

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTERS OF CHARGES FILED AGAINST)
)
POLICE OFFICER BERNARD K. KELLY,) No. 11 PB 2778
STAR No. 5303, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
POLICE OFFICER OTIS L. HOSLEY,) No. 11 PB 2779
STAR No. 18672, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
POLICE OFFICER TIMOTHY P. MARTIN,) No. 11 PB 2780
STAR No. 18614, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) (CR No. 1016302)
RESPONDENTS.)

FINDINGS AND DECISIONS

On December 1, 2011, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Bernard K. Kelly, Star No. 5303, and Police Officer Otis L. Hosley, Star No. 18672, and Police Officer Timothy P. Martin, Star No. 18614, (hereinafter sometimes referred to as “Respondents”), recommending that the Respondents be discharged from the Chicago Police Department for violating several Rules of Conduct.

Michael G. Berland, Hearing Officer of the Police Board, ordered the cases consolidated for purposes of discovery and hearing without objection from the parties. The Police Board caused a hearing on these charges against the Respondents to be had before Hearing Officer Berland on April 16-18, May 8 and 15, and July 31, 2012.

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 decisions.

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. Each Respondent was at all times mentioned herein employed as a police officer of the Department of Police of the City of Chicago.
2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, were served upon each Respondent more than five (5) days prior to the hearing on the charges.
3. Throughout the hearing on the charges each Respondent appeared in person and was represented by legal counsel.
4. The Respondents filed a Motion to Strike and Dismiss, requesting that the charges filed against them be stricken and the case dismissed for the following reasons: (a) the failure to bring timely charges violates the due process rights of the Respondents; (b) the charges should be barred by laches; (c) the investigation by the Independent Police Review Authority (IPRA) violated protections bestowed by Chicago Police Department General Orders; and (d) the IPRA investigation violated Section 2-57-070 of the Municipal Code of Chicago. The Respondents' Motion to Strike and Dismiss is **denied** for the reasons set forth below.

a. Due Process. Citing *Morgan v. Department of Financial and Professional Regulation*, 374 Ill.App.3d 275, 871 NE2d 178 (1st Dist 2007), and *Lyon v. Department of Children and Family Services*, 209 Ill.2d 264 (2004), the Respondents claim that the constitution precludes such a lengthy delay in the investigation of the Respondents' alleged misconduct. *Morgan* and

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

Lyon, however, involved a delay in *adjudication* of allegations of misconduct after the respective plaintiffs had been suspended from their jobs—not delay in the *investigation* leading to the initial suspensions. *Morgan* involved a clinical psychologist accused of sexually abusing a patient, where the state took fifteen months to decide the case after the suspension. *Lyon* involved a teacher accused of abusing students where the director of DCFS failed to honor specific regulatory time limits for decision-making.

The Respondents' cases before the Police Board are different from *Morgan* and *Lyon*, as the Respondents in their Motion are complaining about the delay from the time of the incident to the bringing of charges, not the time it took to try them once the charges were filed and they were suspended without pay. This difference is important because the due-process analysis in *Morgan* and *Lyon* is triggered by the state's decision to deprive the psychologist and teacher of their jobs, thus preventing them from working for prolonged periods of time before they were accorded the opportunity to have a hearing and decision to clear their names. Here, the Respondents were working and were being paid a full salary and benefits during the entire period of the investigation and up to the filing of charges with the Police Board. The Due Process clause precludes a state or local government from "depriving any person of life, liberty or property [i.e. a public job] without due process of law." Here, the Respondents were not suspended without pay until *after* the charges against them were filed. Therefore, the Respondents were *not* deprived of a job prior to the filing of charges, and any delay in bringing the charges is therefore *not* a violation of the Respondents' due process rights.

We recognize that the Circuit Court of Cook County, in *Orsa v. City of Chicago Police Board*, 11 CH 08166 (March 1, 2012) found that the protections of the Due Process clause are triggered by an unreasonable delay in the investigation of a matter, even if the officer retains his

