

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
)
SERGEANT TRACY WALCZAK,) **No. 19 PB 2964-1**
STAR No. 1675, DEPARTMENT OF POLICE,)
CITY OF CHICAGO, AND)
)
POLICE OFFICER DANIELLE FERLITO,) **No. 19 PB 2964-2**
STAR No. 11636, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
)
) **(CR No. 1073410)**
RESPONDENTS.)

FINDINGS AND DECISIONS

On September 18, 2019, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Sergeant Tracy Walczak, Star No. 1675, and Police Officer Danielle Ferlito, Star No. 11636 (“Respondents”), recommending that each Respondent be discharged from the Chicago Police Department for violating several Rules of Conduct.

On March 5, 2020, a hearing on the charges against Respondents was commenced before Hearing Officer Thomas Johnson. After Hearing Officer Johnson’s untimely passing, the rest of the hearing was conducted by Hearing Officer Lauren Freeman on July 30 (via Zoom video conferencing, hereinafter referred to as “Zoom”), August 12 (via Zoom), and August 28, 2020 (via in-person testimony followed by Zoom).

Following this evidentiary hearing, the members of the Police Board read and reviewed the record of the proceedings, including the Hearing Officer’s Report and the parties’ responses to this report, and viewed the video-recording of the entire evidentiary hearing. Hearing Officer Freeman made an oral report to and conferred with the Board before it rendered its findings and

decisions.¹

POLICE BOARD FINDINGS

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

1. Each Respondent was at all times mentioned herein employed as a sworn 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 each Respondent not fewer than five (5) days before the date of the initial status hearing for this case.
3. Throughout the hearing on the charges each Respondent appeared and was represented by legal counsel.

¹The recommendations for discipline of Sergeant Walczak and Officer Ferlito initially came before one member of the Board pursuant to Chicago Municipal Code § 2-78-130(iii), which provides for the Board member's review of cases in which "the Chief Administrator [of COPA] and the Superintendent do not agree to the Chief Administrator's recommendation." In such cases, "the Chief Administrator shall . . . send the Superintendent's response, along with the Chief Administrator's written objections to a member of the Police Board selected by the Police Board from its membership." Chic. Mun. Code § 2-78-130(iii). A Request for Review was received on May 3, 2019, and Board Member John P. O'Malley, Jr. was selected as the Reviewing Member. Board Member O'Malley reviewed the Request for Review file—which consisted of the recommendation of discipline issued by the Chief Administrator, the Superintendent's written response, and the certificate from the Chief Administrator—and determined that the Superintendent had not met his burden of overcoming the Chief Administrator's recommendation for discipline. Review Nos. 19 RR 09-11. In accordance with the Municipal Code and the Board's Rules of Procedure, O'Malley recused himself from "any future involvement by the full Police Board with respect to the disciplinary matter before the Reviewing Member." *See* Police Bd. R. P. VI.F.

Due to an oversight, Board Member O'Malley was present during the initial closed meeting of the Board at which he and his fellow members considered the disciplinary case currently before the Board. After recognizing this oversight, the Board reconsidered this case at a subsequent closed meeting without O'Malley present. Counsel for the Board, who was present at both meetings, confirmed that Board Member O'Malley did not disclose any information from the above-referenced Request for Review file or any other information outside of the hearing record during the closed meeting he attended.

Introduction and Hearing Evidence Summary

4. Respondent Walczak was hired by the Chicago Police Department (“CPD”) as a Chicago Police Officer (“CPO”) in October 1999. She taught recruits at the Academy for a year and a half prior to attaining the position of Sergeant in May 2014. At the time the charges in this case were filed in 2019, Respondent Walczak was detailed to Unit 376, the Alternate Response Section.

Respondent Ferlito was hired as a CPO in October 2012 and had been a patrol officer at the time of the incident that precipitated these charges. In 2016, Respondent Ferlito applied for and was accepted to Area North’s Gang Enforcement Unit, where she worked until 2019, when the charges in this case were brought.

The first two specifications against each Respondent summarily allege that in the early morning hours of January 18, 2015, while Respondents were off-duty at the Golden Nugget Restaurant (“Golden Nugget”) in Chicago, they knew that a physical altercation had just occurred outside of the restaurant, yet chose to leave the scene without intervening or providing any information about the altercation to the responding officers. The Superintendent posited that although both Respondents knew that the altercation had resulted in visible injury to one or both of the involved civilians— Juan and Javier Jiminez—Respondents failed to intervene and left the restaurant because they knew that three of their fellow off-duty officers—CPOs Jesus Delgado, Scott Rooney, and Joshua Almadovar—had been involved in the fight. The third specification against each Respondent charges that Respondents made false, and/or misleading, and/or deliberately incomplete statements to investigators from the Independent Police Review Authority (“IPRA”) when each Respondent denied that they had “knowledge of the physical altercation.” The Board finds that the Superintendent sustained his burden of proof as to the first

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two specifications against each Respondent, but not as to the third specification.

During the hearing, the Superintendent presented six evidentiary witnesses: Respondents (adversely, via in-person testimony), Juan Jiminez (in person), waitress Michelle Steckenrider (in person), and responding officers Michael Pinzine (via Zoom) and Officer (now Sergeant) Joseph Corona (via stipulation). The Superintendent's evidentiary exhibits included Golden Nugget video surveillance footage, scene photos, photos showing the extensive facial injuries sustained by Juan and Javier Jiminez during the fight, and transcripts of Respondents' statements to IPRA and the Civilian Office of Police Accountability ("COPA").

In Respondents' case-in-chief, Respondents testified on their own behalf and did not call any further evidentiary witnesses. The Respondents' evidentiary exhibits included photos depicting the Golden Nugget's entryway and interior (taken in 2019) and a stipulation to Juan Jiminez's highly elevated blood alcohol content when he was tested at Swedish Covenant Hospital following the incident.

