

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)
)
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vs.)
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)
Robin Baker)
Deputy Sheriff Lieutenant)
Star # 520)

DECISION

This matter coming on to be heard pursuant to notice before Gray Mateo-Harris (former Board Member), on December 9, 2018, February 4, 13, and 27, 2019, and reassigned to Kim R. Widup, Board Member, the Cook County Sheriff's (CCSO) Merit Board finds as follows:

Jurisdiction

Robin Baker, hereinafter Respondent, was appointed a Deputy Sheriff for the CCSO on January 27, 1994, and was ultimately promoted to the position of Deputy Sheriff Lieutenant on September 4, 2005. Respondent's position as a Deputy Sheriff involves duties and responsibilities to the public; each member of the Cook County Sheriff's Merit Board, hereinafter Board, has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term; the Board has jurisdiction of the subject matter of the parties in accordance with 55 ILCS 5/3-7001, *et seq*; and the Respondent was served with a copy of the Complaint and notice of hearing and appeared before the Board with counsel to contest the charges contained in the Complaint.

As a threshold matter, a proceeding before the Merit Board is initiated at the time the Sheriff files a written charge with the Merit Board, 55 ILCS 5/3-7012. A document is considered filed, in this case with the Merit Board, “when it is deposited with and passes into the exclusive control and custody of the [Merit Board administrative staff], who understandingly receives the same in order that it may become a part of the permanent records of his office.” See *Dooley v. James A. Dooley Associates Employees Retirement Plan*, 100 Ill.App.3d 389, 395 (1981) (quoting *Gietl v. Commissioners of Drainage District No. One*, 384 Ill. 499, 501-502 (1943) and citing *Hamilton v. Beardslee*, 51 Ill. 478 (1869)); accord *People ex rel. Pignatelli v. Ward*, 404 Ill. 240, 245 (1949); *in re Annex Certain Terr. To the Village of Lemont*, 2017 IL App (1st) 170941, ¶ 18; *Illinois State Toll Highway Authority v. Marathon Oil Co.*, Ill. App. 3d 836 (1990) (“A ‘filing’ implies delivery of a document to the appropriate party with the intent of having such document kept on file by that party in the appropriate place.”) (quoting *Sherman v. Board of Fire & Police Commissioners*, 111 Ill. App. 3d 1001, 1007 (1982)); *Hawkyard v. Suttle*, 188 Ill. App. 168, 171 (1914) (“A paper is considered filed when it is delivered to the clerk

for that purpose").

The original Complaint in this matter was filed with the Merit Board's administrative staff on March 27, 2018, and an amended complaint was filed on March 28, 2018. Regardless of whether or not Merit Board Members were properly appointed during a given term, the Merit Board, as a quasi-judicial body and statutorily created legal entity, maintained at all times a clerical staff not unlike the Clerk of the Circuit Court (Administrative Staff). These Administrative Staff members receive and date stamp complaints, open a case file, assign a case number, and perform all of the functions typically handled by the circuit clerk's office. Just as a timely filed complaint would be accepted by the circuit clerk even if there were no properly appointed judges sitting on that particular day, so too was the instant Complaint with the Administrative Staff of the Merit Board. Accordingly, the Complaint filed on March 27, 2018, commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case.

Background

The Sheriff filed a complaint on March 27, 2018, against the Respondent requesting termination of the Respondent's employment from the CCSO. After the trial was completed on this matter the case was delayed while certain legal proceedings were completed.

The complaint alleged, in summary, that on May 2, 2017, the Respondent was on duty at the Markham Courthouse (MCH). She was the watch commander for the 0700-1500 hours shift. While on duty the Respondent was informed by Deputy Sergeant [REDACTED] (Sgt [REDACTED]) that two male detainees alleged that a female detainee had committed sexual assault against each of them in a cell behind Courtroom 106 of the MCH. On May 2, 2017, the Respondent directed Sgt [REDACTED] to personally interview the female detainee who was accused of raping the two male detainees. The Respondent failed to order or otherwise have the two male detainees separated.

On May 2, 2017, the Respondent failed to notify the Correctional Information and Investigations Division (CIID) of the Cook County Sheriff's Office (CCSO) of the alleged assault. On May 2, 2017, the Respondent knew the CCSO protocols and policies required the CIID conduct the criminal interviews, but the Respondent instructed Sgt [REDACTED] to have Deputy Sheriffs from the lockup interview the victims and the subject. Additionally, the Respondent failed to have the scene of the alleged crime secured and the Respondent made no efforts to secure the scene until May 3, 2017, after custodial staff cleaned the cells and only after CIID contacted the Respondent. On May 2, 2017, the Respondent knew CCSO policies and protocols required that the involved detainees be provided medical attention, but the Respondent did not immediately notify any medical providers. The Respondent and Sgt [REDACTED] decided that medical attention was not required for the accusing male detainees or the accused female detainee.

On May 2, 2017, at or about 1500 hours, under the Respondent's direction, Sgt [REDACTED] completed an Offense/Incident Supplemental Report classified "Attempt Sexual Offense,"

and the Respondent signed the report as the supervisor; although, no one had alleged that the incident was an attempted offense. In this same report, Sgt [REDACTED] stated the Respondent had informed him to have the lockup staff take statements from the alleged victims and the female subject. Additionally, in this report, Sgt [REDACTED] stated the Respondent had notified Sgt [REDACTED] that Deputy Sergeant [REDACTED] (Sgt [REDACTED]) would be handling the incident. The Respondent did not instruct Sgt [REDACTED] to secure the crime scene, contact CIID, or to arrange for medical attention for the alleged victims and female subject.

On May 2, 2017, the Respondent wrote an incomplete and inaccurate Watch Commander's Log, writing only that she (the Respondent) was "*notified by Sgt [REDACTED] of an alleged incident that occurred between three detainees.*" The Respondent further wrote, "*notified Supt. (Superintendent) [REDACTED] and the Executive Dir.s (Director's) office; advised Sgt [REDACTED] to start paperwork on the incident. CR# SO17-042302. Supt. And R/Lt spoke with Exec. Dir. regarding the incident. Advised Sgt. [REDACTED] of status of incident. Completed paperwork regarding incident.*"

On May 3, 2017, after CIID was notified of the allegations by staff from outside of the Respondent's command, on her own initiative, the Respondent completed a Complaint Register accusing two deputies, based upon the allegations by the two male detainees in their statements to the Respondent's staff made and given to the Respondent on May 2, 2017. The Respondent named as the accused the two deputies who were in charge of the female detainee. The Respondent named as witnesses the two deputies who were in charge of the two male detainees.

