IN THE MATTER OF CHARGES FILED )
AGAINST POLICE OFFICER MICHAEL W. ) Case No. 99-2386
WILLIAMS, STAR NO. 12379 ) CR #254121

### FINDINGS AND DECISION ON REMAND

### I. PROCEDURAL HISTORY

The Superintendent initiated the charges in this case on July 12, 1999. The Respondent, Police Officer Michael W.

Williams, along with three other officers (Carl Carter, Serena Daniels and Stafford Wilson) were all charged with a series of rule violations arising out of an incident that occurred on June 4, 1999. The Police Board investigated these charges and caused a hearing to be held before Thomas E. Johnson, Hearing Officer of the Police Board of the City of Chicago, on January 18, 19, 20, 21 and 26, 2000, and on February 3, 2000.

Following the hearing, the members of the Police Board read and reviewed the certified transcription of the proceedings of the hearing, as well as all of the exhibits admitted into evidence. Thomas E. Johnson, Hearing Officer, made an oral report and conferred with the Police Board about the evidence and the credibility of the witnesses before the Board rendered its decision. The Board then issued its written Findings and Decision on March 17, 2000. In its original Findings and Decision, the Board determined that Police Officer Michael Williams was guilty of certain charges and not guilty of others, and then ordered his discharge from the Chicago police force.

The four officers, including Police Officer Michael Williams, then sought administrative review of the Police Board's decision in the Circuit Court of Cook County. On June 5, 2001, Circuit Court Judge Aaron Jaffe vacated and remanded the Board's decision in Officer Williams' case, holding that he was entitled to a hearing separate from the other three officers.

On remand, the Police Board convened a hearing de novo, solely for Officer Williams, to be heard by Thomas E. Johnson, Hearing Officer of the Police Board. Mr. Johnson held the hearing on October 24 and 25, 2002, November 13, 2002, December 13, 2002, January 7 and 21, 2003. Following the hearing, the members of the Police Board read and reviewed the certified transcription of the proceedings of the hearing, as well as all of the exhibits admitted into evidence, and viewed the videotape of the testimony taken. Thomas E. Johnson, Hearing Officer, made an oral report and conferred with the Police Board about the evidence and the credibility of the witnesses before the Board rendered its decision.

As a result of its investigation of the charges, the Police Board of the City of Chicago finds and determines that:

- 1. The Respondent, Police Officer, Michael W. Williams, Star No. 12379, was at all times 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, was served upon the Respondent more than five (5) days prior to the hearing on the charges.

- 3. The hearing was conducted before Thomas E. Johnson,
  Hearing Officer of the Police Board of the City of Chicago, on
  the dates set forth above;
- 4. Throughout the hearing, Police Officer Michael W. Williams was present and represented by counsel.
- 5. The Board has reviewed all of the motions filed by the parties and the Hearing Officer's rulings on those motions. The Board agrees with the Hearing Officer and hereby adopts his rulings as the rulings of the Board. These motions consist of: the Superintendent's Motion to Admit Prior Testimony; Respondent's Motion to Bar the Testimony of Lt. Tom Kurowski or for Alternative Relief; and Respondent's Motion for a Recusal of Police Board Members and for a Change of Venue.

## II. THE BOARD'S DECISION ON THE WILLIAMS CASE

On June 4, 1999, Raymond Smith picked up Latanya Haggerty at her job, located on the 300 block of South Michigan Avenue. They drove through the South Side. At about 5:00 PM, Smith stopped his car in traffic at 88th or 89th and South Cottage Grove to talk to a friend of his. Beat 632 (with Officer Michael Williams driving and Officer Serena Daniels in the passenger seat) asked Smith for his license and insurance. While there is a dispute as to what Officer Williams and Smith said and did, there is no dispute that

Smith pulled forward without producing his license or insurance.

Officer Williams ran Smith's plates and found that they were not registered to the vehicle that Smith was driving.