The testimony and evidence presented at the hearing established the following, in summary.

On January 18, 2015, at approximately 4:47 a.m., Respondents and Respondent Ferlito's patrol partner, CPO Delgado, all off-duty, entered the Golden Nugget located at 4229 W. Irving Park Road ("Irving") in Chicago. Respondent Ferlito and CPO Delgado were regular partners in the 007th District and Respondent Walczak was their sergeant. CPO Delgado drove Respondent Ferlito to their various destinations that night, and Respondent

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Ferlito left some of her belongings—including her house keys—in CPO Delgado's car.

Respondents and CPO Delgado walked to the Golden Nugget from Joe E's bar across the street, and fellow CPOs Almodovar and Rooney, who were also off-duty, lagged behind.

CPOs Almodovar and Rooney were friends with Respondent Ferlito, as the three officers had attended the Academy together. The Respondents and CPOs Delgado, Rooney, and Almodovar attended a birthday party together earlier that night, and all had consumed at least one alcoholic beverage over the course of the evening. The Superintendent did not present evidence that either Respondent was intoxicated.

The Golden Nugget is near the southwest corner of Irving and Tripp Street. The main entrance is on the south side of Irving, near the center of the restaurant. The entryway consists of an outer front glass door, with several stickers affixed to it, that opens into a small enclosed vestibule. The vestibule leads to an additional interior glass door, which then opens into the restaurant itself. The vestibule's east and west windows are adorned with a curvy frosted glass design, and the restaurant's north wall is made up of windows that alternate with large mirrors. Two of the restaurant's interior video surveillance cameras faced north toward the front of the restaurant; Camera #1 was behind and above the cash register, pointed directly toward the front entryway, and Camera #6 was located in the west annex of the restaurant. Video footage recovered from these two cameras recorded part of the incident. The footage covered the inside of the restaurant, the vestibule, and the outside entrance of the restaurant.

Upon entering the Golden Nugget, Respondents and CPO Delgado sat in the second booth east of the front entryway, perpendicular to one of the mirrors along

the restaurant's front wall. Respondent Walczak sat on the east side of the booth, facing west toward the vestibule, while Respondent Ferlito sat opposite Respondent Walczak facing east, with her back to the vestibule. CPO Delgado then sat down next to Respondent Ferlito on the outer portion of the booth.

CPOs Rooney and Almodovar were about to follow Respondents and CPO Delgado into the restaurant when they encountered—and began arguing with—Juan and Javier Jiminez near the southwest corner of Irving and Tripp. Juan and Javier had dined at the restaurant earlier and were on their way out at the time of this initial encounter with CPOs Rooney and Almodovar.²

At the time of this initial encounter, Respondents were already seated inside of the restaurant, unaware that the men (CPOs Rooney and Almodovar and the Jiminez brothers) were arguing outside. After that initial brief argument, CPOs Rooney and Almodovar entered the restaurant and walked over to Respondents' and CPO Delgado's booth. They did not sit down. Waitress Michelle Steckenrider³ heard CPOs Rooney and Almodovar say, “They’re outside,” to the table’s occupants generally, but did not hear Respondents say anything in return. CPO

²A toxicology report from Swedish Covenant Hospital shows that Juan Jiminez’s blood ethyl alcohol level an hour after the incident was 330 mg/dl. Juan Jiminez testified on behalf of the Superintendent at the hearing and readily admitted that he was intoxicated. He also admitted that four years after this incident, he pled guilty to Aggravated Battery to a Police Officer and Aggravated Domestic Battery Involving Strangulation in an incident unrelated to this case. Despite Juan’s criminal conviction, intoxication, and aggressive behavior (which precipitated at least the second part of the altercation with the officers), the Board finds that his testimony relating to the charges against Respondents – including the substance of this initial argument and encounter -- is corroborated by the video surveillance footage.

³Ms. Steckenrider was one of two waitresses working at the Golden Nugget during the incident—the other was Marie Lukaszewicz.

Delgado then immediately stood up and told Respondents he would be "right back."

While Respondents remained seated, the three male officers walked out of the restaurant and westbound on the sidewalk toward the southwest corner of Irving and Tripp, out of the surveillance cameras' view. The three off-duty officers then engaged in the first—and more violent—of two physical altercations with the Jiminez brothers, during which both brothers sustained visible facial injuries and bled extensively. During this portion of the fight, Respondents remained seated in the restaurant booth, unaware that their friends were fighting outside near the corner. Ms. Steckenrider testified that it would have been impossible for Respondents to see that part of the fight from where they were seated, although it looked as if Respondents were trying to see what was going on.

Less than a minute after the three male officers left the restaurant, Ms. Lukaszewicz, who had been working on the west side of the restaurant, indicated to Ms. Steckenrider that people were fighting outside. Ms. Steckenrider tried to look out the west windows to see what was happening, but could only see what looked like "arms being pulled back." She then locked the front interior glass door, called 911, and told the operator that "there's a fight outside" involving five men of mixed races. She then approached Respondents' table to inform them that their friends would not be allowed back inside.

Respondents Ferlito's and Walczak's hearing testimony differed as to the content of Ms. Steckenrider's statements to Respondents. Respondent Walczak testified that Ms. Steckenrider told Respondents that it looked like there was *going to be* a fight outside (or words to that effect), but never told them the men *were* fighting or that their friends were

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involved. Respondent Ferlito, on the other hand, testified that Ms. Steckenrider told Respondents that that their friends were in a fight and that Ms. Steckenrider did not want to allow them back into the restaurant. The Board credits Ferlito's testimony and, based on the witness testimony and surveillance footage, the Board finds that at that time, both Respondents knew a fight was occurring outside and that their fellow officers were involved.

