

Wilfredo Cintron, Jr. #1837
Correctional Sergeant

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)	
)	
vs.)	
)	Docket #1837
)	
Wilfredo Cintron, Jr.)	
Correctional Sergeant)	
████████████████████)	
████████████████████)	
Employee # ██████████)	
STAR #3089)	

DECISION

This matter coming on to be heard pursuant to notice before Brian Riordan (former Board Member), on April 14th, 2016, and reassigned to Vincent T. Winters, Board Member, the Cook County Sheriff's (CCSO) Merit Board finds as follows:

Jurisdiction

Wilfredo Cintron Jr., hereinafter Respondent, was appointed a Deputy Sheriff on June 10, 1996 and then promoted to a Correctional Sergeant on October 3, 2004. On December 10, 2011 Respondent was assigned to the Receiving Classification Diagnostic Center ("RCDC"). Respondent's position as a Correctional Sergeant 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

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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. Commisioners 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 September 28, 2015. 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 September 28, 2015 commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case.

The Board has heard the evidence presented by the Sheriff and the Respondent, and has evaluated the credibility of the witnesses and supporting evidence. After considering the evidence, the Board finds as follows:

Background: By a complaint dated September 28, 2015 and filed with the Cook County Sheriff's Merit Board the Sheriff of Cook County sought the termination of Correctional Sergeant Wilfredo Cintron Jr., Star number 3089. The complaint alleged that on May 4, 2012, Respondent, while on duty in the RCDC of the CCDOC witnessed Correctional Officer [REDACTED] ("C/O [REDACTED] use excessive force against detainee [REDACTED] (" [REDACTED] when C/O [REDACTED] struck detainee [REDACTED] in the head without justification, as well as push detainee [REDACTED] into a doorway and into a wall while escorting him. The Complaint also alleges that on the same day the Respondent witnessed Correctional Officer [REDACTED] ("C/O [REDACTED] use excessive force against detainee [REDACTED] when C/O [REDACTED] kicked detainee [REDACTED] multiples times while he was being held on the ground by several correctional officers. The Complaint also alleges that the Respondent completed a Response to Resistance/ Use of Force Data Collection Report and falsely reported that he witnessed detainee [REDACTED] take a combative stance towards C/O [REDACTED] and that detainee [REDACTED] started to raise his hands at C/O [REDACTED]. The

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Complaint also alleges that Respondent failed to document in the Response/ Use of Force Data Collection Report that he witnessed C/O [REDACTED] pushing detainee [REDACTED] into a doorway and into a wall while [REDACTED] was handcuffed nor did the Respondent report that he witnessed C/O [REDACTED] kicking detainee [REDACTED] multiple times while [REDACTED] was being held on the ground by several correctional officers. The Complaint continues to allege that Respondent failed to immediately notify a supervisor that C/O [REDACTED] and C/O [REDACTED] used excessive force against detainee [REDACTED] nor did he submit an Incident Report documenting that C/O [REDACTED] and C/O [REDACTED] used excessive force against detainee [REDACTED]. Also the Complaint alleges that Respondent failed to recommend disciplinary action against C/O [REDACTED] or C/O [REDACTED] for violating Cook County Sheriff's Office policies and procedures, specifically for engaging in excessive use of force against detainee [REDACTED]. These alleged actions violated general orders, Sheriff's orders rules of conduct and Cook County Sheriff's Department Merit Board Rules and Regulations, specifically:

General Order 4.1, Internal Investigations III. Requirements, A. 17 and 18; Sheriff's Order 11.2.1.0 (effective date: September 19, 2011) Response to Resistance/ Use of Force Policy, II. Policy and V. Definitions E. Excessive force, VIII. Procedures C., D. 1, XIII. Applicability, A., B., and C.; General Order 3.8 Ethics and Standards of Conduct I. Policy, III. Requirements A. 4.; General Order 24.9.1.0 (effective July 11, 2011) Reporting Incidents, II. Policy. VII. Procedures A. 1. And 2.; B. Incident Report Requirements 2., 3., and 6., C., F. 2; VIII. Applicability; Sheriff's Order 11.2.20.0 (effective January 25, 2013) Rules of Conduct II. Policy, D. 25, H. 4.; General Order 9.21 Responsibilities of Supervisors, I. Policy Section #3- Responsibility of Sergeants, I. Procedure A. 6., C. 1 and 2, D. 2 and 3; as well as Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B. 3.

