

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER JENNIFER OPPEDISANO-CAPUTO,) **No. 23 PB 3020**
STAR No. 9687, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 2020-3973)**
RESPONDENT.)

FINDINGS AND DECISION

On March 3, 2023, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Jennifer Oppedisano-Caputo, Star No. 9687 (“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 November 27 and December 18, 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 Superintendent’s response to this report (Respondent did not file a response to this report), and viewed the video recording of the entire evidentiary hearing. The Hearing Officer made an oral report to and conferred with the Board before it rendered its findings and decision.

During the proceedings of this case, from the filing of charges through the evidentiary

hearing, the Hearing Officer made rulings and entered orders. None of the Hearing Officer's rulings and orders is overruled or reversed.

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 instanter, 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.
3. Throughout the hearing on the charges Respondent appeared and was represented by legal counsel.

Introduction

4. On August 18, 2020, Respondent, then a fifteen-year career officer, provided a urine sample which she now stipulates was positive for cocaine. Respondent denied ever having

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knowingly used any illegal drugs. She told the investigators she did not know how or when she ingested cocaine because she was an alcoholic who had frequent episodes of black-out drinking. Possibly, it was related to a drink she had with a friend a few days before the test. Because of her alcoholism, she was unable to recall days, weeks, and months. The day after the positive report, she packed her things and enrolled in rehab for three weeks. She got clean but relapsed after six months. She went back to rehab for another two weeks and reports being entirely free from any drug or alcohol use for nearly two years.

Respondent reported her problems began when her marriage unraveled. She was the victim of extreme physical, mental, and sexual abuse. At the same time, she was struggling to raise her sons and work full shifts at night. She slept as best she could when the children were at school. While she had some childcare help from her mother, she was entirely on her own and had no one to support her during this extremely difficult time. She and her husband divorced. She had to obtain orders of protection against her former spouse. She described the immense challenge of her situation and the loneliness and desperation which led to her alcoholic disease.

Respondent fully acknowledged that she is an alcoholic. She testified she voluntarily underwent treatment until she reached sobriety. She testified that she wanted only to be an officer ever since she was a child watching her father serve. He was a career CPD officer and Respondent's sister is also a career CPD officer. Respondent put herself through college with the goal of becoming an officer and took the exam at her earliest opportunity at 22 years of age. It was during that first police exam she learned she was pregnant and could not apply. Three years later, after her sons were born, she took the exam again, passed, and began at the academy. She says she very much enjoys helping people. Respondent began her career in 2005 and served in the 14th district. She testified she very much wants to return to duty. She testified she feels

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that her experiences would make her well qualified to serve by helping people who are experiencing domestic violence or substance abuse.

The Superintendent argues that any illegal drug usage for any reason is against the law, violates General Orders, and undermines public trust in the Department. Rule I-B, Section 17 requires members' private and professional lives be beyond reproach. Rules 2 and 3 prohibit actions which impede the Departments' policies or goals, and Rule 6 prohibits disobedience of an order or directive. Those rules were violated. Additionally, an impaired officer is a liability to the Department. The Superintendent argues that Respondent's claimed lack of knowledge of how she ingested the cocaine is not credible and she has produced no evidence to corroborate her sobriety. She never sought help from a mental health professional before the positive drug test. She refused to produce the name of the girlfriend with whom she thinks she might have ingested the cocaine.

Respondent argued that the Board should recognize an officer's job is extremely challenging to mental health and that alcoholism is a serious problem. She further argued that the alcohol problem in the Department has been addressed to some extent, but the problem of drug usage has not. Due to the requirement of carrying a weapon, officers are reluctant to report a mental health problem. Citing Paragraph 9 of the Consent Decree, "In fulfilling their duties, CPD must expose themselves to significant danger, high stress, and wide spectrum of human tragedy. There is growing recognition that psychological and emotional wellness are critical to officers' health, relationship, job performance and safety. The City and CPD's obligations to CPD members include providing adequate support systems to treat members experiencing mental health, substance abuse and other motional challenges."

