

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
)
POLICE OFFICER LOUIS GARCIA, STAR No. 16093,) **No. 21 PB 2994-1**
)
POLICE OFFICER MANUEL GIRON, STAR No. 11959,) **No. 21 PB 2994-2**
)
SERGEANT KEVIN RAKE, STAR No. 2015, AND) **No. 21 PB 2994-3**
)
LIEUTENANT CHARLES DALY, STAR No. 494,) **No. 21 PB 2994-4**
DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 2019-3104)**

RESPONDENTS.

FINDINGS AND DECISIONS

On July 23, 2021, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Louis Garcia, Star No. 16093, Police Officer Manuel Giron, Star No. 11959, Sergeant Kevin Rake, Star No. 2015, and Lieutenant Charles Daly, Star No. 494 (“Respondents”), recommending that each Respondent be discharged from the Chicago Police Department (“CPD”) for violating CPD’s Rules of Conduct.

A hearing on the charges against Respondents took place before Hearing Officer Michael Panter on June 6 – 8 and 10, 2022. 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 responses filed by the Superintendent and Respondent Garcia (the other Respondents 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 July 2022, the

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

POLICE BOARD FINDINGS

As a result of its hearing on the charges, the Police Board finds and determines that:

1. Each Respondent was at all times mentioned herein employed as a sworn member of the Department of Police of the City of Chicago.

2. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon each Respondent not fewer than five (5) days before the date of the initial status hearing for this case.

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

Introduction

4. On Friday, May 31, 2019, at about 9:00 p.m., Officers Garcia and Giron were driving an unmarked car at 89th Street and Commercial Avenue. They saw a man, [REDACTED] in the middle of the street yelling at cars and making obscene gestures. He was impeding traffic and causing cars to swerve. Officers Garcia and Giron stopped their car and called him over. They believed him to be intoxicated. Officer Giron searched him for identification. Finding it, Officer Giron went into the car to run a search of his background on the car's computer. Officer Garcia continued to talk with Mr. [REDACTED]

Officer Giron's body-worn camera ("BWC") video was on. As Officer Giron ran the search, Officer Garcia can be seen through the windshield talking with Mr. [REDACTED]. At some point, that conversation escalated. Mr. [REDACTED] was yelling profanities and Officer Garcia moved

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toward Mr. [REDACTED] Through the front windshield, Officer Garcia can be seen and heard yelling back at him. Officer Garcia handcuffed Mr. [REDACTED]

Officer Garcia started to put Mr. [REDACTED] into the car. Officer Giron went over to the driver's side of the car to help his partner. Mr. [REDACTED] was yelling. Officer Garcia yelled back at him. Officer Garcia says Mr. [REDACTED] kicked him in the leg. Officer Garcia says he then fell into the car on top of Mr. [REDACTED] Officer Garcia says he was partly in the car with his legs dangling out, trying to balance himself.

Mr. [REDACTED] was handcuffed and lying in the back seat with Officer Garcia on top of him. Officer Garcia can be seen inside the car pushing Mr. [REDACTED] down and the two are yelling at each other. Officer Giron's BWC shows him getting out of the car and walking around to the back seat of the driver's side of the car. Officer Giron got into the car and was helping his partner.

The video footage from Officer Giron's BWC is just over three minutes. It is difficult to see everything that Officer Garcia is doing. There are about fifteen seconds when Officer Garcia's hands are moving just in front of Officer Giron's camera by Mr. [REDACTED] neck and chest. The Board watched the video numerous times. Watching it closely in slow motion, Officer Garcia's hand can be seen pressing down on Mr. [REDACTED] neck. At the same time, Mr. [REDACTED] is making noises indicating that his airway is blocked.

Officer Garcia is charged with using a chokehold on Mr. [REDACTED] without legal justification and/or using force as punishment and with failing to report that use of force. Officer Giron, Sergeant Rake, and Lieutenant Daly are charged with violating CPD rules by failing to report Officer Garcia's use of excessive force. Officers Garcia and Giron are also each charged

with failing to record the entire incident on his BWC and failing to properly transport Mr. [REDACTED] to the police station.

