

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

**IN THE MATTER OF CHARGES FILED AGAINST** )  
**SERGEANT JESSE TERRAZAS,** ) **No. 14 PB 2859**  
**STAR No. 1539, DEPARTMENT OF POLICE,** )  
**CITY OF CHICAGO,** )  
 ) **(CR No. 1039190)**  
**RESPONDENT.** )

**FINDINGS AND DECISION**

On April 29, 2014, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Sergeant Jesse Terrazas, Star No. 1539 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating several Rules of Conduct. On August 15, 2014, the Superintendent filed with the Board amended charges against the Respondent, recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct :

- Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 11: Incompetency or inefficiency in the performance of duty.
- Rule 14: Making a false report, written or oral.

The Police Board caused a hearing on these charges against the Respondent to be had before Fredrick H. Bates, Hearing Officer of the Police Board, on September 29 and 30, 2014.

Following the hearing, the members of the Police Board read and reviewed the record of the proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Bates 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 sergeant of police by the Department of Police of the City of Chicago.

2. The written charges (both the original charges and the amended charges), and a Notice stating when and where a hearing on the charges was to be held, were served upon the Respondent more than five (5) days prior to the hearing on the charges.

3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.

4. The Respondent filed a Motion to Strike and Dismiss requesting that the charges filed against him be stricken and the case dismissed for the following reasons: (a) the failure to bring timely charges violates the due process rights of the Respondent; (b) the charges should be barred by laches; and (c) the investigation by the Police Department's Bureau of Internal Affairs failed to follow General Order G08-01. The Respondent's Motion to Strike and Dismiss is **denied** for the reasons set forth below.

**a. Due Process.** Citing *Morgan v. Department of Financial and Professional Regulation*, 374 Ill. App. 3d 275, (2007), and *Lyon v. Department of Children and Family Services*, 209 Ill.2d 264 (2004), the Respondent claims that the Constitution precludes such a lengthy delay in the investigation of the Respondent's alleged misconduct. *Morgan* and *Lyon*, however, involved a delay in *adjudication* of allegations of misconduct after the respective plaintiffs had been suspended from their jobs—not delay in the *investigation* leading to the initial suspensions. *Morgan* involved a clinical psychologist accused of sexually abusing a patient, where the state

took fifteen months to decide the case after the suspension. *Lyon* involved a teacher accused of abusing students where the director of DCFS failed to honor specific regulatory time limits for decision-making.

The Respondent's case before the Police Board is different from *Morgan* and *Lyon*, as the Respondent in his Motion is complaining about the delay from the time of the incident to the bringing of charges, not the time it took to try him once the charges were filed and he was suspended without pay. This difference is important because the due-process analysis in *Morgan* and *Lyon* is triggered by the state's decision to deprive the psychologist and teacher of their jobs, thus preventing them from working for prolonged periods of time before they were accorded the opportunity to have a hearing and decision to clear their names. The Due Process clause precludes a state or local government from "depriving any person of life, liberty or property [i.e. a public job] without due process of law." Here, the Respondent was not suspended without pay in connection with this matter until *after* the charges against him were filed. Therefore, the Respondent was *not* deprived of his job prior to the filing of charges, and any delay in bringing the charges is therefore *not* a violation of the Respondent's due process rights.

Finally, the procedural history of this case is important in the context of this motion. As Respondent himself noted in several Motions in this case, the instant matter was preceded by another Terrazas case, resulting in an unusual procedural history. On or about July 2, 2012, the Superintendent filed charges against Respondent and six members of his tactical team in connection with a 2009 incident involving Respondent and his team. (Complaint Register No. 1023617). On or about February 21, 2013, the Police Board found Terrazas guilty of certain charges and discharged him from his position as a sergeant of police. Terrazas filed a complaint for administrative review in the Circuit Court of Cook County challenging his discharge. On