As Ms. Steckenrider was informing Respondents about the fight, CPOs Delgado, Almadovar, and Rooney walked back to the front door and into the vestibule. CPO Delgado tried to open the interior door to reenter the restaurant and found it locked. While the three officers were in the vestibule, Juan Jiminez walked back to the restaurant and entered the vestibule to confront the officers, precipitating the second and less violent of the two physical altercations between the Jiminez brothers and the off-duty male officers. One of the officers, later identified on the video footage by Respondent Ferlito as CPO Rooney, shoved Juan out of the vestibule and pulled him back outside onto the sidewalk in front of the restaurant. The video footage shows that while this part of the confrontation was occurring in the vestibule, Respondent Ferlito, still seated in the booth, turned around to look into the east vestibule window to see what was happening. Both Respondents testified that they could not see into the vestibule because the east vestibule window bore the aforementioned frosted glass design.

As the men were fighting in the vestibule and moving outside in front of the entrance, Respondents quickly left the booth and walked toward the locked interior vestibule door, leaving their purses, phones, and a jacket at the table. Respondent Ferlito testified that she went to the front door because Ms. Steckenrider told her that her friends were fighting

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outside. According to Respondent Walczak, she and Respondent Ferlito walked up to the front door simply to see what was happening, and because Respondent Ferlito needed to obtain her belongings from CPO Delgado's car.

As she walked toward the door, Respondent Ferlito identified herself to Ms. Steckenrider as a police officer, and Ms. Steckenrider informed her that she had called 911. Video surveillance Camera #8 shows that while the confrontation between the men spilled from the vestibule onto the sidewalk, Respondents and Ms. Steckenrider walked up to the locked interior vestibule door. As both Respondents approached the interior front door, CPO Rooney and Juan Jiminez engaged in some pushing and shoving in front of the restaurant entrance. Respondents then looked straight out the door directly at the action outside, where CPO Rooney maintained a fighting stance with the Jiminez brothers. Ms. Steckenrider unlocked the interior door, allowing both Respondents into the vestibule. Respondent Walczak then exited the exterior door onto the sidewalk, just a few feet from where the three male officers were standing, thereby effectively stopping the scuffle. The footage shows that almost simultaneously, the three male officers walked away—diagonally northwest-bound across the street—and did not return. The footage suggests that the male officers left the scene in that manner precisely when Respondent Walczak walked outside.

Respondent Ferlito remained in the vestibule and did not exit the opened exterior restaurant door. She momentarily stood in front of the exterior door and looked straight out in the direction of her fellow officers on the sidewalk.

In their hearing testimony and prior statements to IPRA/COPA, both Respondents denied seeing any part of the scuffle. Respondent Walczak stated that her view out the door was hindered by lighting and by stickers and decals affixed to the glass door. She stated that

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when she exited the restaurant, her focus was immediately drawn to Javier Jiminez's bloodied face and she never saw the male officers. She further claimed that she did not know the male officers were involved in the fight until later, when she drove Respondent Ferlito home. Respondent Ferlito contended that she did not see either the fight or the male officers because, when she entered the vestibule, Juan Jiminez blocked her view of the sidewalk.

Contrary to Respondents' claims, the surveillance footage indicates that both Respondents had a clear view of at least the final moments of the scuffle. The evidence indicates that even if they could not see exactly what was happening, they knew that their friends were involved.

Ms. Steckenrider testified that when she walked up to the door, she believed the fight was over. Though she saw people standing outside on the sidewalk, she did not see anyone fighting at that point in time. At the hearing, Respondents' attorneys argued that since Ms. Steckenrider was standing with Respondents, it stands to reason that Respondents did not see that portion of the fight either. The Board notes, however, that unlike Ms. Steckenrider, Respondents entered the vestibule, closer to the confrontation. Respondent Walczak even went so far as to open the exterior door. Ms. Steckenrider, however, remained inside, concerned with securing the restaurant to prevent the officers involved in the fight and Juan Jiminez—who was bleeding from the face—from entering.

Juan and Javier Jiminez remained in front of the restaurant waiting for the police to arrive. Both had bloody, beaten faces. Juan Jiminez testified that when Respondent Walczak walked outside, Juan told her, "they just beat the shit out of us for no reason." The video footage corroborates his testimony by showing that while talking to her, Juan pointed

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in the direction where the male officers had walked. Respondent Walczak told Javier to remain calm and that the police were on their way. Respondents admitted that they did not identify themselves as police officers to Juan or Javier Jiminez, call for an ambulance, or inquire about what led to the brothers' injuries.

Ms. Steckenrider then allowed Respondents back into the locked restaurant so they could collect their personal belongings from the booth. Respondents testified that they remained inside of the restaurant for several minutes for their own safety while the Jiminez brothers remained outside.

Respondents left the scene once they saw responding CPOs Pinzine and Corona arrive. Initially, they walked westbound toward where responding CPOs Pinzine and Corona were talking to the Jiminez brothers. They then turned around and walked eastbound, away from the responding officers, without speaking to them. Respondents testified that they changed direction because Respondent Walczak realized that she had parked her car east of the restaurant rather than west. They both contended that they did not speak to the responding officers at the scene or after leaving because their knowledge of the incident was based on hearsay and they had not witnessed the fight.

After the incident, Respondent Ferlito needed her house keys, but did not know CPO Delgado's whereabouts, so she spoke to CPO Delgado on the phone and made arrangements for him to meet her at her house so she could retrieve her belongings. As Respondents left the restaurant together, CPO Rooney or CPO Almodovar called Respondent Ferlito on her cell phone to tell her that they had been involved in the fight. She told them they needed to report the incident if they had not already.

