

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
)
POLICE OFFICER YASMINA VAVAL,) No. 19 PB 2952-1
STAR No. 14343, DEPARTMENT OF POLICE,)
CITY OF CHICAGO, AND)
)
POLICE OFFICER TERESA FOSTER,) No. 19 PB 2952-2
STAR No. 11257, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
) (CR No. 1031971)
RESPONDENTS.)

FINDINGS AND DECISIONS

On January 3, 2019, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Yasmina Vaval, Star No. 14343, and Police Officer Teresa Foster, Star No. 11257 (hereinafter sometimes referred to as “Respondents”), recommending the Respondents be discharged from the Chicago Police Department for violating several Rules of Conduct, which set forth expressly prohibited acts.

A hearing on these charges against the Respondents took place before Hearing Officer Thomas E. Johnson on June 18, 19, and 26, 2019. Following this evidentiary hearing, the members of the Police Board read and reviewed the record of the proceedings and viewed the video-recording of the entire evidentiary hearing. Hearing Officer Johnson 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 by the Department of Police of the City of Chicago.

2. A copy of the charges filed, and a notice stating the date, place, and time the initial status hearing would be held, were personally served upon each Respondent not fewer than five (5) days before the date of the initial status hearing for this case.

3. Throughout the hearing on the charges each Respondent appeared in person and was represented by legal counsel.

Introduction

4. Police Officers Vaval and Foster have been partners for twelve years and are now married. In November and December of 2007, Officer Vaval became a foster parent to three boys, who will be identified here (as they were at the hearing) by their initials: DV, MV, and CV. At the time these boys came to live with Officer Vaval, DV was nine years old, MV was eight years old and CV was six years old. MV suffered the effects of fetal alcohol syndrome, was physically small and underdeveloped, and had cognitive disabilities. The boys lived with not only Officer Vaval, but also Officer Foster, who had two minor biological children of her own, Sean Foster and Darien "Trey" Foster. Officer Vaval adopted DV, MV, and CV in February of 2009. A series of incidents involving MV took place between the spring of 2008 and November of 2009, which caused the Department of Children and Family Services to remove the children from Police Officer Vaval's care in November of 2009. It is these incidents that form the basis of the charges in this case.

Charges Against Respondent Yasmina Vaval

5. The Respondent, Police Officer Yasmina Vaval, Star No. 14343, charged herein, is **not**

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guilty of violating Rule 1, Rule 2, Rule 3, and Rule 8 in that the Superintendent did not prove by a preponderance of the evidence the following charges:

In approximately June or July 2008, Officer Yasmina Vaval learned that her son, M.V., suffered an injury, which turned out to be a fracture to the child's orbital bone under the child's left eye, but did not seek treatment for that injury in a timely manner. Officer Vaval thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by endangering the health of a child, M.V., in violation of 720 ILCS 5/12-21.6;
- b. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and/or
- d. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty.

See the findings set forth in paragraph no. 4 above, which are incorporated herein by reference. In the spring of 2008, Officers Vaval and Foster testified that MV showed them a "trick" that he could do with his eye, in which his left eye was unable to look upward, even when his right eye did. Supt.'s Exh. 1 is a picture of MV doing this "trick". The date when this condition was discovered is uncertain, in that Officer Vaval testified that the officers discovered the condition four months after the foster children came to live with them, which would place it in March of 2008, but later Officer Vaval says it was in March or April of 2008, and later still pegs the event to April 29, 2008. Officer Foster says it was discovered between May and June of 2008. After learning of this condition, Officer Vaval took MV to Dr. Greenwald, an ophthalmologist, in August of 2008. She conceded it was three months after learning of MV's condition.

Dr. Greenwald recommended surgery for MV, which took place at the University of Chicago Hospital in November of 2008. The surgeons determined that MV had suffered a fracture

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of the orbital floor, which is a bone that supports the eyeball. Dr. Ruby Roy, who treated MV later in 2009 and served as the Superintendent's expert witness, indicated that such an orbital fracture can only be caused by blunt trauma. It has the effect of trapping the nerves under the eye, so that the eye cannot move. The University of Chicago surgeons tried to correct the eye, but were unsuccessful and told Officer Vaval that the delay in seeking treatment might have contributed to their inability to correct MV's eye. Dr. Roy corroborated this view.

