

**BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO**

**IN THE MATTER OF CHARGES FILED AGAINST** )  
**POLICE OFFICER SLAWOMIR PLEWA,** ) **No. 12 PB 2819**  
**STAR No. 14604, DEPARTMENT OF POLICE,** )  
**CITY OF CHICAGO,** )  
 ) **(CR No. 1016210)**  
**RESPONDENT.** )

**FINDINGS AND DECISION**

On September 24, 2012, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Slawomir Plewa, Star No. 14604 (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 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals.
- Rule 5: Failure to perform any duty.
- Rule 11: Incompetency or inefficiency in the performance of duty.
- Rule 14: Making a false report, written or oral.
- Rule 21: Failure to report promptly to the Department any information concerning any crime or other unlawful action.

The Police Board caused a hearing on these charges against the Respondent to be had before Jacqueline A. Walker, Hearing Officer of the Police Board, on December 18 and December 19, 2012, and June 27, 2013.

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

Officer Walker 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, or was an applicant for that position.

2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, 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 filed a Motion to Strike and Dismiss, requesting that the charges filed against him be stricken and the case dismissed for the following reasons: (a) the charges pertaining to the application process are invalid because the Respondent was a civilian at the time he completed the application; (b) the failure to bring timely charges violates the due process rights of the Respondent; (c) the charges should be barred by laches; and (d) the Department failed to follow its General Orders and violated the Agreement between the Fraternal Order of Police Lodge 7 and the City of Chicago (“Collective Bargaining Agreement”). The Respondent’s Motion to Strike and Dismiss is **denied** for the reasons set forth below.

a. Charges pertaining to the application process. The Respondent argues that the charges

pertaining to the application process should be dismissed because the Respondent was not a member of the Chicago Police Department on the dates the alleged offenses occurred and, therefore, the Rules of Conduct did not apply to him at that time.

The Police Board rejects this argument, and finds that the Rules of Conduct that prohibit falsely reporting or failing to report certain information to the Department apply to the Respondent. The Respondent had an on-going duty throughout the application process and during his service as a Chicago police officer to truthfully report and disclose information pertaining to his involvement in the criminal matter that was investigated by the Illinois State Police. The fact that the Respondent was not yet a police officer on the dates listed in some of the charges (Counts I and II of the Rule 2, Rule 3, Rule 5, and Rule 14 charges) does not absolve him of this duty. To find otherwise would prevent the Department from investigating or disciplining a police officer who gave false information when applying for the job and got away with it for a period of time before the falsehoods came to the Department's attention.

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

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teacher accused of abusing students where the director of DCFS failed to honor specific regulatory time limits for decision-making.

The Respondent's case before the Police Board is different from *Morgan* and *Lyon*, as the Respondent in his Motion is complaining about the delay from the time of the incident to the bringing of charges, not the time it took to try him once the charges were filed and he was 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 name. Here, the Respondent was working and was being paid his 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 Respondent was not suspended without pay from his job until *after* the charges against him were filed. Therefore, the Respondent was *not* deprived of his job prior to the filing of charges, and any delay in bringing the charges is therefore *not* a violation of the Respondent's 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. Department of Children and Family Services*, 239 Ill.App.3d 325 (5<sup>th</sup> 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 Respondent’s case. *Cavaretta v. Department of Children and Family Services*, 277 Ill.App.3d 16 (2<sup>nd</sup> 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.<sup>1</sup>

c. Laches. The Respondent argues that the doctrine of laches should apply here in supporting the dismissal of charges, for he argues that the delay in bringing the charges against him resulted in prejudice to him in losing his employment and in hampering his ability to locate witnesses and counter evidence years after the incident to defend against the charges.

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<sup>1</sup>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.

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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 (1<sup>st</sup> Dist. 1992). Under Illinois law, the Respondent must demonstrate that the Superintendent’s unreasonable delay caused material prejudice to the Respondent; the Respondent must submit evidence in support of his 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 (7<sup>th</sup> Cir. 2011).