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Respondent Walczak drove Respondent Ferlito home. CPO Delgado met them there and told them he had participated in the fight. Respondent Walczak noted that CPO Delgado had blood on his hands—which she assumed were defense injuries—and instructed him to go back to the scene to tell the responding officers his side of the story, so that it would not look like the officers had done something wrong by leaving. According to Respondent Walczak, this was the moment she knew for sure that the male officers were involved in the fight. Still, she and Respondent Ferlito did not report what they knew.

When CPOs Pinzine and Corona arrived on-scene, they observed that both Jiminez brothers were highly intoxicated and had bloody, swollen, faces with multiple contusions. The officers immediately called for ambulances and summoned a supervisor to the scene because the Jiminez brothers alleged that they were beaten by police officers. The paramedics transported both Javier and Juan to Swedish Covenant Hospital, where they were treated for their injuries and Juan underwent surgery to repair his broken nose. Neither Juan nor Javier was arrested or charged in the incident.

After speaking to Ms. Steckenrider, Ms. Lukaszewicz, and eventually to CPOs Delgado, Rooney, and Almodovar, CPO Pinzine learned that Respondents had been at the restaurant during the fight. Respondents were asked to come to Area North and were interviewed by detectives later the same day. This was the first time Respondents provided any information to CPD personnel about the incident.

Respondents later gave two official statements each to the IPRA and COPA investigators concerning the incident. Respondent Walczak gave her statements on

December 16, 2015 and January 11, 2018, and Respondent Ferlito gave her statements on November 5, 2015 and January 12, 2018. As in their hearing testimony, both Respondents denied witnessing any portion of the confrontation between the male officers and the Jimenez brothers during these interviews. They also denied seeing those officers at the scene after the officers left the table and walked out of the restaurant. During these interviews, Respondents shared other details surrounding the incident. Neither Respondent “denied having knowledge of a physical altercation” between the men, as charged by the Superintendent.

Charges Against Sergeant Tracy Walczak

5. Sergeant Tracy Walczak, Star No. 1675, is **guilty** of violating Rules 2, 3, 5, 10, and 21 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about January 18, 2015, at or near 4229 West Irving Park Road in Chicago, at approximately 4:55 a.m., Sergeant Walczak was present and had information that a physical altercation had just occurred outside and/or near the Golden Nugget restaurant involving fellow Officers Scott Rooney, Joshua Almodovar, and Jesus Delgado and civilians Juan Jimenez and Javier Jimenez, and despite having the stated knowledge, she failed to provide responding Chicago Police Department officers with any information. Sergeant Walczak 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 5, which prohibits any failure to perform a duty;
- d. Rule 10, which prohibits inattention to duty; and
- e. Rule 21, which prohibits any failure to report promptly to the Department any information concerning any crime or other unlawful action.

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

During her hearing testimony, Respondent Walczak acknowledged that as a sworn officer, she must render the highest order of police services to all citizens, whether or not during specifically assigned hours.⁴ The CPD Standards of Conduct further provide that an officer may never permit personal feelings, prejudices, animosities or friendships to influence [her] decisions.⁵ In addition, the Rules admonish that the conduct of a member reflects directly upon the Department.⁶

Respondent Walczak should have provided information to police personnel both at the scene and after speaking with CPO Delgado. She claimed she left the scene without providing information to the responding officers because she had no pertinent, first-hand information to provide and did not know at that time that her fellow officers were involved in the fight. Even if it is true that Respondent Walczak did not know that the male officers had participated in the fight, she certainly would have had potentially important information to provide the officers. She knew that one or both of the waitresses, and possibly some restaurant customers, may have witnessed the fight; she spoke to Juan Jiminez, a participant in the fight; she observed the Jiminez brothers' facial injuries; and she knew that her fellow officers had been in the vicinity of the restaurant when the fight happened. Respondent Walczak herself acknowledged that the responding officers and detectives should determine whether particular information proves useful to an

⁴ CPD Rules and Regulations, Article IV, Section C(1)

⁵ CPD Rules and Regulations, Article I, Section B(3)(c)

⁶ CPD Rules and Regulations, Article I, Section B(5)

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investigation, not her. As a sergeant who had previously taught recruits at the Academy, she knew better.

Ironically, during the hearing, Respondent Walczak's counsel mounted a lengthy attack of CPO Pinzine's initial investigation at the scene and asserted that CPO Pinzine made numerous mistakes in his written report, including name misspellings. However, CPO's Pinzine's initial investigation and report may have been more accurate and complete had Respondents assisted him and CPO Corona with their initial investigation, rather than leaving the scene.

Respondents also knew responding officers had arrived and had the opportunity to speak to them, yet they failed to do so. Initially, Respondents walked westbound toward where responding CPOs Pinzine and Corona were talking to the Jiminez brothers. They then turned around and walked eastbound, away from the responding officers, without speaking to them. Respondents testified that they changed direction because Respondent Walczak realized that she had parked her car east of the restaurant rather than west. But even if their knowledge of the incident was based on hearsay, as they claimed, they should have shared whatever information they knew with the responding officers. Hearsay often aids in witness identification and can lead to the discovery of concrete admissible evidence in an investigation.

In addition to Respondent Walczak's and Respondent Ferlito's failure to provide information to the responding officers while still at the scene, the Board is equally disturbed by Respondent Walczak's failure to promptly report her interaction with CPO Delgado at Respondent Ferlito's house. Respondent Walczak testified that after CPO

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Delgado told her of his involvement, she did not return to the scene, nor did she notify CPD because she only had second-hand, immaterial information about the fight and thought it was sufficient to instruct CPO Delgado to return to the scene with the other male officers. The Board disagrees. As a veteran police officer, Respondent Walczak should recognize the potential importance of circumstantial evidence and statement witnesses to investigations. To withhold such information disrupts and negatively impacts any factual inquiry.

