

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)	
)	
vs.)	
)	Docket No. 1908
Thomas Raines)	
Correctional Officer)	
Star # 16965)	

DECISION

This matter coming on to be heard pursuant to notice before Kim R. Widup, Board Member, on September 6-7-8 and 13, 2017, the Cook County Sheriff's (CCSO) Merit Board finds as follows:

Jurisdiction

Thomas Raines, hereinafter Respondent, was appointed a Correctional Officer for the Cook County Department of Corrections (CCDOC) on July 16, 2012. Respondent's position as a Correctional Officer involves duties and responsibilities to the public; 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; the Board has jurisdiction of the subject matter of the parties in accordance with 55 ILCS 5/3-7001, *et seq*; and the Respondent was served with a copy of the Complaint and notice of hearing and appeared before the Board with counsel to contest the charges contained in the Complaint.

As a threshold matter, a proceeding before the Merit Board is initiated at the time the Sheriff files a written charge with the Merit Board, 55 ILCS 5/3-7012. A document is considered filed, in this case with the Merit Board, "when it is deposited with and passes into the exclusive control and custody of the [Merit Board administrative staff], who understandingly receives the same in order that it may become a part of the permanent records of his office." *See Dooley v. James A. Dooley Associates Employees Retirement Plan*, 100 Ill.App.3d 389, 395 (1981) (quoting *Gietl v. Commissioners of Drainage District No. One*, 384 Ill. 499, 501-502 (1943) and citing *Hamilton v. Beardslee*, 51 Ill. 478 (1869)); accord *People ex rel. Pignatelli v. Ward*, 404 Ill. 240, 245 (1949); *in re Annex Certain Terr. To the Village of Lemont*, 2017 IL App (1st) 170941, ¶ 18; *Illinois State Toll Highway Authority v. Marathon Oil Co.*, Ill. App. 3d 836 (1990) ("A 'filing' implies delivery of a document to the appropriate party with the intent of having such document kept on file by that party in the appropriate place." (quoting *Sherman v. Board of Fire & Police Commissioners*, 111 Ill. App. 3d 1001, 1007 (1982)); *Hawkyard v. Suttle*, 188 Ill. App. 168, 171 (1914 ("A paper is considered filed when it is delivered to the clerk for that purpose").

The original Complaint in this matter was filed with the Merit Board's administrative staff on July 18, 2016. Regardless of whether or not Merit Board Members were properly appointed during a given term, the Merit Board, as a quasi-judicial body and statutorily created legal entity, maintained at all times a clerical staff not unlike the Clerk of the Circuit Court (Administrative Staff). These Administrative Staff members receive and date stamp complaints, open a case file, assign a case number, and perform all of the functions typically handled by the circuit clerk's office. Just as a timely filed complaint would be accepted by the circuit clerk even if there were no properly appointed judges sitting on that particular day, so too was the instant Complaint with the Administrative Staff of the Merit Board. Accordingly, the Complaint filed on July 16, 2016, commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case.

Background

The Sheriff filed a complaint on July 18, 2016, against the Respondent requesting termination of the Respondent's employment from the CCSO. After the trial was completed on this matter the case was delayed while certain legal proceedings were completed.

The complaint alleged, in summary, that on April 22, 2015, the Respondent used excessive force against detainee [REDACTED] (detainee [REDACTED]) "*when the Respondent administered closed-fist strikes to detainee [REDACTED]'s head and face, while detainee [REDACTED] was on the ground covering his face/head with both hands.*" The complaint further alleged that the Respondent along with two other CCDOC officers "made no effort to subdue and control detainee [REDACTED] while using the force described above..." and as such, "*the force used was not intended to control detainee [REDACTED] or to prevent further assault but to harm and punish detainee [REDACTED]*" Additionally, the complaint alleged the Respondent authored and submitted a false Response to Resistance/Use of Force Report in that the Respondent falsely reported that detainee [REDACTED] "*continued to threaten officers and attempted to strike them.*" Finally, the complaint alleged that the Respondent submitted false information on December 2, 2015, to the Office of Professional Review (OPR), CCSO.