Issues Presented: Whether the actions of the Respondent violated any of the General orders, Sheriff's orders and rules and regulations set forth above and what if any discipline is appropriate if a violation occurred.

Resolution of Issues Presented: The Merit Board finds that violations of all of the above mentioned general orders, Sheriff's orders and rules and regulations did occur, and that the Respondent should be separated from employment.

Findings of Fact: Evidentiary hearings in this matter were held April 14th 2016 before Merit Board Member Brian Riordan. Present was the Sheriff by counsel, Respondent and counsel. Witnesses who testified for the Sheriff were [REDACTED], [REDACTED] and Wilfredo Cintron, Jr. Joint Exhibits 1 through 26 were entered into the record. Sheriff's 1 Exhibit was entered into the record.

Evidence:

Witness [REDACTED] testified that he is an investigator in the Office of Professional Review and that he has been an investigator for over five years. Witness testified that he has received multiple Cook County Sheriff's Use of Force training as well as training at the Force Science Institute and that he has investigated over one hundred use of excessive force cases. Witness testified that he was assigned a case involving the Respondent and that he completed a summary report when he completed his investigation. Witness testified that he completed the report on March 28th of 2014 and he testified how he went about the investigation, his interviews, data that was collected, and all of the reports, videos, and General Orders. Witness was asked questions regarding a video that ends with 13020402, in which he testifies that he has seen the video before and he then went on to describe what he witnessed

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on the video. Witness testified that detainee [REDACTED] was struck by C/O [REDACTED] while in the presence of the Respondent. Witness that testified about what he observed on the video that ends with 06020402 in which C/O [REDACTED] was seen kicking detainee [REDACTED]. Witness also testifies about a scene in the video ending in 05020402, which was looking at cage Bullpen A, in which C/O [REDACTED] was hitting detainee [REDACTED] and that C/O [REDACTED] was also striking detainee [REDACTED]. In another clip that ends with number 08020402 in which C/O [REDACTED] was guiding [REDACTED] and it also show the Respondent standing in the general area. Witness testified that he collected reports from this incident, he identified one report that was completed by C/O [REDACTED], a second completed by [REDACTED]'s brother C/O [REDACTED], a third report completed by [REDACTED], a fourth report completed by C/O [REDACTED] all of these reports were signed off by the Respondent. The witness also went on to identify the Supervisory Review Report that was signed and approved by the Respondent. He also identified the Data Collection Report, the Response to Resistance/ Use of Force checklist and the disciplinary report for detainee [REDACTED] that was generated by C/O [REDACTED]. The witness testified that he interviewed the Respondent after the Respondent signed his Waiver of Counsel or a Request to Secure Counsel Form on March 24, 2014 and that all of the above mentioned documents and reports were shown to the Respondent. Witness testified that at this meeting both he and the Respondent as well as OPR Investigator [REDACTED] were present. After the meeting the witness testified that he prepared a statement in which he allowed the Respondent to review and sign the statement. The Witness testified that he reviewed the Respondent's disciplinary history as part of his investigation and based upon his whole investigation Investigator [REDACTED] recommended that Respondent be separated from the Cook County Sheriff's Office.

On cross examination investigator [REDACTED] was questioned about the timing of when the complaint was initiated and when OPR started their investigations. Witness was asked questions about the Respondent's report and what he did not document on his reports as well as his findings in the reports.

Witness [REDACTED] testified that he is currently employed with the University of Tennessee, County Technical Assistance Service as a jail management consultant. The witness testified about his job duties and responsibilities as well his CV. After going through his background and his CV the witness was tendered as an expert and there was no objection. The witness testified that he had been to the Cook County Jail and that he has reviewed the Orders and Rules and Regulations of the Cook County Sheriff's Office. The witness testified that based on his review of the entire OPR investigation report that he believes that C/O [REDACTED] and C/O [REDACTED] both used excessive force with detainee [REDACTED] on May 4th, 2012. The witness also testified that the Respondent's conduct violated the Sheriff's Orders and that the Respondent's report violated the Sheriff's Order because it was not accurate. The witness testified that it is the Respondent's responsibility, as a supervisor, to ensure that his subordinates' reports are accurate and complete, which he did not. Respondent did not attempt to intervene when [REDACTED] pushed the detainees face against the wall, nor did he document the incident which is a clear violation of the Sheriff's Orders.

On cross examination the witness testified that he strictly consults with publicly run jails, that he was aware that one of the Sheriff's Orders went into effective after the date of the incident, and that he was not sure if the Respondent had access to the video footage prior to writing his reports. The witness also testified that the supervisory role is to review the Incident Reports, the Use of Force Reports that occurred to ensure the accuracy of what occurred.

