

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)
)
vs.) **Docket # 1815**
)
Brandon Hofgesang)
Police Officer)

DECISION

THIS MATTER COMING ON to be heard before Merit Board Member John J. Dalicandro pursuant to notice, the Cook County Sheriff's Merit Board finds as follows

Jurisdiction

The Respondent, Brandon Hofgesang, hereinafter "Respondent". Respondent's position as a Cook County Sheriff Police Officer involves duties and responsibilities to the public; and Each member of the Cook County Sheriff's Merit Board, hereinafter "Board," has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term; and The Board has jurisdiction of the subject matter of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes; and The Respondent was personally served with a copy of the Complaint and Notice of Hearing and did not appear before the Board to contest the charges contained in the complaint; and The Board has heard the evidence presented by the Sheriff and the Respondent, and evaluated the credibility of the witnesses and supporting evidence. After considering the evidence, the Board finds as follows:

Background

By complaint dated May 21, 2015. Sheriff Thomas J. Dart, sought the termination of Brandon Hofgesang, the Respondent. The Sheriff is seeking termination from the Cook County Sheriff's Office for the alleged violations of the Rules and Regulations of the General Orders of the Cook County Sheriff's Department.

That by his actions, Respondent violated the Rules and Regulations and General Orders of the Cook County Sheriff's Department, specifically the complaint states:

1. That on July 8, 2002, the Respondent was appointed a Correctional Officer.
2. That on October 6, 2008, the Respondent was appointed a Police Officer.
3. That on January 1, 2014, the Respondent was assigned to the Fugitive Unit of the Cook County Sheriff's Police Department ("CCSPD").
4. That on November 30, 2014, the Respondent was assigned to Rolling Meadows Patrol of the CCSPD.
5. That on December 31, 2014, Respondent was assigned to beat #8338, to CCSPD vehicle Unit #1061, and on duty between 1500 and 0100 hours.

6. That on December 31, 2014 at approximately 0730 hours, while off duty, Respondent conducted a traffic stop involving Ms. [REDACTED] [REDACTED] at the parking lot of a Lifetime Fitness in Schaumburg, Illinois.
7. That on December 31, 2014 at approximately 0730 hours, Respondent failed to obtain supervisor approval and notify the Cook County Communications Center via radio when Respondent used his Cook County Sheriff's Police patrol vehicle (Unit #1061) outside of normal duty hours (1500 – 0100 hours) to conduct a traffic stop involving Ms. [REDACTED] [REDACTED] at Schaumburg, Illinois.
8. That on December 31, 2014, Respondent did not have cause to conduct a traffic stop of Ms. [REDACTED] [REDACTED] at the parking lot of a Lifetime Fitness in Schaumburg, Illinois.
9. That on December 31, 2014, Respondent falsely reported to Cook County Sheriff's Police supervisors that he did not conduct a traffic stop earlier that day.
10. That on December 31, 2014, Ms. [REDACTED] [REDACTED] filed a formal complaint with the Cook County Sheriff's Office of Professional Review ("OPR") against Respondent.
11. That on December 31, 2014 at approximately 1810 hours, Respondent arrested Mr. [REDACTED] [REDACTED] and charged him with a fraudulently obtained look-alike prescription medication on a Cook County Ordinance Code Complaint ([REDACTED]).
12. That on December 31, 2014, Mr. [REDACTED] [REDACTED] informed CCSPD Lieutenant [REDACTED] [REDACTED] that Respondent asked Mr. [REDACTED] [REDACTED] to meet Respondent at the Illinois State Police ("ISP") building to retrieve his driver's license.
13. That on December 31, 2014, Mr. [REDACTED] [REDACTED] also informed CCSPD Lieutenant [REDACTED] [REDACTED] that Respondent arrested him for "being suspicious" and "having a Viagra like tablet without a prescription" while Mr. [REDACTED] [REDACTED] was attempting to report an unrelated crime.
14. That on January 1, 2015, CCSPD Lieutenant [REDACTED] [REDACTED] voided the Cook County Ordinance Code Complaint ([REDACTED]) issued on December 31, 2014 to Mr. [REDACTED] [REDACTED] by Respondent because the citation was issued for the offense of Fraud and there was no Cook County Ordinance for this violation.
15. That on December 31, 2014, Respondent left his CCSPD patrol vehicle (Unit #1061) unattended, backed into the ISP Sally Port with the engine running and the overhead door closed.
16. That on December 31, 2014, CCSPD Sergeant [REDACTED] [REDACTED] discovered Respondent's CCSPD patrol vehicle (Unit #1061) backed into the ISP Sally Port with the engine running and the overhead door closed while unattended. CCSPD Sergeant [REDACTED] [REDACTED] ordered Respondent to return to the office once his vehicle was relocated outside of the ISP building and Respondent failed to return to the office as ordered.
17. That on December 31, 2014 at approximately 2018 hours, the Cook County Sheriff's Office ("CCSO") Communications Center attempted to contact Respondent via radio for an assignment and Respondent failed to respond to the call for service.
18. That on December 31, 2014, Respondent failed to answer several radio calls from the CCSO Communications Center.
19. That on December 31, 2014, Respondent failed to answer calls to his mobile telephone from a supervisor.
20. That on December 31, 2014, after unsuccessful attempts to reach Respondent via radio and mobile telephone, the CCSO Communications Center sent multiple CCSPD patrol units to search Beat 38 and adjacent areas for Respondent with negative results.
21. That on December 31, 2014, after unsuccessful attempts to reach Respondent via radio and mobile telephone, Rolling Meadows CCSPD patrol units were dispatched to Respondent's residence with negative results.
22. That on December 31, 2014, Respondent abandoned his beat while on duty and deviated from his assigned route.