December 20, 2013, the court reversed the Board's findings and decision. On or about January 13, 2014, Judge Pantle remanded the matter to the Board to "enter an order consistent with this Court's ruling on December 20, 2013." Pursuant to the court's direction, the Board ordered Respondent's reinstatement to his position effective February 21, 2014. In the instant case, Complaint Register No. 1039190 was initiated on or about August 23, 2010. It took Internal Affairs from August 25, 2010, to June 30, 2011, to complete its investigation, which is less than a year. On or about June 30, 2011, Internal Affairs recommended that Terrazas be discharged from his position. The Superintendent and the Chief of Internal Affairs recommended that charges be filed with the Police Board seeking Respondent's discharge. However, because the charges under CR Number 1023617 were already pending, the Police Department did not send Complaint Register No. 1039190 to the Law Department to draft charges. As mentioned above, Complaint Register No. 1023617 involved six other officers; thus, charges against Terrazas under Complaint Register No. 1023617 and those in the present case could not be combined. When Respondent was discharged under Complaint Register No. 1023617, Complaint Register No. 1039190 was closed and was not re-opened until Respondent was reinstated to his position in February 2014. On or about April 29, 2014, the charges under Complaint Register No. 1039190 were filed with the Board.

The procedural history discussed above shows that it was impossible to file the charges earlier than when they were because Respondent had already been discharged. They were filed within a very reasonable time once he was reinstated. Accordingly, Respondent has not demonstrated that his "right to pursue a trade, occupation, business or profession" has been violated. Due process in an administrative proceeding involves a fair hearing before an administrative agency, including the opportunity to be heard, the right to cross-examine adverse

witnesses, and impartiality in ruling upon the evidence. *Abrahamson v. Illinois Dept of Professional Reg.*, 153 Ill.2d 76, 95, (1992). Sergeant Terrazas received all of the above due-process protections in this case.

**b. Laches.** The Respondent argues that the doctrine of laches should apply here in supporting the dismissal of charges.

Laches is an equitable doctrine that is used to prevent a party in litigation from enforcing a right it otherwise has because it has not been diligent in asserting this right and the opposing party has been prejudiced by the delay. Private parties and public agencies are not on an equal footing when it comes to the application of the laches doctrine. Many cases, including *Van Milligan v Board of Fire and Police Commissioners of the Village of Glenview*, 158 Ill. 2d 85 (1994), hold that laches can only be invoked against a municipality under “compelling” or “extraordinary” circumstances. In addition, the party that invokes the doctrine of laches has the burden of pleading and proving the delay and the prejudice. *Hannigan v. Hoffmeister*, 240 Ill. App. 3d 1065, 1074 (1992). Under Illinois law, the Respondent must demonstrate that the Superintendent’s unreasonable delay caused material prejudice to the Respondent; the Respondent must submit evidence in support of his claims of prejudice (for example, testimony that witnesses could no longer recall what happened, or affidavits stating that records had been lost or destroyed during the intervening years). *Nature Conservancy v. Wilder*, 656 F.3d 646 (7<sup>th</sup> Cir. 2011).

In this case there has been no showing of any compelling or extraordinary circumstances that would warrant the use of laches against the Police Department. The procedural history in this case shows that any delay was not only reasonable but necessary. There were witness statements and evidence gathered in that case. In this case, Internal Affairs obtained statements from witnesses and obtained various police reports, including a report from Officer James Conlan

written on the same day as the incident involving the cannabis and detainees. Sergeant Terrazas himself gave a statement. His claim that that he was somehow compelled to ascertain the truth solely based on witness recollection is unpersuasive.

The Respondent also argues that due to the delay in bringing the charges “all of the police communication records from the date and time of the incident are unavailable to Respondent” in that “the audio records of all the communications were destroyed as a matter of routine practice” and, as a result, the Respondent “will encounter significant difficulties in ascertaining the truth years after the occurrence based solely on witness officer’s [*sic*] recollections.” Motion to Strike and Dismiss, pp. 3-4.

This argument is also unpersuasive. Contrary to Respondent’s arguments, the reason the recording could not be obtained is not due to “the extreme length of delay ... in bringing charges.” While the incident occurred on August 20, 2010, the request for the recording from the Police Department to the Office of Emergency Communication was made on October 1, 2010. Even if the investigation had been completed within two months of the incident, the audio recording would still be gone. This is because the recordings are kept for only 30 days. The alleged delay in this case has not caused evidence to be lost. Moreover, as noted above regarding the merits of the case, however Sergeant Terrazas might have characterized his narcotics investigation during his request for assistance, he would still have needed to explain why he did not provide his subordinates with the information needed to accurately complete the reports in this case, whether the detainees were going to be arrested or not, and further explain the inconsistency between the police reports he directed his subordinates to write and his statements to Internal Affairs concerning the traffic, or as the case may be, the street stop.