The complaint further describes that the Respondent's conduct on May 2 and/or May 3, 2017, as alleged in preceding narrative demonstrates an inattention and neglect of her duties. Her conduct further demonstrates her failure to supervise her staff during this event.

On August 25, 2017, the Respondent was interviewed and provided an audio-recorded statement to investigators of the Office of Professional Review (OPR), CCSO. On this the Respondent admitted to OPR investigators that on May 2, 2017, Sgt [REDACTED] had informed the Respondent of the allegations that a bloody syringe was used as a weapon to effectuate the alleged sexual assaults of the male detainees, requiring documentation of a search of the cell, but no such documentation was made. The Respondent told investigators from OPR that on May 2, 2017, Sgt [REDACTED] had told the Respondent that he had not seen a syringe. Later in the interview, the Respondent told investigators from OPR that the Respondent did not know who conducted a search. The Respondent told investigators from OPR, that on May 2, 2017, CIID should have been notified of the allegations by the male detainees concerning the female detainee, but the Respondent did not know when CIID was notified or who made the notification. The Respondent admitted, on August 25, 2017, to OPR investigators, that on May 2, 2017, it was her responsibility to make sure that CIID was notified, but that it is a possibility that none of the Respondent's staff made the notification.

On August 25, 2017, the Respondent further admitted to investigators from OPR, that on May 2, 2017, it was her responsibility to make sure that the detainees received medical treatment, but the Respondent did not know who made the request. The Respondent admitted to investigators from OPR that on May 2, 2017, she never thought to secure the scene of the alleged

crimes. Additionally, on August 25, 2017, the Respondent admitted to investigators from OPR that she made no effort to secure the scene until May 3, 2017, after custodial staff cleaned the cells, and after CIID contacted the Respondent and asked her if the scene had been secured. The Respondent falsely reported to investigators from OPR, that she had arranged for medical attention for the two male detainees immediately after receiving the reports from Sgt [REDACTED]. Additionally, the Respondent arranged for medical attention for the female detainee after Deputy Sergeant [REDACTED] (Sgt [REDACTED]) came to her office, while Superintendent [REDACTED] was present, sometime after 1500 hours on May 2, 2017. On August 25, 2017, the Respondent admitted to investigators from OPR that she should have contacted CIID "immediately" on May 2, 2017.

On May 2, 2017, the Respondent failed to conduct herself on duty in such a manner to reflect favorably on the CCSO and the Respondent's conduct throughout the incident on May 2, 2017, as described in the complaint's narrative was unbecoming of an Officer of the CCSO.

On April 15, 2019, the Petitioner (Sheriff) prepared and submitted to the Board their findings of fact as Petitioner's Proposed Findings of Fact and further described as Uncontested Findings of Fact. On April 15, 2019, the Respondent, after being granted a one week-continuance based upon an administrative difficulty, prepared and submitted their findings of fact to the Board as Respondent's Proposed Findings of Fact.

Findings of Fact

[REDACTED], Investigator (Inv [REDACTED]), OPR, CCSO, testified that he was assigned to investigate the allegations against the Respondent (R. 12). He obtained all documents, reviewed other evidence, any videos and interviewed witnesses as well as the Respondent (R. 13). The allegations contained in this matter occurred on May 2, 2017, at the MCH alleging that Deputy [REDACTED] and [REDACTED], CCSO, were the accused as well as Deputy [REDACTED] and Deputy [REDACTED], CCSO, through a complaint register filed by the Respondent (R. 14). Inv [REDACTED] conducted interviews and gathered evidence of the allegations (R. 14). During investigation he interviewed approximately 40 people and reviewed more than 50 documents (R. 15). He testified the evidence led him to conduct an investigation as to what actions were taken by the involved supervisors including Executive Director [REDACTED], Director [REDACTED], the Respondent, Sgt [REDACTED] and Sgt [REDACTED] (R. 15). He investigated the Respondent she was the watch commander on the day of the event, and she was the lieutenant in charge (R. 16). The allegations into the Respondent evolved from her being the author of the complaint register, her failing to follow policies and procedures pertaining to the incident, and her failing in her responsibilities in responding to the incident (R. 17).

Inv [REDACTED] testified he interviewed Respondent Baker on August 25, 2017 (R. 17). His interview of the Respondent at OPR was recorded (Exhibit 2) after first advising her of her Administrative Rights and her executing of the documents (Exhibit 1). The Respondent had no questions about those and said she understood and signed them all (R. 18-19). The audio recording of the interview of the Respondent with OPR was played at the hearing. (R. 19-21).

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The incident report authored by Sgt [REDACTED] detailing the May 2, 2107 incident (Exhibit 3) was shown to Respondent at her OPR interview (R. 27). The Respondent signed the document in which she instructed Sgt [REDACTED] to take statements from detainees [REDACTED], [REDACTED] and [REDACTED] (R. 29). Inv [REDACTED] testified the Respondent admitted she reviewed the supplemental reports which were statements from detainee [REDACTED] and detainee [REDACTED] taken by Deputy Sheriff [REDACTED] (R. 31). Inv [REDACTED] testified the allegations of the underlying incident changed from "other services" in Exhibits 4A and 4B to attempted sexual offense in Exhibits 5A and 5B (R. 36, 37). Inv [REDACTED] testified the Respondent admitted during her interview that she reviewed all of these documents (R. 38). Inv [REDACTED] said a handwritten statement from detainee [REDACTED] to Deputy [REDACTED], which he obtained upon request was added to the case file (Exhibit 6). Inv [REDACTED] said he interviewed the Respondent regarding this document (R. 38). The Respondent prepared a watch commander's log (Exhibit 7) (R. 40). Inv [REDACTED] testified the May 2, 2017, watch commander log (Exhibit 7) made no mention that the Respondent made any notifications to CIID or a call for medical (R. 41).

