COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County	•)	
) .	
vs.)	
)	Docket No. 2082
Deputy Sheriff)	
Marvin Buchanan)	
Star # 11446	j.	

DECISION

This matter coming on to be heard pursuant to notice before James P. Nally, Board Member. Docket 2080 Docket 2081 Docket 2081 Docket 2082 Marvin Buchanan and Docket 2083 were consolidated for hearing as all cases arose out of an incident that took place on May 2, 2017 at the Markham Courthouse in Cook County, Illinois. Hearings occurring on November 19, 2018, January 3, March 28, March 29, May 22, June 12 and June 27, 2019. The Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Marvin Buchanan, hereinafter Respondent, was appointed a Correctional Officer on February 17, 1998, and transferred to the Cook County Court Services Department as a Deputy Sheriff on December 4, 2016. 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.

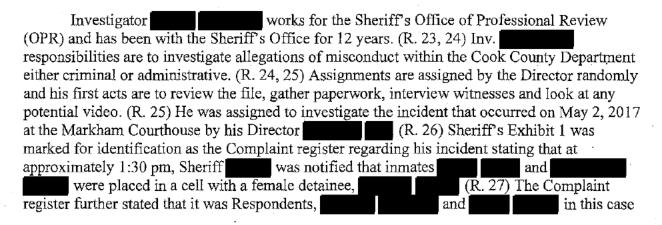
As a threshold matter, a proceeding before the Merit Board is initiated at the time the Sheriff files a written charge with the Merit Board. 55 ILCS 5/3-7012. A document is considered filed, in this case with the Merit Board, "when it is deposited with and passes into the exclusive control and custody 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. Comminssioners 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

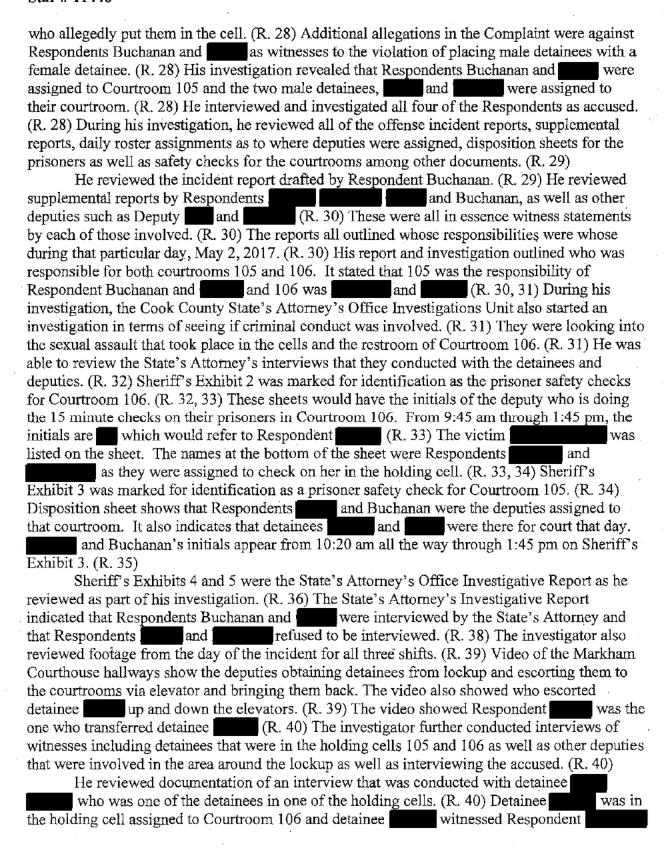
Commissioners, 111 Ill. App. 3d 1001, 1007 (1982))); Hawkyard v. Suttle, 188 Ill. App. 168, 171 (1914) "A paper is considered filed when it is delivered to the clerk for that purpose.".

