

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER MICHAEL BERGESON,) **No. 17 PB 2931**
STAR No. 6734, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1056084)**
RESPONDENT.)

FINDINGS AND DECISION

On June 19, 2017, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Michael Bergeson, Star No. 6734 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct, which set forth expressly prohibited acts:

- 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 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- Rule 14: Making a false report, written or oral.
- Rule 21: Failure to report promptly to the Department any information concerning any crime or other unlawful action.

A hearing on these charges against the Respondent took place before Police Board Hearing Officer Jeffrey I. Cummings on June 11, June 12, and July 31, 2018. 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 Cummings 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 police officer by 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 the 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 the Respondent appeared in person and was represented by legal counsel.

Introduction

4. This case arises out of sequence of events that occurred in early August 2012. At that time, Respondent Michael Bergeson was assigned to the Area North saturation team - - a unit of eight officers who were deployed to locations within the Area that were having problems with violent crime and drug sales - - that was based out of the 25th District on the Northwest Side. In August 2012, Respondent regularly worked the third watch (which began at 5:00 to 6:00 p.m. and ended at 2:00 to 3:00 a.m.), his partner was Officer John Burke, and his team was supervised by Sergeant (now Lieutenant) Jon Hein. (The Board will refer to Lieutenant Hein as Sergeant Hein in this decision for purposes of clarity.)

Respondent took the day off on August 2, 2012, so that he could attend an all-day event with his extended family at his aunt's house on North Avenue. Respondent fell asleep at his aunt's house between 11:00 p.m. and midnight after the family had a big meal and conversed.

Respondent's wife (who was pregnant) and their roommate left to return to Respondent's house as Respondent slept. In the early morning of August 3, Respondent received a call from his wife, who was upset that he was not home. At approximately 3:20 to 3:25 a.m., Respondent left his aunt's house and began driving west on North Avenue (1600 North) in his Ford 150 pickup truck towards his home. When Respondent reached California Avenue (2800 West), he made a right turn and headed north.

As Respondent drove north on California, a woman named Nina Pilacoutas was bicycling southbound on California with her boyfriend (Clayton Meyer) on the way towards Mr. Meyer's home. Ms. Pilacoutas, who was in her mid-20s at the time, had previously met up with Mr. Meyer at a friend's home in Logan Square after completing her work shift at a restaurant in the early morning of August 3. When Ms. Pilacoutas and Mr. Meyer left their friend's home at around 3:00 a.m., they bicycled west on Armitage Avenue (2000 North) and then turned to head southbound on California. Ms. Pilacoutas, who had switched bikes with Mr. Meyer and was not wearing a helmet, was riding ahead of Mr. Meyer as the pair approached the intersection of California and Wabansia Street (1700 North).

The intersection of California (which runs north-south) and Wabansia (which runs east-west) is offset: Wabansia intersects with California on the east side of the street approximately thirty yards south of where Wabansia intersects with California on the west side of the street. There are four stop signs at the intersection which control: (1) facing northbound traffic on California where California intersects with Wabansia on the east; (2) facing westbound traffic on Wabansia where Wabansia intersects with California on the east; (3) facing southbound traffic on California intersects with Wabansia on the west; and (4) facing eastbound traffic on Wabansia where Wabansia intersects with California on the west.

As Respondent drove north on California, he stopped at the stop sign facing northbound traffic at California and Wabansia. As he thereafter drove north on California and began to make a left turn west onto Wabansia, the front fender of his truck collided with Ms. Pilacoutas. The force of the collision caused Ms. Pilacoutas to fly off the bike onto the hood of Respondent's truck, roll off the hood, and fall to the street on the driver's side of Respondent's truck. Mr. Meyer (who had some medical training) immediately went to Ms. Pilacoutas's side and saw that she was unconscious with no apparent signs of life. Although he did not notice that she was bleeding at first, Mr. Meyer initially thought Ms. Pilacoutas may have been dead. Ms. Pilacoutas eventually regained consciousness, turned over, and began to bleed from a laceration on her face. Ms. Pilacoutas never stood up as Mr. Meyer tried to keep her stable by limiting her movements.

Respondent, who stopped his truck in the intersection after the collision, got out and began to approach Ms. Pilacoutas and Mr. Meyer. Mr. Meyer called Respondent an expletive twice and told him to back away or step back at least two or three times. Respondent complied with Mr. Meyer's request and remained at least five to ten feet away from Ms. Pilacoutas. Respondent never talked with Ms. Pilacoutas at the scene. Nor did Respondent provide any personal identifying information to either Ms. Pilacoutas or Mr. Meyer. Shortly after the accident occurred, two other bicyclists and a number of people from surrounding buildings also approached the intersection.