job, salary and benefits during the investigation. The Court cited *Stull v. The Department of Children and Family Services*, 239 Ill.App.3d 325 (5th Dist. 1992). *Stull* involved a teacher accused of sexually abusing two of his students. The statute and regulations governing DCFS investigations of child abuse provided strict time limits on the length of any investigation and on the time within which a hearing must be conducted and a decision entered if the adult found to have abused children sought a hearing. The *Stull* court found that DCFS had grossly violated these time limits and required expungement of the adverse finding against the teacher, even though the administrative appeal found that he had been properly “indicated” as an abuser. The *Stull* court did find that the teacher’s due process rights had been infringed, but it was not because of a delay in DCFS’s investigation of the case. The court held that due process was violated by the more than one-year delay in adjudicating the teacher’s appeal because during that period of time there was an indicated finding of child abuse lodged against the teacher and this finding prohibited him from working, *see* 239 Ill.App.3d at 335, thus triggering the kind of deprivation that is not present in the Respondents’ cases. *Cavaretta v. Department of Children and Family Services*, 277 Ill.App.3d 16 (2nd Dist. 1996), also cited by the Circuit Court, is identical to *Stull*, which it relies upon. The *Cavaretta* court was quite careful to find that due process was not implicated until DCFS (after its investigation was complete) “indicated” the teacher as a child abuser and placed the teacher’s name in the state’s central registry, which directly deprived the teacher of the ability to work.¹

b. Laches. The Respondents argue that the doctrine of laches should apply here in

¹ The Circuit Court also cited *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), but only in general terms. There was no issue in *Loudermill* that a deprivation, for due process purposes, had occurred as it involved the discharge of school district employees.

supporting the dismissal of charges, for they argue that the delay in bringing the charges against them resulted in prejudice to them in losing their employment and in hampering their ability to locate witnesses and counter evidence years after the fact to defend against the charges.

Laches is an equitable doctrine that is used to prevent a party in litigation from enforcing a right it otherwise has because it has not been diligent in asserting this right and the opposing party has been prejudiced by the delay. Private parties and public agencies are not on an equal footing when it comes to the application of the laches doctrine. Many cases, including *Van Milligan v Board of Fire and Police Commissioners of the Village of Glenview*, 158 Ill.2d 85, 630 NE2d 830 (1994), hold that laches can only be invoked against a municipality under “compelling” or “extraordinary” circumstances. In addition, the party that invokes the doctrine of laches has the burden of pleading and proving the delay and the prejudice. *Hannigan v. Hoffmeister*, 240 Ill. App. 3d 1065, 1074 (1st Dist. 1992). Under Illinois law, the Respondents must demonstrate that the Superintendent’s unreasonable delay caused material prejudice to the Respondents; the Respondents must submit evidence in support of their claims of prejudice (for example, testimony that witnesses could no longer recall what happened, or affidavits stating that records had been lost or destroyed during the intervening years). *Nature Conservancy v. Wilder*, 656 F.3d. 646 (7th Cir. 2011).

The Respondents have made no specific showing of any prejudice that resulted from a delay in bringing charges before the Police Board. They argue that had the charges been brought in a timely manner, they would have been able to conduct their own investigation and locate witnesses who could have been favorable to their defense, as well as witnesses whose memories had not faded with the passage of time. The Respondents made no showing that they attempted to locate further witnesses or evidence but were unable to do so because of the passage of time.

Consequently, any argument that there may be other witnesses out there, or that material evidence was overlooked and is now unavailable, is speculative.

The Respondents here have not demonstrated any “compelling” or “extraordinary” circumstances warranting a dismissal of their cases, and have not carried the burden of proving that they were prejudiced by a delay in the bringing of charges.

c. General Order 93-03. The Respondents argue that the Police Department’s own General Order requires a prompt and thorough investigation, and that the Department failed to fully comply with the provisions of this General Order.

In fact, the General Order does not set an absolute deadline within which investigations must be completed, but provides that if they last more than 30 days, the investigator must seek and obtain an extension of time within which to complete the investigation. Here, the investigator regularly did seek, and was granted, extensions of time, in compliance with the General Order.

Once the investigator completed the process of gathering evidence, the matter is reviewed at several levels to ensure that a thorough investigation was conducted, as required by the General Order.

There was no substantial violation of the General Order in this case. Even if, however, the General Order was violated, there is no provision in the General Order requiring the extraordinary remedy of dismissal of the case as a sanction for such a violation. The Board declines to extend the reach of the General Order in this manner.

d. Municipal Code Section 2-57-070. The Code provides that if the Chief Administrator

of the Independent Police Review Authority (IPRA) does not conclude an investigation within six months after its initiation, the Chief Administrator shall notify the Mayor, the City Council, the complainant, and the accused officer. The Respondents argue that IPRA did not comply with this provision of the Code.

The Superintendent responded that notification was not made because the investigation was confidential. Even if this provision of the Code was violated, neither Section 2-57-070 nor anything else in the Code states that dismissal of a Police Board case is the sanction for failing to make the report to the Mayor, the City Council, the officer, and the complainant. It is unpersuasive that such an extreme sanction would automatically follow, particularly where the alleged misconduct under investigation is as serious as it is here. Without any basis or cited authority, and none is given by the Respondents, there is no basis for the Board to dismiss the charges pursuant to Section 2-57-070, and the Board declines to extend the reach of the Code in this manner.

5. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about May 6, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly received a complaint relative to misconduct, in that Terrance Whetstone made allegations to Officer Kelly that Officer Otis Hosley and Officer Timothy Martin had paddled him, and Officer Kelly failed to notify a supervisory member and prepare a written report to the commanding officer containing the information received, observations made, and any action taken, in violation of General Order 08-01-02 (formerly General Order

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

93-03-02B), thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph nos. 8 and 16 below, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Kelly received a complaint of misconduct that required him to notify a supervisor and prepare a written report was insufficient to satisfy the Superintendent's burden of proof.

6. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly pushed Marquis Toney against shelves and/or a wall, and/or struck him on the stomach and/or face, and/or kicked him on the buttocks, and/or held him by the arms and/or hands while Officer Otis Hosley and/or Officer Timothy Martin paddled him, thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 below, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Kelly pushed, struck, kicked, or held Marquis Toney was insufficient to satisfy the Superintendent's burden of proof.

7. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, charged herein, is **not guilty** of violating, to wit:

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count III: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly stated to Terrance Whetstone "shut the fuck up," or words to that effect, and/or stated that he would "beat" him, or words to that effect, thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 below, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Kelly made the above statements to Terrance Whetstone was insufficient to satisfy the Superintendent's burden of proof.

8. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count IV: On or about November 5, 2009, during a statement with the Independent Police Review Authority, Police Officer Bernard K. Kelly falsely stated that Assistant Principal Henry Harden did not give him a handwritten note during a meeting on or about May 6, 2008, or words to that effect, and/or falsely stated he has never seen Officer Otis Hosely and/or Officer Timothy Martin paddle a student, or words to that effect, and/or falsely stated he did not punch, slap, and/or kick Marquis Toney inside a storage room/closet at Wendell Phillips Academy, or words to that effect, and/or falsely stated he did not tell Terrance Whetstone to "shut the fuck up," or words to that effect, and/or falsely stated he did not hold Marquis Toney by the arms and/or hands while Officer Hosely and/or Officer Martin paddled him, or words to that effect, thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 below, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Kelly made any of the false statements attributed to him in this count was insufficient to satisfy the Superintendent's burden of proof. Regarding the handwritten note, Assistant Principal Harden's testimony on cross-examination was that he could not remember to whom he gave the note prepared by Shameika Thomas, and that he may just have left it on the desk. Harden testified "I'm not sure. It's been awhile." (Tr. 435.)

9. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count V: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly witnessed and/or participated in Officer Otis Hosely and/or Officer Timothy Martin striking Terrance Whetstone, Marquis Toney, Robert Mansheck, and/or Jacque Kindle on or near the buttocks and/or thighs with a paddle, thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 below, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Kelly witnessed or participated in any paddling or striking of Terrance Whetstone, Marquis Toney, Robert Mansheck, and/or Jacque Kindle was insufficient to satisfy the Superintendent's burden of proof.

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

10. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, charged herein, is **not guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,
in that the Superintendent did not prove by a preponderance of the evidence the following
charge:

On or about May 6, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly received a complaint relative to misconduct, in that Terrance Whetstone made allegations to Officer Kelly that Officer Otis Hosley and Officer Timothy Martin had paddled him, and Officer Kelly failed to notify a supervisory member and prepare a written report to the commanding officer containing the information received, observations made, and any action taken, in violation of General Order 08-01-02 (formerly General Order 93-03-02B).

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference.

11. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, charged herein, is **not guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,
in that the Superintendent did not prove by a preponderance of the evidence the following
charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly pushed Marquis Toney against shelves and/or a wall, and/or struck him on the stomach and/or face, and/or kicked him on the buttocks, and/or held him by the arms and/or hands while Officer Otis Hosley and/or Officer Timothy Martin struck him with a paddle, thereby disrespecting or maltreating any person, while on or off duty.

See the findings set forth in paragraph no. 6 above, which are incorporated here by reference.

12. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, charged herein, is **not guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,
in that the Superintendent did not prove by a preponderance of the evidence the following
charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly stated to Terrance Whetstone “shut the fuck up,” or words to that effect, and/or stated that he would “beat” him, or words to that effect, thereby disrespecting or maltreating any person, while on or off duty.

See the findings set forth in paragraph no. 7 above, which are incorporated here by reference.

13. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, charged herein, is **not 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 the Superintendent did not prove by a preponderance of the evidence the following
charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly pushed Marquis Toney against shelves and/or a wall, and/or struck him on the stomach and/or face, and/or kicked him on the buttocks, and/or held him by the arms and/or hands while Officer Otis Hosley and/or Officer Timothy Martin paddled him, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

See the findings set forth in paragraph no. 6 above, which are incorporated here by reference.