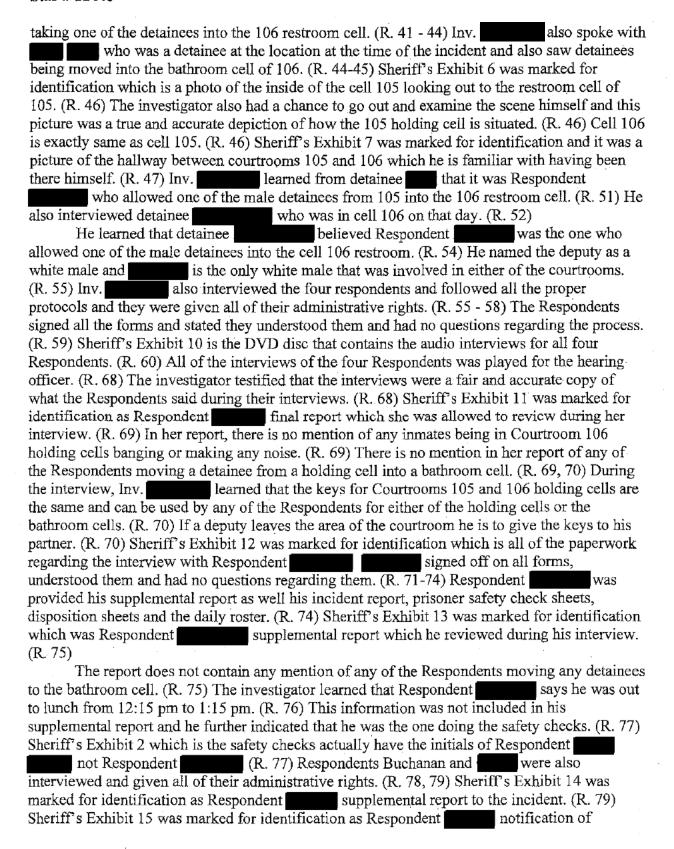
The original Complaint in this matter was filed with the Merit Board's administrative staff on November 22, 2017. Regardless of whether or not Merit Board Members were properly appointed during a given term, the Merit Board, as a quasi-judicial body and statutorily created legal entity, maintained at 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 November 22, 2017 commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case. An Amended Complaint was filed in this matter on January 25, 2018.

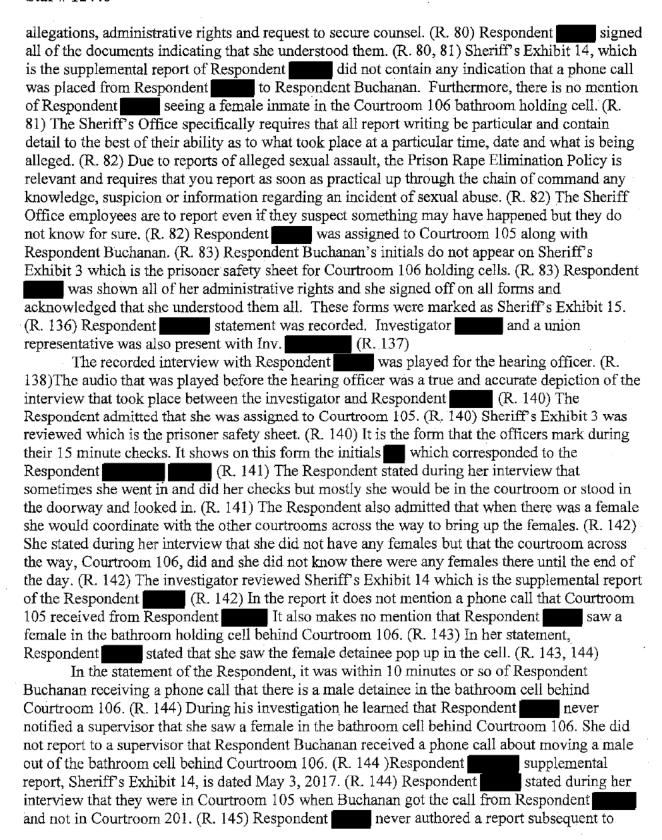
Findings of Fact

The Sheriff filed a complaint on November 22, 2017, and an Amended Complaint was filed on January 25, 2018. The Sheriff is requesting termination of the Respondent. The Sheriff alleges that the Respondent on May 2, 2017 failed to properly carry out the duties assigned and required as a Deputy Sheriff, and as a result a female detainee was sexually assaulted by two male detainees, and falsely reported that safety checks had been completed. The Sheriff further alleges that the Respondent was negligent and inattentive to duty which led to the sexual assault of a female detainee by the two male detainees. The Sheriff further alleges that the Respondent was untruthful to investigators from OPR regarding the incident. The Sheriff alleges violations of Cook County Court Services Department Policy 321.2, 321.3, 321.4, 321.5, 322.5.2, 321.5.5, Cook County Court Services Department Policy Manual Policy 900.2, 900.3, 900.3.2, 900.3.3, Cook County Core Services Department Policy Manual Policy 903.2, 903.3, 903.9, Cook County Court's Department Policy Manual 100.2, 1100.3, 1100.3.8, and Merit Board Rules and Regulations Article X, paragraph B 3.

