

COOK COUNTY SHERIFF'S MERIT BOARD

SHERIFF OF COOK COUNTY,	)	
	)	
vs.	)	
	)	Docket # 1866
KIRK J. ORTIZ,	)	
Correctional Officer,	)	
Employee [REDACTED]	)	
Star #16196.	)	

**DECISION**

THIS MATTER COMING ON to be heard pursuant to notice before Jennifer E. Bae, a Board Member, and the Cook County Sheriff's Merit Board finds as follows:

**Jurisdiction:**

1. Kirk J. Ortiz (herein after "Respondent") holds a position as a Correctional Officer which involves duties and responsibilities to the public.
2. 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.
3. The Board has jurisdiction of the subject matter of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes.
4. The Respondent was personally served with a copy of the Complaint and Notice of Hearing and appeared before the Board to contest the charges contained in the complaint.
5. The Board has heard the evidence presented by the Sheriff and the Respondent, and evaluated the credibility of the witnesses and supporting documents.

**Background:**

By complaint dated February 2, 2016, Sheriff Thomas J. Dart sought to remove the Respondent from the Cook County Sheriff's Office. The complaint alleges that Respondent violated the Sheriff's Orders, General Orders and Cook County Merit Board Rules and Regulations when he consumed alcohol while carrying his firearm in his waistband, when he fired a weapon in the backyard of [REDACTED], when he failed to adequately secure his duty weapon inside his vehicle, and when he failed to notify CCSO of the events that occurred on May 26 through May 27, 2014. The complaint specifically alleges that Respondent violated the following:

**SHERIFF'S ORDER 11.2.20.0** (Effective date: January 25, 2013)  
**RULES OF CODUCT**, 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.

III. APPLICABILITY

This order is applicable to all employees of the CCSO and is for strict compliance. Any violations of this Sheriff's Order may result in disciplinary action up to and including termination. Any conflicts with existing directives shall be resolved in favor of this order.

VI. RULES AND REGULATIONS FOR ALL SWORN AND CIVILIAN CCSO EMPLOYEES

A. Compliance with Laws, Ordinances, and Regulations

1. Employees shall uphold the Constitutions of the United States and the State of Illinois, obey all federal, state and local laws in which jurisdiction the employee is present, and comply with court decisions and orders of courts having jurisdiction.
2. Employees shall comply with lawful rules, Sheriff's Office written directives, verbal orders, SEAM articles, and political prohibitions issued by the proper authorities.
6. Any employee who has been arrested, indicted, or convicted of a felony or misdemeanor shall:
  - a. Provide immediate verbal notification via telephone to the Cook County Communications Center ("Communications") at 847-294-4731.
  - b. Submit a written report immediately upon return to work, or within 48 hours if off work, to their department head via chain of command and to the Office of Professional Review (OPR). The report shall specify the facts forming the basis for the arrest, indictment or conviction, and specifics of the case.

c. Minor traffic infractions or violations are not included in this requirement. Minor traffic infractions do not include:

- i. Driving Under the Influence (DUI);
- ii. Suspended license violations; or
- iii. Any other offense for which incarceration is an option.

7. Any employee who has been made aware that he/she is the subject of an investigation by a government agency other than the CCSO or its related department shall:

a. Make immediate verbal notification to the department head, via chain of command.

b. Submit a written report immediately upon return to work, or within 48 hours if off work, to their department head via chain of command and to OPR that includes, but is not limited to:

- i. The circumstances surrounding the incident being investigated;
- ii. The agency conducting said investigation; and
- iii. What actions have been taken to resolve the matter.

B. Conduct on and off duty.

CCSO employees shall:

- 1. Maintain a professional demeanor while on duty and will not engage in off-duty behavior that would reflect negatively on the CCSO.
- 2. Conduct themselves on and off-duty in such a manner to reflect favorably on the CCSO. Employees, whether on or off-duty, will not engage in conduct which discredits the integrity of the CCSO, its employees, the employee him/herself, or which impairs the operations of the CCSO. Such actions shall constitute conduct unbecoming of an officer or employee of the CCSO.
- 4. Maintain a level of conduct in their personal and business affairs that is in keeping with the highest standards of the law enforcement profession. Employees will not participate in any incident that:

b. Causes the CCSO to be brought into disrepute.

D. Prohibited associations, establishments, and activities.

CCSO employees shall not:

17. If sworn, carry firearms when there is a likelihood that they will be consuming alcoholic beverages or taking medication which may impair their physical and/or mental capabilities.
18. Use, display, or handle any weapon in a careless, negligent or unlawful manner.

H. Reporting violations.

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

I. Cooperation within the CCSO and with other agencies.

CCSO employees shall:

1. Truthfully answer all questions, provide proper materials, and provide truthful and relevant statements when the employee is involved in an investigation, either as the subject or not, as long as the employee's rights are preserved.

