COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County	)	
	)	
vs.	)	
	)	**Docket No. 2082**
Deputy Sheriff	)	
Marvin Buchanan	)	
Star # 11446	)	

DECISION

This matter coming on to be heard pursuant to notice before James P. Nally, Board Member. Docket 2080 [redacted] Docket 2081 [redacted] Docket 2082 Marvin Buchanan and Docket 2083 [redacted] were consolidated for hearing as all cases arose out of an incident that took place on May 2, 2017 at the Markham Courthouse in Cook County, Illinois. Hearings occurring on November 19, 2018, January 3, March 28, March 29, May 22, June 12 and June 27, 2019. The Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Marvin Buchanan, hereinafter Respondent, was appointed a Correctional Officer on February 17, 1998, and transferred to the Cook County Court Services Department as a Deputy Sheriff on December 4, 2016. Respondent's position as a Deputy Sheriff 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. Comminssioners 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 November 22, 2017. 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 November 22, 2017 commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case. An Amended Complaint was filed in this matter on January 25, 2018.

Findings of Fact

The Sheriff filed a complaint on November 22, 2017, and an Amended Complaint was filed on January 25, 2018. The Sheriff is requesting termination of the Respondent. The Sheriff alleges that the Respondent on May 2, 2017 failed to properly carry out the duties assigned and required as a Deputy Sheriff, and as a result a female detainee was sexually assaulted by two male detainees, and falsely reported that safety checks had been completed. The Sheriff further alleges that the Respondent was negligent and inattentive to duty which led to the sexual assault of a female detainee by the two male detainees. The Sheriff further alleges that the Respondent was untruthful to investigators from OPR regarding the incident. The Sheriff alleges violations of Cook County Court Services Department Policy Manual Policy 321.2, 321.3, 321.4, 321.5, 322.5.2, 321.5.5, Cook County Court Services Department Policy Manual Policy 900.2, 900.3, 900.3.2, 900.3.3, Cook County Core Services Department Policy Manual Policy 903.2, 903.3, 903.9, Cook County Court's Department Policy Manual 1100.2, 1100.3, 1100.3.8, and Merit Board Rules and Regulations Article X, paragraph B 3.

Investigator [redacted] works for the Sheriff's Office of Professional Review (OPR) and has been with the Sheriff's Office for 12 years. (R. 23, 24) Inv. [redacted] responsibilities are to investigate allegations of misconduct within the Cook County Department either criminal or administrative. (R. 24, 25) Assignments are assigned by the Director randomly and his first acts are to review the file, gather paperwork, interview witnesses and look at any potential video. (R. 25) He was assigned to investigate the incident that occurred on May 2, 2017 at the Markham Courthouse by his Director [redacted] (R. 26) Sheriff's Exhibit 1 was marked for identification as the Complaint register regarding his incident stating that at approximately 1:30 pm, Sheriff [redacted] was notified that inmates [redacted] and [redacted] were placed in a cell with a female detainee, [redacted] (R. 27) The Complaint register further stated that it was Respondents, [redacted] and [redacted] in this case

who allegedly put them in the cell. (R. 28) Additional allegations in the Complaint were against Respondents Buchanan and [redacted] as witnesses to the violation of placing male detainees with a female detainee. (R. 28) His investigation revealed that Respondents Buchanan and [redacted] were assigned to Courtroom 105 and the two male detainees, [redacted] and [redacted] were assigned to their courtroom. (R. 28) He interviewed and investigated all four of the Respondents as accused. (R. 28) During his investigation, he reviewed all of the offense incident reports, supplemental reports, daily roster assignments as to where deputies were assigned, disposition sheets for the prisoners as well as safety checks for the courtrooms among other documents. (R. 29)

He reviewed the incident report drafted by Respondent Buchanan. (R. 29) He reviewed supplemental reports by Respondents [redacted] and Buchanan, as well as other deputies such as Deputy [redacted] and [redacted] (R. 30) These were all in essence witness statements by each of those involved. (R. 30) The reports all outlined whose responsibilities were whose during that particular day, May 2, 2017. (R. 30) His report and investigation outlined who was responsible for both courtrooms 105 and 106. It stated that 105 was the responsibility of Respondent Buchanan and [redacted] and 106 was [redacted] and [redacted] (R. 30, 31) During his investigation, the Cook County State's Attorney's Office Investigations Unit also started an investigation in terms of seeing if criminal conduct was involved. (R. 31) They were looking into the sexual assault that took place in the cells and the restroom of Courtroom 106. (R. 31) He was able to review the State's Attorney's interviews that they conducted with the detainees and deputies. (R. 32) Sheriff's Exhibit 2 was marked for identification as the prisoner safety checks for Courtroom 106. (R. 32, 33) These sheets would have the initials of the deputy who is doing the 15 minute checks on their prisoners in Courtroom 106. From 9:45 am through 1:45 pm, the initials are [redacted] which would refer to Respondent [redacted] (R. 33) The victim [redacted] was listed on the sheet. The names at the bottom of the sheet were Respondents [redacted] and [redacted] as they were assigned to check on her in the holding cell. (R. 33, 34) Sheriff's Exhibit 3 was marked for identification as a prisoner safety check for Courtroom 105. (R. 34) Disposition sheet shows that Respondents [redacted] and Buchanan were the deputies assigned to that courtroom. It also indicates that detainees [redacted] and [redacted] were there for court that day. [redacted] and Buchanan's initials appear from 10:20 am all the way through 1:45 pm on Sheriff's Exhibit 3. (R. 35)

Sheriff's Exhibits 4 and 5 were the State's Attorney's Office Investigative Report as he reviewed as part of his investigation. (R. 36) The State's Attorney's Investigative Report indicated that Respondents Buchanan and [redacted] were interviewed by the State's Attorney and that Respondents [redacted] and [redacted] refused to be interviewed. (R. 38) The investigator also reviewed footage from the day of the incident for all three shifts. (R. 39) Video of the Markham Courthouse hallways show the deputies obtaining detainees from lockup and escorting them to the courtrooms via elevator and bringing them back. The video also showed who escorted detainee [redacted] up and down the elevators. (R. 39) The video showed Respondent [redacted] was the one who transferred detainee [redacted] (R. 40) The investigator further conducted interviews of witnesses including detainees that were in the holding cells 105 and 106 as well as other deputies that were involved in the area around the lockup as well as interviewing the accused. (R. 40)