After a series of legal reviews resolving issues regarding the constitution of the Board were completed, this matter was addressed with the parties by the Board regarding resolution of the case. A number of hearings were conducted with the parties and on December 4, 2018, the Respondent and the Sheriff stipulated to the following:

1. *"The Cook County Sheriff's Merit Board may rely upon the sworn testimony and documents, video(s), audio recording(s) or any other items admitted into evidence previously taken and/or submitted at the evidentiary hearing held on September 6-7-8 and 13, 2017, on the above listed matter in coming to a decision on the above listed matter:*
2. *The parties waive any objection to the Merit Board's reliance on the transcripts of the previous testimony and evidence admitted as described in Paragraph 1;*

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3. *No further evidentiary hearing is necessary as it relates to the above captioned case."*

The Petitioner (Sheriff) prepared and submitted to the Board their findings of fact as Petitioner's Proposed Findings of Fact and further described as Uncontested Findings of Fact. On February 1, 2019, the Respondent, after being granted a one week-continuance based upon an administrative difficulty, prepared and submitted their findings of fact to the Board as Respondent's Proposed Findings of Fact.

The sheriff introduced into evidence the video recording of the events of April 22, 2015 (Exhibit 1); Sheriff's Order 11.2.2.0, Response to Resistance/Use of Force Duties, Notifications and Reporting Procedures (Exhibit 2); Sheriff's Order 11.2.1.0, Response to Resistance/Use of Force Policy (Exhibit 3); Sheriff's Order 11.2.20.1, Conduct Policy (Exhibit 4); Sheriff's Order 11.2.7.0, Use of Restraints (Exhibit 5); General Order 24.9.1.0, Reporting Incidents (Exhibit 6); Article X, Rules and Regulations of the Cook County Sheriffs Merit Board (Exhibit 7); Incident Report of Corrections Officer (CO) [REDACTED], dated April 22, 2015 (Exhibit 8); Response to Use of Force Report of CO [REDACTED], dated April 22, 2015 (Exhibit 9); Response to Use of Force Report of CO [REDACTED], dated April 22, 2105 (Exhibit 10); Response to Use of Force Report of the Respondent, dated Aril 22, 2105 (Exhibit 11); email from Commander [REDACTED], CCDOC, dated April 22, 2015 (Exhibit 12); Supervisory Review Report of April 22, 2015, prepared by Lt. [REDACTED], Watch Commander, signed by Superintendent [REDACTED] and dated May 5, 2015, by Director [REDACTED] (Exhibit 13); Supervisory Review Report of April 22, 2105, by Lt. [REDACTED], Watch Commander, signed by Superintendent [REDACTED] and dated May 4, 2015, by Superintendent [REDACTED] (Exhibit 14); Director [REDACTED] memorandum to OPR, dated May 5, 2015 (Exhibit 15); Memorandum from Investigator [REDACTED] to Director [REDACTED], dated April 29, 2015 (Exhibit 16); OPR Waiver of Legal Counsel, OPR Notification of Allegations and OPR Administrative Proceedings Rights for CO [REDACTED], dated November 30, 2015 (Exhibit 17); OPR audio recording of interview of CO [REDACTED], dated November 20, 2015 (Exhibit 18); OPR Waiver of Legal Counsel, OPR Notification of Allegations and OPR Administrative Proceedings Rights for CO [REDACTED], dated December 2, 2015 (Exhibit 19); OPR audio recording of interview of CO [REDACTED], dated December 2, 2015 (Exhibit 20); OPR Waiver of Legal Counsel, OPR Notification of Allegations and OPR Administrative Proceedings Rights for the Respondent, dated December 2, 2015 (Exhibit 22); OPR audio recording of interview of the Respondent, dated November 20, 2015 (Exhibit 23).

CO [REDACTED] introduced into evidence a chart, entitled Policy and The Use of Force Model Shall Provide ([REDACTED] 1); and the Resume of Expert [REDACTED] ([REDACTED] 2). CO [REDACTED] introduced an Inmate Discipline Report for detainee [REDACTED], date of hearing April 24, 2015, signed by an unknown disciplinary board member ([REDACTED] 2); and an Emergency Response/Ambulance Report Sheet for CCDOC, dated April 22, 2015, for CO [REDACTED] ([REDACTED] 3).