23. That on December 31, 2014, Respondent drove to Wisconsin and outside of Cook County in his Cook County Sheriff's Police patrol vehicle (Unit #1061) without permission or cause from CCSPD and/or CCSO.
24. That on December 31, 2014, Respondent failed to obtain supervisor approval and notify the Cook County Communications Center via radio that Respondent had driven his Cook County Sheriff's Police patrol vehicle (Unit #1061) outside of Cook County.
25. That on December 31, 2014, Respondent, while on duty and in Wisconsin, failed to obey traffic laws when driving his Cook County Sheriff's Police patrol vehicle (Unit #1061) in a non-emergency status.
26. That on December 31, 2014, Bloomfield Police Officer [REDACTED] observed Respondent's Cook County Sheriff's Police patrol vehicle (Unit #1061) traveling at a high rate of speed (the vehicle was recorded with radar traveling at 100 mph) down Highway 50 W, near Highway 50 W and Eastside Road.
27. That on December 31, 2014, Bloomfield Police Officer [REDACTED] pursued Respondent's Cook County Sheriff's Police patrol vehicle (Unit #1061) and when Bloomfield Police Officer [REDACTED] pulled up next to Respondent's vehicle, Respondent took off again at a high rate of speed, weaving in and out of traffic heading down Highway 50 E.
28. That on December 31, 2014, Bloomfield Police Officer [REDACTED] activated his emergency lights and requested that Respondent stop and Respondent failed to stop.
29. That on December 31, 2014, while Bloomfield Police Officer [REDACTED] was chasing after Respondent, Respondent drove through a red light and cut off another vehicle at the intersection of Highway 50 E and Highway P.
30. That on December 31, 2014 at approximately 2044 hours, Bloomfield, Wisconsin Police Department called Telecommunications Supervisor [REDACTED] to report a marked Cook County Sheriff's Police squad car traveling at a high rate of speed through Bloomfield, Wisconsin.
31. That on December 31, 2014 at approximately 2030 hours, Kenosha County Police Officer [REDACTED] encountered Respondent at the Mobil Gas Station located at 25406 75th Street in Salem, Wisconsin 53168.
32. That on December 31, 2014, Respondent identified himself as a Cook County Sheriff's Police Officer to Kenosha County Police Officer [REDACTED]
33. That on December 31, 2014, Respondent identified himself as a Cook County Sheriff's Officer to Kenosha County Police Officer [REDACTED] for personal gain and/or in an attempt to avoid the consequences of his illegal acts of driving a motor vehicle at a high rate of speed during a non-emergency status.
34. That on December 31, 2014, Respondent falsely reported to Kenosha County Police Officer [REDACTED] that he was sent up to Wisconsin on a special assignment and on his way back to Cook County for another assignment when asked by Kenosha County Police Officer [REDACTED] why Respondent was traveling over 100 mph through Walworth County, Wisconsin.
35. That on December 31, 2014, Respondent was warned by Kenosha County Police Officer [REDACTED] that he needed to slow down when driving because the speed he was traveling at was dangerous to the public.
36. That on December 31, 2014, after being admonished to slow down by Kenosha County Police Officer [REDACTED] Kenosha County Police Officer [REDACTED] observed Respondent speeding down Route 50 between 50 and 60 mph in a 35 mph zone going eastbound.
37. That on December 31, 2014 at approximately 2120 hours, Respondent contacted the CCSO Communications Center via radio for a "radio check" and falsely reported that he had been having some issues with his radio. Respondent also stated that his mobile telephone was on vibrate.

