

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)		
POLICE OFFICER REGINALD BELL,)		No. 09 PB 2721
STAR No. 5611, DEPARTMENT OF POLICE,)		
CITY OF CHICAGO,)		
RESPONDENT)		(CR No. 1019576)

FINDINGS AND DECISION

On October 29, 2009, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Reginald Bell, Star No. 5611 (hereinafter sometimes referred to as "Respondent"), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 1: Violation of any law or ordinance.
- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person while on or off duty.
- Rule 10: Inattention to duty.
- Rule 15: Intoxication on or off duty.
- Rule 38: Unlawful or unnecessary use or display of a weapon.

The Police Board caused a hearing on these charges against Police Officer Reginald Bell to be had before Michael G. Berland, Hearing Officer of the Police Board, on March 8, 9, and 10, 2010.

Following the hearing, the members of the Police Board read and reviewed the record of proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer

Berland made an oral report to and conferred with the Police Board before it rendered its findings and decision.

POLICE BOARD FINDINGS

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.
2. The charges were filed in writing and a Notice, stating the time, date, and place, when and where a hearing of the charges was to be held, together with a copy of the original charges, were served upon the Respondent more than five (5) days prior to the hearing on the charges.
3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.
4. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count I: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty, the Respondent drove and/or was in actual physical control of a motor vehicle while the alcohol concentration in his blood was 0.08 or more, in violation of Illinois Compiled Statutes Chapter 625, Section 5/11-501(a)(1).

The Police Board finds the Respondent guilty of this charge based on the credible testimony of Police Officer Gerald Koll and Dr. Karl Larsen, and the exhibits admitted into evidence, including but not limited to Superintendent Exhibit Nos. 6, 7, and 9. The Police Board does not find the Respondent's testimony to be credible.

The Board finds that Koll was sufficiently trained and experienced to administer breath tests, that the breathalyzer machine used to test the Respondent was working properly, and that

Koll administered the test properly. The Board finds that the results of the breath test were properly admitted into evidence without objection (Superintendent Exhibit No. 9).

Dr. Karl Larsen, a forensic scientist with the Illinois State Police, was properly qualified as an expert witness and there was no objection to either his qualifications or the expert opinions rendered at the hearing. Dr. Larsen gave his substantive legal opinion without objection that the Respondent's blood-alcohol concentration (BAC) at the time of the incident on the street ranged from 0.104 to 0.136 (a range was given to cover different rates of metabolism). There was no impeachment of Dr. Larsen's testimony, nor did the Respondent present any expert testimony during the hearing to rebut any of Dr. Larsen's opinions or findings.

The Board finds that testimony of Officer Koll and Dr. Karl Larsen is sufficient for the Superintendent to prove by a preponderance of the evidence that the Respondent had a BAC of 0.08 or more when the Respondent was involved in the incident with Richard Evans. Koll also testified that when he saw the Respondent on the street the Respondent had a strong odor of alcohol on his breath and that his eyes were watery and bloodshot.

During closing argument, the Respondent's counsel argued for the first time that the results of the Respondent's breathalyzer examination were inadmissible because the Superintendent had allegedly failed to lay a proper foundation for the admission of the Respondent's breathalyzer result, and that the results of the breath test should to be stricken (Tr. 629). The Respondent's counsel also argued in his initial legal memorandum that because the foundation was improper, the breathalyzer examination and all evidence of extrapolation of the result by Dr. Larsen must be stricken (page 1 of the Respondent's initial legal memorandum). The Respondent's counsel makes this argument even though there was no objection made to the sufficiency of the foundation for Koll's testimony or Dr. Larsen's testimony or when they

rendered their opinions at the hearing. The Respondent's counsel also made no objection to the sufficiency of the evidence at the closing of the Superintendent's case, or during or immediately after the Respondent's evidence had been presented.

The Police Board determines that, even assuming *arguendo* that the Superintendent's foundation for the admissibility of the Respondent's original breath test was insufficient (a position with which the Police Board disagrees), the Respondent's counsel waived that objection by not objecting to the admissibility of Superintendent Exhibit No. 9 or to the testimony presented by Koll and Dr. Larsen.

The Police Board finds that, even assuming *arguendo* there was no waiver of the legal issues raised by the Respondent's counsel for the first time in his closing argument, the Superintendent introduced sufficient evidence or testimony for the results of the Respondent's breathalyzer examination to be admitted and for Dr. Larsen to use that evidence for his backward extrapolation.