At 3:23:10 a.m., Respondent called 911 and told the dispatchers from the Office of Emergency Management and Communications ("OEMC") and the Fire Department that a person was in the middle of the street at Wabansia and California and an ambulance was needed right away. Respondent did not answer the dispatcher's repeated question of whether the person was struck by a car. At 3:24:30 a.m., Respondent placed a second call to 911 and told the dispatcher

that there was a female down at Wabansia and California, she was moving and breathing, and that an ambulance was needed. The OEMC dispatcher told Respondent that someone else had called and that they should be there soon. At 3:26:38 a.m., Respondent placed a third call to 911 and told the OEMC dispatcher that someone got hit by a car, they were waiting, and he wanted an ambulance at Wabansia and California. Respondent did not provide his name or identify himself as a police officer during any one of his three 911 calls.

Seconds after he completed his third 911 call, Respondent went back to his truck (which was open and running) and began driving around the people who had gathered while honking his horn. As Respondent drove away from the scene heading west on Wabansia, he felt a bump on his truck as he hit two cars that were parked facing eastbound on West Wabansia.¹ At some point, either when Respondent struck Ms. Pilacoutas and the bicycle, or when he hit the parked cars, Respondent's front license plate fell off his truck onto the street at the accident scene. Respondent drove straight home, parked in his garage, and went to bed. Respondent did not realize that his license plate had fallen off until after he arrived home. Respondent also noticed that his bumper had a scrape.

At 3:27 a.m., less than thirty seconds after Respondent made his third 911 call, a Chicago Fire Department ambulance arrived at the intersection of California and Wabansia. The ambulance transported Ms. Pilacoutas to the emergency room at Illinois Masonic Hospital. Ms. Pilacoutas sustained fractures to her third, fourth, and fifth right toes, blunt trauma to her head with a cerebral concussion, multiple abrasions to her face and extremities, and a laceration to her

¹ One car sustained damage consisting of a scrape horizontally extended across the entire driver's side door. The second car sustained damage consisting of a scrape to the corner of the front driver's side bumper and a dent below it.

left eye that required stitches.²

While the ambulance was still on the scene, two Chicago police officers arrived and interviewed Mr. Meyer and another witness about the incident. The witnesses provided the officers with a license plate, which the officers ran and determined was owned by Respondent. The witnesses also confirmed that Respondent had left the scene. The officers examined the parked cars that the witnesses said Respondent hit when he drove away and they documented the damage that the cars sustained. The officers prepared and filed a traffic report regarding the accident, inventoried Respondent's license plate, and proceeded to Respondent's address to speak with him but were unable to do so for reasons unclear in the record.

Respondent reported for duty during the mid-afternoon on August 3 when his shift started and worked with his partner Officer Burke. Respondent did not file on August 3 a report regarding the accident with Ms. Pilacoutas or striking the parked cars. Nor did Respondent tell anyone at the Department on August 3 about these events or inquire as to whether anyone else made a report about these incidents. On August 4, Respondent reported for duty in the late afternoon and once again worked with Officer Burke. During the course of this shift, which lasted until the early morning of August 5, Respondent did not file a report regarding the Pilacoutas accident nor did he tell anyone at the Department about the incident or check to see if anyone else filed a report concerning the incident.

However, as Respondent and Officer Burke headed back to the 25th District at the end of their shift during the early morning of August 5, Respondent told Officer Burke that he had been involved in a motor vehicle accident with a bicyclist. Respondent explained to Officer Burke

² Mr. Meyer's bicycle, which Ms. Pilacoutas was riding at the time of the collision, sustained damage to both wheels and a bent frame.

that he stopped to call 911 but that people on the scene were a little hostile towards him so he ended up leaving the scene. Respondent and Officer Burke agreed that Respondent needed to file a report regarding the accident and they decided to contact their supervisor, Sergeant Hein, for guidance. Officer Burke called Sergeant Hein and learned that he was at the Edison Park Inn.

Respondent and Officer Burke drove to the Edison Park Inn to let Sergeant Hein know what had occurred. In a one-on-one conversation, Respondent told Sergeant Hein that he had been involved in a traffic accident with a female bicyclist. Respondent further explained that he called 911, he thought that the bicyclist was okay, and that he left the scene after the situation became hostile. After hearing this information, Sergeant Hein determined that he needed to obtain a CR (Complaint Register) number and relocate to the 25th District so that he could make notifications and inform the watch commander. Sergeant Hein, Respondent, and Officer Burke rode back to the 25th District in one vehicle at the Sergeant's instruction. Due to the severity of the situation, Sergeant Hein wanted to make sure that both Respondent and Officer Burke were present when he was making the notifications and his initiation report.

