

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
DETECTIVE JOHN KILLACKEY III,) **No. 14 PB 2847**
STAR No. 20163, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1025739)**
RESPONDENT.)

FINDINGS AND DECISION

On January 30, 2014, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Detective John Killackey III, Star No. 20163 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 1: Violation of any law or ordinance.
- 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 6: Disobedience of an order or directive, whether written or oral.
- Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 38: Unlawful or unnecessary use or display of a weapon.

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 June 27 and July 14, 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 detective by the Department of Police of the City of Chicago.

2. The written 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, Detective John Killackey III, Star No. 20163, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

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

Count I: On or about April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while off duty, Detective Killackey committed aggravated assault in that he pointed a firearm at Karl Clermont and stated, "Either I don't owe you shit or you get out of the car and see what's gonna happen," or words to that effect, in violation of 720 ILCS 5/12-2(a)(1).

On April 23, 2009, Detective Killackey, while off duty, was out drinking at a bar carrying a Glock 27 handgun. He left the bar at approximately 1:00 a.m., and entered a taxi cab being driven by Karl Clermont. He directed Mr. Clermont to drive him to Armitage and Damen. The fare was approximately \$8.00. Detective Killackey admits those salient facts.

The credible testimony in this case also established that Detective Killackey got out of the taxi without paying Mr. Clermont. When Mr. Clermont told Detective Killackey he forgot to pay,

Detective Killackey responded by saying: “No, I didn’t forget to pay. I don’t owe you shit.” (Tr. 46.) Mr. Clermont advised Detective Killackey that if he did not pay the fare he would call the police. Detective Killackey responded by pulling his Glock 27 handgun, pointing it at Mr. Clermont, and saying: “You choose. Either I don’t owe you shit, or you get out of the car and see what happens.” (Tr. 47.) These actions were undoubtedly a violation of 720 ILCS 5/12-2(a)(1) as it existed at the time of this incident in April 2009.¹

Subsequently, Mr. Clermont called 911 and advised them that a man had just pulled a Glock handgun on him. When Police Officer Torres arrived, Mr. Clermont showed him the direction in which Detective Killackey headed. Thereafter, several Chicago Police Officers apprehended Detective Killackey in an alley behind his home, which was a short distance from the Armitage & Damen location. They each drew their weapons and pointed their guns at him. At least two officers instructed him to show his hands, and told him to stop and get down on the ground, or words to that effect. At least one of them smelled alcohol on his breath, and noticed that Detective Killackey was “staggering.” (Tr. 170.) A gun was retrieved from his person.

Detective Killackey’s testimony that he did not point his weapon at Mr. Clermont was not credible. It is noteworthy in this regard, that at the hearing in this matter, for the first time, Detective Killackey stated that he pointed his phone and finger at Mr. Clermont, not his gun. However, Detective Killackey made no mention of this in either of his statements to the Independent Police Review Authority. Detective Killackey admitted that he reached for, and put his hand on his gun, though he denied actually pulling his weapon on Mr. Clermont.

Mr. Clermont testified that he is familiar with firearms and was certain that Detective Killackey pulled either a Glock or a Beretta gun on him. Most tellingly, Mr. Clermont also told the

¹ 720 ILCS 5/12 was subsequently amended.

911 Emergency Dispatcher that: “He has a 9mm Glock.” (Superintendent’s Exhibits 4 & 5) He also gave Sergeant Peabody a description of the weapon Detective Killackey brandished that was consistent with the weapon Detective Killackey in fact possessed that night. As noted above, by his own admission, Detective Killackey was in fact carrying a Glock 27 handgun. The totality of the evidence when considered as a whole, including Detective Killackey’s testimony and statements that he had a Glock in his possession, supports Mr. Clermont’s version of the events. The Board is convinced that Detective Killackey pulled his gun on Mr. Clermont, as evinced by Mr. Clermont being able to so accurately describe Detective Killackey’s weapon to the 911 operator.

The Board finds Mr. Clermont’s testimony credible and Detective Killackey’s testimony not credible, and therefore finds that the Superintendent established that Detective Killackey is guilty as charged.

