

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER JOSE TROCHE-VARGAS,) **No. 21 PB 2998**
STAR No. 6430, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
RESPONDENT.) **(CR Nos. 2019-2386**
and 1092619)

FINDINGS AND DECISION

On September 22, 2021, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Jose Troche-Vargas, Star No. 6430 (“Respondent”), arising out of an incident that took place on June 28, 2019. On April 28, 2022, the Superintendent filed amended charges against Respondent. The amended charges filed by the Superintendent contain additional charges that arise out of a February 15, 2018, incident. The Superintendent is recommending that Respondent be discharged from the Chicago Police Department (“CPD” or “Department”) for violating CPD’s Rules of Conduct.

A hearing on the charges arising out of the 2019 incident was held before Hearing Officer Michael Panter on July 27 and 28, 2022. On October 20, 2022, the Police Board found Respondent guilty of these charges and ordered a hearing on the charges arising out of the 2018 incident. This second hearing was held before Hearing Officer Panter on January 17, 2023.

Following each evidentiary hearing, the members of the Police Board read and reviewed the record of the proceedings, including the Hearing Officer’s Report (neither party filed a response to this report) and viewed the video recording of each entire evidentiary hearing. The Hearing Officer made an oral report to and conferred with the Board before it rendered its findings.

POLICE BOARD FINDINGS

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

1. 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 original charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon Respondent not fewer than five (5) days before the date of the initial status hearing for this case.
3. Throughout each hearing on the charges Respondent appeared and was represented by legal counsel.

Introduction to the Charges Arising out of the 2019 Incident¹

4. On June 28, 2019, at around 3:00 a.m., Police Officer Victor Perez was driving a squad car with Respondent when they received a report of a domestic disturbance. They heard the voices of two female officers who sounded distressed. They arrived at Kimball Avenue and Palmer Street to find other squad cars and officers addressing the dispute. Peter Kaschen had been trying to get into his apartment to retrieve belongings from a former partner and an altercation ensued. Respondent found Mr. Kaschen sitting outside the apartment, on the curb with his sister and new girlfriend. He was intoxicated. Officer Perez says he saw Mr. Kaschen become offensive and threaten one of the officers. Some of the officers convinced Mr. Kaschen to leave and come back when he was not intoxicated. Finding there was nothing more to be done, Officer Perez and Respondent got back into their squad and began to drive away. The Board

¹ This section is reprinted from the Board's October 20, 2022, Findings and Order.

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watched the seven-minute video of subsequent events. As Officer Perez and Respondent were in their squad car, about thirty feet away, they heard Mr. Kaschen shout something to the effect of, "Take off your vest and gun and I'll beat your ass." Officer Perez stopped the car and confronted Mr. Kaschen. Believing an assault had occurred and believing it unsafe to the other officers and public to ignore Mr. Kaschen's threats, they arrested and handcuffed Mr. Kaschen. His sister tried to push Respondent away, injuring Respondent's finger. The girlfriend kicked Respondent in the chest. Respondent and his partner put Mr. Kaschen into the squad car. The officers' conduct in the arrest is not criticized. No charges relate to the arrest.

The charges relate to events in the car. Respondent did not turn on the body-worn camera (BWC) he had received three months earlier. Officer Perez's BWC shows the verbal altercation between Mr. Kaschen and Respondent. Respondent can be heard speaking normally with the dispatcher. Then, Respondent says, Mr. Kaschen began threatening him through the gap between the partition and the passenger door. He says Mr. Kaschen was also kicking the back of his seat. Respondent says that is when he reached his limit. Respondent yelled, "You couldn't shut the f___ up, right?" The video records highly offensive language and very aggressive threats made by Respondent to Mr. Kaschen. Respondent says he used what he believed to be a commonly used and non-derogatory variation on the "N" word. Respondent asked about Officer Perez's BWC. Mr. Kaschen said something about his glasses and made an apology. He was taken to the station without further incident.

Respondent admitted saying everything heard on the BWC. With the exception of his use of one word (see below), he has consistently admitted he was offensive, unprofessional, and that such language undermines the confidence citizens have in the police. He admits that Mr. Kaschen could reasonably have felt in fear of being attacked. Respondent has shown contrition

since his statement to the Civilian Office of Police Accountability and throughout the process.