38. That on December 31, 2014 at approximately 2120 hours, Respondent was ordered by CCSPD Lieutenant [REDACTED] [REDACTED] to meet him on Willow Road at I-294 and Respondent responded in the affirmative. Respondent failed to obey CCSPD Lieutenant [REDACTED]'s order and was moving away from the meet spot directed by CCSPD Lieutenant [REDACTED]

39. That on December 31, 2014, [REDACTED]

40. That on December 31, 2014, [REDACTED]

41. That on January 12 and 13, 2015, Respondent failed to follow verbal and written orders directing him not to contact personnel of the CCSO with the exceptions of Inspector [REDACTED] [REDACTED] OPR Director [REDACTED] and Chief [REDACTED] from the Bureau of Human Resources when he contacted Cook County Sheriff's Police Officer [REDACTED] via text messages.

42. That on January 12 and 13, 2015, Respondent failed to follow verbal and written orders directing him not to contact personnel of the CCSO with the exceptions of Inspector [REDACTED] [REDACTED] OPR Director [REDACTED] and Chief [REDACTED] from the Bureau of Human Resources when he contacted Cook County Sheriff's Police Officer [REDACTED] via text messages.

43. That on January 12 and 13, 2015, Respondent failed to follow verbal and written orders directing him not to contact personnel of the CCSO with the exceptions of Inspector [REDACTED] [REDACTED] OPR Director [REDACTED] and Chief [REDACTED] from the Bureau of Human Resources when he contacted Cook County Sheriff's Police Officer [REDACTED] via text messages.

44. That on January 5, 2015, Respondent was notified via letter that [REDACTED]

45. That on January 20, 2015, Respondent was notified via letter that [REDACTED]. Respondent failed to appear on January 28 and 29, 2015 [REDACTED].

46. That on February 6, 2015, Respondent was interviewed and provided a signed statement to investigators from OPR and falsely reported that he did not drive his Cook County Sheriff's Police patrol vehicle (Unit #1061) out of his beat during his shift on December 31, 2014.

47. That on February 6, 2015, Respondent falsely reported to investigators from OPR that he did not drive his Cook County Sheriff's Police patrol vehicle (Unit #1061) into Wisconsin during his shift on December 31, 2014.

48. That on February 6, 2015, Respondent falsely reported to investigators from OPR that he was not in Bloomfield, Wisconsin at approximately 2044 hours on December 31, 2014.

49. That on February 6, 2015, Respondent falsely reported to investigators from OPR that he was not in Kenosha, Wisconsin at approximately 2045 hours on December 31, 2014.

50. That on February 6, 2015, Respondent falsely reported to investigators from OPR that he was not in Salem, Wisconsin on December 31, 2014 and stated that he did not know why a receipt from Brass Ball Mobil Gas Station in Salem, Wisconsin with his mother's credit card number was found in his car.

51. That on February 6, 2015, Respondent stated to investigators from OPR that he did not know why the usage history of his Cook County Sheriff's Police patrol vehicle's (Unit #1061) IPass recorded him in Wisconsin.

52. That Respondent failed to record in a Department log Mr. [REDACTED] [REDACTED] driver's license and secure the property in accordance with CCSO policies and procedures. Mr. [REDACTED] [REDACTED] driver's license was found in Respondent's Cook County Sheriff's Police patrol vehicle (Unit #1061).

53. That Respondent failed to record in a Department log Mr. [REDACTED] insurance identification card and secure the property in accordance with CCSO policies and procedures. Mr. [REDACTED] insurance identification card was found in Respondent's Cook County Sheriff's Police patrol vehicle (Unit #1061).

54. That Respondent failed to record in a Department log throwing knives/stars and secure the property in accordance with CCSO policies and procedures. The throwing knives/stars were found in Respondent's Cook County Sheriff's Police patrol vehicle (Unit #1061).

55. That on December 31, 2014, Respondent engaged in off duty behavior that reflects negatively on the CCSO and Respondent's conduct throughout this incident was unbecoming of an officer of the CCSO as alleged in paragraphs 6 through 54.

56. That by his actions, Respondent violated the Rules and Regulations of the Cook County Sheriff Office, specifically:

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

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.

