



Office of Professional Review  
Command Channel Review

December 22, 2015

O.P.R.# 2015-0428

OPR/DOC- Ortiz - SUSTAINED

Please review and Forward to next step within 5 Days. If you do not concur with findings or penalty, attach a memorandum with your recommendations.

REVIEW AND FORWARD TO NEXT STEP WITHIN 5 DAYS. IF YOU DO NOT CONCUR WITH THE FINDINGS OR PENALTY, ATTACH A MEMORANDUM WITH YOUR RECOMMENDATION.

Rec'd By: [Signature] Date: Dec 22, 2015 Time: 0947

I certify that no Political Reasons or Factors were considered in any decision I made or action I took relating to this Employment Action. Further, I do not know of, or have any reason to believe that, anyone else considered or took action based on Political Reasons or Factors with respect to this Employment Action.

I Concur  I Do Not Concur

Reviewed By: [Signature] Title: Executive Director - DOC  
Division: CCDOC Date: 12/23/2015

Rec'd By: J. Myslinski Date: 12/28/15 Time: 0730

I certify that no Political Reasons or Factors were considered in any decision I made or action I took relating to this Employment Action. Further, I do not know of, or have any reason to believe that, anyone else considered or took action based on Political Reasons or Factors with respect to this Employment Action.

I Concur  I Do Not Concur

Reviewed By: [Signature] Title: Executive Director/OPR  
Division: OPR Date: 12/28/15

Discipline Review Board  NOT APPLICABLE

Recommended Penalty: See attached

By: [Signature] OPR AED Date: 3-11-16

Rec'd By: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

I certify that no Political Reasons or Factors were considered in any decision I made or action I took relating to this Employment Action. Further, I do not know of, or have any reason to believe that, anyone else considered or took action based on Political Reasons or Factors with respect to this Employment Action.

I Concur  Options Granted  
 I Do Not Concur  Options Not Granted

Reviewed By: \_\_\_\_\_ Title: Undersheriff  
Division: \_\_\_\_\_ Date: 16 March 2016

Executive Director-OPR instructions to Admin Staff after CCR completed in cases that recommend more than a 30 day suspension up to separation/termination from CCSO.

- Executive Director OPR letter to Department Head placing employee on administrative leave with pay pending Loudermill Hearing.
- Executive Director OPR letter to Department Head placing employee on restricted duty with pay pending Loudermill Hearing.
- No letter required.

## CCSO Discipline Review Board Recommendation

After a thorough review of the facts establishing sustained misconduct concerning OPR2015-0428 as well as other relevant mitigating and aggravating factors, the following discipline is recommended.

Name: ORTIZ, Miguel

JDE [REDACTED]

Position: Correctional Officer

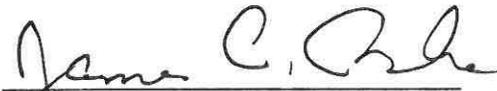
Sustained Misconduct:

Use of Excessive Force

Recommended Discipline:

*Termination*

I certify that no Political Reasons or Factors were considered in any decision I made or action I took relating to this Employment Action. Furthermore, I do not know of, or have any reason to believe that anyone else considered or took action based on Political Reasons or Factors with regard to this Employment Action.

  
\_\_\_\_\_  
James P. Roache, IG

3/14/16  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Brad Curry, Chief

3/11/16  
\_\_\_\_\_  
Date

**SUMMARY REPORT**

**COOK COUNTY SHERIFF'S OFFICE**

**SUBJECT:** Complaint Investigation No. OPR# 2015-0428

**DATE:** December 18, 2015

**INSTRUCTIONS:** Submit completed investigative file to the Office of Professional Review - Administrative Unit

INVESTIGATOR'S NAME	RANK	STAR NO.	JDE No.	UNIT ASSIGNED (BE SPECIFIC)
Richard Ellitch	Inv.	5051	██████	Office of Professional Review

