

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)
)
vs.)
) Docket No. 1780
Jason E. Bobzin)
Correctional Officer)
Star # 8489)

DECISION

This matter coming on to be heard pursuant to notice before Kim R. Widup, Board Member, on May 20, 2015, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Jason Bobzin, hereinafter "Respondent," was appointed a Correctional Officer on April 18, 2005. Respondent's position as a Correctional Officer involves duties and responsibilities to the public; and

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; and

The Board has jurisdiction of the subject matter of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes; and

The Respondent was personally 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; and

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

On June 24, 2010, the Respondent was appointed a Correctional Officer assigned to Division X of the Cook County Department of Corrections (CCDOC), located at 2950 S. California Boulevard, Chicago, IL.

On June 10, 2011, the Respondent was assigned to Maintenance in Division X of the CCDOC during the 1500 to 2300 hours shift, which entails assisting the Correctional Officer assigned to the Storeroom in processing the transferred detainees. Respondent was assisting Correctional Officer (CO) [REDACTED] with the duty of processing transferred detainees on June 10, 2011.

On June 10, 2011, the Respondent did not properly monitor detainee [REDACTED] (detainee [REDACTED]) and allowed him to go unaccounted for within the CCDOC, constituting an unauthorized movement of a detainee. The Respondent's improper conduct allowed detainee [REDACTED] the time and ability to change out of his CCDOC uniform and into civilian clothing.

On June 10, 2011, at approximately 1905 hours, CO [REDACTED] who was assigned to Division X Intake, received a telephone call from the transport team of the Receiving Classification Diagnostic Center (RCDC) informing her that three detainees were being transferred from Cermak Hospital and going to Division X.

On June 10, 2011, at approximately 1940 hours, CO [REDACTED] was notified by the transport team of RCDC that they were in the basement of Division X and were dropping off the detainees being transferred to the Respondent and CO [REDACTED]. It was the responsibility of the Respondent and CO [REDACTED] to receive transferred detainees from RCDC; ensure the identities of the detainees were accurate; and that all detainees were accounted for, including the three detainees noted above.

On June 10, 2011, at approximately 1951 hours, CO [REDACTED] notified CO [REDACTED] that he only received two detainees from RCDC. At that date and time, the Respondent and CO [REDACTED] improperly allowed detainee [REDACTED] to wander away from their custody.

On June 10, 2011, at approximately 1955 hours, CO [REDACTED] brought two detainees to the Division X Intake. However, CO [REDACTED] had received and had in his possession the paperwork for three detainees, which included three inmate identification cards. Though his paperwork was given the Respondent and CO [REDACTED] detainee [REDACTED] was not brought to Division X Intake.

On June 10, 2011, at approximately 2011 hours, an "all available" call was made via radio in the clothing room of Division X where detainee [REDACTED] was found after he managed to change from the CCDOC clothing into civilian clothing.

On June 10, 2011, following the all-available call, Respondent failed to properly document on a CCDOC Incident Report Form the unusual incident of detainee [REDACTED] being unaccounted for and then being found in civilian clothing. The Respondent also failed to immediately report this unusual incident to a supervisor.

On June 10, 2011, a CCDOC Incident Report and Use of Force Reports were submitted by Respondent and CO [REDACTED] documenting the use of force utilized when detainee [REDACTED] allegedly became an assailant in the clothing room of Division X. The Incident Report and/or the Use of Force Reports do not reference any unusual incidents or note detainee [REDACTED] went unaccounted for and was found in civilian clothing.

On June 13, 2011, Commander [REDACTED] interviewed detainees [REDACTED] and [REDACTED] regarding the incident which occurred on June 10, 2011. Both detainees stated that the two of them along with detainee [REDACTED] were being transferred from Cermak Hospital to Division X in CCDOC clothing. Both detainees [REDACTED] and [REDACTED] stated that while they were waiting to be processed in the basement of Division X, detainee [REDACTED] wandered off from the group.

On June 17, 2011, CO [REDACTED] was interviewed by investigators from the Cook County Sheriff's Office of Professional Review (OPR) and stated that CO [REDACTED] arrived at Division X

Intake with two detainee transfers but had paperwork for three detainee transfers. CO [REDACTED] stated that she asked CO Matthew [REDACTED] about the whereabouts of detainee [REDACTED] and CO [REDACTED] just shrugged his shoulders. CO [REDACTED] stated that when she turned to leave the supervisor's office after informing her supervisor of the missing detainee, that she was face to face with detainee [REDACTED] who was in street clothes (blue jacket, grey shirt, unknown pants and a ball cap) and was being held by the collar by the Respondent.