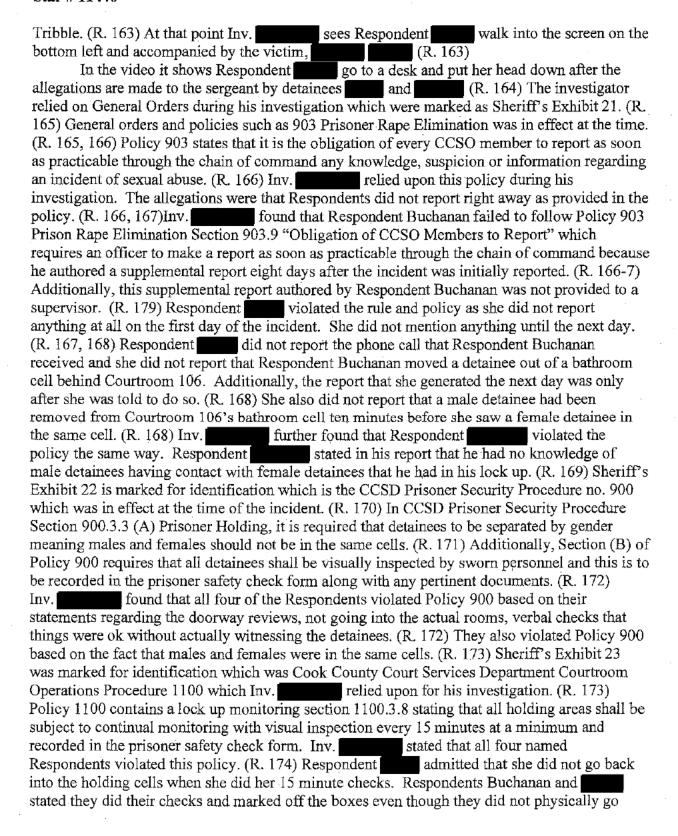








May 3, 2017 about the phone call that Buchanan received or that she saw a female detainee in
the bathroom cell behind Courtroom 106. (R. 145) Respondent stated during the
interview, after she saw the female detainee pop up, the female detainee stated she wanted to go
downstairs. Respondent then went to Respondent s courtroom and let Respondent
know that her female detainee in the bathroom cell behind Courtroom 106 wanted to go
down. That is the only thing that Respondent told her. (R. 146) Respondent did not
inquire as to how long the female detainee had been present. Respondent did not mention
that she got a call that there was a male in there as well. (R. 146)As a further part of his
investigation, Investigator interviewed Respondent Buchanan. He also reviewed
Sheriff's Exhibit 17 which were all the forms and notifications to Respondent Buchanan which
Respondent Buchanan signed and indicated he understood. (R. 149, 150) Respondent Buchanan
had no issues and understood all the forms and signed them all. (R. 151) Sheriff's Exhibit 18 was
marked for identification and it is the offense/incident reports authored by Respondent
Buchanan. (R. 151, 152) There were two different reports. The first report was identified as an
"other services report" and the second one was an "attempted sexual offense" report. (R. 152)
Neither of the reports mention that Respondent Buchanan moved any detainee from a bathroom
cell behind Courtroom 106 nor do they make mention of a phone call Respondent Buchanan
received from Respondent (R. 153Sheriff's Exhibit 19 was marked for identification
which was the supplemental report authored by Respondent Buchanan. The report was authored
on May 10, 2017 and contains new information not contained in the original report. It states that
Respondent Buchanan received a phone call from Respondent indicating to him that he
needed to remove his prisoner from her bathroom cell. (R. 154) Respondent was assigned
to Courtroom 106 and the report stated that Respondent Buchanan went into the lock up area and
removed a male prisoner from that bathroom cell but there are no supervisor signatures on that
report. (R. 155) Like Respondent statement, Sheriff's Exhibit 19 Respondent
Buchanan's Offense/Incident Supplemental Report also states that they transported the detainees
down to lockup within ten minutes of Buchanan moving detainee out of the bathroom
holding cell behind Courtroom 106. Sheriff's Exhibit 19.Inv.
with Respondent Buchanan that was recorded and was played before the hearing officer. (R.
155)Inv. confirmed that the audio was a true and accurate representation of the
interview conducted of Respondent Buchanan. (R. 156) The Respondent admitted to Inv.
that he authored the reports which were identified as Sheriff's Exhibits 18 and 19. (R.
156, 157) The investigator obtained the State's Attorney's Office report and went over that with
Respondents. (R. 157) When detainees are in a wheelchair they are typically separated from
detainees that are not in wheelchairs. (R. 158) As part of his investigation he reviewed all the
video that was available which included several hours throughout the day. (R. 158) He reviewed
videos near the courtrooms as well as videos near the lock up in the basement at Markham. (R.
158)He reviewed videos that identified exactly when the detainees originally came down and
spoke to Sgt. regarding their claims. He also reviewed video that contained the current
Respondents and their movements. (R. 159) Sheriff's Exhibit 20 was marked for identification
which is the videos of the day in question. (R. 159, 160) The video shown was the lock up in the
basement of Markham and it shows Deputy Sgt.
Buchanan and they are conversing and standing and talking in front of detainees and
and talking in the dies are conversing and standing and talking in front of detaileds