Inv [REDACTED] testified that the Respondent admitted during her interview with OPR that she does not know who staffed the call, does not know who made notifications to CIID and does not know who called medical (R. 41-42). These are all things that should be documented in the watch commander log (R. 42). Inv [REDACTED] identified the supervisory management log by Sgt [REDACTED] (Exhibit 8) and supervisory management log (Exhibit 9) for Sgt [REDACTED] (R. 42). He testified that logs are required to be updated on a daily basis and all incidents, unusual circumstances, specialized movement and anything out of the ordinary should be put in these logs and documented for that day (R. 43). Inv [REDACTED] testified there was no mention in either of these exhibits of a call to CIID regarding this incident (R. 43). Additionally, he testified there was no mention in either of these logs regarding a call to medical for this incident (R. 43-44). He said both Sgt [REDACTED] and Sgt [REDACTED] were working the shift when this incident occurred on May 2, 2017 (R. 44), both of them were supervised by the Respondent (R. 44). He said the Respondent was responsible for reviewing their logs on a daily basis (R. 45). Inv [REDACTED] testified there was further no mention in either report of any type of search that was done in courtrooms 105 or 106 or the holding cells (R. 45). Inv [REDACTED] testified that he did not locate any documents or evidence during his investigation that showed CIID or medical were called or that there was any search of the holding cells in the area (R. 45) until later when medical was called sometime around 5:30 pm. Inv [REDACTED] said he incident occurred some time around 1:30 pm (R. 46).

Inv [REDACTED] identified a memorandum from the Respondent to Superintendent [REDACTED] dated May 4, 2017 (Exhibit 10), which he obtained during his investigation (R. 47). The Respondent admitted during her OPR interview that it was her responsibility to secure the scene and notify CIID (R. 49). Inv [REDACTED] identified Policy No. 201 Supervisory Rank and Responsibilities (Exhibit 11); Sheriff's Policy No. 321 regarding Conduct (Exhibit 12); Sheriff's Policy No. 400 which is an additional Conduct policy (Exhibit 13); Additional Policy No. 437 Watch Commander's Responsibilities (Exhibit 14); and Policy No. 903 regarding Personal Conduct (Exhibits 15 and 16) were made part of the investigation. (R. 49-55). His findings were that the allegations against the Respondent were sustained and that she failed to follow policies

and procedures and she was in violation of the Sheriff's Orders. (R. 56). Additionally, he found that the Respondent violated 201.6 of the Lieutenant Responsibilities (R. 57). He testified the Respondent did not complete all major incident logs before the completion of her duty; did not ensure that the sergeants responded to the assignment; she failed to properly evaluate, guide and instruct her subordinates; she did not submit a daily supervisory management log regarding her activity and noting deficiencies; and she did not take command of all of her subordinates and ensure coordination of activities and cooperation among the units (R. 58). Inv [REDACTED] testified the Respondent did not respond and assume command of all of the facility unit emergencies and other major incidents; did not direct the performance of her subordinates nor did she coordinate operations of all departments and units on the scene as referenced in 201.5(a) (R. 58, 59). He further found that none of the logs completed by her or her subordinates mentioned any special incident that occurred that day of the incident (R. 59). Additionally, he found that the Respondent further violated Policy numbers 321 and 400 as she did not follow procedures making sure that documentation of the incident was obtained and did not make the appropriate notifications to the CIID investigations unit (R. 60).

Inv [REDACTED] testified he found the Respondent made false and misleading and misrepresentations of facts during her OPR statement by stating that she told Sgt [REDACTED] to separate the detainees, make notification to EMS to take the individuals to the hospital which were not true (R. 60). He found the Respondent was untruthful in her stating when and how the detainees were interviewed (R. 60-61). He found the Respondent violated Policy No. 903 as she did not make immediate notification as required to an investigative unit regarding the criminal allegations and she failed to separate the detainees (R. 61). Inv [REDACTED] said the Respondent did not comply with Policy No. 811 (Exhibit 16) from the Correctional Information and Investigation's Division and he relied on this as part of his investigation. He found this policy was violated by the Respondent as there was no notification made by the lieutenant or her supervisor to CIID to conduct the investigation (R. 64). He testified that investigations by CIID also include when two inmates are engaged in criminal activity (R. 67). He found found that the general provisions of the CIID order include all investigations for the safety and security of the staff and the detainees within the CCSO throughout their use of strategic information and investigations (R. 69).

Inv [REDACTED] testified that pursuant to Policy 811.2, no member of the court services department was victimized by an inmate or detainee (TR 65-6; Sheriff 16). He admitted there was no violation of Policy 811.1 (TR 68). He said CIID's scope of investigation is not expanded by Policy 811.1 (TR 70). Inv [REDACTED] could not verify the Respondent received the Sheriff policies in Ex. 11, 12, 14, 15, and 16 (TR 71-2). He said that Policy 903, the Prison Rape Elimination Act (PREA) Policy, does not require notification be made to CIID (TR 72; Sheriff Ex.15). Policy 903, PREA Policy, does not require medical notification to be made (TR 72; Sheriff Ex. 15). Policy 400 was not in effect on May 2, 2017 (TR 74-5; Sheriff Ex. 13). Pursuant to Policy 321, the Respondent did assure the inmates were separated (TR 76-7; Sheriff Ex 12). Policy 321 does not require medical to be called, nor CIID to be notified for an incident like that which occurred on May 2, 2017 (TR 76-7; Sheriff Ex. 12). There is no definition of "special incident" in Policy 201 (TR 78; Sheriff Ex 11). The watch commander log, completed

by the Respondent, contained notice of an unusual incident for May 2, 2017 (TR 79-80; Sheriff Ex. 7). Inv [REDACTED] could not testify if Director [REDACTED], the Chief of security, made any inquiries about the logs or the incident of May 2, 2017 (TR 82). Director [REDACTED] was responsible for the notifications, including to CIID, being made (TR 83). Inv [REDACTED] found no policy violations against Director [REDACTED] or Superintendent (Supt) [REDACTED] (TR 84-5). Director [REDACTED] and Supt [REDACTED] relied upon the Respondent for information, so there was no policy violation (TR 87). Sheriff Ex. 8 shows in the narrative that Sgt [REDACTED] noted an allegation of rape in 105 (TR 88). Sgt [REDACTED] thought Sgt [REDACTED] or the Respondent should have called CIID (TR 89). Inv [REDACTED] could not state either Sgt heard Supt [REDACTED] order the Respondent to call CIID (TR 90). Inv [REDACTED] could not recall who said what to whom because he took so many statements (TR 96). Director [REDACTED] gave no order to the Respondent on May 2, 2017, regarding the alleged rape (TR 109). Supt [REDACTED] ordered the Respondent to "*follow policy*," according to Inv [REDACTED] (TR 110). According to Inv [REDACTED] the female victim did receive medical treatment (TR 113). The Respondent received no training regarding handling criminal sexual assault claims (TR 115). Inv [REDACTED] has no experience on the court side and could only testify about what corrections does (TR 117). There is a chain of command and each supervisory level has responsibility during an incident (TR 118). If something is not specifically addressed in a written order, the officer should defer to a supervisor (TR 121).