5. The Respondent, Detective John Killackey III, Star No. 20163, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

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

Count II: On or about April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while off duty, Detective Killackey committed theft of services in that he refused to pay the taxi fare he owed to taxi driver Karl Clermont, in violation of 720 ILCS 5/16-3(a).

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

Detective Killackey denied that he refused to pay Mr. Clermont. He testified that he paid the fare of \$8.26 by giving Mr. Clermont \$9.00, but that Mr. Clermont was not satisfied with that

tip. However, the Board finds credible Mr. Clermont's testimony that Detective Killackey got out of the taxi without paying, and finds Detective Killackey's denial not credible. Moreover, both Mr. Clermont and Officer Torres testified that after Detective Killackey was disarmed by the police in the alley behind his home, Officer Torres asked Mr. Clermont if he wanted Detective Killackey to just pay the fare, or did Mr. Clermont want to file a formal complaint. This evidence supports the position that Detective Killackey had not paid the fare. Nonetheless, even without considering the consistent statements of Mr. Clermont and Officer Torres, in as much as the Board finds credible Mr. Clermont's testimony regarding the events that took place on April 29, 2009, and finds Detective Killackey's version of the events not credible, it therefore finds that the Superintendent established that Detective Killackey is guilty as charged.²

6. The Respondent, Detective John Killackey III, Star No. 20163, 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 April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while off duty, Detective Killackey pointed a firearm at Karl Clermont and stated, "Either I don't owe you shit or you get out of the car and see what's gonna happen," or words to that effect, thereby impeding the Department's efforts to achieve its policy and goals or

² The Board finds not credible Lieutenant Peabody's testimony that Mr. Clermont told him that Detective Killackey had given him some unknown sum of money (it is also an out of court statement being offered to prove the truth of the matter asserted), and finds that Peabody was a biased witness. The totality of the testimony made it abundantly clear that Lieutenant Peabody (Sgt. Peabody at the time of the incident at issue in this case) was biased. He attempted to dissuade Mr. Clermont from filing a complaint against Detective Killackey. Moreover, Lieutenant Peabody did not inventory Detective Killackey's weapon, and in fact returned it to him, despite knowing that Mr. Clermont was alleging that Detective Killackey had threatened him with a gun. Finally, it is noteworthy with respect to Lieutenant Peabody's clear bias, that he was ultimately suspended for five days for failing to complete the case report as required regarding this incident. Illinois courts have long applied the rule that a witness may be impeached by a showing of bias, interest, or motive to testify falsely. *See People v. Bull*, 185 Ill.2d 179, 206, 235 Ill.Dec. 641, 705 N.E.2d 824 (1998). The Board did not believe Lieutenant Peabody's testimony in this regard.

bringing discredit upon the Department.

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

7. The Respondent, Detective John Killackey III, Star No. 20163, 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 April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while off duty, Detective Killackey refused to pay the taxi fare he owed to taxi driver Karl Clermont, thereby impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the Department.

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

8. The Respondent, Detective John Killackey III, Star No. 20163, 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 April 23, 2009, while off duty, Detective Killackey carried a firearm knowing there was a likelihood that he would be consuming alcoholic beverages and/or consumed one or more alcoholic beverages while carrying his firearm, thereby impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the Department.

The Respondent pled guilty to this charge.

9. The Respondent, Detective John Killackey III, Star No. 20163, 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 April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while off duty, Detective Killackey pointed a firearm at Karl Clermont without justification, thereby impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the Department.

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

10. The Respondent, Detective John Killackey III, Star No. 20163, 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 May 27, 2010, Detective Killackey was found guilty in the Circuit Court of Cook County, County Department, Municipal Division, of violating 720 ILCS 5/12-2(a)(1) and/or 720 ILCS 5/16-3(a), thereby impeding the Department's efforts to achieve its policy and goals or bringing discredit upon the Department.

