

COOK COUNTY SHERIFF'S MERIT BOARD

SHERIFF OF COOK COUNTY,)
)
vs.)
) Docket # 1894
)
WALTER FERNANDEZ,)
Correctional Officer,)
Employee [REDACTED])
Star #17109.)

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. Walter Fernandez (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 April 8, 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 intentionally shot himself in the stomach with his duty weapon on September 3, 2014 at [REDACTED], Chicago, Illinois in front of his ex-girlfriend, [REDACTED]. The complaint specifically alleges that Respondent violated the following:

SHERIFF'S ORDER 11.2.20.0 (Effective date: January 25, 2013)
RULES OF CONDUCT, in its entirety, including but not limited to, the following subparts:

II. POLICY

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

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

2. Employees shall comply with lawful rules, Sheriff's Office written directives, verbal orders, SEAM articles, and political prohibitions issued by the proper authorities.

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.
- 3.
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.

- C.
- D. Prohibited associations, establishments, and activities.

CCSO employees shall not:

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.

GENERAL ORDER 4.1 (effective date: December 1 1996)

INTERNAL INVESTIGATIONS, in its entirety, including but not limited to the following subparts:

III. REQUIREMENTS

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

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

- A. Guidelines for SERIOUS MISCONDUCT include, but are not limited to:

17. Engage in any conduct unbecoming an employee of the Cook County Department of Corrections which tends to reflect discredit on the Department of Corrections or Sheriff's Office.
18. Making a false official report, either oral or written.

SHERIFF'S ORDER 11.2.20.1 (effective date: March 12, 2015)

CONDUCT POLICY, in its entirety, including, but not limited to the following subparts:

II. POLICY

Members of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning member conduct. Every member is also subject to the provisions contained throughout this policy and disseminated by the CCSO or the member's supervisors.

III. APPLICABILITY

This policy is applicable to all CCSO members. Any member found in violation of this policy may be subject to discipline, up to and including termination of employment, in accordance with any applicable collective bargaining agreements and state and federal statutes. Any conflict with existing collective bargaining agreements shall be resolved in favor of the applicable collective bargaining agreement.

IV. COMPLIANCE WITH ALL LAWS, ORDINANCES AND REGULATIONS

Members shall respect and protect the civil and legal rights of all individuals; uphold the constitutions of the United States and the State of Illinois; obey all applicable federal, state and local laws; comply with court decisions and orders of courts having jurisdictions; and comply with lawful rules, written directives or verbal orders, SEAM articles, policies and procedures issued by the CCSO or by any supervisor.

V. CONDUCT POLICY

- A. The continued employment or retention of every CCSO member shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any member to meet the guidelines set forth in this policy, whether on-duty or off-duty may be cause for disciplinary action, up to and including termination.
- B. A member's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may affect or arise from the member's

ability to perform official duties, or to the extent that it may be indicative of unfitness for his/her position.

VI. CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes of disciplinary action constitutes a portion of the disciplinary standards of the CCSO. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient service. Conduct which may result in discipline includes but not limited to the following:

E. Performance

29. Failure to disclose or misrepresenting facts, or the making of any false or misleading statement on any application, examination form or other official document, report or form, or during the course of any work-related investigation.

30. Giving any false or misleading statement, or misrepresenting or omitting material information, to a supervisor or other person in a position of authority in connection with any investigation or in the reporting of any CCSO-related business.

43. Any other on- or off-duty conduct which a member knows or reasonably should know is unbecoming a member of the CCSO; which is contrary to good order, efficiency or morale; or which tends to reflect unfavorably upon the CCSO or its members.

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:

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 5, 2017 at the Cook County [REDACTED] on Building, [REDACTED], Chicago, Illinois. 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. Letter dated October 1, 2014 signed by [REDACTED]
2. Cook County Sheriff's Office OPR Notification of Allegations
3. Cook County Sheriff's Office OPR Administrative Proceeding Rights
4. Cook County Sheriff's Office OPR Waiver of Legal Counsel
5. Recording of Walter Fernandez's statement to OPR
6. Cook County Sheriff's Training Institute Firearms Qualification Form
7. Sheriff's Order Rules of Conduct 11.2.20.0
9. CCSO General Order 4.1A Internal Investigations.
10. CCSO Merit Board Article X Rules and Regulations
11. Sheriff's Order Conduct Policy 11.2.20.1

The following witnesses testified for the Sheriff:

[REDACTED]

[REDACTED] (herein after [REDACTED]) is currently employed at [REDACTED] and attends [REDACTED]. She is studying [REDACTED]. [REDACTED] said she had been dating the Respondent for approximately 2 ½ years starting around 2012 until July or August of 2014.