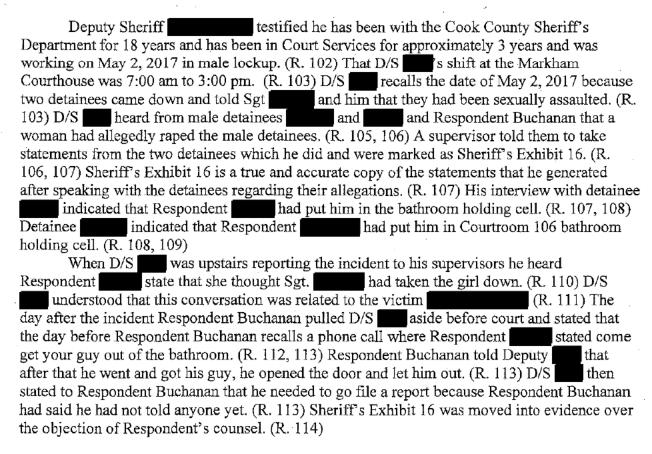
completely into the holding cells. They also admitted sometimes their partners did them and they wrote their initials on the form. (R. 174, 175)

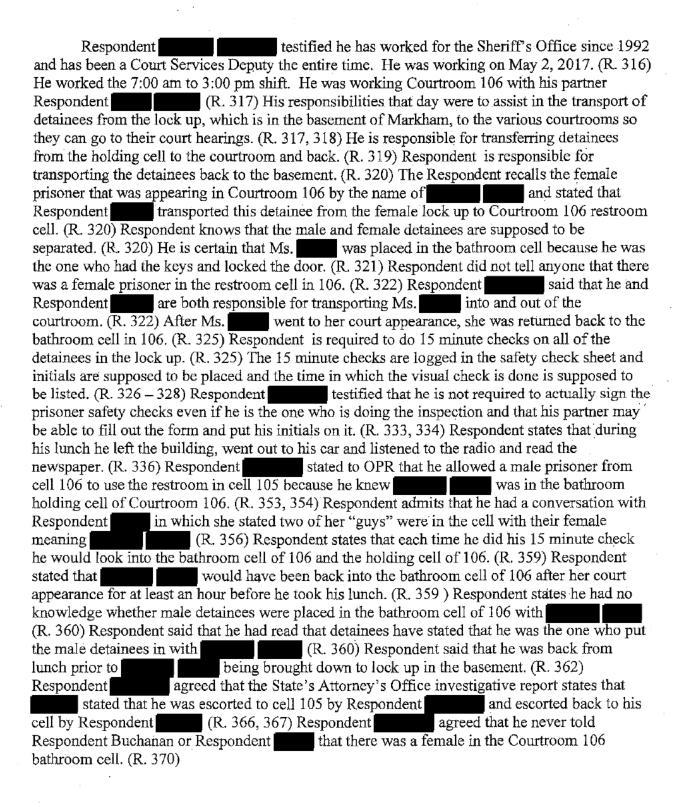
The Respondents admitted in their statements that they were in the courtrooms for long periods of time and did not complete the 15 minute checks even though they checked off the boxes on the forms. (R. 175, 176) Sheriff's Exhibit 24 is marked for identification which is Cook County Services Department Conduct Policy 321 which Inv. relied upon for his investigation. He specifically relied upon 321.5.2(f) which states "failure to report activities on his/her own part or the part of any other member where such activities may result in criminal prosecution or discipline under the policy." (R. 178, Sheriff's Exhibit 24). Inv. that all four Respondents violated Policy 321. (R. 178, 179) Respondent Buchanan failed to include in his report that he had removed a male detainee from the cell and he did not report to his supervisors. Respondent had knowledge that the male detained was removed from the cell and later found that there was a female that popped her head out and she did not indicate this in her report or tell a supervisor. (R. 179) Respondent also knew there was a male in the bathroom cell and made a phone call to tell Respondent Buchanan to remove the male from her bathroom cell. Respondent had knowledge of this as well and did not report it. (R. 179) Respondent Buchanan did not write in his original report that he had these interactions and did not give this information to his supervisors. (R. 179) Inv. was only able to get this information when he requested it from the State's Attorney's Office which had included in their investigation. (R. 179, 180) Subsection 321.5.5(a) of the Conduct Policy 321 further states "failure to remain alert and visual consistent with the assigned duties". This was also violated by all four Respondents. (R. 180, Sheriff's Exhibit 24) Subsection 321.5.5(c) of the Conduct Policy 321, which states "unsatisfactory work performance including but not limited to failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments, or instructions of supervisors", was also violated by all four Respondents. (R. 180, Sheriff's Exhibit 24) Further Subsection 321.5.5(f) of the Conduct Policy 321 was violated by Respondents which involves "concealing, attempting to conceal, removing or destroying defective incompetent work." (R. 180, Sheriff's Exhibit 24) All four Respondents further violated the policy subsections (1), (m) and (ac), and (ad) which concern misleading or misrepresenting facts. (R. 181, 182) found that the actions and the conduct exhibited by the four Respondents was not in compliance with the Sheriff's Office policies and procedures. (R. 182)Sheriff's Exhibit 25 was marked for identification which is Article X of the Rules and Regulations for the Sheriff's Merit Board which Inv. also found that all four Respondents violated. Sheriff's Exhibits 1 through 20 were admitted into evidence. (R. 184, 196) Sheriff's Exhibits 22 through 25 were also admitted. (R. 196, 197) Respondent was in violation of Sheriff's Policies as she indicated she did the safety checks and it was clear from the evidence and her testimony that she did not conduct those 15 minute checks and relied on someone else to conduct those and signed off on them. (R. 210, 211) Further Respondent admitted that she would just open the courtroom door and visually look into the bullpen door and not actually enter and just stand in the doorway. (R. 212) There are clear blind spots in the bullpen area that she could not see. (R. 212)

