

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

**IN THE MATTER OF THE SUSPENSION OF)
POLICE OFFICER BRIAN J. DOYLE,) No. 14 SR 2326
STAR No. 5272, DEPARTMENT OF POLICE,)
CITY OF CHICAGO.) (CR No. 1049179)**

FINDINGS AND DECISION

On or about May 7, 2014, the Superintendent of Police suspended Police Officer Brian J. Doyle, Star No. 5272, for thirty (30) days for violating the following Rules of Conduct:

- Rule 1: Violation of any law or ordinance.
 - 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 6: Disobedience of an order or directive, whether written or oral.
 - Rule 13: Failure to adequately secure and care for Department property.
 - Rule 15 Intoxication on or off duty.

On May 16, 2014, Officer Doyle filed with the Police Board a request for Police Board review of this suspension. On May 23, 2014, Officer Doyle filed with the Police Board a memorandum delineating specific reasons for which the review was requested.

The Executive Director of the Police Board assigned this matter to Hearing Officer Thomas E. Johnson. Hearing Officer Johnson reviewed the investigation file and submitted a written report to the Police Board.

The members of the Police Board reviewed the Summary Report of the investigation file, the recommendations of Command Channel Review and the Superintendent of Police, Officer Doyle's memorandum, the Independent Police Review Authority's response to Officer Doyle's memorandum, and Hearing Officer Johnson's report. 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 consideration of this matter, finds and determines that:

1. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 15 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, while on a boat trip on Lake Michigan, Officer Brian Doyle, while off duty, admitted to drinking; Wilmette Police Department reports document that Officer Doyle appeared to be intoxicated and had a strong odor of alcohol on his breath at the time of his detainment.

On October 9, 2011, Officer Doyle, while off duty, took a boat trip with several civilians on Lake Michigan. This was a fishing and pleasure cruise to celebrate the birthday of a friend of Officer Doyle. It is undisputed that Officer Doyle brought his semi-automatic, 9 mm. Glock pistol with him. Cameron Adams, Officer Doyle's friend, brought a shotgun and two semi-automatic rifles. During the afternoon, the boat party traveled ten miles off the shore from Wilmette and shot the various weapons off the boat. Officer Doyle says he first conducted a safety and gun maintenance class on board, and supervised the shooting. He fired his own weapon, and let others fire his weapon as well. The group fired guns for about an hour. There was alcohol aboard the boat, but Officer Doyle insists he had not been drinking before or during this shooting session.

The party traveled by boat down to Chicago, and returned to the Wilmette area in the evening. At about 9:00 p.m., while more than three miles off the Wilmette shore, the group again began shooting guns on the lake. Officer Doyle says that he did not shoot at this time, as he had consumed three beers over a three-to-four-hour period while eating. He does admit, however, that

he permitted one of the civilians to fire his weapon, and the group shot other weapons for about fifteen minutes. Photographs depict civilians shooting from the boat that evening, and shows Officer Doyle holding an open beer. When the shooting was done, Officer Doyle secured the weapons on the boat.

During the evening shooting, a citizen on the North Shore reported the shooting to the police. The Wilmette police investigated and contacted the U.S. Coast Guard, who met up with and boarded the boat with Officer Doyle and his friends near the Wilmette harbor. The Coast Guard spoke to Officer Doyle (who identified himself as a Chicago police officer), noticed the guns and alcohol (beer and vodka) on the boat, had the boat driven into the harbor, and turned Adams and Doyle over to the Wilmette police.

Coast Guard Chief Petty Officer Price smelled alcohol on Adams and Doyle, but said Doyle did not appear to be intoxicated. Wilmette Police Officer Dworakt observed Adams and Doyle on the dock, and reported that they had glassy, bloodshot eyes and a strong odor of alcohol on their breath; Officer Dworakt reported that both appeared intoxicated.

The Wilmette police refused to return Officer Doyle's gun to him unless he agreed to take a Breathalyzer test and blew .000. Doyle says he knew he would not register that result if he took the test, given the three beers he says he consumed, and so left without his weapon.

Based on Officer Doyle's admission that he had been drinking, and the credible observations of Officer Dworakt, there is sufficient evidence to sustain the allegation that Officer Doyle was intoxicated on the evening in question.

2. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 6 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, Officer Doyle was in possession of a firearm while consuming alcoholic beverages.

See the findings set forth in paragraph no. 1 above, which are incorporated here by reference. By his own admission, Officer Doyle consumed several beers while on a boat with his firearm.

3. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 6 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, Officer Doyle violated Special Order 03-02-01, Section II.C.1-2, "Notify Chicago Police Department's Operations Command. Ensure the submission of all reports connected with the incident, including TRR and To-From-Subject report without unnecessary delay."

See the findings set forth in paragraph no. 1 above, which are incorporated here by reference. In the event of any instance (other than when destroying an animal) of the discharge of an officer's weapon, Special Order S03-02-01 requires the officer to ensure that his firearm remains holstered and secured until it is submitted to Forensic Services Section personnel, among other things. If outside the City of Chicago, the officer must notify the local police agency and CPD Operations Command, and ensure the submission of all reports connected to the incident, including a Tactical Response Report (TRR) and a To-From-Subject report, without unnecessary delay. There is no question that Officer Doyle never notified Operations Command, nor did he

submit the required TRR or To-From-Subject report. He did call his unit, which led to a meeting with his commanding officer.