He testified that all the policies that were discussed other than Policy No. 400 were in effect May 1, 2017, and would have been distributed to the Respondent through the Sheriff's net and it was her responsibility to understand and read them (R. 71). He testified there were not violations of the policies by Suptintendant [REDACTED] or Director [REDACTED] because they followed up with the Respondent in a timely fashion and she failed to perform her duties (R. 87). He said that although Policy No. 400 was not implemented until after the incident, it was implemented prior to the interview with the Respondent and her untruthfulness and lack of candor during the interview would be subject to Policy No. 400 (R. 103). The Respondent admitted, through her own statements, she did not make notifications to CIID or medical (R. 104). The Respondent specifically stated in her OPR interview that she did not order her subordinates Sgt [REDACTED] or Sgt [REDACTED] to call or notify CIID (R. 104). Additionally, the Respondent, in her statement to OPR, specifically stated she did not order Sgt [REDACTED] or Sgt [REDACTED] to call medical (R. 104-105). Inv [REDACTED] testified it has been his experience over the time he has been at the CCSO that CIID routinely investigates incidents where there is a sexual assault or some sort of problem between inmates (R. 112). He testified that once CIID got involved they were able to properly investigate the incident, identify who were the actual victims and who were the assailants were (R. 119). He stated the Respondent nor her subordinates were trained in performing investigations or taking witness statements (R. 120).

[REDACTED], Investigator (Inv [REDACTED]), CIID, CCSO, testified that he is in charge of the CIID at the Cook County Jail. CIID is responsible for criminal investigations in the 14 courthouses, 10 divisions and the Juvenile Detention Center and they are also in charge of intelligence (R. 123). Inv [REDACTED] testified that CIID performs all types of criminal investigations, into batteries, assaults, public indecency, aggravated batteries, murder for hire, attempted murder, sexual assault including against members as well as between inmates and detainees (R.

124). He was in charge of CIID at the time of this incident and he confirms that there was no notification made to them on May 2, 2017 (R. 125). He said that because of the nature of the crime he would have been notified right away had anyone contacted CIID (R. 127). He said would not be proper procedure to have deputies taking statements when there are accusations of a sexual offense (R. 127).

Inv [REDACTED] testified that you need specialized training to go in and conduct and interview when you have a sensitive victim with issues that need to be tended to (R. 127-128). Additionally, you do not want interviews of detainees or other witnesses done by a deputy because there are possible legal violations such as those involving Miranda warnings, as well as rules to follow that the State's Attorney's Office will want to have addressed in order to prosecute the case (R. 129). He testified that he found out the specific allegations of the case the next morning (R. 129). Once learning of the case, he testified that he assigned investigators from his unit, Investigator [REDACTED] and Investigator [REDACTED], to lead the investigation and make sure that rape kits and other investigative protocols were put in place (R. 130). He said both of these investigators are sex crime certified investigators (R. 131). He testified that once the investigation was completed, they realized the initial allegations identified by the MCH Sheriff's staff were incorrect as they identified who were the actual victims and who the offenders were (R. 131-132). He testified that criminal charges were then filed against the two male detainees (R. 132).

Inv [REDACTED] testified the General Order outlining what CIID does gives him and his group the authority to investigate these types of incidents (R. 132-133). His office investigates inmate on inmate allegations all the time (R. 135). He said there have been hundreds of incidents where his deputies have investigated incidents in the outlining courts (R. 136). He testified that his group has investigated rapes with the Sheriff's Department close to 50 times (R. 137). He stated the General Orders specifically instruct the Sheriff's Department employees to contact CIID when there are these types of allegaitons (R. 138). Many of the issues regarding this incident could have been avoided had CIID been called immediately (R. 150-151). He testified the Respondent should have known to call CIID because it is specifically stated in the General Orders (R. 152). He said this has been common knowledge the entire time he has worked at the CCSO (R. 153). He testified that medical attention would have been sought right away had his office been contacted (R. 154). He said rape kits would have been administered immediately and that evidence would not have been lost had they been contacted right away (R. 155). He testified their procedure is the witnesses, the potential victims, and detainees would have been separated and interviewed so they could not get their stories straight (R. 155-156).

Inv [REDACTED] testified that Policy 811 contradicted what CIID was doing in practice because it investigated crimes at all Sheriff's locations, which is not what the policy provides (TR 134-5). Inv [REDACTED] did not know if policy 811 was in effect on May 2, 2017 (TR 136). Inv [REDACTED] testified CIID had a weekly investigation or complaint from the branch courts (TR 136). Inv [REDACTED] never had an allegation of rape in the branch court until May 2, 2017 (TR 137). Inv [REDACTED] testified from three to five of his 50 investigations alleged male victims (TR 137). Inv [REDACTED] had two complaints where a male alleged a female raped a male (TR 138). Inv [REDACTED] testified there is no

policy prohibiting officers from talking to victims (TR 138). On the evening of the incident, Supt [REDACTED] did not request CIID come to Markham (TR 140). Inv [REDACTED] said most of CIID incidents come from the "Cook County Building" (TR 153). Inv [REDACTED] could not, even though he admitted he is a supervisor, testify to what general order requires CIID investigation in the branch court (TR 156-57).

[REDACTED] Superintendent (Supt [REDACTED]), CCSO, testified it his job is to oversee the MCH facility and ensure all policies and procedures are being followed by all of his subordinates (R. 163). He supervises approximately 100 employees and reports to Director [REDACTED] and has a physical office location in MCH and was working on May 2, 2017 (R. 164). There are watch commanders for each shift and the watch commander is to oversee the operations of the facility (R. 165). Watch commanders are responsible for completing written logs and they are to include unusual incidents, occurrences, daily activities, roll calls and it is his job to review those written logs (R. 166)

He testified on May 2, 2017, the watch commander was the Respondent and her shift was the 7:00 am to 3:00 pm shift (R. 166). On May 2, 2017, there was an unusual incident that was reported to him that was alleged there was a sexual assault reported by the Respondent as well as Sgt [REDACTED] and Sgt [REDACTED] who came to his office (R. 166-167). This occurred at approximately 1:30 to 2:00 p.m. and he asked her to secure the scene and make sure all of the involved parties received medical attention and make notifications to the Sheriff's Police and the CIID which is the Investigative Unit of the CCSO (R. 167). He testified it was the Respondent's responsibility to notify CIID (R. 167). It was her responsibility to do this immediately because a criminal sexual assault involving a prisoner detainee had been alleged and CIID are the ones who come out and conduct the investigation (R. 168). The Respondent would come into his office and give him updates throughout the day saying that she was securing the scene, the participant, and the detainees were provided medical attention (R. 168-169). CIID had not arrived by the end of her shift even though the Respondent reported to him that she had made all of the notifications and that the scene was secure (R. 169). He said he did not personally know or go check if the scene was secured. He relied on what he was provided by the Respondent Baker (R. 170).

