

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER MICHAEL DENEEN,) **No. 23 PB 3015**
STAR No. 19012, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
RESPONDENT.) **(CR No. 1089969)**

FINDINGS AND DECISION

On January 17, 2023, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Michael Deneen, Star No. 19012 (“Respondent”), recommending that Respondent be discharged from the Chicago Police Department (“Department” or “CPD”) for violating CPD’s Rules of Conduct.

A hearing on the charges against Respondent took place before Hearing Officer Lauren Freeman on June 13 and 26, 2023. 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 Respondent’s response to this report (the Superintendent did not file a response), and viewed the video recording of the entire evidentiary hearing. The Hearing Officer made an oral report to and conferred with the Board before it rendered its findings and decision.

During the proceedings of this case, from the filing of charges through the evidentiary hearing, the Hearing Officer made rulings and entered orders. None of the Hearing Officer’s rulings and orders is overruled or reversed.

POLICE BOARD FINDINGS

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

1. Respondent was at all times mentioned herein employed as CPD police officer by 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 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 Respondent appeared and was represented by legal counsel.

Introduction

4. Respondent is charged in this case with falsely reporting to CPD personnel during two Summary Punishment Action Request (“SPAR”) hearings that he never submitted CPD overtime slips for the dates of March 14 and March 15, 2018. Relevant evidence adduced at the hearing pertaining to the charges was as follows.

Respondent began working for CPD in February 1995. In March 2018 he worked as a Traffic Specialist in the Major Accidents Investigations Unit (“MAIU”) investigating fatal and life-saving traffic crashes and following up on hit-and-run incidents. He had been assigned to MAIU for 16 years and was one of the unit’s senior investigators.

In 2018, MAIU was understaffed, and the heavy workload required that the unit’s investigators work significant amounts of overtime. Prior to working overtime on any given day, Department members were required to obtain oral approval from a supervisor at the beginning of the overtime shift. Anyone with a higher rank than the member was authorized to give that approval, although the member was expected to follow the chain of command and first seek approval from the member’s immediate supervisor. After the member’s shift, in order to be compensated, the member was required to fill out and sign an overtime slip to the approving supervisor for approval.

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

The process for obtaining signed supervisors' authorizations and submitting overtime slips was often informal. Once a Department member filled out and signed a slip, the member would submit the slip to their supervisor, either by hand or by leaving the slip on the supervisor's desk, in a bin, or in the supervisor's door. The supervisor would then sign the slip and forward it to the unit's lieutenant or commander for a third signature. If the lieutenant or commander was the original approving supervisor, the lieutenant/commander was allowed to sign both spaces for "authorized approver." The lieutenant/commander would then forward the slip to the unit's timekeeper. Of particular importance to the Board, the member seeking the overtime pay was not required to personally submit the slips to their supervisors for signature, and was not allowed to submit them directly to the timekeeper or directly retrieve them from the timekeeper after submission.

On Wednesday and Thursday, March 14 and 15, 2018, Respondent sought approval to work overtime to complete a report for court. Since Respondent's immediate supervisor, Sergeant Jorge Gonzales, was not present at the station when Respondent sought approval each of those days, Respondent obtained oral approval from Lieutenant Allison Schloss, the commanding officer of MAIU. Respondent completed and signed overtime slips for each of those days and the slips later landed in Timekeeper Van Watt's office for processing. The hearing record is silent as to who sent them there or whether they were delivered personally.

Timekeeper Watts hand-wrote Respondent's overtime information on Respondent's timecard and entered the overtime information into CPD's CLEAR data system. Watts credibly testified that although he could not recall processing these two particular overtime slips among the thousands he processed, he would not have processed them had they been incomplete or unsigned.

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

On Friday, March 16, 2018, Respondent was summoned to Sergeant Gonzales's office where he attended a SPAR initiation meeting. Ivan Romo, another Traffic Specialist, was also present. The meeting was not recorded or transcribed. Traffic Specialist Romo testified at the hearing that during the meeting, Sergeant Gonzales informed Respondent that Respondent would receive a SPAR for Inattention to Duty because he disregarded the chain of command for obtaining overtime approval. Romo recalled that Respondent stated to Sergeant Gonzales something like, 'I'll either work the overtime that I worked for free' or 'I'll pull the slips,' but Romo could not recall exactly what Respondent said. Sergeant Gonzales did not testify at the hearing.

On March 16, 2018, following the meeting, Sergeant Gonzales created a SPAR document finding that Respondent had been inattentive to Duty by working unauthorized overtime on March 14, 2018. Gonzales prescribed Respondent's punishment as "violation noted, no disciplinary action," the least punitive form of administrative punishment.