**SHERIFF'S ORDER 09-1** (Effective date: January 1, 2009)

**SECURING DEPARTMENT AUTHORIZED FIREARMS**, in its entirety, including but not limited to, the following subparts:

II. POLICY

It is the policy of the Cook County Sheriff's Office that all sworn employees authorized to carry a duty weapon will ensure that the weapon will be secured. No unauthorized person is afforded access to the member's duty weapon at any time. Furthermore, a duty weapon in any state either assembled or dismantled will not be considered "secure" in a vehicle or in a locked box concealed within a vehicle.

IV. RESPONSIBILITIES

Duty Weapons and Department Issued Weapons are NOT to be left in vehicles:

- A. At any time

- B. In any condition (including dismantled or unloaded firearms)
- C. Under any circumstance (including lock boxes)

VI. APPLICABILITY

This order applies to all Sheriff's Office sworn employees and is for strict compliance. Any conflicts should be resolved in the favor of this order.

**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, Police Sergeant, Police Lieutenant of the Cook County Sheriff's Police Department, Correctional Officer, Correctional Sergeant, Correctional Lieutenant, Correctional Captain of the Cook County Department of Corrections or Deputy Sheriff, Deputy Sergeant, Deputy Lieutenant of the Cook County Sheriff's Court Services Department will:

- 1. Violate any Law or Statute of any State or of the United States of America.
- 3. Violate any of the Sheriff's Executive Orders, General Orders, Special Orders, Directives or Rules and Regulations of the Cook County Sheriff's Department or Cook County Sheriff's Merit Board Rules and Regulations.

**Issues Presented:**

Whether the actions of the Respondent violated any of the Sheriff's Orders, General Orders and Cook County Merit Board Rules and Regulations set forth above and what if any discipline is appropriate if a violation(s) occurred.

**Evidence Presented:**

A hearing was conducted on April 19<sup>th</sup> and 28<sup>th</sup> of 2017 at the Cook County Administration Building, [REDACTED]. Present were Assistant State's Attorney [REDACTED] and Assistant General Counsel [REDACTED] on behalf of the Cook County Sheriff's Office and Attorney [REDACTED] on behalf of the Respondent.

**The following exhibits were admitted into evidence:**

Sheriff's Office:

- 1. CPD Property Inventory No. [REDACTED]
- 2. CPD Other Property From Property Tables

3. General Orders, Sheriff's Orders, and Merit Board Rules and Regulations
4. Respondent's signed statements to OPR dated January 23 & 27, 2015
5. OPR Report of Detective [REDACTED] Interview dated January 26, 2015
6. CPD Incident Report – page 4 only
7. Firearm Qualification Form for Respondent dated August 1, 2013

**The following witnesses testified for the Sheriff:**

[REDACTED]:

[REDACTED] (herein after [REDACTED]) testified that she is employed with the Cook County Sheriff's Office (herein after "CCSO") in the Office of Professional Review (herein after "OPR"). She had been with OPR for 4 years. As an investigator for OPR, she investigates allegations of misconduct by employees of the CCSO.

[REDACTED] was assigned to investigate the Respondent's case involving an incident that occurred in May of 2014. [REDACTED] received Respondent's case from a retired investigator, [REDACTED] (herein after [REDACTED]) who had done most of the evidence gathering. After review of the evidence, she wrote up a report containing her findings. Sheriff's Exhibit 1 was a copy of the property inventory of the weapon, ammunition and the magazine that were taken from Respondent by the Chicago Police Department (herein after "CPD"). Sheriff's Exhibit 2 was a copy of the property inventory for the suicide involving [REDACTED] (herein after [REDACTED]) where the gun came from [REDACTED] (herein after [REDACTED]) which was 9-millimeter Luger with a cartridge from Sellier & Bellot (herein after "S & B"). [REDACTED] said CPD inventoried one round of S & B and one round of Winchester from the backyard of [REDACTED] family. She concluded that at least one shot was fired from [REDACTED] weapon and one shot from Respondent's weapon.

Sheriff's Exhibit 3 was a copy of the Sheriff's Order 11.2.20.0 Rules of Conduct. [REDACTED] believed that Respondent violated Section VI A 6 when he failed to immediately notify the Cook County Communications Center or submit a written report when he was arrested; that Respondent violated VI A 7 when he failed to immediately notify CCSO or submit a written report when he had been aware that he was the subject of an investigation by CPD; that Respondent violated Section VI D 18 when he discharged his firearm in the backyard; that Respondent violated Section VI D 17 when he carried his duty weapon as he was taking codeine; that Respondent violated Section VI H 4 I 1 when he made false statement to OPR; and that Respondent violated Sheriff's Order 09-1 Securing Department Authorized Firearms Section IV when he left his duty weapon in a lockbox in his vehicle.

Sheriff's Exhibit 4 was a copy of the Respondent's signed statement to OPR dated January 23rd and 27<sup>th</sup> of 2015. In the statement, Respondent said he did not drink any alcoholic beverages but that he was taking a prescription medication, Tylenol with codeine. Respondent said he left his weapon in a lockbox in his car. Respondent said he did not fire his weapon and did not see [REDACTED] his weapon at any time in the backyard. Respondent said he was never arrested but sat in a room at a police station for several hours. At some point, he was told he could leave.