MV testified that Officer Foster punched him in the eye. Officer Foster denies this and there is conflicting evidence in the record as to whether MV's eye problem pre-dated his foster placement with Officer Vaval. Kylynn McMillian, who placed the children with Officer Vaval while working for Lutheran Family Services, testified that MV's file referenced an orbital fracture before he was placed with Officer Vaval, but her own caseworker (Saneeta Auster) told Chicago police investigators in November of 2009 that she did not recall any mention of an eye injury prior to MV's placement. Officer Vaval reported to the doctors that MV may have caused the eye problem by rubbing his eye—which Dr. Roy insisted could not be the cause. In any event, the Board does not need to resolve this dispute because Officer Foster is not charged with punching MV in the eye. The only charge relating to MV's eye problem is that Officer Vaval did not promptly seek treatment for the eye, and even then the Superintendent (and its expert, Dr. Roy) fault Officer Vaval only with the delay in getting MV to Dr. Greenwald. They agree that scheduling the surgery in November 2008 would have taken time because of the need for DCFS to approve the surgery and because of the surgeon's schedule.

The Board finds that the Superintendent has not sustained his burden of proving this charge by a preponderance of the evidence. In 2008, MV was still a ward of the state and DCFS was responsible for consenting to his medical treatment. Ms. McMillian, formerly of Lutheran Family

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Services, testified that DCFS consent was not needed for emergencies but was required for other treatment, including MV's treatment in this instance, and could take quite some time to secure. Officer Vaval testified that approval was required and it took some time to secure it. Dr. Roy agreed that DCFS would have had to approve the visit with Dr. Greenwald, as did Barbara Williams, the DCFS caseworker assigned to MV at the time. While Ms. Williams claims that such approval would only take a couple of weeks, Officer Vaval testified that she also had to secure an appointment with Dr. Greenwald that fit his schedule. During this time, MV was not complaining of pain and his condition was not deteriorating. Even Dr. Roy, the Superintendent's expert, conceded she did not know enough to say that Officer Vaval committed medical neglect in connection with her efforts to secure treatment of MV's eye condition (Tr., pp. 642-44). Weighing the evidence as a whole, the Board cannot find Officer Vaval guilty of these charges.

6. The Respondent, Police Officer Yasmina Vaval, Star No. 14343, charged herein, is **guilty** of violating Rule 1, Rule 2, Rule 3, and Rule 8 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about April 29, 2009, Officer Yasmina Vaval physically maltreated and/or failed to protect from harm her adopted child, M.V., who was physically punished by either Officer Vaval and/or Officer Teresa Foster in a manner resulting in visible physical injuries that necessitated medical care. Officer Vaval thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by committing a domestic battery in violation of 720 ILCS 5/12-3.2, and/or endangering the health of a child, M.V., in violation of 720 ILCS 5/12-21.6;
- b. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and/or

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- d. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty.

See the findings set forth in paragraph no. 4 above, which are incorporated herein by reference. There is no dispute that on April 29, 2009, MV received a disciplinary notice from his elementary school for having engaged in misconduct. He was required to bring the note home to have his mother sign it. Both Officer Vaval and Officer Foster were home that night. The next day MV came to school with bruising on his arms and legs. MV told school personnel that both Officer Vaval and Foster whipped him. The school social worker (Ms. Lomax) then contacted DCFS to report possible child abuse.

DCFS investigator Barbara Williams responded to the call and interviewed MV at the school, where he told her that Officer Vaval whipped him on the hands and she hurt his arm as he tried to protect himself, and further that Officer Foster beat him on his buttocks with his pants down. He used his hands to try to protect himself from Officer Foster. DV and CV corroborated MV's account to Ms. Williams. DCFS investigator Williams then went to the home of Officers Vaval and Foster. She testified that Officer Vaval initially denied any physical contact with MV but later admitted whipping MV with a belt on the hands, while Officer Foster denied hitting him at all. Officer Vaval told Ms. Williams that MV injured himself by sucking on his arms to create bruising and rubbing his legs on the rail of his bunk bed to injure his legs. Ms. Williams examined the bunk bed and saw no way that the rails of MV's bed could injure him in the way Officer Vaval described. Ms. Williams insisted that Officer Vaval take MV to be examined. She did so on May 1, 2009, by taking him the University of Chicago emergency room. The hospital records (Supt.'s Exh. 2, p. 35) documented bruising on the back of each thigh, and on both forearms.¹ At the hospital,

¹In addition to these injuries, Officer Vaval also admitted to an injury on MV's shoulder.

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Detective Nicholas Cikulin reports that MV told the medical staff that the injuries were self-inflicted. Ms. Williams reached the examining doctor by phone later and she said she had "concerns" about the injuries, but the doctor never called Ms. Williams back. Ms. Williams could not reach MV's therapist or caseworker, and so she closed out the case without indicating child abuse.