On September 2, 2014, approximately 11 to 11:30 pm, [REDACTED] went to a place called [REDACTED] where she was informed by the doorman that Respondent would be coming soon. She informed him that she was only going to be there for approximately 30 to 40 minutes, well before Respondent got off work. However, as soon as she walked in, [REDACTED]'s sister informed her that Respondent came in shortly after them. After she saw the Respondent, she and her sister left and went home. The following morning, on September 3, 2014 at 7 am, Respondent showed up at [REDACTED] house in his full military uniform [REDACTED] said Respondent insisted that she take a letter from his hand. Respondent said, "Please just take it. I'll leave you alone if you take it. I just need you to have this." [REDACTED] then said, "I'll take it if you just leave me alone." Once she grabbed the letter, Respondent said, "Do you think I'm playing? Do you think that this is a joke?"

You know, why don't you believe me." As soon as she said, "Please don't do it", [REDACTED] saw Respondent put his hand on his hip and a gun went off. She saw Respondent tip over and she started screaming, telling someone to call 911. Prior to the gun shot, [REDACTED] did not know if Respondent was armed. [REDACTED] grabbed Respondent's shoulders touching his cheeks and said, "Please stay awake." [REDACTED] father came out of the house and looked for a bullet hole. He then flipped Respondent's body over and found the hole. He applied pressure. [REDACTED] brother grabbed her and said, "You're lucky that this wasn't you. You're fine. The ambulance is coming." The ambulance arrived and Respondent was taken to a hospital. While she was waiting at the hospital, Respondent's family asked [REDACTED] to leave because they did not want Respondent to see her. Initially she objected but her family agreed and she was escorted out.

[REDACTED] later cooperated with the Chicago Police Department and Cook County Sheriff's Office's OPR. [REDACTED] spoke to Detective [REDACTED] and another detective [REDACTED] said that she read the letter Respondent had given her. She described the edges of the letter as being slightly burned. [REDACTED] explained that the letter stated that all of Respondent's assets such as money, home and car were left to her and not to his family. The letter was signed by Respondent. [REDACTED] said while she was in the back of a police car, the police took the letter from her hand.

[REDACTED] believed that Respondent had intentionally shot himself based on a previous incident where he sent her a picture of bottles of pills and alcohol saying that he would leave the front door open so she would be expected to find him dead. [REDACTED] testified that she did sign the letter (marked as Sheriff's Exhibit 1) which said that she believed that the shooting was accidental. She signed the letter because Respondent's father had asked her to do so and she felt Respondent's family had done so much for her. [REDACTED] said Respondent's sister had written the letter and she agreed to sign it with an assurance that Respondent would leave her alone. Sheriff's Exhibit 1 was dated October 1, 2014.

On cross-examination, [REDACTED] testified that the handwritten phone number on Sheriff's Exhibit 1 was her previous telephone number with her signature and notarized. [REDACTED] said she did read the letter prior to signing it but did not know whom it was intended for at that time.

[REDACTED] (herein after [REDACTED]) testified that he is currently employed at the [REDACTED]. He had been there for approximately 15 years. He identified Respondent as someone who had dated his daughter [REDACTED]. On September 3, 2014, [REDACTED] was lying on his bed when his son came in and asked him why Respondent was at their house. [REDACTED] told his son not to go outside and that he would take care of it. [REDACTED] said he did not want his son to "get into it" since Respondent had a gun. [REDACTED] then went to a bathroom to wake up. He then heard a pop. He said he flew out of the bathroom and ran out the front door. He observed [REDACTED] with her hands on her face with head down. [REDACTED] did not see any blood on [REDACTED] and began to slow himself down. When he heard the pop, he thought Respondent had shot [REDACTED]. He believed this because of the type of relationship Respondent and [REDACTED] had. He and his wife were on "pins and needles."