The Police Board determines that any deficiencies in the foundation of the evidence were either waived or went to the weight of the evidence.

The Police Board finds that machine used for the Respondent's breath test was properly calibrated and maintained, that Officer Koll had the requisite knowledge to operate the machine, that the machine was working properly on the date that the Respondent was given his breath test, and that Officer Koll properly performed and observed the test. Any deficiencies in the foundation went to the weight of the evidence. There was no cross examination of Koll which established any deficiencies in connection with the administration of the breath test to the Respondent, nor did the Respondent introduce any evidence in his case attacking the foundation for the Respondent's breath test results or the breath test extrapolation given by Dr. Larsen.

Therefore, the Board finds that the Superintendent did prove by a preponderance of evidence that the Respondent's blood-alcohol concentration was in excess of 0.08 at the time of the incident on the street.

5. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count II: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty, the Respondent drove and/or was in actual physical control of a motor vehicle while under the influence of alcohol, in violation of Illinois Compiled Statutes Chapter 625, Section 5/11-501(a)(2).

The Police Board incorporates by reference its findings regarding Count I above, where the Respondent is charged with driving with a blood-alcohol concentration of 0.08 or more, which is a more exacting standard than is charged in Count II.

In addition, the Board finds that the field-sobriety tests conducted by Koll establish that the Respondent was driving while under the influence of alcohol. Koll's testimony was that the Respondent showed alcohol impairment for the HGN test, the walk-and-turn test, and the one-leg-stand test. Koll further testified to the accuracy rate for each of these tests, and particularly the accuracy rate when, as in this case, Bell showed alcohol impairment on multiple tests (Tr. 93-94). See also Superintendent Exhibit No. 8, the Alcohol Influence Report.

The Police Board also finds credible the testimony of Koll and Dwight Lott that the Respondent exhibited signs of intoxication, which is evidence that the Respondent was driving under the influence of alcohol. The Police Board does not find credible the Respondent's denials that he was under the influence of alcohol.

6. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **not guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count III: The Superintendent did not prove by a preponderance of the evidence that on or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty and driving a vehicle, the Respondent followed another vehicle more closely than is reasonable and prudent, and without due regard for the speed of the other vehicle and the traffic upon the condition of the roadway, in violation of the City of Chicago Municipal Code, Section 9-40-150.

The citation issued to the Respondent for driving too closely was stricken with leave to reinstate in the Circuit Court of Cook County (see Superintendent Exhibit Nos. 17A and 17B). Evans testified that the Respondent's vehicle was sitting behind Evans's vehicle prior to the collision. The Respondent testified that his vehicle clipped Evans's bumper when the Respondent attempted to pull around Evans's vehicle. The Board finds that there is insufficient evidence presented to prove that the Respondent followed Evans's vehicle more closely than is reasonable and prudent, and without due regard for the speed of Evans's vehicle.

7. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance,

in that:

Count IV: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty, the Respondent drove a vehicle with a willful and/or wanton disregard for the safety of persons or property, in violation of Illinois Compiled Statutes Chapter 625, Section 5/11-503.

In the Circuit Court of Cook County the Respondent pled guilty to and was found guilty of Reckless Driving (defined as driving a vehicle with a willful or wanton disregard for the

safety of persons or property), a violation of 625 ILCS 5/11-503 (see Superintendent Exhibit Nos. 3 and 17B). In addition, the Respondent's own testimony at the hearing that his vehicle clipped Evans's vehicle also is evidence of his guilt on this charge

8. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count I: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty, the Respondent drove a motor vehicle while the alcohol concentration in his blood was 0.08 or more, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons set forth in Finding No. 4 above.

9. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count II: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty, the Respondent drove a motor vehicle while under the influence of alcohol, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons set forth in Finding No. 5 above.

10. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count III: On or about November 17, 2008, the Respondent pled guilty to and was found guilty of Reckless Driving, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons set forth in Finding No. 7 above.

11. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **not guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count IV: The Superintendent did not prove by a preponderance of the evidence that on or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty and driving a vehicle, the Respondent followed another vehicle too closely behind, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons set forth in Finding No. 6 above.

12. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count V: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent possessed a firearm although he had consumed alcoholic beverages, in

violation of General Order 07-01, Section III-C, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

The Board incorporates by reference Finding Nos. 4, 5, and 13. The Respondent's own testimony established that he was carrying his gun on or about August 31, 2008, when the incident with Richard Evans occurred. The Police Board finds that the Respondent was both legally intoxicated (BAC in excess of 0.08) and under the influence of alcohol, which caused him to be impaired while in possession of his firearm, and that therefore the Respondent violated the General Order.

13. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count VI: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent unnecessarily displayed his firearm to Richard Evans, and displayed his firearm to Richard Evans without legal justification, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

The Police Board finds credible the testimony of Richard Evans and Dwight Lott that the Respondent displayed his gun to Evans, and the Board finds that the Respondent displayed his weapon unnecessarily and without justification. The Board considered Evans misdemeanor convictions only in connection with potential bias toward the police, and the Board finds that Evans's testimony is not tainted by such bias.

The evidence presented did not establish that the Respondent directed profanities at Evans, and therefore there is insufficient evidence to find the Respondent guilty of this portion of the charge. Furthermore, Evans denied that the Respondent pointed his gun at Evans, and the

Board finds that there is insufficient evidence to find the Respondent guilty of threatening to shoot Evans.

The Police Board does not find credible the Respondent's version of events regarding the altercation with Evans.

14. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count VII: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent displayed his firearm to Richard Evans but failed to identify himself as a police officer until after Richard Evans had disarmed him, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

The Police Board finds credible the testimony of Evans and Lott that the Respondent did not identify himself as a police officer until after Evans had disarmed the Respondent. The Board does not believe the Respondent's testimony that he identified himself as a police officer before he was disarmed. The Police Board incorporates by reference Finding No. 13.

15. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count VIII: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent failed to properly secure his firearm in that he was disarmed by Richard Evans, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

The Board incorporates by reference Finding Nos. 12 and 13. The Board finds that the Respondent's impairment and unnecessary display of his weapon led to him being disarmed by Evans.

16. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count IX: On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty, the Respondent was intoxicated in the public way, thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

See the reasons set forth in Finding Nos. 4 and 5 above.

17. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

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

in that:

On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent possessed a firearm although he had consumed alcoholic beverages, in violation of General Order 07-01, Section III-C.

See the reasons set forth in Finding No. 12 above.

18. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

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

in that:

On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent unnecessarily displayed his firearm to Richard Evans, and displayed his firearm to Richard Evans without legal justification, thereby engaging in any unjustified verbal altercation with any person while on or off duty.

See the reasons set forth in Finding No. 13 above.

19. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 10: Inattention to duty,

in that:

On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent failed to properly secure his firearm in that he was disarmed by Richard Evans, thereby being inattentive to duty.

See the reasons set forth in Finding No. 15 above

20. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

Rule 15: Intoxication on or off duty,

in that:

On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, at approximately 2215 hours, while off duty, the Respondent was intoxicated.

See the reasons set forth in Finding Nos. 4 and 5 above

21. The Respondent, Police Officer Reginald Bell, Star No. 5611, charged herein, is **guilty** of violating, to wit:

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

in that:

On or about August 31, 2008, at or near 1158 South 59th Street, Chicago, while off duty, the Respondent unnecessarily displayed his firearm to Richard Evans and displayed his firearm to Richard Evans without legal justification.

See the reasons set forth in Finding No. 13 above.

22. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the evidence presented in defense and mitigation. The Police Board finds that the conduct of which the Board has found the Respondent guilty is not sufficiently serious to warrant a penalty of discharge. (The Board finds the Respondent not guilty of threatening to shoot Richard Evans.) The Board finds that a one-year suspension is the appropriate penalty in this case.

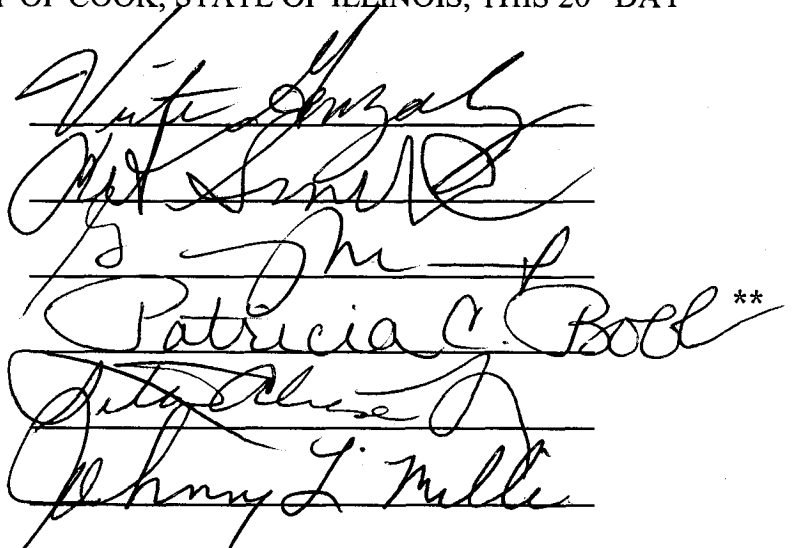
BY REASON OF THE FINDINGS set forth herein, cause exists for the suspension of the Respondent, Police Officer Reginald Bell, Star No. 5611, from his position as a police officer with the Department of Police, and from the services of the City of Chicago, for a period of one (1) year, from October 30, 2009, to and including October 29, 2010.