Beat 632 then stopped Smith again about one block south on Cottage Grove. Again, Williams asked Smith for his license and insurance; it is undisputed that Smith drove off again without producing this paperwork. After carefully reviewing the testimony of Officer Williams and Smith, the Board concludes that Smith fled from the police because he did not want to be apprehended. Smith was in possession of marijuana when the stops occurred. He was on bond following an arrest for felony possession of marijuana with intent to distribute, which had occurred less than a month before. A condition of his bond was that he not commit any further criminal acts. To compound his problems, it was established at the hearing that Smith was driving on a suspended license. Two weeks earlier, he had been placed on supervision for driving on a suspended license. A condition of supervision was that he could not commit any further criminal acts. On June 4, 1999, Smith was in the process of committing two crimes: his possession of marijuana and his continued use of a vehicle without a valid driver's license. In light of all of this, the Board finds that Officer Williams and his partner acted properly in stopping and attempting to detain Smith.

The various charges leveled against Officer Williams do not pertain to these original stops. Rather, they focus on: 1)

whether Williams violated a direct order when he continued to chase Smith, after his supervisor (Sgt. Bednarek) told him to stop; 2) whether Officer Williams fired his weapon without justification at 95th and Cottage Grove, when Smith refused to stop his car, and further whether Williams lied in saying that Smith tried to run down Williams at 95th and Cottage Grove; and 3) whether Officer Williams did not report the discharge of his weapon promptly———specifically, until he was at Area 2 and the investigation was well underway. As such, our decision will focus on these three sets of issues.

Officer Williams is charged with other violations; however, the Superintendent was clear that he was not offering evidence to support these other rule violations, as the Board had previously found Officer Williams not guilty of these charges. In particular, the City has abandoned the following allegations: that Williams violated Rule 2 (Count III), Rule 2 (Count IV), Rule 6 (Count III) and Rule 8, see pages 880-884 of the transcript. These are claims that Officer Williams engaged in excessive force against Raymond Smith, when he ultimately was arrested at 64th and King Dr., and that Williams did not promptly summon medical attention for Ms. Haggerty, after she was shot. As such, the Police Board finds again that Officer Williams is not guilty of these charges.

### Officer Williams Ignored A Direct Order to Terminate His Chase

The evidence in this case is that Officer Williams pursued

Smith for about 15 blocks from the site of his second stop, without ever radioing in what was going on. He pursued Smith for 33 blocks (to 95th and Cottage Grove) without ever acknowledging he was engaged in a chase. Indeed, his partner specifically denied that any chase was in progress, when queried by the dispatcher. During the hearing, however, at p. 1143, Officer Williams admits that, in fact, this was a chase governed by General Order 97-3-2, beginning right after Smith first pulled away from the officers at 88th or 89th and Cottage Grove.

Officer Williams says he did not radio in this chase because it was Officer Daniels' responsibility to do so, as the passenger in the car. He then says that Officer Daniels did make radio reports of the chase, as early as when Smith and the officers were traveling westbound on 95th Street, but these transmissions were not picked up by the OEC tape. Finally, he contends that he thought Smith was going to stop, as he repeatedly slowed or pulled to the side, and there was no need to report.

The problem for Officer Williams is the text of General Order 97-3-2. It does not place responsibility solely on the passenger officer to report. Nor does it create an exception, if it looks like the car being chased will stop. That is just part of the information to be communicated. As for Daniels' unrecorded transmissions, Williams' testimony is uncorroborated. Daniels did not testify at the hearing and Officer Wilson does not claim to have heard such transmissions. The supposed Daniels'

transmissions were also not heard by the dispatcher and do not appear on the tape. The Board therefore finds that these transmissions did not occur.

Officer Williams chased Smith all the way to 95th and Cottage Grove, where he and two other officers fired their weapons at Smith. Smith escaped and the chase continued to 64th and King Dr.---a distance of at least 30 more blocks, which took an additional five to six minutes. Initially, Officer Daniels called out intersections she was passing, but from 90th and St. Lawrence to 64th and King Dr., there was radio silence from Officer Williams and the other officers involved in the chase.