When they arrived at the 25th District, Sergeant Hein notified the watch commander of the incident, obtained a CR number, and began to prepare an initiation report to notify the Bureau of Internal Affairs. Respondent joined Sergeant Hein in his office while the Sergeant prepared his initiation report and the Sergeant then directed Respondent to go make a traffic accident report. Sergeant Hein's initiation report is based on the allegation that Respondent "failed to report a traffic accident in a timely manner" and contains the following narrative:

P.O. Bergeson was involved in a traffic accident with a bicyclist on 03Aug2012 at approximately 0330hrs in the vicinity of 1700 N. California Ave. Chicago, IL. P.O. Bergeson completed a traffic report concerning this incident in the 025th District on 05Aug12. Officer Bergeson related that the female bicyclist ran into the side of his vehicle and appeared to be intoxicated when answering his questions concerning her condition. The subject related that she was fine and would wait for the ambulance that

Officer Bergeson summoned on his cell phone. The crowd then became hostile towards Officer Bergeson and he was concerned for his safety. After further reflection of this incident P.O. Bergeson completed a traffic Accident Report in the 025th District on 05Aug12.

Sergeant Hein drafted his initiation report based on the information that Respondent provided to him.

After leaving Sergeant Hein's office, Respondent went to the front desk area of the 25th District to make a traffic accident report. Officer Erin Carlquist was assigned to the 25th District front desk during the early morning of August 5 and she assisted Respondent. Although Officer Carlquist did not know Respondent, she assumed that he was a police officer because he was on the side of the desk where only officers could go. Officer Carlquist asked Respondent where the accident occurred and for his driver's license and insurance card, and they had a conversation about what occurred. Respondent told Officer Carlquist that the accident occurred as he was traveling northbound on California at West Wabansia when a bicyclist failed to yield at the stop sign and struck his vehicle. Respondent also told Officer Carlquist that he did not believe that there were any injuries.

Officer Carlquist prepared an Illinois Traffic Crash Report, which at that time consisted of a two sided form with boxes requiring the input of information on the front side and space for a diagram and a narrative description of how the accident occurred on the back side. The front side of Officer Carlquist's report noted the location of the accident, the date and time that it occurred, indicated that there was "no injury," and included a drawing showing that the "point of first contact" was on the front right side of Respondent's vehicle (designated as "Unit 2"). The back side of the report included a "narrative" section and an illustrative "diagram." The report's narrative stated:

In summary Unit 2 [Respondent's vehicle] was travelling northbound on California

turning west onto Wabansia when Unit 1, a bicycle, disregarded the stop sign and struck Unit 2. Unit 2 is now missing a front license plate. Unit 1 fled the scene. The intersection is a 4 way stop sign.

The diagram on the back side of Officer Carlquist's report clearly shows a bicycle striking the side of Respondent's vehicle.

Officer Carlquist completed her traffic crash report and filed it under R.D. Number HV416134 at 2:05 a.m. on August 5. She provided Respondent with a copy of the report that had the front side completed and the back side blank and instructed him to complete the "narrative" and "diagram" section on the back side before sending his report to the Illinois Department of Transportation. Respondent, who did not see the narrative and diagram on the back side of Officer Carlquist's report while he was at the 25th District on August 5, gave Sergeant Hein a copy of the front side of the report before he left the station.

Respondent completed the narrative and diagram sections on his copy of the report on the evening of August 5 or the morning of August 6. In the narrative section of his report, Respondent stated:

In summary, while attempting to travel westbound at the listed location I was struck by a female bicyclist (Unit #1) I then exited the vehicle to render aid and call 911. I then waited 10-15 minutes at which time Unit #1's 2 male friends became hostile and threat[en]ing towards me. I then feared for my safety and left the area. While leaving I believe I struck a[n] unknown vehicle but continued driving due to fear for my safety. I went back the next day but the vehicle was no longer there.

In addition, Respondent included a diagram that indicated that the bicyclist failed to stop at the stop sign and showed the bike striking the front side of his vehicle. After completing his narrative and diagram, Respondent mailed his report to the Illinois Department of Transportation.

In 2013, Respondent was charged with felonies for leaving the scene of a personal injury accident, failing to render aid, and failing to exchange information with the bicyclist, in the case

captioned *The People of the State of Illinois v. Michael Bergeson*, case number 13-CR-00202.