Respondent was in violation of Policy 321.5.2(f) because she was aware Buchanan had removed a male detainee from the cell five to ten minutes before she saw a female detainee

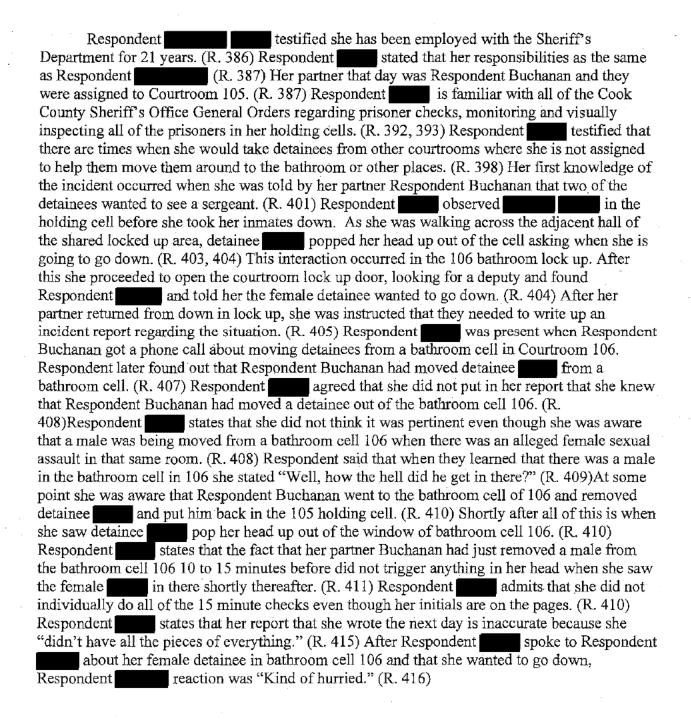
pop up from the window of cell 106. (R. 213) All personnel are provided copies of all policies and Respondent Buchanan was responsible for keeping up on all policies. (R. 220 – 223)