In order to get along with Gonzales, his new sergeant, Respondent initially accepted Gonzales's SPAR decision and apologized to Gonzales for not looping him in when requesting the overtime. Respondent changed his mind shortly thereafter because although he had not followed the usual chain of command, he did not believe he was "inattentive to duty" and did not want that finding to blemish his record.

The following day, March 17, 2018, Respondent wrote a memorandum to Lieutenant Schloss requesting a meeting and SPAR hearing with the Commander of MAUI, Warren Richards. In the memorandum, he stated that he "never gave Sergeant Gonzales an overtime slip for preparing for court" for March 14, 2018.

On or after March 16, 2018 (the date was never established by the Superintendent),

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

Sergeant Schloss, or someone at her direction, asked Timekeeper Watts to retrieve Respondent's March 14 and 15, 2018 overtime slips. Watts complied. He also whited-out Respondent's overtime for those days on Respondent's timecard and then he or a supervisor removed the overtime entries from the CLEAR system. Watts testified that it was not unusual for supervisors to retrieve slips. He simply assumed that Respondent had not worked overtime on those days. Watts' testimony clearly established that Respondent could not access his own timecard or his own CLEAR overtime data. Respondent was not compensated for working overtime those two days.

In addition to retrieving Respondent's overtime slips, Lieutenant Schloss called and e-mailed Commander Richards, adamantly requesting that Respondent's SPAR violation finding be deleted. Since Lieutenant Schloss did not testify at the hearing, the Board never learned the reason she asked that Respondent's slips be pulled or the reason she asked that Respondent's SPAR violation be deleted.

On June 11, 2018, Respondent appeared before Commander Richards in the first of two SPAR hearings. The SPAR hearing only dealt with Respondent's overtime work on March 14, 2018 and was not recorded or transcribed but Commander Richards took notes. According to Richards, Respondent denied submitting the two overtime slips and maintained, in summary, that because he worked for free on March 14, 2018, and never submitted a slip, he was not "inattentive to duty." Richards elevated Respondent's discipline one level to a reprimand for working overtime on both March 14 and 15, 2018, without proper authorization. Richards testified at the Police Board Hearing that additionally, he found it difficult to believe that Respondent would work 16 hours in two days for free and that prior to the SPAR hearing, Richards was aware that overtime slips for those days had been submitted to the timekeeper and

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

later pulled. Consequently, Richards filed a Complaint Register (“CR”) against Respondent for making false statements about submitting the slips. The CR also contained allegations against Lieutenant Schloss for altering Department reports and for instructing timekeeper Watts to pull Respondent’s overtime slips.

On June 14, 2018, Respondent rejected Commander Richard’s elevated disciplinary recommendation and requested a hearing with Deputy Chief Brendan Deenihan. On June 22, 2018, Respondent participated in a second SPAR hearing with Deputy Chief Brendan Deenihan during which Respondent again reported that he did not submit overtime slips for March 14 and March 15, 2018.

Respondent testified at the Police Board hearing as follows: He obtained oral authorization from Lieutenant Schloss to work both of those days and Lieutenant Schloss directed him to give his overtime slips to the Sergeant. Respondent filled out the slips and intended to turn them in when Sergeant Gonzales returned to work on March 16th but before he could turn them in, Gonzales called him into the SPAR meeting. During the meeting, Respondent told Gonzales that he would not put in for the overtime. He felt that if he didn’t get paid for those two days, the matter would be resolved. He further testified that during the meeting with Gonzales and Romo he never offered to “pull the slips” because he had not submitted them in the first place. He could not recall what became of the slips but knew he did not turn them in. He testified he had nothing to do with pulling the slips from Timekeeper Watts, and was not told until February 2023 that Lieutenant Schloss had retrieved them. He also did not have access to the CLEAR payroll or timekeeping functions so it would not have been possible for him to delete the overtime records from the computer.

Charges Against the Respondent

5. Police Officer Michael Deneen, Star No. 19012, is **not guilty** of violating Rules 2 and 14 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 1:

On or about June 11, 2018, at or near 3151 West Harrison Street in Chicago, during the course of a SPAR hearing, Officer Michael Deneen stated one or more times that he never submitted any overtime compensatory slips for March 14, 2018, and/or March 15, 2018, or words to that effect, when Officer Deneen had in fact submitted overtime slip(s) for March 14, 2018, and/or March 15, 2018. Officer Deneen thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department; and
- b. Rule 14, which prohibits making a false report, written or oral.