During this period, Sgt. Bednarek said on the air that if the chase was for traffic, it should be terminated. The dispatcher (Luther Conerly) repeats this once. A short time later, the dispatcher tells Officer Williams to terminate the chase, without any qualification. In response to this last direction, Officer Daniels, sitting beside Officer Williams, radios back "10-4", i.e. acknowledged the dispatcher's direction. Nonetheless, the chase continued for many blocks and ended in the needless death of Latanya Haggerty. There are thus three separate orders to terminate the chase, all of which are not only ignored but the last of which is positively acknowledged.

Officer Williams claims that Officer Daniels had the sole responsibility to communicate with OEC regarding the chase and any terminate order, but that is not how he was trained and it is

not what General Order 97-3-2 says. Officer Williams then says that Officer Daniels reported "shots fired" while they were at 95th and Cottage, and further made other transmissions during the chase that were not picked up on the OEC tape. Given her report of "shots fired", Officer Williams contends the chase was not merely for a traffic infraction and therefore could be pursued. Officer Williams obtains some support from Sgt. Bednarek on this point, as Sgt. Bednarek testified that at least one of his transmissions was not picked up on the OEC tape and further testified that during the chase, there was an "open key" in the radio zone, i.e. some officer's transmit key was depressed inadvertently and interfered with communication.

The Board has given careful consideration to the potential problems with communication during the chase. It concludes, however, based on the weight of the evidence, that Officer Williams did not honor the order to terminate the chase and violated General Order 97-3-2 during the chase. This is true for several reasons:

First, even if some of Officer Daniels' communications were cut off, e.g. that shots were fired at the police and they were chasing a person wanted for attempt murder, it is apparent from the dispatcher and Sgt. Bednarek's transmissions that they do not understand this to be the case. Indeed, Officer Daniels 10-4'd the unqualified terminate order. Any reasonable supervisor would have concluded, as Sgt. Bednarek did here, that the chase was

over. Moreover, no other officers went onto the radio to say that the situation was more serious than the supervisor understood. In these circumstances, it was incumbent on Officer Williams to provide more information, to make sure his situation was adequately communicated. The evidence shows that Officer Williams made no attempt whatsoever to keep his supervisor informed of the situation, as it developed, as Department policy requires.

Rather, according to both parties' transcription of the tape, and the testimony of Sgt. Bednarek and Luther Conerly, the chase continued with long periods of silence from Officer Williams and his partner.

Second, Sgt. Bednarek testified that his communication was not heard because Officer Daniels must have been talking over him. If this is the reason for missing communications from Officer Williams and Officer Daniels, not much could have been missed. The dispatcher had cleared the air once he began communicating with Beat 632. Other officers did not come on the radio. Only the dispatcher, Sgt. Bednarek and Beat 632 were speaking on the air. During most of the chase, there is nothing but silence on the air.

Third, Luther Conerly, whom the Board found to be very credible, testified that he was aware that radio communication can be imperfect but that in 27 years, he had not ever missed an important radio transmission. Thus, the communication problem that Officer Williams described could not have been very

substantial.

Fourth, General Order 97-3-2 provides on page 3, par. 4(a) that if radio communication with OEC is lost, the pursuit must be terminated. Here, Sgt. Bednarek testified that this was one of the reasons for his decision to terminate the chase. Based on the terms of the General Order, Officer Williams should have known that if he was having problems with the OEC system, he should have terminated the chase.

In the end, the Board is convinced that Officer Williams pressed ahead in his chase of Smith, without adequately advising supervisory staff of the information required by General Order 97-3-2. The result was that neither supervisory staff nor other beat cars could assist Officer Williams, and the four young officers involved in the chase made some very poor decisions on their own that led to the death of Ms. Haggerty.

# Officer Williams Fired His Weapon Without Justification at 95thand Cottage Grove

The evidence shows that Beats 632 and 634 cornered Smith at the busy intersection of 95th and Cottage Grove during rush hour. Rather than get out of his car and surrender, Smith maneuvered his car from between the two police vehicles, while all four officers were outside of their cars, pointing their guns at Smith. Officer Williams fired one shot at Smith. He does not say he was intending to disable the vehicle, but rather to hit Smith. He says he did so because Smith tried to run him down with his vehicle from a distance of five to ten feet away. If this was

true, the use of deadly force might be justified under General Order 86-8.

