

**COOK COUNTY SHERIFF'S MERIT BOARD**

<b>Sheriff of Cook County</b>	)	
	)	
<b>vs.</b>	)	<b>Docket # 1787</b>
	)	
<b>Creighton E. Westfall</b>	)	
<b>Cook County Deputy Sheriff</b>	)	

**DECISION**

THIS MATTER COMING ON to be heard pursuant to notice, the Cook County Sheriff's Merit Board finds as follows:

**Jurisdiction:**

The Respondent's, Creighton E. Westfall, (hereinafter "Respondent") position as a Cook County Deputy Sheriff 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 and 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 Amended Complaint and Notice of Hearing and appeared before the Board to contest the charges contained in the amended complaint; and The Board has heard the evidence presented by the Sheriff and the Respondent, and evaluated the credibility of the witnesses and supporting evidence. After considering the evidence, the Board finds as follows:

**Background:**

By complaint dated November 13, 2014 , the Cook County Sheriff Thomas J. Dart sought the separation from employment of Respondent. The complaint alleges Respondent on May 30, 2014 at approximately 10:30 AM while on duty at the Criminal Courts building used excessive force against a handcuffed and non-combative detainee, [REDACTED] by grabbing him by the neck, lifting him off the ground and throwing him against the elevator. The Complaint further alleges that the Respondent failed to immediately verbally report to his immediate supervisor the use of force on the detainee, failed to submit a Response to Resistance/Use of Force Form documenting his use of force against the detainee, and failed to submit an Incident Report regarding the incident. It further alleges that the Respondent submitted a Memorandum to his Chief only after a Lieutenant instructed him to do so, and allegedly falsely stated in that report that the detainee placed his foot on the Respondent's foot. The complaint further alleges that on July 9, 2014 the Respondent was interviewed and provided a signed statement to the Office of Professional

Review which falsely reported that the detainee with his left foot had stepped on the Respondent's right foot, and that on the same date the Respondent stated to investigators from OPR that he grabbed the detainee to create some distance to move him away. The complaint further states the Respondent told OPR investigators that he reported the incident to his supervisor a couple hours after the incident and that he did not generate any reports to document the incident. The OPR report states that the Respondent stated he had received Use of Force training about 6 to 8 months prior to the incident, and was familiar with the Use of Force General Orders. The complaint alleges that this violated several rules and regulations of the Cook County Sheriff's Department, and the Cook County Sheriff's Merit Board, specifically: Sheriff's Order 11.2.2.0 II, VA1, VB 1,2,4 and 6, VIII A, B and C, Sheriff's Order 11.2.1.0 II, V E and V S, VII A, B, C and D, X A4 and 6, XIII A,B, and C, Sheriff's Order 11.2.20.0 II, VI H4 and I 1, and the Rules and Regulations of the Cook County Sheriff's Merit Board, Article X paragraph B 3.

**Issues Presented:** Whether the actions of the Respondent violated any of the General or Sheriff's orders or Merit Board Rules set forth above and what if any discipline is appropriate if a violation occurred.

**Resolution of Issues Presented:** The Merit Board finds that a violation of Sheriff's Order 11.2.2.0 II, VA1, VB 1,2,4 and 6, VIII A, B and C, and the Rules and Regulations of the Cook County Sheriff's Merit Board, Article X paragraph B 3 occurred; and that a violation of Sheriff's Order 11.2.1.0 II, V E and V S, VII A, B, C and D, X A4 and 6, XIII A,B, and C, Sheriff's Order 11.2.20.0 II, VI H4 and I 1, did not occur.

**Findings of Fact:** Evidentiary hearings were held on February 3, 2015 March 11, 2015 and March 16, 2015 at the Cook County Administration Building, 69 West Washington Street, Room 1100, Chicago, Illinois before James P. Nally. Present were Petitioner by counsel and Respondent by counsel. Eight witnesses testified for the Sheriff: [REDACTED]

[REDACTED] and [REDACTED]. The Respondent testified on his own behalf and called [REDACTED] and [REDACTED] as witnesses.