Witness, Respondent, Wilfredo Cintron testified that he has been a Sergeant for the Cook County Sheriff's Office since October 3rd, 2004 and prior to that he was a Correctional Officer since June 10th,

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1996. Witness testified that on December 10th, 2011 he was assigned to Receiving/ Classification/ Diagnostics Center, or RCDC of CCDOC, and then on September 8, 2013 he was assigned to the Records Department of CCDOC. Witness was questioned about the incident that took place on May 4th, 2012 while Respondent was on duty in the RCDC at the CCDOC. He testified that law enforcement officers' responsibilities include protecting other officers, protecting detainees from harm and to not provide false information in a report. Witness also testified that he was aware that if he observed an officer using excessive force that the rule of the Sheriff's Office require him to report it. The witness also testified that as a sergeant he has more responsibilities than a correctional officer and that part of his job responsibilities are to review the use of force documents that are submitted by the correctional officers and to make sure that the Use of Force Forms are accurate. The Witness testified that the reports that he filled out regarding the incident between C/O [REDACTED] and C/O [REDACTED] and detainee [REDACTED] were based upon what he observed; however during [REDACTED]'s direct examination, he describes in the video that the Respondent was in the video while [REDACTED] was punching [REDACTED]. After the incident Respondent failed to report the force used on detainee [REDACTED]. The Respondent failed to document force used on the detainee while he was in the area. The Witness described where he was at while the incident was taking place and then was asked a line of questions from the trial of [REDACTED] about whether he was sitting or standing and whether he had a clear line of vision of C/O [REDACTED] and Detainee [REDACTED]. The Witness then testified as to what he did to intervene between C/O [REDACTED] and Detainee [REDACTED] and then between C/O [REDACTED] and Detainee [REDACTED]. He also testified that he reviewed and signed off on multiple reports, including the Use of Force reports written by C/O [REDACTED] and C/O [REDACTED].

On cross examination the Witness testified that he did not have any access to the videos while he was writing his report and verifying the other reports but now there is a new procedure that video must be reviewed prior to writing reports. The Witness testified that because the incident happened so quickly it seemed incidental to him. He went on to testify that he wrote his reports on what he observed and remembered.

Conclusions of Law: Based upon the evidence presented, and after assessing the credibility of the witnesses and weight to be given to the evidence in the record, the Merit Board finds that the Sheriff has proven by a preponderance of the evidence that the Respondent did violate each and every order, Sheriff's order and rule and regulation as set forth in the complaint filed herein.

Order: Wherefore, based on the foregoing, it is hereby order that the Respondent Wilfredo Cintron, Jr be separated from employment effective September 28, 2015.

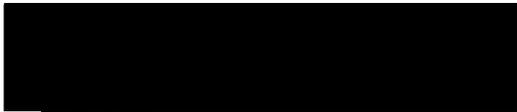
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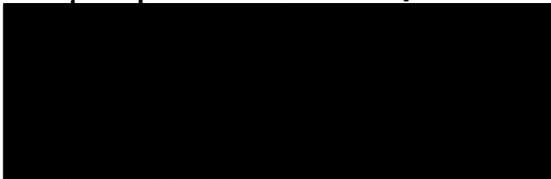
James P. Nally, Chairman



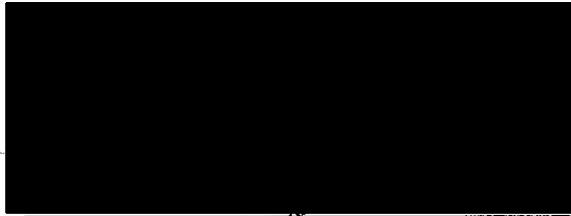
Byron Brazier, Vice-Chairman



John J. Dalicandro, Secretary



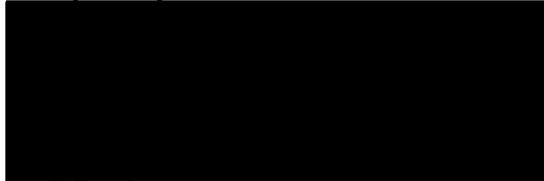
Vincent T. Winters, Board Member



Kim R. Widup, Board Member



Juan L. Baltierres, Board Member



Kimberly Pate Godden, Board Member

Monica M. Torres-Linares, Board Member

Date August 30, 2019