He was wrong and admits there is no excuse for what he said.

Charges Against the Respondent Arising out of the 2019 Incident²

5. Police Officer Jose Troche-Vargas, Star No. 6430, is **guilty** of violating Rules 2, 3, 8, and 9 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about June 28, 2019, at or around 2202 North Kimball Avenue in Chicago, while on duty and in uniform, Police Officer Jose Troche-Vargas said to Peter Kaschen, an arrestee, “you’re lucky I have a camera on me or I would fuck you up,” and/or called him, “mother fucker,” or “bitch,” and/or said to him, “I don’t need no fucking badge; I don’t need no fucking gun; I will beat your mother fucking ass, bitch,” and/or “shut the fuck up,” and/or “I’m not the one to fuck with, I’ll tell you that right now, nigger,” and/or said words to the effect of one or more of the above statements. Peter Kaschen was detained and/or in the back of a police car when Officer Troche-Vargas directed one or more of the above statements towards him. Officer Troche-Vargas 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 8, which prohibits disrespect to or maltreatment of any person, while on or off duty; and
- d. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

Respondent admits that he made the statements set forth above in Specification No. 1, with the exception that he testified that he used the term “nigga,” not “nigger” as charged, and

² This section is reprinted from the Board’s October 20, 2022, Findings and Order

that he did not mean to use the term in a derogatory or demeaning way. Respondent's statements can be heard on the BWC. The charges that Respondent violated Rules 2, 3, 8, and 9 by making such statements to Peter Kaschen are proven.

6. Police Officer Jose Troche-Vargas, Star No. 6430, 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 June 28, 2019, at or around 2202 North Kimball Avenue in Chicago, while on duty, Police Officer Jose Troche-Vargas failed to activate his body-worn camera even though he was engaged in law-enforcement activity. Officer Troche-Vargas 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
- c. Rule 6, which prohibits disobedience of an order or directive, whether written or oral, by disobeying CPD Special Order 03-14 Body-Worn Cameras.

Respondent admits that he did not activate his body-worn camera and that he did not comply with the requirements of Special Order 03-14. These charges are proven.

Introduction to the Charges Arising out of the 2018 Incident

7. This incident began with a traffic dispute. The evening of February 15, 2018 was dark and the streetlights were on. There was snow on the ground. Respondent was driving his SUV westbound on Altgeld. Respondent was late for work as he came to the intersection of Lockwood. Both streets are one-way, and both are controlled by stop signs. Cars were parked on

both sides of the street.

Fourteen-year-old Rolando³ was riding his bicycle northbound on Lockwood. Respondent says he stopped at the sign. Rolando says neither of them stopped and he had to turn his bicycle sharply left to avoid “T-boning” the car. Respondent felt he was cut-off and admits being upset.

They both proceeded west on Altgeld, Rolando on his bicycle and Respondent following in his SUV. Rolando says he could not pull over to let the SUV pass because the street was too narrow with parked cars and his handlebars were too wide.

They disagree about what happened next. After about a block and a half, Respondent says Rolando pulled over to let him pass. Respondent says he then slowed for traffic, heard a noise, and believed the back of his vehicle had been kicked.

Rolando denied there was other traffic. Rolando says Respondent “finally got around me”, then cut in front of him and stopped abruptly, causing his bicycle to run into the SUV. Rolando was entangled in his bicycle. Respondent stopped and got out of his SUV.

With each thinking the other had deliberately injured him, Respondent confronted Rolando. Emotions were already high. Respondent says he saw Rolando put his hand into his pocket manipulating something. Respondent says he announced his office multiple times and ordered Rolando to take his hands out of his pocket. Respondent says, given the dark evening, the location, and the circumstances, he was apprehensive that Rolando might have a weapon.

Respondent says Rolando removed his hand from his pocket and balled his fists by his side in a combative stance as though preparing to attack. Respondent tried to grab Rolando’s

³ His full name is not used because he was a juvenile when the incident occurred.

hands, he broke free, and Respondent grabbed his upper torso. Rolando denies Respondent identified himself as an officer and denies having his hands in his pocket. He had no weapon.