He reviewed documentation of an interview that was conducted with detainee [redacted] who was one of the detainees in one of the holding cells. (R. 40) Detainee [redacted] was in the holding cell assigned to Courtroom 106 and detainee [redacted] witnessed Respondent [redacted]

taking one of the detainees into the 106 restroom cell. (R. 41 - 44) Inv. [redacted] also spoke with [redacted] who was a detainee at the location at the time of the incident and also saw detainees being moved into the bathroom cell of 106. (R. 44-45) Sheriff's Exhibit 6 was marked for identification which is a photo of the inside of the cell 105 looking out to the restroom cell of 105. (R. 46) The investigator also had a chance to go out and examine the scene himself and this picture was a true and accurate depiction of how the 105 holding cell is situated. (R. 46) Cell 106 is exactly same as cell 105. (R. 46) Sheriff's Exhibit 7 was marked for identification and it was a picture of the hallway between courtrooms 105 and 106 which he is familiar with having been there himself. (R. 47) Inv. [redacted] learned from detainee [redacted] that it was Respondent [redacted] who allowed one of the male detainees from 105 into the 106 restroom cell. (R. 51) He also interviewed detainee [redacted] who was in cell 106 on that day. (R. 52)

He learned that detainee [redacted] believed Respondent [redacted] was the one who allowed one of the male detainees into the cell 106 restroom. (R. 54) He named the deputy as a white male and [redacted] is the only white male that was involved in either of the courtrooms. (R. 55) Inv. [redacted] also interviewed the four respondents and followed all the proper protocols and they were given all of their administrative rights. (R. 55 - 58) The Respondents signed all the forms and stated they understood them and had no questions regarding the process. (R. 59) Sheriff's Exhibit 10 is the DVD disc that contains the audio interviews for all four Respondents. (R. 60) All of the interviews of the four Respondents was played for the hearing officer. (R. 68) The investigator testified that the interviews were a fair and accurate copy of what the Respondents said during their interviews. (R. 68) Sheriff's Exhibit 11 was marked for identification as Respondent [redacted] final report which she was allowed to review during her interview. (R. 69) In her report, there is no mention of any inmates being in Courtroom 106 holding cells banging or making any noise. (R. 69) There is no mention in her report of any of the Respondents moving a detainee from a holding cell into a bathroom cell. (R. 69, 70) During the interview, Inv. [redacted] learned that the keys for Courtrooms 105 and 106 holding cells are the same and can be used by any of the Respondents for either of the holding cells or the bathroom cells. (R. 70) If a deputy leaves the area of the courtroom he is to give the keys to his partner. (R. 70) Sheriff's Exhibit 12 was marked for identification which is all of the paperwork regarding the interview with Respondent [redacted] [redacted] signed off on all forms, understood them and had no questions regarding them. (R. 71-74) Respondent [redacted] was provided his supplemental report as well his incident report, prisoner safety check sheets, disposition sheets and the daily roster. (R. 74) Sheriff's Exhibit 13 was marked for identification which was Respondent [redacted] supplemental report which he reviewed during his interview. (R. 75)

The report does not contain any mention of any of the Respondents moving any detainees to the bathroom cell. (R. 75) The investigator learned that Respondent [redacted] says he was out to lunch from 12:15 pm to 1:15 pm. (R. 76) This information was not included in his supplemental report and he further indicated that he was the one doing the safety checks. (R. 77) Sheriff's Exhibit 2 which is the safety checks actually have the initials of Respondent [redacted] not Respondent [redacted] (R. 77) Respondents Buchanan and [redacted] were also interviewed and given all of their administrative rights. (R. 78, 79) Sheriff's Exhibit 14 was marked for identification as Respondent [redacted] supplemental report to the incident. (R. 79) Sheriff's Exhibit 15 was marked for identification as Respondent [redacted] notification of

allegations, administrative rights and request to secure counsel. (R. 80) Respondent [redacted] signed all of the documents indicating that she understood them. (R. 80, 81) Sheriff's Exhibit 14, which is the supplemental report of Respondent [redacted] did not contain any indication that a phone call was placed from Respondent [redacted] to Respondent Buchanan. Furthermore, there is no mention of Respondent [redacted] seeing a female inmate in the Courtroom 106 bathroom holding cell. (R. 81) The Sheriff's Office specifically requires that all report writing be particular and contain detail to the best of their ability as to what took place at a particular time, date and what is being alleged. (R. 82) Due to reports of alleged sexual assault, the Prison Rape Elimination Policy is relevant and requires that you report as soon as practical up through the chain of command any knowledge, suspicion or information regarding an incident of sexual abuse. (R. 82) The Sheriff Office employees are to report even if they suspect something may have happened but they do not know for sure. (R. 82) Respondent [redacted] was assigned to Courtroom 105 along with Respondent Buchanan. (R. 83) Respondent Buchanan's initials do not appear on Sheriff's Exhibit 3 which is the prisoner safety sheet for Courtroom 106 holding cells. (R. 83) Respondent [redacted] was shown all of her administrative rights and she signed off on all forms and acknowledged that she understood them all. These forms were marked as Sheriff's Exhibit 15. (R. 136) Respondent [redacted] statement was recorded. Investigator [redacted] and a union representative was also present with Inv. [redacted] (R. 137)