Charges Against Respondent Garcia

5. Police Officer Louis Garcia, Star No. 16093, is **guilty** of violating Rules 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 May 31, 2019, Police Officer Louis Garcia, at approximately 9:00 p.m., while at or near the location of 9700 South Commercial Avenue in Chicago, during the arrest of Alfonso [REDACTED] failed to record the entire incident on his body worn camera, and/or failed to secure the arrestee with a seatbelt, and/or failed to transport the arrestee to the station in a properly equipped Department vehicle. Officer Garcia thereby violated:

- a. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying Uniform and Property Order U02-01-08 (Vehicles Equipped with Protective Dividers) and Special Order S03-14 (Body Worn Cameras).

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

Officer Garcia admitted that he failed to activate his BWC and offered no justification for his failure to do so. He also admitted that he failed to seat-belt the arrestee and failed to call for a properly equipped vehicle, stating that he did not want to further agitate Mr. [REDACTED] and that waiting for a transport vehicle raised safety concerns given the crowd at the scene. The Board finds unpersuasive the facts and circumstances Garcia offered to justify disregarding CPD policy that required seat-belting Mr. [REDACTED] or calling for a transport vehicle. These charges are proven.

6. Police Officer Louis Garcia, Star No. 16093, is **guilty** of violating Rule 6 in that the Superintendent proved by a preponderance of the evidence the following charge set forth in Specification No. 2:

On or about May 31, 2019, Police Officer Louis Garcia, at approximately 9:00 p.m., while at or near the location of 9700 South Commercial Avenue in Chicago, acted unprofessionally during a stop when he acted aggressively toward Alfonso [REDACTED] by screaming at him and/or using profanity, and/or he did not attempt to de-escalate the situation, and/or he used excessive force against [REDACTED] as punishment. Officer Garcia thereby violated:

- a. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying General Order G01-01 (Vision, Mission Statement, and Core Values).

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

Officer Garcia's abusive tone and language can be heard clearly and repeatedly in the video. His behavior was disrespectful, it was profane, and it was taunting. Officer Garcia was lying on top of Mr. [REDACTED] who was handcuffed and unable to pose any physical threat to the officers. Officer Garcia clearly lost his temper and was verbally abusive. This charge is proven.

7. Police Officer Louis Garcia, Star No. 16093, is **guilty** of violating Rules 1, 2, 6, 8, and 9, in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 3:

On or about May 31, 2019, Police Officer Louis Garcia, at approximately 9:00 p.m., while at or near the location of 9700 South Commercial Avenue in Chicago, applied direct pressure and/or choked and/or blocked the airway of Alfonso [REDACTED] without any legal justification and/or used force as punishment or retaliation during an arrest. Officer Garcia thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by violating section 12-3 of the Illinois Criminal Code, 720 ILCS 5/12-3 (West 2016), which prohibits battery;

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- 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 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying General Order G03-02 (Use of Force) and G03-02-01 (Force Options);
- d. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty;
- e. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty; and
- f. Rule 22, which prohibits failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

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

The Board saw and heard the BWC video and has determined that Officer Garcia did use an illegal chokehold when he placed his hand on the Mr. [REDACTED] airway and applied direct pressure, blocking his airway. The Board finds Officer Garcia did so intentionally for the purpose of restricting the Mr. [REDACTED] airflow. Officer Garcia's uncontrolled anger is apparent. Mr. [REDACTED] was lying on his back with his hands cuffed behind him and Officer Garcia on top of him. Officer Garcia used a chokehold without justification, in clear violation of CPD rules outlining proper use of force. There was no justification whatsoever for using this force. Chokeholds are illegal. These charges are proven.

8. Police Officer Louis Garcia, Star No. 16093, is **guilty** of violating Rules 2, 3, 6, and 22 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 4:

On or about May 31, 2019, Police Officer Louis Garcia, at approximately 9:00 p.m., while at or near the location of 2255 East 103rd Street in Chicago, failed to document his physical interactions with Alfonso [REDACTED] truthfully and/or accurately in his Tactical Response Report to wit: failed to document that he choked and/or obstructed Alfonso [REDACTED] airway. Officer Garcia 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;
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying General Order G03-02-02 (Incidents Requiring the Completion of a Tactical Response Report); and
- d. Rule 22, which prohibits failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

See the findings set forth in Section Nos. 4 – 7 above, which are incorporated here by reference.

Officer Garcia knew what he did, using an illegal chokehold, and he failed to report this use of force on the TRR, Case Report, Arrest Report, or even orally to anyone at any time, and he has continued to deny it up through this hearing. His denial is not credible. These charges are proven.