Respondent agreed his emotions went from “zero to ten.” Respondent says he fell accidentally and took Rolando down. They wrestled on the ground, each punching the other. They were separated by a bystander who informed Rolando that Respondent was a police officer. They called 911. Rolando called his father. Respondent called for a sergeant. Other officers and the sergeant came to the scene and talked to the parties.

Rolando was taken to the hospital by ambulance. His arm was put in a sling and photographs show his knuckles were bruised from punching Respondent. He was then taken to the station and placed under arrest for aggravated battery and assault to a police officer. It was Rolando’s first time being arrested. Respondent was the arresting officer and filled in the paperwork. Eventually, the charges against Rolando were dropped.

Paragraph Three concerns Respondent’s alleged cutting-off with his SUV, causing the collision, and the alleged take-down and fighting with Rolando. As to the alleged sudden stop, it is undisputed there was a collision. Rolando’s bicycle was damaged. The wheel and fork were allegedly bent. The back of the SUV had what looks like a black tire mark and possibly a scratch.

Respondent described himself as a 40-year-old devoted husband and father who very much loves being an officer. He has served since 2012. He says this occurrence was a total misunderstanding on the part of both parties. He says this incident is not comparable to the other occurrence because complainant had his hand in his pocket and was threatening him.

Charges Against the Respondent Arising out of the 2018 Incident

8. Police Officer Jose Troche-Vargas, Star No. 6430, is **guilty** of violating Rules 2, 3, 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 February 15, 2018, at approximately 5:18 p.m., at or around 5353 West Altgeld Street in Chicago, while driving his personal vehicle while off duty, Officer Troche-Vargas stopped his vehicle suddenly and/or slammed on his brakes, causing a traffic crash with a bicycle a fourteen-year-old boy was riding; and/or exited his vehicle and grabbed the minor on the torso, shoulder, or other body part; and/or engaged in a “takedown” of the minor or threw the minor to the ground; and/or tackled, wrestled, or struggled with the minor on the ground; and/or punched, struck with a closed hand, or otherwise struck the minor. Officer Troche-Vargas 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 8, which prohibits disrespect to or maltreatment of any person, while on or off duty; and
- d. Rule 9, which prohibits engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

See the findings set forth in Section No. 7 above, which are incorporated here by reference. Except for describing the takedown as inadvertent, Respondent admits the altercation occurred as described. Even if the takedown was inadvertent, the Board finds Respondent’s aggressive confrontation and use of force unjustified. These charges are proven.

9. Police Officer Jose Troche-Vargas, Star No. 6430, is **guilty** of violating Rules 2, 3, and 14 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 4:

On or about February 15, 2018, after Officer Troche-Vargas interacted with a fourteen-year-

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old minor in the vicinity of 5353 West Altgeld Street in Chicago, the minor was arrested, and Officer Troche-Vargas prepared/submitted an arrest report for the minor containing one or more false, misleading, inaccurate, or incomplete statements relating to the circumstances surrounding the traffic crash and/or Officer Troche-Vargas's physical altercation with the minor. One or more of the statements in the arrest report were inconsistent with the account Officer Troche-Vargas provided on the scene: for instance, in the arrest report Officer Troche-Vargas states that he and the minor "fell to the ground" after Officer Troche-Vargas "grabbed [the minor's] upper torso," while Officer Troche-Vargas admitted on the scene that he engaged in a "takedown" of the minor, or stated words to that effect; and/or in the arrest report Officer Troche-Vargas states that he exited his vehicle to check on the minor, while at the scene Officer Troche-Vargas reported that he exited his vehicle because the minor indicated that he (the minor) might be armed, or stated words to that effect. Officer Troche-Vargas 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
- c. Rule 14, which prohibits making a false report, written or oral.

See the findings set forth in Section No. 7 above, which are incorporated here by reference. The Board finds the substantial inconsistencies between Respondent's written reports and the other evidence, including Respondent's own accounts, to be willful and material false reports. These charges are proven.