REFERENCE NOS. (LIST ALL RELATED CASE REPORT, ARREST REPORT, INVENTORY NOS. - PERTINENT TO THIS INVESTIGATION)

ADDRESS OF INCIDENT (BE SPECIFIC, TO INCLUDE DIVISION, TIER OR FLOOR, ROOM NUMBER)	DATE OF INCIDENT - TIME
CCDOC, Division 8, Tier 2A Hallway	January 17, 2014 - 10:08 pm

ACCUSED NAME(s)	RANK	JDE NO.	UNIT ASSIGNED/SHIFT/DETAIL
Miguel Ortiz	CO	██████	Visitation

IF APPLICABLE - DATE ARRESTED/INDICTED - CHARGES	COURT BRANCH	DISPOSITION & DATE

COMPLAINANT'S NAME	ADDRESS	CITY	STATE	ZIP	TELEPHONE
Detainee ██████ ██████					

WITNESS'S NAME	ADDRESS	CITY	STATE	ZIP	TELEPHONE
Detainee ██████ ██████					

WITNESS'S NAME	ADDRESS	CITY	STATE	ZIP	TELEPHONE

ADDITIONAL NAME	ADDRESS	CITY	STATE	ZIP	TELEPHONE

LIST ANY ADDITIONAL ACCUSED, COMPLAINANTS, VICTIMS, AND/OR WITNESSES ON ATTACHED SHEETS

## SYNOPSIS

This investigation was initiated upon receipt of a Complaint Register from detainee [REDACTED] [REDACTED]. In the complaint, detainee [REDACTED] alleged that on January 17, 2014, Correctional Officer (CO) Miguel Ortiz used excessive force on him in Division 8 of the CCDOC.

There was enough evidence to indicate that CO Ortiz used unreasonable force during the above incident. CO Ortiz did not follow the CCSO use of force paradigm.

- The video of the incident shows CO Ortiz delivering seven closed handed strikes to detainee [REDACTED]. CO Ortiz documented in his Use of Force Report that these strikes were delivered to detainee [REDACTED] head. CO Ortiz confirmed this in his OPR interview.
- CO Ortiz described the detainee as making movements to attempt to defeat being handcuffed, such as flailing, when the closed handed strikes were used. This would make the detainee a moving resistor at that moment. The strikes CO Ortiz used would be considered mechanical strikes. Mechanical strikes should only be used on a subject who is at the assailant level, not the moving resistor level. What would have been reasonable is low pressure impact strikes (open hand strikes to large muscle groups) and holding / restraining (which is what the other officers used).
- CO Ortiz indicated in his OPR interview (at roughly 15 min. 50 sec. into the interview) detainee [REDACTED] took a fighting stance after he pulled away and before he fell. It is clear in the video that until CO Ortiz grabs detainee [REDACTED] detainee [REDACTED] is standing still with his arms crossed. He does not appear to make any aggressive movements. Furthermore, once he is grabbed he appears to be attempting to move away from CO Ortiz and falls backwards. Detainee [REDACTED] falls almost immediately after pulling away, and never takes a fighting stance. And once detainee [REDACTED] does fall, he indisputably does nothing to indicate that he is going to batter CO Ortiz, and it is at this point CO Ortiz begins to deliver close handed strikes to detainee [REDACTED] head.
- CO Ortiz was not in an extenuating circumstance requiring greater force (such as being alone). There were two officers in very close proximity to him before the incident begins. More importantly, there is another officer attempting to restrain detainee [REDACTED] while CO Ortiz is delivering his seven strikes. In his OPR interview, CO Ortiz' union representative asserted that CO Ortiz had to use the strikes because he was trying to restrain detainee [REDACTED] by himself. The video showed that this was not the case.

The evidence did not support the entire version of events put forward by detainee [REDACTED]. Detainee [REDACTED] alleged that he was struck after he was handcuffed; however the video showed that he was struck before he was handcuffed. Furthermore, there was no evidence to indicate that CO Ortiz slammed detainee [REDACTED] head on the floor.