The Board does not credit Williams' testimony that Smith put him at risk of death or great bodily harm. First, three civilian witnesses (Taran Williams, Khaled Salma and Abdel Jebrin) all testified convincingly that Officer Williams was not in danger of any injury from Smith's car. Each of these witnesses was in a good position to see what happened and all of them were disinterested. The two that testified live at the hearing were quite credible on the witness stand. (A transcript of the third witness' prior testimony was admitted into the record.) There are no civilian witnesses that corroborate Officer Williams' account of the incident.

Raymond Smith and Darryl Abner (the CTA bus driver) also testified that Smith's car never came close to hitting Officer Williams. The Board, however, does not base its decision on their testimony, as Mr. Smith's credibility is seriously impugned by his irresponsible conduct on June 4, 1999 and Mr. Abner's testimony was suspect. He could not accurately recall even basic facts that occurred, e.g. he said that Smith was driving a truck, that he shot at the police and that Smith left, going eastbound on 95th Street.

Second, the physical evidence does not support Officer
Williams. There are no skid marks at 95th and Cottage Grove, and
Smith did not hit a car or anything else, as he exited this

intersection. Thus, it is difficult to believe he was accelerating the car and maneuvering it at Officer Williams in the manner the officer described. Further, one of Officer Daniels' two bullets appears to have lodged in the rear wheel well of Smith's car, suggesting that she was firing from the side of Smith's car and not the back, as Officer Williams testified. There is a bullet hole in the front hood of Smith's car that could be from Officer Williams' gun, but the preponderance of evidence supports the view that this bullet hole was made as Smith backed his car away from Officer Williams, in the manner that all of the civilian witnesses say occurred.

Third, James Marsh, the City's expert (and the only expert to testify at the hearing) was clear that, as an objective matter, Officer Williams had time to move away from the car rather than shoot, even if the car started toward him from only three to eight feet away. Moreover, Mr. Marsh convincingly testified that Officer Williams' decision to fire his weapon was inappropriate because of the crowded intersection, the passenger in the car, the inaccuracy inherent in shooting while jumping (as Williams says he did), the danger of ricochets, and the unlikelihood of stopping the moving car, even if Officer Williams had killed the driver with his bullet.

The evidence shows, by a preponderance, that Officer Williams was not justified in using deadly force at 95th and Cottage Grove. His decision to shoot his weapon was not in

accordance with General Order 86-8 or good police practice.

Officer Williams Did Not Promptly Report the Shooting at 95th and

Cottage Grove

weapons discharge.

No one disputes that General Order 99-01 requires that an officer who discharges his or her weapon must immediately notify OEC and provide all relevant information about the shooting.

Officer Williams testified that he heard Officer Daniels report "shots fired", as he ran back to his car at 95th and Cottage Grove, and that this constituted the required report of the

There is a garbled transmission on the OEC tape. Officer Williams says this is Officer Daniels' report, but even now, it cannot be made out on the tape. On the day in question, neither the dispatcher nor Sgt. Bednarek heard the call of "shots fired". Indeed, Officer Williams was unable to produce a single witness to say they heard this call on June 4, 1999. Moreover, it is clear that none of the other Sixth District officers listening to the radio heard it, or surely they would have notified the dispatcher that he had missed the report.

Even if Officer Daniels called in "shots fired", her report falls far short of what General Order 99-01 requires. She did not say who fired the shots, where this occurred, why it occurred, whether anyone was injured or killed, or what transpired after the shots were fired. No supervisor could make an informed decision about what to do based on her report, even assuming it

was heard.

officer Williams contends that he was driving Beat 632 and it is the custom at the police department for the passenger officer to handle OEC communications and reports. The General Order, however, places the responsibility on all officers to report and where, as here, Officer Daniels does not report the weapons discharge (or makes an inadequate report), the Board finds that Officer Williams should have spoken into his microphone (four inches from his mouth) to make the report.