The recorded interview with Respondent [redacted] was played for the hearing officer. (R. 138)The audio that was played before the hearing officer was a true and accurate depiction of the interview that took place between the investigator and Respondent [redacted] (R. 140) The Respondent admitted that she was assigned to Courtroom 105. (R. 140) Sheriff's Exhibit 3 was reviewed which is the prisoner safety sheet. (R. 140) It is the form that the officers mark during their 15 minute checks. It shows on this form the initials [redacted] which corresponded to the Respondent [redacted] (R. 141) The Respondent stated during her interview that sometimes she went in and did her checks but mostly she would be in the courtroom or stood in the doorway and looked in. (R. 141) The Respondent also admitted that when there was a female she would coordinate with the other courtrooms across the way to bring up the females. (R. 142) She stated during her interview that she did not have any females but that the courtroom across the way, Courtroom 106, did and she did not know there were any females there until the end of the day. (R. 142) The investigator reviewed Sheriff's Exhibit 14 which is the supplemental report of the Respondent [redacted] (R. 142) In the report it does not mention a phone call that Courtroom 105 received from Respondent [redacted] It also makes no mention that Respondent [redacted] saw a female in the bathroom holding cell behind Courtroom 106. (R. 143) In her statement, Respondent [redacted] stated that she saw the female detainee pop up in the cell. (R. 143, 144)

In the statement of the Respondent, it was within 10 minutes or so of Respondent Buchanan receiving a phone call that there is a male detainee in the bathroom cell behind Courtroom 106. (R. 144) During his investigation he learned that Respondent [redacted] never notified a supervisor that she saw a female in the bathroom cell behind Courtroom 106. She did not report to a supervisor that Respondent Buchanan received a phone call about moving a male out of the bathroom cell behind Courtroom 106. (R. 144)Respondent [redacted] supplemental report, Sheriff's Exhibit 14, is dated May 3, 2017. (R. 144) Respondent [redacted] stated during her interview that they were in Courtroom 105 when Buchanan got the call from Respondent [redacted] and not in Courtroom 201. (R. 145) Respondent [redacted] never authored a report subsequent to

May 3, 2017 about the phone call that Buchanan received or that she saw a female detainee in the bathroom cell behind Courtroom 106. (R. 145) Respondent [redacted] stated during the interview, after she saw the female detainee pop up, the female detainee stated she wanted to go downstairs. Respondent [redacted] then went to Respondent [redacted] s courtroom and let Respondent [redacted] know that her female detainee in the bathroom cell behind Courtroom 106 wanted to go down. That is the only thing that Respondent [redacted] told her. (R. 146) Respondent [redacted] did not inquire as to how long the female detainee had been present. Respondent [redacted] did not mention that she got a call that there was a male in there as well. (R. 146)As a further part of his investigation, Investigator [redacted] interviewed Respondent Buchanan. He also reviewed Sheriff's Exhibit 17 which were all the forms and notifications to Respondent Buchanan which Respondent Buchanan signed and indicated he understood. (R. 149, 150) Respondent Buchanan had no issues and understood all the forms and signed them all. (R. 151) Sheriff's Exhibit 18 was marked for identification and it is the offense/incident reports authored by Respondent Buchanan. (R. 151, 152) There were two different reports. The first report was identified as an "other services report" and the second one was an "attempted sexual offense" report. (R. 152) Neither of the reports mention that Respondent Buchanan moved any detainee from a bathroom cell behind Courtroom 106 nor do they make mention of a phone call Respondent Buchanan received from Respondent [redacted] (R. 153Sheriff's Exhibit 19 was marked for identification which was the supplemental report authored by Respondent Buchanan. The report was authored on May 10, 2017 and contains new information not contained in the original report. It states that Respondent Buchanan received a phone call from Respondent [redacted] indicating to him that he needed to remove his prisoner from her bathroom cell. (R. 154) Respondent [redacted] was assigned to Courtroom 106 and the report stated that Respondent Buchanan went into the lock up area and removed a male prisoner from that bathroom cell but there are no supervisor signatures on that report. (R. 155) Like Respondent [redacted] s statement, Sheriff's Exhibit 19 Respondent Buchanan's Offense/Incident Supplemental Report also states that they transported the detainees down to lockup within ten minutes of Buchanan moving detainee [redacted] out of the bathroom holding cell behind Courtroom 106. Sheriff's Exhibit 19.Inv. [redacted] conducted an interview with Respondent Buchanan that was recorded and was played before the hearing officer. (R. 155)Inv. [redacted] confirmed that the audio was a true and accurate representation of the interview conducted of Respondent Buchanan. (R. 156) The Respondent admitted to Inv. [redacted] that he authored the reports which were identified as Sheriff's Exhibits 18 and 19. (R. 156, 157) The investigator obtained the State's Attorney's Office report and went over that with Respondents. (R. 157) When detainees are in a wheelchair they are typically separated from detainees that are not in wheelchairs. (R. 158) As part of his investigation he reviewed all the video that was available which included several hours throughout the day. (R. 158) He reviewed videos near the courtrooms as well as videos near the lock up in the basement at Markham. (R. 158)He reviewed videos that identified exactly when the detainees originally came down and spoke to Sgt. [redacted] regarding their claims. He also reviewed video that contained the current Respondents and their movements. (R. 159) Sheriff's Exhibit 20 was marked for identification which is the videos of the day in question. (R. 159, 160) The video shown was the lock up in the basement of Markham and it shows Deputy Sgt. [redacted] [redacted] as well as Respondent Buchanan and they are conversing and standing and talking in front of detainees [redacted] and

Tribble. (R. 163) At that point Inv. [redacted] sees Respondent [redacted] walk into the screen on the bottom left and accompanied by the victim, [redacted] [redacted] (R. 163)