For the reasons set forth above, the Respondent has not carried the burden of proving that

he was prejudiced by a delay in the bringing of charges, nor has he demonstrated any “compelling” or “extraordinary” circumstances warranting a dismissal of this case due to laches.

c. **General Order G08-01**. The Respondent argues that the investigation by the Police Department failed to follow Chicago Police Department General Order G08-01, which requires a prompt and thorough investigation.

General Order G08-01 does not set an absolute deadline within which investigations must be completed, but provides that if they last more than 30 days, the investigator must seek and obtain an extension of time within which to complete the investigation. Here, the investigator requested, and was granted, extensions of time, in compliance with the General Order.

Once the investigator completes the process of gathering evidence, the matter is reviewed at several levels to ensure that a thorough investigation was conducted, as required by the General Order.

The investigation in this case was prompt and thorough. The investigation started promptly after the incident occurred and was completed within a year. As previously noted, the reason that charges could not be filed was because another discharge case was pending and Respondent was subsequently discharged in that case. In this case, the Superintendent had no choice but to delay the filing of the charges since Respondent was already fired from his position.

There is no evidence of any substantial violation of the General Order in this case. Even if, however, the General Order was violated, there is no provision in the General Order requiring the extraordinary remedy of dismissal of the case as a sanction for such a violation. The Board declines to extend the reach of the General Order in this manner.

5. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of

violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, after calling for assistance, Sergeant Terrazas failed to provide guidance and/or direction to and/or failed to communicate clearly with one or more of his subordinates, in that he failed to provide information or sufficient information regarding the circumstances surrounding the stop of the three detainees, stop, if any, of the vehicle, recovery of the drugs and/or the release of the car.

The essence of the salient facts are as follows. On or about August 20, 2010, in the vicinity of 4615 South Prairie Avenue, Chicago, Illinois, Sergeant Terrazas responded to a call that three men were smoking marijuana near a car at that location. He was riding alone in his unmarked car at the time he responded. When he arrived at the scene three men were standing outside a parked vehicle. He had them sit in the car until another sergeant arrived on the scene, at which time Sergeant Terrazas searched the two suspects finding small amounts of cannabis on the first and third suspects, and none on the second, who later identified himself as a Chicago Police Department Registered Confidential Informant ("CI"). There was a "blunt" in the car that could not be attributed to any one individual. Three of his subordinates, Officers Conlan, Monte, and Fagan, were riding together in another car, and responded after Sergeant Terrazas specifically radioed for their assistance. Neither Conlan, Monte, nor Fagan were on the scene when Sergeant Terrazas initially responded to the citizen call, and it appeared to one or more of them that this was a traffic stop situation because Sergeant Terrazas's car was offset behind the suspects' car. The suspects were transported to the police station by a transport unit, though the second individual rode with Sergeant Terrazas and Officer Fagan, who attempted to confirm his status as a CI.

When they arrived at the station, Sergeant Terrazas released the second individual and car,



ostensibly to protect the confidentiality of the CI, though he did so without proffering any explanation to his team. Officer Conlan became upset because he did not know how to process the arrests without knowing the probable cause for what he assumed was a traffic stop of the vehicle, and was further concerned that the release of the vehicle and second suspect compromised the entire arrest. At some point it was determined that the marijuana found on the two detainees had become commingled, therefore necessitating that no one be arrested. Sergeant Terrazas allegedly informed his supervisor, Lieutenant Kenneth Mann, of all of the relevant facts, and was told to prepare a Case Incident Report and contact cards on the two individuals being detained.

Officer Conlan felt that he could not prepare the reports because he did not understand what had transpired on-scene. This is precisely the sort of information we expect Chicago police officers who are directed to prepare reports to secure; the consequences of submitting a report based on partial or guessed-at facts can result in discharge from the Chicago police Department. (See Police Board Case No. 13 PB 2844, Erika Rodriguez.) After prolonged and at times heated discussions/arguments, some of which took place in the presence of the two detainees, Sergeant Terrazas had Officer McBride complete an Original Case Incident Report, for which he provided her the information, and subsequently approved. One or more members of his team—Conlan, Monte, and/or Fagan—completed the contact cards. Both reports indicated the cannabis was discovered during a traffic stop, although Sergeant Terrazas told the Internal Affairs Division it was not a traffic stop, but a street stop.