On cross-examination, [REDACTED] said that she was not present when Respondent gave his statements to OPR; that she was not present for any other witness interviews conducted by OPR; that she did not follow up with Detective [REDACTED] (herein after [REDACTED]) after he was

interviewed by OPR; that she did not follow up with [REDACTED] after she was interviewed by OPR; she did not follow up with [REDACTED] after he was interviewed by OPR; and was not present when Respondent discharged his weapon. [REDACTED] said Respondent was arrested for discharging his weapon but released without being charged.

[REDACTED]:

[REDACTED] (herein after [REDACTED]) is currently employed at CCSO as an investigator at OPR. He had been so since January 2010. [REDACTED] was shown Sheriff's Exhibit 4 which contained his signature as the witness and the prover for the interview conducted by [REDACTED]. [REDACTED] explained that the accused are normally given the allegation of misconduct, administrative rights, and ability to have counsel present during the interview. After the interview was conducted, [REDACTED] typed the statement and Respondent was given an opportunity to make any corrections in the report. [REDACTED] said Respondent placed his initials on each pages to verify that he had reviewed it.

[REDACTED] said Respondent told them that he was taking Tylenol 3 as prescribed by a doctor; that he did not drink any alcohol; that he did not fire his weapon; that he was informed by the a detection from CPD that they wanted to determine if he was involved in the girl's shooting; that CPD had obtained his weapon from his vehicle which was secured in a lockbox; and that he denied he was arrested.

[REDACTED]:

[REDACTED] (herein after [REDACTED]) testified that she lives at [REDACTED] with her [REDACTED] and [REDACTED]. [REDACTED]'s name is [REDACTED]. [REDACTED]'s names are [REDACTED] and [REDACTED]'s name is [REDACTED]. She had been living at this address for [REDACTED] years. In May of 2014, she had a bbq at her house where [REDACTED] was shot. [REDACTED] said Respondent was at her house during the bbq. After [REDACTED] was shot, she asked Respondent for help. She did not see Respondent or [REDACTED] drinking and shooting guns.

On cross-examination, [REDACTED] said she did not remember speaking to anyone from the CCSO. She did not remember speaking to [REDACTED] on February 3, 2015 over the telephone. [REDACTED] did not see Respondent drink any alcohol at her house on May 26<sup>th</sup> and 27<sup>th</sup> of 2014. After [REDACTED] was shot, [REDACTED] went to get help. She found Respondent inside his car and asked him to come with her to the basement. She said Respondent called the police. In the basement, both [REDACTED] and Respondent assisted in performing CPR on [REDACTED]. When the shooting occurred, [REDACTED] believed [REDACTED] was in the bathroom in the basement and her [REDACTED] was sleeping.

On re-direct examination, [REDACTED] said she saw the police talking to [REDACTED] and Respondent outside of the house. She saw the police take [REDACTED] to the police station but she did not remember or know if Respondent was also taken to the police station. When she found Respondent inside of his car, she did not know if he was asleep.

On re-cross examination, [REDACTED] said she did not know or remember if the police put handcuffs on Respondent outside of her house. [REDACTED] said she thought that the police had put Respondent into a squad car.

On examination by the Board Member, [REDACTED] testified that [REDACTED] owned a gun. She did not know if [REDACTED] had his gun on him during the party in the backyard. [REDACTED] said beer was

being served at the party. She had consumed 2 juice like alcoholic beverages in bottles. [REDACTED] did not see her [REDACTED], [REDACTED] or Respondent consume any alcohol during the party.

[REDACTED] (herein after [REDACTED]) testified that he works as a patrol officer for CPD and had been so for 11 years. In May of 2014, an incident occurred involving a shooting at a house on [REDACTED]. He received a call of a person shot. When he arrived at the location, [REDACTED] observed a female Hispanic lying on the floor of the basement covered in blood with 2 male subjects: [REDACTED] and Respondent. He observed a gunshot wound to the face. He secured the scene and called for backup. He observed [REDACTED] to be crying and intoxicated and believed that [REDACTED] was grieving. He placed [REDACTED] in a police vehicle. [REDACTED] spoke to Respondent. Respondent told him that he was sleeping in his car and was woken by [REDACTED]. Respondent said [REDACTED] had told him what happened in the basement. [REDACTED] said that earlier that night, there were calls for shots fired in the [REDACTED] area where another unit was dispatched.

On cross-examination, [REDACTED] testified that the earlier shooting was unfounded. He said another unit was assigned to the shooting. The unit arrived at the area and did not find any vehicle shot up or a person shot. He believed that a neighbor of [REDACTED] had called the police department to report shots being fired at [REDACTED] alley or the backyard [REDACTED] had another unit guard the scene. While waiting for the evidence technicians, he was instructed to transport [REDACTED] to the area of detectives.