This case is closed and classified as sustained.

## DETAILS OF INVESTIGATION

### Predication

This investigation was initiated upon receipt of a Complaint Register from detainee [REDACTED] [REDACTED]. In the complaint, detainee [REDACTED] alleged that on January 17, 2014, Correctional Officer (CO) Miguel Ortiz used excessive force on him in Division 8 of the CCDOC.

### Investigative Process

The OPR investigation consisted of reviewing a Complaint Register, CCDOC Incident Reports, CCDOC UOF Reports, CCDOC video, and medical records. OPR interviewed detainee [REDACTED] [REDACTED] CO [REDACTED] CO [REDACTED] CO [REDACTED] Sgt. [REDACTED] and CO Miguel Ortiz. This matter has been referred to the Cook County State's Attorney for prosecutorial consideration (see OPR 2014-0018).

### Use of Unreasonable Force by CO Miguel Ortiz - Sustained

#### Complaint Register submitted by Detainee [REDACTED] [REDACTED]

Detainee [REDACTED] documented that on the above date CO [REDACTED] informed CO Ortiz that CO Ortiz could not place detainee [REDACTED] in a specific cell because it was under quarantine. Detainee [REDACTED] proceeded to refuse to go into the cell and asked to speak with a sergeant or a lieutenant. CO Ortiz continued to insist that detainee [REDACTED] was to go into the cell. Detainee [REDACTED] continued to refuse, and CO Ortiz told him to get on the ground. Detainee [REDACTED] documented that he proceeded to get on the ground. Once he was on his stomach, CO Ortiz punched him in the face multiple times, then banged his head into the ground.

#### Interview of Detainee [REDACTED]

Detainee [REDACTED] stated that at the time of the incident CO [REDACTED] could not put him in his assigned cell because the cell was not clean. CO [REDACTED] told him that a detainee who had previously been in the cell was quarantined for an illness. Detainee [REDACTED] refused to go into the cell, but CO Ortiz ordered him to go in the cell anyway. Detainee [REDACTED] said CO Ortiz pushed him and he fell down to the ground. Once he was on the ground he was handcuffed, and he was hit several times in the jaw by CO Ortiz. A supervisor arrived and detainee [REDACTED] informed the supervisor about what had occurred. Detainee [REDACTED] was then escorted to Cermak for injuries to his head.

#### Review of CCDOC Incident Report

In an Incident Report CO [REDACTED] documented that at the time of the incident he received one new detainee (detainee [REDACTED] Detainee [REDACTED] refused to lock up on Tier 2A. Several orders to lock up were given but detainee [REDACTED] continued to refuse.

CO Ortiz went to grab detainee [REDACTED] to escort him to the tier. Detainee [REDACTED] pulled away and fell to the ground. CO [REDACTED], CO Ortiz, and CO [REDACTED] put detainee [REDACTED] in handcuffs. In the administrative assessment Sgt. [REDACTED] documented that the cell where they were going to put detainee [REDACTED] was previously quarantined, but it had been disinfected and was ready for general population. Officers attempted to escort the detainee to the cell after the detainee had refused. The detainee pulled away and proceeded to resist being handcuffed until the officers restrained him. Detainee [REDACTED] had no visible injuries and was taken to Cermak for medical and psychological evaluation. All three officers received disciplinary action for failing to notify a supervisor before the incident turned into a use of force (see SPR 2014-0211).

## Review of CCDOC Use of Force Reports

In a Use of Force Report CO Ortiz documented that at the time of the incident detainee [REDACTED] was being escorted by CO [REDACTED] to Tier 2A. Detainee [REDACTED] told CO [REDACTED] that he was refusing to go into an infected cell. Detainee [REDACTED] refused several orders to lock up and he would not move. CO Ortiz approached detainee [REDACTED] to escort him into the tier. At this time detainee [REDACTED] turned around with his "fists balled up". Detainee [REDACTED] then tripped on his feet and fell to the ground. Detainee [REDACTED] then resisted being handcuffed. CO Ortiz proceeded to strike detainee [REDACTED] with a closed fist to the head and face several times. CO [REDACTED] and CO [REDACTED] assisted and handcuffed detainee [REDACTED].