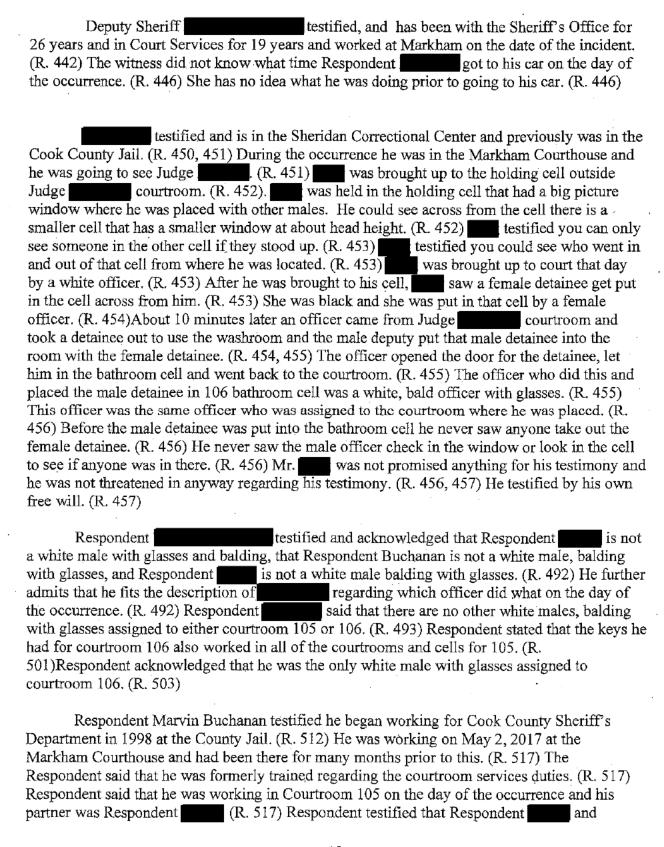
Respondent Buchanan would have went through academy training when he transitioned from Corrections to Court Services. (R. 226) Each Respondent including Respondent would have a continuing obligation to report any information regarding their knowledge of a sexual assault even if that information came later. (R. 267, 268) Respondent bound to report the information when she learned that a female was in a cell that had just been occupied by a male detainee not 10 minutes earlier. Then subsequently there were allegations of rape or sexual assault made by detainees from those holding cells. (R. 268) Each respondent would have gotten an email directing them on any new policies that had been issued and it is their responsibility to understand them. (R. 172, 273) There were several detainees that say they saw a female in the cell with a male. (R. 274, 275) At least 10 inmates that he interviewed made this statement. (R. 275) The investigator did not get any directives from the Sheriff's Office or any of his superior officers on how to conduct his investigation or how to direct his investigation. He based it all on the facts. (R. 276) If members are not up to date on the policies issued by the Sheriff's Office they can be disciplined even if they fail to read them. (R. 283) He interviewed detainees and they stated that they saw deputies place males and females in the same cell. (R. 286 - 288)





Respondent testified that when he would move some of his detainees from 105 to 106 or back to the bathrooms, there would be times he would not tell the other deputies in those courtrooms. (R. 374)





were assigned to 106 across the hall from where he was working. (R. 518) Respondent said that he moved a male detainee from the bathroom cell in 106 because Respondent called him and asked him to do so. (R. 519) Respondent went to the bathroom cell, unlocked the door with the key he had and took out a male detainee and did not look to see if anyone else was in the cell. He just unlocked it, opened it and walked away, and placed the male detainee back in the big holding cell of 105. (R. 519) The call he got from Respondent was shortly after 12:00 (R. 520) Respondent stated that his report that he wrote regarding the occurrence on May 2, 2017, did not include that he removed a male detainee from the bathroom cell 106. (R. 522, 523) Respondent stated that when he wrote his report he would have already had the knowledge that a female was in the holding cell of 106 and he did not include this in his report. (R. 523) His report, Sheriff's Exhibit 18, was written on the day of the occurrence. (R. 524) Respondent Buchanan's supplemental report, Sheriff's Exhibit 19, was also written on the same day. (R. 525) He did not give his report to a supervisor to sign off and gave it directly to the State's Attorney's investigator assigned regarding the criminal conduct.

The Parties agreed to have the recorded statement/interview of Respondent be admitted in lieu of her live testimony. Whether this testimony was consistent or inconsistent with the evidence, other testimony was not stipulated.