[REDACTED] saw that his son was left of Respondent who was on the ground. He got on top of Respondent and started shaking him. [REDACTED] then said "Why did you do this? Why do you do this?" He heard Respondent say that he could not breathe. [REDACTED] realized that Respondent had shot himself. He then started looking for the bullet hole and when he found it, he applied first aid. He learned how to apply first aid in [REDACTED]. [REDACTED] described Respondent as having his

green military uniform with a beret [REDACTED] said that when he saw Respondent in his Army uniform, he knew that Respondent was there to commit suicide. [REDACTED] saw the gun and took the round out of the chamber. [REDACTED] noticed that the safety was not on the weapon. After clearing the gun, he placed the gun down and told his son to guard it. [REDACTED] said that the neighbors and some construction workers started crowding around them. The police arrived and [REDACTED] cooperated with the investigation. A few months later, [REDACTED] was contacted by Officer [REDACTED] of the Sheriff's Office's OPR. [REDACTED] discussed the incident and shared some texts with the Investigator.

On cross-examination, [REDACTED] testified that Respondent's gun did not wind up at his house. [REDACTED] said that the last time he saw the gun was when it was sitting on the grass. He did not remember if his son [REDACTED] was interviewed by the CPD.

[REDACTED] (herein after [REDACTED] testified that he had been with the Cook County Sheriff's Office for over 6 years. He is currently an Investigator for OPR and had been so for approximately 1 year 10 months. Prior to being an Investigator, [REDACTED] was a correctional officer for about 5 ½ years and conducted preliminary investigations into detainee's allegations. [REDACTED] was assigned to investigate the Respondent's matter as the lead investigator. The nature of the allegation was that Respondent had shot himself in front of his former girlfriend's house. Once assigned to this matter, [REDACTED] spoke to Chicago Police Department's detective to obtain a copy of the incident report and spoke to [REDACTED], [REDACTED] the Respondent. [REDACTED] said the incident report did mention a suicide note but he was unable to obtain a copy since he did not have a subpoena power.

On August 27, 2015, the Respondent gave recorded statements to OPR. [REDACTED] said he had the Respondent sign the Notification of Allegations (Sheriff's Exhibit 2), Notice of Administrative Rights (Sheriff's Exhibit 3) and Waiver of Legal Counsel/Union Representative (Sheriff's Exhibit 4).

Sheriff played the recorded statements (Sheriff's Exhibit 5). [REDACTED] said the Respondent informed him that the discharge of his duty weapon was accidental while he was off duty when he was wearing his dress blue uniform on his way to have it altered. [REDACTED] said the Respondent informed him that he did see a therapist after the shooting and that he did not recall giving [REDACTED] a note. [REDACTED] testified that he was able to determine that the gun used in the shooting was the Respondent's duty weapon after reviewing the Cook County Sheriff's Institute Firearms Qualification Form Recruit (Sheriff's Exhibit 6) for the Respondent. The female voice in the recording (Sheriff's Exhibit 5) was of Investigator [REDACTED] voice and present was Chief Union Steward [REDACTED]. State's Exhibit 6 did state that the Respondent's weapon was "Glock" with the serial number [REDACTED]. [REDACTED] was able to match the type and serial number from the Chicago Police Department's Incident report. After interviewing [REDACTED] and [REDACTED] typed up a summary report and submitted to Command Channel Review. Based on his investigation, [REDACTED] sustained the allegations. [REDACTED] believed that the Respondent violated Sheriff's Order Rules of Conduct 11.2.20.0 (Sherriff's Exhibit 7) Section VI -B (2) where it stated "Conduct themselves on and off-duty in such manner to reflect favorable 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"; VI-D (18) "Use, display, or handle any weapon in a careless, negligent or unlawful manner"; General Order 4.1A (Sheriff's Exhibit 9) Section III – A (18) "Making a false official report, either or written"; and Article X the Merit Board Rules and Regulations (Sheriff's Exhibit 10).

On cross-examination, [REDACTED] testified that Sheriff's Exhibit 1 did not indicate that Respondent attempted to commit suicide and that it described the September 3, 2014 incident as accidental. [REDACTED] said Respondent gave him Sheriff's Exhibit 1 which was after he interviewed [REDACTED] did not follow up with [REDACTED] after receiving Sheriff's Exhibit 1. [REDACTED] said he requested to obtain a copy of the note given to [REDACTED] by the Respondent but was unable to get it. Chicago Police Department informed [REDACTED] to get a subpoena and he was not able to subpoena or take further steps to obtain a subpoena by either talking to his supervisor or someone from the Merit Board. [REDACTED] explained that when he wrote in his own report that Respondent violated VI B (18), he meant to write VI D (18).

Sheriff's Order Conduct Policy 11.2.20.1, effective March 12 2015 (Sheriff's Exhibit 11) moved into evidence without objection.