**Joint Exhibits 1-3, Sheriff Exhibits 1-8 and Respondents Exhibits 1 and 2** were admitted into evidence.

**Evidence:**

Witness [REDACTED] testified that he is currently employed as a Security Therapy Aide ("STA") by the Department of Human Services ("DHS") working at the treatment and detention center in Rushville, Illinois. STA [REDACTED] testified that on the date in question he was a member of the DHS team that transported Rushville residents to court in Cook County. STA [REDACTED] testified as to his duties on that day, the layout of the holding area and those present. STA [REDACTED] testified to the process of arrival and departure of the residents at the court house. STA [REDACTED] testified that he heard an exchange between [REDACTED] and Respondent, "[REDACTED] has said something about, Hey meatball head or something, Mr. Westfall replied that something about being tough for a rape – a little child rapist, and [REDACTED] said something to the effect that he should have raped Mr. Westfall's [REDACTED]." STA [REDACTED] testified that he did not see the beginning of the physical

interaction between Respondent and resident [REDACTED]. He testified that he could not see if [REDACTED] was against the wall or the elevator door. STA [REDACTED] testified that he could not see where Respondent's hands were and did not see Respondent have a hold of [REDACTED]. STA [REDACTED] stated that he did not see Respondent strike or choke [REDACTED]. STA [REDACTED] testified that he did not see [REDACTED] step on Respondent's foot. He stated that he saw STA [REDACTED] step in between Respondent and [REDACTED] and that he grabbed Respondent's shoulders to help [REDACTED] separate them. STA [REDACTED] testified that a second Sheriff came down the hall at that time and the Sheriff and STA [REDACTED] told Respondent to leave the area and "take a breather". He stated that after the physical interaction there was a rip in [REDACTED] t-shirt. TSA [REDACTED] testified that [REDACTED] did not complain to him of any pain to the back of his neck or head. He stated that on the return ride to Rushville that he heard that [REDACTED] was complaining and he was taken to the health care unit upon arrival, assessed and returned to his living quarters. He stated that he then filled out an informational incident report as "any time an incident takes place it needs to be documented." TSA [REDACTED] indicated that [REDACTED] was mouthing off to Respondent and that he had observed that [REDACTED] does this generally on a daily basis at the Rushville facility. STA [REDACTED] indicated that about a month after the incident he was contacted by an investigator from the Cook County Sheriff's Office over the phone. He stated that the investigator did not provide him with a document summarizing the phone interview. On cross STA [REDACTED] testified that he heard the verbal exchange between [REDACTED] and Respondent and turned around to see [REDACTED] "inches" from Respondent. TSA [REDACTED] testified that it is never appropriate for a resident to come that close to a deputy. He testified that at no time after the incident did he observe any injuries to [REDACTED].

Witness [REDACTED] testified that he is currently employed as a Security Therapy Aide ("STA") by the Department of Human Services ("DHS") working at the treatment and detention center in Rushville, Illinois. STA [REDACTED] testified that on the date in question he was a member of the DHS team that transported Rushville residents to court in Cook County. STA [REDACTED] testified as to his duties on that day, the layout of the holding area and those present. STA [REDACTED] testified to the process of arrival and departure of the residents at the court house. He stated that upon arrival to the holding area [REDACTED] made a comment calling Respondent "meatball head" and that Respondent made no response. STA [REDACTED] testified that after the residents had their court appearances and were returning to the holding area, [REDACTED] again made the "meatball head" comment to Respondent followed by a second, similar exchange. He stated that at that time Respondent made the comment to [REDACTED] that he had "heard it all" or "been called worse". TSA [REDACTED] testified that [REDACTED] again made the "meatball head" comment to Respondent who responded by saying, "You talk tough for a little rapist." TSA [REDACTED] then asked Respondent to call the elevator and Respondent came from behind a desk he was sitting at to do so. He stated that he was getting his coat so he had his back turned as Respondent walked to the elevator. TSA [REDACTED] testified that at that time he heard [REDACTED] make a comment to Respondent that he "should have raped his [REDACTED] or he should have took his [REDACTED]." He stated that he heard the commotion and turned to see Respondent restraining [REDACTED] against the elevator but that he did not know where Respondent's hands were on [REDACTED]. TSA [REDACTED] testified that as soon as he turned around he inserted himself between Respondent and [REDACTED] and that would not have been able to do so if Respondent had his hands on [REDACTED] at that time. He stated that Respondent backed off and moved away as soon as he got between Respondent and [REDACTED] and that TSA [REDACTED] may have grabbed Respondent by the arms or shoulders as well. TSA [REDACTED] stated that TSA [REDACTED] made the comment to Respondent to take a walk. TSA [REDACTED] testified that after the incident he did not see