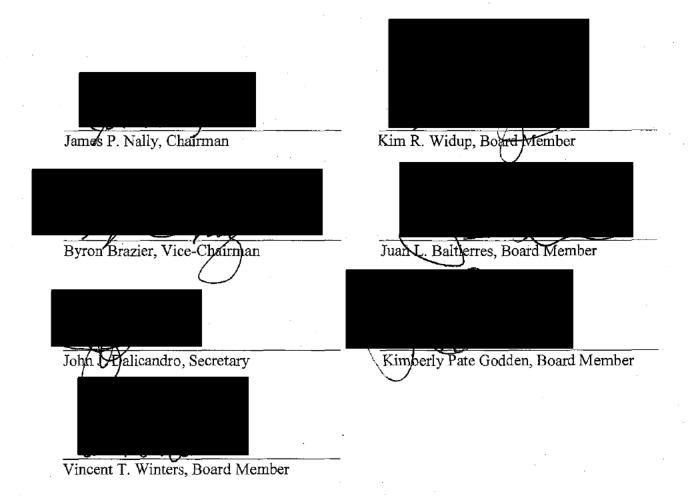
Conclusion

Based upon the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Board finds that the Respondent did violate Cook County Court Services Department Policy Manual Policy 321.2, 321.3, 321.4, 321.5, 322.5.2, 321.5.5, Cook County Court Services Department Policy Manual Policy 900.2, 900.3, 900.3.2, 900.3.3, Cook County Core Services Department Policy Manual Policy 903.2, 903.3, 903.9, Cook County Court's Department Policy Manual 1100.2, 1100.3, 1100.3.8, and Merit Board Rules and Regulations Article X, paragraph B 3. The Respondent was grossly negligent in allowing the female detainee to be assaulted in restroom cell 106 by the male detainees by failing to properly monitor the courtroom holding cells, failing to properly inspect the cells for the 15 minute checks by entering the cells and checking the occupancy, falsely claiming that the 15 minute checks were properly done, and failing to properly monitor the detainees under his supervision. Further Respondent falsely filed reports that he complied with the requirements to conduct proper safety checks and was untruthful to OPR investigators regarding the circumstances surrounding the incident. Respondent failed to be alert and attentive and vigilant in his duties which led to the sexual assault of the detainee.

<u>Order</u>

Wherefore, based on the foregoing, it is hereby ordered that Respondent Deputy Sheriff Marvin Buchanan be terminated, effective November 22, 2017.

Date OCTOBER 25, 2019



IN THE CIRCUIT COURT OF COOK COUNTY COUNTY DEPARTMENT – CHANCERY DIVISION

Marvin Buchanan,	j)	
Plaintiff,		<i>)</i>	
-vg-)	2019-CH-13670
Cook County Sheriff's Merit B and the Sheriff of Cook Count		rd)	Calendar 8 (Judge Michael T. Mullen)
Defendant	s.)	

ORDER

This cause coming on be heard on July 13, 2021 for hearing on plaintiff's complaint for administrative review, the Court having reviewed the administrative record as well as the written and oral submissions of the parties, and being fully advised in the premises,

IT IS ORDERED that this case is remanded to the Cook County Sheriff's Merit Board for the sole and exclusive purpose of supplementing its order of October 25, 2019 so that it clarifies whether its findings of fact provided a sufficient basis to conclude that cause existed to discharge Marvin Buchanan due to his conduct and whether said specified conduct rendered Mr. Buchanan's continued employment in some way detrimental to the discipline and efficiency of the Cook County Sheriff's Office. The Merit Board necessarily must set forth whether, prior to its determination that cause existed to discharge Mr. Buchanan, there was or was not consideration of any mitigating factors contained within the record, e.g., Buchanan's length of service and his prior disciplinary history or lack of it, as well as the weight that was given to any such evidence.

ENTER:

Submitted on behalf of: Emily L. Stewart, ASA 500 Richard J. Daley Center Chicago, IL 60602 (312) 427-8200 emily.stewart2@cookcountyil.gov

attorney for defendant Sheriff

Michael T. Mullen Judge, Circuit Court of Cook County

> Judge Michael T. Mullen JUL 1 8 2021 p Circuit Court - 2084

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cool	c County)	
VS.))) Docket	No. 2082
Marvin Bucha)	· · · · · · · · · · · · · · · · · · ·

Decision

This matter coming on to be heard pursuant to the Order of Remand for additional findings of facts supporting the decision of the Cook County Sheriff's Merit Board to terminate Respondent Marvin Buchanan. The following additional findings are made by the Cook County Sheriff's Merit Board:

The Cook County Sheriff's Merit Board issued its original decision this matter on October 25, 2019, terminating the Respondent Marvin Buchanan, and setting forth in detail the rules, regulations and violations that were charged in the complaint, as well as a detailed exposition of the evidence through witness testimony and documents admitted into evidence.

The Board in its original decision found that Marvin Buchanan did violate Cook County Court Services Department Policy Manual Policy 321.2, 321.3, 321.4, 321.5, 322.5.2, 321.5.5, Cook County Court Services Department Policy Manual Policy 900.2, 900.3, 900.3.2, 900.3.3, Cook County Core Services Department Policy Manual Policy 903.2, 903.3, 903.9, Cook County Court's Department Policy Manual 1100.2, 1100.3, 1100.3.8, and Merit Board Rules and Regulations Article X, paragraph B 3. orders 11.2.1.0, 11.2.4.0 General Orders 24.9.1.0 Article X Paragraph B of the Merit Board Rules and Regulations and termination was sustained.

