer Jeannette O'Brien, while on a "Stationary Recuperation" status with the medical roll, left her home during duty hours without notifying an on-duty supervisor and/or her unit of assignment that she would be absent from home and traveled to an unapproved location, Pampered Paws, located at 6135 North Northwest Highway, Chicago. Officer O'Brien thereby violated:

- a. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying Department Employee Resource E03-01-02, section III(A)(3) (effective June 29, 2000); and
- b. Rule 24, which prohibits failure to follow medical roll procedures.

Respondent was also charged with violating:

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

Rule 3, which prohibits any failure to promote the Department's efforts to implement

its policy or accomplish its goals.

The Board finds Respondent **not guilty** of violating Rules 2 and 3.

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

The Superintendent failed to meet his burden in establishing that Respondent's conduct on December 13, 2018, negatively impacted the Department or its policy and goals. Although Respondent admitted that she violated provisions of Employee Resource E03-01-02, the Board finds that those violations, when viewed in their overall context, did not damage the Department.

Respondent's testimony is un rebutted that prior to December 13, 2018, she planned to skip her lunch hour and leave work an hour early that day in order to take her dog to the groomer. During the hearing, the Superintendent never called into question the veracity of Respondent's testimony on this point. Respondent testified that when she called in sick and was placed on Stationary Recuperation status, she decided to drop off her dog at the groomer anyway.

The Board is not persuaded that Respondent's hour-long unexcused absence from home, when viewed in context, rises to the level of conduct that brings discredit upon the Department or impedes or fails to promote the Department's policy and goals. While the Board recognizes the import of enforcing medical roll rules to ensure that the Department is adequately staffed and to prevent medical roll abuse, the Board views Respondent's unexcused hour-long absence from home as relatively benign and not sufficiently serious as to reflect adversely on the Department nor did it affect the Department's operations. The Board's finding should not be read to excuse any future violations of the medical roll rules committed by Officer O'Brien or any other Chicago police officer, has no precedential impact, and is specific only to the unique facts of this

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case.¹

6. Police Officer Jeannette O'Brien, Star No. 18406, is **not guilty** of violating Rules 2, 3, and 14 in that the Superintendent did not prove by a preponderance of the evidence the following charges:

On or about December 14, 2018, Officer Jeannette O'Brien, while on a "Stationary Recuperation" status with the medical roll, made a false report, and/or misleading, and/or deliberately incomplete statement when she notified her district of assignment via telephone that she would be absent from home to attend a doctor's appointment from 0900 hours to 1500 hours or used words to that effect, when in fact, she did not go to a doctor's appointment. Officer O'Brien 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 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and
- c. Rule 14, which prohibits making a false report, written or oral.

See the findings set forth in Section Nos. 4 – 5 above, which are incorporated herein by reference.

There is insufficient evidence in the record to prove that the Respondent stated that she would be absent from home to attend a doctor's appointment from 0900 hours to 1500 hours, or used words to that effect. The unidentified employee at the district with whom Respondent spoke that morning did not testify.

Respondent, on the other hand, did testify and the Board finds her testimony to be

¹ See *Hazelton v. Zoning Bd. of Appeals of City of Hickory Hills, Cook Cty.*, 363 N.E.2d 44, 47 (Ill. App. Ct. 1977) ("An administrative body has the power to deal freely with each situation as it comes before it, regardless of how it may have dealt with a similar or even the same situation in a previous proceeding."); *Kozminski v. Ret. Bd. of Firemen's Annuity & Benefit Fund of Chicago*, No. 1-11-1808, 2012 WL 6962561, at *5-*6 (Ill. App. Ct. Nov. 15, 2012) (acknowledging "administrative agencies . . . must be free to change their standards (as long as these changes are not arbitrary and capricious) so they can adjust our public policies in light of our ever-changing experiences").

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credible. Respondent testified that she intended to visit the doctor that morning without an appointment and told the unidentified district employee that she would be leaving her home because she was “going to Dr. Christina Manta’s office.” She also told the employee that she was leaving her house at 0900 hours and would be gone for a couple of hours at the most, and that because she did not know what time she would see the doctor, the employee told her that he/she should enter 1500 hours as an end time on the Log. While driving to the doctor’s office, Respondent noticed she had a flat tire and drove to Firestone Auto Repair to have it fixed. Instead of waiting at the Firestone, she walked next door to Big Lots and purchased Christmas decorations. She had not planned to go shopping that day. By the time her car was ready, she estimated that she would arrive at the doctor’s office at approximately 11:00 a.m. and that the wait to see a doctor would be too long. By that time, she also felt better and decided to “multitask” by running errands on her way home.

The Board finds credible Respondent’s testimony that she intended to go to the doctor that morning but ended up not going because of the flat tire. Her testimony is corroborated by evidence that Respondent went to the Firestone that morning to have her tire fixed. There is insufficient evidence in the record that Respondent made a misleading or deliberately incomplete statement to the unidentified district employee, let alone a willfully and material false statement that constituted a violation of Rule 14.²

²The Board is troubled that the charges in Specification 2 were brought against Respondent, especially the charge that she violated Rule 14, given that there was no witness identified and available to testify as to the statements Respondent allegedly made when she called into the district.