any marks on [REDACTED] or rips on [REDACTED] shirt. He stated that when they returned to Rushville that he heard that [REDACTED] was complaining of back pain. He stated that he filled out a report on the incident. TSA [REDACTED] indicated that [REDACTED] was mouthing off to Respondent and that he had observed that [REDACTED] does this generally on a daily basis at the Rushville facility. TSA [REDACTED] stated that he did not see [REDACTED] step on Respondent's foot. STA [REDACTED] indicated that about a month after the incident he was interviewed by an investigator from the Cook County Sheriff's Office over the phone. He stated that the investigator did not provide him with a document summarizing the phone interview.

Witness [REDACTED] testified that he is employed as a STA at the Rushville facility and that on the date in question he was part of the team that transported [REDACTED] to Cook County. STA [REDACTED] testified as to his duties on that day, the layout of the holding area and those present. STA [REDACTED] testified to the process of arrival and departure of the residents at the court house. TSA testified that upon arrival [REDACTED] began making comments to Respondent and that Respondent replied that he had heard it all. He stated that when the detainees were being prepared to leave Cook County [REDACTED] made a comment to Respondent that he "should have took his [REDACTED]". Witness testified that he heard that comment and then a commotion as he was leaving to retrieve the van. He stated that he then turned back and returned to the area. He stated that Respondent was holding [REDACTED] by his shirt up around the collar. Witness stated that Respondent's hold upon [REDACTED] was not close to [REDACTED] neck. He stated that [REDACTED] back was to the elevator but that there was space between [REDACTED] and the elevator. Witness stated that there was a short struggle to separate Respondent and [REDACTED] and that once separated, Respondent was asked to go to a different part of the building. TSA [REDACTED] was provided with a copy of his report on the incident and confirmed that he had written in his report that Respondent was "trying to hurt resident [REDACTED]". TSA [REDACTED] also confirmed that he had written in his report that, when Respondent was asked if he "was going to be okay. The deputy stated that he could not make that promise." TSA [REDACTED] testified that he observed that after the incident [REDACTED] shirt was ripped but that he observed no marks or injuries on [REDACTED]. He testified that, once on the van, [REDACTED] complained of injuries and that [REDACTED] was seen by the health care unit. On cross TSA [REDACTED] testified that he never saw Respondent choke [REDACTED] or slam him against the elevator.

Witness [REDACTED] [REDACTED] testified that he is currently a resident at the DHS facility in Rushville, Illinois and that on the date in question he was transported to Cook County to appear in court. He testified that he had been in to see the judge and had returned to the bullpen area where his shackles were being placed on him. Witness testified that he informed TSA [REDACTED] that his ankle cuffs were too tight and at that time Respondent stated, "You all cry too fucking much". [REDACTED] responded, "Ain't nobody talking to you." and Respondent said, "What you locked up for, raping some kids?" [REDACTED] said to Respondent, "Yeah, I got a sex case, that don't make me." [REDACTED] testified that Respondent's response was, "That make you fucking goofy". [REDACTED] further testified as to the range of motion allowed by his shackles and cuffs. [REDACTED] testified that after he was shackled he said to Respondent, "Fuck you with your meatball head ass, stuff like that, and he (Respondent) responded with a threat saying, I'll knock your fuckin' - - or I'll bite your fuckin' head off." [REDACTED] testified that a second deputy, not Respondent, was asked to call the elevator and that the deputy did so. [REDACTED] testified that while waiting for the elevator, Respondent said to him, "Bye, rapist." and that he turned to see Respondent sitting at a desk. He stated that when he turned to see Respondent at the desk that Respondent again said, "Bye, rapist." at which point