Supt [REDACTED] said he now believes it was not secured and that was the responsibility of the Respondent. He learned that the detainees did not get medical attention during the Respondent's shift as they were supposed to and that the detainees went later to medical (R. 170). He testified it was the Respondent's responsibility to make sure that the detainees received proper medical attention during her shift (R. 170). He received word that after 5:00 pm one of the alleged victim detainees was still in lockup the MCH and had not received medical attention. He instructed that the detainee immediately be sent out for medical (R. 171). He said it was during this time after 5:00 p.m., CIID had still not arrived. He said he finally received a phone call from Sgt Rubino, sometime after 7:00 pm, stating that CIID had just been notified (R. 173). He testified that the Respondent had already left the courthouse (R. 173).

Supt [REDACTED] testified to the duties and responsibilities pursuant to Policy No. 201 regarding Watch Commander Responsibilities (R. 174). He does not believe the Respondent followed

Department policies as she failed to notify CIID as the watch commander (R. 174-175). He Testified the Respondent failed to follow policy when she did not secure the area or send the detainees for medical attention immediately (R. 175). Supt [REDACTED] testified that he does not believe that his directives were followed by the Respondent on May 2, 2017 (R. 175). He stated that the Respondent did not follow Policy No. 437.1 and did not show that she was capable of making decisions consistent with departmental policies on May 2, 2017. Additionally, she failed to communicate in a manner consistent with departmental policies (R. 176). He said both policies are communicated to all of the employees of the Cook County Court Services Department (R. 176-177).

Supt [REDACTED] said investigators who have been trained in the PREA-related allegations were not notified before the end of the Respondent's shift regarding the alleged sexual assault and is a violation of Policy No. 903 (Exhibit 15) (R. 177). The Respondent was not authorized to order subordinates to take statements from detainees in this matter as part of a PREA investigation (R. 177). Supt [REDACTED] reviewed the Respondent's watch commander log (Exhibit 7) which does not contain any notation that she contacted anyone from medical, or that she contacted CIID, or that she ordered anyone to secure the scene (R. 178). Supt [REDACTED] stated that the Respondent would have received all of the applicable policies and training through Lexipol (R. 182). He testified that he has experience dealing with rape allegations from his days at the DOC (R. 184). He was also previously a CIID officer with the Sheriff's Police (R. 184). Supt [REDACTED] specifically recalls directing the Respondent to notify CIID (R. 185). He testified that he believed the Respondent would have followed his orders when he specifically told her secure the scene, contact CIID and obtain medical attention for the detainees (R. 188-189). Supt [REDACTED] testified that he gave the Respondent a direct order to complete his directions and thought she would have done so. He testified the Respondent gave him updates throughout the day that things were being done (R. 189).

Supt [REDACTED] was advised by Lt Luna at the DOC that the female inmate refused medical treatment at MCH (TR 171-2). He said the female detainee received medical treatment at Cermak hospital at the DOC (TR 173). Supt [REDACTED] did not see the watch commander log on May 2, 2017 (TR 180), he was not sure if he saw it, but if he did it was May 3, 2017 (TR 181). Supt [REDACTED] was not sure when the policies the Respondent violated went into effect (TR 182). Supt [REDACTED] was not sure if the Respondent received training on the policies at issue (TR 183). Supt [REDACTED] did not train any lieutenants on the policies (TR 183). Supt [REDACTED] was not sure if the Respondent received training on criminal investigations or if court-side personnel receive training on criminal investigations (TR 184). Supt [REDACTED] said he thought the Respondent notified CIID and they were just stuck in traffic (TR 188). Supt [REDACTED] would not know if an employee did not receive/view training from Lexipol (TR 187). The Respondent did not tell [REDACTED] she contacted CIID (TR 188). Supt [REDACTED] did not investigate an allegation of rape in an outlying court in seven or eight years when he was in CIID (TR 191). Supt [REDACTED] thought the Respondent was taking the matter seriously on May 2, 2017 (TR 191).

[REDACTED] Deputy, CCSO, testified he was working on May 2, 2017, and recalls there was an alleged rape that happened upstairs at MCH (R. 194). He recalls that detainee [REDACTED]

and [REDACTED] made allegations to Sgt [REDACTED] that they were sexually assaulted (R. 195). He said after the allegations by the detainees, the sergeant separated the two inmates and made phone calls to supervisors (R. 196). He said Sgt [REDACTED] told him that he had reported the incident to the Respondent and that she told him to take statements from the guys and do a report (R. 197). He said he has no specialized training in taking witness statements in criminal matters (R. 197). He testified it is not his normal duties to perform investigations and take statements (R. 197-198). He said he knew this was someone else's job, but he did what he was told (R. 198). Deputy [REDACTED] believed there was a unit in the Sheriff's Office that does this kind of investigation and takes these kinds of statements and he is familiar with CIID (R. 198-199). He said his experience with the Sheriff's investigator coming out and conducting an investigation was when there was an incident between two inmates was from when he was assigned at DOC (R. 199). He testified the scene was not secured by the time he left to take the inmates back to the jail (R. 200). He said he knows the cleaning crew comes in every night and if the scene was not secured, they would have come in and cleaned up (R. 200). He testified the next day he was in the office and did hear a comment that the inmates were "*full of shit*" regarding their allegations (R. 202). He testified this conversation was between the Respondent, Sgt [REDACTED] and Sgt [REDACTED] (R. 202).