Charges Against Respondent Giron

9. Police Officer Manuel Giron, Star No. 11959, is **not guilty** of violating Rules 2 and 6 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about May 31, 2019, Police Officer Manuel Giron, at approximately 9:00 p.m., while at or near the location of 9700 South Commercial Avenue in Chicago, during an investigatory stop, searched Alfonso [REDACTED] without justification and retrieved his

identification. Officer Giron thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department; and
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying Special Order S04-13-09 (Investigatory Stop System).

See the findings set forth in Section Nos. 4 – 8 above, which are incorporated here by reference.

The “search” consisted of retrieval of Mr. [REDACTED] identification as he was being taken into custody. There is no dispute that Mr. [REDACTED] arrest was proper. The Board has no basis in law or fact to find anything inappropriate as to Officer Giron's conduct before or during the arrest.¹ The Superintendent has failed to prove these charges.

10. Police Officer Manuel Giron, Star No. 11959, is **guilty** of violating Rules 2, 3, and 6 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 2:

On or about May 31, 2019, Police Officer Manuel Giron, at approximately 9:00 p.m., while at or near the location of 9700 South Commercial Avenue in Chicago, during the arrest of Alfonso [REDACTED] failed to record the entire incident on his body worn camera, and/or failed to secure the arrestee with a seatbelt, and/or failed to transport the arrestee to the station in a properly equipped Department vehicle. Officer Giron 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

¹ Lieutenant Thomas Osika testified about Officer Giron's actions. Lieutenant Osika's testimony was stricken and the Board did not consider it. Even if the testimony was not stricken and the Board did consider it, the Board's findings on the charges in Specification No. 1 would remain the same. Lieutenant Osika failed to give any basis, authority, or explanation for his conclusion that the search was illegal. No qualifications or expertise to give this opinion were presented.

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- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying Uniform and Property Order U02-01-08 (Vehicles Equipped with Protective Dividers) and Special Order S03-14 (Body Worn Cameras).

See the findings set forth in Section Nos. 4 – 9 above, which are incorporated here by reference.

Officer Giron turned off his BWC after Mr. ██████ was repositioned in the car, following Officer Garcia's control tactics. Board members have different views about whether Officer Giron turned off his camera intentionally, but nevertheless, it is irrefutable that he did turn it off and failed to record the entire incident. Officer Giron admitted that he failed to seat-belt the arrestee or call for a properly equipped vehicle. The Board finds unpersuasive the facts and circumstances Giron offered to justify disregarding CPD policy that required seat-belting Mr. ██████ or calling for a transport vehicle. These charges are proven.

11. Police Officer Manuel Giron, Star No. 11959, is **not guilty** of violating Rules 3, 6, and 22 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 3:

On or about May 31, 2019, Police Officer Manuel Giron, at approximately 9:00 p.m., while at or near the location of 2255 East 103rd Street in Chicago, failed to report that Officer Louis Garcia used excessive force when he applied direct pressure and/or choked and/or blocked the airway of Alfonso ██████ without any legal justification and/or used force as punishment or retaliation during an arrest. Officer Giron thereby violated:

- a. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals;
- b. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying General Order G08-01-02 (Specific Responsibilities Regarding Allegations of Misconduct); and
- c. Rule 22, which prohibits failure to report to the Department any violation of Rules

and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

See the findings set forth in Section Nos. 4 – 10 above, which are incorporated here by reference.

The Superintendent has failed to meet the burden of proving that Officer Giron knew of the illegal chokehold. From his position on the other side of the vehicle and while trying to help his partner and calm the situation, Officer Giron very well may not have seen the chokehold, and the Board finds his testimony credible. The charges that he violated CPD rules by failing to report the chokehold are not proven.

Charges Against Respondent Rake

12. Sergeant Kevin Rake, Star No. 2015, is **not guilty** of violating Rules 2, 3, 6, and 22 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about May 31, 2019, Sergeant Kevin Rake failed to report that Officer Louis Garcia used excessive force during the arrest of Alfonso [REDACTED] and/or failed to adequately review and/or failed to resolve Officer Garcia's incomplete Tactical Response Report. Sergeant Rake 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;
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying General Order G03-02-02 (Incidents Requiring the Completion of a Tactical Response Report), General Order G03-02 (V) (Use of Force), and General Order G08-01-02 (Specific Responsibilities Regarding Allegations of Misconduct); and
- d. Rule 22, which prohibits failure to report to the Department any violation of Rules

and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

See the findings set forth in Section Nos. 4 – 11 above, which are incorporated here by reference.