The Board finds that Officer Vaval did whip MV on his hands with a belt, as she eventually admitted to Investigator Williams. The injuries observed at the school are consistent with this admission. The Board finds that Officer Foster caused the balance of the injuries to MV, and credits Ms. Williams's testimony that she believed Officers Vaval and Foster caused the injuries. This finding is corroborated not only by MV's account of what happened (when he gave an account outside the presence of Officers Vaval and Foster), but also by the accounts of DV and CV, and the timing of the injuries in relation to the disciplinary notice MV received, as well as Dr. Roy's opinion, recounted by Judge Huff in his 2012 opinion finding that MV was abused and neglected in that he lived in an injurious environment. The Board also finds that Officer Vaval's testimony at the hearing that she did not whip MV (despite Ms. Williams' contrary report) and that MV caused the injuries by sucking on his arm and on his bed rail is absolutely not credible, thus further supporting a finding that the injuries came from her and Officer Foster. Finally, the Board found CV's testimony at the hearing about the injuries inflicted upon him by Officer Foster (on separate occasions) particularly convincing. When the evidence is viewed in its totality, it is clear that Officer Vaval whipped MV on his hands with a belt and Officer Foster beat him on the other parts of his body. MV's recantation at the hospital is meaningless, given the presence of Officer Vaval.

The Board finds that not only did Officer Vaval physically maltreat MV, but she also failed to protect him from the beating he received from Officer Foster. Moreover, the Board finds that

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Officer Vaval would never have taken MV for treatment of his injuries unless DCFS had ordered her to take him to the hospital. This is clear because Officer Vaval did not seek treatment in April, when the injuries clearly occurred on April 29, until DCFS insisted on a medical evaluation.

7. The Respondent, Police Officer Yasmina Vaval, Star No. 14343, charged herein, is **guilty** of violating Rule 1, Rule 2, Rule 3, and Rule 8 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about April 29, 2009, M.V. was physically maltreated by Officer Vaval and/or Officer Teresa Foster, resulting in visible physical injuries that necessitated medical care, but Officer Vaval failed to seek medical care for the child's injuries until on or about May 1, 2009. Officer Vaval thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by committing a domestic battery in violation of 720 ILCS 5/12-3.2, and/or endangering the health of a child, M.V., in violation of 720 ILCS 5/12-21.6;
- b. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and/or
- d. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty.

See the findings set forth in paragraph nos. 4 and 6 above, which are incorporated herein by reference.

8. The Respondent, Police Officer Yasmina Vaval, Star No. 14343, charged herein, is **guilty** of violating Rule 1, Rule 2, Rule 3, and Rule 8 in that the Superintendent proved by a preponderance of the evidence the following charges:

In or about October 2009, Officer Yasmina Vaval observed her adopted child, M.V., suffer

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what appeared to be a seizure, and failed to seek medical treatment. Officer Vaval thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by endangering the health of a child, M.V., in violation of 720 ILCS 5/12-21.6;
- b. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and/or
- d. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty.

See the findings set forth in paragraph no. 4 above, which are incorporated herein by reference. In November of 2009, after another incident of suspected abuse, Officer Vaval took MV to the hospital at the direction of DCFS. She first took MV to Hartgrove Hospital and then to LaRabida. During the intake process at LaRabida, the attending physician (Dr. Ziemianin) recorded that Officer Vaval reported MV had a seizure about a month before. They indicate that Officer Vaval told the hospital MV had been foaming at the mouth, his eyes rolled back into his head and he jerked for less than five minutes. Dr. Roy, who treated MV at LaRabida, and testified before the Board as an expert, described this as a tonic-clonic seizure, which means a generalized shaking. The history at LaRabida also describes an incident a week before MV was brought to the hospital where MV had lost consciousness at home after hitting his head in the bathroom. Officer Foster admitted that her son Sean had reported to her that MV had passed out, and Officer Vaval told LaRabida that MV had "passed out." Officer Vaval had not sought medical treatment either for the seizure or the loss of consciousness. These episodes were only reported to medical personnel after DCFS had ordered Officer Vaval to bring MV to the hospital.

At LaRabida, the doctors investigated the seizure episode by performing an MRI and

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cardiac monitoring on MV. The results were unremarkable, i.e. considered normal. Whether or not there was clinical confirmation of the seizure condition, the question for the Board is why Officer Vaval did not seek medical attention for these problems on her own. There is no dispute that she did not do so.