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

The Board finds that the Superintendent failed to prove the crux of the charges against him – the falsity of Respondent's statement(s). In order to prove Respondent guilty, the Superintendent was required to prove that Respondent "had in fact submitted overtime slip(s)" for those dates. The Superintendent's evidence fell short.

Most notably, the Superintendent called neither Lieutenant Schloss nor Sergeant Gonzales to testify that Respondent submitted the slips to them. These were essential witnesses who could have potentially provided the Superintendent with pivotal testimony—that Respondent submitted the slips to one or both of them for signature. While arguably, Respondent could have also called Sergeant Gonzales and Lieutenant Schloss to testify that Respondent did not submit the slips to them, it is the Superintendent who bears the burden of proof, not Respondent. The evidence clearly established that Respondent could not have submitted the

overtime slips to the timekeeper directly—the slips had to be signed at least by Lieutenant Schloss who then forwarded them to the timekeeper. Had Lieutenant Schloss not signed off on the slips, Timekeeper Watts would not have processed them. The Board finds the absence of both of these witnesses from the hearing troubling.

Instead, the Superintendent relied on circumstantial evidence to prove his allegations. He essentially argued that since Respondent admitted that he completed the slips, had submitted slips for overtime pay on numerous other days, and because the two slips were ultimately submitted to the timekeeper, Respondent likely submitted them to Lieutenant Schloss himself.

The Board could agree with the Superintendent's logic but finds that the evidence presented shows that it is equally possible Lieutenant Schloss submitted the slips on her own. Her vigorous defense of Respondent's actions remains unexplained. Again, her testimony was crucial to the charges and the Superintendent's failure to call her left a gaping hole in his evidence. The Board never learned why she requested that Respondent's slips be pulled from the timekeeper or why she vehemently opposed Respondent's SPAR violation. The Superintendent presented no evidence that she did either one at Respondent's request. The Board can reasonably infer from her actions that Lieutenant Schloss may have submitted Respondent's timeslips without his knowledge, and then sought to rectify her actions once she learned Respondent was cited for failing to follow the chain of command.

The Superintendent also relied heavily on Officer Romo's recollection of Respondent's statements during the initial SPAR meeting with Sergeant Gonzales, arguing that Respondent's offer to "pull the slips" indicated knowledge he had submitted them. However, Romo testified that he could not recall exactly what Respondent said and that Respondent may have instead said something like, 'I'll work the overtime that I worked for free.' If Respondent used this

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

alternative language, the Superintendent could not argue his statement was inculpatory. Had Sergeant Gonzales testified at the hearing, perhaps the Board would have further clarity about Respondent's statement during the meeting.

The Board also believes that Respondent's March 17, 2018, memorandum to Lieutenant Schloss, although introduced as an exhibit by the Superintendent, weighs in Respondent's favor. In his memo, written just one day after his SPAR initiation meeting with Sergeant Gonzales, Respondent memorialized a statement the Board considers exculpatory -- that he "never gave Sergeant Gonzales an overtime slip for preparing for court." The Board finds it unlikely that Respondent would make such a claim, in writing, only a day after the SPAR meeting, if it was untrue. Sergeant Gonzales could have immediately challenged Respondent's assertion yet the Superintendent presented no evidence that Gonzales ever refuted Respondent's claim. The memorandum, along with Respondent's unrebutted testimony that Lieutenant Schloss instructed him to turn in his slips to Sergeant Gonzales, show that although Lieutenant Schloss may have been the sole approving supervisor for the overtime, Respondent would have turned the slip in to Sergeant Gonzales, not Lieutenant Schloss. In the absence of Sergeant Gonzales's testimony to the contrary, the Board can reasonably conclude that Respondent did not submit the overtime slips to Sergeant Gonzales and perhaps did not personally submit them at all.

Finally, the Board credits the testimony of Respondent's former MAUI supervisor, Sergeant Frank Casale, who testified as a character witness on behalf of Respondent for purposes of determining Respondent's intent. Casale testified that while supervising Respondent for about a year beginning in March or April 2018, Respondent had a reputation in the unit as a truthful person, and Sergeant Casale also personally believed Respondent to be truthful. While the Board does not consider Casale's testimony as proof of Respondent's innocence, the testimony was

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

helpful in determining Respondent's intent at the time he made the statements alleged to be false.

For these reasons, the Board finds that the Superintendent failed to prove by a preponderance of the evidence that Respondent made false reports to Commander Richards or that he engaged in conduct which brought discredit upon the Department.