Sergeant Rake reviewed the video and spoke with the officers and Mr. [REDACTED]. He went to the scene. He made diligent efforts to investigate the occurrence and look for all uses of force. He reported Officer Garcia for failing to use his BWC. Sergeant Rake had no reason to suspect an illegal chokehold, for the officers did not report any, Mr. [REDACTED] made no complaints, and there was no physical evidence to alert Sergeant Rake, which is confirmed by the medical records. The Board finds credible his testimony that he did not see Officer Garcia using a chokehold. The charges that Sergeant Rake violated CPD rules by not reporting Officer Garcia's use of excessive force are not proven.

Now, knowing that the video may be difficult to analyze, reviewing officers are reminded always to be on the sharpest lookout for wrongful conduct. Reviewing officers are to use their most determined efforts to root out and report any use of excessive or illegal force.

Charges Against Respondent Daly

13. Lieutenant Charles Daly, Star No. 494, is **not guilty** of violating Rules 2, 3, 6, and 22 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about May 31, 2019, Lieutenant Charles Daly failed to report that Officer Louis Garcia used excessive force during the arrest of Alfonso [REDACTED] and/or failed to adequately review and/or failed to resolve Officer Garcia's incomplete Tactical Response Report. Lieutenant Daly 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;
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying General Order G03-02-02 (Incidents Requiring the Completion of a Tactical Response Report), General Order G03-02 (V) (Use of Force), and General Order G08-01-02 (Specific Responsibilities Regarding Allegations of Misconduct); and
- d. Rule 22, which prohibits failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

See the findings set forth in Section Nos. 4 – 12 above, which are incorporated here by reference.

Lieutenant Daly reviewed the video twice and spoke with the officers and Mr. [REDACTED]. He made diligent efforts to investigate the occurrence and look for all uses of force. He called for an evidence technician and sent the arrestee to the hospital for treatment. Lieutenant Daly had no reason to suspect an illegal chokehold, for the officers did not report any, Mr. [REDACTED] made no complaints, and there was no physical evidence to alert Lieutenant Daly, which is confirmed by the medical records. The Board finds credible his testimony that he did not see Officer Garcia using a chokehold. The charges that Lieutenant Daly violated CPD rules by not reporting Officer Garcia's use of excessive force are not proven.

Now, knowing that the video may be difficult to analyze, reviewing officers are reminded always to be on the sharpest lookout for wrongful conduct. Reviewing officers are to use their most determined efforts to root out and report any use of excessive or illegal force.

Disciplinary Action for Respondent Garcia

14. The Board has considered the facts and circumstances of the conduct of which it has

found Officer Garcia guilty and the evidence he presented in defense and mitigation.

Officer Garcia joined the CPD in April 2003. He is a highly decorated officer. His complimentary history consists of 184 total awards, including two Superintendent's Awards of Valor, 13 Department Commendations, three Special Commendations, and 137 Honorable Mentions. There are no sustained complaints on his disciplinary history report.

Officer Garcia called witnesses in mitigation who testified to his diligent performance as an officer and his character. There is no evidence to show he ever acted in any unprofessional manner before this occurrence. By all appearances, he has served the City well and faithfully for eighteen years.

However, the seriousness of the charges cannot be overstated. Illegal chokeholds are never allowed, and they should not be tolerated. With this decision, the Board makes it clear that the use of an illegal chokehold will not be countenanced. The absence of injury is no excuse. The portion of the video recording of Officer Garcia choking Mr. [REDACTED] lasts about fifteen seconds. In those fifteen seconds, Officer Garcia discredited eighteen years of CPD service and disqualified himself from further service.

Officer Garcia failed in his duty to remain professional during his encounter with Mr. [REDACTED] and violated Department rules and policy by using a chokehold on Mr. [REDACTED] while he was handcuffed. While the Board understands that Officer Garcia was faced with a challenging situation that included extremely offensive verbal abuse from Mr. [REDACTED] Officer Garcia's response to this situation indicates a lack of self-control and judgment so serious as to warrant his discharge from the Chicago Police Department. Chicago police officers routinely encounter difficult and stressful situations in which they must act with little or no time for reflection. Officer Garcia's violent conduct and the lack of control and judgment he demonstrated on the

night in question are incompatible with continued service as a police officer with the Chicago Police Department. The Board finds that returning him to duty as a sworn officer, armed and authorized to use deadly force, would pose an unacceptable risk to the safety of the public.