Sergeant Terrazas proffered various justifications for why he did not provide his team the complete picture of what happened when he responded to the call on 46<sup>th</sup> & Prairie, but that does not change the fact that he did not provide the requisite information necessary for them, or even Officer McBride, to *accurately* complete the various reports at issue in this case. For example,

Sergeant Terrazas did not explain why he had released the second suspect and the car in which a “blunt” containing marijuana/cannabis was found. Ostensibly he did not explain why he had done so because he was concerned about protecting a purported confidential informant. Additionally, he did not provide the details needed to accurately complete the Original Case Incident Report, that he admittedly approved, which unquestionably contains inaccurate information--it describes a “traffic stop” when in fact no traffic stop took place according to Sergeant Terrazas. He claims that he did not do so because the report was not going to accompany an arrest, or be used in court, and was only being utilized to memorialize the encounter with the three men, and the seizure of the cannabis.

While these explanations may mitigate the penalty imposed in this case, they do not excuse Sergeant Terrazas’s failure to provide guidance to, and communicate clearly with, one or more of his subordinates. This failure impeded the Department's efforts to achieve its policy and goals as charged in this case, in violation of Rule 2. Moreover, the fact that the dispute regarding Sergeant Terrazas’s refusal to explain the circumstances to Officer Conlan resulted in a confrontation that took place in part within hearing distance of the two detainees who were in the police station, more likely than not brought discredit upon the Department.

The preponderance of the evidence in the record in this case establishes that Sergeant Terrazas failed to provide sufficient information to his subordinates regarding the circumstances surrounding his encounter with the three individuals, the recovery of the drugs in the vehicle and/or on the person of the three men, and the release of the car and second suspect. Had Sergeant Terrazas provided this information, his team would have been fully apprised of the facts, and the reports at issue would have been accurately prepared, and no confrontation would have resulted. Although, as noted below, the circumstances surrounding his conduct ameliorate the need to

impose the penalty of discharge, the Superintendent has nonetheless established by a preponderance of the evidence that Sergeant Terrazas is guilty of violating Rule 2: “Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.”

(Board Members Foreman, Fry, and Sweeney dissent from this finding: We hereby dissent from the majority’s guilty findings. In our opinion the Superintendent failed to establish by a preponderance of the evidence that Sergeant Terrazas committed the alleged Rule violations. Police Officer Conlan, by his own admission, only initiated the Complaint Register in this matter because he was going to receive a Summary Punishment Action Request (SPAR) from Sergeant Terrazas, as authorized by Lt. Mann. Moreover, the decision to release the two detainees with Contact Cards was made by Lt. Mann. While Officer Conlan went so far as to ascribe criminal intent, and unconstitutional behavior to Sergeant Terrazas, i.e., Officer Conlan claimed that he was being told by Sergeant Terrazas to essentially plant evidence on the detainees, the other officers involved did not do so, and, as even the majority recognizes, there was no such evidence adduced at the hearing in this case to support such an allegation. The testimony concerning which officers knew what, and when, was at times inconsistent. The officers involved assumed there was a traffic stop, and because Officer Conlan took the lead in arguing with his superior rather than seeking to clarify the facts, the arrests of the detainees unraveled. The Superintendent bears the burden of proof in these matters, and we do not feel that burden has been met in this case. Given the various and conflicting accounts of the incident, we find that there is insufficient evidence to prove the charges against Sergeant Terrazas. For these reasons, we would find Sergeant Terrazas not guilty of all charges in this case. )

6. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, after calling for assistance, Sergeant Terrazas failed to provide information or sufficient information, to one or more of his subordinates, regarding the circumstances surrounding the stop of the three detainees, stop, if any, of the vehicle, recovery of the drugs and/or the release of the car, to enable his subordinate(s) to perform their duty/duties and/or assigned tasks, including accurately filling out an arrest report(s), case incident report and/or inventory report.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

7. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, after calling for assistance, Sergeant Terrazas failed to properly supervise one or more of his subordinates, in that, after directing one or more of his subordinates to complete/make an arrest(s), he failed to provide information or sufficient information regarding the circumstances surrounding the stop of the three detainees, stop, if any, of the vehicle, recovery of the drugs and/or the release of the car.