On February 7, 2014, the Honorable Judge James Linn found Respondent guilty of violating 625 ILCS 5/11-403 (“Duty to give information and render aid”), a Class A misdemeanor, and acquitted Respondent of the felony charges. On March 12, 2014, the Court sentenced Respondent to one year of court supervision, ordered Respondent to attend a victim-impact session and to perform thirty days of community service, and ordered a \$2,250 bond deduction to go to Ms. Pilacoutas for restitution. Respondent has successfully completed all terms of his sentence and he has been discharged from court supervision.

Charges Against the Respondent

5. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 1** in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about August 3, 2012, at approximately 3:26 a.m., in the vicinity of 1658 North California Avenue in Chicago, Police Officer Michael Bergeson, while operating a white Ford pickup truck, was involved in a traffic accident recorded under RD HV413119 (“traffic accident”) in which he struck and injured a bicyclist, Nina Pilacoutas (“Pilacoutas”); and Police Officer Michael Bergeson failed to remain at the scene of the traffic accident after striking and injuring Pilacoutas and/or left the scene of the traffic accident prior to the arrival of police or emergency personnel and/or failed to give personal identifying information to Pilacoutas and/or render aid to Pilacoutas, in violation of 625 ILCS 5/11-401(a) and/or 625 ILCS 5/11-403, thereby violating any law or ordinance.

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

The Board finds that Respondent is guilty of violating 625 ILCS 5/11-403 (“Duty to give information and render aid”). To begin, Respondent was convicted of violating Section 5/11-403 at his criminal trial. Under Illinois law, a criminal conviction collaterally estops (or bars) a

defendant from contesting in a subsequent civil proceeding the facts established and the issues decided in the criminal proceeding where no unfairness will result to the party sought to be estopped. *See American Family Mutual Insurance Co. v. Savickas*, 193 Ill.2d 378, 384-88 (2000). It would not be unfair to apply collateral estoppel in this case given that Respondent had a full and fair opportunity to litigate in his criminal trial and every incentive to use that opportunity to mount a vigorous - - and mostly successful - - defense to the charges against him. *Savickas*, 193 Ill.2d at 388.

In any case, the evidence presented at the hearing clearly establishes a violation of Section 5/11-403³ despite the fact that Respondent rendered assistance to Ms. Pilacoutas by requesting the dispatch of an ambulance to the scene during his three 911 calls. *See Tipsword v. Melrose*, 13 Ill.App.3d 1009, 1018-19 (3d Dist. 1973) (holding that defendant did not violate the “rendering aid” statute where she made arrangements for an ambulance after learning that the other person involved in the accident was injured). Respondent left the scene without providing the personal identifying information required by the statute to either Ms. Pilacoutas or Mr. Meyer. It is true that Ms. Pilacoutas was “in no condition to receive and understand such

³ The statute, 625 ILCS 5/11-403, provides:

Duty to give information and render aid. The driver of any vehicle involved in a motor vehicle accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give the driver’s name, address, registration number and owner of the vehicle the driver is operating and shall upon request and if available exhibit such driver’s license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of the such person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

If none of the persons entitled to information pursuant to this Section is in condition to receive and understand such information and no police officer is present, such driver after rendering reasonable assistance shall forthwith report such motor vehicle accident at the nearest office of a duly authorized police authority, disclosing the information required by this Section.

Any person failing to comply with this Section shall be guilty of a Class A misdemeanor.

information” and that Mr. Meyer (who cursed Respondent and told him to get back) was not receptive to talking with Respondent. However, there is no legitimate reason why Respondent - - who was told by an OEMC dispatcher that help would be there soon during his second 911 call⁴ - - did not wait for the arrival of police officers and other first responders to whom he could have provided the requisite information. *See People v. Kerger*, 191 Ill.App.3d 405, 412 (2d Dist. 1989) (holding that defendant could have complied with her duty under Section 11-403 by providing her identifying information to police officers on the scene).

The Board finds that Respondent’s argument that he left before the first responders arrived because the scene became hostile and he felt like he was going to get into a fight is not credible. To begin, although Mr. Meyer (who is a large man at 6’5” and over 200 pounds) expressed hostility towards Respondent, he never approached Respondent or threatened him with physical harm.⁵ Instead, Mr. Meyer focused his attention on caring for the injured Ms. Pilacoutas, and he repeatedly told Respondent to get away from him and Ms. Pilacoutas. Moreover, Respondent provided no testimony that any one on the scene made any verbal threats against him or approached him in a threatening manner, and Respondent admitted that he saw no weapons.

