

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

**IN THE MATTER OF CHARGES FILED AGAINST )**  
**POLICE OFFICER CARLOS BARONA, )** **No. 23 PB 3017**  
**STAR No. 16054, DEPARTMENT OF POLICE, )**  
**CITY OF CHICAGO )**  
**RESPONDENT. )** **(CR No. 1088587)**

**FINDINGS AND DECISION**

On February 16, 2023, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Carlos Barona, Star No. 16054 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department (“Department” or “CPD”) for violating CPD’s Rules of Conduct.

On August 11, 2023, the Fraternal Order of Police Lodge 7 filed with the Police Board a Motion to Transfer Pending Cases to the Arbitration Call or in the Alternative to Stay All Police Board Cases (“FOP Motion”). This case against Respondent is one of the 22 cases listed on the FOP Motion. On September 26, 2023, the Police Board entered an Order denying the FOP Motion in its entirety.

A hearing on the charges against Respondent took place before Hearing Officer Michael Panter on October 2 and 3, 2023. Following this evidentiary hearing, the members of the Police Board who participated in deciding this case read and reviewed the record of the proceedings, including the Hearing Officer’s Report and the responses to this report, and viewed the video recording of the entire evidentiary hearing. The Hearing Officer made an oral report to and conferred with the Board before it rendered its findings and decision.

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

rulings and orders is overruled or reversed.

On April 4, 2024, Respondent filed a Motion in Response to the Memorandum Opinion and Order Entered in *Chicago John Dineen Lodge #7 v. City of Chicago Department of Police, et al.*, Case No. 2024 CH 00093 (“Respondent’s Motion”) requesting that the Police Board reconsider its decision denying the FOP motion, grant the motion to stay, vacate the evidentiary hearing and transfer this matter to the arbitration grievance process instantler, or, alternatively, stay issuing a decision in this matter. On July 18, 2024, the Police Board entered an Order denying Respondent’s Motion in its entirety.

### **POLICE BOARD FINDINGS**

As a result of its review of the record of proceedings, the Police Board finds and determines that:

1. Respondent was at all times mentioned herein a police officer of the CPD in the classified civil service of the City of Chicago.
2. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon Respondent not fewer than five (5) days before the date of the initial status hearing for this case.
3. Throughout the hearing on the charges Respondent appeared and was represented by legal counsel.

### **Introduction**

4. The facts describing what follows are derived primarily from the testimony of Respondent, which was corroborated in certain respects by Officers Jeremy Barnes and Raul Casales. There was no body-worn camera video of the shooting.

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On the evening of February 25, 2018, Respondent, who was then working in gang enforcement, was riding in an unmarked police car near 43<sup>rd</sup> Street and Ashland Avenue. Officer Barnes was driving the vehicle, Officer Casales was in the front passenger seat, and Respondent was in the back.

All of the officers testified that, while driving, they passed a car on their right that emitted a strong odor of cannabis (which, at the time, was illegal). The windows to the car were tinted, however, and it was difficult to see inside. The officers testified they pulled the car over and saw multiple occupants in the vehicle.

The officers exited their vehicle to conduct a further investigation. Respondent went to the rear passenger door where he saw a passenger in the backseat, later identified as Jermarie White, mouth the word, “fuck.” Respondent testified that he saw Mr. White push something to the right side of his foot or ankle. Respondent testified that he believed that “something” to be drugs or a gun. By this time, two of the other occupants in the car had exited the vehicle and had been handcuffed together. Respondent then asked Mr. White to exit the vehicle and began to pat him down when he saw one of the remaining passengers in the back seat turn his body away as if to conceal something. Upon seeing this movement, Respondent stopped the pat down of Mr. White and told the passenger in the back middle seat of the vehicle to stop moving and show his hands. In order to investigate what was happening inside the car, Respondent, who never completed his pat down of Mr. White, asked Officer Barnes to take charge of Mr. White.

While he was focused on the middle backseat passenger, Respondent heard a loud striking sound. Respondent then looked to the rear of the car and saw Officer Barnes stumbling backwards and Mr. White running away from the scene. Respondent thought Mr. White had struck Officer Barnes, and he proceeded to chase Mr. White down Ashland Avenue and then on

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to 43<sup>rd</sup> Street. During this foot chase, which took place in a dimly lit area, Respondent was about ten feet behind Mr. White. Respondent had both the flashlight from his gun and his separate flashlight on and said he was yelling to Mr. White to stop and show his hands. Mr. White eventually stumbled and fell. It was at this point that Respondent believed Mr. White would surrender, so Respondent continued to pursue Mr. White and closed the distance between them. However, instead of surrendering, Mr. White got up and continued to run. Respondent testified that Mr. White's actions reinforced his belief that Mr. White was carrying a gun in his boot— Respondent expected that had Mr. White been carrying only drugs, Mr. White likely would have surrendered after falling.

Mr. White continued to run into a truck trailer loading area, where he subsequently knocked his shoulder and head on a trailer. Mr. White then crawled under a trailer in a further attempt to evade Respondent. Respondent followed Mr. White under the trailer, came within five feet of him, made direct eye contact with him, drew his gun, and testified that he yelled for Mr. White to show his hands. With a gun and flashlight pointed straight at him, Mr. White sighed, raised his right leg to his chest, and reached toward his right ankle. Respondent testified that he was terrified, believing that Mr. White was reaching for a gun. Respondent then shot Mr. White three times.