In the video it shows Respondent [redacted] go to a desk and put her head down after the allegations are made to the sergeant by detainees [redacted] and [redacted] (R. 164) The investigator relied on General Orders during his investigation which were marked as Sheriff's Exhibit 21. (R. 165) General orders and policies such as 903 Prisoner Rape Elimination was in effect at the time. (R. 165, 166) Policy 903 states that it is the obligation of every CCSO member to report as soon as practicable through the chain of command any knowledge, suspicion or information regarding an incident of sexual abuse. (R. 166) Inv. [redacted] relied upon this policy during his investigation. The allegations were that Respondents did not report right away as provided in the policy. (R. 166, 167)Inv. [redacted] found that Respondent Buchanan failed to follow Policy 903 Prison Rape Elimination Section 903.9 "Obligation of CCSO Members to Report" which requires an officer to make a report as soon as practicable through the chain of command because he authored a supplemental report eight days after the incident was initially reported. (R. 166-7) Additionally, this supplemental report authored by Respondent Buchanan was not provided to a supervisor. (R. 179) Respondent [redacted] violated the rule and policy as she did not report anything at all on the first day of the incident. She did not mention anything until the next day. (R. 167, 168) Respondent [redacted] did not report the phone call that Respondent Buchanan received and she did not report that Respondent Buchanan moved a detainee out of a bathroom cell behind Courtroom 106. Additionally, the report that she generated the next day was only after she was told to do so. (R. 168) She also did not report that a male detainee had been removed from Courtroom 106's bathroom cell ten minutes before she saw a female detainee in the same cell. (R. 168) Inv. [redacted] further found that Respondent [redacted] violated the policy the same way. Respondent [redacted] stated in his report that he had no knowledge of male detainees having contact with female detainees that he had in his lock up. (R. 169) Sheriff's Exhibit 22 is marked for identification which is the CCSD Prisoner Security Procedure no. 900 which was in effect at the time of the incident. (R. 170) In CCSD Prisoner Security Procedure Section 900.3.3 (A) Prisoner Holding, it is required that detainees to be separated by gender meaning males and females should not be in the same cells. (R. 171) Additionally, Section (B) of Policy 900 requires that all detainees shall be visually inspected by sworn personnel and this is to be recorded in the prisoner safety check form along with any pertinent documents. (R. 172) Inv. [redacted] found that all four of the Respondents violated Policy 900 based on their statements regarding the doorway reviews, not going into the actual rooms, verbal checks that things were ok without actually witnessing the detainees. (R. 172) They also violated Policy 900 based on the fact that males and females were in the same cells. (R. 173) Sheriff's Exhibit 23 was marked for identification which was Cook County Court Services Department Courtroom Operations Procedure 1100 which Inv. [redacted] relied upon for his investigation. (R. 173) Policy 1100 contains a lock up monitoring section 1100.3.8 stating that all holding areas shall be subject to continual monitoring with visual inspection every 15 minutes at a minimum and recorded in the prisoner safety check form. Inv. [redacted] stated that all four named Respondents violated this policy. (R. 174) Respondent [redacted] admitted that she did not go back into the holding cells when she did her 15 minute checks. Respondents Buchanan and [redacted] stated they did their checks and marked off the boxes even though they did not physically go

completely into the holding cells. They also admitted sometimes their partners did them and they wrote their initials on the form. (R. 174, 175)

The Respondents admitted in their statements that they were in the courtrooms for long periods of time and did not complete the 15 minute checks even though they checked off the boxes on the forms. (R. 175, 176) Sheriff's Exhibit 24 is marked for identification which is Cook County Services Department Conduct Policy 321 which Inv. [redacted] relied upon for his investigation. He specifically relied upon 321.5.2(f) which states "failure to report activities on his/her own part or the part of any other member where such activities may result in criminal prosecution or discipline under the policy." (R. 178, Sheriff's Exhibit 24).Inv. [redacted] found that all four Respondents violated Policy 321. (R. 178, 179) Respondent Buchanan failed to include in his report that he had removed a male detainee from the cell and he did not report to his supervisors. Respondent [redacted] had knowledge that the male detainee was removed from the cell and later found that there was a female that popped her head out and she did not indicate this in her report or tell a supervisor. (R. 179) Respondent [redacted] also knew there was a male in the bathroom cell and made a phone call to tell Respondent Buchanan to remove the male from her bathroom cell. Respondent [redacted] had knowledge of this as well and did not report it. (R. 179) Respondent Buchanan did not write in his original report that he had these interactions and did not give this information to his supervisors. (R. 179) Inv. [redacted] was only able to get this information when he requested it from the State's Attorney's Office which had included in their investigation. (R. 179, 180) Subsection 321.5.5(a) of the Conduct Policy 321 further states "failure to remain alert and visual consistent with the assigned duties". This was also violated by all four Respondents. (R. 180, Sheriff's Exhibit 24)Subsection 321.5.5(c) of the Conduct Policy 321, which states "unsatisfactory work performance including but not limited to failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments, or instructions of supervisors", was also violated by all four Respondents. (R. 180, Sheriff's Exhibit 24) Further Subsection 321.5.5(f) of the Conduct Policy 321 was violated by Respondents which involves "concealing, attempting to conceal, removing or destroying defective incompetent work." (R. 180, Sheriff's Exhibit 24) All four Respondents further violated the policy subsections (l), (m) and (ac), and (ad) which concern misleading or misrepresenting facts. (R. 181, 182)

Inv. [redacted] found that the actions and the conduct exhibited by the four Respondents was not in compliance with the Sheriff's Office policies and procedures. (R. 182)Sheriff's Exhibit 25 was marked for identification which is Article X of the Rules and Regulations for the Sheriff's Merit Board which Inv. [redacted] also found that all four Respondents violated.Sheriff's Exhibits 1 through 20 were admitted into evidence. (R. 184, 196) Sheriff's Exhibits 22 through 25 were also admitted. (R. 196, 197) Respondent [redacted] was in violation of Sheriff's Policies as she indicated she did the safety checks and it was clear from the evidence and her testimony that she did not conduct those 15 minute checks and relied on someone else to conduct those and signed off on them. (R. 210, 211) Further Respondent [redacted] admitted that she would just open the courtroom door and visually look into the bullpen door and not actually enter and just stand in the doorway. (R. 212) There are clear blind spots in the bullpen area that she could not see. (R. 212)

