

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER VINCENT FOGGEY,) **No. 15 PB 2889**
STAR No. 9768, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
) **(CR No. 1071609)**
RESPONDENT.)

FINDINGS AND DECISION

On June 29, 2015, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Vincent Foggey, Star No. 9768 (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 5: Failure to perform any duty.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 11: Incompetency or inefficiency in the performance of duty.

The Police Board caused a hearing on these charges against the Respondent to be had before Hearing Officer Thomas E. Johnson on November 16 and 23, 2015.

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

POLICE BOARD FINDINGS

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

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.

2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, were personally served upon the Respondent more than five (5) days prior to the hearing on the charges.

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

4. The Respondent, Police Officer Vincent Foggey, Star No. 9768, 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 the Superintendent proved by a preponderance of the evidence the following charge:

On or about September 18, 2014, at or about 0405 hours, at or around 7109 South Jeffery Boulevard, in Chicago, you failed to take action or sufficient action to assist your partner, who had at that time been a full Police Officer for approximately three days, in putting an assailant into custody. This includes, but is not limited to, by failing to provide information to your partner and/or the dispatcher over the radio; and/or by walking to rejoin him after his request for assistance; and/or by failing to provide assistance or sufficient assistance during and/or after your partner had to perform an emergency takedown of said assailant; thereby impeding the Department's efforts to achieve its policy and goals and/or bringing discredit upon the Department.

The evidence in this case establishes that Officer Foggey left his partner (Officer Sanjin Hodzic, who was on his third day as a fully qualified police officer, having just finished his probationary period) in the parking lot of a Walgreen's store at 71st and Jeffrey at 3:24 a.m., in

order to take personal time in the Walgreen's. Though "personals" are to last only 15 minutes, Officer Foggey remained in the Walgreen's until 4:03:40 a.m., extending his "personal" to almost 40 minutes, mainly speaking to a female employee in the store. He left only when he received a mobile request for help from his partner. This was followed by a second call, which Officer Foggey received as he was walking from the store. Officer Foggey did not verbally respond to his partner and showed no urgency in leaving the store. Upon arriving outside, Officer Foggey's partner, Officer Hodzic, was found to be struggling with a citizen named William Brewer. Mr. Brewer had been in a physical altercation with his wife in the parking lot in full view of Officer Hodzic, and Officer Hodzic had properly intervened. The video recording shows that at the time Officer Foggey came outside to a point where he could see Officer Hodzic struggling with Mr. Brewer, Officer Hodzic did not have control of Mr. Brewer and had to take him to the ground, in full view of Officer Foggey. Despite these circumstances, Officer Foggey did not move quickly to assist his partner, but instead strolled to the place where Officer Hodzic was struggling with Mr. Brewer. Officer Foggey offered no assistance with control tactics (*e.g.* a wrist lock, arm bar or the use of pressure-sensitive areas on the offender, or use of control instruments or tactics), which Sergeant Larry Snelling of the Training Academy testified were required. Nor did Officer Foggey assist with the handcuffing of Mr. Brewer, which Sergeant Snelling also testified was critical in this situation. At most, Officer Foggey gave Mr. Brewer verbal commands, which appear to have been ineffective, and may have placed a hand on him. Officer Foggey's actions are confirmed not only by the video recording but also by the credible testimony of Officer Hodzic.

While Officer Foggey contends the situation was under control when he emerged from the Walgreen's, his testimony is undermined by the video recording. Officer Hodzic clearly did not have Mr. Brewer under control and had to take him to the ground. Moreover, Mr. Brewer then

badly bit Officer Hodzic as they struggled on the ground. Mr. Brewer was armed with a knife during this entire incident. Officer Foggey's failure to assist his partner and failure to use the training provided to him clearly put his partner in serious danger, and are unacceptable in the judgment of the Board.

Officer Foggey's dereliction of duty is compounded by his response to this incident after it had occurred. Sergeant Elise Padilla testified credibly that Officer Foggey suggested that his partner was at fault for what transpired, telling her that "these young officers get into all kinds of stuff" and are "always getting into trouble, getting into a mess," or words to this effect. In fact, Officer Hodzic was doing precisely what officers are trained and expected to do. Officer Foggey's contention that had he known this was a domestic disturbance, he would have responded on the radio from the store and come out more quickly is belied by the fact that he never even communicated with his partner, who obviously needed help. The evidence clearly indicated that Officer Foggey did not properly respond to the problems Officer Hodzic was encountering or the danger in which Officer Hodzic found himself. Officer Foggey's claim that Officer Hodzic had the situation under control, even after Officer Foggey had seen the video recording, is plainly incredible. Officer Foggey's failure to direct responding officers to the correct location, when they were urgently trying to assist, is consistent with his general indifference to the situation unfolding.