Moreover, Officer Garcia's misconduct brought discredit upon the Chicago Police Department, thereby undermining public confidence in the judgment of its officers and the Department's mission. Effective law enforcement depends upon a high degree of cooperation between the police department and the public it serves. Conduct such as Officer Garcia's erodes the public's trust of and confidence in police officers, thereby impeding the Department's efforts to achieve the important goals of preventing crime, preserving the public peace, identifying and arresting those who commit crimes, and promoting among all Chicagoans respect for and cooperation with the law and those sworn to enforce it.

The Board finds that Officer Garcia'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.

Disciplinary Action for Respondent Giron

15. The Board has considered the facts and circumstances of the conduct of which it has found Officer Giron guilty and the evidence he presented in defense and mitigation.

Officer Giron failed to record on his BWC the entire encounter with Mr. [REDACTED]. Officer Giron also failed to properly secure Mr. [REDACTED] during transport to the police station, making it possible for Mr. [REDACTED] to try to bite Officer Garcia while they were driving, which in turn necessitated a defensive elbow strike by Office Garcia that injured Mr. [REDACTED].

While these failures by Officer Giron had serious consequences, there are mitigating factors. First, some members of the Board believe his turning off his BWC was inadvertent. It was Officer Giron's video, after all, which revealed and documented Officer Garcia's wrongful conduct. Officer Giron kept his composure and helped calm a volatile situation that night. Further, Officer Giron's misconduct is mitigated by his record and years of service with the CPD. He became a Chicago police officer in December 2008 and has earned 124 awards, including eight Department Commendations, one Special Commendation, and 98 Honorable Mentions. There are no sustained complaints on his disciplinary history report.

Based on the circumstances of Officer Giron's conduct and the evidence he presented in mitigation, the Board finds that a suspension of twenty (20) days is appropriate disciplinary action on the facts of his particular case.

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POLICE BOARD DECISIONS

The members of the Police Board of the City of Chicago hereby certify that they have read and reviewed the record of 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.

Respondent Louis Garcia

By a vote of 7 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Andrea L. Zopp) to 0 opposed, the Board finds Respondent Garcia **guilty** of the charges in Specification Nos. 1 and 2, as set forth in Section Nos. 5 and 6 above.

By votes of 5 in favor (Foreman, Wolff, Block, Cusack, and Eaddy) to 2 opposed (Doorley and Zopp), the Board finds Respondent Garcia **guilty** of the charges in Specification Nos. 3 and 4, as set forth in Section Nos. 7 and 8 above.

As a result of the foregoing and for the reasons set forth in Section No. 14 above, the Board, by a vote of 5 in favor (Foreman, Wolff, Block, Cusack, and Eaddy) to 2 opposed (Doorley and Zopp), hereby determines that cause exists for discharging Respondent Garcia from his position as a police officer with the Department of Police and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Louis Garcia, Star No. 16093, as a result of having been found **guilty** of all charges in Police Board Case No. 21 PB 2994-1, be and hereby is **discharged** from his position as a police officer with the Department of Police and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Steven A. Block, Mareilé B. Cusack, and Michael Eaddy.

Respondent Manuel Giron

By votes of 7 in favor (Foreman, Wolff, Block, Cusack, Doorley, Eaddy, and Zopp) to 0 opposed, the Board finds Respondent Giron **not guilty** of the charges in Specification No. 1 and **guilty** of the charges in Specification No. 2, as set forth in Section Nos. 9 and 10 above.

By a vote of 5 in favor (Foreman, Block, Cusack, Doorley and Zopp) to 2 opposed (Wolff and Eaddy), the Board finds Respondent Giron **not guilty** of the charges in Specification No. 3, as set forth in Section No. 11 above.

As a result of the foregoing and for the reasons set forth in Section No. 15 above, the Board, by a vote of 5 in favor (Foreman, Block, Cusack, Doorley, and Zopp) to 2 opposed (Wolff and Eaddy), hereby determines that cause exists for suspending Respondent Giron from his position as a police officer with the Department of Police and from the services of the City of Chicago for a period of twenty (20) days.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Manuel Giron, Star No. 11959, as a result of having been found **guilty** of certain charges and not guilty of other charges in Police Board Case No. 21 PB 2994-2, be and hereby is **suspended** from his position as a police officer with the Department of Police and from the services of the City of Chicago, for a period of twenty (20) days, from August 12, 2021 (the date he was suspended upon the filing of charges) to and including August 31, 2021.