Officer Casales arrived shortly thereafter and assisted in handcuffing Mr. White. Mr. White then acknowledged he had something in his boot, which turned out to be crack cocaine. No gun was found. Mr. White was subsequently taken to the hospital to treat his serious injuries. Respondent was also taken to the hospital with chest pain and shortness of breath. He was kept overnight and discharged.

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Both the Superintendent and Respondent relied heavily on their respective experts on the use of force. The Superintendent called Michael Gennaco. Mr. Gennaco opined that Respondent violated CPD's General Orders by using deadly force not necessary to prevent death or great bodily harm from an imminent threat posed to the officer or prevent an arrest from being defeated. General Orders 03-02 and 03-02-03 and *Graham v. Connor* set an objective standard of what a reasonably-situated officer would have done under the same or similar circumstances. Consistent with longstanding legal principles, Mr. Gennaco testified that the force used must be proportional to the offense and deadly force is only to be used as a last resort.

To that end, Mr. Gennaco opined that Respondent's use of force was unnecessary given that there was no imminent threat posed to Respondent. Specifically, Mr. White was stopped for a minor infraction, at most a misdemeanor, and his flight was a predictable attempt to escape apprehension. Mr. Gennaco testified that, during that flight, there was no evidence that Mr. White made any effort to threaten or harm the officer and his reaching for his boot was "sufficiently equivocal and ambiguous [] that [it] did not justify the use of deadly force under the circumstances."

Referring to the original stop, Mr. Gennaco further opined that the officers should have handled the situation differently and, because of those mistakes, use of force was not proportional to the offense, let alone a last resort. Specifically, Mr. Gennaco testified that the officers should have advised their dispatcher they were making a stop and, once they realized there were more occupants in the car than officers, they should have called for backup. Mr. Gennaco further testified that, had Respondent believed Mr. White was carrying a firearm, he should have ruled out that possibility at the time he had him exit the car. Again, assuming Respondent believed Mr. White had a gun, Mr. White should have been handcuffed and searched

and Respondent should have informed his fellow officers of his belief. Further, “the decision to initiate a foot pursuit of a believed-to-be-armed person is one of the most dangerous things that officers can do.” Mr. Gennaco opined that Respondent put himself in a dangerous position by chasing an individual he believed armed, especially without communicating that fact to his partners. Mr. Gennaco further testified that Respondent failed to use de-escalation techniques and also failed to provide any warning to the suspect that he was going to shoot.

Patrick McGee testified as an expert for the Respondent. Mr. McGee opined that Respondent complied with all CPD General Orders and the holding in *Graham v. Connor*. Mr. McGee testified that, based on the totality of the circumstances, it was reasonable for an officer to believe that Mr. White was reaching for a gun: “When White goes for his ankle, at that point in time, okay, if you wait for him to come out with the gun, the officer’s probably getting shot.” According to Mr. McGee, it was objectively reasonable for Respondent to believe that he was in peril of death or great bodily harm and the shooting was a justified use of deadly force. Mr. McGee further noted that Mr. White had been asked to stop and show his hands, had the opportunity to do so, and did not.

As to the question of whether Respondent should have chased after Mr. White in the first place, Mr. McGee testified that the foot chase was required: “You can’t lose sight of them. Pursuing him was necessary and foot pursuits are part of the job, that’s what we do.” Mr. McGee further countered Mr. Gennaco’s testimony by noting that Respondent did use de-escalation techniques by repeatedly ordering Mr. White to stop and that Respondent did not have the ability to call in to dispatch during the chase because he was holding a flashlight and a gun as he ran.

The Superintendent charged Respondent with violating CPD Rules of Conduct 2, 3, 6, 9, and 38 in one specification that alleges Respondent's use of force was unnecessary.

### **Charges Against Respondent**

5. Police Officer Carlos Barona, Star No. 16054, is **guilty** of violating Rules 2, 3, 6, 9, and 38 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about February 25, 2018, at or near 1556 West 43<sup>rd</sup> Street in Chicago, Police Officer Carlos Barona discharged his firearm at or in the direction of Jermarie White. Officer Barona's use of force was not necessary to prevent death or great bodily harm from an imminent threat posed to him or another person. Nor was the use of deadly force necessary to prevent an arrest from being defeated because White did not pose an imminent threat of death or great bodily harm to Officer Barona or anyone else unless he was arrested without delay. Officer Barona 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 failure to promote the Department's efforts to implement its policy or accomplish its goals;
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying General Order 03-02 – Use of Force, and/or General Order 03-02-03 – Firearms Discharge Incidents Involving Sworn Members;
- d. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty; and
- e. Rule 38, which prohibits unlawful or unnecessary use or display a weapon.