See the findings set forth in paragraph no. 5 above, which are incorporated here by

reference.

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

8. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count IV: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, Sergeant Terrazas directed one or more of his subordinates to complete/make an arrest(s), without providing his subordinate(s) with sufficient information to substantiate charges against the arrestees including probable cause to arrest, which information an arresting officer needs to comply with an arresting officer's responsibilities, including under General Order 02-03 and/or the Field Reporting Manual.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

9. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count V: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615

South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, Sergeant Terrazas failed to follow proper procedure in that he caused one or more arrestees/detainees to be released from custody without arrest reports being filled out, although the individuals had been transported to the station, in violation of Department procedure including under General Order 02-03-03.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference. There is no question but that the two detainees transported to the police station in this case were “in custody,” as they were by all accounts not free to leave. General Order 02-03 requires that an arrest report be filled out for these individuals. This is true even if the commander subsequently voided the arrests. That was not done in this case. Sergeant Terrazas’s claim that Lt. Mann authorized the detainees’ release does not excuse his failure to complete the required Department reports and follow appropriate procedures in this case. It also fails to take into account that all of the information that formed the basis of Lt. Mann’s recommendation was based upon what Sergeant Terrazas told him. It was incumbent upon Sergeant Terrazas himself, as the only person with knowledge of all of the facts (e.g., what had happened on-scene, who had what drugs, and of all of the other salient facts), to ensure that all Department policies were complied with in this case. Telling Lt. Mann that which Sergeant Terrazas deemed to be important, and then relying on the lieutenant’s tacit approval of his request, does not provide a circumstance that relieves Sergeant Terrazas from his obligation to comply with the Department’s requirements.

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

10. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy

and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count VI: On or about August 20, 2010, Sergeant Terrazas provided information for, and/or approved, contact cards for Marcus Spencer and/or Melvin Dowdell which 1) stated that "Traffic Related" contact(s) was (were) made at 4615 South Prairie Avenue, in Chicago, or words to that effect and/or 2) which included information on vehicle details.

However, on or about March 22, 2011, during an interview with the Internal Affairs Division ("IAD"), Sergeant Terrazas stated that on August 20, 2010, in the vicinity of 4615 South Prairie, "there was no traffic stop. It was a street stop. And the gentlemen involved were outside the vehicle at the time. The vehicle was parked at that location," or stated words to that effect.

The information in the contact card(s) and the statement of Sergeant Terrazas gave to IAD are inconsistent. Thus, Sergeant Terrazas provided a false statement or report in the form of the contact card(s), or, in the alternative, provided a false statement(s) to IAD.

Sergeant Terrazas is essentially accused of either making a false statement to Internal Affairs when he said there was no traffic stop, or in providing Officer McBride incorrect information utilized in preparing the Original Case Incident Report, approved by Sergeant Terrazas, which states there was a traffic stop.<sup>1</sup> This is the same factual allegation that is the subject of the Rule 14 allegation contained below, of which the Board finds Sergeant Terrazas not guilty because the Board determined that there was insufficient evidence to find that Sergeant Terrazas made intentional false reports regarding the incident, and there was no evidence adduced at the hearing that the information he provided to Internal Affairs was false. The reports at issue contain inaccurate information as a direct result of Sergeant Terrazas failing to communicate to his subordinates any of the most basic details of his encounter with the detainees, i.e., it was a street stop not a traffic stop. He compounded this problem by approving the inaccurate documents because they were not going to accompany an arrest or be used in court. This is precisely the

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<sup>1</sup>The Contact Cards in this case also indicate that this was a traffic-related stop, contrary to Sergeant Terrazas' IAD Statement.

essence of the alleged violation of Rule 2. His failure to ensure that accurate information was in the reports does not rise to the level of intentionally providing a false statement, but it clearly impedes the Department's efforts to achieve its policy and goals as the reports which state that this was a traffic-related stop are inaccurate.

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

11. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count VII: On or about August 20, 2010, Sergeant Terrazas provided information to and/or directed Officer Kelly McBride to write an Original Case Incident Report and/or later approved such incident report which stated that 1) there was a traffic stop at 4615 South Prairie Avenue in Chicago and that contact cards were generated on suspects Marcus Spencer and/or Melvin Dowdell and/or 2) that four small zip lock baggies and one brown rolled "blunt" containing green plant-like substance suspect cannabis was (were) found in plain view inside a vehicle, or which stated words to that effect.