[REDACTED] testified that he is employed at CPD [REDACTED] as a detective. He had been a detective for 15 years and 26 years total with CPD. As a detective, his general duties were preliminary investigations for property crimes, violent crimes and homicides. He did not have an independent recollection of the events at the [REDACTED] address but did review his police report to refresh his memory. [REDACTED] said Detective [REDACTED] was assigned to investigate the shooting and he was there to assist him. He said he arrived at the scene and interviewed Respondent. Respondent told him that he was a Cook County Sheriff Officer and that he was visiting his friend's house for Memorial Day. Respondent also told him that he was drinking [REDACTED] and left the residence around 7 pm to and returned shortly after to drink more. Respondent further told him that when everyone was retiring for the night, he decided to sleep in his vehicle since he was drinking. Respondent then told him that he and [REDACTED] both shot one round into the ground in the rear yard. Sheriff's Exhibit 5 was shown to [REDACTED]. It was a report generated by OPR containing information regarding a telephone call to [REDACTED]. He explained that he received a call from OPR asking about the [REDACTED] incident about 8 months after the incident. In the report, [REDACTED] told OPR that he did not recall if Respondent told him that he was drinking or shooting a gun. When this conversation with OPR occurred, [REDACTED] did not have his reports to refresh his recollection. He agreed that the phone call was "a call out of the blue." [REDACTED] explained that the Sheriff Exhibit 1 was a property inventory that listed Respondent's weapon which was a Glock 17 with a serial number [REDACTED], live rounds, and a magazine. Sheriff Exhibit 2 was property inventory of the shell casing matching Respondent's weapon. These reports were prepared by the evidence technician with the forensic service of CPD on May 27, 2014 at 0255 hours. [REDACTED] said 2 people were arrested: [REDACTED] and



Respondent. Both were arrested and brought into the 19<sup>th</sup> district police station for further investigation. ██████ explained that he brought Respondent into a room where he was read his Miranda rights by a supervisor. After being read his rights, Respondent invoked his right to remain silent. He believed Respondent was at the police station for 9 to 10 hours. He said the police recovered 2 spent shell casings from the back of the building of ██████. Sheriff Exhibit 6 was a copy of the 4<sup>th</sup> page of the incident report for this case. He did not prepare it but did review it for accuracy of his involvement in the investigation.

On cross-examination, ██████ testified that he was not aware of a call about an earlier shooting at ██████ address. He was called to ██████ to look for evidence and have an evidence technician collect it. He found 2 fired shell casings in the backyard behind the building at ██████. He said Respondent was arrested for discharging his firearm in the yard on the public way. Ultimately, Respondent was released without charges. He believed Sergeant ██████ or Lieutenant ██████ called CCSO to notify that Respondent was in CPD custody. ██████ explained that when he received a call from ██████ he was off and did not have access to his own reports. He did not tell ██████ that he would call back since he did not have his report.

**The following witness testified for the Respondent:**

██████████:

██████████ (herein after "██████████") testified that he lives at ██████. He was present on May 26, 2014 when he was watching TV, fell asleep, and woke up around 1 or 2 am after hearing a gunshot in his basement. ██████ said Respondent was his friend and was at his home on May 26, 2014. He had never seen Respondent discharge his weapon or drink at his home. He believed that CPD made a mistake or misunderstood him when CPD said that he had told them that Respondent fired his weapon and drinking. ██████ said he was interviewed by OPR and told them that he did not see Respondent shoot his gun but did not remember if Respondent was drinking.

On cross-examination, ██████ testified that he had known Respondent for 2 to 3 years and that Respondent had been over to his house about 3 times to talk. He never saw Respondent drink alcohol at his house. ██████ said he drank alcohol. He said he was not related to Respondent. ██████ remembered watching TV and was asleep when he heard the gunshot. He ran downstairs and saw that ██████ had died. ██████ said he told the others to call the police and ambulance. He did not help to resuscitate her. He saw ██████ crying and they were all sad. ██████ said he called 911 and told them that there was an accident and to send an ambulance. He did not remember how long it took for the ambulance or the police to arrive but it was less than 30 minutes. ██████ talked to CPD and told them the same. He did not go to the police station. He did not remember if Respondent was arrested or left with the police. He did remember ██████ leaving with the police. ██████ said ██████ was drinking at the party. ██████ said ██████ did own a pistol and it was this gun that ██████ used to shoot herself. ██████ said he did not remember telling the police that he saw his ██████ and Respondent firing weapons in the backyard. He said he did not tell the police that ██████ and Respondent were drinking alcohol. He remembered ██████ being drunk so he assumed he was drinking. Since May of 2014, ██████ saw Respondent about 2 to 3 times at his house. ██████ did talk to OPR over the phone. He told them the same. He said Respondent did tell him that he had problems at work and that ██████

may be contacted by the investigators from CCSO. He did not see [REDACTED] or Respondent carrying guns during the party.

On re-direct examination, [REDACTED] testified that Respondent did not tell him what to tell the Merit Board or OPR. He said Respondent did not attempt to influence his testimony.