Officer Vaval testified that MV had not actually had a seizure, but rather a "shaking," which she had never seen before. She claims that even though she saw him "shaking," he jumped up and started laughing. Officer Foster testified that MV had a high temperature, was shaking and his eyes rolled back only slightly, and she conceded she had never seen MV exhibit these symptoms before. Officers Vaval and Foster took the same position with respect to MV's loss of consciousness. When Sean Foster called Officers Vaval and Foster to report that MV had banged his head in the bathroom and was laying on the floor, they returned home and MV got up from the floor, suggesting to them that his loss of consciousness did not really occur or, in Officer Vaval's words that "he was faking he was passed out" (Tr., p. 49). The Board finds this testimony by Officers Vaval and Foster to be not credible. The testimony stands in direct conflict with what the staff at LaRabida recorded contemporaneously in the medical records after talking to Officer Vaval. It is apparent to the Board that at the hearing, the officers attempted to minimize MV's seizure and loss of consciousness, given the charges against Officer Vaval. The Board agrees with Dr. Roy's expert testimony and finds that MV exhibited serious symptoms in the month before he was brought to LaRabida, and that Officer Vaval should have sought treatment for these symptoms on her own, before DCFS ordered her to go to the hospital. As such, she is guilty of the charges alleged.

9. The Respondent, Police Officer Yasmina Vaval, Star No. 14343, charged herein, is

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guilty of violating Rule 1, Rule 2, Rule 3, and Rule 8 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about November 13, 2009, M.V. was physically abused by Officer Teresa Foster, resulting in bruising and/or swelling to various parts of the child's body, and/or a broken left arm, but Officer Yasmina Vaval failed to seek medical care for the child's injuries until on or about November 15, 2009. Officer Vaval thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by endangering the health of a child, M.V., in violation of 720 ILCS 5/12-21.6;
- b. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and/or
- d. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty.

See the findings set forth in paragraph no. 4 above, which are incorporated herein by reference. On November 13, 2019, Debra Lomax from MV's school observed bruising on his hands again and MV was complaining of pain. Ms. Lomax reported suspected abuse to DCFS. DCFS investigator Venus Cole was assigned to investigate. She ordered Officer Vaval to have MV examined at the hospital and the police were contacted regarding possible criminal charges. Chicago Police Detective Thomas Cleary went to the home and observed visible bruising on MV's right hand, right forearm, left shoulder, right shoulder blade, back and left thigh. At LaRabida, Dr. Ruby Roy examined MV and documented bruising on the back of his left and right shoulders, on his mid-back and left-back, and on the back of his left thigh, among other places. She also found linear marks on the back of his right hip and a fracture of the left arm caused by blunt trauma within the past week. Dr. Roy testified it was medical neglect not to bring the young MV in for treatment right away after these injuries occurred.

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In paragraph no. 10 below, the Board finds that Officer Foster physically abused MV, causing the boy to suffer significant injuries. The question here is whether Officer Vaval failed to seek medical care for her son when he was injured. It is clear to the Board that Officer Vaval did not seek medical care, and MV secured medical care for his injuries (including a broken arm) only because of the intervention of DCFS investigator Venus Cole, who insisted that Officer Vaval take MV to the hospital for an evaluation. As such, Officer Vaval is guilty of these charges.

10. The Respondent, Police Officer Yasmina Vaval, Star No. 14343, charged herein, is **guilty** of violating Rule 2 and Rule 14 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about November 15, 2009, Officer Yasmina Vaval made a false and/or misleading statement when she told medical personnel treating M.V. that the child's injuries, including bruising on M.V.'s arms and legs and a broken arm, were self-inflicted. Officer Vaval thereby violated:

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

See the findings set forth in paragraph nos. 4 and 9 above, which are incorporated herein by reference. When MV's school again reported suspected abuse to DCFS on November 13, 2009, because of the injuries observed at school, DCFS assigned Venus Cole to investigate. MV told her in the school office on November 13, 2009, that Officer Foster had hit him with a bat that had broken in half and with a brush. Ms. Cole observed many of MV's injuries. CV told Ms. Cole that he observed Officer Foster whipping MV on the day in question, but DV said that MV hurt himself all the time. Ms. Cole learned that the children had reported to Officer Vaval that Officer Foster

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had beaten them, but Officer Vaval did not believe them. Investigator Cole visited the home and Officer Foster denied beating MV, while Officer Vaval indicated that MV injured himself. Thereafter, Ms. Cole spoke with Sean Foster, who confirmed that he had seen MV in the bathroom with a brush on his back and had seen him scratching his legs across the bed, but when asked if he had seen MV get a whipping, he did not respond. Ms. Cole insisted that Officer Vaval obtain an evaluation of MV at Hartgrove Hospital.

Detective Cleary also responded to the Vaval-Foster home on November 13, 2009. After observing MV's injuries, he spoke with MV who said that he had inflicted the injuries on himself and provided a demonstration of how he did it. Detective Cleary did not comment on the credibility of this demonstration. DV and Sean Foster said they were struck on the hand or buttocks for not behaving and DV saw Officer Foster strike MV with a belt on the buttocks the previous day, but they denied seeing Officer Foster cause the injuries on MV. Officers Foster and Vaval told the detective that MV had injured himself in the past, and Officer Foster specifically denied causing the injuries observed on MV.