Deputy [REDACTED] testified the policy clearly states that an investigation needs to be conducted properly and medical needs to be called even if you do not believe the inmate's allegations (R. 203). He said he had a conversation with his co-workers that the Sheriff's Police should have been called regarding this incident - stating something along the lines "*what are we doing this for, this needs to be the Sheriff's Police*" (R. 204). Deputy [REDACTED] said he knew this was a big deal, it was a criminal act, and real investigators should be involved even though he was typing up the report (R. 207). He testified it is not part of a deputy's role to tell a sergeant, lieutenant or supervisor what they should or should not do so he never told the Respondent to call CIID (R. 209-210). He said all employees are supposed to be responsible for knowing the policies and procedures (R. 210). He stated that he did receive in-service and had broad PREA training when he was in DOC (R. 211). He testified the training was not in any way regarding how to conduct an investigation on addressing allegations of criminal sexual assault (R. 211-212).

[REDACTED] Director (Director [REDACTED] Quality Improvement and Accountability, CCSO, testified she oversees the quality and improvement of the CCSO operational policies (R. 223). Director [REDACTED] said they oversee the creation, development and revisions of policies for the entire office which are now all electronic and disseminated through Lexipol to all employee (R. 224). Director [REDACTED] said her office runs monthly reports to see which employees have acknowledged receipt of their CCSO policies and to make sure the leadership of those departments works with their various subordinates to acknowledge their receipt of the policies if they have failed to do so (R. 225). Director [REDACTED] said it is their responsibility to make sure, if an employee has not acknowledged and received their policy, they inform the department head to make sure their members are working under their supervision to get the policies acknowledged and read (R. 225-226). Director [REDACTED] testified that employees may be subject to discipline if they do not acknowledge their policy after being reminded (R. 226). Director [REDACTED] testified that an acknowledgement report was pulled from Lexipol to show that the policy was issued, the date it was accepted, acknowledged and this particular report (Exhibit 17) was an audit trail was for

the Respondent (R. 227). Director [REDACTED] testified that Policy No. 321 Conduct Policy, was issued on 8/26/15 and the Respondent acknowledged it on 9/10/15 (R. 228). Policy No. 437, Watch Commanders was issued on 6/1/16 and the Respondent acknowledged it on 6/14/16 (R. 228-229). Policy No. 809, CIID was issued on 9/30/15 and the Respondent acknowledged it on 10/14/15 (R. 229). Policy No. 201, Supervisory Rank and Responsibilities was issued on 3/11/16 and the Respondent acknowledged it on 3/23/16 (R. 229-230). Policy No. 903, PREA was issued on 6/30/15, and was acknowledged by the Respondent on 7/17/15 (R. 230). Director [REDACTED] identified the Sexual Assault Investigations policy (Exhibit 18) in the Court Services manual which was issued the first time on 12/30/16. Director [REDACTED] testified that the Respondent acknowledged the policy on 1/3/17, it was re-issued on 2/1/17 and she acknowledged in 2/24/17 (R. 232). Director [REDACTED] testified that she went back and independently verified that the Respondent acknowledged the Prison Rape Elimination Act policy (PREA) (R. 239).

Director [REDACTED] testified about the Sheriff department operational policies (TR 223-24). She testified the department issues policies by email and can check to see if an officer has read the policies (TR 225). Director [REDACTED] testified If a department member does not acknowledge receipt of the policy, the department member could be subject to discipline (TR 228). She testified policy 903, as the Respondent acknowledged, is not the Prison Rape Elimination Act policy (TR 234). Director [REDACTED] could not testify what policy number PREA was in 2015 (TR 235). Director [REDACTED] testified the Respondent acknowledged policy 811, but she could not verify what that policy said in 2015 (TR 235-6). Director [REDACTED] testified that at least with respect to policy 811, she was not aware of an effective date (TR 236). She [REDACTED] there were multiple issuances of policy 321 (TR 237). Director [REDACTED] testified that since 2015, the conduct policy has been updated multiple times (TR 238). Director [REDACTED] was unsure of which conduct policy the Respondent received in 2015 (TR 238).

[REDACTED] Sgt (Sgt [REDACTED] CCSO, testified on May 2, 2017, he came in contact with the Respondent at the start of his shift and she failed to advise him of the incident that had occurred on the previous shift which was the practice that normally would occur (R. 251). He was with the Respondent when he received a phone call from Deputy [REDACTED] (Deputy [REDACTED] who worked for him, briefing him telephonically about the incident with the two male detainees and the female detainee (R. 251). Sgt [REDACTED] testified Deputy [REDACTED] informed him on the phone that he needed to come downstairs to the lock up because they had two male detainees refusing to get back on the bus as they were requesting medical treatment based on the incident (R. 251). Sgt [REDACTED] said this occurred at approximately 3:30 pm and although he was with the Respondent and the Supt [REDACTED] he had not informed about the incident. He inquired what happened and Supt [REDACTED] told him about the alleged rape (R. 252).

Sgt Baker said he went down to where the detainees were with Deputy [REDACTED] and learned the detainees had not been separated from the general population and had not went to medical (R. 253). Sgt Baker said he spoke with the detainees who claimed they had been raped by a female detainee [REDACTED] they alleged the detainee [REDACTED] claimed she had AIDS, she had a bloody needle which she said had AIDS in it, and if they did not have sex with her they would get AIDS from the bloody needle (R. 253-254). Sgt Baker testified at the this point he directed

Deputy [REDACTED] to separate them and get started on providing them with medical treatment (R. 254). Sgt Baker testified he informed the Respondent of the steps he had taken, and the Respondent told him no, that she would not authorize or allow extra overtime as she believed the detainees were lying and there was no need for them to go to the hospital (R. 254). Sgt Baker testified he again talked with the Supt [REDACTED] and Respondent as he needed extra bodies to help him with lock up and to transport these two detainees (R. 255). He testified he decided to have Deputy [REDACTED] call for an ambulance for the two detainees (R. 256).

Sgt Baker testified he spoke to the detainee [REDACTED] who was involved in the incident (R. 257). He asked the Respondent about getting medical for the detainee [REDACTED] and asked the Respondent if he should call an ambulance for detainee [REDACTED]. He testified the Respondent said, “*for what?*” He then inquired of the Respondent as to what action should he take with detainee [REDACTED]. He said the Respondent told him, “*Put her on the bus,*” (back to CCDOC) and Sgt Baker asked if they were going to charge detainee [REDACTED] with anything (regarding the alleged rape). The Respondent told him “*No, this is all nonsense*” (R. 258). Sgt Baker testified he refused to put the detainee on the bus and told the Respondent he was going to call an ambulance. He said the Respondent told him, “*Don’t do that. If you do this, this is going to be on you, if you do this*” (R. 259). He understood her comment meant that he was going to be the one who had to answer for the overtime that was going to have to be spent to put these people in hospitals. He said he went ahead and did it anyway (R. 259). He testified that he believed this conversation took place around 5:00 pm as the male bus was just leaving the courthouse (R. 260). He said he completed the watch commander log (Exhibit 19) which shows that the two male detainees went to the hospital around 4:40 pm and the female detainee went around 5:30 pm (R. 261).