█████ made the comment "I should have raped your █████." █████ testified that at this point TSA █████ said, "Oh, you shouldn't have said that." █████ stated that Respondent came around the desk and attacked him. █████ testified that Respondent grabbed him by his throat and slammed him against the elevator door with each word as he said, "Don't talk about my █████ like that." █████ testified that the other STA's and two other Deputies pulled Respondent off him. █████ testified that he never stepped on Respondent's foot and that he never approached or got in Respondent's face as he was behind a desk at the time. He stated that he complained of his injuries to the STA's in his van on the return trip to Rushville. █████ testified that he drafted and filed his own lawsuit in connection with the incident. He stated that he drafted the three affidavits attached to the complaint for each witness to sign. On cross █████ testified that he was interviewed by phone by an investigator from the Sheriff's office. He stated that when the incident occurred there were five STA's and a second Sheriff's deputy present. He stated that Respondent's left hand was on his shirt and his right hand was around his neck. █████ testified that, "there were some scratches that he left when he just kept trying to come back and get me and stuff when they was trying to pull him away from me and he kept like forcing himself forward to grab me again and stuff." On redirect █████ testified that he never stepped on Respondent's foot, spit on Respondent or attacked Respondent.

Witness █████ testified that he is currently a resident at the DHS facility in Rushville, Illinois and that on the date in question he was transported to Cook County to appear in court. The witness testified that he knows █████ from Rushville and that they have activities together there. █████ testified as to the verbal interaction between █████ and Respondent including the "bite your head off" exchange. █████ testified that he witnessed █████ and Respondent arguing at the elevator and that █████ back was to the elevator. He stated that he saw Respondent grab █████ and throw him against the elevator. He stated that there were other people standing around but that they did not block his view of the incident. █████ testified that Respondent slammed █████ into the elevator two times. He stated that █████ provided him with a typed affidavit to sign that described the incident and that the affidavit included parts of the incident that he did not hear. On cross the witness testified that he saw everything described in the affidavit but that he did not hear everything described in the affidavit. █████ testified that Respondent was waiting at the elevator to transport the detainees downstairs. He stated that he did not see Respondent choke █████ or put his hands around █████ neck. The witness testified that there was a black Sheriff's deputy sitting behind a desk at the time of the incident. When questioned by the Commissioner, █████ stated that the black deputy was seated behind the desk at the time he saw Respondent slam █████ against the elevator.

Witness █████ testified that he is currently a resident at the DHS facility in Rushville, Illinois and that on the date in question he was transported to Cook County to appear in court. █████ testified that he knows █████ and that, "He's my little cousin friend." and "he has known him since he was a little baby." █████ testified that Respondent said to █████ "that he raped little babies." and █████ responded, " – and I █████," and that is when Respondent attacked █████ █████ testified that the incident occurred while the elevator was being called by a black deputy and that Respondent was sitting at a desk. █████ testified that after █████ stated that he raped Respondent's daughter, Respondent "came charging towards Mr. █████ He testified that Respondent, "...grabbed him (█████ by his shirt and took him like 2 inches off the ground and started choking him and banging his head against the elevator door." █████

testified that Respondent slammed [REDACTED] against the elevator twice and that he did not see [REDACTED] step on Respondent's foot. When asked if he observed any injuries on [REDACTED] [REDACTED] responded, "Yes, his neck and chest and his shirt was ripped, it was torn down the middle, and he had scars on his chest and neck." He further stated that he meant scratches not scars. On cross [REDACTED] was questioned about the affidavit he signed for [REDACTED]. He stated that he had prepared his own but then signed the affidavit prepared by [REDACTED] instead. He testified that he no longer had the affidavit that he had prepared and that [REDACTED] had told him to go off of the one prepared for him by [REDACTED]. The witness testified that Respondent had [REDACTED] by his shirt and that it looked like he was choking [REDACTED] but that his hands never touched [REDACTED] neck.

Witness [REDACTED] testified that she is currently employed by the Cook County Sheriff's Department as a deputy sergeant and that she supervised Respondent multiple times prior to the date in question and was his direct supervisor on that day. She stated that she learned of the incident, on the day it happened, from Lieutenant [REDACTED] around 2:30 p.m. Officer [REDACTED] testified that on the day of the incident she was not contacted by Respondent and that she did not speak to Respondent regarding the incident. She stated that maybe the Monday or Tuesday after the incident she spoke to Respondent but that he did not relate "any very good details about the incident." but that Respondent had indicated that he had been required to use force, that he had pushed the detainee. Officer [REDACTED] testified that a deputy sheriff is required to notify their immediate supervisor and document the use of force by use of force paperwork and that a "To/From Memorandum" can be requested by a superior. She stated that she did not request that Respondent file any paperwork as she thought that Lt. [REDACTED] had "instructed him on what he needed to do." but that she had not inquire of Lt. [REDACTED] to see if he had done so. On cross, Officer [REDACTED] testified that when she spoke with Respondent several days after the incident that he informed her that the detainee had "got in his face" and stepped on his foot and that he had had to push the detainee. She stated that she was interviewed by OPR regarding the incident and had reviewed and signed her statement.