This case was remanded to the Merit Board based on the following: There was no finding by the Board that Marvin Buchanan continued employment was detrimental to the CCDOC or of any other reason that termination was necessary for the "discipline or efficiency" of the Sheriff's office.

In further review of the transcript of this case.

Respondent Marvin Buchanan testified he began working for Cook County Sheriff's Department in 19	998
at the County Jail. (R. 512) He was working on May 2, 2017 at the Markham Courthouse and had been	
there for many months prior to this. (R. 517) The Respondent said that he was formerly trained regard	ing
the courtroom services \duties. (R. 517) Respondent said that he was working in Courtroom 105 on the	е
day of the occurrence and his partner was Respondent (R. 517) Respondent testified that	
Respondent and and were assigned to 106 across the hall from where he was working. (R	L.
518) Respondent said that he moved a male detainee from the bathroom cell in 106 because Responde	ent
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Inv. Found that Respondent Buchanan failed to follow Policy 903 Prison Rape Elimination Section 903.9 "Obligation of CCSO Members to Report" which requires an officer to make a report as soon as practicable through the chain of command because he authored a supplemental report eight days after the incident was initially reported. (R. 166-7) Additionally, this supplemental report authored by Respondent Buchanan was not provided to a supervisor.

All personnel are provided copies of all policies and Respondent Buchanan was responsible for keeping up on all policies. (R. 220 -223)

The Respondent was grossly negligent in allowing the female detained to be assaulted in restroom cell 106 by the male detainees by failing to properly monitor the courtroom holding cells, failing to properly inspect the cells for the 15-minute checks by entering the cells and checking the occupancy, falsely claiming that the 15-minute checks were properly done, and failing to properly monitor the detainees under his supervision. Further Respondent falsely filed reports that he complied with the requirements to conduct proper safety checks and was untruthful to OPR investigators regarding the circumstances surrounding the incident. Respondent failed to be alert and attentive and vigilant in his duties which led to the sexual assault of the detainee.

Order

The continued employment or retention of every Sheriff's Office member shall be based on conduct that reasonably conforms to the guidelines set forth herein.

Failure of any member to meet the guidelines set forth in these policies, may be cause for disciplinary action, up to and including termination. Marvin Buchanan's conduct clearly warrants termination in this case. All members of the Sheriff's Office are familiar with zero tolerance of acts committed in which the act committed is grounds for termination. This was a termination case as noted in the original complaint. The Merit Board agrees in this case that never at any time this type of conduct should not result in termination. The testimony and evidence presented in this case clearly shows termination is reasonable based on the act that occurred. Respondent has no sustained complaints on his disciplinary history. However, Respondent's years of service and accomplishments do not outweigh the seriousness of his misconduct in this case. The Board finds that Respondent's misconduct is incompatible with continued service as a deputy sheriff and warrants his discharge.

The Merit Board did not hear any testimony in this case that mitigates the request from the Sheriff of termination in this case.

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence in the record, the Board finds, by a preponderance of the evidence, that Deputy Sheriff

Marvin Buchanan termination is sustained, and his continued employment is detrimental to the Cook County Sheriff's Office based on his actions in this case.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Deputy Sheriff Marvin Buchanan be terminated, effective November 22, 2017.

JOHN J. DALICANDRO, Chairman BYRON BRAZIER, Vice-Chairman VINCENT T. WINTERS, Secretary KIMBERLY PATE GODDEN, Board Member ELENI P. SIANIS, Board Member DARREN COLLIER, Board Member TERRENCE J. WALSH, Board Member



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COOK COUNTY SHERIFF'S MERIT BOARD

69 West Washington - Suite 1100 Chicago, IL 60602

Marvin Buchanan Deputy Sheriff Docket No. 2082

This Remand Decision is adopted and entered by a majority of the Members of the Merit Board:

John J. Dalicandro, Byron Brazier, Vincent T. Winters, Kimberly Pate Godden, Eleni P. Sianis and Terrence J. Walsh.

Not Present: Darren Collier.

DISSENT

The following Members of the Merit Board dissent from the Findings and Decision of the majority of the Board.

[NONE]

DATED AT COUNTY OF COOK, STATE OF ILLINOIS, THIS 14th DAY OF OCTOBER, 2021.