Findings of Fact

Commander [REDACTED] (Commander [REDACTED]), CCDOC, testified that did view the video of the event of April 22, 2015 (Exhibit 1), involving detainee [REDACTED], the Respondent and, Officer [REDACTED] (CO [REDACTED] and Correctional Officer [REDACTED] (CO [REDACTED]), after being notified of the incident either by telephone or radio (TR24). Commander [REDACTED] testified that after he was notified, he reviewed the report and the video and referred the matter to the OPR (TR29). He could not recall reviewing any reports authored by either CO [REDACTED] or [REDACTED] (TR29). He did not make any findings on whether use of force was excessive (TR32). He believes that detainee [REDACTED] was the aggressor after reviewing the video (TR32). He testified that detainee [REDACTED] threw the first punch (TR32) at one of the CCDOC officers. Detainee [REDACTED] had an open cuff (TR32) and according to the use of force policy, an open cuff could be used as a deadly weapon (TR32). Commander [REDACTED] has no idea whether or not the inmate was injured (TR32). Detainee [REDACTED] was a resister at the time of the event (TR33). Commander [REDACTED] testified that when an inmate is an active resister, has a potential deadly weapon, and is not obeying commands the officers have to subdue that inmate (TR34). Commander [REDACTED] believes he saw [REDACTED] throw a punch in the video (TR36).

Executive Director [REDACTED] (Director [REDACTED]), Use of Force Unit, CCDOC, testified the Use of Force Unit is to review all use of force incidents for police, courts and the jail, collect data from those incidents and determine if there is a need for further review by OPR and if there is further training needed or recommended (TR40). He testified that he reviewed this incident after receiving the investigator's report (TR43) and in this case the investigator recommended that they move the case forward to OPR for further review (TR44). He said it was forwarded to OPR based on the belief that there were tactics that needed further review and that the detainee [REDACTED] had sustained injury (TR44). Director [REDACTED] testified that when detainee [REDACTED] struck CO [REDACTED] in the head, he is classified as a high-level assailant (TR81) and that detainee [REDACTED] was in possession of a deadly weapon when he had one hand uncuffed and was still in possession of the handcuff (TR82). He testified that detainee [REDACTED] would have been classified as high-level assailant independent of striking CO [REDACTED] (TR82). Director [REDACTED] testified that the officers could have responded with deadly force and mechanical strikes (TR83). Director [REDACTED] testified that detainee [REDACTED] was not complying with the officer's directions (TR83). He testified that detainee [REDACTED] had other altercations with CCDOC officers prior to the incident of April 22, 2015, but he could not recall how many, nor could he recall if these prior incidents involving detainee [REDACTED] resulted in the injury to the officers (TR85). Director [REDACTED] testified that he believed detainee [REDACTED] ceased being a high-level assailant when he was on the ground (TR87). He testified that while on the ground detainee [REDACTED] could have done something with his hand that had the loose handcuff on it (TR87). Director [REDACTED] testified that when a detainee has one cuff on and the other loose, an officer could use the tactic of hitting the hand to make sure that it weakens the wrist so the officer could get the cuff on the detainee (TR88). He testified this was the tactic that the Respondent was using during the incident with detainee [REDACTED] (TR88). He further testified that all the Respondent was trying to do was get the cuff on the detainee [REDACTED]'s hand (TR88-89).

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██████████, Consultant, former Commander, CCDOC, testified as an expert witness (Expert ██████████) on use of force on behalf of the Respondents. He also held the position of Director of Operations of the Cook County Sheriff's Department Jail (TR111). He was a participant in the authoring of the CCDOC Use of Force Policy to include its incorporation of the John Desmedt model (Desmedt model) for use of force (TR112). This was the first time that he had ever testified in front of the Merit Board as an expert (TR122). Expert ██████████ testified that he had consulted with Director ██████████ on the drafting of the CCDOC use of force policy when he was an employee of Cook County (TR121-122). After reviewing the video of the April 22, 2015, incident involving detainee ██████████ and the Respondent (Exhibit 1), it was expert ██████████'s opinion that detainee ██████████ was an assailant according to the Desmedt model (TR137). Expert ██████████ testified that detainee ██████████ was aggressive, attacking the officers, and armed with an open handcuff on his wrist (TR137). He testified once a detainee is in the assailant category an officer can use strikes or stunning techniques in response (TR138). He testified that after his review of the file and the video, he believed that detainee ██████████ was an armed assailant and that he had struck an officer in the face (TR138-139). Expert ██████████ testified that as officers ██████████ and ██████████ go to uncuff detainee ██████████, detainee ██████████ takes a swing at CO ██████████ and punches him in the face (TR141). CO ██████████ fell back from the impact of the punch and other officers joined CO ██████████ to help secure detainee ██████████ who remained uncompliant (TR141). He testified that detainee ██████████ was extremely combative and physically threatening (TR144). Expert ██████████ testified that in his opinion that even though two officers are holding down detainee ██████████ their kicking and punching are still consistent with the use of force policy because the detainee is still a high-level assailant who is supposedly armed and committed an aggravated battery (TR161-162). Expert ██████████ testified that he did not see the detainee throw any additional punches after the first one and after he was taken down by the officers, he put his arms up near his face and did not punch again (TR180-181). He testified that the actions of the Respondents fall under the category of direct mechanical strikes as well as a kick to the body would qualify as a direct mechanical strike (TR184). It his opinion that the Respondent and the other officers acted consistent with the use of force policy (TR196).