On examination by the Board Member: [REDACTED] testified that his [REDACTED] name is [REDACTED] and that he is [REDACTED] years old. The young lady that was shot was [REDACTED] who was [REDACTED] girlfriend. On the date of the event, [REDACTED] said he had a BBQ at his house located [REDACTED]. His house is a single-family home with a backyard and a fence around the backyard. The BBQ was outside the house in the backyard. There were total of 7 people that included the Respondent. There were [REDACTED], his other [REDACTED], [REDACTED], and [REDACTED] two friends [REDACTED]). [REDACTED] said he had 5 to 6 beers at the party. The party started around 5 or 6 pm on May 26, 2014. He saw [REDACTED] drinking alcohol. He said Respondent was more of his [REDACTED]' friend. He said [REDACTED] was [REDACTED] years old and [REDACTED] was [REDACTED] years old. The last drink [REDACTED] had was around 10 or 11 pm. When he finished his last beer, there were still people at his house front and back. He went inside of the house around 9 pm. He was watching TV and fell asleep in front of the TV. He said he was woken up by a gunshot.

[REDACTED]:

[REDACTED] testified that she lives at [REDACTED]. She had been living there for 7 years. She is currently [REDACTED] years old. [REDACTED] said that on May 26 – 27, 2014, [REDACTED] passed away. There was a family get-together and present were her family, Respondent and a friend [REDACTED] who she considered to be her [REDACTED]. She had known Respondent for about 4 years through Respondent's [REDACTED] who is her friend. She did not have a romantic relationship with Respondent. [REDACTED] did not see Respondent drinking or shooting his weapon at the party. She did not see [REDACTED] carrying a weapon or shot a weapon at the party. She did not know that [REDACTED] had a gun prior to the incident. She was not interviewed by the police at the scene. The next day, she did talk to investigators but she did not know if they were from CPD or CCSO OPR. [REDACTED] did not remember talking to any investigators on the phone in February or any other time. The only time she remembered talking to investigators was the day after the incident. She was in a bathroom when she heard a gunshot. [REDACTED] saw Respondent hanging out with [REDACTED] during the party inside the house and front of the house by the stairs. She did not see [REDACTED] or Respondent in the backyard. [REDACTED] saw Respondent once since the incident when she visited his house to see his sister. [REDACTED] said Respondent did not tell her what to say to police, Sheriff's Office or anybody here at the hearing. Respondent had not offered her anything in exchange for her testimony. Her father had not told her what to say or offered anything in exchange for her testimony. She said that the family all knew what they were going to say because it was "pretty clear." It was an unfortunate incident with [REDACTED].

On cross-examination, [REDACTED] testified that it was not a BBQ in her backyard but just a family get-together. There was no food out in the backyard because the food was inside the house. [REDACTED] believed Respondent was present for few hours and she did not remember him leaving. [REDACTED] saw Respondent in the front of the house but never in the backyard. [REDACTED] said she saw [REDACTED] and [REDACTED] arguing. She believed [REDACTED] was drunk. When she heard the gunshot, she came out of the bathroom and walked towards her [REDACTED]'s room. [REDACTED] did not see the gun but did see [REDACTED]'s body. She was shock and did not ask [REDACTED] what had happened. [REDACTED] did not know how the gun got in [REDACTED] hand. She did not see [REDACTED] gun prior to the incident. She

was friends with Respondent's [REDACTED] because they attended the same high school. She had never seen Respondent drink alcohol her house or at his house. She had never attended social events or parties with Respondent. When she spoke to the investigator the day after the incident, she was interviewed by herself privately. She said she did not tell the investigators that [REDACTED] and Respondent were drinking or that they were shooting weapons in the backyard. It took few minutes for the ambulance and police to arrive. She observed [REDACTED] sobbing and attempting to resuscitate [REDACTED]. They were all upset at the time. She saw police take [REDACTED]. She did not know or remember if Respondent left with the police. She did not talk to Respondent about this incident. She did not see the police canvassing the backyard for bullet shells after the incident. She did not see her brother with a gun in his waist belt.

On redirect-examination, [REDACTED] testified that she told the police that she was in the bathroom when she heard the gunshot. She came out of the bathroom and saw the body. She then saw [REDACTED] trying to resuscitate [REDACTED] along with Respondent. She did not hear any other gunshots on May 26th and 27<sup>th</sup> of 2014 other than the incident with Isamar. She never saw [REDACTED] or Respondent shoot their weapons in the yard.

On examination by the Board Member, [REDACTED] testified that the party was inside and outside of the house because they had the doors open: door to the front of the house and door to downstairs. [REDACTED] explained that the house is a three-flat. The house has 3 doors: door to the main floor, door to the first floor and the door to basement. The shooting occurred in the basement where [REDACTED] and [REDACTED] stayed. Prior to the shooting, when [REDACTED] was in the bathroom, she had not gone to bed yet. [REDACTED] saw [REDACTED] drinking alcohol but did not see Respondent drink any alcohol. She did not know if her [REDACTED] was drinking alcohol because he was not around. She believed her [REDACTED] was on the first floor when she was in the basement and no one was on the second floor. [REDACTED] was not with Respondent the whole time during the party. She was on the first floor in the bathroom when she heard the gunshot. She ran down to the basement. She said the party was still going when she decided to go to bed. She did not remember where Respondent was when she went to bathroom. The last time she saw Respondent was when he was standing outside in the front of the house with [REDACTED]. From the time she saw [REDACTED] and Respondent to the time she heard the gunshot, [REDACTED] believed it had been anywhere from 10 to 30 minutes. When she first saw [REDACTED] body in the basement, she did not see Respondent. She was in shock and started yelling and screaming for help. She was attempting to locate her [REDACTED] and saw Respondent coming behind her. At some point, her [REDACTED] did come down. [REDACTED] believed that her [REDACTED] was the first one to come down to the basement and present the whole time. She saw [REDACTED] attempting to resuscitate [REDACTED].