On November 16, 2009, Chicago Police Detective Cikulin interviewed MV at LaRabida Hospital (where Officer Vaval had taken him upon finding the Hartgrove Hospital clinic closed). MV told him that Officer Foster had hit him with a brush, and that Officer Vaval hit him on the buttocks with her hand or a stick. He said he injured his own legs and back with his hands, and he injured his arm when he bumped it on his bed. Dr. Ruby Roy, the attending physician at LaRabida, told Detective Cikulin that MV's injuries were not consistent with self-infliction and the fracture was recent. She also indicated there was no previous diagnosis of self-injury by MV and the hospital watched him for ten days, and found he did not injure himself. Officer Vaval told the detective that she disciplined the boys with a belt or her hand on the buttocks, as did Officer Foster

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but they had not been disciplined for two months. DV and CV said they were whipped with a belt or their mother's hand. They had not seen MV hurt himself. Sean Foster confirmed that the mothers hit the children with a belt or their hand, and he had observed MV hurt himself with a brush before and rub his legs against the bed. Officer Foster said that she sometimes disciplines the children with a belt on the buttocks or with her hand, but she did not hit MV with a brush or injure his arm.

Detective Cikulin was then contacted by DCFS investigator Cole on November 18, 2009. She said that she interviewed DV, MV and CV at LaRabida, and they all gave the same story---that on November 13, 2009, on the way to school, Officer Foster stopped at her mother's home and she took MV to the basement, where she hit him with a bat and brush she took from her purse. When MV tried to get away, he hurt his arm on a table in the basement. DV and CV corroborated this story. On November 18, 2009, while on a LaRabida hospital shuttle bus, MV volunteered to a hospital staffer that his mother hit him with a belt and stick, and scratched him with a brush, but he also scratched himself because of itchy skin. MV did not want to go back home. Officer Foster denied striking MV in the basement of her mother's home, or injuring or abusing him in any way. Officer Vaval also denied any abuse and that she caused any injury to MV.

No criminal charges were brought against Officers Vaval or Foster, but DCFS removed DV, MV and CV from the officers' home shortly after the November 13, 2009, report of abuse to DCFS and began proceedings in Juvenile Court that led to a decision on February 12, 2012, by Judge John L. Huff that MV had been physically abused by Officer Foster, and that he, as well as DV and CV, were living in an environment that was dangerous.

MV testified at the hearing in this matter that Officer Foster beat him with brushes, sticks, and a bat, but he did not tell Officer Vaval. He says his arm got caught in the bed and Officer Foster stepped on it, and broke it. He denied injuring himself. CV testified that he remembers when MV

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broke his arm and it had something to do with Officer Foster. He did not recall many of the specifics from long ago when he was very young living with MV and DV, but he clearly and very credibly testified that he was angry with Officer Foster for hitting him with a stick and leaving big scars on his shoulders.

At the hearing, Officer Vaval continued to insist that MV caused the November 2009 injuries to himself. Officer Foster denied beating MV on November 13, 2009, as she had done when interviewed by Detectives Cleary and Cikulin. Jocelyne McGlorthan, the sister of Officer Vaval, with whom the children were placed for a month or two after being removed from the Vaval-Foster home, testified that they were too difficult for her to handle, threatened her husband and son, and damaged items in her home. Kylynn McMillian, who had initially placed DV, MV and CV with Officer Vaval, on behalf of Lutheran Family Services, testified that she spoke to DV, MV and CV, and they never complained of beatings, and wanted to be adopted by Officer Vaval.

Dr. Ruby Roy treated MV at LaRabida and testified at the hearing as an expert in the diagnosis of child abuse. She is a doctor with a specialty in pediatrics and pediatric trauma, including the diagnosis of trauma caused by child abuse. Dr. Roy found that the injuries MV suffered in November of 2009 were the product of child abuse. Her expert opinion was not contradicted by other expert testimony. She examined MV after the initial attending doctor (Dr. Ziemianin) contacted her with concerns about how MV suffered the bruising and other injuries she observed. Dr. Ziemianin reported that Officer Vaval had indicated MV had a history of injuring himself and (in MV's presence) said he had caused the injuries himself. Officer Vaval made the same statement to Dr. Roy later. Dr. Roy, however, could not find any evidence of a diagnosis of self-mutilation in MV's records. The hospital watched MV for the 10-day period he was at LaRabida in November of 2009, to see if he injured himself and he did not, but rather was

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well-behaved.