However, on or about March 22, 2011, during an interview with the Internal Affairs Division, Sergeant Terrazas stated that on August 20, 2010, in the vicinity of 4615 South Prairie, 1) "there was no traffic stop. It was a street stop. And the gentlemen involved were outside the vehicle at the time. The vehicle was parked at that location," and/or 2) the suspect cannabis was "in the possession of two of the individuals" and/or 3) the suspect cannabis was found "on the two individuals' persons; they handed it to me," or stated words to that effect.

The statement Sergeant Terrazas gave to IAD is inconsistent with the information Sergeant Terrazas gave to Officer McBride and/or the information he approved in the Original Case Report. Thus, Sergeant Terrazas directed Officer McBride to write a false report, or, in the alternative, provided a false statement(s) to IAD.

See the findings set forth in paragraph no. 10 above, which are incorporated here by



reference. The misstatements and confusion regarding from whom Sergeant Terrazas recovered what drugs was similarly caused by his failure to take the time to adequately explain the circumstances of the stop to his subordinates. His failures directly caused inaccurate information to be contained in these reports, not only concerning whether this was a traffic or street stop, but what drugs were recovered from whom, and when, and where. These inaccurate reports, which resulted from his inaction, clearly impeded the Department's efforts to achieve its policy and goals.

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

12. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 11: Incompetency or inefficiency in the performance of duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, after calling for assistance, Sergeant Terrazas failed to provide guidance and/or direction to and/or failed to communicate clearly with one or more of his subordinates, in that he failed to provide information or sufficient information regarding the circumstances surrounding the stop of the three detainees, stop, if any, of the vehicle, recovery of the drugs and/or the release of the car.

See the findings set forth in paragraph nos. 5 and 9-11 above, which are incorporated here by reference.

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

13. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 11: Incompetency or inefficiency in the performance of duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, after calling for assistance, Sergeant Terrazas failed to provide information or sufficient information, to one or more of his subordinates, regarding the circumstances surrounding the stop of the three detainees, stop, if any, of the vehicle, recovery of the drugs and/or the release of the car, to enable his subordinate(s) to perform their duty/duties and/or assigned tasks, including accurately filling out an arrest report(s), case incident report and/or inventory report.

See the findings set forth in paragraph nos. 5 and 9-11 above, which are incorporated here by reference

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

14. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 11: Incompetency or inefficiency in the performance of duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, after calling for assistance, Sergeant Terrazas failed to properly supervise one or more of his subordinates, in that, after directing one or more of his subordinates to complete/make an arrest(s), he failed to provide information or sufficient information regarding the circumstances surrounding the stop of the three detainees, stop, if any, of the vehicle, recovery of the drugs and/or the release of the car.

See the findings set forth in paragraph nos. 5 and 9-11 above, which are incorporated here by reference

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

15. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 11: Incompetency or inefficiency in the performance of duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count IV: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, Sergeant Terrazas directed one or more of his subordinates to complete/make an arrest(s), without providing his subordinate(s) with sufficient information to substantiate charges against the arrestees including probable cause to arrest, which information an arresting officer needs to comply with an arresting officer's responsibilities, including under General Order 02-03 and/or the Field Reporting Manual.

See the findings set forth in paragraph nos. 5 and 9-11 above, which are incorporated here by reference

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

16. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **guilty** of violating, to wit:

Rule 11: Incompetency or inefficiency in the performance of duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

Count V: On or about August 20, 2010, in the vicinity of the 2<sup>nd</sup> District station and/or 4615 South Prairie Avenue, Chicago, Illinois, during a narcotics investigation, Sergeant Terrazas failed to follow proper procedure in that he caused one or more arrestees/detainees to be released from custody without arrest reports being filled out, although the individuals had been transported to the station, in violation of Department procedure including under General Order

02-03-03.

See the findings set forth in paragraph nos. 5 and 9-11 above, which are incorporated here by reference

(Board Members Foreman, Fry, and Sweeney dissent from this finding. See paragraph no. 5 above.)

17. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **not guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about August 20, 2010, Sergeant Terrazas provided information for, and/or approved contact cards for Marcus Spencer and/or Melvin Dowdell which 1) stated that "Traffic Related" contact(s) was (were) made at 4615 South Prairie Avenue, in Chicago, or words to that effect and/or 2) which included information on vehicle details.

However, on or about March 22, 2011, during an interview with the Internal Affairs Division ("IAD"), Sergeant Terrazas stated that on August 20, 2010, in the vicinity of 4615 South Prairie, "there was no traffic stop. It was a street stop. And the gentlemen involved were outside the vehicle at the time. The vehicle was parked at that location," or stated words to that effect.

The information in the contact card(s) and the statement of Sergeant Terrazas gave to IAD are inconsistent. Thus, Sergeant Terrazas provided a false statement or report in the form of the contact card(s), or, in the alternative, provided a false statement(s) to IAD.

See the findings set forth in paragraph nos. 5 and 9-11 above, which are incorporated here by reference. As noted above, Sergeant Terrazas is accused of either making a false statement to Internal Affairs when he said there was no traffic stop, or in providing incorrect information utilized in preparing the contact cards, approved by Sergeant Terrazas, which state there was a traffic stop. There is insufficient evidence to find that Sergeant Terrazas made intentional false

reports regarding the incident, and there was no evidence adduced at the hearing that the information he provided to Internal Affairs was false. The Board finds that it is more likely that the contact cards at issue contain inaccurate information as a result of Sergeant Terrazas failing to communicate to his subordinates who prepared those documents the details of his encounter with the detainees in a manner that would enable them to accurately complete the forms rather than surmise what had taken place.

(Board Members Conlon, Eaddy, and McKeever dissent from this finding: We hereby dissent from the majority's finding that the Respondent is not guilty of the Rule 14 violation. The evidence established that Sergeant Terrazas approved Contact Cards and an Original Case Incident Report that described his encounter with the three detainees as a "traffic stop." He subsequently told Internal Affairs that there was no traffic stop. He testified that there was no traffic stop; there was a "street stop." Accordingly, we believe that the Superintendent established by a preponderance of the evidence that Sergeant Terrazas knowingly either provided a false statement in the various reports that he approved, or in his statement to IAD. For these reasons, we would find Sergeant Terrazas guilty of the Rule 14 charges in this case.)

18. The Respondent, Sergeant Jesse Terrazas, Star No. 1539, charged herein, is **not guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about August 20, 2010, Sergeant Terrazas provided information to and/or directed Officer Kelly McBride to write an Original Case Incident Report and/or later approved such incident report which stated that 1) there was a traffic stop at 4615 South Prairie Avenue in Chicago and that contact cards were generated on suspects Marcus Spencer and/or Melvin Dowdell and/or 2) that four small zip lock baggies and one brown rolled "blunt"

containing green plant-like substance suspect cannabis was (were) found in plain view inside a vehicle, or which stated words to that effect.

However, on or about March 22, 2011, during an interview with the Internal Affairs Division, Sergeant Terrazas stated that on August 20, 2010, in the vicinity of 4615 South Prairie, 1) “there was no traffic stop. It was a street stop. And the gentlemen involved were outside the vehicle at the time. The vehicle was parked at that location,” and/or 2) the suspect cannabis was “in the possession of two of the individuals” and/or 3) the suspect cannabis was found “on the two individuals’ persons; they handed it to me,” or stated words to that effect.

The statement Sergeant Terrazas gave to IAD is inconsistent with the information Sergeant Terrazas gave to Officer McBride and/or the information he approved in the Original Case Report. Thus, Sergeant Terrazas directed Officer McBride to write a false report, or, in the alternative, provided a false statement(s) to IAD.

See the findings set forth in paragraph nos. 5 and 9-11 and 17 above, which are incorporated here by reference. As noted above, Sergeant Terrazas is essentially accused of either making a false statement to Internal Affairs when he said there was no traffic stop, or in providing Officer McBride incorrect information utilized in preparing the Original Case Incident Report, approved by Sergeant Terrazas, which states there was a traffic stop. However, there is insufficient evidence to find that Sergeant Terrazas made intentional false reports regarding the incident, and there was no evidence adduced at the hearing that the information he provided to Internal Affairs was false. It is more likely that the reports at issue contain inaccurate information as a result of Sergeant Terrazas failing to communicate to his subordinates the details of his encounter with the detainees.