The recordings of the 911 calls also undermine Respondent’s claim that the scene was hostile. Despite Respondent’s testimony that he was arguing with the people who were at the scene and directing traffic while he was making his 911 calls, the recordings do not reflect any

⁴ In light of the recording of the 911 call, the Board finds that Respondent’s testimony that he did not know that the police and ambulance personnel were coming when he left or he otherwise he would have stayed on the scene is not credible. The Board also credits Sergeant Hein’s testimony that Respondent told him he left the scene *because* the ambulance was approaching.

⁵ The Board does not credit Respondent’s testimony that Mr. Meyer clenched up his fists while addressing him. On cross-examination, Respondent admitted that he never mentioned this seemingly significant fact during his lengthy Bureau of Internal Affairs interview.

background noise, let alone the chaos that Respondent described. In addition, Respondent never identified himself as an officer when he called 911. It defies common sense that a police officer would not identify himself as an officer when calling 911 if he were in fact in a hostile and threatening situation. Finally, Respondent admits that no one was chasing after him when he approached his truck to leave. Consequently, even if Respondent perceived hostility from the civilians on the scene, it is apparent that Respondent could have remained safe by simply returning to his truck to wait for the first responders.

Thus, the evidentiary record does not support Respondent's assertion that the scene was hostile and he had a legitimate reason to flee the scene out of a fear for his personal safety. Even if the record justified Respondent's decision to flee the scene, he had a statutory duty to "forthwith report such motor vehicle accident at the nearest office of a duly authorized police authority" and disclose the required information. Respondent is guilty of violating Section 5/11-403 because he did not forthwith (*i.e.*, immediately) report the accident to the nearest Chicago Police Department station.⁶

6. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 1** in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about August 5, 2012, at approximately 2:05 a.m., at 5555 West Grand Avenue in Chicago ("25th District Station"), Police Officer Michael Bergeson made and/or caused to be filed a false traffic crash report under RD HV416134; namely, Police Officer Michael Bergeson reported to a 25th District Station desk officer that he was involved in a traffic accident on August 3, 2012, at 3:30 a.m. at 1700 North California Avenue in Chicago in which an unknown bicyclist struck his white Ford pickup truck and/or that the unknown

⁶ Because the Superintendent has proven that Respondent violated 625 ILCS 5/11-403, the Board need not determine whether Respondent has also violated 625 ILCS 4/11-401(a) since this charge can be proven by establishing the violation of either one of the two statutes.

bicyclist fled the scene of the traffic accident, or words to that effect; even though, on or about August 3, 2012, at approximately 3:26 a.m., in the vicinity of 1658 North California Avenue in Chicago, Police Officer Michael Bergeson, while operating a white Ford pickup truck, struck and injured a bicyclist, Nina Pilacoutas (“Pilacoutas”), and failed to remain at the scene of the traffic accident after striking and injuring Pilacoutas and/or left the scene of the traffic accident prior to the arrival of police or emergency personnel and/or failed to give personal identifying information to Pilacoutas and/or render aid to Pilacoutas, in violation of 720 ILCS 5/26-1(a)(4), thereby violating any law or ordinance.

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

The disorderly conduct statute, 720 ILCS 5/26-1, provides in pertinent part that:

(a) A person commits disorderly conduct when he or she knowingly:

. . . .

(4) Transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being committed, or has been committed.

The Board finds that Respondent has violated Section 5/26-1(a)(4) by causing Officer Carlquist to file a traffic crash report under RD HV416134 that was false in that it states that the bicyclist (Ms. Pilacoutas) struck Respondent’s vehicle and contains two diagrams showing that the “point of first contact” between the bike that Ms. Pilacoutas was riding and Respondent’s truck was the front passenger side of the truck.

Respondent admitted during the hearing that the initial point of contact between his truck and the bicycle was on his front fender. Respondent also stipulated during the hearing that the forensic evidence processed by the Illinois State Police - - which also shows that the first contact was at the truck’s front fender - - is accurate. Moreover, Respondent admits that his front fender (but no other part of his truck) sustained damage. The fact that Respondent collided with Ms. Pilacoutas with his front fender while turning west onto Wabansia establishes that Respondent

struck Ms. Pilacoutas with his truck. In addition, Respondent in his third 911 call that night told the OEMC dispatcher that someone got hit by a car.