The following witness testified for the Respondent:

WALTER FERNANDEZ

Walter Fernandez (the Respondent) testified that he was currently employed by the CCSO as a correctional officer. He had been so employed for almost 4 years with a start date of June 13, 2013. Prior to CCSO, Respondent worked for Chicago Public Schools as a security officer and in the United State Army for 8 ½ years. The highest rank he achieved was Sergeant. He was in [REDACTED] which was Infantry. He was in charge of a squad that had between 6 to 9 members. Respondent said he had two uniforms: a Class A uniform that is green and a dress blue uniform. He said Class A was no longer worn in service. While working for CCSO, he was assigned to Division IX. He never had any disciplinary history with CCSO and received a commendation for saving an inmate attempting to hang himself.

Respondent said he had been dating [REDACTED] for approximately 2 ½ years. On September 3, 2014, they were separated. Respondent said he informed [REDACTED] that he would stop by her house in the morning of September 3, 2014 to talk about their relationship and to drop off items [REDACTED] had left at his house. Respondent said he was in his dress blue uniform because he was on his way to [REDACTED] located at [REDACTED] and [REDACTED] to have his uniform altered. He said he had gained weight and needed to have it let out for a function he was planning to attend on September 11th for fallen soldiers. Respondent showed up at 7 am started talking to [REDACTED] the sidewalk of her house. Respondent said he had his service weapon in front of his pants because his uniform was so tight that he felt more comfortable putting his weapon in front of his stomach in his waistband in the holster. Respondent denied giving a letter or note with burnt edges to [REDACTED] saying that he was going to commit suicide. Respondent said he was talking to [REDACTED] when the handle of his weapon irritated his stomach and as he was readjusting his weapon by sliding it to his side when the weapon came out of the holster got caught between buttons. The weapon began to fallout of the holster, Respondent said he crouched down to try to catch the weapon and the weapon discharged. He felt a burning sensation, went into shock, and fell on the ground. He claimed that he never intended to kill himself, cause harm to [REDACTED] or members of her family. Respondent said as he was falling to the ground, he heard [REDACTED] and [REDACTED]

brother come out of the house. Respondent said [REDACTED] put his hands around his neck with pressure saying, "What did you do?" Respondent could not breathe. After [REDACTED] turned him over, [REDACTED] realized that Respondent was shot. [REDACTED] then ripped Respondent's uniform and applied pressure to the wound. Respondent said he heard [REDACTED] brother tell [REDACTED] that he had taken the weapon inside the house and [REDACTED] told him to bring the "gun back outside, put it back where you found it."

While [REDACTED] was putting pressure on Respondent's wound, Respondent saw [REDACTED] brother take [REDACTED] to the side of the house preventing her from going towards the Respondent. At some point, [REDACTED] was able get free from her brother and was next to Respondent. Respondent heard [REDACTED] call 911 saying that her boyfriend had been shot. Respondent said fire department showed up along with an ambulance. He was placed on a stretcher. Respondent claimed that [REDACTED] threw herself on top of him. He was taken to Illinois Masonic Hospital for surgery for approximately 6 hours. He said he was in the hospital for approximately 1 month. Respondent said he came back to work on January 5, 2015. He then was contacted by OPR sometime in August of 2015. Respondent had his Lauderhill hearing in March of 2016 and was suspended without pay in April of 2016.

When he met with [REDACTED], Respondent gave OPR Sheriff's Exhibit 1. Respondent said [REDACTED] did not discuss or ask him about Sheriff's Exhibit 1 or follow up with him after. Respondent said he felt pressured and believed that the investigators were "overstepping what [he] was trying to tell them..." during his recorded statements. He said he was asked about the note with burnt edges but denied giving [REDACTED] such a note.