POLICE BOARD DECISION

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, Michael G. Berland, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and, in reaching its decision as to the penalty imposed, the Board has taken into account not only the facts of this case but also the Respondent's complimentary and disciplinary histories, copies of which are attached hereto as Exhibit A; and

IT IS HEREBY ORDERED that the Respondent, Police Officer Reginald Bell, Star No. 5611, as a result of having been found **guilty** of charges in Police Board Case No. 09 PB 2721, be and hereby is **suspended** from his position as a police officer with the Department of Police, and from the services of the City of Chicago, for a period from October 30, 2009, to and including October 29, 2010 (open year).

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 20th DAY OF MAY, 2010.



** Ms. Bobb dissents from Finding Nos. 4, 8, 16, and 20.

Attested by:

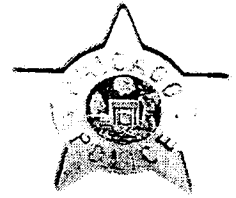


Executive Director
Police Board

Report Time: 1230 Hrs

Chicago Police Department

Personnel Division



Information Services Division
Data Warehouse
Produced by: PC0X977

Complimentary History

Name	Title	Star	Unit	Detail Unit	Emp Number
BELL, REGINALD V	9161	5611	007	376	13499

Achievements

Total No.

HONORABLE MENTION
DEPARTMENT COMMENDATION
COMPLIMENTARY LETTER
TOTAL AWARDS

11

1

2

14

PERSONNEL SERVICES



FEB 05 2009



CHICAGO POLICE DEPARTMENT

CR# 1019576



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DATE AND TIME OF THE REPORT. THIS



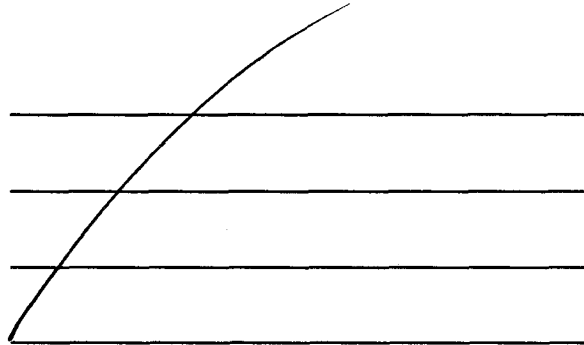
Chicago Police Department

CLEAR

Citizen & Law Enforcement Analysis & Reporting
System

DISSENT

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



RECEIVED A COPY OF

THE FOREGOING COMMUNICATION

THIS ____ DAY OF _____, 2010.

SUPERINTENDENT OF POLICE

INTERNAL AFFAIRS DIVISION
RECORDS SECTION

05-FEB-2009

TO: COMMANDING OFFICER UNIT 113

FROM: RECORDS SECTION
INTERNAL AFFAIRS DIVISION

SUBJECT: PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF:

NAME BELL, REGINALD V.

STAR 5611 UNIT 376 EMP 13499

SEX M RACE B

REFERENCE: COMPLAINT REGISTER NUMBER 1019576

THE PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF THE
ACCUSED HAS BEEN REQUESTED IN YOUR NAME BY:

RANK	NAME	STAR	UNIT
SUPV	CONNOLLY	019	113

RELATIVE TO A SUSTAINED FINDING IN THE INVESTIGATION OF THE
ABOVE REFERENCED COMPLAINT REGISTER NUMBER.

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

VERIFIED/PREPARED BY:

BERNETTE KELLY

NONE ☒
SEE ATTACHED ☐
SPAR ☐
CR ☐

FOR: COMMANDING OFFICER
RECORDS SECTION