Witness [REDACTED] testified that he is currently employed by the Cook County Sheriff's Department as a lieutenant. Officer [REDACTED] testified that he was the watch commander on the day in question and that while he was not the direct supervisor to Respondent, he was his supervisor. He stated that he learned of the incident that day from a phone call from the director or superintendent of External Operations but was not given any details of the incident. He stated that he hung up the phone and went to Respondent's assignment and spoke with him. Officer [REDACTED] met with Respondent alone at which time he asked Respondent to describe the incident. He stated that Respondent did not indicate that the detainee was injured. Officer [REDACTED] stated that he instructed Respondent to complete a To/From Memorandum to document that something had happened. Witness testified that on the following day he wrote and submitted his own To/From Memorandum to his superior stating that he believed the incident should be forwarded to the Office of Professional Review. He stated he made that recommendation after receiving reports from DHS regarding the incident. The witness testified that he thought the DHS reports did not match up to what Respondent told him happened. He stated that he was called to give a statement to OPR and that as a result of that statement he was disciplined by being required to attend remedial training for use of force. He then stated that the training was not the result of the OPR investigation but was recommended by one of his Chiefs but did admit that he received a verbal reprimand for his actions connected to the incident. On

cross Officer [REDACTED] testified that the recommendation that the matter be investigated by OPR came from him and was not suggested or discussed with anyone else. He stated that he did not know why the complaint came from [REDACTED] and that Chief [REDACTED] was not in the chain of command for Respondent but that he did not find it unusual. The witness testified that Respondent did not notify his immediate supervisor, Sergeant [REDACTED] of the incident but that he did inform Respondent that he would be notifying her and that Respondent could indicate in his To/From Memorandum that she had been notified of the incident.

The Sheriff rested and the Respondent presented his case.

Witness [REDACTED] testified that he is currently employed by the Cook County Sheriff's Department as a watch commander at Branch 43/44 and currently holds the rank of lieutenant. He testified that he held a supervisory position over Respondent from 2012 to 2013 as an operations lieutenant. At that time Respondent was assigned by Officer [REDACTED] supervising juvenile detainees. Officer [REDACTED] testified that he assigned Respondent to this work because of his high character and ability to show restraint when working with detainees. Officer [REDACTED] testified that he has never observed Respondent interact inappropriately with detainees even when provoked to the point of being spit in the face. On cross Officer [REDACTED] testified that the Respondent had been written up for failure to file a report in a timely manner. Officer [REDACTED] also testified that Respondent had a complaint for excessive force but that the investigation had found the allegation to be unfounded.

Witness [REDACTED] testified that he is currently employed by the Cook County Sheriff's Department as a sergeant in Court Services. Officer [REDACTED] testified that he supervised Respondent in 2010 through December of 2011. Officer [REDACTED] testified that Respondent was diligent in his duties and that he always used the appropriate amount of force when working with detainees and had never observed Respondent using inappropriate force. Officer [REDACTED] testified that he had never written Respondent up for a discipline issue but had submitted paperwork complimentary of Respondent's actions assisting with an automobile accident while on his way to work.

Witness [REDACTED] testified that he is currently employed by the Cook County Sheriff's Department as assistant chief of the Markham Court facility and 111<sup>th</sup> Street Police Courts South. He testified that he had worked with and supervised Respondent at the Juvenile Facility on South Hamilton for over two years and that Respondent was an excellent deputy based upon his temperament when dealing with the juveniles. He testified that he had never seen Respondent interact with juveniles in a way that was inappropriate or excessive.