On cross-examination, Respondent testified that he was a Non-Commissioned Officer (herein after "NCO") serving both in Iraq and Afghanistan. He was honorably discharged from the Army. When he was on duty, he was at [REDACTED], [REDACTED] for training. Respondent said on September 3, 2014, he had his beret on because he did not want to disrespect his uniform. Respondent said it was a military custom to wear a beret or a hat when wearing Class A uniform. Respondent agreed that if he saw an enlisted person wearing his/her uniform wrong, as a NCO, he was expected to correct it. On September 3, 2014, Respondent was separated from the Army and as a NCO, he was not permitted to wear his Class A uniform unless it was for a ceremonial occasion. On September 3, 2014 when he showed up at [REDACTED] house in Class A uniform, it was not a ceremonial occasion. Respondent said he was going to attend a ceremony on 9/11. Prior to starting as a correctional officer, Respondent attended and passed the academy. Since this accident, Respondent had not attended any in-service training. As part of the academy, Respondent said he was trained on the proper handling of his duty weapon. He was taught how to handle rifles in the Army and not handguns; however, he did qualify on the 9mm Beretta to go to Afghanistan and Iraq. He did know how to use a handgun safely. Respondent said that his Glock 19 had no safety and was always live. Respondent explained that his gun was stuck between buttons because when it was in the holster, the holster itself was not all the way down. He had his weapon right in front of him because he felt comfortable driving that way. Respondent said he put his Class A uniform at home prior to arriving at [REDACTED] house. He was told by the person doing the alteration to put his uniform on top of shorts since they did not have a changing room.

After the shooting, Respondent was told by the hospital that he had to see a therapist for 8 to 13 weeks. Respondent said he informed the hospital that he wanted to see the therapist because the shooting was "very fresh" and "a traumatic experience." He was required to see a

therapist once a week, talk about the accident, and how to cope with it. He did not remember what he had said when he was under anesthesia. He was cleared by medical to come back to work around January 2015. He believed that OPR investigation was completed almost a year after he was cleared by medical. Respondent did understand that medical and OPR are separate and that OPR conducted their own investigations. Respondent said he did tell OPR that he was on his way to a dry cleaner located at [REDACTED]. At that time, he did not remember the name of the cleaners. Respondent said he did tell OPR that he was going to attend a 9/11 event and that was the reason he was getting his uniform altered.

On re-direct examination, Respondent testified that he did not feel like he was having a friendly conversation with OPR. He was ordered to appear at OPR and he complied. He said he felt intimidated.

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 first, the Respondent violated Sheriff's Order 11.2.20.0 VI (B) (2) by failing to conduct himself in a manner to reflect favorably on the CCSO and discredited the integrity of the CCSO. [REDACTED] testified credibly the events of September 3, 2014 and thereafter. The Board finds that Respondent showed up at [REDACTED] house with an intent to commit suicide in his Class A uniform with a beret; that Respondent did give [REDACTED] a note that directed all his assets to go to [REDACTED] and not his family upon his death; that Respondent did say to [REDACTED] "Do you think I'm playing? Do you think that this is a joke? You know, why don't you believe me"; that after saying this, he intentionally shot himself in the stomach with his duty weapon. Respondent's testimony that he wore his Class A uniform with a beret for purpose of going to a Cleaner after meeting [REDACTED] is unbelievable and not credible. Respondent's testimony that he was told to wear the uniform because the Cleaners did not have a changing room is unbelievable and not credible. Respondent's testimony that he had his gun in front of him instead of his side is unbelievable and not credible. Respondent's testimony that his gun was caught in between buttons of his uniform is unbelievable and not credible. Respondent's testimony that he tried to catch his gun when it was coming out of his holster is unbelievable and not credible. Respondent's testimony that the gun was discharged accidentally is unbelievable and not credible. Respondent gave a letter (Sheriff's Exhibit 1) signed by [REDACTED] stating that the shooting was accidental. The Board finds that [REDACTED] testimony that she only signed the letter because she received an assurance from Respondent's family that he would leave her alone credible.

Second, Respondent violated Sheriff's Order 11.2.20.0 VI D (18) by handling his weapon in a careless and negligent manner when he intentionally shot his stomach in front of [REDACTED], an ex-girlfriend.

Third, Respondent violated General Order 4.1 A (18) when he made a false official report, either oral or written when he made false recorded statements to OPR on August 27, 2015 by stating that he did not attempt to commit suicide on September 3, 2014; by stating that his duty weapon accidentally discharged when he attempted to reposition it; by stating that he was wearing his United States Army military Class A uniform because he was going to a cleaner to get it altered; and by stating that he did not give [REDACTED] a note. Even though the note was not presented during this hearing, [REDACTED] was able to testify credibly the content and the description of the note.

Lastly, Respondent violated Cook County Sheriff's Department Merit Board Rules and Regulations by violating the above Sheriff's Orders and General Order.

Conclusion:

Wherefore, based on the foregoing, it is hereby ordered that the Respondent is terminated and removed from the Cook County Sheriff's Office effective April 8, 2016.

Walter Fernandez #1894

[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