In a Use of Force Report CO [REDACTED] documented that at the time of the incident detainee [REDACTED] refused to lock up. Multiple orders were given but detainee [REDACTED] continued to refuse. CO Ortiz attempted to escort detainee [REDACTED] to the tier, but detainee [REDACTED] pulled away and fell to the ground. CO [REDACTED], CO [REDACTED], and CO Ortiz applied emergency handcuffing to detainee [REDACTED].

In a Use of Force Report CO [REDACTED] documented that he was escorting detainee [REDACTED] to CO [REDACTED] on Tier 2A. Detainee [REDACTED] refused to enter the tier because he believed it to be infected. CO Ortiz approached detainee [REDACTED] and went to escort him. Detainee [REDACTED] pulled away to avoid CO Ortiz. Detainee [REDACTED] lost his balance and fell to the ground. CO [REDACTED], CO Ortiz, and CO [REDACTED] tried to emergency handcuff detainee [REDACTED] but he resisted. Detainee [REDACTED] was successfully handcuffed and a supervisor was notified.

In a Witness Report CO [REDACTED] documented that he was working Tier 2B when he heard arguing coming from the hallway by Tier 2A. CO [REDACTED] exited Tier 2B and witnessed detainee [REDACTED] arguing with CO Ortiz and CO [REDACTED]. Detainee [REDACTED] said he was refusing to lock up. CO [REDACTED] then began walking back to Tier 2B when he heard a commotion. CO [REDACTED] turned and observed CO Ortiz, CO [REDACTED], and CO [REDACTED] struggling with detainee [REDACTED] on the ground. CO [REDACTED] radioed Sgt. [REDACTED] to come to Tier 2A.

In The Watch Commander Preliminary Findings Commander (Cmdr) Pan documented that CO [REDACTED], [REDACTED] and Ortiz failed to notify a supervisor prior to the Use of Force to detainee [REDACTED].

## Review of CCDOC Video

File "2-094-2CTL\_2014-01-17...": This is video of the incident. The perspective is from a mounted camera inside Tier 2A. The incident begins at roughly 2 minutes and 30 seconds into the video. Detainee [REDACTED] is leaning against a wall in the hallway outside of Tier 2A with his arms crossed. CO Ortiz approached detainee [REDACTED] and they appear to exchange words. CO [REDACTED] is standing a few feet away from them by the opposite wall. CO Ortiz grabs detainee [REDACTED] while detainee [REDACTED] arms are still crossed. Detainee [REDACTED] pulls backwards and twists his body. Detainee [REDACTED] legs appear to crisscross and he falls backwards to the ground. CO Ortiz and CO [REDACTED] immediately get down and grab detainee [REDACTED] on the ground. After they are both right on top of detainee [REDACTED] CO Ortiz proceeds to deliver roughly seven strikes to detainee [REDACTED]. While he is delivering these strikes CO [REDACTED] appears to be trying to restrain detainee [REDACTED] and CO [REDACTED] is walking around them. Detainee [REDACTED] continues to resist being handcuffed, then CO [REDACTED] gets down to assist in restraining him. Detainee [REDACTED] actively resists being restrained by the three officers until they are eventually able to turn him onto his stomach and handcuff him. Once he is handcuffed he is sat against a wall until a supervisor arrives.

File "2-055-2COR-NWWW...": This is video of the incident. The perspective is from a camera mounted down the hallway from Tier 2A. The incident begins roughly 2 minutes and 30 seconds into the video. This video does not capture clearly when CO Ortiz grabs detainee [REDACTED] as there is a pillar in the way. This video does capture detainee [REDACTED] falling backwards, and the subsequent strikes by CO Ortiz. The video also shows detainee [REDACTED] actively trying to defeat being handcuffed by the three officers.

