

COOK COUNTY SHERIFF'S MERIT BOARD

In the Matter of:

**CORRECTIONAL OFFICER
BRANDEN S. NORISE**

[REDACTED]

Employee No. [REDACTED]; Star No. 9849

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Docket No. 1754

DECISION

This matter coming on to be heard, by Board member Brian J. Riordan, pursuant to notice, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

1. Branden Norise (hereinafter "Respondent" or "Norise), was appointed a Cook County Correctional Officer on March 14, 2011;

2. In October 2012, Respondent was assigned to the Receiving Classification Diagnostic Center in Division V of the Cook County Department of Corrections;

4. Respondent's position as a Correctional Officer involves duties and responsibilities to the public;

5. Each member of the Cook County Sheriff's Merit Board, hereinafter "Board", and 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

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

7. Respondent was personally served with a copy of the Complaint against him and a Notice of Hearing and appeared before the Board to contest the charges contained in the Complaint; and

8. 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

The Sheriff alleges that on July 4, 2013, while on duty at the Receiving Classification diagnostic Center ("RCDC") in division V, the Respondent used excessive force against detainee [REDACTED] by failing to decrease the level of force Respondent utilized with detainee [REDACTED] as detainee [REDACTED] lessened his resistance.

The Sheriff's allegations regarding the Respondent's conduct included that he did not reduce the amount of force being used to an appropriate level as the actions of the detainee began to lessen.

The Sheriff is seeking termination based on the actions of the Respondent while involved in the altercation with detainee [REDACTED]. The Sheriff alleges that the Respondent violated the Rules and Regulations and the General Orders of the Cook County Department of Corrections, specifically

II. POLICY

Officers shall use an amount of force reasonable and necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect the officer(s) or others from injury, as specified by federal/Illinois statutes and case law. The CCSO utilizes the Use of Force Model (2010) – John C. Desmedt and Protective Safety Systems Incorporated to provide guidance on the appropriate amount of force to be used to effect a lawful purpose and to articulate a detailed report on the officer's actions. The Use of Force model employs the progressive and reasonable escalation and de-escalation of officer applied force in proportional response to the actions and level of resistance offered by a subject.

Every use of force greater than social control, officer presence or verbal control must be reported as outlined in this directive. Officers shall not unreasonably endanger themselves or another person to conform to the restrictions of this directive.

V. DEFINITIONS

E. Excessive force – The application of an unreasonable amount of force in a given incident based on the totality of the circumstances.

VII. GUIDELINES

E. When force is applied, officers shall escalate or de-escalate their use of force based on the subject's resistance.

X. PROHIBITED/RESTRICTED ACTS

The use of excessive force is prohibited. Officers using excessive force, unwarranted physical force, or verbal abuse shall be subject to disciplinary action up to and including termination of employment.

XIII. APPLICABILITY

- A. By order of the Sheriff of Cook County, this Sheriff's Order applies to all CCSO officers and must be strictly observed.
- B. All conflicts with previous orders, policies or procedures shall be resolved in favor of this order.
- C. All CCSO officers are required to familiarize themselves with the contents of this order and to adhere to the policy established herein.

GENERAL ORDER 24.9.1.0 (effective July 11, 2011)

REPORTING INCIDENTS, in its entirety, including but not limited to, the following subparts:

II. POLICY

It is the policy of the CCDOC to have written procedures for reporting and documenting incidents involving staff, inmates, and visitors, as well as to ensure that incidents or problems with the facility, i.e., sanitation, plumbing, electrical, ventilation, or any other situation that creates a dangerous workplace, are reported and documented in a timely and professional manner.

Employees shall immediately report to their supervisor any information indicating a violation or attempted violation of criminal laws, or a threat to the safety and security of the facility, its property or any person.

Reports shall be made verbally and in writing as directed by this order.

VII. PROCEDURES

- C. Any employee failing to file a report or filing a false report shall be subject to disciplinary action up to and including termination of employment and/or the filing of criminal charges.

F. General Reporting Guidelines

2. Complete and accurate documentation of events and incidents within CCDOC facilities and other sites are essential. Written reports and reports in IMACS serve to keep staff informed of developments and problem areas within the facility. Reports are also instrumental in the planning and implementation of Sheriff's Office policies and procedures.

SHERIFF'S ORDER 11.2.20.0 (effective January 25, 2013)

RULES 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.

Furthermore, the Sheriff alleges the Respondent's actions violated the Rules and Regulations of the Sheriff's Merit Board, specifically:

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 Deputy Sheriff of the Cook County Sheriff's Court Services Department with:

1. violate any Law or statute of any State or of the United States of America.
2. violate any Ordinance of any County or Municipal Government.
3. violate any of the general orders, special orders, directives or rules and regulations of the Cook County Sheriff's Department.