Detainee ██████████, testified via video conferencing that he was housed in segregation of the Cook County jail in April of 2015 (TR212-213). He testified that he had an incident with his cellmate and the cellmate informed the officers of the incident (TR213). He was removed from his cell and taken into a hallway (TR213). While in the hallway he told the officers that he "*was going to beat their ass*" (TR214). He testified that he said this because one of the officers whose name began with an "R" took him "*by the handcuffs and flinged me across the room*" (TR214). He identified this officer as being the older officer, CO ██████████ (TR215). Detainee ██████████ testified that CO ██████████ told him that he would take his right handcuff off and give him a chance to go get at him (TR217). After CO ██████████ took the handcuff off of him, detainee ██████████ said he "*slapped*" CO ██████████ in the face (TR218). He testified that after he slapped CO ██████████ in the face, "*I kind of just fell to my knees, 'cause I knew what time it was*" (TR218). He further testified, "*then what happened was I fell down to my legs and refused to move. I was going to fall down on my legs and refuse to move until a sergeant or lieutenant came, so I could talk to them again, and they started beating my ass*" (TR218-219). Detainee ██████████ testified that if OPR wrote in their report that he punched the correction officer, "*It's wrong I just slapped him*" (TR226). He testified that he did spit on one of the corrections officers (TR227). Detainee ██████████

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testified that he at the time of the event that he was in the discipline section of the jail for a prior disciplinary action by him and he was convicted of aggravated battery of a police officer in 2007 (TR229).

CO [REDACTED] (Respondent in docket number 1909) was working at in April of 2015 when the incident with detainee [REDACTED] occurred (TR233) and he was still on probation at the time (TR234). CO [REDACTED] testified that he was informed by detainee [REDACTED]'s cellmate that he was in a physical confrontation with detainee [REDACTED] (TR235-236). CO [REDACTED] handcuffed detainee [REDACTED] and brought him to the dayroom to get ready to escort him into the hallway (TR240-241). He witnessed detainee [REDACTED] jump on a table and then fall backwards once CO [REDACTED] restrained him (TR241). CO [REDACTED] testified that CO [REDACTED] did not grab detainee [REDACTED] by the handcuffs or fling him across the dayroom (TR241-242). CO [REDACTED] testified that he did not see CO [REDACTED] slap detainee [REDACTED] (TR243). CO [REDACTED] said he did not hear CO [REDACTED] tell detainee [REDACTED] anything about giving detainee [REDACTED] a free shot at CO [REDACTED] once he uncuffed him (TR253). CO [REDACTED] did witness detainee [REDACTED] *"immediately swung at Officer [REDACTED] and struck him in the face"* after he took the right handcuff off detainee [REDACTED] (TR253). CO [REDACTED] testified that the Respondent took detainee [REDACTED] to the ground with *"like a tackle"* after detainee [REDACTED] hit CO [REDACTED] (TR254). CO [REDACTED] said, *after Officer Raines (the Respondent) took him (detainee [REDACTED]) down to the ground, I immediately engaged him with closed hand strikes because he wasn't following the orders that Officer Raines and Officer [REDACTED] were giving him at the time"* (TR254). CO [REDACTED] testified that detainee [REDACTED] was, *"very tense, ...he was kicking his legs, he was actually kicking me, he was trying to keep me from maintaining my foot"* (TR256). Co [REDACTED] said, *"I threw some close hand strikes, and I did kick him twice, I believe... because he still wasn't following our orders"* (TR256). CO [REDACTED] said he was allowed to kick a subject as a method of use of force as detainee [REDACTED] was still an assailant, was resisting and had a weapon in his hand (TR257). CO [REDACTED] testified the encounter with detainee [REDACTED] lasted about ten seconds and once the Respondent gained control of detainee [REDACTED]'s free arm they were able to handcuff him (TR257). CO [REDACTED] testified that while the event was occurring with detainee [REDACTED], detainee [REDACTED] said, *"I'm going to beat you all ass, as soon as you let me go, I'll going to beat you all ass"* (TR258). CO [REDACTED] said he prepared his incident report (Exhibit 8) after the altercation with detainee [REDACTED] (TR259). CO [REDACTED] said he did not put the kicks he used in the incident report (TR261) from a mixture of nerves and frustration, but he said he did not omit them purposely (TR261). CO [REDACTED] prepared a use of force report (Exhibit 9) regarding the incident and it was the first one he had ever prepared (TR261). He testified that he prepared the use of force report after watching the video of the incident (TR264). He said that he did not put anything in his report about kicking the detainee (TR264). He said that he cut and pasted from his incident report (Exhibit 8) into his use of force report (Exhibit 9) (TR266).