Indeed, at page 84 of the transcript, Officer Williams concedes that if Officer Daniels made an inadequate report, he was obligated to do so. It is at least 30 blocks from 95th and Cottage Grove to 64th and King Dr. It took the officers five to six minutes to travel this distance. There was plenty of time for Officer Williams to provide some information to his superiors about what had transpired.

Much later, after Ms. Haggerty had been killed and Officer Williams was on the scene at 64th and King Dr., the Board finds that Officer Williams still did not report that he had fired his weapon at 95th and Cottage Grove. To be sure, Officer Williams says he told Sgt. Bednarek about the incident at 95th and Cottage Grove, but Sgt. Bednarek denies this and the Board credits his denial.

The evidence shows that Detective Baker was informed, at 64th and King Dr., that only one shot had been fired----the shot

that killed Ms. Haggerty. Detective Baker then found the bullet hole in Smith's rear wheel well. Later, Detective Baker learned from another detective, who was transporting Smith, about Smith's account of the shooting at 95th and Cottage Grove. This information was relayed to Lt. Cadogan, who confronted the four officers, including Officer Williams, in Area 2, about what had occurred. It was only at this time, according to Lt. Cadogan, that the officers advised him about the shooting at 95th and Cottage Grove. In addition to the testimony of Detective Baker and Lt. Cadogan, Commander Davis and Sgt. O'Donnell testified that they were present at 64th and King Dr., and were not told of the shooting at 95th and Cottage Grove. The Board credits the testimony of Detective Baker, Lt. Cadogan, Commander Davis, Sqt. O'Donnell and Sqt. Bednarek over that of Officer Williams on this point and finds that Officer Williams violated the General Order by not providing a prompt report of the discharge of his weapon.

### III. THE BOARD'S FINDINGS ON THE CHARGES AGAINST OFFICER WILLIAMS

Based on the foregoing Decision, the Respondent Police Officer Michael Williams, Star No. 12379, is hereby found:

- A. <u>Guilty</u> of violating Rule 2 (Count I), to the extent that it charges him with failure to adhere to the provisions of General Order 99-01 V (A)(1)(a) and General Order 99-01 V (B)(1), requiring certain reports following the discharge of a weapon;
- B. Not Guilty of violating Rule 2 (Count I), to the extent that it charges him with failure to adhere to the provisions of

General Order 99-01 V (A)(1)(e) and General Order 99-01 V (A)(3), requiring certain reports following the discharge of a weapon;

- C. <u>Guilty</u> of violating Rule 2 (Count II), for violating a direct order to terminate a vehicle chase;
- D. Not Guilty of violating Rule 2 (Count III), charging him with engaging in excessive force against Raymond Smith;
- E. <u>Not Guilty</u> of violating Rule 2 (Count IV), charging him with failure to immediately summon medical attention for Latanya Haggerty;
- F. <u>Guilty</u> of violating Rule 2 (Count V), for failing to adhere to the provisions of General Order 86-8 IV (E), when he fired his weapon without justification at a fleeing vehicle;
- G. <u>Guilty</u> of violating Rule 2 (Count VI), to the extent it charges him with failing to adhere to the provisions of General Order 99-01 V (A) (3) and V (B) (1), requiring certain reports following the discharge of a weapon but only to the extent that these reports involved the incidents that occurred at 95th and Cottage Grove on June 4, 1999;
- H. Not Guilty of violating Rule 2 (Count VI), to the extent it charges him with failing to adhere to the provisions of General Order 99-01 V (A)(3) and V (B)(1), requiring certain reports following the discharge of a weapon but only to the extent that these reports involved the incidents that occurred at 64th and King Drive on June 4, 1999;
  - I. Guilty of violating Rule 2 (Count VII) for giving false

information in his OPS statement, when he stated that Raymond Smith used his vehicle as a weapon against him;