The reports indicate that detainee [REDACTED] was interviewed on a Taser camera after the incident. The Video Monitoring Unit indicated via email that no video was recovered from the Taser camera.

## Interview of CO [REDACTED]

CO [REDACTED] stated that at the time of the incident he was assigned to Tier 2A and CO [REDACTED] was the movement officer. CO [REDACTED] said CO [REDACTED] escorted detainee [REDACTED] to Tier 2A to be housed. CO [REDACTED] said there were some sick detainees on Tier 2A and that he could not house detainee [REDACTED] on the tier because it was not cleaned. CO [REDACTED] said detainee [REDACTED] was making derogatory statements and was told to relax while they worked out the issue. CO [REDACTED] said detainee [REDACTED] continued to make statements that he was going to refuse to go in the cell. Detainee [REDACTED] was escorted off the tier into the hallway near Tier 2A. Detainee [REDACTED] was standing by the glass when CO Ortiz asked him if he was going to refuse to lock up. CO Ortiz attempted to escort detainee [REDACTED] but detainee [REDACTED] pulled away and threw himself to the ground. CO [REDACTED] said he assisted in emergency handcuffing detainee [REDACTED]. CO [REDACTED] said he did observe CO Ortiz striking detainee [REDACTED]. CO [REDACTED] said detainee [REDACTED] was resisting on the ground on not wanting to be handcuffed.

### **Interview of CO [REDACTED]**

CO [REDACTED] stated that he vaguely recalled the incident, but that he stood by the report that he filed. CO [REDACTED] added no further information.

### **Interview of CO [REDACTED]**

CO [REDACTED] stated that he stood by what he documented in his report and had nothing further to add.

### **Interview of Sgt. [REDACTED]**

Sgt. [REDACTED] stated that although he signed off on the reports for the above incident, he did not have access to review the video of the incident. Sgt. [REDACTED] said he was made aware that the interview of detainee [REDACTED] failed to record on video.

### **Medical Records of Detainee [REDACTED]**

Medical records indicated that detainee [REDACTED] was treated for blunt head trauma without any loss of consciousness with ibuprofen and an icepack. Medical records do not document any visible injuries.

### **Audio Recorded Interview of CO Miguel Ortiz**

(Refer to the media for full interview)

CO Ortiz stated that detainee [REDACTED] refused housing because there had been a virus outbreak. CO Ortiz approached him and again asked him if he refused housing. When detainee [REDACTED] refused again, CO Ortiz reached for him. Detainee [REDACTED] then "spun around from [him] in a fighting stance", then detainee [REDACTED] lost his footing and fell to the ground. Once detainee [REDACTED] fell to the ground CO Ortiz did not know what detainee [REDACTED] was going to do next so he struck detainee [REDACTED] several times with a closed fist. Detainee [REDACTED] was given verbal orders to be handcuffed but he was not complying. Two other officers then assisted CO Ortiz with handcuffing detainee [REDACTED]. CO Ortiz said while he was striking detainee [REDACTED] in the head area, detainee [REDACTED] would not give up his hands, was flailing, and attempting to defeat being handcuffed. CO Ortiz said he did not smash detainee [REDACTED] head into the ground.

There was enough evidence to indicate that CO Ortiz used unreasonable force during the above incident. CO Ortiz did not follow the CCSO use of force paradigm.