[REDACTED], Investigator (Investigator Weston), OPR, Cook County Sheriff's Office (CCSO), testified that he is assigned to the Use of Force and Failure to Protect Unit and has investigated approximately 75 cases in the past two years (TR301). He reviewed all the videos, reports, documents and interviewed the witnesses on this matter (TR302). He testified that he was assigned to this matter to determine if the Respondent, CO [REDACTED] or CO [REDACTED] used excessive force against detainee [REDACTED] (TR302). He testified that he reviewed the Incident Reports, Use of Force Reports, witness statements and interviewed CO [REDACTED] who was a

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witness to the event (TR303). He stated that CO [REDACTED] was “*first down as an accused*” and a fifth officer (TR303). He interviewed the Respondent and the other two officers during his investigation (TR306).

Investigator [REDACTED] testified he interviewed CO [REDACTED] who informed him that detainee [REDACTED] was disgruntled (TR312); was pacing back and forth and would not obey orders to sit down (TR312); and when CO [REDACTED] took detainee [REDACTED] back to the dayroom and began removing his handcuffs, detainee [REDACTED] struck CO [REDACTED] in the face (TR312). CO [REDACTED] told him that he believed the open cuff that was on detainee [REDACTED] was a deadly weapon and CO [REDACTED] was in fear of the open cuff (TR313).

Investigator [REDACTED] testified that when he interviewed CO [REDACTED] he was told by CO [REDACTED] that he wanted to move detainee [REDACTED] to another cell because he had an incident with another detainee (TR317). CO [REDACTED] told him that he requested CO [REDACTED] move detainee [REDACTED] (TR317) and when CO [REDACTED] came back into the dayroom was when he witnessed detainee [REDACTED] strike CO [REDACTED] as he was removing the handcuff from detainee [REDACTED] (TR318).

Investigator [REDACTED] testified that the Respondent told him he witnessed detainee [REDACTED] strike CO [REDACTED] as he was taking off the handcuffs (TR323). The Respondent told him that he witnessed detainee [REDACTED] being agitated in the hallway but said he did not know why (TR323). The Respondent told Investigator [REDACTED] that detainee [REDACTED] continued to attack the officers after he was on the ground (TR324-325).

Investigator [REDACTED] said that he found that CO [REDACTED] used excessive force against detainee [REDACTED] (TR325). Investigator [REDACTED] said he made this determination because, “*Once detainee [REDACTED] was on the ground, he covered up almost in a fetal position, he did not make any more attempts to strike the officers. CO [REDACTED] failed to deescalate once detainee [REDACTED] was on the ground, he continued to batter him*” (TR325-326). He based his finding on the video surveillance (TR326). He said that he made the same finding for CO [REDACTED] and the Respondent (TR326).

Investigator [REDACTED] testified that he initially classified detainee [REDACTED] as an assailant but once he covered his head, he was no longer an assailant (TR327-328). This was consistent with the Desmedt use of force model (TR328). Investigator [REDACTED] testified the fact that detainee [REDACTED] had an open cuff did not factor into his decision whether the officer’s use of force was excessive or not when detainee [REDACTED] was on the ground (TR330). He testified his reason was “*from my view on it, he made no motions at all to use, to use the cuff as a weapon, it was on his hand, so he was using his hands to defend himself, he was in a defensive position, the three officers made no attempt from my view to secure that hand with a cuff on it*” (TR330).