The Respondent has made no specific showing of any prejudice that resulted from a delay in bringing charges before the Police Board. He argues that police reports from the Illinois State Police case are illegible, and that many of the people involved in this case have long since retired. In fact, however, the Illinois State Police member that interviewed Plewa (Steve Loan) and the Chicago officer that investigated Plewa’s background (Kenneth Pisano) were still on the job and were available to testify in this matter. The Respondent made no specific showing that he attempted to locate further witnesses or evidence but was 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 Respondent therefore has not demonstrated any “compelling” or “extraordinary” circumstances warranting a dismissal of this case, and has not carried the burden of proving that he was prejudiced by a delay in the bringing of charges.

d. The Collective Bargaining Agreement and Police Department General Orders. The Respondent argues that Section 6.1D of the Collective Bargaining Agreement was violated in this case. Section 6.1D states in relevant part:

Unless the Superintendent of Police specifically authorizes in writing, no complaint or allegation of any misconduct concerning any incident or event which occurred five (5) years prior to the date the complaint or allegation became known to the Department shall be made the subject of a Complaint Register investigation or be re-opened or re-investigated after five (5) years from the date the Compliant Register number was issued.

The Respondent states that he has not seen anything to indicate that the Superintendent gave the required written authorization. However, the January 19, 2011, memorandum included in Exhibit D to the Respondent’s Motion indicates that Superintendent Jody P. Weis did authorize the investigation in writing.

The Respondent also argues that Section 8.4 of the Collective Bargaining Agreement was violated in this case. Section 8.4 states in relevant part:

All disciplinary investigation files, disciplinary history card entries, Independent Police Review Authority and Internal Affairs Division disciplinary records, and any other disciplinary record or summary of such record other than records relating to Police Board cases, will be destroyed five (5) years after the date of the incident or the date upon which the violation is discovered, whichever is longer, except that not sustained files alleging criminal conduct or excessive force shall be retained for a period of seven (7) years after the date of the incident or the date upon which the violation is discovered, whichever is longer, and thereafter, cannot be used against the officer in any future proceedings in any other forum, except as specified below, unless the investigation relates to a matter which has been subject to either civil or criminal court litigation or arbitration prior to the expiration of the five- (5-)

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year period. In such instances, the Complaint Register case files normally will be destroyed immediately after the date of the final arbitration award or the final adjudication, unless a pattern of sustained infractions exists.

The above section does not apply in this case, for the date upon which the alleged violations pertaining to the application process were discovered was after April 15, 2008 (the date the investigation of Complaint Register No. 1016210 was initiated), which is less than five years prior to the date the charges against the Respondent were filed with the Police Board (September 24, 2012).

In addition, applying Section 8.4 in the way the Respondent argues would regulate the amount of time allowed for the filing of any charge with the Police Board, including a charge based upon an allegation of the use of unreasonable force by a police officer. However, applying Section 8.4 in this way is prohibited by the state statute that establishes a five-year statute of limitations, for this statute contains a home rule preemption (65 ILCS 5/10-1-18.2):

No municipality, including a municipality that is a home rule unit, may regulate the period of time or establish or enforce a statute of limitations relating to charges brought against a police officer before a Police Board, Civil Service Commission, or other board or officer empowered by law or ordinance to investigate police misconduct if the charge is based upon an allegation of the use of unreasonable force by a police officer. The statute of limitations established in Sections 10-1-18 and 10-1-18.1 for those charges are an exclusive exercise of powers and functions by the State under paragraph (h) of Section 6 of Article VII of the Illinois Constitution.

The Respondent further argues that the Police Department's own General Orders require a prompt and thorough investigation, and that the Department failed to fully comply with these provisions of its General Orders.

In fact, the General Orders do not set an absolute deadline within which investigations must be completed, but provide 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



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investigator did regularly seek, and was granted, extensions of time, in compliance with the General Orders.

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 Orders.

There was no substantial violation of the General Orders in this case. Even if, however, the General Orders were violated, there is no provision in the General Orders 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 Orders in this manner.

5. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, 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 May 4, 2001, Plewa falsely reported and attested on his Personal History Questionnaire ("Questionnaire") that he had never been interviewed by the police in a criminal matter. Question number fifty-seven (57) of the Questionnaire asked: "[h]ave you ever been interviewed by the police in a criminal matter?" Plewa was interviewed by Illinois State Police Special Agents Steve Loan ("Loan") and Rich Packert ("Packert") in connection with Illinois State Police criminal case #98D3067 on or about February 26, 1999. Plewa's actions have impeded the Department's efforts to achieve its policy and goals and brought discredit upon the Department.

Testimony was elicited from Plewa that notwithstanding his answering question number 57 of his Personal History Questionnaire in the negative, he testified that Illinois State Police Special Agents Steve Loan and Rich Packert came to his house and questioned him about James

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“Bobby” Marabonian. Special Agent Loan testified credibly that he informed Plewa that Marabonian had been arrested for impersonating a police officer and that Marabonian indicated that he received his badge from Plewa. Clearly, the use of the word “arrest” reasonably connotes that the interview involved a criminal matter. Furthermore, it is not credible that Special Agents Loan and Packert would visit Plewa at his home and not inform Plewa that they were there on a criminal investigation. Accordingly, the Superintendent has presented sufficient evidence and testimony to prove Plewa guilty of this charge.

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding: We find that, in part because the alleged misconduct took place in 2001, there is insufficient credible evidence regarding the alleged misconduct, and therefore the Superintendent has not proven by a preponderance of the evidence that Plewa knowingly and intentionally provided a false answer to question number 57 and failed to disclose to the Department his involvement in the criminal matter.)

6. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, 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 July 11, 2001, Plewa falsified information elicited during his pre-employment interview when he affirmed to Detective Kenneth Pisano (“Pisano”) that he had never been interviewed by the police in a criminal matter. During this interview, Plewa affirmed his response of “no” to question number fifty-seven (57) of the Questionnaire. Plewa’s actions in falsifying information elicited during his pre-employment interview have impeded the Department’s efforts to achieve its policy and goals and brought discredit upon the Department.

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See the findings set forth in paragraph no. 5 above, which are incorporated here by reference. The Superintendent presented convincing testimony from Detective Kenneth Pisano that during his interview with Plewa, Plewa affirmed that his answer to question number fifty-seven was correct, as Plewa was given an opportunity to review his answers, including his answer to question number fifty-seven, and make any changes.

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

7. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, 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: At no time during his application process or employment with the Chicago Police Department did Plewa disclose to the Department that he was involved in criminal conduct, as evidenced by Illinois State Police criminal case #98D3067. Plewa's failure to disclose his involvement in criminal case #98D3067 impeded the Department's efforts to achieve its policy and goals and brought discredit upon the Department.

See the findings set forth in paragraph no. 5 above, which are incorporated here by reference. The Superintendent presented convincing evidence that Police Officer Plewa knew, or should have known, yet failed to disclose to the Department, that he was involved in criminal conduct from the information Special Agents Loan Packert communicated to Plewa during their meeting, specifically that they were investigating James "Bobby" Marabianian for impersonating a police officer and that Marabianian indicated that he received his badge from Plewa. Plewa's

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testimony to the contrary is not credible.

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

8. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, 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 IV: On or about January 17, 2008, Plewa gave false testimony in the criminal case *The People of the State of Illinois v. Sylwia Marcinczyk*, Case No. 07-CR-114861. Plewa's actions in providing false testimony in a criminal case impeded the Department's efforts to achieve its policy and goals and brought discredit upon the Department.

The Superintendent presented competent evidence that Plewa gave false testimony in *The People of the State of Illinois v. Sylwia Marcinczyk*, as evidenced in that portion of the official transcript of the trial, pages 145 through 156, of which the Police Board has taken judicial notice. These pages consist of findings made by Judge Michael Brown, who presided over the trial. Judge Brown found that Plewa gave false testimony during the trial.

(Board Member Ballate dissents from this Finding: I find that Judge Brown's statements on their own are not sufficient evidence to prove that Plewa gave false testimony in the *Marcinczyk* case.)

9. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **not guilty** of violating, to wit:

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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 August 19, 2010, Plewa gave false testimony in the criminal case *The People of the State of Illinois v. Slawomir Plewa*, Case No. 08-CR-19286. Plewa's actions in providing false testimony in a criminal case impeded the Department's efforts to achieve its policy and goals and brought discredit upon the Department.

*The People of the State of Illinois v. Slawomir Plewa* was the case wherein the States Attorney's Office brought the perjury charges against Plewa for his alleged false testimony in *The People of the State of Illinois v. Sylwia Marcinczyk*.

It is not clear from the record before the Board that Plewa gave false testimony in his own criminal case. While Judge Brown clearly found that Plewa lied in the *Marcinczyk* case, it is not clear from the transcript of the findings (pages 145 through 156) that Judge Brown found that Plewa gave false testimony in his own case. Accordingly, Plewa is not guilty of this charge.

(Board Member Fry dissents from this Finding: I find that Judge Brown concluded that Plewa lied in both the *Marcinczyk* and *Plewa* cases, and therefore the Superintendent has proven this charge by a preponderance of the evidence.)

10. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals,

in that:

Count I: On or about May 4, 2001, Plewa falsely reported and attested on his Questionnaire

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that he had never been interviewed by the police in a criminal matter. Question number fifty-seven (57) of the Questionnaire asked: “[h]ave you ever been interviewed by the police in a criminal matter?” Plewa was interviewed by Illinois State Police Special Agents Loan and Packert in connection with Illinois State Police criminal case #98D3067 on or about February 26, 1999. Plewa’s actions deprived the Department of its ability and opportunity to make an accurate assessment of his fitness and qualification for employment. As a result, Plewa’s actions failed to promote the Department’s efforts to implement its employment policy. Likewise, Plewa’s actions prevented the Department from accomplishing its goal of selecting only the best candidates to serve as Probationary Police Officers.

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

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

11. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 3: Any failure to promote the Department’s efforts to implement its policy or accomplish its goals,

in that:

Count II: On or about July 11, 2001, Plewa reviewed his answers to the Questionnaire with Pisano. Plewa was not truthful when he indicated and swore to the fact that he had never been interviewed by the police in a criminal matter. Question number fifty-seven (57) of the Questionnaire asked: “[h]ave you ever been interviewed by the police in a criminal matter?” Plewa was interviewed by Illinois State Police Special Agents Loan and Packert on or about February 26, 1999, in connection with Illinois State Police criminal case #98D3067. On or about July 11, 2001, Plewa attested to the accuracy of his representation in responding to question number fifty-seven (57). Plewa’s actions deprived the Department of its ability and opportunity to make an accurate assessment of his fitness and qualification for employment. As a result, Plewa’s actions failed to promote the Department’s efforts to implement its employment policy. Likewise, Plewa’s actions prevented the Department from accomplishing its goal of selecting only the best candidates to serve as Probationary Police Officers.

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

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reference.

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

12. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals,

in that:

Count III: At no time during his application process or employment with the Chicago Police Department did Plewa disclose to the Department that he was involved in criminal conduct, as evidenced by Illinois State Police criminal case #98D3067. Plewa's failure to disclose his involvement in criminal case #98D3067 deprived the Department of its ability and opportunity to make an accurate assessment of his fitness and qualification for employment. As a result, Plewa's actions failed to promote the Department's efforts to implement its employment policy. Likewise, Plewa's actions prevented the Department from accomplishing its goal of selecting only the best candidates to serve as Probationary Police Officers.

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

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

13. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals,

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in that:

Count IV: On or about January 17, 2008, Plewa gave false testimony in the criminal case *The People of the State of Illinois v. Sylwia Marcinczyk*, Case No. 07-CR-114861. Plewa's actions failed to promote the Department's policy, which requires police officers sworn under oath to provide truthful testimony in criminal cases.

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

(Board Member Ballate dissents from this Finding for the reasons set forth in paragraph no. 8 above.)

14. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **not guilty** of violating, to wit:

Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals,

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

Count V: On or about August 19, 2010, Plewa gave false testimony in the criminal case *The People of the State of Illinois v. Slawomir Plewa*, Case No. 08-CR-19286. Plewa's actions failed to promote the Department's policy, which requires police officers sworn under oath to provide truthful testimony in criminal cases.