Sgt Baker said he stated to OPR that the Respondent told him that two male detainees were lying and that they should not go to medical. The Respondent also told him that detainee [REDACTED] should be put back on the bus because she was not raped (R. 264). He testified that he did not call CIID, but he assumed that someone from the previous shift when the incident occurred would have or should have called CIID (R. 265-266). He testified part of the General Orders would have required someone to call CIID (R. 266).

Sgt [REDACTED] testified that after he called an ambulance for [REDACTED] he put a remark in his watch commander log (TR 262). Sgt [REDACTED] said he did not note an allegation of rape in his watch commander log nor did he call CIID (TR 263). Sgt [REDACTED] did not know if the Respondent ordered anyone to call CIID (TR 263). Sgt [REDACTED] was not aware of any other allegation of rape in the two years he worked at the MCH (TR 264). Sgt [REDACTED] testified he told the OPR investigator that the Respondent told him the inmates were lying (TR 264). Sgt [REDACTED] testified he told OPR that the female detainee was placed back on the bus because the Respondent did not believe him (TR 264). Sgt [REDACTED] thought the allegation of rape was a joke (TR 274). Sgt [REDACTED] did not think he was conducting an investigation when he spoke with [REDACTED] (TR 2750).

[REDACTED] Deputy Sheriff (Deputy [REDACTED] CCSO, testified that she was working in May 2017 and assigned to the MCH (R. 277). She was assigned to the main control room in the lock up area and she would handle the loading dock area in terms of receiving

prisoner intake on the female side and dispatching any ambulances or emergency calls from the courtrooms (R. 278). She said her shift was 3:00 pm to 11:00 pm on May 2, 2017, and she was asked to call for medical that day for two male detainees (R. 278-279). She testified the log book (Exhibit 20) tracks all calls for medical treatment and the log was marked as Sheriff's Exhibit 20. (R. 279). She said it was noted that she called at 4:30 pm (R. 280). Deputy [REDACTED] testified there was no record located in the logbook that anyone had called for medical prior to her that day (R. 281-282). She said she also made a call for a female detainee much later marked at approximately 17:25 in the log book at the direction of Sgt. [REDACTED] (R. 282). She prepared an official incident (OI) report (Exhibit 21) documenting her call for an ambulance assist for the ambulance that was called for detainee [REDACTED] (R. 284-285). Deputy [REDACTED] said she never spoke with the Respondent, never saw her on that day, and she never ordered her to call medical (R. 286).

The Respondent testified that she had no training regarding conducting criminal investigations and securing crime scenes (R. 295). The Respondent said she is not familiar with CIID and their investigative responsibilities (R. 295). She testified she has no training in interrogating suspects or crime scene security (R. 296). She said she did have in-service training regarding PREA (R. 297). She said she was the watch commander for the 2nd shift on May 2, 2017 (R. 299). She testified that she knew it was her responsibility to oversee the functions of the facility as it relates to the Sheriff's Office, making sure all policies and procedures are being followed, and making sure that the daily activities are performed correctly (R. 299). She testified Supt [REDACTED] did not tell her to get medical treatment for the detainees (R. 303, 304). The Respondent said she did not order the detainees to be separated (R. 307). The Respondent testified she did she tell Sgt. [REDACTED] to keep the detainees separated (R. 307).

The Respondent said she has had no training regarding conducting investigations into rape allegations (R. 308-309). She testified that CIID is to be contacted for inmate incidents (R. 310). She said that inmates should get medical attention if they complain of something or are claiming there was an incident (R. 310-311). She testified on the date of the incident she left the building at the end of her regular shift (R. 312). She testified she did not make a notation in her commander logs of an allegation of rape (R. 318-319). She said she originally did not consider this a criminal sexual assault even though those were the allegations (R. 320). She testified that now in retrospect she believes she should have been more forthright in making sure that the investigation was done properly (R. 321). She stated that she believes that a sergeant was supposed to call CIID and they would have done it in this case (R. 321). She believes she told Sgt [REDACTED] and Sgt [REDACTED] to make notifications and that was her telling them to contact CIID and medical (R. 321). She testified that she has contacted CIID for incidents at MCH in the past (R. 323). The Respondent testified in retrospect she would have made sure that CIID was notified and paid more attention to the timeliness of the medical being notified (R. 328).

The Respondent testified as a trainer in Court In-Service training for new recruits she makes sure that all the trainees go over the policies and procedures for Court Services and acknowledge them. (R. 331). She admits she did not fully perform her duties on May 2, 2017. (R. 332). She admits that when she comes across situations, she is not familiar with such as this,

she would go back and research information on the policies on how to handle it (R. 333). She testified that she did not order anyone to call CIID, call medical, secure the scene or separate the detainees, only that she “informed Sgt. [REDACTED] to make notifications.” (R. 334)

The Respondent stated she did not know how to classify this event even though it was a criminal sexual assault allegation. (R. 335-336). She said at 3:00 pm, when her shift was over, she lost direct command decision authority because the superintendent was there (R. 336). She said when a supervisor orders someone to go to medical it should be documented in the supervisor log (R. 337-338). The Respondent admitted the supervisor logs she reviewed did not have any mention of any notifications to CIID, obtaining medical care or securing the lockup (R. 339). The Respondent testified that since she has no training regarding criminal investigations, she should have referred to the policies to see what the proper steps were (R. 340). The Respondent testified she she did not make sure medical or CIID were called (R. 343). She testified she relied on her deputies and did not verify that the inmates were separated, and the scene was secure (R. 343). The Respondent admitted it was not proper for medical to be called at 4:30 pm for the male and at 5:25 pm for the female detainees when the incident occurred at 1:00 pm (R. 344). The Respondent admitted that whether the allegations by the detainees are believable or not, the policy should be followed and CIID should have been notified (R. 345). She testified that she did not order deputies to search any of the detainees in the lockup facility for syringes and that it is possible that it made its way to lockup. (R. 345). The Respondent said with the benefit of hindsight she did not do everything that was required of her (R. 346).