Investigator [REDACTED] testified that he did not interview detainee [REDACTED] but he adopted the findings by Investigator [REDACTED] (Exhibit 21) as part of his investigation (TR334). These findings were that detainee [REDACTED] admitted that he punched CO [REDACTED] and spit on CO [REDACTED] (TR334). He also interviewed CO [REDACTED], CCDOC, who was not charged with any rules violations (TR334). Investigator [REDACTED] was shown an Inmate Disciplinary Report ([REDACTED] 2)

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regarding detainee [REDACTED] (TR342). Investigator [REDACTED] testified in the report detainee [REDACTED] admitted that he *"was going to beat the fuck out of Officer [REDACTED]"* admitted that he punched CO [REDACTED], admitted that he spat on CO [REDACTED], and the ultimate finding of the Inmate Disciplinary Report was that detainee [REDACTED] admitted to both striking and spitting on CO [REDACTED] (TR343). Investigator [REDACTED] could not remember if he showed the video of the incident to any of the officers before he interviewed them (TR345). Investigator [REDACTED] admitted that in his written investigative findings regarding CO [REDACTED] he wrote, *"Use of force was reasonable, but the amount of force used was not in accordance with CCSO policy and procedures for use of force"* (TR346-347). He made the same entry regarding CO [REDACTED] (TR347). Investigator [REDACTED] testified that CO [REDACTED] told him that detainee [REDACTED] threatened to spit on him, that detainee [REDACTED] claimed he had AIDS and detainee [REDACTED] was a known problem in Division VI (TR349). Investigator [REDACTED] testified that he did not make a finding that CO [REDACTED] or [REDACTED] were untruthful during the OPR investigation (TR351). He said the officers told him that they were giving verbal commands to detainee [REDACTED] during the incident (TR352).

Investigator [REDACTED] testified that he interviewed Sergeant [REDACTED] (Sgt [REDACTED]), CCDOC, during the OPR investigation and Sgt [REDACTED] indicated there were no violations of the CCDOC Use of Force policies (TR356). He testified that he did make a finding of the excessive use of force in the incident involving detainee [REDACTED] (TR356). He testified that his conclusions were based on the training he received as a member of the CCSO (TR358).

Investigator [REDACTED] testified that he never made a finding that the Respondent was untruthful (TR361). He could not recall at what point during his interview with the Respondent when he showed the Respondent the video (TR362). He could not recall if he offered to show the Respondent the video in slow motion or how many times that he offered to show the Respondent the video (TR363). Investigator [REDACTED] testified that Sgt [REDACTED] made the comment, *"I believe the officers were working in the best interests of the County"* (TR366). He testified that the officers, including the Respondent, told him that detainee [REDACTED] was disobeying verbal commands (TR368-369). Investigator [REDACTED] testified that made a finding that the Respondent's use of force was reasonable (TR367). Investigator [REDACTED] testified that he did know if the Respondent was punching the open wrist (to get the handcuff back on) or detainee [REDACTED] face (TR371). He testified that he would classify that detainee [REDACTED] as a moving resistor and that under the use of force model officers were allowed to do certain things (TR372).

CO [REDACTED] (Respondent in Docket Number 1910) testified that about a month prior to the April 22, 2015, event with detainee [REDACTED] he had escorted detainee [REDACTED] to Cermak to have staples put in his head for a fight on the deck (TR395). On April 22, 2015, CO [REDACTED] testified that he was walking detainee [REDACTED] off the deck when detainee [REDACTED] jumped on a table to attack the other inmate who was upstairs (TR403). CO [REDACTED] said that he pulled detainee [REDACTED] back which caused him to stumble and when he attempted to assist detainee [REDACTED] he was told to *"fuck off"* (TR405). CO [REDACTED] testified that detainee [REDACTED] said that he had AIDS (TR409). He said detainee [REDACTED] told him that the GD Nation (Gangster Disciple Nation) which detainee [REDACTED] was a member of was going to *"come down on us"* (TR409). CO [REDACTED] said that detainee [REDACTED] *"was very agitated, said he was going to kick our asses and he was just very vocal"* (TR409). CO [REDACTED] was very concerned about the AIDS comment as detainee [REDACTED] was spitting and in