Regarding Officer McBride’s preparation of the Case Incident Report, Sergeant Terrazas paid no attention to the details contained therein. He did not do so because he viewed this document as a perfunctory form being utilized to memorialize the contact with the detainees, and to support the inventorying of the drugs recovered, rather than as a form that would support an arrest and be utilized in court. Because Sergeant Terrazas failed to provide any of his subordinates

the details regarding his encounter with the detainees, they all assumed there was a traffic stop, and the Reports reflects that presumption.

While the Board does not endorse or condone such inattention to details in the preparation of any report, it is unwilling to impute intentionally making false reports to Sergeant Terrazas in this case. Accordingly, Sergeant Terrazas is not guilty of the Rule 14 charge.

(Board Members Conlon, Eaddy, and McKeever dissent from this finding. See paragraph no. 17 above.)

19. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the evidence presented in defense and mitigation, including the Respondent's complimentary and disciplinary histories. The Board finds that discharging the Respondent from the Chicago Police Department is not warranted on the facts of this case.

The conduct in this case was negligent. This case involved sloppiness and a failure to properly (competently and efficiently) communicate with, and supervise, subordinates. The Board does not find that this case involved any intentional wrongdoing that is sufficient to justify the forfeiture of the Respondent's career as a Chicago Police sergeant or a suspension without pay. In addition, several Chicago Police Department members testified that Sergeant Terrazas is a fine officer whom they would welcome the opportunity to serve with again. He has no sustained disciplinary history, and 95 complimentary awards (including a Life Saving Award, a Police Blue Star Award for being seriously injured in the line of duty, four Department Commendations, and 68 Honorable Mentions). Based on all the circumstances of the events of August 20, 2010, the Board finds that a reprimand is an appropriate penalty on the facts of this particular case.

### **POLICE BOARD DECISION**

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By a vote of 8 in favor (Demetrius E. Carney, Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, Susan L. McKeever, Elisa Rodriguez, and Rhoda D. Sweeney) to 0 opposed, the Board **denies** the Respondent's motion to dismiss this case;

By votes of 5 in favor (Carney, Conlon, Eaddy, McKeever, and Rodriguez) to 3 opposed (Foreman, Fry, and Sweeney), the Board finds the Respondent **guilty** of violating Rule 2 and Rule 11; and

By a vote of 5 in favor (Carney, Foreman, Fry, Rodriguez, and Sweeney) to 3 opposed (Conlon, Eaddy, and McKeever), the Board finds the Respondent **not guilty** of violating Rule 14.

As a result of having been found guilty of violating Rules 2 and 11 by a majority of the Board, and based upon the Respondent's 24 years of service to the Department, extensive complimentary history, and lack of disciplinary history, the Board, by a vote of 5 in favor (Carney, Foreman, Fry, Rodriguez, and Sweeney) to 3 opposed (Conlon, Eaddy, and McKeever), hereby determines that the appropriate penalty is to reprimand the Respondent for his conduct, and to restore the Respondent to his position as a sergeant of police with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective May 13, 2014.

**NOW THEREFORE, IT IS HEREBY ORDERED** that the Respondent, Sergeant Jesse Terrazas, Star No. 1539, as a result of having been found **guilty** of charges in Police Board Case No. 14 PB 2859, be and hereby is **reprimanded** for his conduct, and restoring the Respondent to his position as a sergeant of police with the Department of Police, and to the services of the City of



Police Board Case No. 14 PB 2859  
Sergeant Jesse Terrazas

Chicago, with all rights and benefits, effective May 13, 2014.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Demetrius E. Carney, Ghian Foreman, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 11<sup>th</sup> DAY OF DECEMBER, 2014.

Attested by:

/s/ DEMETRIUS E. CARNEY  
President

/s/ MAX A. CAPRONI  
Executive Director

**DISSENT**

We hereby dissent from the Decision of the majority of the Board. Based on the serious nature of the Respondent's misconduct, we vote to impose a more severe penalty.

/s/ WILLIAM F. CONLON

/s/ MICHAEL EADDY

/s/ SUSAN M. McKEEVER

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RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

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GARRY F. McCARTHY  
Superintendent of Police