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

14. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, charged herein, is **not 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Bernard K. Kelly stated to Terrance Whetstone “shut the fuck up,” or words to that effect, and/or stated that he would “beat” him, or words to that effect, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

See the findings set forth in paragraph no. 7 above, which are incorporated here by reference.

15. The Respondent, Police Officer Bernard K. Kelly, Star No. 5303, charged herein, is **not guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

On or about November 5, 2009, during a statement with the Independent Police Review Authority, Police Officer Bernard K. Kelly falsely stated that Assistant Principal Henry Harden did not give him a handwritten note during a meeting on or about May 6, 2008, or words to that effect, and/or falsely stated he has never seen Officer Otis Hosely and/or Officer Timothy Martin paddle a student, or words to that effect, and/or falsely stated he did not punch, slap, and/or kick Marquis Toney inside a storage room/closet at Wendell Phillips Academy, or words to that effect, and/or falsely stated he did not tell Terrance Whetstone to “shut the fuck up,” or words to that effect, and/or falsely stated he did not hold Marquis Toney by the arms and/or hands while Officer Hosely and/or Officer Martin paddled him, or words to that effect.

See the findings set forth in paragraph no. 8 above, which are incorporated here by

reference.

16. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Otis L. Hosley struck Terrance Whetstone, Marquis Toney, Jacque Kindle, and/or Robert Mansheck on or near the buttocks and/or thighs with a paddle, thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

The Superintendent failed to prove by a preponderance of the evidence that Officers Otis Hosley, Timothy Martin, and Bernard Kelly struck or paddled Terrance Whetstone (sometimes referred to as "Terrance"), Jacque Kindle, Robert Mansheck, and Marquis Toney (sometimes collectively referred to as "Complainants")

Officers Hosley, Martin, and Kelly were working as on-duty police officers at Wendell Phillips Academy on or about May 5, 2008. The Complainants were sent to the police room at Wendell Phillips Academy by Assistant Principal Henry Harden because there had been a fight outside the school. Kindle testified that two of the individuals who had participated in the fight outside the school, including Toney, initially lied to the police as to whether or not they had been involved in the fight. Complainants testified that they were struck or paddled in the police room in May 2008 by one or more of the officers charged in this case.

The Complainants testified that they did not tell any person at the school on May 5, 2008,

that they were paddled or struck by any of the police officers assigned to the school. The Complainants did not see a doctor or school nurse for any injuries, even though they each testified that they had been beaten approximately twenty and thirty times with large paddles. Kindle, Mansheck, and Toney all testified they had been paddled by unknown officers in the school on dates prior to the alleged May 5, 2008, incident. Complainants testified that they had not complained about the earlier paddling to any teacher, school nurse, the school principal or any other administrator, to their parents, or to the police.

Members of the Whetstone family, including Terrance's mother, Tammy Whetstone (sometimes referred to as "Tammy"), and his sister, Shameika Thomas, testified that shortly after the alleged incident on May 5 they had a meeting at the school with Assistant Principal Harden and Officers Hosley, Martin, and Kelly. Tammy and Thomas testified they complained at the meeting that Terrance had been paddled by the officers.

Tammy Whetstone testified that Thomas said at the meeting that the officers could not go around hitting other persons' kids. Tammy testified that Officer Kelly responded by stating they apparently could do so. Tammy Whetstone further testified that Officer Kelly stated at this meeting that he beat the students that and he enjoyed it. Thomas corroborated Tammy's testimony that she told the officers that they could not beat up kids with paddles. She said that one of the officers told her that they apparently could do so. Both Tammy and Shameika also testified that the officers were joking about the written statement prepared by Thomas, in which Terrance allegedly had related that he had been paddled in the police room on May 5, 2008. During the meeting the Whetstone family members admitted yelling and swearing at the officers and then walked out of the meeting.

Officer Martin testified Tammy Whetstone came into this meeting with the officers and

Harden, immediately started swearing, and stated she was going to get the officers fired. Officer Hosley also testified that the members of the Whetstone family were screaming and that Tammy Whetstone said that she was going to get the officers fired. Officer Kelly testified that Tammy Whetstone was yelling and cursing from the beginning of the meeting.