On May 24, 2013, the Respondent was interviewed and provided a signed statement to investigators from OPR. Respondent falsely reported that detainee [REDACTED] never went missing and that Respondent never found detainee [REDACTED] in the clothing room or dressed in civilian clothing.

Issues Presented

The Respondent was charged based on his actions detailed above with violations of the Rules and Regulations and General Orders of the Cook County Department of Corrections, specifically:

General Order 4.1 Internal Investigations, in its entirety, including but not limited to, the following subparts:

III. REQUIREMENTS

Misconduct which impairs an employee's ability to perform his/her assigned responsibilities, or adversely affects or involves the Cook County Department of Corrections and/or the Office of the Sheriff of Cook County may be cause for disciplinary action.

Serious misconduct would include those violations of the law which constitutes a misdemeanor or a felony, or alleged/suspected, violations of Cook County Department of Corrections rules and orders which pose a threat to the safety of the staff or inmates or the security of the institution. Included also is misconduct committed while an employee is off duty/outside the institution where in the official character and status of the employee as a correctional officer, deputy sheriff, law enforcement officer, or civilian correctional employee becomes identifiable and calls into question the reputation of the County of Cook, the Office of the Sheriff, or the Department of Corrections.

A. Guidelines for Serious Misconduct include, but are not limited to:

18. Making a false official report, either oral or written.

General Order 9.1A Reporting Unusual Incidents, in its entirety, including but not limited to, the following subparts:

I. POLICY

A. Policy Statement

Unusual incidents or situations that occur on the grounds of the Cook County Department of Corrections or that occur within the community, involving an employee or an individual under the supervision of the Department, shall be reported to the appropriate officials and completely documented by the witnessing employee or the employee who received notification of same.

II. PROCEDURE

C. General Provisions

Unusual incidents or situations shall be documented on Cook County Department of Corrections incident report form and reported immediately to the office of the appropriate Deputy Director.

E. Types of Incidents and Immediate Reporting

The Duty Administrative Officer shall report immediately, by telephone to the appropriate Assistant Director who in turn shall be responsible for contacting the Executive Director when any of the following types of incidents or situations, which are of a more serious nature, occur.

5. Escapes, attempted escapes, or unauthorized absences;

General Order 3.8 Ethics and Standards of Conduct, in its entirety, including but not limited to, the following subparts:

I. POLICY

It is the policy of the Cook County Department of Corrections (CCDOC) that employees will conduct themselves in a professional and ethical manner, both on and off duty. Employees will not engage in activities unbecoming of county employees, or conduct that reflects unfavorably to the Office of the Sheriff of Cook County.

III. REQUIREMENTS

The CCDOC Code of Ethics requires the highest level of conduct from all employees. It is the expectation that sworn and civilian employees conduct themselves with high standards of professional conduct and behavior. Employees that fail to maintain high standard of conduct and ethics, will be subject to corrective or disciplinary action, and may include recommendation for termination.

A. Compliance with Laws and Regulations

4. Employees will comply with lawful departmental rules, written procedures, directives, bulletins, and verbal orders issued by the proper authorities.

D. Professional Conduct

4. Employees will not commit acts that jeopardize security of the facility or the health, safety and welfare of detainees, staff and visitors.

Sheriff's Order 11.2.20.0 (effective January 25, 2013) Rules of Conduct, in its entirety, including but not limited to, the following subparts:

II. POLICY

The CCSO serves the citizens of Cook County by performing law enforcement functions in a professional manner, and it is to these citizens that the CCSO is ultimately responsible. Employees of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. Employees shall not engage in activities that reflect unfavorably on the CCSO but shall instead serve to further the mission of service.

D. Prohibited associations, establishments, and activities.

25. Fail to cooperate or fail to be truthful with external and/or internal agencies in an investigation of a criminal or civil matter.