It is undisputed that on May 27, 2010, in the Circuit Court of Cook County, in *People v. John E. Killackey III*, Case No. 10119846901, Detective Killackey was found guilty of violating 720 ILCS 5/12-2(a)(1) and 720 ILCS 5/16-3(a). Detective Killackey did not testify in the criminal proceeding, and the sentence involved Court supervision that was successfully completed, resulting in the criminal record being expunged. Detective Killackey contends that because his criminal case was expunged, he is not guilty of the charges as alleged in Count V.

The issue before the Board is not whether the case against Detective Killackey was ultimately disposed of via a post-conviction sentence that allowed for his record to be expunged. Rather, the issue is whether Detective Killackey's being found guilty of violating 720 ILCS 5/12-2(a)(1) and 720 ILCS 5/16-3(a) on May 27, 2010, in the Circuit Court of Cook County in *People v. John E. Killackey III* brought discredit upon the Department as alleged. The Board finds that a Chicago police officer being found guilty by a Circuit Court judge of Aggravated Assault and Theft of Labor/Services clearly brings discredit upon the Chicago Police Department. That "discredit upon the Department" is not undone by virtue of the fact that Detective Killackey successfully completed the terms of his Court supervision, his protestations to the contrary notwithstanding. The Board therefore finds that the Superintendent established that Detective Killackey is guilty as charged.

11. The Respondent, Detective John Killackey III, Star No. 20163, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

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

On or about April 23, 2009, while off duty, Detective Killackey carried a firearm knowing there was a likelihood that he would be consuming alcoholic beverages, in violation of General Order 07-01, Section III-C (now known as Uniform and Property 04-02), thereby disobeying an order or directive, whether written or oral.

The Respondent pled guilty to this charge.

12. The Respondent, Detective John Killackey III, Star No. 20163, charged herein, is **guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,

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

On or about April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while off duty, Detective Killackey pointed a firearm at Karl Clermont and/or stated, "Either I don't owe you shit or you get out of the car and see what's gonna happen," or words to that effect, thereby disrespecting or maltreating any person, while on or off duty.

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

13. The Respondent, Detective John Killackey III, Star No. 20163, charged herein, is **guilty** of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty,

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

On or about April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while off duty, Detective Killackey pointed a firearm at Karl Clermont and/or stated, "Either I don't owe you shit or you get out of the car and see what's gonna happen," or words to that effect, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

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

14. The Respondent, Detective John Killackey III, Star No. 20163, charged herein, is **guilty** of violating, to wit:

Rule 38: Unlawful or unnecessary use or display of a weapon,

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

On or about April 23, 2009, in the vicinity of 1945 North Winchester Avenue, Chicago, while

off duty, Detective Killackey pointed a firearm at Karl Clermont without justification, thereby unlawfully using or displaying a weapon.

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

15. The Police Board has considered the facts and circumstances of the Respondent's conduct, the evidence presented in defense and mitigation, and the Respondent's complimentary and disciplinary histories (attached hereto as Exhibit A). The Board determines that the Respondent must be discharged from his position due to the serious nature of the conduct of which it has found him guilty.

The Respondent, after being out drinking while in possession of his gun, refused to pay the taxi driver who drove him home, and then engaged in an altercation during which he pointed his weapon at the driver and threatened him, thereby endangering the cab driver's life. Several Chicago police officers responded to the scene and had to draw their weapons, potentially endangering them as well.

In mitigation, the Respondent has offered important evidence that the Board has carefully considered. Detective Killackey has a complimentary history of 57 total awards, including 37 honorable mentions, three Department commendations, and five complimentary letters. He has no disciplinary history. Several witnesses testified credibly regarding his positive reputation and character. However, the Respondent's reputation, accomplishments as a police officer and detective, his complimentary history, and the lack of prior disciplinary history, do not mitigate the seriousness of his misconduct in this case.

The Respondent's actions on the night in question were reckless, violent, and unjustified.

His disregard for public safety, and his lack of judgment or inability to check his emotions raise significant concerns about the Respondent's future performance in a job that requires one to make split-second decisions affecting human life in difficult and dangerous situations, and are incompatible with continued service as a law enforcement officer. In addition, the fact that several police officers responded to this incident involving a fellow police officer with a gun not only adversely affects the morale of the police force but also brings disrepute on the Department. Based on the totality of the facts and circumstances of the Respondent's conduct, returning him to duty, armed and authorized to use deadly force, poses an unacceptable risk to the safety of the public and would undermine the discipline of and public confidence in the Police Department.