When Harden testified at the hearing, he did not corroborate Tammy's or Thomas's testimony that during the meeting at the high school Hosley, Martin, and Kelly admitted to any paddling or striking of the students or joked about any statement prepared by Thomas. Harden also never testified that any of the officers joked about a statement Thomas testified that she had written out in which Terrance related to her the incident involving the alleged paddling. Harden would have had no motive to lie as to what occurred, but the Superintendent did not even attempt to elicit testimony from Harden that would corroborate Tammy's or Thomas's testimony about any admissions by the officers that they engaged in paddling or that they were joking about any statement prepared by Thomas. There was no evidence presented that Harden ever prepared any type of written report in which he discussed any meeting with members of the Whetstone family in which they made a complaint about the paddling of Terrance or any other student, nor did Harden prepare any report that the officers admitted to using the paddles on Terrance or any student. The Board is left with no other conclusion than that Harden was not in a position to corroborate Tammy's or Thomas's testimony as to what occurred at this meeting.

Tammy Whetstone and Shameika Thomas testified that they saw bruises on Terrance's butt. However, Tammy Whetstone testified that Terrance had been involved in a fight on the day before the alleged incident in the police room. After this fight, Tammy Whetstone testified that Terrance came home with a bloody face, his lips were cut and swollen, he was dirty, and it looked like he had been rolling around on the ground. Shameika Thomas also testified that

Terrance had been in another fight on a date prior to the alleged paddling.

Members of the Whetstone family also met with Sergeant Melvin Dixon of the Chicago Police Department and alleged that Terrance had been paddled. Once again, the family members were agitated and talking over one another when they met with Dixon. They walked out of the meeting with Sergeant Dixon without requesting that a formal written complaint be prepared since they told him that they did not trust the police. One of the women present at this meeting stated that they did not trust him and that they were going to get their attorneys involved.

Melvin Sanders was involved in the fight outside the school which led to the Complainants being taken to the police room on May 5, 2008. Sanders was present with certain members of his family in the police room on May 5, 2008, when the Complainants allegedly were paddled. Kindle was shown his statement made to IPRA on May 21, 2008, in which Kindle stated that Melvin and his family members were present in the police room when the Complainants were paddled. When Kindle was shown during the hearing this statement, taken thirteen days after the alleged date when he was paddled, Kindle stated that he was struck in the presence of Sanders and his family.

The Superintendent did not call as a witness Melvin Sanders, or any member of his family, to attempt to corroborate the Complainants' testimony as to what they observed when they were in the police room on May 5, 2008. Several of the Complainants testified that Melvin Sanders's father also had paddled Melvin before the officers began paddling them. No member of the Sanders family was called as a witness to corroborate that any such paddling ever occurred. Absent testimony from members of the Sanders family, the Board was essentially left with only the assertions of the Complainants and their family members, which were contradicted by the testimony of the accused officers, to support the Superintendent's case.

Kindle, Manscheck, and Whetstone all testified that they were not in any gang at the time of this incident. Toney and Kelly testified that all of the Complainants were members of the Gangster Disciples.

The Complainants showed a poor recollection of what allegedly transpired in the police room due to the passage of time from the date of the alleged incident until they testified at the hearing. Kindle testified that, in general, he could not remember the alleged May 5, 2008, incident at the school on very well because of the passage of time. Whetstone, Manscheck, and Toney testified that they had been paddled by Officers Hosley and Martin in May 2008. However, Kindle testified that Kelly had participated in the paddling of Manscheck and another of the boys. Manscheck, Whetstone, and Toney did not testify that Kelly paddled Manscheck, or any of the boys. When Kindle was asked if Officer Martin had participated in the paddling, he initially could not remember.

Given Tammy Whetstone's complaints to Sergeant Dixon shortly after the alleged incident, the Chicago Police Department had notice of alleged misconduct but the Department took no action against these officers for many years. The failure to timely file charges in this case, and the resulting long passage of time between May 2008 and the evidentiary hearing in the case, undermined the credibility of the Complainants and other witnesses called by the Superintendent during that hearing.

Officers Hosley, Martin, and Kelly are well educated, and each is active in the church he attends. They have all served in extremely difficult assignments as Chicago police officers. Kelly had been a beat officer, gang officer, and tactical officer. Martin had worked as an officer in the gang unit and also as a tactical officer. Hosley had worked in public housing, organized crime, and gang intelligence. Each of these officers had worked assignments which would have

involved substantial contact with gang members and others who had engaged in criminal activity.

Kelly, Hosley, and Martin all mentored students in Wendell Phillips Academy's "Cats to Lions" program, which provided support for students to avoid bad behavior and stay on the right path, and taught students to communicate better with their parents and with fellow students.

Kelly had been active in serving as president of the local elementary school and was chairman of the school council of Julian High School for six years. Hosley worked in schools for at least three years prior to May 5, 2008, including a school for special education children with behavioral problems. Hosley had been involved in a mentoring program at his church from 1984 to the date he testified. Martin had been part of a mentoring program affiliated with the Air Force Academy and also a different mentoring program at his church.