- The video of the incident shows CO Ortiz delivering seven closed handed strikes to detainee [REDACTED]. CO Ortiz documented in his Use of Force Report that these strikes were delivered to detainee [REDACTED] head. CO Ortiz confirmed this in his OPR interview.
- CO Ortiz described the detainee as making movements to attempt to defeat being handcuffed, such as flailing, when the closed handed strikes were used. This would make the detainee a moving resistor at that moment. The strikes CO Ortiz used would be considered mechanical strikes. Mechanical strikes should only be used on a subject who is at the assailant level, not the moving resistor level. What would have been reasonable is low pressure impact strikes (open hand strikes to large muscle groups) and holding / restraining (which is what the other officers used).
- CO Ortiz indicated in his OPR interview (at roughly 15 min. 50 sec. into the interview) detainee [REDACTED] took a fighting stance after he pulled away and before he fell. It is clear in the video that until CO Ortiz grabs detainee [REDACTED] detainee [REDACTED] is standing still with his arms crossed. He does not appear to make any aggressive movements. Furthermore, once he is grabbed he appears to be attempting to move away from CO Ortiz and falls backwards. Detainee [REDACTED] falls almost immediately after pulling away, and never takes a fighting stance. And once detainee [REDACTED] does fall, he indisputably does nothing to indicate that he is going to batter CO Ortiz, and it is at this point CO Ortiz begins to deliver close handed strikes to detainee [REDACTED] head.
- CO Ortiz was not in an extenuating circumstance requiring greater force (such as being alone). There were two officers in very close proximity to him before the incident begins. More importantly, there is another officer attempting to restrain detainee [REDACTED] while CO Ortiz is delivering his seven strikes. In his OPR interview, CO Ortiz' union representative asserted that CO Ortiz had to use the strikes because he was trying to restrain detainee [REDACTED] by himself. The video showed that this was not the case.

The evidence did not support the entire version of events put forward by detainee [REDACTED]. Detainee [REDACTED] alleged that he was struck after he was handcuffed; however the video showed that he was struck before he was handcuffed. Furthermore, there was no evidence to indicate that CO Ortiz slammed detainee [REDACTED] head on the floor.

This case is closed and classified as sustained.

### **Complimentary / Disciplinary History for CO Miguel Ortiz**

The Complimentary / Disciplinary History for CO Ortiz is attached to the case file.

### **Mitigating and Aggravating Factors**

There were no mitigating or aggravating factors in this case.

## Violations

CO Ortiz violated CCSO Sheriff's Order 11.2.1.0, "Response to Resistance / Use of Force Policy" Integrated use of Force Model.

CO Ortiz violated CCSO Sheriff's Order 11.2.1.0, "Response to Resistance / Use of Force Policy" Section VII, A, which states "The primary objective of the use of force model is to ensure control of a subject with only the amount of reasonable force necessary based on the totality of circumstances and to gain compliance of the subject as safely and quickly as possible".

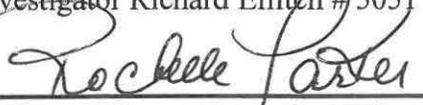
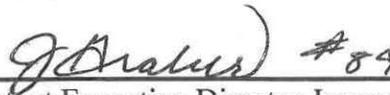
CO Ortiz violated CCSO Sheriff's Order 11.2.1.0, "Response to Resistance / Use of Force Policy" Section VII, B, which states "Officers are authorized to use only the amount of force necessary to effect lawful objectives. The determination of what is or is not reasonable force is based on each individual situation and is a decision that the involved officer must make based on the totality of the circumstances".

CO Ortiz violated CCSO Sheriff's Order 11.2.1.0, "Response to Resistance / Use of Force Policy" Section VII, E, which states "When force is applied, officers shall escalate or de-escalate their use of force based on the subject's resistance".

CO Ortiz violated Cook County Sheriff's Merit Board Article X, "Rules and Regulations for the Conduct of Employees of the CCDOC" (3), No correctional officer will violate any of the general orders, special orders, directives, or rules and regulations of the CCSO".

This report is being referred to the Discipline Review Committee for whatever action it deems appropriate.

***I certify that no Political Reasons or Factors were considered in any decision I made or action I took relating to this Employment Action. Further, I do not know of, or have any reason to believe that, anyone else considered or took action based on Political Reasons or Factors with respect to this Employment Action.***

 Investigator Richard Ellitch #5051	12-18-15 Office of Professional Review
 Assistant Director Rochelle Parker	Dec 18, 2015 Office of Professional Review
 Assistant Executive Director Jerome Graber	12-21-15 Office of Professional Review