Witness Creighton Westfall, the Respondent, testified that he is currently employed by the Cook County Sheriff's Department. He testified to the process of bringing detainees up for their court dates and how they were held and the layout of the area behind courtrooms, known as 101, where the incident in question took place. He testified as to the location of the desks in the bullpen and drew a floorplan of the entire bullpen, hallway and holding cells. Respondent testified that on the day in question he was assigned to 101 working 9 a.m. to 5 p.m. and that upon his arrival residents from the DHS Rushville facility were already present and scattered among the cells, in the hallway and in the bullpen. Respondent testified that the call is referred to

as the homicide/rape call because the prisoners that appeared there had either been charged with or convicted of murder or sex crimes. Respondent testified that there were a dozen or more detainees and six or eight DHS employees present and spread out about the facility. He testified that he was working with two other deputies that day [REDACTED], a Caucasian, and a Hispanic female deputy named [REDACTED]. Respondent testified that neither deputy was present at the time of the incident. Respondent testified that there had already been complaints from a detainee regarding the tightness of the handcuffs when another detainee began to complain as he was being cuffed and shackled. Respondent testified that [REDACTED] was being shackled and cuffed and began complaining as well which prompted him to make a comment to the DHS employee about the complaints. As [REDACTED] walked by Respondent at his desk he made comments to Respondent including "meatball head". He stated that [REDACTED] comments continued while he was in the bullpen for roughly 15 minutes. Respondent testified that he was then asked to key the elevator and he left his desk and keyed the elevator. He stated that at that time the detainees were being released from the bullpen, including [REDACTED] who appeared behind him in the hallway and again started making comments as he approached. Respondent testified that [REDACTED] approached his right side as he was turned towards the elevator door, coming to within inches of him and stepping on his foot. Respondent stated that at that time [REDACTED] said, "I should've raped you [REDACTED]." He stated that [REDACTED] was close enough to smell his body odor and breath and that he grabbed [REDACTED] by his shirt with his right hand. Respondent testified that he was concerned that [REDACTED] was so close to him and that [REDACTED] would possibly spit on him. He stated that he extended his arm, pushing [REDACTED] away from him, and locked his arm out to hold him at arm's length. He stated that he raised his voice to the DHS staff for them to get [REDACTED] away from him. Respondent stated that he did not slam [REDACTED] against the elevator. He stated that it took a few seconds for the DHS staff to respond and he repeated his request at which point [REDACTED] stated, "I love this shit." He stated that when the DHS staff reacted they grabbed his arm but that he did not want to release his hold on [REDACTED] until the DHS staff had grabbed [REDACTED]. Respondent testified that at this point there were no sheriff deputies in the room. He testified that the entire incident lasted only seconds and that he had grabbed [REDACTED] with his right hand and his left arm was at his side the entire time. Respondent testified that he did not strike or choke [REDACTED] and that his hand never made contact with [REDACTED] throat. He testified that he walked away from [REDACTED] and down the hallway and did not see [REDACTED] again after the incident. Respondent stated that he reported what happened that day when he was called by Lt. [REDACTED] who instructed him to file a To/From Memorandum. Respondent stated that he did not know who his sergeant was that day but later found out that it was Sergeant [REDACTED] who he saw later in the day between 3:00 p.m. and 4:00 p.m. while he was writing his To/From Memorandum. Respondent testified that the phone conversation with Lt. [REDACTED] occurred after 2:30 p.m. and that he informed him what had happened. He stated that Lt. [REDACTED] informed him that he had received a call already from a supervisor from outside their division and after giving him a more detailed description of the incident he asked him if he should "write a use of force on this. Is it that big of a deal?" He stated that Lt. [REDACTED] responded that, "it's been a shitty week, we've had a lot of them" and instructed Respondent to "Put it in a To/From." Respondent was asked whether he would have filled out a Use of Force Form if he had been requested to do so and answered that he "absolutely would have done it". Respondent was shown a copy of his To/From Memorandum and asked why he included that he had reported the incident to Sergeant [REDACTED] and he replied that he had done so because Lt. [REDACTED] had told him, "I'll let [REDACTED] know what you need to put in - - you need to put in your To/From." Respondent testified that on the Monday following