Respondent [redacted] was in violation of Policy 321.5.2(f) because she was aware Buchanan had removed a male detainee from the cell five to ten minutes before she saw a female detainee

pop up from the window of cell 106. (R. 213) All personnel are provided copies of all policies and Respondent Buchanan was responsible for keeping up on all policies. (R. 220 – 223)

Respondent Buchanan would have went through academy training when he transitioned from Corrections to Court Services. (R. 226) Each Respondent including Respondent [redacted] would have a continuing obligation to report any information regarding their knowledge of a sexual assault even if that information came later. (R. 267, 268) Respondent [redacted] was duty bound to report the information when she learned that a female was in a cell that had just been occupied by a male detainee not 10 minutes earlier. Then subsequently there were allegations of rape or sexual assault made by detainees from those holding cells. (R. 268) Each respondent would have gotten an email directing them on any new policies that had been issued and it is their responsibility to understand them. (R. 172. 273)There were several detainees that say they saw a female in the cell with a male. (R. 274, 275) At least 10 inmates that he interviewed made this statement. (R. 275) The investigator did not get any directives from the Sheriff's Office or any of his superior officers on how to conduct his investigation or how to direct his investigation. He based it all on the facts. (R. 276) If members are not up to date on the policies issued by the Sheriff's Office they can be disciplined even if they fail to read them. (R. 283) He interviewed detainees and they stated that they saw deputies place males and females in the same cell. (R. 286 - 288)

Deputy Sheriff [redacted] testified he has been with the Cook County Sheriff's Department for 18 years and has been in Court Services for approximately 3 years and was working on May 2, 2017 in male lockup. (R. 102) That D/S [redacted]'s shift at the Markham Courthouse was 7:00 am to 3:00 pm. (R. 103) D/S [redacted] recalls the date of May 2, 2017 because two detainees came down and told Sgt [redacted] and him that they had been sexually assaulted. (R. 103) D/S [redacted] heard from male detainees [redacted] and [redacted] and Respondent Buchanan that a woman had allegedly raped the male detainees. (R. 105, 106) A supervisor told them to take statements from the two detainees which he did and were marked as Sheriff's Exhibit 16. (R. 106, 107) Sheriff's Exhibit 16 is a true and accurate copy of the statements that he generated after speaking with the detainees regarding their allegations. (R. 107) His interview with detainee [redacted] indicated that Respondent [redacted] had put him in the bathroom holding cell. (R. 107, 108) Detainee [redacted] indicated that Respondent [redacted] had put him in Courtroom 106 bathroom holding cell. (R. 108, 109)

When D/S [redacted] was upstairs reporting the incident to his supervisors he heard Respondent [redacted] state that she thought Sgt. [redacted] had taken the girl down. (R. 110) D/S [redacted] understood that this conversation was related to the victim [redacted] (R. 111) The day after the incident Respondent Buchanan pulled D/S [redacted] aside before court and stated that the day before Respondent Buchanan recalls a phone call where Respondent [redacted] stated come get your guy out of the bathroom. (R. 112, 113) Respondent Buchanan told Deputy [redacted] that after that he went and got his guy, he opened the door and let him out. (R. 113) D/S [redacted] then stated to Respondent Buchanan that he needed to go file a report because Respondent Buchanan had said he had not told anyone yet. (R. 113) Sheriff's Exhibit 16 was moved into evidence over the objection of Respondent's counsel. (R. 114)

Docket No. 2082
Deputy Sheriff
Marvin Buchanan
Star # 11446

Respondent [redacted] testified he has worked for the Sheriff's Office since 1992 and has been a Court Services Deputy the entire time. He was working on May 2, 2017. (R. 316) He worked the 7:00 am to 3:00 pm shift. He was working Courtroom 106 with his partner Respondent [redacted] (R. 317) His responsibilities that day were to assist in the transport of detainees from the lock up, which is in the basement of Markham, to the various courtrooms so they can go to their court hearings. (R. 317, 318) He is responsible for transferring detainees from the holding cell to the courtroom and back. (R. 319) Respondent is responsible for transporting the detainees back to the basement. (R. 320) The Respondent recalls the female prisoner that was appearing in Courtroom 106 by the name of [redacted] and stated that Respondent [redacted] transported this detainee from the female lock up to Courtroom 106 restroom cell. (R. 320) Respondent knows that the male and female detainees are supposed to be separated. (R. 320) He is certain that Ms. [redacted] was placed in the bathroom cell because he was the one who had the keys and locked the door. (R. 321) Respondent did not tell anyone that there was a female prisoner in the restroom cell in 106. (R. 322) Respondent [redacted] said that he and Respondent [redacted] are both responsible for transporting Ms. [redacted] into and out of the courtroom. (R. 322) After Ms. [redacted] went to her court appearance, she was returned back to the bathroom cell in 106. (R. 325) Respondent is required to do 15 minute checks on all of the detainees in the lock up. (R. 325) The 15 minute checks are logged in the safety check sheet and initials are supposed to be placed and the time in which the visual check is done is supposed to be listed. (R. 326 – 328) Respondent [redacted] testified that he is not required to actually sign the prisoner safety checks even if he is the one who is doing the inspection and that his partner may be able to fill out the form and put his initials on it. (R. 333, 334) Respondent states that during his lunch he left the building, went out to his car and listened to the radio and read the newspaper. (R. 336) Respondent [redacted] stated to OPR that he allowed a male prisoner from cell 106 to use the restroom in cell 105 because he knew [redacted] was in the bathroom holding cell of Courtroom 106. (R. 353, 354) Respondent admits that he had a conversation with Respondent [redacted] in which she stated two of her "guys" were in the cell with their female meaning [redacted] (R. 356) Respondent states that each time he did his 15 minute check he would look into the bathroom cell of 106 and the holding cell of 106. (R. 359) Respondent stated that [redacted] would have been back into the bathroom cell of 106 after her court appearance for at least an hour before he took his lunch. (R. 359) Respondent states he had no knowledge whether male detainees were placed in the bathroom cell of 106 with [redacted] (R. 360) Respondent said that he had read that detainees have stated that he was the one who put the male detainees in with [redacted] (R. 360) Respondent said that he was back from lunch prior to [redacted] being brought down to lock up in the basement. (R. 362) Respondent [redacted] agreed that the State's Attorney's Office investigative report states that [redacted] stated that he was escorted to cell 105 by Respondent [redacted] and escorted back to his cell by Respondent [redacted] (R. 366, 367) Respondent [redacted] agreed that he never told Respondent Buchanan or Respondent [redacted] that there was a female in the Courtroom 106 bathroom cell. (R. 370)