[REDACTED] (herein after [REDACTED]) testified that she is a lieutenant with the CCSO. She had been with CCSO for 14 years. She is currently assigned to Division 9. She had worked in Divisions 3, 8, Cermak, 4, Canine, and 11. She had supervised Respondent at Division 4 in 2012. She believed that Respondent worked very well with the staff and inmates. She did not have to micromanage Respondent and believed that he carried out every assignment timely and proficiently.

[REDACTED]

[REDACTED] (herein after "[REDACTED]") testified that he works for CCSO Department of Corrections. He had been there for 6 ½ years. He went through the academy at the end of 2010. At the academy, he was instructed to carry his weapon inside the trunk in a lockbox disassembled. He was not given any additional instruction about carrying his weapon off duty. He was never told that he could not carry his weapon in a lockbox in his vehicle.

On cross-examination, [REDACTED] was shown Sheriff's Exhibit 3. He said that he did see that the Sheriff's Order 09-1 did state that "duty weapons and department issued weapons are NOT to be left in vehicles at any time...in any condition including dismantled or unloaded...under any circumstances."

On re-direct examination, [REDACTED] said that during the academy, he was instructed to bring his weapon to and from academy disassembled in a lockbox in his vehicle. After graduation, he was allowed to carry his weapon on his hip. The effective date on the Sheriff's Order 09-1 was January 1, 2009.

[REDACTED]

[REDACTED] herein after [REDACTED] testified that he is currently a sergeant with CCSO in the Department of Corrections. He had been employed by CCSO for 27 years and 8 months and as a sergeant for 15 years. He worked at all divisions. He knew Respondent by supervising him at Division 8, Cermak when Respondent was working the midnight shift in the emergency room approximately 2 years ago. He believed Respondent was an outstanding officer with no disciplinary problems.

[REDACTED]:

[REDACTED] (herein after "[REDACTED]") testified that he is an officer with the CCSO Department of Corrections. He had been so for 14 years. He worked in Division 3 and 8. He believed he went through the academy in March 2003 and received in-service training October 2016. He said that the officers were allowed to carry their weapons concealed when off duty and allowed to transport in a lockbox in the trunk of a vehicle when going to shooting ranges. [REDACTED] agreed that Sheriff's Exhibit 3, Sheriff's Order 9-1 did prohibit storing a weapon in a lockbox in a vehicle. He stated that he did not remember being trained about Sheriff's Order 9-1 and was never informed that he could not carry a weapon in a lockbox in his vehicle. He said the last time he went to a range; he carried his weapon on his person in a holster. He also said that he believed that he would be allowed to carry his weapon in a lockbox in his trunk of his vehicle. In the academy, he was allowed to bring his gun in a lockbox in the trunk with the trigger lock. He did not recall being advised about Sheriff's Order 9-1.

On cross-examination, [REDACTED] testified that it was his responsibility to be familiar with all general orders including Sheriff's Order 9-1 and Illinois Jail Standards. He believed that some rules contradict each other and he tried to remember all. He agreed that you cannot drink with your weapon on person.

KIRK ORTIZ:

Respondent testified that he had been working for CCSO for the past 5 years in the Department of Corrections. He went through the academy in 2012 where he was trained to transport his weapon with the trigger lock inside a lockbox in the trunk of his vehicle. After graduation, he was trained to remove and place his weapon in a lockbox in the trunk of his vehicle if he was drinking or taking medication. Respondent said that Sheriff's Exhibit 3 which prohibited him from carrying his weapon in a lockbox was not consistent with his training. He said the coordinators at the academy informed him that if he was to consume alcohol, he should remove his weapon from the body and place it in a lockbox of his vehicle.