See the findings set forth in paragraph no. 9 above, which are incorporated here by reference.

(Board Member Fry dissents from this Finding for the reasons set forth in paragraph no. 9 above.)

15. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is



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**guilty** of violating, to wit:

Rule 5: Failure to perform any duty,

in that:

Count I: On or about May 4, 2001, Plewa had a duty to truthfully respond to the questions posed in the Questionnaire and failed to do so. On his Questionnaire, Plewa falsely reported and attested that he had never been interviewed by the police in a criminal matter. Question number fifty-seven (57) of the Questionnaire asked: “[h]ave you ever been interviewed by the police in a criminal matter?” Plewa was interviewed by Illinois State Police Special Agents Loan and Packert in connection with Illinois State Police criminal case #98D3067 on or about February 26, 1999. Plewa’s actions constitute a failure to perform his duty.

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

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

16. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is

**guilty** of violating, to wit:

Rule 5: Failure to perform any duty,

in that:

Count II: On or about July 11, 2001, Plewa reviewed his answers to the Questionnaire with Pisano. Plewa had a duty to provide truthful information during his review of the Questionnaire with Pisano. He was not truthful when he indicated and swore to the fact that he had never been interviewed by the police in a criminal matter in his response to question number fifty-seven (57). Plewa was interviewed by Illinois State Police Special Agents Loan and Packert on or about February 26, 1999, in connection with Illinois State Police criminal case #98D3067. Plewa’s actions constitute a failure to perform his duty.

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

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(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

17. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 5: Failure to perform any duty,

in that:

Count III: At no time during his application process or employment with the Chicago Police Department did Plewa disclose to the Department that he was involved in criminal conduct, as evidenced by Illinois State Police criminal case #98D3067. Plewa had a duty to disclose such information to the Department. Plewa's actions constitute a failure to perform his duty.

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

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

18. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 5: Failure to perform any duty,

in that:

Count IV: On or about January 17, 2008, Plewa had a duty to testify truthfully in the criminal case *The People of the State of Illinois v. Sylwia Marcinczyk*, Case No. 07-CR-114861, and failed to do so.

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

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(Board Member Ballate dissents from this Finding for the reasons set forth in paragraph no. 8 above.)

19. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **not guilty** of violating, to wit:

Rule 5: Failure to perform any duty,  
in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count V: On or about August 19, 2010, Plewa had a duty to testify truthfully in the criminal case *The People of the State of Illinois v. Slawomir Plewa*, Case No. 08-CR-19286, and failed to do so.

See the findings set forth in paragraph no. 9 above, which are incorporated here by reference.

(Board Member Fry dissents from this Finding for the reasons set forth in paragraph no. 9 above.)

20. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 11: Incompetency or inefficiency in the performance of duty,  
in that:

Count I: On or about January 17, 2008, Plewa provided false testimony in the criminal case *The People of the State of Illinois v. Sylwia Marcinczyk*, Case No. 07-CR-114861. Plewa's actions constitute incompetency and inefficiency in the performance of his duty as a Chicago Police Department officer.

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

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reference.

(Board Member Ballate dissents from this Finding for the reasons set forth in paragraph no. 8 above.)

21. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **not guilty** of violating, to wit:

Rule 11: Incompetency or inefficiency in the performance of duty,  
in that the Superintendent did not prove by a preponderance of the evidence the following charge:

Count II: On or about August 19, 2010, Plewa provided false testimony in the criminal case *The People of the State of Illinois v. Slawomir Plewa*, Case No. 08-CR-19286. Plewa's actions constitute incompetency and inefficiency in the performance of his duty as a Chicago Police Department officer.

See the findings set forth in paragraph no. 9 above, which are incorporated here by reference.

(Board Member Fry dissents from this Finding for the reasons set forth in paragraph no. 9 above.)

22. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

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

Count I: On or about May 4, 2001, Plewa falsely reported that he had never been interviewed by the police in a criminal matter on his Questionnaire. Question number fifty-seven (57) of the Questionnaire asked: "[h]ave you ever been interviewed by the police in a criminal

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matter?” Plewa was interviewed by Illinois State Police Special Agents Loan and Packert in connection with Illinois State Police criminal case #98D3067 on or about February 26, 1999.