Dr. Roy observed MV's injuries on November 16, 2009, and determined he had a painful "nightstick" fracture of his left arm that, based on the x-ray, had occurred within the last week to ten days. This fracture was caused by trauma from a blunt object. She found that the injuries on MV's back and back of his legs could not have been self-inflicted, given their location, the nature of the bruising and MV's small size. She also found that while MV could have scratched himself on the arms with a brush, a brush used in this manner would not have caused bruising. Nor could bruising occur by MV sucking his arm, as Officer Vaval had suggested.

While hospitalized at LaRabida, MV volunteered to Nurse Izetta Middleton, that his mom had beaten him with a stick, a brush and a belt, and had grabbed his arm (at the point it was broken) real hard. She found these spontaneous declarations credible and consistent with the injuries she had observed. Dr. Roy did not find it surprising that when MV was in the presence of Officer Vaval, he told people that he had injured himself, as he was a small, nine-year old boy expecting to go back to live with Officer Vaval, and was afraid to contradict her story. Before determining that child abuse had occurred, Dr. Roy discussed the case with Dr. Ellen Kennedy (the resident on duty), Ann Holman (a LaRabida social worker), Dr. Kelly Staley (the child abuse specialist at the University of Chicago), Brad Stolbach, Ph.D. (a psychologist specializing in child trauma), and DCFS investigator Venus Cole. Dr. Roy reviewed the earlier records of MV's orbital fracture and earlier visits to the University of Chicago Hospital and found the history of injuries and repeated claims of self-infliction (including that he obtained bruises by sucking on his arms and leg injuries by rubbing his bunk bed) to be concerning and supportive of her opinion as to how the November 2009 injuries occurred.

The Board finds the un rebutted testimony of Dr. Roy to be convincing that MV's

November, 2009 injuries were caused by child abuse at the hands of Officer Foster, and that these injuries were not self-inflicted as Officer Vaval told both Dr. Roy and other members of the staff at LaRabida. Dr. Roy's testimony is corroborated by Judge Huff's findings in Juvenile Court, and by CV's credible testimony at the hearing pertaining to past beatings by Officer Foster. The Board recognizes that MV gave varying accounts of how the injuries occurred, but finds that when MV was outside the presence of Officers Vaval and Foster, he was generally consistent in saying that Officer Foster had beaten him. His inconsistent statements, as Dr. Roy testified, can be explained by his fear of returning home to Officer Vaval after contradicting her accounts with the authorities. As such, Officer Vaval is guilty of making a false statement to the LaRabida medical staff and to Dr. Roy, when she told them that MV's November, 2009 injuries were self-inflicted. Officer Foster is guilty of making false statements to Detective Cleary on November 13, 2009, to Detective Cikulin on November 17, 2009 and to Detective Cikulin again on December 11, 2009, when she—on each occasion—denied hitting MV and inflicting the November 2009 injuries on him.

Charges Against Respondent Teresa Foster

11. The Respondent, Police Officer Teresa Foster, Star No. 11257, charged herein, is **guilty** of violating Rule 1, Rule 2, Rule 3, and Rule 8 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about April 29, 2009, Officer Teresa Foster physically maltreated and/or failed to protect from harm M.V., who was physically punished by either Officer Yasmira Vaval and/or Officer Foster in a manner resulting in visible physical injuries that necessitated medical care. Officer Foster thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by committing a domestic battery in violation of 720 ILCS 5/12-3.2, and/or endangering the health of a child, M.V., in violation of 720 ILCS 5/12-21.6;

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- b. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department;
- c. Rule 3, which prohibits any failure to promote the Department's efforts to implement its policy or accomplish its goals; and/or
- d. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty.

See the findings set forth in paragraph nos. 4 and 6 above, which are incorporated herein by reference.

12. The Respondent, Police Officer Teresa Foster, Star No. 11257, charged herein, is **guilty** of violating Rule 1, Rule 2, and Rule 8 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about November 13, 2009, Officer Teresa Foster physically maltreated M.V. in a manner resulting in visible physical injuries that necessitated medical care. Officer Foster thereby violated:

- a. Rule 1, which prohibits violation of any law or ordinance, by committing a domestic battery in violation of 720 ILCS 5/12-3.2, and/or endangering the health of a child, M.V., in violation of 720 ILCS 5/12-21.6;
- b. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department; and/or
- c. Rule 8, which prohibits disrespect to or maltreatment of any person, while on or off duty.

See the findings set forth in paragraph nos. 4, 9 and 10 above, which are incorporated herein by reference.

13. The Respondent, Police Officer Teresa Foster, Star No. 11257, charged herein, is **guilty** of violating Rule 2 and Rule 14 in that the Superintendent proved by a preponderance of the

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evidence the following charges:

On or about November 13, 2009, at or near xxxx South Kimbark Avenue, Chicago, Officer Teresa Foster made a false and/or misleading statement during an interview with Chicago Police Detective Thomas Cleary when she denied inflicting any injuries on M.V. Officer Foster thereby violated:

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

See the findings set forth in paragraph nos. 4, 9, and 10 above, which are incorporated herein by reference.