H. Reporting violations.

4. Employees are prohibited from making a false report, written or oral.

Additionally, the Respondent's actions violated the Rules and Regulations of the Cook County Sheriff's Merit Board, specifically:

Cook County Sheriff's Department Merit Board Rules and Regulations, in its entirety, including but not limited to, the following subparts:

Article X, Paragraph B:

No Police Officer of the Cook County Sheriff's Police Department, Correctional Officer of the Cook County Department of Corrections, or any Deputy Sheriff of the Cook County Sheriff's Court Services Department shall:

1. Violate any law or statute of any State or of the United States of America.
2. Violate any ordinance of a County or Municipal Government.
3. Violate any of the General Orders, special orders, directives, or rules and regulations of the Cook County Sheriff's Office.

Findings of Fact

This matter was called for trial on May 20, 2015, after the case was continued on several occasions based upon the needs of the Petitioner (Sheriff) and/or the Respondent's request through counsel, and the completion of all discovery matters. At the trial, with a court reporter being present, all witnesses were sworn under oath. The Respondent did testify. During the trial documents were introduced by the Sheriff and the Respondent that were received into evidence.

The first witness called by the Sheriff was [REDACTED] Investigator, OPR, who testified that she was the investigator assigned to investigate the matter involving the Respondent. She testified that she is an investigator with OPR and had been with the CCSO for 2 ½ years - all with OPR.

Investigator [REDACTED] said on May, 24, 2013, she interviewed the Respondent at her offices in OPR (Exhibit 1). During the interview the Respondent said his assignment on June 10, 2011, was to assist in checking in the detainees who were being transferred over. The Respondent stated that he was assisting with three detainees, two of which - after he completed their check in - he sent over to security to be put in the system (Investigator [REDACTED] could not recall the date but after her memory was refreshed she recalled it as being June 10, 2011). Investigator [REDACTED] said the Respondent stated to her that he had a detainee stay with him in the storage room who became combative. The Respondent called for an "all available" (officer needs assistance) but he told her that he never lost sight of the detainee (Detainee [REDACTED]). Investigator [REDACTED] was asked, "did he say anything in regards to the clothing that Detainee [REDACTED] was wearing?" Investigator [REDACTED] said the Respondent said that Detainee [REDACTED] "was never in civilian clothing." Investigator [REDACTED] did not recall the Respondent making any changes to his statement; although, she would have afforded him the opportunity to make them if he requested to do so before signing off on the final copy.

On cross-examination Investigator [REDACTED] was asked about a complaint register that named the Respondent along with four other CCDOC personnel. She identified the complaint register, dated June 14, 2011, naming the Respondent, Officer [REDACTED] Lieutenant [REDACTED] Lt [REDACTED] and Sergeant [REDACTED] as being involved in the missing of a detainee - Respondent's Exhibit (R-Exhibit) 1. Investigator [REDACTED] also said that there had been a previous interview of the Respondent on May 15, 2013 (R-Exhibit 2), in which he provided a statement that was amended on May 24, 2013 (Exhibit 1). Investigator [REDACTED] testified that the OPR Investigator [REDACTED] who was assigned the investigation on the Respondent had left OPR prior to the date of this hearing; although, she has completed the investigation of the Respondent before she left OPR and had prepared the written summary of the investigation (R-Exhibit 3).

On re-direct examination Investigator [REDACTED] identified an inter office memorandum from OPR Director [REDACTED], dated August 13, 2013, as stating the recommended discipline of 30 days for the Respondent (Exhibit 2) was not agreed upon and the suspension should be 60 days instead. Investigator [REDACTED] further identified an investigative finding form (Exhibit 3) as sustaining a 60-day suspension with options recommendation for the Respondent.

Alta [REDACTED] Sergeant, CCDOC, was called and testified that she had been employed by the CCDOC for approximately ten years. She was currently assigned to Division III and prior to that had been assigned to Division X. She testified that on June 10, 2011, she was working as an intake officer in Division X. Sgt [REDACTED] stated on that date that she was given

paperwork for three detainees, the IDs for three detainees, but only two detainees by Officer [REDACTED]. She asked Officer [REDACTED] where the other detainee was and he told her that he had only received the two detainees. She testified that she could not recall the name of the detainee that she had the paperwork for but was not there. She called her supervisor, Lt [REDACTED] to report that she had received the paperwork and IDs for three detainees but only had two detainees brought to her by Officer [REDACTED]. She also contacted RCDC. She testified that [REDACTED] was the name of the detainee that was missing.