**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:
 - a. Involves moral turpitude or impairs their ability to perform as law enforcement officers; or
 - b. Causes the CCSO to be brought into disrepute.
5. Not use their official position, official identification cards, stars or hat shields for:
 - a. Personal or financial gain for themselves or others.
 - b. Obtaining privileges not otherwise available to them except in the performance of duty.
 - c. Avoiding consequences of illegal acts.
8. Furnish their names and star numbers where applicable to any person requesting that information while on duty, unless withholding such information is necessary for the performance of police duties (e.g., undercover work).
10. Ensure that relationships with colleagues promote mutual respect within the profession and improve quality of service.

C. Conduct toward superiors, associates, and subordinates.

CCSO employees shall:

1. Treat superiors, associates and subordinates with respect, being courteous and civil in their relationships with one another at all times.
3. Promptly obey any lawful orders of a superior either written or oral. This will include orders relayed from a superior by a person of the same or lesser rank; or by a telecommunication via radio.
4. Truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the CCSO which may be asked of them upon the order of the Sheriff, Undersheriff, or any superior.

D. Prohibited associations, establishments, and activities.

CCSO employees shall not:

23. Commit acts that jeopardize security of CCSO facilities or the health, safety and welfare of subjects, employees, visitors, or the public.
25. Fail to cooperate or fail to be truthful with external and/or internal agencies in an investigation of a criminal or civil matter.

E. Duty functions.

CCSO employees shall:

3. Not conceal themselves from the public, or their location from superiors or fellow employees except in the performance of an assigned function. They shall:
 - b. Answer all calls (e.g., radio or work cell phone where applicable) as soon as possible. No employee shall fail to answer any radio or phone call directed to him/her except under the most extraordinary circumstances or when otherwise directed by a supervisor.
4. Not undertake any investigation or other official action that is not part of their regular duties without obtaining permission from their

supervisor unless the exigencies of the situation require immediate police action.

7. Not make any traffic stops, arrests, searches or seizures that they know or should know are not in accordance with law and CCSO procedures.

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.

2. Not interfere with or obstruct any investigation by destroying, altering, concealing, or disguising real evidence, or by planting false evidence or furnishing false information to lawful authority.

4. Respect the importance of agencies within the criminal justice system and work to improve cooperation with each segment.

SHERIFF'S ORDER 11.5.81.0 (effective date: December 20, 2010)

OPERATION OF VEHICLES, in its entirety, including but not limited to, the following subparts:

II. POLICY

Employees assigned to operate a Cook County Sheriff's Office (CCSO) vehicle will be held accountable for proper use and care of the vehicle. Vehicle operators will comply with all applicable Illinois statutes and ordinances regarding the operation of motor vehicles.

V. GENERAL OPERATION

B. Driving conduct

1. Safe, courteous, and intelligent driving practices must be observed by all vehicle operators.

2. Unless engaged in a response to an emergency situation, operators will be aware of their obligation to strictly obey all traffic laws.

5. Vehicle operators will observe driving procedures that promote fuel conservation, i.e. minimize aggressive acceleration, unnecessary idling, and maintaining the speed limit.

6. Operators of all CCSO vehicles (buses, squads, unmarked vehicles, etc.) will keep a safe distance between vehicles and not engage in practices which are discourteous and dangerous (i.e. "cutting off" other drivers or following too closely).

9. As stated in 625 ILCS 5/11-205, Illinois Vehicle Code exemptions allowed for emergency vehicles do not relieve the operator from the duty of driving with due regard for the safety of all persons, nor do such provisions protect the operator from the consequences of reckless disregard for the safety of persons or property.

C. Use of vehicles

1. County vehicles will only be used within the operator's line of duty for county business only. The vehicle operator will

obtain supervisor approval and notify the Communications Center via radio whenever a CCSO vehicle is used outside of normal duty hours (i.e. obtaining vehicle service or court attendance).

7. County vehicles may be driven in Cook County. Vehicles may be driven out of Cook County only if such routes are reasonable, within the line of duty, and approved by the operator's supervisor. No vehicle shall be taken home unless authorized.

8. Under no circumstances are officers allowed to deviate from their assigned routes or conduct personal business during their tour of duty. Employees who conduct personal business during a tour of duty are subject to disciplinary action.

VIII. REQUESTS FOR CCSO VEHICLES TO STOP

A. When a vehicle operator is requested or commanded to stop by another law enforcement agency, the employee will:

1. immediately stop, regardless of the assignment, even if that assignment involves answering a serious emergency call;

X. APPLICABILITY

By order of the Sheriff of Cook County, this Sheriff's Order applies to all CCSO employees and is for strict compliance.