IT IS FURTHER ORDERED that Officer Giron be and hereby is restored to his position as a police officer and to the services of the City of Chicago, with all rights and benefits,

effective September 1, 2021.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, and Andrea L. Zopp.

Respondent Kevin Rake

By a vote of 5 in favor (Block, Cusack, Doorley, Eaddy, and Zopp) to 2 opposed (Foreman and Wolff), the Board finds Respondent Rake **not guilty** of the charges in Specification No. 1, as set forth in Section No. 12 above.

NOW THEREFORE, IT IS HEREBY ORDERED that Sergeant Kevin Rake, Star No. 2015, as a result of having been found **not guilty** of all charges in Police Board Case No. 21 PB 2994-3, be and hereby restored 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 August 12, 2021 (the date he was suspended upon the filing of charges).

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Andrea L. Zopp.

Respondent Charles Daly

By a vote of 5 in favor (Block, Cusack, Doorley, Eaddy, and Zopp) to 2 opposed (Foreman and Wolff), the Board finds Respondent Daly **not guilty** of the charges in Specification No. 1, as set forth in Section No. 13 above.

NOW THEREFORE, IT IS HEREBY ORDERED that Lieutenant Charles Daly, Star No. 494, as a result of having been found **not guilty** of all charges in Police Board Case No. 21 PB 2994-4, be and hereby restored to his position as a lieutenant of police with the Department of

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Police and to the services of the City of Chicago, with all rights and benefits, effective August 12, 2021 (the date he was suspended upon the filing of charges).

This disciplinary action is adopted and entered by a majority of the members of the Police Board:, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Andrea L. Zopp.

+ + +

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF AUGUST, 2022.

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

DISSENTS

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

Respondent Louis Garcia

We respectfully dissent from the majority's findings that Respondent Garcia used excessive force. We find that the BWC video is unclear as to whether he used an illegal chokehold on Mr. [REDACTED] and that the Superintendent did not meet the burden of proving the charges related to use of excessive force.

NANETTE DOORLEY
ANDREA L. ZOPP

Respondent Manuel Giron

We respectfully dissent from the majority's finding that Officer Giron is not guilty of the charges that he failed to report that Respondent Garcia used excessive force. Based on our review of all the evidence—especially the sound of the interference with Mr. [REDACTED] windpipe/voice on the video—we find that Officer Giron knew or should have known that Garcia used excessive force and that Giron violated CPD rules by not reporting it.

PAULA WOLFF
MICHAEL EADDY

Respondents Kevin Rake and Charles Daly

We respectfully dissent from the majority's finding that Sergeant Rake and Lieutenant Daly are not guilty of the charges brought against them. Based on our review of all the evidence, we find that they both knew or should have known that Garcia used excessive force and that they both violated CPD rules by not reporting it. The system of accountability that Chicago has put in

place is a complex one, but that is for a reason. There are checks and balances in the system: officers who have earned higher ranks in the department assume responsibility for overseeing behavior of those who report to them. We understand the Police Board is in a different situation from the officers charged with reviewing the actions of Officer Garcia. We have the benefit of reviewing the video in question many times and hearing the Superintendent's arguments about why Sergeant Rake and Lieutenant Daly should have acted differently. We are dissenting from the majority, however, because five of seven Board members—after watching the same video that Sergeant Rake and Lieutenant Daly watched—concluded that Officer Garcia choked Mr. ██████ and engaged in behavior that was unjustified toward a Chicago resident. Reasonable people can disagree about what they see on the tape. We believe that the tape clearly shows Officer Garcia engaged in an unjustified verbal and physical altercation and believe that the supervisory officers should have seen that as well and exercised their fiduciary responsibility to their rank and to the people of Chicago and provided the necessary check on the behavior of Officer Garcia that our system of accountability demands by reporting that Officer Garcia engaged in an unjustified verbal and physical altercation, thereby violating Department rules.

GHIAN FOREMAN
PAULA WOLFF

RECEIVED A COPY OF

THESE FINDINGS AND DECISIONS

THIS ____ DAY OF _____, 2022.

DAVID O. BROWN
Superintendent of Police