Respondent Walczak testified that another reason she decided not to return to the scene was that, as a sergeant, she felt it would be inappropriate to intervene when she had socialized with an individual who had been involved in the fight, and she did not want to be accused of trying to influence the investigation. The Board takes issue with this rationale. Her social interaction with the involved officers is precisely why she should have provided the information in the first place. Instead, by failing to contact the CPD after confirmation that her fellow officers were involved, she perpetuated a perceived pattern within the CPD to protect fellow officers.

The Board is additionally troubled by Respondent Walczak's assumption that the blood she observed on CPO Delgado's hands resulted from "defense injuries," and by the tone of her directive to CPO Delgado that he and the other officers should return to the scene so that they would not appear guilty for having left. Her statements indicate that her personal feelings and friendships improperly influenced the decisions she made. Indeed, she simply assumed that her fellow officers had done nothing wrong and wanted to avoid the appearance of guilt as opposed to acknowledging that the officers needed to provide full

and complete information so that the responding officers could adequately assess the facts and reach their own conclusions.

By failing to provide the responding officers with information both before she left the scene and after her interaction with CPO Delgado, Respondent Walczak effectively failed to perform her duty as an officer, impeded the CPD's goal of thoroughly and effectively investigating incidents, and brought discredit upon the CPD.

6. Sergeant Tracy Walczak, Star No. 1675, is **guilty** of violating Rules 2, 3, 5, and 10 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about January 18, 2015, at or near 4229 West Irving Park Road in Chicago, at approximately 4:55 a.m., Sergeant Walczak was present and had information that a physical altercation had just occurred outside and/or near the Golden Nugget restaurant in that area, and despite having the stated knowledge, she left the area and failed to intervene and/or take police action. Sergeant Walczak 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 5, which prohibits any failure to perform a duty; and
- d. Rule 10, which prohibits inattention to duty.

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

“The responsibility for the proper performance of a member's duty, whether he be on or off duty, lies primarily with the member himself. A member carries with him, at all times, the responsibility for the safety of the community. He discharges that responsibility by the faithful

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and dedicated performance of his assigned duty and an immediate and intelligent response to emergency. Anything less violates the trust placed in him by the community, and nothing less qualifies as professional conduct.”⁷ Although Respondent Walczak arguably put an end to the altercation by walking outside, she has never characterized this as an intentional police action and denied intervening altogether.

As stated previously, the video footage reveals that Respondents not only witnessed the end of the altercation, but knew that their fellow officers were involved. And even assuming Respondent Walczak was unaware of her fellow officers’ involvement, at minimum, she and Respondent Ferlito should have intervened to assure that the Jiminez brothers received immediate medical attention and assisted the responding officers in gathering basic investigatory information.

At minimum, Respondent Walczak certainly knew there had been a physical altercation and that some participants had been injured. She saw both brothers outside with bloody faces. According to Juan Jiminez, he told Respondent Walczak, “they just beat the shit out of us for no reason.” The video footage corroborates his testimony by showing that while talking to her, Juan pointed in the direction where the male officers had walked. Although Respondent Walczak told Javier to remain calm and that the police were on their way, neither Respondent identified themselves to him as police officers, called for an ambulance, or inquired about what led to their injuries.

Respondents testified they did not call 911 because Ms. Steckenrider had already

⁷ CPD Rules and Regulations, Article I, Section B(18)

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done so. Respondents stated that they did not call for an ambulance because they believed that the Jiminez brothers' injuries did not appear to be serious enough, and that the responding officers would make that determination. They further testified that they did not go back outside of the restaurant to talk to the Jiminez brothers or assist the responding officers because Respondents were not armed, nor equipped with any safety gear or radios. Instead, for their own safety, they remained inside of the restaurant for several minutes until the responding officers arrived, while the Jiminez brothers remained outside. Respondents then left the scene.

The Board is not suggesting that Respondents should have risked their own safety while off-duty and without protective gear. However, at the very least, Respondents should have called for an ambulance, identified possible witnesses while still in the restaurant, and assisted the responding officers when they arrived. When Officer Pinzine arrived on-scene, he called for ambulances right away because both brothers "appeared to have been badly beaten, with extremely bloody and swollen faces."⁸

The Board finds that Respondent Walczak betrayed the community's trust by failing to intervene or take any police action during what certainly can be characterized as "an emergency." By doing so, she brought discredit upon the CPD, failed to promote the CPD's efforts to implement its policy or accomplish its public interest goals, and failed to perform the duties expected of her, even while off-duty.

⁸ The Board acknowledges that Officer Pinzine listed the Jiminez brothers' injuries as "minor" in his report. This comparative designation does not mean the brothers were not in obvious need of medical attention.

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7. Sergeant Tracy Walczak, Star No. 1675, is **not guilty** of violating Rules 2, 3, and 14 in that the Superintendent did not prove by a preponderance of the evidence the following charges:

On or about December 16, 2015, during an interview by an Independent Police Review Authority investigator, Sergeant Walczak made a false, and/or misleading, and/or deliberately incomplete statement when she denied having knowledge of a physical altercation between Chicago Police Officers Rooney, Almodovar, and Delgado and civilians Juan Jimenez and Javier Jimenez, and/or stated words to that effect, when in fact she knew there had been a physical altercation outside and/or near the Golden Nugget restaurant located at or near 4229 West Irving Park Road in Chicago. Sergeant Walczak 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 Nos. 4–6 above, which are incorporated herein by reference.