The Board finds that the 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.

[The remainder of this page is left blank intentionally.]

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 votes of 7 in favor (Demetrius E. Carney, Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 1, Rule 2, Rule 6, Rule 8, Rule 9, and Rule 38.

As a result of the foregoing, the Board, by a vote of 7 in favor (Carney, Foreman, Conlon, Eaddy, Fry, Rodriguez and Sweeney) to 0 opposed, hereby determines that cause exists for discharging the Respondent from his position as a detective with the Department of Police, and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Detective John Killackey III, Star No. 20163, as a result of having been found **guilty** of the charges in Police Board Case No. 14 PB 2847, be and hereby is **discharged** from his position as a detective 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: Demetrius E. Carney, Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF SEPTEMBER, 2014.

Police Board Case No. 14 PB 2847
Detective John Killackey

Attested by:

/s/ DEMETRIUS E. CARNEY
President
Police Board

/s/ MAX A. CAPRONI
Executive Director
Police Board

DISSENT

The following members of the Police Board hereby dissent from the Findings and Decision of the majority of the Board.

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2014.

GARRY F. McCARTHY
Superintendent of Police

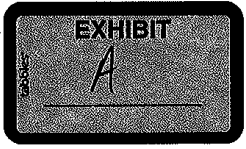
X
 100%
 / 1 Main Report
Chicago Police Department
Personnel Division
**Only for active personnel*
 Report Date: 27 Jan 2014
 Report Time: 1254 Hrs
 Information Services Division
 Data Warehouse
 Produced by: IL01656AEC

Complimentary History

Name	Title	Star	Unit	Detail Unit	Emp Number
KILLACKEY III, JOHN E	9165	20163	384	376	

Achievements

RECOGNITION/ OUTSIDE GOVERNMENTAL AGENCY AWARD	1
OTHER AWARDS	1
ATTENDANCE RECOGNITION AWARD	2
POLICE OFFICER OF THE MONTH AWARD	2
2009 CRIME REDUCTION AWARD	1
PRESIDENTIAL ELECTION DEPLOYMENT AWARD 2008	1
DEPARTMENT COMMENDATION	3
PROBLEM SOLVING AWARD	1
2004 CRIME REDUCTION RIBBON	1
UNIT MERITORIOUS PERFORMANCE AWARD	1
COMPLIMENTARY LETTER	5
HONORABLE MENTION	37
NATO SUMMIT SERVICE AWARD	1
TOTAL AWARDS	57



BUREAU OF INTERNAL AFFAIRS
RECORDS SECTION

16 DECEMBER 2013

TO: COMMANDING OFFICER UNIT 113

FROM: RECORDS SECTION
INTERNAL AFFAIRS DIVISION

SUBJECT: PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF:

KILLACKEY III	JOHN	20163	376
NAME	(LAST, FIRST)	STAR	UNIT
MALE	WHITE		
SEX	RACE	EMPLOYEE#	

REFERENCE: COMPLAINT REGISTER / LOG NUMBER 1025739
THE PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF THE SUBJECT
ACCUSED HAS BEEN REQUESTED IN YOUR NAME BY:

DEP. CHIEF MUELLENBACH	113
RANK NAME	STAR EMPLOYEE# UNIT

RELATIVE TO A SUSTAINED FINDING IN THE INVESTIGATION OF THE
ABOVE REFERENCE COMPLAINT LOG NUMBER.

THE RECORDS SECTION, BUREAU OF INTERNAL AFFAIRS, DISCLOSED
THE FOLLOWING DISCIPLINARY ACTION ADMINISTERED TO THE
SUBJECT ACCUSED FOR THE PAST FIVE (5) YEARS.

VERIFIED / PREPARED BY:

NIYA SCOTT

FOR: COMMANDING OFFICER
RECORDS SECTION
BUREAU OF INTERNAL AFFAIRS

NONE
SEE ATTACHED