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the hallway, he spat (TR410). CO [REDACTED] testified that when he got back to the tier with detainee [REDACTED] "he seemed very calm, there was really no exchange at all. He actually put his hands out for me to uncuff him, and me being right handed, it was easier for me to open the his right handcuff first, so, again, I didn't have my glasses, so it was a little bit difficult, but I got the key in there, and I turned the key, and as soon as I turned the key, he punched me and spat at the same time, which knocked me back" (TR411-412). CO [REDACTED] said he was punched not slapped in the face by detainee [REDACTED] (TR412). CO [REDACTED] testified, "I was in fear for my life, so I started to defend myself" (TR412). CO [REDACTED] said he was concerned for his life because, "when someone is attacking you like that, and they're spitting, and they said they had AIDS. I was concerned in many ways. Again, the fact that he said he had AIDS, and the fact that he attacked me with an open handcuff" (TR413). He said that the Respondent tackled detainee [REDACTED] and brought him down (TR413). CO [REDACTED] said once detainee [REDACTED] was on the ground the officers were giving him verbal commands which he ignored (TR414). CO [REDACTED] said detainee [REDACTED] put his hands near his face which prevented the officers from being able to handcuff him (TR415). CO [REDACTED] thought the event with detainee [REDACTED] lasted about 10 seconds (TR417). CO [REDACTED] testified at no time was detainee [REDACTED] trying to be compliant (TR417). CO [REDACTED] testified that once CO [REDACTED] and the Respondent gained control of detainee [REDACTED]'s hands they were able to bring his arms back and get him cuffed, after this occurred no more force was used (TR417-418). CO [REDACTED] testified that he believed he acted in accordance with the CDOC use of force policies (Exhibits 2 and 3) as he had an aggressive assailant who was not being compliant, was tucking his hand underneath him, was stiffening up and spinning which prevented the officers from being able to handcuff him (TR431-432). CO [REDACTED] further testified that the officers could not walk away from detainee [REDACTED] as they had an aggressive assailant with a weapon who could have killed one of the officers with an open handcuff (TR432). CO [REDACTED] testified that he was truthful during the OPR investigation (TR432-433). CO [REDACTED] testified that after detainee [REDACTED] punched him and was knocked to the ground he, the Respondent and CO [REDACTED] proceeded to strike detainee [REDACTED] (TR448). CO [REDACTED] said, "when detainee [REDACTED] went to the ground, we were giving him direct orders to comply, to bring his hands behind his back to be cuffed. He ignored those orders, he continued, he had his hands by his head again, like I said before, but he was not complying at all, he kept continuing with the threat that he was going to kick my ass" (TR449). CO [REDACTED] said, "he (detainee [REDACTED]) attempted, cause he was moving his hands underneath him, he moved his hands out, so it was like he was trying to hit with the cuff. He tried to avoid being, having his hands grabbed, and that's why he had his hands loose, trying to go like that to get his hands away from us...I believed he was trying to strike, yes sir" (TR450). CO [REDACTED] testified, "I was in fear for my life" (TR451).

The Respondent testified that on April 22, 2015, when he was on shift he heard a commotion in the hallway and saw detainee [REDACTED] pacing back and forth (TR466). The Respondent said detainee [REDACTED] was making verbal threats (R467). The Respondent testified, "Officer [REDACTED] removed detainee [REDACTED]'s right handcuff, at which time detainee [REDACTED] struck Officer [REDACTED] with a closed fist" (TR468). The Respondent said after detainee [REDACTED] hit CO [REDACTED] he heard detainee [REDACTED] continue to talk with CO [REDACTED] and make verbal threats (TR468). He said he was three feet away from CO [REDACTED] and detainee [REDACTED] and testified, "I immediately tackled detainee [REDACTED]" (TR468). The Respondent testified, "I tackled detainee

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█████, I hit him once or twice on the way down, I continued to strike towards the cuff. Detainee █████ raised his hands. He still had the open cuff on his wrist" (TR469). He testified that detainee █████ "definitely would be an Assailant, consider the cuff a deadly weapon, that's high" (TR469). The Respondent said, "my big focus was on that handcuff, that's a big problem. I began to strike towards his handcuff...his hands were raised towards his head" (TR469). He testified he was trained to get control the hand that is free when the handcuff is off, "high level assailants you can use mechanical strikes, you can use stun strikes, which that is what I was trying to execute at the time," and testified he was specifically targeting detainee █████'s wrist, "to get that hand behind his back, to get a deadly weapon under control" (TR470). The Respondent testified that detainee █████ was spinning around a little bit (TR471). He said, "I was delivering strikes towards his hand and his wrist. He continued to clench up, wasn't really giving us any – we were giving verbal commands. He wasn't budging at all. We continued to try to get that hand behind his back" (TR471). The Respondent testified that there was a point in the video that his hand went up which was, "as I went to strike toward detainee █████'s cuff again, and – I saw an opening, I saw his loosen up a little bit, and I thought I could get him under control. The mission was to restrain detainee █████ not punish him, not deliver extra blows" that was when his hand went up and it stopped (TR471-472). He testified that all three of the officers were giving detainee █████ verbal orders, "put your hands behind your back stop resisting" (TR473). The Respondent testified that once the even was over they notified their supervisor. He testified that Sgt █████ helped him prepare A Response to Use of Force Report (Exhibit 11) as it was only the second time he had ever prepared one (TR476). He testified that it was completed to the best of his knowledge (TR478). He testified that he believed that while detainee █████ was on the ground he was a threat at all times (TR479). The Respondent testified that he did not observe detainee █████ attempt to swing the cuff, open cuff at any of the officers (TR486). The Respondent testified he did not kick detainee █████ (TR486). He testified that although Sgt █████ helped him with his report, he was not present during the incident (TR488).