Respondent Walczak may not have been truthful in her statements to IPRA investigators pertaining to what she saw, or did not see, during the altercation. Both Respondents claimed that they did not see any of the male officers at the scene after they walked out of the restaurant, and that they did not see any portion of the fight. The surveillance video footage indicates otherwise. The footage shows that they looked directly at the scuffle as they approached the front door, and then looked directly at the group of men while CPO Rooney assumed a fighting stance. Respondent Walczak then walked out the front door, effectively stopping the fight and prompting the male officers to walk away from the scene. Respondent Walczak's claim that she did not know that the male officers were

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involved in the altercation until she met up with CPO Delgado at Respondent Ferlito's home is equally suspect. The Superintendent, however, did not base any of his charges on those specific statements. Accordingly, the Board will not determine whether Respondents violated any CPD rules by making those statements.

Instead, in support of third specification against Respondent Walczak, the Superintendent relies only on Respondent Walczak's denials in her IPRA interview that she "[had] knowledge of a physical altercation" between the fellow officers and the Jiminez brothers, and/or stated words to that effect, "when in fact [they] knew there had been a physical altercation outside...".

An examination of Respondent Walczak's 2015 IPRA interview transcript shows that she actually never denied having that knowledge at the time she was interviewed. She told the investigators that while still on-scene at the restaurant, she reasonably assumed there had been a fight outside but did not know that the male officers were involved until CPO Delgado told her at Respondent Ferlito's house. In addition, she told the investigators that during their conversation, she noticed blood on CPO Delgado's hands. It stands to reason that by virtue of providing the above information to the IPRA investigators, she did not deny that she had "knowledge of the physical altercation" between the male officers and the Jiminez brothers, nor did she use words to that effect. Because the Superintendent attributed to Respondent Walczak specific false or misleading statements that she never made, the Board finds her not guilty of rule violations pertaining to those statements.

Charges Against Police Officer Danielle Ferlito

8. Police Officer Danielle Ferlito, Star No. 11636, is **guilty** of violating Rules 2, 3, 5, 10, and 21 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about January 18, 2015, at or near 4229 West Irving Park Road in Chicago, at approximately 4:55 a.m., Officer Ferlito was present and had information that a physical altercation had just occurred outside and/or near the Golden Nugget restaurant involving fellow Officers Scott Rooney, Joshua Almodovar, and Jesus Delgado and civilians Juan Jimenez and Javier Jimenez, and despite having the stated knowledge, she failed to provide responding Chicago Police Department officers with any information. Officer Ferlito 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 5, which prohibits any failure to perform a duty;
- d. Rule 10, which prohibits inattention to duty; and
- e. Rule 21, which prohibits any failure to report promptly to the Department any information concerning any crime or other unlawful action.

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

Respondent Ferlito violated the rules specified above for many of the same reasons enumerated in Section No. 4 pertaining to Respondent Walczak. However, unlike Respondent Walczak, Respondent Ferlito admitted that she discovered that her fellow officers were involved in the fight while still at the restaurant, when Ms. Steckenrider walked up to the table and told them. The Board believes that this was the reason that Respondents left without providing any information to the responding officers.

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In addition, during Respondent Ferlito's January 2018 interview with COPA investigators, she expressed true regret for leaving the scene without speaking to the responding officers. She acknowledged that she should have stayed and offered what information she knew about the incident and that, in retrospect, she could have provided them with the three male officers' names at the very least. She conceded that her information could have been helpful; but instead, she followed her sergeant's lead and left the scene. For the same reasons enunciated in Section No. 4 pertaining to Respondent Walczak, the Board finds that by failing to provide any information to the responding officers, Respondent Ferlito violated Rules 2, 3, 5, 10, and 21.

9. Police Officer Danielle Ferlito, Star No. 11636, is **guilty** of violating Rules 2, 3, 5, and 10 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about January 18, 2015, at or near 4229 West Irving Park Road in Chicago, at approximately 4:55 a.m., Officer Ferlito was present and had information that a physical altercation had just occurred outside and/or near the Golden Nugget restaurant in that area, and despite having the stated knowledge, she left the area and failed to intervene and/or take police action. Officer Ferlito 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 5, which prohibits any failure to perform a duty; and
- d. Rule 10, which prohibits inattention to duty.

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

As previously stated, although Respondent Ferlito would not admit that she witnessed any portion of the fight between her fellow officers and the Jiminez brothers, she did admit that

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she knew the officers were involved in the fight while the fight was occurring. At a minimum, Respondent Ferlito failed to summon immediate medical attention for the Jimenez brothers, take police action by identifying possible witnesses, and assist the responding officers by providing them with information vital to their preliminary investigation, including the names of some of the fight's participants. For the same reasons enunciated above in Section No. 5 as to Respondent Walczak, Respondent Ferlito violated Rules 2, 3, 5 and 10.

10. Police Officer Danielle Ferlito, Star No. 11636, charged herein, is **not guilty** of violating Rules 2, 3, and 14 in that the Superintendent did not prove by a preponderance of the evidence the following charges:

On or about December 16, 2015, during an interview by an Independent Police Review Authority investigator, Officer Ferlito made a false, and/or misleading, and/or deliberately incomplete statement when she denied having knowledge of a physical altercation between Chicago Police Officers Rooney, Almodovar, and Delgado and civilians Juan Jimenez and Javier Jimenez, and/or stated words to that effect, when in fact she knew there had been a physical altercation outside and/or near the Golden Nugget restaurant located at or near 4229 West Irving Park Road in Chicago. Officer Ferlito 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 Nos. 4–9 above, which are incorporated herein by reference.

As explained in the parallel specification against Respondent Walczak in Section No. 7 above, the Superintendent did not base this charge on certain questionable statements Respondents made to IPRA investigators—namely, that Respondents did not see any

portion of the altercation or see CPOs Delgado, Almodovar, or Rooney at the scene after the men walked out of the restaurant. Instead, the Superintendent chose to allege that during their respective IPRA interviews, Respondents falsely “denied having knowledge of a physical altercation” between their fellow officers and the Jiminez brothers. Like Respondent Walczak, Respondent Ferlito never denied having such knowledge.