After reporting this information to her supervisor she was asked what she did next? Sgt [REDACTED] testified she left the shift commander's office, "but as I was leaving, the inmate was behind me in civilian clothes." She was asked was anyone with him? She said, "he was being escorted by Officer Bobzin. I'm not sure who the other officer was." She testified that detainee [REDACTED] was wearing civilian clothes including a baseball hat. Sgt [REDACTED] testified that sometime later in the shift an "all available" was called. She did not know the specifics of the all available nor did she respond as she was at a post that could not be left to respond. Sgt [REDACTED] identified her log entries from June 10, 2011 (Exhibit 4), which noted that Officer [REDACTED] brought two detainees with the paperwork and IDs for three detainees. Her log also showed that an "all available" was called in the clothing room involving detainee [REDACTED].

On cross-examination, Sgt [REDACTED] testified that she was working overtime from 3:00 pm to 11:00 pm on June 10, 2011, in addition to her normal shift of and thereby working a later shift than she typically worked. Her normal shift was 7:00 am to 3:00 pm, which she also worked on June 10, 2011. Sgt [REDACTED] said both shifts were in Division 10. She was shown a portion of a log book page (R-Exhibit 4) and another copy of the same page with additional information (R-Exhibit 5). She identified them both as being pages from a running count log book that she maintained on June 10, 2011, listing the names of the detainees. She stated the handwriting on the log book page was hers. She testified the names listed on the page were detainees [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. She said these were the detainees that she had IDs for and their entry time was logged in as 19:40 (7:40 pm). She said that Detainee [REDACTED] was unaccounted for that evening but did not know whether the Respondent knew that he was unaccounted for. Sgt [REDACTED] said she was familiar with the General Order on preparing reports for unusual incidents. She believed the incident of June 10, 2011, was an unusual incident but she did not prepare a report that night.

The Sheriff rested and after a short recess the Respondent began his case.

[REDACTED] Lieutenant, CCDOC, was called and testified that he had been employed by the CCDOC for approximately 17 years. He had been a lieutenant for approximately seven years and was currently assigned to Division X. Lt [REDACTED] testified that on June 10, 2011, he was working in Division X on the 3:00 to 11:00 shift. Lt [REDACTED] recalled that on June 10, 2011, the Respondent was involved in a proper use of force incident with detainee [REDACTED]. He had no knowledge of detainee [REDACTED] being missing for any period of time on June 10. Lt [REDACTED] testified that had detainee [REDACTED] been missing for a period of time he would have required the completion of an incident report by the involved officers as per the CCDOC general orders (R-Exhibit 6). Lt [REDACTED] said that he was interviewed later by OPR regarding the June 10, 2011, event. He said that detainee [REDACTED] was wearing a brown CCDOC when he saw him.

On cross-examination Lt [REDACTED] said that he did not see Officer [REDACTED] or the Respondent with detainee [REDACTED] when they transferred him.

[REDACTED] Sergeant, CCDOC, was called and testified that he had been employed by

the CCDOC for approximately 16 years. He had been a sergeant for approximately 14 years and was currently assigned to Division V. Sgt ██████ testified that on June 10, 2011, he was working in Division X on the 3:00 to 11:00 shift. Sgt ██████ recalled on June 10, 2011, he responded to a radio call from the Respondent requesting assistance with a detainee in the basement of Division X. When he arrived at the scene he saw the Respondent and Officer ██████ fighting with a detainee. Sgt ██████ said that he initiated an all available call over the radio and other officers responded to the scene. Sgt ██████ testified that the situation was quickly brought under control. He later prepared and signed a Use of Force Report regarding the incident (R-Exhibit 7). He also signed an incident report that was prepared by the Respondent regarding the incident (R-Exhibit 8). Sgt ██████ had no recollection or knowledge of detainee ██████ going missing at any point on June 10, 2011. Had detainee ██████ went missing a lockdown would have been initiated and no such lockdown or emergency count been undertaken on June 10. Sgt ██████ testified that the Respondent was regarded as being an excellent CCDOC officer and he was unaware of any negative comments by any supervisors regarding the Respondents performance.

On cross-examination Sgt ██████ testified that he was not with the Respondent the entire time on June 10, 2011.

██████ ██████ Officer, was called and testified that he had been with the CCDOC for about eight years, with seven of those being in Division X. Officer ██████ testified in general terms to the process of moving a detainee from the basement to the holding cells. He said that on May 15, 2013, he accompanied the Respondent, as his union representative, to the interview with OPR regarding the incident of June 10, 2011. Officer ██████ said that in the first interview with OPR the Respondent attended the interview as a witness and not as the accused. He recalled that the OPR investigator informed them that there was no video available regarding the June 10, 2011, incident.