5. The Respondent, Police Officer Vincent Foggey, Star No. 9768, charged herein, is **guilty** of violating, to wit:

Rule 5: Failure to perform any duty,

in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about September 18, 2014, at or about 0405 hours, at or around 7109 South Jeffery

Boulevard, in Chicago, you failed to take action or sufficient action to assist your partner, who had at that time been a full Police Officer for approximately three days, in putting an assailant into custody. This includes, but is not limited to, by failing to provide information to your partner and/or the dispatcher over the radio; and/or by walking to rejoin him after his request for assistance; and/or by failing to provide assistance or sufficient assistance during and/or after your partner had to perform an emergency takedown of said assailant; thereby failing to perform your duty.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

6. The Respondent, Police Officer Vincent Foggey, Star No. 9768, charged herein, is **guilty** of violating, to wit:

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

in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about September 18, 2014, at or about 0405 hours, at or around 7109 South Jeffery Boulevard, in Chicago, you failed to take action or sufficient action to assist your partner, who had at that time been a full Police Officer for approximately three days, in putting an assailant into custody. This includes, but is not limited to, by failing to provide information to your partner and/or the dispatcher over the radio; and/or by walking to rejoin him after his request for assistance; and/or by failing to provide assistance or sufficient assistance during and/or after your partner had to perform an emergency takedown of said assailant; thereby violating General Order G01-01, "Mission Statement and Core Values," Section II(A)(2), "The Core Values of the Chicago Police Department—Obligation."

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

7. The Respondent, Police Officer Vincent Foggey, Star No. 9768, charged herein, is **guilty** of violating, to wit:

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

in that the Superintendent proved by a preponderance of the evidence the following charge:

On or about September 18, 2014, at or about 0405 hours, at or around 7109 South Jeffery Boulevard, in Chicago, you failed to take action or sufficient action to assist your partner, who had at that time been a full Police Officer for approximately three days, in putting an assailant into custody. This includes, but is not limited to, by failing to provide information to your partner and/or the dispatcher over the radio; and/or by walking to rejoin him after his request for assistance; and/or by failing to provide assistance or sufficient assistance during and/or after your partner had to perform an emergency takedown of said assailant; thereby showing incompetence in the performance of your duty.

See the findings set forth in paragraph no. 4 above, which are incorporated here by reference.

8. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the evidence presented in defense and mitigation.

The Police Board 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. Police officers regularly encounter difficult subjects on the street. They are trained to rely on their partners, and use their radios and various control tactics in order to keep the public and themselves safe. In this case, Officer Foggey completely failed to utilize any of his training and displayed a gross sense of indifference to a dangerous situation. This left his partner in jeopardy and injured, and created confusion among those officers responding and seeking to provide support. Further, Officer Foggey refused to take responsibility for his failures, even in the face of the video recording. His unwillingness to support his fellow officer in this case renders him unfit to continue to serve as a police officer.

The Respondent offered evidence in mitigation that the Board has considered. However, the mitigation testimony of the officers called and Officer Foggey's record do not outweigh the seriousness of his misconduct. The Board finds that the Respondent's conduct is sufficiently

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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 that the law recognizes as good cause for him to no longer occupy his office.

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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 Officer on the credibility of the witnesses and the evidence, hereby adopts the findings set forth herein by the following votes:

By votes of 9 in favor (Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, John H. Simpson, Rhoda D. Sweeney, and Claudia B. Valenzuela) to 0 opposed, the Board finds the Respondent **guilty** of violating Rule 2, Rule 5, Rule 6, and Rule 11.

As a result of the foregoing, the Board, by a vote of 9 in favor (Lightfoot, Foreman, Ballate, Conlon, Eaddy, Fry, Simpson, Sweeney, and Valenzuela) to 0 opposed, 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.

NOW THEREFORE, IT IS HEREBY ORDERED that the Respondent, Police Officer Vincent Foggey, Star No. 9768, as a result of having been found **guilty** of all charges in Police Board Case No. 15 PB 2889, 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.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Lori E. Lightfoot, Ghian Foreman, Melissa M. Ballate, William F. Conlon, Michael Eaddy, Rita A. Fry, John H. Simpson, Rhoda D. Sweeney, and Claudia B. Valenzuela.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 17th DAY OF MARCH, 2016.

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Attested by:

/s/ LORI E. LIGHTFOOT
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 DECISION

THIS ____ DAY OF _____, 2016.

JOHN J. ESCALANTE
Interim Superintendent of Police