the incident he spoke with Sergeant [REDACTED] regarding the incident and that she looked unhappy and that he assumed that was because her name was in his report. Respondent testified that at the time of the incident and currently, based upon his use of force in-service training, he does not think that he had an obligation to report the incident as it would fall under a "use of a firm grip hold which does not result in an injury or allegation of an injury;" On cross Respondent testified that he was familiar with use of force definitions, use of force reporting requirements and the reasons for those reports. Respondent testified that [REDACTED] approached him from his right side and made the comment about Respondent's daughter and that Respondent grabbed [REDACTED] with his right hand and pushed him away until his arm was locked. He stated that when he pushed [REDACTED] away his back was to the elevator door but that he did not know if [REDACTED] was touching the elevator door. Respondent testified that one of the DHS employees grabbed his free left arm and that another employee got between him and [REDACTED] and that he was not going to let go of [REDACTED] until they had him. He stated that he watched until the DHS staff had [REDACTED] under control and then walked to the end of the hallway for a few minutes and then returned and [REDACTED] and the DHS staff were gone. Respondent testified that he did not know who his sergeant was that day but was not concerned because it is pretty common. Respondent testified that he would not have filed a Use of Force Report that day but that he may have written a To/From Memorandum regardless of whether Lt. [REDACTED] had asked him to or not. He stated that he would write a To/From Memorandum because you don't ever know what a detainee will say and that the memo is not always filed with a supervisor but can be timestamped and kept in your locker. Respondent testified that he did not notify Lt. [REDACTED] because he did not feel that the incident was a use of force but that his statement to OPR indicated that he did not notify him because he was busy with detainees. Respondent was questioned about the contents of his To/From Memorandum and stated that the memo indicated that he had informed Sgt. [REDACTED] and was told to write a To/From Memorandum but that he had actually informed Lt. [REDACTED] and been told to write the memo by him.

### **Findings:**

The Board finds that the evidence shows that Respondent violated Sheriff's Order 11.2.2.0, and the Cook County Sheriff's Department Merit Board Rules and Regulations but did not violate Sheriff's Order 11.2.1.0 or Sheriff's Order 11.2.20.0. The evidence shows that Respondent failed to file a Response to Resist/Use of Force Form in violation of Sheriff's Order 11.2.2.0. The evidence also shows that Respondent's violation of Sheriff's Order 11.2.2.0 placed him in violation of the Cook County Sheriff's Department Merit Board Rules and Regulations. The evidence shows that this incident was of the type where a Response to Resist/Use of Force Form should have been filed by the officer involved. The evidence shows that Respondent did not violate Sheriff's Order 11.2.1.0 as his use of force during the incident was reasonable and necessary. The evidence also shows that Respondent did not violate Sheriff's Order 11.2.20.0. The Board finds that, while Respondent may not have been completely forthcoming in his description of the report made to his immediate supervisor, this did not rise to the level of making a false report. Additionally, the evidence does not show that Respondent made false reports in his memorandum to Chief Banks or in his testimony to investigators from the Office of Professional Review.

**Conclusions of Law:** Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence in the record, the Merit Board finds that the

Respondent violated Sheriff's Order 11.2.2.0, and the Cook County Sheriff's Department Merit Board Rules and Regulations but did not violate Sheriff's Order Sheriff's Order 11.2.1.0 or Sheriff's Order 11.2.20.0.

**Order:** Wherefore, based on the foregoing, it is hereby ordered that the Respondent Creighton Westfall be suspended without pay for a period of thirty (30) days effective November 13, 2014.



James P. Nally, Chairman



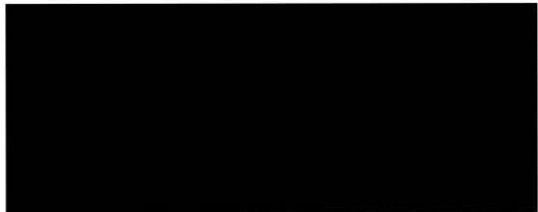
Byron Brazier, Vice Chair



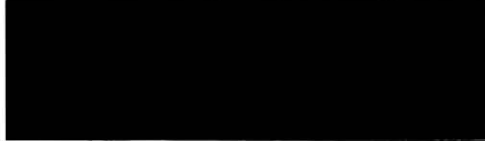
John Dalicandro, Secretary



Brian J. Riordan, Board Member



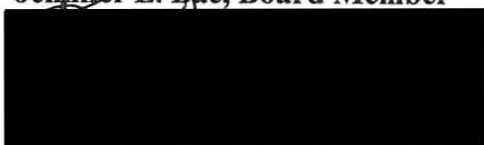
Kim R. Widup, Board Member



Vincent T. Winters, Board Member



Jennifer E. Bae, Board Member



Patrick Brady, Board Member

Dated

November 19, 2015