Respondent said he arrived at [REDACTED] on May 26, 2014 approximately 5 pm. He was invited to a barbeque party by [REDACTED]. He said he did not drink any alcohol at the party. He did arrive at the party with his weapon on his body concealed (he had a shirt over the weapon). He said [REDACTED] ([REDACTED]), [REDACTED] were all drinking. He said there were 2 [REDACTED] friends, [REDACTED] and another female who he did not recall the name. Respondent said the party was all over the house including the basement, first floor, front of the house and the backyard. Respondent explained that he did leave the party at some point to buy more beer (Corona) for the family. Approximately 11 pm, Respondent took his medication for his injury and became drowsy. At this point, he removed his weapon and placed it in a lockbox and took a nap in his vehicle. He did not want to drive 40 minutes back to his house. He said he did not see [REDACTED] with a handgun or discharge a firearm on May 26<sup>th</sup> or 27<sup>th</sup> of 2014. He did not discharge his firearm either. Respondent explained that while he was sleeping, [REDACTED] woke him up. He described [REDACTED] as being ecstatic, screaming and crying. [REDACTED] told him that "she shot herself, please help." At first, Respondent did not know who "she" was. He told [REDACTED] "show me where..." [REDACTED] directed Respondent towards the basement of the house. He walked down the stairs and saw a female lying on the ground in a pool of blood. He said he told the family to call 911 and checked for a pulse. He saw the wound on the cheek. He told [REDACTED] to apply pressure on the wound and started to perform CPR on [REDACTED]. He did not see when [REDACTED] or [REDACTED] had arrived in the basement because he was focused on performing CPR. At some point, he said the fire department, ambulance, and the police arrived. He said he stepped outside when the paramedics arrived. He said he told the police officers that he was with CCSO because that was how he was trained. He said a sergeant arrived at the scene and after speaking to the sergeant, he was told to leave. He did not leave because he heard that detectives were on their way. An hour later, detectives arrived at the scene. He said the detectives began interviewing the family and then asked him few questions. He said he spoke to [REDACTED] and told him what had happened. [REDACTED] did not ask him if he had fired his weapon or whether he was drinking. [REDACTED] asked Respondent if he had a weapon. He told him that the weapon was in a lockbox in the trunk of his vehicle. [REDACTED] asked if he could collect the weapon for investigation purpose. [REDACTED] told Respondent that an evidence technician was going to GSR his hands. After GSR was performed, [REDACTED] asked Respondent if he was willing to come to the police station. Respondent said he agreed to come to the station for further questioning. He said he was not arrested or placed in handcuffs. Respondent said he was told he could drive himself to the police station but asked to ride in the police vehicle. Once at the station, he was placed in a room. [REDACTED] asked Respondent if he had discharged his firearm. [REDACTED] told him that [REDACTED] had told him that [REDACTED] and Respondent had discharged their weapons in the backyard. Respondent

said this was not true. After few more questions, Respondent said that [REDACTED] came back into the room with Sergeant [REDACTED] (herein after [REDACTED]). Respondent said [REDACTED] started to Mirandize him but stopped when he asked him if they had questioned all the witnesses. Respondent said he heard [REDACTED] ask [REDACTED] if he had interviewed anybody else other than [REDACTED]. When [REDACTED] answered no, [REDACTED] told Respondent that they were going to speak to the rest of the witnesses at the scene. Respondent said he waited for another hour in the room and then he was moved to another room that looked like a holding cell. After additional hour, Respondent said he was told that he was free to go. He explained that he was not charged. He was not placed in any handcuffs at the police station. He said that prior to leaving the station; [REDACTED] and [REDACTED] informed him that they had contacted OPR to report the incident. Respondent did not believe he had any reporting responsibility to CCSO since CPD had already called OPR.

After a day or two later, Respondent went to work. He did not report the incident and continued to work until February 3, 2016. He was contacted by OPR and gave a written statement on January 23rd and 27<sup>th</sup> of 2015. He said he had a Lauderhill hearing either December 2015 or January 2016. He was allowed to work after the Lauderhill hearing but was placed on administrative leave without pay on February 3, 2016. In October 2016, he was called back to work and was allowed to work 4 days until Superintendent at Division 9 informed him that HR had placed him on administrative leave without pay.

Respondent said he was taking medication (Tylenol 3 with codeine) because of an injury he received on duty in Cermak. He had 2 surgeries and was out for 2 to 3 months. He returned to work sometime in May of 2014. He said he removed his weapon when he took his medication because he became drowsy which was a side effect.

On cross-examination, Respondent testified that as an officer with CCSO, he had obligation to familiarize himself with Sheriff's general orders to the best of his ability. He said he did not refuse to talk to the police after he was read Miranda rights. In fact, Respondent said [REDACTED] told him that he was going to read his Miranda rights but did not do so after he protested. He said he did not call anyone or submit a written report to CCSO about his involvement in the incident at the [REDACTED] property because he did not think that he need to report that he was involved in a death investigation. At the scene, Respondent explained that he did not know if [REDACTED] was dead. He was not a doctor and she could have been revived at the hospital. He said he bought a case of Corona at Jewel's during the party. He had his weapon on his body when he went to purchase the beer. He said he did not report to CCSO that CPD had taken his weapon. He did not remember how many hours he was at the police station. It could have been two to three hours. He said he did not fire his weapon and did not see anyone else firing their weapons. He could not explain how CPD recovered shells. He agreed that Sheriff's Exhibit 4 which was his statement to OPR stated that a detective arrived and Respondent was taken in an unmarked police vehicle to the police station. It further stated that detective wanted to ascertain whether Respondent was involved in the girl's shooting and that he did not received his weapon back until later. Respondent said his doctor told him not to consume alcohol when taking the prescribed Tylenol with codeine. He did not know the side effects of mixing alcohol with medication. Sheriff's Exhibit 7 was a copy of Respondent's qualification form for CCSO Training Institute for Firearms. The weapon listed on this form was the weapon with serial number [REDACTED] that Respondent was carrying at the [REDACTED] property on the night of the incident.

On re-direct examination, Respondent testified that he placed his weapon inside of a lockbox when he took the Tylenol 3. He said he was never told by any police officers that he was under arrest or read Miranda rights. Respondent said he had never mixed alcohol with medication.