Prosecution Case

The Prosecution's case consisted of testimony from [REDACTED], Director of the Use of Force Review Unit and [REDACTED] who is employed in the Cook County Sheriff's Office of Professional Review. In addition, the Respondent moved into evidence the videotape of the incident that was recorded by the security cameras in the jail compound

Testimony of [REDACTED]

Mr. [REDACTED] testified regarding his background experience and knowledge in use of force in the correctional facility setting. He testified regarding the sliding scale of force needed to be used when attempting to restrain a detainee. It was his belief based on reviewing the video that the Respondent used appropriate force up until the point that he had the detainee on the ground and then punched and kicked the detainee approximately 5 to 7 additional times that were not warranted in his opinion. The video was extensively reviewed frame by frame and the witness did have to admit that even after several blows by the Respondent, that the detainee [REDACTED] still attempted to reach out and grab the Respondent's leg and was not lying flat on the ground which is the most ideal and safe position for the Respondent.

On cross examination, the witness did have to testify that the detainee in a crouched position still can be dangerous and that grabbing of the leg by the detainee continued to present the Respondent with a potential danger that the detainee had not been completely under control. He further had to testify regarding the numerous other detainees in the surrounding area in the small place. However his testimony did not waiver that he believed the Respondent initiated the contact with the detainee and could have at any time gotten himself out of that situation, into the hallway and called for additional backup.

Testimony of [REDACTED]

Mr. [REDACTED] testified regarding his role in reviewing the evidence, talking with the Respondent and performing his duties as required by the Sheriff's Office of Professional Review. He testified that after his review of the video and talking with the Respondent, he believed there was a violation of the Sheriff's General Orders.

Respondent's Case

The Respondent's witnesses included the Respondent himself, Branden Norise, as well as a hired expert [REDACTED] who is an expert in the field of use of force in dealing with detainees, prisoners and other suspects.

Testimony of Respondent, Branden Norise

The Respondent testified regarding his job duties as a correctional officer in dealing with the ACDC unit. He testified he was the only person in the particular area when the occurrence played out. He testified there were approximately 20 inmates in the room where medication was being dispensed as well as out in the hallway. He testified he had no radio and was not provided any backup. He stated this was a new role for him and new area in the jail that he had not worked previously.

He testified regarding the inmate in question that had his hands inside his shirt and he asked him repeatedly to take his hands out of his shirt and sit down. The inmate began screaming and yelling in an attempt to rile up the other inmates and that is when he decided to remove the inmate from the medication dispensary room. At that time the inmate quickly removed his arms from his shirt and attempted to grab the Respondent. The ensuing altercation took place and he believed he acted appropriately. It lasted less than 10 seconds in his opinion. He testified he was constantly informing the detainee to stop resisting and get on the ground, get on his stomach and lay flat. He stated that at no time did he feel he had control of the Respondent under the very end. He went through the entire video frame by frame testifying regarding the actions and comments he was making to the detainee and the comments that he was receiving from the detainee. He testified regarding the detainee again trying to grab his leg even after he had struck in the head with both his hand and his foot.

He testified that he went through the Office of Professional Review investigation and he believes he did nothing wrong and was reacting appropriately. He testified regarding his training in martial arts as well as his training in use of force that he believes he used correctly. It was his understanding that the detainee needed no medical attention and was not injured.

Expert [REDACTED]

Mr. [REDACTED] testified regarding his background and experience lasting more than 35 years in the field of use of force. He testified regarding the video and his conversations with the Respondent and he believes the Respondent acted appropriately based on the sliding scale of escalation and de-escalation of use of force. He testified that based on the video the detainee was never in a submissive position, never laid his stomach flat on the ground, and could have at any time continued to attack the Respondent. He testified regarding the Respondent's use of force kicking and hitting the detainee in the head and side and said that none of these blows were meant to cause physical injury, but to attempt to detain the inmate. He stated that there was no time in which the Respondent could have ever attempted to handcuff the detainee and that he acted properly in all circumstances. He stated that it was also important to point that there were at least 15 to 20 other inmates in the vicinity and that the Respondent needed to show force and get this inmate under control as soon as possible.

Mr. [REDACTED] testified that the Respondent met all standards that are promulgated in the law enforcement industry and that he did nothing wrong under the circumstances.

Findings of Fact

Based on the evidence presented, the testimony and the video that was shown and produced into evidence, it is the Board's decision that the Respondent did not violate the Sheriff's Orders or the Cook County Merit Board Rules.

CONCLUSIONS OF LAW

Based on the evidence presented and after assessing the credibility of the witnesses and the weight to be given the evidence and the record, the Board finds that the Respondent did not violate the Rules and Regulations of the Cook County Sheriff's Office and the Merit Board.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Branden Norise return to employment with the Cook County Sheriff's Office effective March 14, 2014

Dated: January 12, 2015

[Redacted Signature]

James P. Nally, Chairman

[Redacted Signature]

Byron Bdzier

[Redacted Signature]

John Malicandro

[Redacted Signature]

Jennifer Rae

[Redacted Signature]

John Rosales

[Redacted Signature]

* Brian B. Borden / Hearing Officer

[Redacted Signature]

Kim Widdup

[Redacted Signature]

Vince Winters