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

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

23. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

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

in that:

Count II: On or about July 11, 2001, Plewa falsified information elicited during his pre-employment interview when he affirmed to Pisano that he had never been interviewed by the police in a criminal matter. During his interview, Plewa affirmed his response of “no” to question number fifty-seven (57) of the Questionnaire.

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

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

24. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

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

in that:

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Count III: On or about January 17, 2008, Plewa gave false testimony in the criminal case *The People of the State of Illinois v. Sylwia Marcinczyk*, Case No. 07-CR-114861.

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

(Board Member Ballate dissents from this Finding for the reasons set forth in paragraph no. 8 above.)

25. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, 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:

Count IV: On or about August 19, 2010, Plewa gave false testimony in the criminal case *The People of the State of Illinois v. Slawomir Plewa*, Case No. 08-CR-19286.

See the findings set forth in paragraph no. 9 above, which are incorporated here by reference.

(Board Member Fry dissents from this Finding for the reasons set forth in paragraph no. 9 above.)

26. The Respondent, Police Officer Slawomir Plewa, Star No. 14604, charged herein, is **guilty** of violating, to wit:

Rule 21: Failure to report promptly to the Department any information concerning any crime or other unlawful action,  
in that:

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At no time during his application process or employment with the Chicago Police Department did Plewa disclose to the Department that he was involved in criminal conduct, as evidenced by Illinois State Police criminal case #98D3067.

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

(Board Members Carney, Davis, Ballate, and Rodriguez dissent from this Finding for the reasons set forth in paragraph no. 5 above.)

27. The Police Board has considered the facts and circumstances of the Respondent's conduct, the evidence presented in defense and mitigation, and the Respondent's complimentary and disciplinary histories, copies of which are attached hereto as Exhibit A. The Board determines that the Respondent must be discharged from his position due to the serious nature of the conduct of which it has found him guilty.

The Board finds that Plewa falsely reported on his application for employment with the Chicago Police Department that had never been interviewed by the police in a criminal matter, and that he failed in his duty as a police officer to report this information to the Department.

Separate and apart from the rule violations relating to Plewa's application to become a Chicago police officer, the Board finds that his giving false testimony under oath in criminal court in the *Marcinczyk* case warrants his discharge. A police officer's single violation of a rule of conduct has long been held to be a sufficient basis for termination. *Siwek v. Police Board of the City of Chicago*, 872 N.E.2d 87 (2007), citing *Kinter v. Board of Police and Fire Commissioners*, 194 Ill. App. 3d 126 (1990), *King v. City of Chicago*, 60 Ill. App. 3d 504 (1978), and *Moriarty v. Police Board of the City of Chicago*, 7 Ill. App. 3d 978 (1972). The Board finds

that Plewa's lying under oath in court, by itself, is incompatible with continued service as a police officer. Plewa's dishonesty relates directly to his public duties as a police officer, and renders him unfit to hold that office. Trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, particularly one as a police officer. The duties of a police officer include making arrests and testifying in court, and a police officer's credibility is at issue in both the prosecution of crimes and in the Police Department's defense of civil lawsuits. A public finding that a police officer lied under oath in criminal court is detrimental to the officer's credibility as a witness and, as such, is a serious liability to the Department. See *Rodriguez v. Weis*, 408 Ill. App. 3d 663 (2011).

Plewa's extensive complimentary history and lack of prior disciplinary history do not mitigate the seriousness of his conduct. No police officer, even one as highly decorated as Plewa, can be allowed to remain on the job when he gives false testimony under oath in criminal court.

The Board finds that Plewa's conduct is sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something which the law recognizes as good cause for his no longer occupying his office.