Conclusion

The Board finds by a preponderance of the evidence through the testimony of the witnesses; the video tape recording April 22, 2015, incident (Exhibit 1); the Respondent's interview with OPR on December 2, 2015 (Exhibit 23); and the supporting evidence that the Respondent was credible in his testimony in that the Respondent did not use excessive force in gaining control of detainee █████. On April 22, 2015, detainee █████ after being removed from his cell for threatening his cellmate, first threatened to "beat the ass" of CO █████, then while being uncuffed by CO █████ detainee █████ struck Officer █████ in the face with his fist and knocked CO █████ backwards. Detainee █████ had an open handcuff on his wrist that potentially could have been used as a weapon against the officers which would have placed him in the category of being a high-level assailant. Detainee █████ refused to comply with the officer's verbal commands which would have placed the officers in substantial risk of great bodily harm. Detainee █████ was uncooperative during the officer's attempts to gain control of him, failed to follow the officer's instructions and continued to make verbal threats at the officers. The Respondent used the force necessary to gain control of detainee █████ by bringing him to the ground, delivering the necessary stunning blows to his arms to gain control of him, secured detainee █████ in handcuffs and stopped his use of force once control was reestablished

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of detainee [REDACTED]. The Respondent's actions were consistent with the provisions of the Desmedt use of force model used by the CCDOC based upon the actions and noncompliance of detainee [REDACTED]. Investigator [REDACTED] testified that he never made a finding that the Respondent was untruthful. It should be noted that detainee [REDACTED] was already in segregation based on a prior disciplinary matter prior to this incident. Finally, Investigator [REDACTED] testified that he interviewed Sgt [REDACTED], CCDOC, during the OPR investigation and Sgt [REDACTED] indicated there were no violations of the CCDOC Use of Force policies. The Respondent said he completed his use of force report with the assistance of Sgt [REDACTED].

Order

Based on the evidence presented and after assessing the credibility of the witnesses and the weight to be given the evidence in the record, the Board finds that Respondent Thomas Raines, Star #16965, CCDOC, did not violate Cook County Sheriff's Order 11.2.1.0, Section II V E-F, Section VI A-B, X A 5-6, and Section XIII A-C; Sheriff's Order 11.2.20.1, Sections II-IV, Section V A, Section VI Bo & E 26, 30, and 43; Sheriff's Order 11.2.2.0, Section II, Section V A1, B 2a-b, and Section XIII A-C; and Article X, Paragraph B 3, of the Rules of the Cook County Sheriff's Merit Board.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Thomas Raines, is acquitted of all charges in this matter and should be returned to duty with the Cook County Sheriff's Office effective July 18, 2016.

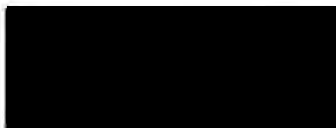
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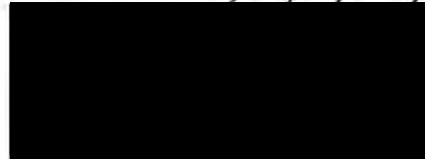
James P. Nally, Chairman



Byron Brazier, Vice Chairman



John Dalicandro, Secretary



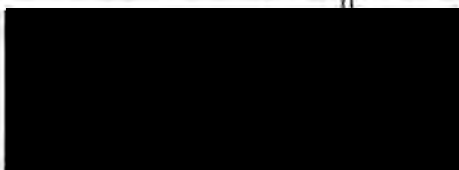
Kim R. Widup, Board Member



Vincent T. Winters, Board Member



Juan L. Baltierres, Board Member



Patrick Brady, Board Member



Gray Mateo - Harris, Board Member

Date March 20, 2019