SHERIFF'S ORDER 11.5.85.0 (effective date: July 12, 2012)

CCSO ISSUED VEHICLES, in its entirety, including but not limited to, the following subparts:

II. POLICY

The use of a Cook County Sheriff's Office (CCSO) Issued Vehicle is deemed a privilege and not an automatic fringe benefit or employment right. Use of a CCSO issued vehicle may be authorized to Sheriff's Office employees at the discretion of executive management for work purposes according to the provisions in this Sheriff's Order. Failure to comply with this policy may result in the immediate removal of vehicle use privileges and may be subject to disciplinary action up to and including termination.

III. APPLICABILITY

A. This Sheriff's Order applies to all CCSO employees, chaplains and any other individual authorized to drive a CCSO issued vehicle and must be strictly adhered to.

B. This Sheriff's Order shall supersede all conflicting provisions in any issued Sheriff's Order, General Order or other policy.

VI. ASSIGNED VEHICLES

B. Use of Assigned Vehicles

1. Assigned Vehicles shall only be used for transportation to and from the employee's home to the CCSO workplace and for transportation to and from CCSO work functions.

3. Assigned Vehicles shall not be used for personal business.

4. Assigned Vehicles may only be used within Cook County unless authorized by the Department Head/Designee or the employee is utilizing the vehicle to attend a CCSO work function outside of Cook County.

8. All Sheriff's Office employees issued an Assigned Vehicle shall exercise good judgment in the use and operation of the vehicle and shall

refer to the policies and procedure in the current Sheriff's Orders regarding vehicle operation.

COOK COUNTY SHERIFF'S POLICE DEPARTMENT

GENERAL ORDER, G.O. NUMBER: ROC-00-01-A (effective date: April 3, 2001)

RULES AND REGULATIONS, in its entirety, including but not limited to, the following subparts:

ROC 00-01-A.1

I. AUTHORITY

1.3 Officers will uphold the Constitution of the United States and the State of Illinois, obey all federal, state and local laws and comply with court orders and decisions from courts having jurisdiction in Cook County.

ROC 00-01-A.2

II. ORDERS

ORDERS

2.1 Members of the Department will strictly obey and properly execute any lawful order emanating from any ranking Officers who are their seniors. The term "lawful order" will be construed as an order in keeping with the performance of any duty prescribed by law, rule or regulation of the Department, or for the preservation of order, efficiency or proper discipline.

INSUBORDINATION

2.7 Failure or deliberate refusal to obey a lawful order or ridiculing a superior or their orders will be considered insubordination.

GENERAL AND SPECIAL ORDERS

2.15 Violations of General and Special Orders will be considered violations of Department Rules and Regulations.

KNOWLEDGE OF RULES, ORDERS, PROCEDURES AND BULLETINS

2.16 Members will thoroughly familiarize themselves with the rules and procedures of the Department and the orders issued applicable to them. They will, upon return from any absence of any duration, familiarize themselves with all changes that may have taken place during such absence.

ROC 00-01-A.4

IV. COMMUNICATIONS AND CORRESPONDENCE

FALSE REPORTS

4.2 No member of the Department will make false official record(s), reports, or report any inaccurate, false or improper information.

ROC 00-01-A.9

IX. DEPARTMENT MOTOR VEHICLES

OPERATING DEPARTMENT VEHICLES UNDER NON-EMERGENCY CONDITIONS

9.8 Drivers will observe all traffic regulations with respect to parking. When any Department Officer is not on an emergency call, all normal safe driving practices must be adhered to, including obedience to all traffic laws. Members will comply with current orders and directives pertaining to operation of motor vehicles.

LEAVING VEHICLE UNATTENDED

9.9 Operators will not permit the engine of the vehicle they are driving to be left running while the vehicle is unattended, occupied only by a member of the Department who is not a qualified driver or occupied by non-Department persons. When it is necessary to leave a vehicle unattended and unoccupied, the operator will, except in emergency, lock the ignition* and doors. Even when vehicles are parked on Department property, they key will be removed and doors and windows locked.

* Department installed ignition lock/run-on systems may be utilized.

ROC 00-01-A.12

XII. CONDUCT REGARDING THE PERFORMANCE OF DUTY

GENERAL DUTIES

12.2 Officers on-duty will be constantly alert, keeping a vigilant watch for needed police services. Officers will be physically and mentally fit to perform their duties. They will be properly equipped and cognizant of information required for the proper performance of duty.

12.3 Officers will patrol their beat and perform assigned duties as required. They will not leave their beat, post, or duty assignment except as directed in the discharge of policy duty.