On cross-examination Officer ██████ testified that the inmate changing room in Division X used to be downstairs and it was now upstairs. He said it would be unusual for a detainee to come upstairs in civilian clothes when the changing room was downstairs.

The Respondent was called and testified that he had been employed by the CCDOC for ten years and was currently assigned to Division X. On June 10, 2011, he was working in Division X and his assignment was maintenance. He did assist the other officers, including Officer ██████ with inmate transfers and discharges. The Respondent said that he did help Officer ██████ with moving detainees through the tunnel to processing and recalled that he helped with the issuing of bed rolls, toiletries and the changing into CCDOC uniforms. The Respondent said he recalled that detainee ██████ was transferred with two other inmates on June 10, 2011, and detainee ██████ was in a highly agitated state as he did not believe that he should be there. The Respondent said that he separated detainee ██████ from the other two inmates. He said another officer took the two inmates away and he stayed with detainee ██████. The Respondent said detainee ██████ became more and more agitated and started cussing at him. The Respondent contacted Sgt ██████ via radio and requested assistance. Detainee ██████ threw his property bag at the Respondent and charged him. The Respondent defended himself and took the detainee to the ground. He was able to gain control of detainee ██████ and later prepared an incident report and use of force report (R-Exhibit 14) documenting the incident and his use of force against detainee ██████. The Respondent's counsel also introduced R-Exhibit's 9-13. The Respondent testified that he was never separated from detainee ██████ on June 10, 2011. He said detainee ██████ was not in civilian clothing on that date nor was he ever missing. He knew of no circumstance in which a detainee was missing or reported missing in Division X.

The Respondent testified that he had never been disciplined by the CCDOC for any type of misconduct. The only time he was ever accused of anything was by OPR after his second contact with them on the matter involving detainee [REDACTED]. When he was first hired by the CCDOC he was in valedictorian of his class and had received numerous certificates and no discipline (R-Exhibit 15). The Respondent was questioned as to the Sheriff's collective bargaining agreement and whether discipline was supposed to be progressive (R-Exhibit 16).

On cross-examination the Respondent was asked if he heard the testimony of Sgt [REDACTED] in which she said detainee [REDACTED] was in civilian clothes and whether or not she was truthful in her testimony. The Respondent testified that she was not.

On redirect the Respondent was asked if Sgt [REDACTED] could have been mistaken the Respondent testified that "when I said her testimony is untruthful, I believe maybe she was mistaken or she was confused at the time of this incident."

The Respondent rested.

Decision

The Board finds by a preponderance of the evidence through the testimony of the witnesses and the supporting evidence that the Respondent was credible in his testimony and was not in violation of any orders or procedures. The Respondent is acquitted of all charges related to this complaint and any duty restrictions or other restrictions should be immediately lifted and he should be returned to full duty - if not already done so. This case failed in that the investigation lacked any supporting evidence of the allegation and aside from the uncorroborated and imprecise testimony of one witness there is no evidence that the detainee was ever missing from custody or had somehow changed to civilian clothes.

Conclusions of Law

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 Jason Bobzin, Star Number 8489, CCDOC, did not violate General Order 4-1, Section III, A18; General Order 9-1A, Sections I, A, II, C, E5; General Order 3-8, Sections I, III, A4 and D4; Sheriffs Order 11.2.2.0, Section II, D25 and H4; and Article X, Paragraph B, 1-3, of the Rules of the Cook County Sheriff's Merit Board.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Jason Bobzin is acquitted of all charges in this matter, effective August 28, 2014.

[Redacted Signature]

James P. Nally, Chairman

[Redacted Signature]

Jennifer E. Bae, Board Member

[Redacted Signature]

Byron Brazier, Vice Chairman

[Redacted Signature]

Kim R. Widup, Board Member

[Redacted Signature]

Brian J. Riordan, Board Member

[Redacted Signature]

Patrick Brady, Board Member

[Redacted Signature]

John M. Palicandro, Secretary

[Redacted Signature]

Vincent T. Winters, Board Member

[Redacted Signature]

Gray Mateo-Harris, Board Member

Dated: January 28, 2016