Hosley, Martin, and Kelly all had their statements taken by IPRA approximately eighteen months after the alleged incident on May 5, 2008. Hosley, Martin, and Kelly all testified that they did not even remember the incident in the police room until they heard the Complainants' testimony at the hearing. There is no reason in the record why it took IPRA this amount of time before taking the officers statements, particularly since there had been a complaint made to Sergeant Dixon in early May 2008. The record also is not clear why it took more than two years after the officers gave their statements to bring the charges in this case.

Under the circumstances, the Board finds that the Superintendent did not sustain his burden of proving that Officers Hosley, Martin, or Kelly paddled or struck any of the Complainants on May 5, 2008, that any of the Respondents made any of the false statements attributed to them in the charges, and that any of the Respondents engaged in any other misconduct set forth in the charges. In reaching this conclusion, we note that each of the officers

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

was active in his community, had shown a genuine interest in mentoring young men and women who were attempting to improve themselves, organized activities for troubled youth, and provided help for many young men and women in need by giving them food. Harden testified that the children at Wendell Phillips Academy loved the three officers.

We also note the evidence presented at the hearing that these officers had frequently dealt with gang members in their prior assignments. No evidence of any prior misconduct was presented to show bias, modus operandi, or intent. To the contrary, they all had worked, both on and off-duty, to help students who were troubled. The Complainants in this case each would have reason to actively dislike these officers who spent their careers attempting to prevent gangs from forming, and, when gangs did exist, prevent their members from engaging in criminal activity. Kindle was in prison after being convicted for robbery and two carjackings. When Mansheck gave his statement to IPRA, he did not tell the investigator that he had been paddled. Whetstone was in jail after being charged with armed robbery and aggravated UUCW, but he had not been convicted as of the date he testified. The Police Board finds that Kindle, Mansheck, and Whetstone were not telling the truth when they testified that they had never been members of a gang. The Complainants in their testimony before the Board could not even agree who had been involved in the fight outside the school on the day prior to the meeting in the police room.

The Board finds that Complainants' testimony at the hearing, even among themselves, was inconsistent as to almost every detail as to what happened in the police room in May 2008, except for their testimony that each of them was paddled, or in the case of Toney, that he was taken into a closet by Kelly and struck by him. These inconsistencies included but were not limited to which of them had been in a gang in May 2008, which of them had been involved in the fight outside the school, the number of times the Complainants were allegedly paddled,

which of the officers engaged in the paddling of the Complainants, the order in which the boys were paddled or struck, the testimony of Manscheck at the hearing that he was paddled but his failure to tell the IPRA investigator in April 2008 that he was paddled by the officers, whether or not Melvin Sanders or any members of his family were in the room when the alleged paddling occurred, *etc.* In addition, the Complainants' testimony at the hearing was frequently impeached by their prior inconsistent IPRA statements.

The Board takes very seriously the charges brought in this case. No person, whether a police officer or any person associated with a school, has any right to paddle or strike any student. This type of behavior cannot be condoned. However, for the reasons set forth herein, the Superintendent did not meet his burden of proving the charges against the officers by a preponderance of the evidence. The evidence was insufficient to support a finding of guilt on any charge. In reaching the conclusion that the Superintendent did not prove its case by a preponderance of the evidence against any of the officers, the Board took into consideration the many inconsistencies in the Complainants' testimony, the lack of credible corroboration of the Complainants' testimony that the officers engaged in any misconduct, the criminal background of one of the Complainants, the educational and work backgrounds of the three officers and their credible demeanor while testifying, and the amount of time that elapsed from the date of the incident until the charges were filed with the Police Board.

17. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Otis L. Hosley instructed Terrance Whetstone to say “Fuck the Cash Money Boys,” or words to that effect, and/or asked Terrance Whetstone “Are you trying to fuck the desk?,” or words to that effect, thereby engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 above, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Hosley made the above statements to Terrance Whetstone was insufficient to satisfy the Superintendent’s burden of proof.

18. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count III: On or about May 6, 2008, Police Officer Otis L. Hosley attempted to conceal evidence when he removed wooden paddles from Wendell Phillips Academy and placed them in his police locker, thereby engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 above, which are incorporated here by reference. The Board finds that the Superintendent has not satisfied his burden of proving that Officer Hosley was attempting to conceal evidence when he removed the wooden paddles from the police room at Wendell Phillips Academy and placed them in his police locker.

19. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count IV: On or about September 29, 2009, during a statement with the Independent Police Review Authority, Police Officer Otis L. Hosley falsely stated that he had not heard of a gang called the "Cash Money Boys," or words to that effect; and/or that he did not strike Terrance Whetstone, Marquis Toney, Robert Mansheck, or Jacque Kindle on the buttocks and/or thighs with a paddle, or words to that effect; and/or that he had never seen Officer Timothy Martin strike any students with a paddle, or words to that effect; and/or that he did not tell Terrance Whetstone to say "Fuck the Cash Money Boys," or words to that effect; and/or that he did not ask Terrance Whetstone "Are you trying to fuck the desk?," or words to that effect; and/or that on or about May 6 or 7, 2008, Sergeant Milton Dixon told him to remove the paddles from Wendell Phillips Academy, or words to that effect; thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 above, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Hosley made any false statements to IPRA was insufficient to satisfy the Superintendent's burden of proof.

20. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, charged herein, is **not guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Otis L. Hosley struck Terrance Whetstone, Marquis Toney, Jacque Kindle, and/or Robert Mansheck on or near the buttocks and/or thighs with a paddle, thereby disrespecting or maltreating any person, while on or off duty.

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

See the findings set forth in paragraph no. 16 above, which are incorporated here by reference.

21. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, charged herein, is **not guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,
in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Otis L. Hosley instructed Terrance Whetstone to say “Fuck the Cash Money Boys,” or words to that effect, and/or asked Terrance Whetstone “Are you trying to fuck the desk?,” or words to that effect, thereby disrespecting or maltreating any person, while on or off duty.

See the findings set forth in paragraph no. 17 above, which are incorporated here by reference.

22. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, charged herein, is **not 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Otis L. Hosley struck Terrance Whetstone, Marquis Toney, Jacque Kindle, and/or Robert Mansheck on or near the buttocks and/or thighs with a paddle, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

See the findings set forth in paragraph no. 16 above, which are incorporated here by

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

reference.

23. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, charged herein, is **not 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Otis L. Hosley instructed Terrance Whetstone to say “Fuck the Cash Money Boys,” or words to that effect, and/or asked Terrance Whetstone “Are you trying to fuck the desk?” or words to that effect, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

See the findings set forth in paragraph no. 17 above, which are incorporated here by reference.

24. The Respondent, Police Officer Otis L. Hosley, Star No. 18672, charged herein, is **not guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

On or about September 29, 2009, during a statement with the Independent Police Review Authority, Police Officer Otis L. Hosley falsely stated that he had not heard of a gang called the “Cash Money Boys,” or words to that effect; and/or that he did not strike Terrance Whetstone, Marquis Toney, Robert Mansheck, or Jacque Kindle on the buttocks and/or thighs with a paddle, or words to that effect; and/or that he had never seen Officer Timothy Martin strike any students with a paddle, or words to that effect; and/or that he did not tell Terrance Whetstone to say “Fuck the Cash Money Boys,” or words to that effect; and/or that he did not ask Terrance Whetstone “Are you trying to fuck the desk?” or words to that

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

effect; and/or that on or about May 6 or 7, 2008, Sergeant Milton Dixon told him to remove the paddles from Wendell Phillips Academy, or words to that effect.

See the findings set forth in paragraph no. 19 above, which are incorporated here by reference.

25. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Timothy P. Martin struck Terrance Whetstone, Marquis Toney, Jacque Kindle, and/or Robert Mansheck on or near the buttocks and/or thighs with a paddle, thereby engaging in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 above, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Martin paddled Terrance Whetstone, Marquis Toney, Jacque Kindle, and/or Robert Mansheck was insufficient to satisfy the Superintendent's burden of proof.

26. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, 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 the Superintendent did not prove by a preponderance of the evidence the following

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Timothy P. Martin asked Terrance Whetstone “Are you trying to fuck the desk?,” or words to that effect, thereby engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 above, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Martin asked the above question to Terrance Whetstone was insufficient to satisfy the Superintendent’s burden of proof.

27. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count III: On or about November 6, 2009, during a statement with the Independent Police Review Authority, Police Officer Timothy P. Martin falsely stated that he had no knowledge of a gang called the “Cash Money Boys,” or words to that effect; and/or that he did not strike Terrance Whetstone, Marquis Toney, Robert Mansheck, or Jacque Kindle on the buttocks and/or thighs with a paddle, or words to that effect; thereby engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

See the findings set forth in paragraph no. 16 above, which are incorporated here by reference. The Board finds that the evidence presented at the hearing that Officer Martin made any false statements to IPRA was insufficient to satisfy the Superintendent’s burden of proof.

28. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, charged herein,

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

is **not guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Timothy P. Martin struck Terrance Whetstone, Marquis Toney, Jacque Kindle, and/or Robert Mansheck on or near the buttocks and/or thighs with a paddle, thereby disrespecting or maltreating any person, while on or off duty.