14. The Respondent, Police Officer Teresa Foster, Star No. 11257, charged herein, is **guilty** of violating Rule 2 and Rule 14 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about November 17, 2009, at Chicago Police Area 2 headquarters, Officer Teresa Foster made a false and/or misleading statement during an interview with members of the Chicago Police Department when she denied inflicting any injuries on M.V. Officer Foster thereby violated:

- a. Rule 2, which prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department; and/or
- b. Rule 14, which prohibits making a false report, written or oral².

See the findings set forth in paragraph nos. 4, 9, and 10 above, which are incorporated herein by reference.

15. The Respondent, Police Officer Teresa Foster, Star No. 11257, charged herein, is

² This charge was amended prior to the start of the hearing, without objection from the respondents.

guilty of violating Rule 2 and Rule 14 in that the Superintendent proved by a preponderance of the evidence the following charges:

On or about December 11, 2009, at Chicago Police Area 2 headquarters, Officer Teresa Foster made a false and/or misleading statement during an interview with Chicago Police Detective Nicholas Cikulin when she denied hitting M.V. with a bat or brush. Officer Foster thereby violated:

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

See the findings set forth in paragraph nos. 4, 9, and 10 above, which are incorporated herein by reference.

Penalties

16. The Police Board has considered the facts and circumstances of the conduct of which it has found each Respondent guilty, and the evidence each Respondent presented in their defense and mitigation.

Respondent Yasmina Vaval

Officer Vaval presented evidence in mitigation from Jocelyne McGlorthan, Angela Fulton, retired Police Officer Ronya Starks and Sergeant Shawn Kennedy. In addition, Officer Vaval, who joined the Police Department in 2000, has a complimentary history of 30 total awards, including the Superintendent's Award of Valor, one Department commendation, 17 honorable mentions, and four attendance recognition awards; she has no sustained complaints on her disciplinary history.

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Nevertheless, after thoroughly considering Officer Vaval's service as a police officer and the lack of prior disciplinary history, the Board finds that her accomplishments as an officer and the positive evaluations of her do not mitigate the seriousness of her misconduct in this case. The Board finds that Officer Vaval's misconduct is incompatible with continued service as a police officer.

Officer Vaval physically maltreated, failed to protect, and failed to seek medical care for her nine-year-old adopted son. Her conduct showed a disregard for his safety, for the law, and brought discredit upon the Chicago Police Department, thereby undermining public confidence in the judgment of its officers and the Department's mission.³ Effective law enforcement depends upon a high degree of cooperation between the police department and the public it serves. Conduct such as the Officer Vaval's erodes the public's trust of and confidence in police officers, thereby impeding the Department's efforts to achieve the important goals of preventing crime, preserving the public peace, identifying and arresting those who commit crimes, and promoting respect and cooperation of all Chicagoans for the law and those sworn to enforce it.

In addition, Officer Vaval attempted to cover up her violation of the law and Officer Foster's criminal abuse of the child by falsely stating to medical personnel treating M.V. that the child's injuries were self-inflicted. Officer Vaval's intentional and material false statement about criminal activity also render her unfit to be a Chicago police officer. Trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, but 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

³ Officer Vaval is charged with violating Rules, 1, 2, 3, 8, and 14. The Board finds that her violations of Rules 1-3 and 8 are, by themselves, sufficiently serious to warrant a penalty of discharge.

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Department's defense of civil lawsuits. A public finding that a police officer made an intentional false statement about criminal activity 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, 671 (1st Dist. 2011).

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

Respondent Theresa Foster

Officer Foster presented evidence in mitigation from Angela Fulton. In addition, Officer Foster, who joined the Police Department in 2000, has a complimentary history of 12 total awards, including one Department commendation and eight honorable mentions; she has no sustained complaints on her disciplinary history.

Nevertheless, after thoroughly considering Officer Foster's service as a police officer and the lack of prior disciplinary history, the Board finds that her accomplishments as an officer and the positive evaluation of her do not mitigate the seriousness of her misconduct in this case. The Board finds that Officer Foster's misconduct is incompatible with continued service as a police officer.

Officer Foster physically maltreated a nine-year-old child on two occasions, resulting in visible physical injuries that required medical care. Her abuse of this young child showed a disregard for the law and brought discredit upon the Chicago Police Department, thereby

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undermining public confidence in the judgment of its officers and the Department's mission.⁴

Effective law enforcement depends upon a high degree of cooperation between the police department and the public it serves. Conduct such as the Officer Foster's erodes the public's trust of and confidence in police officers, thereby impeding the Department's efforts to achieve the important goals of preventing crime, preserving the public peace, identifying and arresting those who commit crimes, and promoting respect and cooperation of all Chicagoans for the law and those sworn to enforce it.