6. Police Officer Michael Deneen, Star No. 19012, is **not guilty** of violating Rules 2 and 14 in that the Superintendent did not prove by a preponderance of the evidence the following charges set forth in Specification No. 2:

On or about June 22, 2018, at or near 3151 West Harrison Street in Chicago, during the course of a SPAR hearing, Officer Michael Deneen stated one or more times that he never submitted any overtime compensatory slips for March 14, 2018, and/or March 15, 2018, or words to that effect, when Officer Deneen had in fact submitted overtime slip(s) for March 14, 2018, and/or March 15, 2018. Officer Deneen thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department; and
- b. Rule 14, which prohibits making a false report, written or oral.

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

For the same reasons espoused above in Section No. 5, the Board finds that the Superintendent failed to prove by a preponderance of the evidence that Respondent made false reports during the June 22, 2018, SPAR hearing or that he engaged in conduct which brought discredit upon the Department.

Recommendation

This case reveals a serious weakness in CPD's paper-based system for approving and submitting overtime documentation that existed in 2018. The Board strongly recommends that CPD, if it has not yet done so, implement as soon as possible an electronic records system that will accurately and effectively document and track each CPD member involved in the process for obtaining authorization and submitting overtime documentation (the member who works the overtime, all supervisors who approve it, and the timekeeper who enters it).

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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 5 in favor (Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, and Andreas Safakas) to 3 opposed (Ghian Foreman, Paula Wolff, and Michael Eaddy), the Board finds Respondent **not guilty** of the charges in Specification Nos. 1 and 2, as set forth in Section Nos. 5 and 6 above.

NOW THEREFORE, IT IS HEREBY ORDERED that Police Officer Michael Deneen, Star No. 19012, as a result of having been found not guilty of all charges in Police Board Case No. 23 PB 3015, be and hereby is restored to his position as a police officer and to the services of the City of Chicago, with all rights and benefits, effective February 1, 2023, (the date he was suspended upon the filing of charges).

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF OCTOBER, 2023.

Attested by:

/s/ STEVEN BLOCK
Board Member

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

/s/ MAREILÉ CUSACK
Board Member

/s/ MAX A. CAPRONI
Executive Director

DISSENT

We respectfully dissent from the majority's findings that Respondent is not guilty of all charges. We find that the evidence presented by the Superintendent was sufficient to prove by a preponderance of evidence that Respondent had in fact submitted overtime slips for March 14 and March 15, 2018, and therefore his denials that he did so were willful and material false statements that violated Rule 14 and Rule 2.

The Superintendent's evidence left no doubt that the slips were properly signed, authorized, and submitted to the timekeeper. We find it more likely than not that Respondent was the one who submitted them as he had countless times in the past. Even in the absence of Sergeant Gonzales's and Lieutenant Schloss's testimony, since the slips were processed by the timekeeper, Respondent must have submitted those slips to Gonzales, Schloss, or both, for signature. There was no evidence presented to believe otherwise.

Like Commander Richards, we doubt that Respondent chose to work those days for free. We do not find credible his testimony that he did not submit the slips in order to placate his new Sergeant and to make the SPAR against him disappear. We also find that despite Traffic Specialist Romo's testimonial uncertainty about what Respondent actually said during Respondent's SPAR initiation meeting, Respondent offered to "pull" the slips, indicating that he had submitted them in the first place. He later denied that. The fact that the Superintendent never offered evidence to explain why Lieutenant Schloss later pulled them from the timekeeper does not change our opinion; it is unnecessary to know why they were pulled since there is clear evidence that the Respondent submitted them and falsely reported twice that he did not.

Finally, we believe that evidence was submitted showing that the Respondent appealed his SPAR to Deputy Chief Brendan Deenihan. On June 22, 2018, Respondent participated in a

Police Board Case No. 23 PB 3015
Police Officer Michael Deneen
Findings and Decision

second SPAR hearing with Deputy Chief Brendan Deenihan during which Respondent again reported that he did not submit overtime slips for March 14 and March 15, 2018. The fact that the Superintendent proceeded with the case against the Respondent indicates that Deputy Chief Deenihan concluded that the Respondent should have been SPAR-ed, which is consistent with the evidence that the dissent is using to reach its conclusion.

For these reasons, the Superintendent proved the Respondent guilty of the charges. Because this is a Rule 14 violation, we believe the discipline should be severe.

GHIAN FOREMAN

PAULA WOLFF

MICHAEL EADDY

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THESE FINDINGS AND DECISION

THIS ____ DAY OF _____, 2023.

LARRY SNELLING
Superintendent of Police