Notwithstanding his testimonial admissions, the forensic evidence, and his third 911 call, Respondent told Officer Carlquist that Ms. Pilacoutas ran into the front passenger side of his truck. Respondent likewise told Sergeant Hein that “the female bicyclist ran into the side of his vehicle” and the narrative and diagram in the traffic crash report that Respondent submitted to the Illinois Department of Transportation also represent that Ms. Pilacoutas struck his truck. All of these statements and representations are false. Consequently, Respondent’s statement to Officer Carlquist that Ms. Pilacoutas ran into his truck caused Officer Carlquist to prepare a materially false traffic crash report.⁷

7. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 2** in that the Superintendent proved by a preponderance of the evidence the following charge:

Count I: On or about August 3, 2012, at approximately 3:26 a.m., in the vicinity of 1658 North California Avenue in Chicago, Police Officer Michael Bergeson, while operating a white Ford pickup truck, was involved in a traffic accident recorded under RD HV413119 (“traffic accident”) in which he struck and injured a bicyclist, Nina Pilacoutas (“Pilacoutas”); and Police Officer Michael Bergeson failed to remain at the scene of the traffic accident after striking and injuring Pilacoutas and/or left the scene of the traffic accident prior to the arrival of police or emergency personnel and/or failed to give personal identifying information to

⁷ The Board does find it more likely than not that Officer Carlquist’s inclusion of the statement that “Unit 1 [the bicycle] fled the scene” in her report’s narrative was caused by an honest mistake rather than a false statement by Respondent. Shortly before he talked with Officer Carlquist, Respondent told Sergeant Hein and Officer Burke that he - - and not Ms. Pilacoutas - - left the scene and Respondent stated the same in the narrative portion of the accident report he submitted to the Illinois Department of Transportation later that day or the next. Respondent knew that Sergeant Hein would obtain a copy of Officer Carlquist’s accident report. It does not make sense that Respondent would: (a) provide Sergeant Hein and Officer Carlquist with inconsistent information regarding who fled the scene when he knew that Sergeant Hein would learn what he told Officer Carlquist; and (b) send a traffic accident report to the Illinois Department of Transportation that contradicted Officer Carlquist’s report on the important issue of who fled the scene of the accident.

Pilacoutas and/or render aid to Pilacoutas, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

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

8. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 2** in that the Superintendent proved by a preponderance of the evidence the following charge:

Count II: On or about August 5, 2012, at approximately 2:05 a.m., at 5555 West Grand Avenue in Chicago ("25th District Station"), Police Officer Michael Bergeson made and/or caused to be filed a false traffic crash report under RD HV416134; namely, Police Officer Michael Bergeson reported to a 25th District Station desk officer that he was involved in a traffic accident on August 3, 2012, at 3:30 a.m. at 1700 North California Avenue in Chicago in which an unknown bicyclist struck his white Ford pickup truck and/or that the unknown bicyclist fled the scene of the traffic accident, or words to that effect; even though, on or about August 3, 2012, at approximately 3:26 a.m., in the vicinity of 1658 North California Avenue in Chicago, Police Officer Michael Bergeson, while operating a white Ford pickup truck, struck and injured a bicyclist, Nina Pilacoutas ("Pilacoutas"), and failed to remain at the scene of the traffic accident after striking and injuring Pilacoutas and/or left the scene of the traffic accident prior to the arrival of police or emergency personnel and/or failed to give personal identifying information to Pilacoutas and/or render aid to Pilacoutas, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the findings set forth in paragraph nos. 4-6 above, which are incorporated here by reference.

9. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 2** in that the Superintendent proved by a preponderance of the evidence the following charge:

Count III: On or about August 3, 2012, at approximately 3:26 a.m., in the vicinity of 2815 West Wabansia Avenue in Chicago, Police Officer Michael Bergeson, while operating a white Ford pickup truck, struck one or more parked vehicles, including (but not limited to) a

red Infiniti vehicle with a license plate number ending in -8796, and/or a gray Ford vehicle with a license plate number ending in -2810, and Police Officer Michael Bergeson failed to report that he struck th(os)e vehicle(s) to the Chicago Police Department, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

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

Respondent admits that he did not tell Officer Burke or Officer Carlquist that he struck one or more parked cars as he drove away from the scene of the accident. Moreover, although Respondent stated that he believed that he struck an unknown vehicle as he drove away from the scene in the report he submitted to the Illinois Department of Transportation, he filed no such report with the Chicago Police Department. Respondent did testify that he told Sergeant Hein that he thinks that he struck at least one car slightly as he was leaving. Sergeant Hein, on the other hand, testified that Respondent said nothing about striking any parked vehicles. The Board finds that Sergeant Hein's testimony on this point is more credible than Respondent's testimony for the following reasons.