The Respondent testified to having seen Policy No. 201.2, and she believes it is something she is expected to know as a supervisor (R. 346-347). She said this is not a new responsibility that she had of May 2017 (R. 347); that Policy No. 201.5(a) regarding the watch commander was not a new policy to her in May 2017 (R. 347, 348); she said Sheriff's Exhibit 12 and the policies contained therein regarding failure to perform activities was not new in May 2017 as well as sub-section (t); that these are not new policies; and she was familiar with them on the day of the incident. (R. 348); and she admits when there is an allegation of sexual abuse according to PREA, she is to make notifications to people with PREA related training (R. 351). The Respondent testified that Court Service deputies do not have this training. (R. 351, 352).

The Respondent testified that none of the deputies under her command would likely have had detective experience with the Cook County Sheriff's Police (R. 352-353). She testified that she believes the scene was not actually secure until about 7:30 am, the next day May 3, 2017 (R. 353, 354). She stated that there was no specific effort or follow up to secure the scene by her office (R. 357) and it was left up to CCID or the Sheriff's Police. The Respondent admits that she was in the building the entire time and never went down to the lockup and talk to any of the deputies of the inmates herself (R. 372). The Respondent admits that when she left for the day, she did not have confirmation that CIID had been notified. (R. 373) The Respondent specifically admits that she is responsible for some of the activities that occurred and should be disciplined. (R. 374)

Respondent Baker states that Supt. [REDACTED] did not tell her to contact CIID (R. 303). The Respondent states she does not recall having a conversation with Sgt. [REDACTED] regarding telling him not to allow the detainees to get medical treatment. She stated that Supt. [REDACTED] Respondent denies telling Sgt. [REDACTED] that he could not send officers to the hospital on May 2, 2017. (R. 314, 315).

Director [REDACTED] was able to verify (that the CCSRR) Supervisory Rank and Responsibilities policy was in effect on May 2017. (R. 381-382). The Sheriff's Policy No. 400 Conduct was in effect on May 2, 2017. She testified that Policy Nos. 400 and 321 have the same content. (R. 380 – 383). She testified that some of the policy numbers change overtime when there are additions and changes made. (R. 383) she stated that while the number changed, the content did not so therefore it would have been in effect prior to this incident. (R. 383). When content does not change, the employees are not responsible for re-acknowledging them. (R. 383); Sheriff's Policy No. 437 Watch Commanders was in effect in May 2017 (R. 384); She Policy No. 811, CIID, and was in effect on May 2, 2017. (R. 385); she testified Department Policy No. 611, sexual assault investigation policy and it was in effect in May 2017. (R. 385, 386)

The Respondent testified she has never had to discipline Sgt. [REDACTED] before (R. 394). Additionally, she said she had no incidents with Sgt. [REDACTED] after May 2, 2017. (R. 394)

Conclusion

The Board finds by a preponderance of the evidence through the testimony of the witnesses; the audio tape recording of the Respondent's interview regarding the May 2, 2017, incident (Exhibit 2); the Respondent's interview with OPR on August 5, 2017; and the supporting evidence that the Respondent was less than candid in her statements to OPR and others. The Respondent displayed a total lack of candor regarding the May 2, 2017, event. A law enforcement officer whose word cannot be taken on its face value, especially one who holds the rank of lieutenant, is a liability for the CCSO, the people of Cook County and the officer herself – when an officer loses the public's trust in their word because of a lack of candor their effectiveness as a law enforcement officer does not exist anymore as their spoken word cannot be trusted. Additionally, the Respondent demonstrated a continuous disregard for standard law enforcement techniques during the event of May 2, 2017 and seemed more interested in departing the Markham Courthouse than leading the efforts to get to the bottom of the matter. The Respondent prepared an incomplete and inaccurate Watch Commander's log. She failed to properly and effectively supervise her subordinates. The Respondent failed to contact the CIID, so they could conduct a proper investigation. The Respondent failed to follow basic law enforcement procedures and protocols by not securing the alleged crime scene; by not separating the detainees; by not securing the evidence; by not seeking medical attention for the detainees; and maintaining an objective view of the known facts of the case. The Respondent has engaged in conduct that is unbecoming for a command rank officer who normally would enjoy the trust of the public and the full faith and confidence of her subordinates.

Docket No. 2104
Robin Baker
Deputy Sheriff Lieutenant

Order

Based on the evidence presented and after assessing the credibility of the witnesses and the weight to be given the evidence in the record, the Board finds that Respondent Robin Baker, Star #520, Deputy Sheriff Lieutenant, CCSO, did not properly follow and was in violation of Cook County Sheriff's Department Policy No. 201 Supervisory Rank and Responsibilities; Sheriff's Policy No. 321 regarding Conduct; Sheriff's Policy No. 400; Additional Policy No. 437 Watch Commander's Responsibilities and Policy No. 903 regarding Personal Conduct. Additionally, the Respondent violated 201.6 of the Lieutenant Responsibilities; and Section XIII A-C; and Article X, Paragraph B 3, of the Rules of the Cook County Sheriff's Merit Board.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Robin Baker, be separated from duty with the Cook County Sheriff's Office effective March 23, 2018.

MB2104 Robin D. Baker
DEP LT



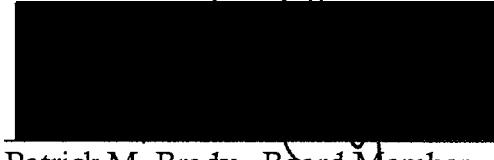
James P. Nally, Chairman



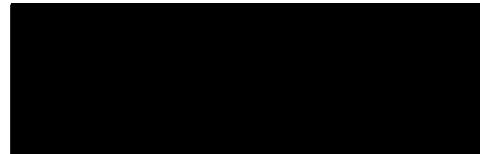
John Palicandro, Secretary



Vincent T. Winters, Board Member



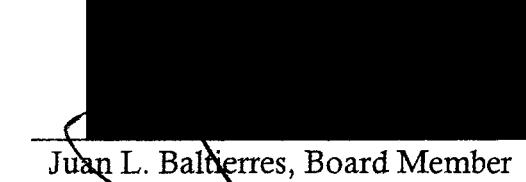
Patrick M. Brady , Board Member



Byron Brazier, Vice-Chairman



Kim R . Widup, Board Member



Juan L. Baltierres, Board Member



Kimberly Pate Godden, Board Member

Date

June 27 2019