Respondent Ferlito admitted to IPRA investigators that she knew her friends were involved in the fight because Ms. Steckenrider told them so. Respondent Ferlito also gave the investigators additional information about the altercation. She told the investigators that either CPO Almodovar or Rooney called her and told her that the officers had participated in the fight, and she told the investigators about CPO Delgado’s statement to Respondents at Respondent Ferlito’s home. Again, it stands to reason that by virtue of providing this information to the investigators during the interview, she did not deny “knowledge of the physical altercation,” nor did she use words to that effect. Therefore, Respondent Ferlito, like Respondent Walczak, cannot be found guilty of violating any rules related to this specification.

Penalty for Sergeant Tracy Walczak

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

Respondent Walczak joined the CPD in 1999 and was promoted to sergeant in May 2014. She has earned a total of 63 awards, including one Life Saving Award, two Department commendations, 34 honorable mentions, one joint operations award, eight emblems of

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recognition for physical fitness, and two attendance recognition awards. She has no sustained complaints on her disciplinary history.

In mitigation, Respondent Walczak presented a stipulation showing that CPOs Delgado, Rooney, and Almodovar were disciplined in relation to this incident for failing to provide Juan and Javier Jiminez with medical assistance (in violation of CPD Rule 2), engaging in a physical altercation with the Jiminez brothers (in violation of CPD Rule 8), failing to take police action (in violation of CPD Rule 10), and intoxication (in violation of CPD Rule 15). Each officer received a 45-day suspension for these violations.

In addition, Respondent Walczak presented numerous character letters written on her behalf, as well as the testimony of Commander Larry Snelling, Captain William Clucas, and Sergeant William Svilar as witnesses in mitigation. Commander Snelling testified that he is currently the commander assigned to the 007th District and met Respondent Walczak in 2012 when she was an officer in Recruit Training and Operational Instruction. He found her to be an excellent, very professional officer, and he could always count on her. He trusted her and "always knew she would do the right thing." In his opinion, her integrity is "top notch." Captain Clucas testified that he is a 24-year veteran of CPD assigned to the 0024th District and that Respondent Walczak was on his tactical team for approximately 10 years. He believes she was the smartest officer on his team and wishes he could "duplicate her 10 times." He trusts her judgement and truthfulness and believes she possesses the highest level of integrity. Sergeant Svilar, a 29-year veteran of the CPD, testified that he met Respondent Walczak in 2017 when he helped her

acclimate to her new assignment. In his opinion, she was very smart and her character is beyond reproach. In addition, he described her as compassionate, fair, pleasant to work with, and a true leader. He concluded by stating that in these times, the CPD needs more officers like Respondent Walczak.

Even if, while still at the restaurant, Respondent Walczak was unaware that her fellow officers were involved in the altercation, Respondent Walczak failed to intervene or take police action when she knew that an altercation had just occurred and failed to provide what information she knew to the responding officers, both at the scene and after her conversation with CPO Delgado. Her disregard for her duties is antithetical to the type of behavior expected of law enforcement officers and brought discredit upon the CPD, thereby undermining public confidence in its officers. Respondent Walczak's position as a supervisor increases the severity of her misconduct—as a supervisory member of the CPD she has a responsibility to provide leadership and serve as an example to subordinate members, and her failure to do so warrants a greater penalty than Respondent Ferlito's.

Based on the nature of Respondent Walczak's misconduct as a supervisor, the evidence she presented in mitigation, and her record and years of service to the Department, a suspension of one hundred eighty (180) days is an appropriate penalty based on the facts of this particular case.

Penalty for Police Officer Danielle Ferlito

12. The Police Board has considered the facts and circumstances of the conduct of which it has found Respondent Ferlito guilty and the evidence she presented in her defense and

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mitigation.

Respondent Ferlito joined the CPD in 2012. She has earned a total of 38 awards, including one Superintendent's honorable mention, 32 other honorable mentions, one unit meritorious performance award, one emblem of recognition for physical fitness, and one attendance recognition award. She has no sustained complaints on her disciplinary history.

Like Respondent Walczak, Respondent Ferlito presented a stipulation in mitigation showing that CPOs Delgado, Rooney, and Almodovar were disciplined in relation to this incident for failing to provide Juan and Javier Jiminez with medical assistance (in violation of CPD Rule 2), engaging in a physical altercation with the Jiminez brothers (in violation of CPD Rule 8), failing to take police action (in violation of CPD Rule 10), and intoxication (in violation of CPD Rule 15). Each of those officers received a 45-day suspension for these violations.

In addition, Respondent Ferlito presented numerous character letters written on her behalf, as well as the testimony of Lieutenant James Corlett, Sergeant Melissa Malm, and Detective William Elliot. Lieutenant Corlett testified that he has worked for CPD for 24 years and that Respondent Ferlito was a member of his Gang Enforcement team for three or four years. He found her to be one of the most honest and trustworthy officers who worked for him. She was well-respected by her peers, willing to learn, and fit into the unit quickly. Lieutenant Corlett stated that he would love for Respondent Ferlito to work for him again someday. Sergeant Malm, an 18-year CPD veteran, stated that she met Respondent Ferlito approximately 10 years ago and that the two worked together in Gang Enforcement where Respondent Ferlito excelled. Sergeant Malm stated that Respondent Ferlito has the unique

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ability to convince even the most confrontational subjects to disarm and possesses qualities that more officers need. Sergeant Malm continued that Respondent Ferlito handles the challenges of being a female CPO with grace and dignity, that the Department needs more officers like her, and that Sergeant Malm "cannot wait to get her back" when this case is over. Detective Elliott testified that has been a CPD detective for three and a half years and got to know Respondent Ferlito when she was assigned to the 007th District. He believes she is an excellent police officer, has excellent character and integrity, and has great compassion for the community. Detective Elliot also noted that Respondent Ferlito has a very good reputation within the Department.