First, unlike Respondent, Sergeant Hein has no personal interest in the outcome of this case and no motivation to shape his testimony in any particular direction. Second, Respondent presented a misleading description of what occurred to Sergeant Hein to place himself in a less damning light by omitting certain facts and making false statements.⁸ In this context, it is reasonable to believe that Respondent would have left out a damaging detail about striking the

⁸ In particular, Respondent did not tell Sergeant Hein that Ms. Pilacoutas rolled up onto the hood of his truck and thereafter fell to the street, or that his license plate was knocked off at the scene of the accident. Respondent also told Sergeant Hein that he had a brief conversation with Ms. Pilacoutas at the scene about her condition. This was a false statement. No such conversation between Respondent and Ms. Pilacoutas occurred. Also, as discussed above, Respondent falsely stated to Sergeant Hein that Ms. Pilacoutas ran into the side of his vehicle.

cars from what he told Sergeant Hein. Finally, Sergeant Hein testified that he had Respondent review his initiation report for accuracy and that Respondent indicated that the report was accurate and made no changes.⁹ If Respondent had told Sergeant Hein that he struck one or more cars while driving away, he could have reiterated this to Sergeant Hein so that the Sergeant could include this fact in his initiation report before the report was finalized.

10. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 2** in that the Superintendent proved by a preponderance of the evidence the following charge:

Count IV: On or about February 7, 2014, Police Officer Michael Bergeson was found guilty of violating 625 ILCS 5/11-403 in criminal case number 13 CR 0020201 (*The People of the State of Illinois v. Michael Bergeson*) in the Circuit Court of Cook County—Criminal Division, thereby impeding the Department’s efforts to achieve its policy and goals and/or bringing discredit upon the Department.

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

11. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 3** in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about August 5, 2012, at approximately 2:05 a.m., at 5555 West Grand Avenue in Chicago (“25th District Station”), Police Officer Michael Bergeson made and/or caused to be filed a false traffic crash report under RD HV416134 which omitted and/or excluded facts and/or information regarding a traffic accident he was involved in on approximately August 3, 2012 (“traffic accident”); namely, Police Officer Michael Bergeson failed to report: that a

⁹ Respondent denies that he reviewed Sergeant Hein’s report but the Board credits Sergeant Hein’s testimony on this point. Sergeant Hein was a disinterested witness who had no motivation other than to tell the truth. Moreover, it makes sense that Sergeant Hein would have had Respondent review his report since Sergeant Hein received all of the information he had about the accident from Respondent.

bicyclist was injured as a result of the traffic accident and/or that emergency services were called to the scene of the traffic accident and/or that he fled the scene of the traffic accident prior to the arrival of police or emergency personnel and/or that he struck one or more vehicles while leaving the scene of the traffic accident, thereby failing to promote the Department's efforts to implement its policy or accomplish its goals.

See the findings set forth in paragraph nos. 4-6 and 9 above, which are incorporated here by reference.

It is undisputed that Officer Carlquist's traffic crash report filed under RD HV416134 did not state that: (a) a bicyclist was injured as a result of the traffic accident; (b) emergency services were called to the scene of the traffic accident; and (c) Respondent struck one or more vehicles while leaving the scene of the accident. Respondent admits that he did not mention any of these facts when he told Officer Carlquist what occurred during the August 3 accident and its aftermath. By failing to mention these important facts to Officer Carlquist, Respondent caused her to file a materially false traffic crash report.

12. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 14** in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about August 5, 2012, at approximately 2:05 a.m., at 5555 West Grand Avenue in Chicago ("25th District Station"), Police Officer Michael Bergeson made and/or caused to be filed a false traffic crash report under RD HV416134; namely, Police Officer Michael Bergeson reported to a 25th District Station desk officer that he was involved in a traffic accident on August 3, 2012, at 3:30 a.m. at 1700 North California Avenue in Chicago in which an unknown bicyclist struck his white Ford pickup truck and/or that the unknown bicyclist fled the scene of the traffic accident, or words to that effect; even though, on or about August 3, 2012, at approximately 3:26 a.m., in the vicinity of 1658 North California Avenue in Chicago, Police Officer Michael Bergeson, while operating a white Ford pickup truck, struck and injured a bicyclist, Nina Pilacoutas ("Pilacoutas"), and failed to remain at the scene of the traffic accident after striking and injuring Pilacoutas and/or left the scene of the traffic accident prior to the arrival of police or emergency personnel and/or failed to give personal identifying information to Pilacoutas and/or render aid to Pilacoutas, thereby making a false report, written or oral.

See the findings set forth in paragraph nos. 4-6 above, which are incorporated here by reference.