### **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, and having conferred with the Hearing



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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 **denies** the Respondent's Motion to Strike and Dismiss;

By votes of 5 in favor (Conlon, Foreman, Fry, McKeever, Miller) to 4 opposed (Carney, Davis, Ballate, Rodriguez), the Board finds the Respondent **guilty** of violating Rule 2 (Counts I, II, and III), Rule 3 (Counts I, II, and III), Rule 5 (Counts I, II, and III), Rule 14 (Counts I and II), and Rule 21;

By votes of 8 in favor (Carney, Davis, Conlon, Foreman, Fry, McKeever, Miller, Rodriguez) to 1 opposed (Ballate), the Board finds the Respondent **guilty** of violating Rule 2 (Count IV), Rule 3 (Count IV), Rule 5 (Count IV), Rule 11 (Count I), and Rule 14 (Count III); and

By votes of 8 in favor (Carney, Davis, Ballate, Conlon, Foreman, McKeever, Miller, Rodriguez) to 1 opposed (Fry), the Board finds the Respondent **not guilty** of violating Rule 2 (Count V), Rule 3 (Count V), Rule 5 (Count V), Rule 11 (Count II), and Rule 14 (Count IV).

As a result of the foregoing, the Police Board, by a vote of 8 in favor (Carney, Davis, Conlon, Foreman, Fry, McKeever, Miller, Rodriguez) to 1 opposed (Ballate), hereby determines that cause exists for **discharging** the Respondent from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

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Police Board Case No. 12 PB 2819  
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Findings and Decision

**NOW THEREFORE, IT IS HEREBY ORDERED** that the Respondent, Police Officer Slawomir Plewa, Star No. 14604, as a result of having been found **guilty** of charges in Police Board Case No. 12 PB 2819, be and hereby is **discharged** from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18<sup>th</sup> DAY OF JULY, 2013.

/s/ Demetrius E. Carney

/s/ Scott J. Davis

/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

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**DISSENT**

I hereby dissent from the Decision of the majority of the Police Board. For the reasons set forth in paragraph nos. 5, 8, and 9 above, I find the Respondent not guilty of all charges.

/s/ Melissa M. Ballate

RECEIVED A COPY OF  
THESE FINDINGS AND DECISION  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2013.

\_\_\_\_\_  
SUPERINTENDENT OF POLICE

Police Board Case No. 12 PB 2819  
 Police Officer Slawomir Plewa  
 Findings and Decision

Report Date: 24 Sep 2012  
 Report Time: 0836 Hrs

Information Services Division  
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**Chicago Police Department**  
**Personnel Division**  
*\*Only for active personnel*



**Complimentary History**

Name	Title	Star	Unit	Detail Unit	Emp Number
PLEWA, SLAWOMIR	9161	14604	025	376	[REDACTED]

**Achievements**

**Total No.**

SPECIAL COMMENDATION
2009 CRIME REDUCTION AWARD
OTHER AWARDS
2004 CRIME REDUCTION RIBBON
POLICE OFFICER OF THE MONTH AWARD
COMPLIMENTARY LETTER
ATTENDANCE RECOGNITION AWARD
PRESIDENTIAL ELECTION DEPLOYMENT AWARD 2008
HONORABLE MENTION
UNIT MERITORIOUS PERFORMANCE AWARD
HONORABLE MENTION RIBBON AWARD
DEPARTMENT COMMENDATION
PROBLEM SOLVING AWARD
<b>TOTAL AWARDS</b>

1  
1  
1  
1  
4  
1  
1  
1  
106  
1  
1  
9  
2  

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130

12-2819

FOR USE WITH POL

CR# 1016210



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24-SEP-2012 08:28:52 AM

**CHICAGO POLICE DEPARTMENT**  
**Sustained Complaints History Report**

<u>Social Sec. #</u>	<u>Name</u>	<u>Star #</u>	<u>Emp. #</u>	<u>Rank</u>	<u>Description</u>	<u>Unit</u>
[REDACTED]	PLEWA SLAWOMIR	14604	[REDACTED]	9161	POLICE OFFICER	376
<u>Sex</u>	<u>Race</u>	<u>Birth Date</u>	<u>Appointed Date</u>	<u>No. Of CR's</u>	<u>No. Of SPAR's</u>	
M	WHITE	[REDACTED]	29-OCT-2001	0	0	

FOR USE WITH POLICE BOARD #12-2819