Respondent argues that the Superintendent's request for discharge would be a

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statement of zero tolerance. Officers with any drug problem could never seek help and would have to hide it. With the legalization of cannabis and more recognition that all substance abuse is a disease, the Board should carefully weigh automatic discharge.

Instead, Respondent argues, officers who have engaged in substance abuse should be given a second chance when they prove they merit it. Here, Respondent argues she merits another chance because she never contested the finding, immediately sought help, has never had any other complaint, never previously tested positive for drugs or alcohol, was not shown ever to have possessed or purchased illegal drugs, and there is no showing that any substance ever affected her work. She herself is the only victim of her actions, and she has taken action to be sure they will not be repeated. She has shown a genuine desire to start over, and, Respondent argues, the system provides options, and her record shows she deserves it.

Respondent called Officer Michael Mette in mitigation. He is currently vice president of the FOP and chairs the Mental Health Committee. He testified that he works with those who have substance abuse issues. He testified that he worked with Respondent through her achieving sobriety. He checks with her every few months and she has shown no further signs of relapse. He said one thing that made her different from others in this difficulty is that she called him up and asked for help. She first said everything was fine but called him right back to say she had screwed up. Officer Mette felt she could return to the force. "She put in the work. She's done exactly what we want our officers to do when they have a problem." Mr. Mette discussed the extreme mental and emotional challenge of being a Chicago police officer and the lack of help for officers as they struggle to deal with the job and personal issues. The system poorly accommodates officers who need help. The Superintendent argued that he had no direct knowledge of her sobriety.

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There was considerable discussion about how the Department reinstates under a “last chance” agreement as illustrative of the Board’s ability to reject separation. The Department has used such agreements in the past when alcohol is involved but only rarely when the substance abuse is illegal drugs. Lt. Robert Flores from the Bureau of Internal Affairs testified that last chance agreements are used in alcohol but not drug-related cases, citing the third paragraph of Section A(1)(e) of the collective bargaining agreement between the City and the FOP. He testified officers must be able to carry firearms and be ready for deployment to field duty. On cross-examination he agreed last chance agreements have occasionally been used for drug cases. The language from several past agreements was read into the record.

In considering that option, the Department would look at a number of factors such as the member’s history, other discipline, the member’s statement, the number of positive tests, and whether they showed a willingness to get help. He agreed that Respondent has performed well in respect to these factors. Most important are the specific facts of the case. The Respondent argued that her case was comparable to other last-chance cases. The Superintendent argued that here Respondent failed to give a credible explanation of how she ingested the cocaine. Furthermore, that the other cited case was different because that Respondent said she inadvertently drank tea from a Peruvian coca leaf which happened to contain cocaine. The Superintendent also argued that the time for a last chance agreement has passed.

In addition to Officer Mette, Respondent filed three letters in mitigation. The Superintendent argued those letters said little about Respondent’s sobriety.

Counsel agreed the Board lacks authority to reinstate Respondent to any strictly administrative position where she would not be required to carry a gun and handle field assignments when requested. She either is or is not reinstated as a CPD officer. Employee

Resource E01-09 was cited as not requiring separation for substance abuse. No authority requires separation for these charges. There was discussion about options the Board has if they decide to reinstate. Those options include a psychiatric examination with a “fit for duty” finding and ongoing drug and alcohol treatment and testing.

Charges Against Respondent

5. Police Officer Jennifer Oppedisano-Caputo, Star No. 9687, is **guilty** of violating Rules 1, 2, 3, and 6 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about August 18, 2020, at 3510 South Michigan Avenue in Chicago, Police Officer Jennifer Oppedisano-Caputo provided a urine specimen that contained cocaine metabolites and/or on or about some time prior to August 18, 2020, Officer Oppedisano-Caputo possessed some amount of cocaine, a controlled substance. Officer Oppedisano-Caputo thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by violating 720 ILCS 570/402, *Illinois Controlled Substances Act*;
- b. 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;
- c. Rule 3, which prohibits any failure to promote the Department’s efforts to implement its policy or accomplish its goals; and
- d. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying CPD Employee Resource E01-09, “Drugs, Drug Abuse, and Mandatory Physical and/or Psychological Examinations.”