**Finding and Conclusion of the Law:**

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence including all the exhibits that were admitted, the Board finds that Respondent violated Sheriff's Order 11.2.20.0 VI A 6 when he was arrested and failed to notify the Cook County Communications Center or submit a written report. It is clear from the testimony of the police officers that Respondent was placed under arrest but not charged. Respondent was placed in a police vehicle and transported to the police station. Respondent's testimony that he was allowed to drive himself but requested [REDACTED] to transport him in a police vehicle is not believable. [REDACTED] testified that Respondent was placed under arrested and transported to the police station where he was put into a room is more reasonable and believable. [REDACTED] testimony that Respondent invoked his right to remain silent is more reasonable and believable. In addition, Respondent violated Sheriff's Order 11.2.20.0 VI A 7 when he was the subject of an investigation by CPD but failed to notify his department head or submit a written report. Respondent's own statement to OPR was that "a detective told Ortiz that they wanted to ascertain that he was not involved in the girl's shooting." Based on this statement, it is clear that Respondent was the subject of an investigation. In fact, [REDACTED] took Respondent's weapon for purpose of investigation.

The Board finds that Respondent violated Sheriff's Order 11.2.20.0 VI D 17 when he carried his firearm while consuming alcoholic beverages and taking medication. The Board finds that the initial statements given to CPD by [REDACTED] and [REDACTED] were that Respondent was consuming alcohol at the party. It is difficult to believe that Respondent was not drinking any alcohol at the party and that he left to purchase more beer for the family but not for himself. In addition, Respondent's own testimony that he took medication while he had his weapon on his body is a violation of said rule. The Sheriff's Order states that "CCSO employees shall not: ...carry firearms when there is a likelihood that they will be...taking medication which may impair their physical and/or metal capabilities." Respondent knew that he was going to be taking Tylenol 3 because he had been doing so for the past few months. Since there was "a likelihood" that he would be taking medication which made him drowsy, he should not have been carrying his firearm.

The Board finds that Respondent violated Sheriff's Order 11.2.20.0 VI D 18 when he discharged his weapon in the backyard [REDACTED] Both [REDACTED] and [REDACTED] told CPD that [REDACTED] and Respondent had been shooting in the backyard when the incident occurred. CPD found and collected shell casing that matched Respondent's firearm in the backyard of [REDACTED]

As a result of violating the above listed Sheriff's Orders, Respondent violated the CCSO Merit Board Rules and Regulations.

**Conclusion:**

Wherefore, based on the foregoing, Respondent is suspended for one hundred eighty (180) days from CCSO effective February 2, 2016.

**COOK COUNTY SHERIFF'S MERIT BOARD**

SHERIFF OF COOK COUNTY            )  
  )  
vs.    )  
  )  
KIRK J. ORTIZ, Correctional            )  
Officer    )

Docket No. 1866

**DISSENT ON DECISION**

I write in dissent of the decision issued by the Board regarding Respondent Kirk J. Ortiz ("Respondent") as to the discipline issued. The Sheriff, in its initial complaint, requested that Respondent be terminated but the Board issued only a suspension of 180 days. This suspension was issued after finding, by a preponderance of the evidence, that the Respondent violated certain General Orders of the Cook County Sheriff's Office (CCSO) and Merit Board Regulations, as alleged in the initial complaint and confirmed by the final decision in the matter. The Board reached this determination based on the evidence presented, the assessment of the credibility of the witnesses, and the weight given to the evidence in the record.

I agree with the finding in this matter and dissent only as to the discipline issued. The violations here are incredibly serious. Respondent discharged his weapon and apparently allowed a civilian to discharge his weapon while both were consuming alcohol during a party attended by multiple individuals at a residential location. The potential for danger here is inexcusably high. Moreover, Respondent was neither forthcoming nor truthful in his testimony concerning: (i) discharging his weapon; (ii) consuming alcohol at the party in question; and (iii) being the subject of an investigation/arrest. Given the seriousness of the events and the lack of candor and remorse from Respondent, I would recommend termination.



Gray I. Mateo-Harris, Board Member

05/12/17  
Date



# COOK COUNTY SHERIFF'S MERIT BOARD



**SHERIFF OF COOK COUNTY**

**vs.**

**Kirk J. Ortiz, Correctional Officer**

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**DOCKET NO.: 1866**

## **DISSENT ON DECISION**

**Board Member Byron Brazier agrees with dissent of Board Member Gray Mateo-Harris.**

Kirk J. Ortiz #1866

[REDACTED]

**JAMES P. NALLY, Chairman**

[REDACTED]

**KIM R. WIDUP, Board Member**

[REDACTED]

**BYRON BRAZIER, Vice-Chairman**

[REDACTED]

**JENNIFER E. BAE, Board Member**

[REDACTED]

**JOHN J. DALICANDRO, Secretary**

[REDACTED]

**PAT BRADY, Board Member**

[REDACTED]

**VINCENT T. WINTERS, Board Member**

[REDACTED]

**GRAY MATEO-HARRIS, Board Member**

Dated: May 12, 2017