Officer Doyle suggests that the Special Order is really concerned with criminal incidents and not shootings off the side of a boat, which he says is really like hunting or target practice at a range. He provides General Order 03-02-06, which says the various weapon-discharge rules do not apply in cases of: a) Department-sponsored firearms training or practice; b) firearms practice at a recognized range facility; c) Department-authorized ballistic examinations or testing; or d) a licensed hunting activity. Lieutenant Marianovich, the commanding officer of the Department's SWAT team, said Lake Michigan is not an approved firing range, unless his team was conducting maneuvers there. Officer Doyle also provided Special Order S03-02-03, on TRR reports, which exempts accidental firearm discharges—i.e., an unintentional discharge of a firearm.

The exemptions to the Department's requirements pertaining to weapon-discharge incidents that are in the Orders cited by Officer Doyle clearly do not apply to the circumstances of this case, and thus there is sufficient evidence to sustain the allegation that Officer Doyle violated Special Order 03-02-01.

4. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 6 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, Officer Doyle violated Special Order 03-02-01, Section III.B.1, 4, and 6, "Notify CPIC immediately and provide all relevant information. Inform the desk sergeant of the district of occurrence, in this instance his supervisors, and ensure that his firearm remains holstered and secure until submitted to Forensics Services Section personnel,"

See the findings set forth in paragraph no. 3 above, which are incorporated here by reference.

5. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 2 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, while off duty, Officer Doyle discharged his Chicago Police-issued weapon off the side of a boat while on Lake Michigan.

See the findings set forth in paragraph no. 1 above and no. 7 below, which are incorporated here by reference.

6. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 13 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, while off duty, Officer Doyle allowed non-police personnel to discharge his Department-issued weapon.

See the findings set forth in paragraph no. 1 above, which are incorporated here by reference. Officer Doyle's weapon was not secure while it was in the hands of and being fired by civilians, especially in a non-emergency situation in which alcohol was being consumed.

7. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 2 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, while off duty, Officer Doyle's overall actions brought discredit upon the Department.

Officer Doyle concedes in his memorandum to the Police Board that his overall actions brought discredit upon the Chicago Police Department.

8. The allegation, set forth below, that Police Officer Brian J. Doyle, Star No. 5272, violated Rule 1 is supported by sufficient evidence to justify disciplinary action, and the allegation is therefore **sustained**.

On October 9, 2011, while on a boat on Lake Michigan, Officer Doyle violated Illinois state law 520 ILCS 5/2.33, which states that it is unlawful to fire a pistol, airgun, or revolver on, over or into the waters of this State.

See the findings set forth in paragraph no. 1 above, which are incorporated here by reference. Officer Doyle asserts that firing weapons off the side of a boat is permissible if the boat is located more than three miles off shore and not in motion, and if the area is clear. However, he cites no legal authority for this position. Rather, 520 ILCS 5/2.33(q) states: "It is unlawful to fire a rifle, pistol, revolver or airgun on, over or into any waters of this State, including frozen waters." There is sufficient evidence to sustain the allegation that Officer Doyle violated state law by firing his gun off the boat.

9. The Police Board has considered the facts and circumstances of Officer Doyle's conduct, and his complimentary and disciplinary histories. Officer Doyle's actions—firing his gun off the side of a boat for no police purpose, drinking while in possession of his gun, and permitting a civilian to fire his gun—were dangerous. Especially dangerous was the firing of weapons out over the lake after dark, when it was not possible to ensure that the area was clear of others. The thirty day suspension and the re-assignment from the SWAT team ordered in this case are not unwarranted.

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POLICE BOARD DECISION

The Police Board of the City of Chicago hereby adopts the findings set forth herein by the following votes:

By votes of 7 in favor (Demetrius E. Carney, Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney) to 0 opposed, the Board **sustains** the allegations that Police Officer Brian J. Doyle violated Rule 1, Rule 2, Rule 6, Rule 13, and Rule 15.

As a result of the foregoing, the Board, by a vote of 7 in favor (Carney, Foreman, Conlon, Eaddy, Fry, Rodriguez, and Sweeney) to 0 opposed, hereby determines that cause exists for suspending Police Officer Brian J. Doyle from his position as a police officer with the Department of Police, and from the services of the City of Chicago, for a period of thirty (30) days.

NOW THEREFORE, IT IS HEREBY ORDERED that the suspension of Police Officer Brian J. Doyle, Star No. 5272, for a period of thirty (30) days is **sustained**.

This disciplinary action is adopted and entered by a majority of the members of the Police Board: Demetrius E. Carney, Ghian Foreman, William F. Conlon, Michael Eaddy, Rita A. Fry, Elisa Rodriguez, and Rhoda D. Sweeney.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF SEPTEMBER, 2014.

Attested by:

/s/ DEMETRIUS E. CARNEY
President

/s/ MAX A. CAPRONI
Executive Director

Police Board Case No. 13 SR 2326
Police Officer Brian J. Doyle

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 _____, 2014.

GARRY F. McCARTHY
Superintendent of Police