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

Disciplinary Action

6. The Board has considered the facts and circumstances of the conduct of which it has found Respondent guilty and the evidence she presented in mitigation, including her CPD complimentary history. Since her appointment in 2005, she has earned a total of 79 awards, including one Life Saving Award, five Department Commendations, one Special Commendation, 56 Honorable Mentions, and five Attendance Recognition Awards.

After considering thoroughly Respondent's evidence in mitigation, the Board finds that her accomplishments and her positive evaluations do not mitigate the seriousness of her misconduct. The Board determines that the Respondent must be discharged from her position for possessing and ingesting cocaine which is an illegal use of drugs in violation of the Police Department's Rules of Conduct and the law of the State of Illinois that she swore to uphold as a Chicago police officer.

Illegal drug use by police officers is inconsistent with the goals of the Police Department and undermines the Department's ability to carry out its mission to maintain peace and order, especially to prevent crime stemming from illegal drug use and drug dealing. The use of illegal drugs by officers increases the risk that they will not have the physical stamina and psychological stability to properly perform their job and increases the risk that officers will become involved with a person or enterprise engaged in the illegal sale, delivery, manufacture, purchase, or possession of illegal drugs. For these reasons, "the [P]olice [D]epartment cannot condone the illegal use of drugs by its employees." *Martin v. Thompson*, 195 Ill.App.3d 43, 50 (1st Dist. 1990) (upholding the "ultimate sanction of discharge" for the use of cocaine).

In this case, the Board finds that separation is the only appropriate sanction. The Board recognizes that this is an unfortunate result for an officer who has given so much to the City even

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while struggling with substantial personal challenges. The Board also recognizes that this was a one-time violation, that there is no proof of a continuing drug problem, and that no harm to any other person was alleged.

Nevertheless, the Board is disturbed by the circumstances that gave rise to Respondent's use of cocaine and Respondent's hazy and indefinite account of the occurrence and her presentation at the hearing. The alleged reason for her lack of memory of the drug use, being black-out drunk for months, hardly inures to her credit and raises questions as to anything else she may not have remembered. The Board is concerned that Respondent would be a liability to the Department, and if there is any sort of illegal incident or misconduct of any kind, it could not be disputed that the Department had actual notice of her deficiencies. Pointedly, there is no real evidence she has remained sober as she claims. There is no evidence she is continuing with counselling, treatment, therapy or help groups like AA. While Respondent might make a useful counselor to others in trouble, the Board lacks authority to designate her duties as a sworn officer. Chicago police officers routinely encounter difficult and stressful situations in which they must act with little or no time for reflection. The Board finds that returning her to duty as a sworn officer, armed and authorized to use deadly force, would pose an unacceptable risk to the safety of the public.

The Board agrees that Respondent has raised valid policy points. First, there is no question that officers should have help with mental-health issues. The job is extremely stressful, and officers need help especially when they are also trying to deal with their own life problems. Further, Department policies as to substance abuse involving drugs should specify when and under what circumstances help will be provided and when a "last chance" will be considered. This is especially needed since the legalization of cannabis. Respondent's case is unfortunate,

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but separation is the appropriate remedy considering all facts and circumstances presented.

The Board finds that Respondent's conduct is sufficiently serious to constitute a substantial shortcoming that renders her continuance in 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 her to no longer occupy her office.

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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, Mareilé 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 her position as a police officer with the Department and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Jennifer Oppedisano-Caputo, Star No. 9687, as a result of having been found guilty of all charges in Police Board Case No. 23 PB 3020, be and hereby is **discharged** from her position as a police officer with 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, Mareilé Cusack, Nanette Doorley, and Andreas Safakas.

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

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Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director

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THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2024.

LARRY SNELLING
Superintendent of Police