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7. Police Officer Jeannette O'Brien, Star No. 18406, is **guilty** of violating Rules 6 and 24 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about December 13, 2018, Officer Jeannette O'Brien, while on a "Stationary Recuperation" status with the medical roll, left her home and traveled to multiple unapproved locations during duty hours. The unapproved locations that Officer O'Brien traveled to include but are not limited to: Firestone Auto Care (7237 West Dempster Street, Niles, Illinois); and/or Big Lots (7233 West Dempster Street, Niles); and/or CD One Price Cleaners (5946 Touhy Avenue, Niles); and/or Bank of America (8745 Waukegan, Morton Grove, Illinois); and/or a private residence. Officer O'Brien thereby violated:

- a. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying Department Employee Resource E03-01-02, section III(A)(3) (effective June 29, 2000); and
- b. Rule 24, which prohibits failure to follow medical roll procedures.

See the findings set forth in Section Nos. 4 – 6 above, which are incorporated herein by reference.

In crediting Respondent's account of the events of December 14, the Board notes that her trips to the Firestone, Arby's, and Walgreens could have fallen within exceptions to Employee Resource E03-01-02 had she properly notified her district of her intentions. She admitted she did not make those notifications. Like her trip to the dog groomer the previous day, Respondent violated the Employee Resource and medical roll procedures by travelling to the rest of the locations listed in the charges and by failing to make the required notifications for all of them.

Respondent was also charged with violating:

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

Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals.

The Board finds Respondent **not guilty** of violating Rules 2 and 3. For the same reasons

set forth in Section No. 5 above, the Board is not persuaded that Respondent's unexcused three-hour absence from her home on December 14, 2018, brought discredit to the Department or negatively impacted the Department's policy and goals. As above, the Board's finding here is specific to the unique facts of this case and should not be viewed as having any precedential impact as it relates to violations of medical roll rules.

Disciplinary Action

8. The Police Board has considered the facts and circumstances of Respondent's conduct and the evidence presented in mitigation and aggravation.

The Board empathizes with Respondent's overwhelming challenges at the time she committed these violations. Her husband was suffering from severe brain disfunction and lived in a nursing home close to her house. He died on January 17, 2019 (one month after the events that led to these charges), and during the time period in which Respondent committed these violations, he was nearly comatose and unable to speak. The Board acknowledges Respondent's testimony that when she left her home on December 13 and 14, 2018, she was under a great deal of stress and did not think about making the appropriate notifications—following the letter of the Department's medical roll rules was understandably not a priority for Respondent at that time.

While the Board does not condone Respondent's violation of the medical roll rules, the Board notes that she did not take excessive amounts of time off, was not known as a medical roll abuser, and exhibited a full acceptance of responsibility for her conduct. Indeed, Respondent not only pleaded guilty to violating the medical roll rules, but also provided testimony to the Board that was credible, contrite, and forthright. And apart from this violation, Respondent has otherwise exhibited a very strong work ethic throughout her career and has invaluable impacted

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homeless individuals in Chicago. Her substantive and mitigation witnesses were persuasive, and the Board considered their testimony when determining Respondent's punishment.

The Board concludes that Respondent's medical roll deviations in this case are less significant when considered in the context of her otherwise admirable 27-year career.

Respondent is an outstanding and unusually compassionate officer who admirably "serves and protects" the citizens of Chicago. Aside from violating the medical roll rules in this case, she epitomizes the kind of officer that the Department wants representing it—one whose commitment to community engagement throughout her career has been exemplary.

In addition, Respondent has an extensive complimentary history over many years with the Department. Since her appointment in 1993, she has earned a total of 100 awards, including 4 Department Commendations, 50 Honorable Mentions, 12 Emblems of Recognition for Physical Fitness, and 1 Attendance Recognition Award. She has no sustained complaints on her disciplinary history.

Based on the nature of Respondent's misconduct, the evidence she presented in mitigation, and her record and years of service to the Department, a suspension of fourteen (14) days is an appropriate level of discipline based 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 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 C. Crowl, Michael Eaddy, Steve Flores, Jorge Montes, John P. O'Malley Jr., Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds Respondent **guilty** of the charges in Specification Nos. 1 and 3 that she violated Rules 6 and 24, **not guilty** of the charges in Specification Nos. 1 and 3 that she violated Rules 2 and 3, and **not guilty** of the charges in Specification No. 2, as set forth in Section Nos. 5 – 7 above.

As a result of the foregoing and for the reasons set forth in Section No. 8 above, the Board, by a vote of 9 in favor (Foreman, Wolff, Crowl, Eaddy, Flores, Montes, O'Malley, Sweeney, and Zopp) to 0 opposed, hereby determines that cause exists for suspending Respondent from her position as a police officer for a period of fourteen (14) days.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Jeannette O'Brien, Star No. 18406, as a result of having been found **guilty** of charges in Police Board Case No. 20 PB 2973, be and hereby is **suspended** from her position as a police officer for a period of fourteen (14) days, from June 17, 2020, to and including June 30, 2020.

IT IS FURTHER ORDERED that Police Officer Jeannette O'Brien be and hereby is restored to her position as a police officer and to the services of the City of Chicago, with all rights and benefits, effective July 1, 2020.

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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,
Jorge Montes, John P. O'Malley Jr., Rhoda D. Sweeney, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY
OF MARCH, 2021.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

The following Board members hereby dissent from the findings and decision of the majority of the Board.

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2021.

DAVID O. BROWN
Superintendent of Police