- J. <u>Guilty</u> of violating Rule 2 (Count VIII), when he fired his weapon without justification at a fleeing vehicle;
- K. <u>Guilty</u> of violating Rule 6 (Count I), to the extent that it charges him with failure to adhere to the provisions of General Order 99-01 V (A)(1)(a) and General Order 99-01 V (B)(1), requiring certain reports following the discharge of a weapon;
- L. Not Guilty of violating Rule 6 (Count I), to the extent that it charges him with failure to adhere to the provisions of General Order 99-01 V (A) (1)(e) and General Order 99-01 V (A)(3), requiring certain reports following the discharge of a weapon;
- M. Guilty of violating Rule 6 (Count II), for violating a direct order to terminate a vehicle chase;
- N. Not Guilty of violating Rule 6 (Count III), charging him with failure to immediately summon medical attention for Latanya Haggerty;
- O. <u>Guilty</u> of violating Rule 6 (Count IV), for failing to adhere to the provisions of General Order 86-8 IV (E), when he fired his weapon without justification at a fleeing vehicle;
- P. <u>Guilty</u> of violating Rule 6 (Count V), to the extent it charges him with failing to adhere to the provisions of General Order 99-01 V (A) (3) and V(B) (1), requiring certain reports following the discharge of a weapon but only to the extent that

these reports involved the incidents that occurred at 95th and Cottage Grove on June 4, 1999;

- Q. Not Guilty of violating Rule 6 (Count V), to the extent it charges him with failing to adhere to the provisions of General Order 99-01 V (A)(3) and V(B)(1), requiring certain reports following the discharge of a weapon but only to the extent that these reports involved the incidents that occurred at 64th and King Drive on June 4, 1999;
- R. Not Guilty of violating Rule 8, charging him with engaging in excessive force against Raymond Smith;
- S. <u>Guilty</u> of violating Rule 14, for giving false information in his OPS statement, when he stated that Raymond Smith used his vehicle as a weapon against him; and
- T. <u>Guilty</u> of violating Rule 38, when he fired his weapon without justification at a fleeing vehicle.

Respectfully submitted,

Thomas E. Johnson Hearing Officer Page 19 - Findings and Decision Police Officer Michael W. Williams Star No. 12379

### <u>DECISION</u>

The members of the Police Board, having read and reviewed the certified copy of the transcription of the hearing, having received the oral report of the Hearing Officer, Thomas A. Johnson, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopt 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 history, which is attached hereto as Exhibit A; and

IT IS HEREBY ORDERED that the respondent, Police Officer Michael Williams, Star No. 12379, as a result of having been found guilty of the charges in Police Board Case 99-2386, is hereby separated and discharged from his position as a Police Officer, and from the services of the City of Chicago.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS TO DAY OF MARCH, 2003.

Lew Lar Executive Director, Police Board Page 20 - Findings and Decision Police Officer Michael W. Williams Star No. 12379

# DISSENT

The following members of the Police Board hereby dissent from the decision of the majority of the Board. While concurring in the finding of guilt, they would support a penalty less severe than discharge.

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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(S) ADMINISTERED TO THE SUBJECT ACCUSED, FOR THE PAST FIVE (5) YEARS.

VERIFIED/PREPARED BY:

SEE

PATRICIA JOHNSON

EXA

FOR: COMMANDING OFFICER
RECORDS SECTION
INTERNAL AFFAIRS DIVISION



A172 PREVIOUS DISCIPLINARY ACTION SUMMENT FUNCTION DPFV
NO MORE CLOSED - SUSTAINED CR'S (PAST 5 YEARS) 05 SP'S (PAST 1 YEAR)
SSN NAME LAST WILLIAMS FIRST SCHAEL MIA STAR 12379
UNIT 306 EMP NO 308546 SEX M RACE N DOB 26 SE 62 DATE APPTD 04 AUG 97
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## CHICAGO POLICE DEPARTMENT COMPLIMENTARY HISTORY

DATE

29 June 1999

NAME: Williams.	Michael	RANK PO	_ ssn	STAR_	2379 UNIT 0
SPECIAL AWARDS		000			
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DEPARTMENT COMMENDATIONS:		900			
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PERSONNEL SERVICES



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Personnel Division Records Section-Rm 803

Completed By: Demetra Berry

Pax 0342 - Bell 747-5549

CHICAGO POLICE DEPARTMENT