CONFORMITY TO RULES AND REGULATIONS

12.7 It will be the responsibility of every member of the Department to thoroughly familiarize themselves with the rules, regulations, Orders and policies of the Department, and to conform to and abide by the same. Each Officer must have a working knowledge of all laws and ordinances in force. Officers will observe all such laws and ordinances and render service to the County with enthusiasm, courage, discretion and loyalty.

PERFORMANCE OF DUTY

12.9 Officers will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Any member of the Department who displays reluctance to properly perform his assigned duties, or who acts in a manner tending to bring discredit upon himself or the Department or whose actions or performance in a position, rank or assignment are below acceptable standards, may be deemed incompetent and will be subject to dismissal from the Department.

12.10 Officers of the Department will have regular hours assigned to them for active duty by the Department. However, they will be always subject to duty as needed. While off-duty, Officers will not be relieved from the responsibility of taking proper police action on any matters coming to their attention. Off-duty Officers will refer minor regulatory or traffic offenses to the proper authorities.

AVAILABILITY WHEN ON-DUTY

12.17 Uniformed Officers will not conceal themselves while on-duty except for the furtherance of a police objective. They will be clearly visible and readily available to the public during duty hours and will immediately respond to the lawful Orders of superior Officers and other competent authorities.

12.18 Although emergency calls take precedence, all calls will be answered as soon as possible, consistent with normal safety precautions and vehicle laws. No Officer will fail to answer any radio call directed to him.

RECOVERED PROPERTY

12.20 Members taking any property into custody in connection with their official duties will, as soon as practicable, record such property in the Department property log and secure the property in accordance with current Department General Orders.

ROC 00-01-A.13

XIII. PERSONAL CONDUCT

STANDARD OF CONDUCT

13.1 Members will conduct themselves on or off-duty in such a manner as to reflect favorably on the Department. Members will not engage in conduct which discredits the integrity of the Department or its employees or which impairs the operation of the Department.

ROC 00-01-A.16

XVI. VIOLATIONS AND DISCIPLINARY ACTION

SUMMARY OF ACTIONS SUBJECT TO DISCIPLINE

16.10 Failure to comply with Departmental Policy, Procedures and Orders will subject the member to Summary discipline. This list does not include all possible violations contained in the Rules and Regulations:

16.11 Violation of any Federal or State law, County or Municipal ordinance.

16.14 Conduct unbecoming a member of the Department.

16.20 Violation of a direct order of a superior.

16.21 Violation of Departmental general or special orders.

COOK COUNTY SHERIFF'S POLICE DEPARTMENT

GENERAL ORDER, G.O. NUMBER: OPS 03-03-A (effective date: October 1, 2003)

RULES AND REGULATIONS DEPARTMENT VEHICLE ACCIDENTS POLICE PURSUITS, in its entirety, including but not limited to, the following subparts:

III. GENERAL OPERATION PROCEDURES

B. Driving Conduct

1. Safe, courteous and intelligent driving practices must be observed by all vehicle operators.

2. Operators will be aware of their obligation to strictly obey all traffic laws.

C. Use of Vehicles

1. County vehicles will only be used within the operator's line of duty, unless exempted by the Chief of Police. The Communications Center will be notified, via radio, whenever a Department vehicle is used during off-duty hours, (i.e. obtaining vehicle service or court attendance).

VII. VIOLATION OF VEHICLE OPERATING PROCEDURES

Violation of vehicle operating procedures are infractions of the Department Rules and Regulations.

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

COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS

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

1. violate any law or statute of any State or of the United States of America

2. violate any ordinance of a County or Municipal Government

3. violate any of the general orders, special orders, directives, or rules and regulations of the Cook County Sheriff's Office.

Findings of Fact: Evidentiary hearing on this matter was held on February 18, 2016. Present were Assistant State's Attorney [REDACTED] on behalf of the Sheriff and [REDACTED], Assistant General Counsel for the Sheriff of Cook County. [REDACTED] appeared on behalf of Respondent Brandon Hofgesang.

Four witnesses testified for the Sheriff, [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

Respondent Brandon Hofgesang testified.