10. Police Officer Jose Troche-Vargas, Star No. 6430, is **guilty** of violating Rules 2, 3, and 14 in that the Superintendent proved by a preponderance of the evidence the following charges set forth in Specification No. 4:

On or about February 15, 2018, after Officer Troche-Vargas interacted with a fourteen-year-old minor in the vicinity of 5353 West Altgeld Street in Chicago, the minor was arrested, and Officer Troche-Vargas prepared/submitted Tactical Response Report ("TRR") containing in the narrative section one or more false, misleading, inaccurate, or incomplete statements relating to the circumstances surrounding the traffic crash and/or Officer Troche-Vargas's

physical altercation with the minor. One or more of the statements in the TRR narrative were inconsistent with the account Officer Troche-Vargas provided on the scene: for instance, in the in the TRR narrative Officer Troche-Vargas states that he and the minor “fell to the ground” after Officer Troche-Vargas “grabbed [the minor’s] upper torso,” while Officer Troche-Vargas admitted on the scene that he engaged in a “takedown” of the minor, or stated words to that effect; and/or in the TRR Officer Troche-Vargas states that he exited his vehicle to check on the minor, while at the scene Officer Troche-Vargas reported that he exited his vehicle because the minor indicated that he (the minor) might be armed, or stated words to that effect. Officer Troche-Vargas 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
- c. Rule 14, which prohibits making a false report, written or oral.

See the findings set forth in Section No. 7 above, which are incorporated here by reference. The Board finds the substantial inconsistencies between Respondent’s written reports and the other evidence, including Respondent’s own accounts, to be willful and material false reports. These charges are proven.

Disciplinary Action

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

The Board has considered thoroughly the evidence the Respondent offered in mitigation, which includes his testimony about his career with the CPD as well as the favorable testimony of his former CPD supervisor, one of his fellow officers, and one of his friends. Since his appointment to the CPD in 2012, Respondent has earned a total of 22 awards, including one Department Commendation, 17 Honorable Mentions, and one Attendance Recognition Award.

There are no sustained complaints on his disciplinary history report.

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

Respondent on two occasions committed serious acts misconduct. In 2018, while off duty, he physically maltreated a minor after a traffic crash. In 2019, while on duty, he verbally abused and threatened an arrestee. The lack of self-control and the abusive behavior Respondent exhibited pertain directly to his public duties as a police officer and render him unfit to hold that office. He responded to stressful situations with unjustified verbal abuse and physical maltreatment. As a Chicago police officer, Respondent has and would in the future doubtless encounter difficult and stressful situations in which he must act with little or no time for reflection. He has demonstrated, through his conduct on these occasions, that he does not possess the good judgment and self-control required of Chicago police officers to fairly and impartially deal with the many potentially explosive situations they encounter on a daily basis.

Moreover, Respondent's acts of abuse show a disregard for the safety of others and the law and have 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 Respondent'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 respect and cooperation of all Chicagoans for the law and those sworn to enforce it.

Respondent's conduct and the lack of control and judgment he demonstrated are incompatible with continued service as a police officer with the CPD. 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.

Respondent also attempted to cover up his misconduct in 2018 by submitting police reports with intentional materially false statements. Respondent's false reports relate directly to his public duties as a police officer and render him unfit to hold that office. 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 a police officer falsified an official report is detrimental to the officer's 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 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.

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POLICE BOARD DECISION

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.

By votes of 7 in favor (Ghian Foreman, Paula Wolff, Steven A. Block, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes) to 0 opposed, the Board finds Respondent **guilty** of the charges in Specification Nos. 1 – 5, as set forth in Section Nos. 5, 6, and 8 – 10 above.

As a result of the foregoing and for the reasons set forth in Section No. 11 above, the Board, by a vote of 7 in favor (Foreman, Wolff, Block, Cusack, Doorley, Eaddy, and Montes) to 0 opposed, hereby determines that cause exists for discharging 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 Police Officer Jose Troche-Vargas, Star No. 6430, as a result of having been found **guilty** of all charges in Police Board Case No. 21 PB 2998, 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, Mareil  B. Cusack, Nanette Doorley, Michael Eaddy, and Jorge Montes.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF APRIL, 2023.

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Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

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DISSENT

The following Board members dissent from the findings and decision of the majority of the Board.

[None]

RECEIVED A COPY OF
THESE FINDINGS AND DECISION
THIS ____ DAY OF _____, 2023.

ERIC CARTER
Interim Superintendent of Police