Respondent [redacted] testified that when he would move some of his detainees from 105 to 106 or back to the bathrooms, there would be times he would not tell the other deputies in those courtrooms. (R. 374)

Respondent [redacted] testified she has been employed with the Sheriff's Department for 21 years. (R. 386) Respondent [redacted] stated that her responsibilities as the same as Respondent [redacted] (R. 387) Her partner that day was Respondent Buchanan and they were assigned to Courtroom 105. (R. 387) Respondent [redacted] is familiar with all of the Cook County Sheriff's Office General Orders regarding prisoner checks, monitoring and visually inspecting all of the prisoners in her holding cells. (R. 392, 393) Respondent [redacted] testified that there are times when she would take detainees from other courtrooms where she is not assigned to help them move them around to the bathroom or other places. (R. 398) Her first knowledge of the incident occurred when she was told by her partner Respondent Buchanan that two of the detainees wanted to see a sergeant. (R. 401) Respondent [redacted] observed [redacted] in the holding cell before she took her inmates down. As she was walking across the adjacent hall of the shared locked up area, detainee [redacted] popped her head up out of the cell asking when she is going to go down. (R. 403, 404) This interaction occurred in the 106 bathroom lock up. After this she proceeded to open the courtroom lock up door, looking for a deputy and found Respondent [redacted] and told her the female detainee wanted to go down. (R. 404) After her partner returned from down in lock up, she was instructed that they needed to write up an incident report regarding the situation. (R. 405) Respondent [redacted] was present when Respondent Buchanan got a phone call about moving detainees from a bathroom cell in Courtroom 106. Respondent later found out that Respondent Buchanan had moved detainee [redacted] from a bathroom cell. (R. 407) Respondent [redacted] agreed that she did not put in her report that she knew that Respondent Buchanan had moved a detainee out of the bathroom cell 106. (R. 408)Respondent [redacted] states that she did not think it was pertinent even though she was aware that a male was being moved from a bathroom cell 106 when there was an alleged female sexual assault in that same room. (R. 408) Respondent said that when they learned that there was a male in the bathroom cell in 106 she stated "Well, how the hell did he get in there?" (R. 409)At some point she was aware that Respondent Buchanan went to the bathroom cell of 106 and removed detainee [redacted] and put him back in the 105 holding cell. (R. 410) Shortly after all of this is when she saw detainee [redacted] pop her head up out of the window of bathroom cell 106. (R. 410) Respondent [redacted] states that the fact that her partner Buchanan had just removed a male from the bathroom cell 106 10 to 15 minutes before did not trigger anything in her head when she saw the female [redacted] in there shortly thereafter. (R. 411) Respondent [redacted] admits that she did not individually do all of the 15 minute checks even though her initials are on the pages. (R. 410) Respondent [redacted] states that her report that she wrote the next day is inaccurate because she "didn't have all the pieces of everything." (R. 415) After Respondent [redacted] spoke to Respondent [redacted] about her female detainee in bathroom cell 106 and that she wanted to go down, Respondent [redacted] reaction was "Kind of hurried." (R. 416)

Docket No. 2082
Deputy Sheriff
Marvin Buchanan
Star # 11446

Deputy Sheriff [redacted] testified, and has been with the Sheriff's Office for 26 years and in Court Services for 19 years and worked at Markham on the date of the incident. (R. 442) The witness did not know what time Respondent [redacted] got to his car on the day of the occurrence. (R. 446) She has no idea what he was doing prior to going to his car. (R. 446)

[redacted] testified and is in the Sheridan Correctional Center and previously was in the Cook County Jail. (R. 450, 451) During the occurrence he was in the Markham Courthouse and he was going to see Judge [redacted]. (R. 451) [redacted] was brought up to the holding cell outside Judge [redacted] courtroom. (R. 452). [redacted] was held in the holding cell that had a big picture window where he was placed with other males. He could see across from the cell there is a smaller cell that has a smaller window at about head height. (R. 452) [redacted] testified you can only see someone in the other cell if they stood up. (R. 453) [redacted] testified you could see who went in and out of that cell from where he was located. (R. 453) [redacted] was brought up to court that day by a white officer. (R. 453) After he was brought to his cell, [redacted] saw a female detainee get put in the cell across from him. (R. 453) She was black and she was put in that cell by a female officer. (R. 454)About 10 minutes later an officer came from Judge [redacted] courtroom and took a detainee out to use the washroom and the male deputy put that male detainee into the room with the female detainee. (R. 454, 455) The officer opened the door for the detainee, let him in the bathroom cell and went back to the courtroom. (R. 455) The officer who did this and placed the male detainee in 106 bathroom cell was a white, bald officer with glasses. (R. 455) This officer was the same officer who was assigned to the courtroom where he was placed. (R. 456) Before the male detainee was put into the bathroom cell he never saw anyone take out the female detainee. (R. 456) He never saw the male officer check in the window or look in the cell to see if anyone was in there. (R. 456) Mr. [redacted] was not promised anything for his testimony and he was not threatened in anyway regarding his testimony. (R. 456, 457) He testified by his own free will. (R. 457)