DIRECT EXAMINATION

[REDACTED] testified, he is a sergeant with the Sheriff's Police, he has been employed with the Cook County Sheriff's Office for 12 years. He was the patrol supervisor on third watch in the Skokie patrol district on December 31, 2014. The shift had a manpower shortage and two officers were called into work that day, Officer Hofgesang and Officer [REDACTED]. Officer Hofgesang reported for duty for the 3:00 p.m. shift. At approximately 1810 hours, Officer Hofgesang had placed a male subject into custody. Officer Hofgesang had indicated to him that he looked familiar, recognized him from a bulletin one of our detectives had generated weeks earlier regarding armed robberies that had been occurring in the area. At that same time, he learned that there was a report of a harassing telephone call. The victim of that call requested to meet at the Illinois State Police building. Officer Hofgesang was also on that call. In reviewing the arrest for approval, he asked for Officer Hofgesang to call him. He wanted to ask him how did he come into taking someone into custody when he was just on a call for service. He spoke to Officer Hofgesang on his cell phone. Officer Hofgesang explained to him that this fellow showed up with the complaint for the harassing phone call, he recognized him, he seemed suspicious, he wanted to print him for a positive ID, he did a pat-down and located a substance in his pocket, he thought it was Viagra. Sergeant [REDACTED] then approved the arrest.

[REDACTED] testified that he noticed Officer Hofgesang's police vehicle running in the sally port with the car door open and the sally port doors closed. He asked Officer Hofgesang if he had something going on? Officer Hofgesang told him he was leaving right now. Sergeant [REDACTED] told him to go park the car in the lot and come back they would talk about it. Officer Hofgesang then drove out, closed the door, and did not return.

Sergeant [REDACTED] then spoke to Lieutenant [REDACTED] he told him about what just happened in the sally port. While he was meeting with Lieutenant [REDACTED] they learned that there were attempts at radio communication to contact Officer Hofgesang. It was approximately 7:30 in the evening and no response from Officer Hofgesang in answering his radio. All attempts at contacting Officer Hofgesang including cell phone calls to his cell phone were all not being answered. Police Officer [REDACTED] was able to reach him by calling his cell phone. Officer [REDACTED] told him to acknowledge over the air that he was alright, he then hung up on him.

[REDACTED] testified that while these events were unfolding, there was a call from the Bloomfield, Wisconsin Police Department. Bloomfield P.D. contacted the Communications section, spoke with [REDACTED] and they informed her that they saw a Cook County Sheriff's marked squad car driving through their town at a high rate of speed. At that point he decided after talking with Lieutenant [REDACTED] that they would start driving towards Bloomfield, Wisconsin.

They decided to also ping the radio that Officer Hofgesang was using to determine his location. The information coming from the signal had shown that the vehicle was continually travelling northbound towards Lake Geneva and then eastbound on Route 50 in Wisconsin.

Sergeant [REDACTED] was then driving towards Wisconsin, when the Communications Center informed him that Officer Hofgesang's radio began to ping southbound towards Illinois. He then turned around and started driving back to Illinois to meet up with Lieutenant [REDACTED]. They met on I-294 and Lieutenant [REDACTED] had advised him that Officer Hofgesang had "rogered up on the air." Lieutenant [REDACTED] contacted

Officer Hofgesang to ask him to meet at Willow Road and I-294. Officer Hofgesang then pulled his car right up next to him. The window came down, "Hey, [REDACTED] what's up?" was the initial contact. He couldn't understand why they were there. He didn't have any recollection or acknowledgement that they had been looking for him. Sergeant [REDACTED] asked him if he'd been in Wisconsin, and he completely denied it. He was confused at the question itself. Lieutenant [REDACTED] was also with him when they talked to Officer Hofgesang outside of his vehicle. Sergeant [REDACTED] also arrived on the scene. Officer Hofgesang did surrender his firearm to Lieutenant [REDACTED] when asked to turn it over.

[REDACTED]. They explained to him everything that had occurred, this was going to be the course of action they were going to take. [REDACTED]

[REDACTED]. As Sergeant [REDACTED] went through the contents of his uniform he found a credit card receipt. The receipt was from Brass Ball Mobil Gas Station at 75th Street, in Salem, Wisconsin. The receipt was dated December 31, 2014 and the time on it is 8:36 p.m. The Visa card noted on the receipt belongs to [REDACTED]. The Visa card was also part of the items he found in Officer Hofgesang's uniform.

CROSS EXAMINATION

Sergeant [REDACTED] testified that he signed off on the inventory of the materials that were on Officer Hofgesang's person and in his vehicle. The inventory sheet does not note the credit card or credit card receipt.

DIRECT EXAMINATION

[REDACTED] testified, he is a commander with the Sheriff's Police Department. He was called in on December 31, 2014. He was told that one of his officers Brandon Hofgesang was missing. He drove to I-294 and Willow Road to meet with Sergeant [REDACTED]. He was informed that Officer Hofgesang's vehicle was coming from Wisconsin back into Illinois.