See the findings set forth in paragraph no. 25 above, which are incorporated here by reference.

29. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, charged herein, is **not guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Timothy P. Martin asked Terrance Whetstone “Are you trying to fuck the desk?,” or words to that effect, thereby disrespecting or maltreating any person, while on or off duty.

See the findings set forth in paragraph no. 26 above, which are incorporated here by reference.

30. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, charged herein, is **not guilty** of violating, to wit:

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

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count I: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Timothy P. Martin struck Terrance Whetstone, Marquis Toney, Jacque Kindle, and/or Robert Mansheck on or near the buttocks and/or thighs with a paddle, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

See the findings set forth in paragraph no. 25 above, which are incorporated here by reference.

31. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, charged herein, is **not 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 the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about May 5, 2008, at or near 244 East Pershing Road, Chicago, Police Officer Timothy P. Martin asked Terrance Whetstone “Are you trying to fuck the desk?” or words to that effect, thereby engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

See the findings set forth in paragraph no. 26 above, which are incorporated here by reference.

32. The Respondent, Police Officer Timothy P. Martin, Star No. 18614, charged herein, is **not guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that the Superintendent did not prove by a preponderance of the evidence the following charge:

On or about November 6, 2009, during a statement with the Independent Police Review Authority, Police Officer Timothy P. Martin falsely stated that he had no knowledge of a gang called the "Cash Money Boys," or words to that effect; and/or that he did not strike Terrance Whetstone, Marquis Toney, Robert Mansheck, or Jacque Kindle on the buttocks and/or thighs with a paddle, or words to that effect.

See the findings set forth in paragraph no. 27 above, which are incorporated here by reference.

POLICE BOARD DECISIONS

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in these cases, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By a unanimous vote, the Board finds each Respondent not guilty of violating Rule 2.

By a unanimous vote, the Board finds Respondent Kelly not guilty of violating Rule 6.

By a unanimous vote, the Board finds each Respondent not guilty of violating Rule 8.

By a unanimous vote, the Board finds each Respondent not guilty of violating Rule 9.

By a unanimous vote, the Board finds each Respondent not guilty of violating Rule 14.

As a result of the foregoing, the Police Board, by a unanimous vote, hereby determines that cause exists for restoring each Respondent to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective December 2, 2011.

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Bernard K. Kelly, Star No. 5303, as a result of having been found **not guilty** of the charges in Police Board Case No. 12 PB 2791, be and hereby is **restored** to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective December 2, 2011.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 10th DAY OF SEPTEMBER, 2012.

/s/ Demetrius E. Carney

/s/ Scott J. Davis

/s/ Melissa M. Ballate

/s/ William F. Conlon

/s/ Ghian Foreman

/s/ Rita A. Fry

/s/ Susan L. McKeever

/s/ Johnny L. Miller

/s/ Elisa Rodriguez

Attested by:

/s/ Max A. Caproni
Executive Director
Police Board

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Otis L. Hosley, Star No. 18672, as a result of having been found **not guilty** of the charges in Police Board Case No. 12 PB 2792, be and hereby is **restored** to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective December 2, 2011.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 10th DAY OF SEPTEMBER, 2012.

/s/ Demetrius E. Carney

/s/ Scott J. Davis

/s/ Melissa M. Ballate

/s/ William F. Conlon

/s/ Ghian Foreman

/s/ Rita A. Fry

/s/ Susan L. McKeever

/s/ Johnny L. Miller

/s/ Elisa Rodriguez

Attested by:

/s/ Max A. Caproni
Executive Director
Police Board

Police Board Case Nos. 11 PB 2778-2780
Police Officers Kelly, Hosley, & Martin
Findings and Decisions

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Timothy P. Martin, Star No. 18614, as a result of having been found **not guilty** of the charges in Police Board Case No. 12 PB 2791, be and hereby is **restored** to his position as a police officer with the Department of Police, and to the services of the City of Chicago, with all rights and benefits, effective December 2, 2011.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 10th DAY OF SEPTEMBER, 2012.

/s/ Demetrius E. Carney

/s/ Scott J. Davis

/s/ Melissa M. Ballate

/s/ William F. Conlon

/s/ Ghian Foreman

/s/ Rita A. Fry

/s/ Susan L. McKeever

/s/ Johnny L. Miller

/s/ Elisa Rodriguez

Attested by:

/s/ Max A. Caproni
Executive Director
Police Board

DISSENT

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

[None]

RECEIVED A COPY OF

THE FOREGOING COMMUNICATION

THIS ____ DAY OF _____, 2012.

SUPERINTENDENT OF POLICE