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

In determining whether the shooting was justified, the Board considers what a reasonable officer would have done under the same or similar circumstances. While the Board appreciates

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that Respondent may have subjectively feared that Mr. White had a gun in his boot, the mere suspicion of that possibility without further evidence did not justify the use of deadly force under these circumstances. In fact, Respondent testified that even at the moment of shooting, while pointing his weapon directly at Mr. White at almost point-blank range, he saw no gun, saw no evidence of a gun, and continued to believe it was equally likely that Mr. White only had drugs on him. Respondent did not testify that he saw any object resembling a gun. Still, Respondent shot Mr. White, who was unarmed, three times.

Further, the Board notes that it is unlikely that a reasonable officer would have believed a suspect who was able to run at full speed for several blocks could have done so with a gun in his boot. At no time did Respondent testify that he saw a gun, any part of a gun, or even any sort of bulge that may have accommodated a gun. Neither partner saw any evidence of a gun. From Respondent's own testimony, there was no objective reason to believe the suspect had a gun.

Respondent testified that the suspect made a sudden movement toward his boot while facing Respondent's weapon and after the Respondent's commands to stop. However, having kept the suspect under close observation for some time, having observed the suspect's behavior, having seen no evidence whatsoever of a gun, having observed no overtly threatening conduct, the Board is unpersuaded that the sudden movement Respondent described in and of itself justifies this shooting.

The Board recognizes that officers are asked to make split-second decisions in difficult and dangerous circumstances and that they do not have the luxury of hindsight. However, danger alone is not an unrestricted license to shoot. An officer in a dangerous situation must be even more diligent in applying his knowledge, experience, skill, and training. While recognizing that Respondent likely was trying his best to perform his job, Respondent himself testified he was so



overwhelmed that his heightened emotions led to actual cardiac symptoms requiring hospitalization. Under these circumstances, the Board finds that the Respondent did not use the knowledge, care and skill required of a Chicago police officer. The Superintendent has met his burden of proof, and the charges are proven.

### **Disciplinary Action**

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

Respondent called two witnesses in mitigation. The first credited Respondent with having worked undercover and noted the dangerousness and dedication required to serve in that capacity: “Carlos is super dedicated and he was what I consider one of the finest undercover officers I’ve ever had the pleasure to work with . . . I have nothing but glowing recommendations for Carlos.” Respondent’s wife also testified to Respondent’s dedication to his work and his commitment to being a good husband and father.

Respondent also described his own career with pride and acknowledged the above shooting was one of the worst days of his life. Respondent is a highly decorated officer. Since joining CPD in May 2013, Respondent has earned a total of 219 awards, including one Life Saving Award, eight Department Commendations, one Special Commendation, four Unit Meritorious Performance Awards, four Top Gun Arrest Awards, two Police Officer of the Month Awards, and 187 Honorable Mentions.

After thoroughly considering Respondent’s evidence in mitigation, the Board finds that his accomplishments and the positive evaluations of him do not mitigate the seriousness of his misconduct. The Board finds that Respondent’s misconduct is incompatible with continued

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service as a police officer. Police officers, unlike other professionals, have a clear authority to use deadly force when necessary. With this authority comes the equally important responsibility to use it properly: as the Supreme Court has instructed, deadly force “may not be used unless it is necessary to prevent [an] escape and [an] officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” *Tennessee v. Garner*, 471 U.S. 1, 3 (1985). The Board applied this standard because the use of deadly force is the most important decision an officer is called upon to make and has a significant impact on many: the victim, the officer, and the community more broadly.

Respondent’s unjustified shooting of Jermarie White, who was unarmed, indicates a gross disregard for the safety of members of the public, and a lack of judgment so serious as to warrant Respondent’s discharge from the Chicago Police Department. Respondent violated perhaps the most important CPD policy, one that is designed to protect human life. Returning Respondent to duty as a police officer, armed and authorized to use deadly force, poses an unacceptable risk to the safety of the public going forward. Even if Respondent’s actions are viewed as a mistake, Respondent should not remain in his position of authority. As an officer, he will continue to face difficult situations that require quick and proportional reactions.

The Board finds that Respondent’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 BOARD DECISION**

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

The Board, by a vote of 6 in favor (Kyle Cooper, Paula Wolff, Steven Block, Mareil  Cusack, Nanette Doorley, and Andreas Safakas) to 0 opposed, finds Respondent **guilty** of the charges in Specification No. 1, as set forth above.

As a result of the foregoing and for the reasons set forth above, the Board, by a vote of 6 in favor (Cooper, Wolff, Block, Cusack, Doorley, and Safakas) to 0 opposed, hereby determines that cause exists for discharging Respondent from his position as a police officer and from the services of the City of Chicago.

**NOW THEREFORE, IT IS HEREBY ORDERED** that Police Officer Carlos Barona, Star No. 16054, having been found guilty of all charges in Police Board Case No. 23 PB 3017, be and hereby is **discharged** from his position as a police officer of the Chicago Police Department 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: Kyle Cooper, Paula Wolff, Steven Block, Mareil  Cusack, Nanette Doorley, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18<sup>th</sup> DAY OF JULY 2024.

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Attested by:

/s/ KYLE COOPER  
President

/s/ MAX A. CAPRONI  
Executive Director

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RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024.

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LARRY SNELLING  
Superintendent of Police