Respondent [redacted] testified and acknowledged that Respondent [redacted] is not a white male with glasses and balding, that Respondent Buchanan is not a white male, balding with glasses, and Respondent [redacted] is not a white male balding with glasses. (R. 492) He further admits that he fits the description of [redacted] regarding which officer did what on the day of the occurrence. (R. 492) Respondent [redacted] said that there are no other white males, balding with glasses assigned to either courtroom 105 or 106. (R. 493) Respondent stated that the keys he had for courtroom 106 also worked in all of the courtrooms and cells for 105. (R. 501)Respondent acknowledged that he was the only white male with glasses assigned to courtroom 106. (R. 503)

Respondent Marvin Buchanan testified he began working for Cook County Sheriff's Department in 1998 at the County Jail. (R. 512) He was working on May 2, 2017 at the Markham Courthouse and had been there for many months prior to this. (R. 517) The Respondent said that he was formerly trained regarding the courtroom services duties. (R. 517) Respondent said that he was working in Courtroom 105 on the day of the occurrence and his partner was Respondent [redacted] (R. 517) Respondent testified that Respondent [redacted] and

[redacted] were assigned to 106 across the hall from where he was working. (R. 518) Respondent said that he moved a male detainee from the bathroom cell in 106 because Respondent [redacted] called him and asked him to do so. (R. 519) Respondent went to the bathroom cell, unlocked the door with the key he had and took out a male detainee and did not look to see if anyone else was in the cell. He just unlocked it, opened it and walked away, and placed the male detainee back in the big holding cell of 105. (R. 519)The call he got from Respondent [redacted] was shortly after 12:00 (R. 520) Respondent stated that his report that he wrote regarding the occurrence on May 2, 2017, did not include that he removed a male detainee from the bathroom cell 106. (R. 522, 523) Respondent stated that when he wrote his report he would have already had the knowledge that a female was in the holding cell of 106 and he did not include this in his report. (R. 523) His report, Sheriff's Exhibit 18, was written on the day of the occurrence. (R. 524) Respondent Buchanan's supplemental report, Sheriff's Exhibit 19, was also written on the same day. (R. 525) He did not give his report to a supervisor to sign off and gave it directly to the State's Attorney's investigator assigned regarding the criminal conduct.

The Parties agreed to have the recorded statement/interview of Respondent [redacted] be admitted in lieu of her live testimony. Whether this testimony was consistent or inconsistent with the evidence, other testimony was not stipulated.

Conclusion

Based upon the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Board finds that the Respondent did violate Cook County Court Services Department Policy Manual Policy 321.2, 321.3, 321.4, 321.5, 322.5.2, 321.5.5, Cook County Court Services Department Policy Manual Policy 900.2, 900.3, 900.3.2, 900.3.3, Cook County Core Services Department Policy Manual Policy 903.2, 903.3, 903.9, Cook County Court's Department Policy Manual 1100.2, 1100.3, 1100.3.8, and Merit Board Rules and Regulations Article X, paragraph B 3. The Respondent was grossly negligent in allowing the female detainee [redacted] to be assaulted in restroom cell 106 by the male detainees by failing to properly monitor the courtroom holding cells, failing to properly inspect the cells for the 15 minute checks by entering the cells and checking the occupancy, falsely claiming that the 15 minute checks were properly done, and failing to properly monitor the detainees under his supervision. Further Respondent falsely filed reports that he complied with the requirements to conduct proper safety checks and was untruthful to OPR investigators regarding the circumstances surrounding the incident. Respondent failed to be alert and attentive and vigilant in his duties which led to the sexual assault of the detainee.

Docket No. 2082
Deputy Sheriff
Marvin Buchanan
Star # 11446

Order

Wherefore, based on the foregoing, it is hereby ordered that Respondent Deputy Sheriff Marvin Buchanan be terminated, effective November 22, 2017.

Docket No. 2082
Deputy Sheriff
Marvin Buchanan
Star # 11446

[redacted]

James P. Nally, Chairman

[redacted]

Kim R. Widup, Board Member

[redacted]

Byron Brazier, Vice-Chairman

[redacted]

Juan L. Balthierres, Board Member

[redacted]

John J. Malicandro, Secretary

[redacted]

Kimberly Pate Godden, Board Member

[redacted]

Vincent T. Winters, Board Member

Date OCTOBER 25, 2019

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT – CHANCERY DIVISION

Marvin Buchanan,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	2019-CH-13670
	)	
Cook County Sheriff's Merit Board and the Sheriff of Cook County,	)	Calendar 8 (Judge Michael T. Mullen)
	)	
Defendants.	)	

ORDER

This cause coming on be heard on July 13, 2021 for hearing on plaintiff's complaint for administrative review, the Court having reviewed the administrative record as well as the written and oral submissions of the parties, and being fully advised in the premises,

IT IS ORDERED that this case is remanded to the Cook County Sheriff's Merit Board for the sole and exclusive purpose of supplementing its order of October 25, 2019 so that it clarifies whether its findings of fact provided a sufficient basis to conclude that cause existed to discharge Marvin Buchanan due to his conduct and whether said specified conduct rendered Mr. Buchanan's continued employment in some way detrimental to the discipline and efficiency of the Cook County Sheriff's Office. The Merit Board necessarily must set forth whether, prior to its determination that cause existed to discharge Mr. Buchanan, there was or was not consideration of any mitigating factors contained within the record, e.g., Buchanan's length of service and his prior disciplinary history or lack of it, as well as the weight that was given to any such evidence.

ENTER: [redacted]

Michael T. Mullen
Judge, Circuit Court of Cook County

Judge Michael T. Mullen
JUL 13 2021
Circuit Court - 2084

Submitted on behalf of:
Emily L. Stewart, ASA
500 Richard J. Daley Center
Chicago, IL 60602
(312) 427-3200
emily.stewart2@cookcountyil.gov
attorney for defendant Sheriff

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County	)	
	)	
vs.	)	
	)	**Docket No. 2082**
Marvin Buchanan	)	
Deputy Sheriff	)	

Decision

This matter coming on to be heard pursuant to the Order of Remand for additional findings of facts supporting the decision of the Cook County Sheriff's Merit Board to terminate Respondent Marvin Buchanan. The following additional findings are made by the Cook County Sheriff's Merit Board:

The Cook County Sheriff's Merit Board issued its original decision this matter on October 25, 2019, terminating the Respondent Marvin Buchanan, and setting forth in detail the rules, regulations and violations that were charged in the complaint, as well as a detailed exposition of the evidence through witness testimony and documents admitted into evidence.