To prove a Rule 14 violation, the Superintendent must establish that Respondent made a false statement that was willful and material to the situation. In this instance, Respondent falsely stated to Officer Carlquist that Ms. Pilacoutas ran into the front passenger side of his truck even though the undisputed forensic evidence establishes - - and Respondent admitted at the hearing - - that the initial point of contact between his truck and the bike was at the front fender of his truck. In addition, Respondent in his third 911 call that night told the OEMC dispatcher that someone got hit by a car. The Board finds that Respondent's false statement to Officer Carlquist regarding the bike hitting the side of his truck was willful and material.

13. The Respondent, Police Officer Michael Bergeson, Star No. 6734, charged herein, is **guilty** of violating **Rule 21** in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about August 3, 2012, at approximately 3:26 a.m., in the vicinity of 2815 West Wabansia Avenue in Chicago, Police Officer Michael Bergeson, while operating a white Ford pickup truck, struck one or more parked vehicles, including (but not limited to) a red Infiniti vehicle with a license plate number ending in -8796, and/or a gray Ford vehicle with a license plate number ending in -2810, and Police Officer Michael Bergeson failed to report that he struck th(os)e vehicle(s) to the Chicago Police Department, thereby failing to report promptly to the Department any information concerning any crime or other unlawful action.

See the findings set forth in paragraph nos. 4 and 9 above, which are incorporated here by reference.

14. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the evidence presented in defense and mitigation.

The Board has considered thoroughly the evidence the Respondent offered in mitigation, which includes the following. A commander testified credibly that as a sergeant and as a lieutenant he supervised the Respondent and found his work as a police officer to be exemplary, and that because he stood out from other officers he was selected for elite units within the Police Department. A sergeant and an evidence technician testified credibly that they worked as police officers with the Respondent and consider him to be a good officer who is honest, reliable, and hard-working; both recounted specific examples of positive and truly heroic work by the Respondent. A retired sergeant who is current president of the Scandinavian-American Police and Fire Association testified credibly that the Respondent is a dependable and reliable officer of the organization. The Respondent, who joined the Police Department in 2003, has a complimentary history of 115 total awards, including a Life Saving Award, 2 Department commendations, and 97 honorable mentions; he has no sustained complaints on his disciplinary history. Nor has Respondent been sued based upon his work as a police officer.

Nevertheless, the Respondent's accomplishments as a police officer, the highly positive evaluations of his work and character, and the lack of prior disciplinary history do not mitigate the seriousness of his misconduct.

The Respondent was involved in a traffic crash in which he struck and seriously injured a bicyclist. Rather than remain at the scene until police or emergency personnel arrived, he fled the scene, striking parked vehicles while doing so. As a consequence of the incident, he was charged with several crimes and was convicted of a Class A misdemeanor. His disregard for his duties under the law is antithetical to the type of behavior expected of law-enforcement officers and brought discredit upon the Chicago Police Department, thereby undermining public confidence in the judgment of its officers.

The Respondent's conduct on August 3, 2012, warrants his discharge from the Chicago Police Department. Permitting him to continue to serve as a Chicago police officer would impair 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 the Respondent's fosters public distrust and a lack of 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 respect and cooperation of all Chicagoans for the law and those sworn to enforce it.

In addition, the Respondent attempted to cover up his actions by making a false traffic crash report in which he falsely stated that the bicyclist struck his vehicle and by omitting other facts regarding the traffic crash. The Respondent's intentional and material false statement also render him unfit to be a Chicago police officer. Trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, particularly one as a police officer. The duties of a police officer include making arrests and testifying in court, and a police officer's credibility is at issue in both the prosecution of crimes and in the Police Department's defense of civil lawsuits. A public finding that an officer has intentionally made a materially false official report is detrimental to the officer's ability to perform his responsibilities, including his credibility as a witness, and, as such, is a serious liability to the Department. *See Rodriguez v. Weis*, 408 Ill.App.3d 663, 671 (1st Dist. 2011).

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.

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 9 in favor (Ghian Foreman, Paula Wolff, Eva-Dina Delgado, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 1, Rule 2, Rule 3, Rule 14, and Rule 21.

As a result of the foregoing, the Board, by a vote of 9 in favor (Foreman, Wolff, Delgado, Eaddy, Flores, O'Malley, Simpson, Sweeney, and Zopp) to 0 opposed, hereby determines that cause exists for discharging the Respondent 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 the Respondent, Police Officer Michael Bergeson, Star No. 6734, as a result of having been found **guilty** of all charges in Police Board Case No. 17 PB 2931, 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, Eva-Dina Delgado, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF SEPTEMBER, 2018.

Police Board Case No. 17 PB 2931
Police Officer Michael Bergeson

Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

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 _____, 2018.

EDDIE T. JOHNSON
Superintendent of Police