In addition, Officer Foster attempted to cover up her criminal abuse of the child by repeatedly falsely stating to Chicago police detectives that she did not inflict any injuries on the child. Officer Foster's intentional and material false denials of her criminal activity also render her unfit to be a Chicago police officer. Trustworthiness, reliability, good judgment, and integrity are all material qualifications for any job, but 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 made intentional false statements about criminal activity 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, 671 (1st Dist. 2011).

The Board finds that Officer Foster's conduct is sufficiently serious to constitute a substantial shortcoming that renders her continuance in her office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something that the law

⁴ Officer Foster is charged with violating Rules, 1, 2, 3, 8, and 14. The Board finds that her violations of Rules 1-3 and 8 are, by themselves, sufficiently serious to warrant a penalty of discharge.

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recognizes as good cause for her to no longer occupy her office.⁵

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⁵ As the Board has noted in several of its recent decisions, the length of time for disciplinary cases to reach the Board is excessive. The Board continues to be deeply troubled by cases such as this, in which the charges were filed more than nine years after an incident occurs. In this case, the impact was particularly serious on the victim, who was eight years old when abused and is now an adult. While the delay has no effect on the Board's decisions as to the facts or outcome of this case, and there is no evidence in the record that the delay prejudiced either Respondent, the delay of ten years is noted for the purpose of providing another example of excessive delay to emphasize that eliminating excessive delays must continue to be a priority in resolving allegations of misconduct and improving police accountability.

POLICE BOARD DECISIONS

The members of the Police Board of the City of Chicago hereby certify that they have read and reviewed the record of proceedings, viewed the video-recording of the entire evidentiary hearing, received the oral report of the Hearing Officer, and conferred with the Hearing Officer on the credibility of the witnesses and the evidence. The Police Board hereby adopts the findings set forth herein by the following votes.

Respondent Yasmina Vaval

By votes of 9 in favor (Ghian Foreman, Paula Wolff, Eva-Dina Delgado, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds Respondent Yasmina Vaval **guilty** of violating Rule 1, Rule 2, Rule 3, Rule 8, and Rule 14, as set forth in paragraph nos. 6 – 10 above, and **not guilty** of violating Rule 1, Rule 2, Rule 3, and Rule 8, as set forth in paragraph no. 5 above.

As a result of the foregoing, the Board, by a vote of 9 in favor (Foreman, Wolff, Delgado, Eaddy, Flores, O'Malley, Simpson, Sweeney, and Zopp) to 0 opposed, hereby determines that cause exists for discharging Respondent Yasmina Vaval from her position as a police officer with the Department of Police and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Yasmina Vaval, Star No. 14343, as a result of having been found **guilty** of charges in Police Board Case No. 19 PB 2952, be and hereby is **discharged** from her position as a police officer with the Department of Police and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police

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Board: Ghian Foreman, Paula Wolff, Eva-Dina Delgado, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp.

Respondent Teresa Foster

By votes of 9 in favor (Ghian Foreman, Paula Wolff, Eva-Dina Delgado, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp) to 0 opposed, the Board finds Respondent Teresa Foster **guilty** of violating Rule 1, Rule 2, Rule 3, Rule 8, and Rule 14, as set forth in paragraph nos. 11 – 15 above.

As a result of the foregoing, the Board, by a vote of 9 in favor (Foreman, Wolff, Delgado, Eaddy, Flores, O'Malley, Simpson, Sweeney, and Zopp) to 0 opposed, hereby determines that cause exists for discharging Respondent Teresa Foster from her position as a police officer with the Department of Police and from the services of the City of Chicago.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Teresa Foster, Star No. 11257, as a result of having been found **guilty** of all charges in Police Board Case No. 19 PB 2952, be and hereby is **discharged** from her position as a police officer with the Department of Police and from the services of the City of Chicago.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Ghian Foreman, Paula Wolff, Eva-Dina Delgado, Michael Eaddy, Steve Flores, John P. O'Malley Jr., John H. Simpson, Rhoda D. Sweeney, and Andrea L. Zopp.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 22nd DAY OF AUGUST, 2019.

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Attested by:

/s/ GHIAN FOREMAN
President

/s/ MAX A. CAPRONI
Executive Director

DISSENT

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

[None]

RECEIVED A COPY OF

THESE FINDINGS AND DECISIONS

THIS ____ DAY OF _____, 2019.

EDDIE T. JOHNSON
Superintendent of Police