He arrived on the scene and was met by Lieutenant [REDACTED] and Sergeant [REDACTED]. Officer Hofgesang was being asked to turn over his service weapon. They asked Officer Hofgesang if he had been in Wisconsin and he answered no he was not. After discussion, he agreed to give up his weapon. Once his weapon was turned over, [REDACTED].

[REDACTED] He also completed an Internal Affairs/Inspector General Complaint.

CROSS EXAMINATION

[REDACTED]

On the morning of December 31, 2014, he did not have any encounter with [REDACTED] [REDACTED]. He was working his shift when he saw a suspicious individual Mr. [REDACTED] in the station who matched the description of a suspect they were looking for, and he asked if he could search him. Mr. [REDACTED] allowed the search and he found a small blue pill in his pocket. He proceeded to issue him a ticket. Sergeant [REDACTED] did talk to him about his car left running in the sally port. He said the car was not running and the door was open.

Later in the shift he had trouble with his radio. He was not getting calls assigned to him. When he went to check his radio, he determined it was working again and officers were looking for him. At no time did he travel to Wisconsin.

He met up with his supervisors on Willow road. [REDACTED]

He testified he was not traveling at 120 miles an hour thru Wisconsin. [REDACTED]

CROSS EXAMINATION

Officer Hofgesang, stated he did not have any interaction with [REDACTED] [REDACTED] on December 31. The vehicle identified was 1061, it was assigned to him it however it was at his house in the morning.

Mr. [REDACTED] was given a ticket for fraud. The ticket was voided because that allegation of fraud is not a violation of a Cook County ordinance.

He stated that he did park in the sally port and the vehicle was not running. He does not remember Sergeant [REDACTED] asking him to move his vehicle that evening.

Officer Hofgesang left the sally port and returned to his beat. He noticed that his radio was quiet for a time. He went to use it and was told everyone was looking for him. He also noticed his cell phone had missed calls on it.

At no point did he travel to Wisconsin. He does not know how the gas station receipt with his mom's credit card being used, was found in his items. He reported to OPR that his gas card wandered out of his car and then was found in a Shell Station.

The I-Pass information from his vehicle 1061 on December 31 going north. His explanation was it could be inaccurate and the I-Pass was found rolled up in a T-shirt on the floor of his vehicle.

Officer Hofgesang testified that [REDACTED]. He did call [REDACTED] stating that he was not going to be able to make the January 28 date [REDACTED]

[REDACTED] He did not make the other date [REDACTED]

Several driver's licenses, were found in his vehicle. He testified that, if you write a lot tickets it's not unordinary for a license to fall to the wayside.

A set of throwing knives was also found in his police car. He had charged this individual separately for a drug charge. The headquarters is the only place that has an inventory area, and it is located in Maywood. He never had time to take it for destruction.

Findings of Fact:

Officer Brandon Hofgesang on December 31, 2014 violated the Cook County Sheriff's Police Department Rules and Regulations stated in the complaint. He started at 730 in the morning when he stopped [REDACTED] in a parking lot in Schaumburg for no apparent reason. His further activities while on duty this day clearly raise concerns of his conduct as a Police Officer. He directly and repeatedly refused direct orders from his superior officers. His vehicle drove into Wisconsin without any justification and he testified that none of these violations occurred. A total lack of candor. The evidence clearly sustains the charges filed against him.

Conclusions of Law: Based on the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Merit Board finds that the Respondent did violate the Cook County Sheriff's Police Department Rules and Regulations.

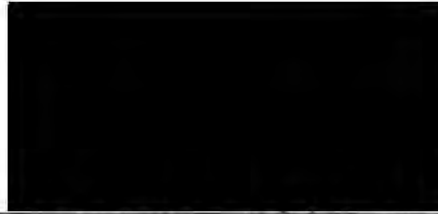
Order: Wherefore, based on the foregoing, it is hereby ordered that the Sheriff's request to terminate and remove Brandon Hofgesang, respondent, from the Cook County Sheriff's Office is granted effective May 21, 2015.

Brandon Hofgesang
Police Officer

#1815



James P. Nally, Chairman



Kim R. Widup, Board Member



Vincent T. Winters, Board Member



Byron T. Brazier, Vice Chairman



Patrick Brady, Board Member



Jennifer E. Bae, Board Member



Brian J. Riordan, Board Member



Gray Mateo-Harris, Board Member



John J. Dalicandro, Secretary

Dated:

April 20, 2016