The Board in its original decision found that Marvin Buchanan did violate Cook County Court Services Department Policy Manual Policy 321.2, 321.3, 321.4, 321.5, 322.5.2, 321.5.5, Cook County Court Services Department Policy Manual Policy 900.2, 900.3, 900.3.2, 900.3.3, Cook County Core Services Department Policy Manual Policy 903.2, 903.3, 903.9, Cook County Court's Department Policy Manual 1100.2, 1100.3, 1100.3.8, and Merit Board Rules and Regulations Article X, paragraph B 3. orders 11.2.1.0, 11.2.4.0 General Orders 24.9.1.0 Article X Paragraph B of the Merit Board Rules and Regulations and termination was sustained.

This case was remanded to the Merit Board based on the following: There was no finding by the Board that Marvin Buchanan continued employment was detrimental to the CCDOC or of any other reason that termination was necessary for the "discipline or efficiency" of the Sheriff's office.

In further review of the transcript of this case.

Respondent Marvin Buchanan testified he began working for Cook County Sheriff s Department in 1998 at the County Jail. (R. 512) He was working on May 2, 2017 at the Markham Courthouse and had been there for many months prior to this. (R. 517) The Respondent said that he was formerly trained regarding the courtroom services \duties. (R. 517) Respondent said that he was working in Courtroom 105 on the day of the occurrence and his partner was Respondent [redacted] (R. 517) Respondent testified that Respondent [redacted] and [redacted] were assigned to 106 across the hall from where he was working. (R. 518) Respondent said that he moved a male detainee from the bathroom cell in 106 because Respondent [redacted] called him and asked him to do so. (R. 519) Respondent went to the bathroom cell, unlocked the door with the key he had and took out a male detainee and did not look to see if anyone else was in the cell. He just unlocked it, opened it and walked away, and placed the male detainee back in the big holding cell of 105. (R. 519)The call he got from Respondent [redacted] was shortly after 12:00 (R. 520) Respondent stated that his report that he wrote regarding the occurrence on May 2, 2017, did not include that he removed a male detainee from the bathroom cell 106. (R. 522, 523) Respondent stated that when he wrote his report he would have already had the knowledge that a female was in the holding cell of 106 and he

did not include this in his report. (R. 523) His report, Sheriff's Exhibit 18, was written on the day of the occurrence. (R. 524) Respondent Buchanan's supplemental report, Sheriff's Exhibit 19, was also written on the same day. (R. 525) He did not give his report to a supervisor to sign off and gave it directly to the State's Attorney's investigator assigned regarding the criminal conduct.

Inv. [redacted] found that Respondent Buchanan failed to follow Policy 903 Prison Rape Elimination Section 903.9 "Obligation of CCSO Members to Report" which requires an officer to make a report as soon as practicable through the chain of command because he authored a supplemental report eight days after the incident was initially reported. (R. 166-7) Additionally, this supplemental report authored by Respondent Buchanan was not provided to a supervisor.

All personnel are provided copies of all policies and Respondent Buchanan was responsible for keeping up on all policies. (R. 220 -223)

The Respondent was grossly negligent in allowing the female detainee [redacted] to be assaulted in restroom cell 106 by the male detainees by failing to properly monitor the courtroom holding cells, failing to properly inspect the cells for the 15-minute checks by entering the cells and checking the occupancy, falsely claiming that the 15-minute checks were properly done, and failing to properly monitor the detainees under his supervision. Further Respondent falsely filed reports that he complied with the requirements to conduct proper safety checks and was untruthful to OPR investigators regarding the circumstances surrounding the incident. Respondent failed to be alert and attentive and vigilant in his duties which led to the sexual assault of the detainee.

Order

The continued employment or retention of every Sheriff's Office 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 these policies, may be cause for disciplinary action, up to and including termination. Marvin Buchanan's conduct clearly warrants termination in this case. All members of the Sheriff's Office are familiar with zero tolerance of acts committed in which the act committed is grounds for termination. This was a termination case as noted in the original complaint. The Merit Board agrees in this case that never at any time this type of conduct should not result in termination. The testimony and evidence presented in this case clearly shows termination is reasonable based on the act that occurred. Respondent has no sustained complaints on his disciplinary history. However, Respondent's years of service and accomplishments do not outweigh the seriousness of his misconduct in this case. The Board finds that Respondent's misconduct is incompatible with continued service as a deputy sheriff and warrants his discharge.

The Merit Board did not hear any testimony in this case that mitigates the request from the Sheriff of termination in this case.

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence in the record, the Board finds, by a preponderance of the evidence, that Deputy Sheriff

Marvin Buchanan termination is sustained, and his continued employment is detrimental to the Cook County Sheriff's Office based on his actions in this case.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Deputy Sheriff Marvin Buchanan be terminated, effective November 22, 2017.

Telephone: 312-603-0170
Fax: 312-603-9865
Email: Sheriff.MeritBoard@ccsheriff.org

COOK COUNTY
SHERIFF'S MERIT BOARD
69 West Washington - Suite 1100
Chicago, IL 60602

Marvin Buchanan
Deputy Sheriff
Docket No. 2082

This Remand Decision is adopted and entered by a majority of the Members of the Merit Board:

John J. Dalicandro, Byron Brazier, Vincent T. Winters, Kimberly Pate Godden, Eleni P. Sianis and Terrence J. Walsh.

Not Present: Darren Collier.

DISSENT

The following Members of the Merit Board dissent from the Findings and Decision of the majority of the Board.

[NONE]

DATED AT COUNTY OF COOK, STATE OF ILLINOIS, THIS 14th DAY OF OCTOBER, 2021.