Respondent Ferlito admitted she knew of the altercation between her fellow officers and the Jimenez brothers before she left the restaurant, yet she failed to intervene or take police action, and she failed to provide information to responding officers. Her disregard for her duties is antithetical to the type of behavior expected of law enforcement officers and brought discredit upon the CPD, thereby undermining public confidence in its officers. Still, the Board finds her violations less egregious than Respondent Walczak's violations. At the time of the incident, Respondent Ferlito had only been working as a patrol officer for a relatively short period and followed the lead of her sergeant.

Based on the nature of Respondent Ferlito's misconduct, the evidence she presented in mitigation, and her record and years of service to the Department, a suspension of thirty (30) days is an appropriate penalty based on the facts of this particular case.

POLICE BOARD DECISIONS

The members of the Police Board of the City of Chicago hereby certify that they have read and reviewed the record of proceedings, viewed the video-recording of the entire evidentiary hearing, received the oral report of the Hearing Officer, and conferred with the Hearing Officer on the credibility of the witnesses and the evidence. The Police Board hereby adopts the findings set forth herein by the following votes.

Respondent Tracy Walczak

By votes of 8 in favor (Ghian Foreman, Paula Wolff, Matthew C. Crawl, Michael Eaddy, Steve Flores, Jorge Montes, Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds Respondent Tracy Walczak **guilty** of the charges in Specification Nos. 1 and 2, as set forth in Section Nos. 5 and 6 above.

By a vote of 8 in favor (Foreman, Wolff, Crawl, Eaddy, Flores, Montes, Sweeney, and Zopp) to 0 opposed, the Board finds Respondent Tracy Walczak **not guilty** of the charges in Specification No. 3, as set forth in Section No. 7 above.

As a result of the foregoing, the Board, by a vote of 6 in favor (Crawl, Eaddy, Flores, Montes, Sweeney, and Zopp) to 2 opposed (Foreman and Wolff), hereby determines that cause exists for suspending Respondent Tracy Walczak from her position as a sergeant of police for a period of one hundred eighty (180) days.

NOW THEREFORE, IT IS HEREBY ORDERED that Respondent Sergeant Tracy Walczak, Star No. 1675, as a result of having been found **guilty** of certain charges in Police Board Case No. 19 PB 2964, be and hereby is **suspended** from her position as a sergeant of police and from the services of the City of Chicago for a period of one hundred eighty (180) days, from October 1, 2019 (the date she was suspended upon the filing of charges in this case)

to and including March 28, 2020. **IT IS FURTHER ORDERED** that Respondent Tracy Walczak be and hereby is restored to her position as a sergeant of police with all rights and benefits effective March 29, 2020.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Matthew C. Crawl, Michael Eaddy, Steve Flores, Jorge Montes, Rhoda D. Sweeney, and Andrea L. Zopp.

(Board Member John P. O'Malley Jr. recused himself from this case pursuant to § 2-78-130(a)(iii) of the Municipal Code of Chicago.)

Respondent Danielle Ferlito

By votes of 8 in favor (Foreman, Wolff, Crawl, Eaddy, Flores, Montes, Sweeney, and Zopp) to 0 opposed, the Board finds Respondent Danielle Ferlito **guilty** of the charges in Specification Nos. 1 and 2, as set forth in Section Nos. 8 and 9 above.

By a vote of 8 in favor (Foreman, Wolff, Crawl, Eaddy, Flores, Montes, Sweeney, and Zopp) to 0 opposed, the Board finds Respondent Danielle Ferlito **not guilty** of the charges in Specification No. 3, as set forth in Section No. 10 above.

As a result of the foregoing, the Board, by a vote of 8 in favor (Foreman, Wolff, Crawl, Eaddy, Flores, Montes, Sweeney, and Zopp) to 0 opposed, hereby determines that cause exists for suspending Respondent Danielle Ferlito from her position as a police officer for a period of thirty (30) days.

NOW THEREFORE, IT IS HEREBY ORDERED that Respondent Police Officer Danielle Ferlito, Star No. 11636, as a result of having been found **guilty** of certain charges in Police Board Case No. 19 PB 2964, be and hereby is **suspended** from her position as a police

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officer and from the services of the City of Chicago for a period of thirty (30) days, from October 1, 2019 (the date she was suspended upon the filing of charges in this case) to and including October 30, 2019. **IT IS FURTHER ORDERED** that Respondent Danielle Ferlito be and hereby is restored to her position as a police officer with all rights and benefits effective October 31, 2019.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Matthew C. Crowl, Michael Eaddy, Steve Flores, Jorge Montes, Rhoda D. Sweeney, and Andrea L. Zopp.

(Board Member John P. O'Malley Jr. recused himself from this case pursuant to § 2-78-130(a)(iii) of the Municipal Code of Chicago.)

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF NOVEMBER, 2020.

Attested by:

/s/ MATTHEW C. CROWL
Board Member

/s/ STEVE FLORES
Board Member

/s/ MAX A. CAPRONI
Executive Director

DISSENT REGARDING RESPONDENT TRACY WALCZAK

We concur with the majority of the Board that Respondent Walczak is guilty of the charges in Specifications 1 and 2 and not guilty of the charges in Specification 3. However, we dissent from the majority's decision to suspend her for 180 days. We find that Respondent Walczak's failure to carry out her responsibilities as a supervisor was especially egregious and warrants a more severe penalty.

/s/ GHIAN FOREMAN
President

/s/ PAULA WOLFF
Vice President

RECEIVED A COPY OF

THESE FINDINGS AND DECISIONS

THIS ____ DAY OF _____, 2020.

DAVID O. BROWN
Superintendent of Police