



## STATE OF NEW JERSEY

In the Matter of David Boyd  
Cumberland County, Department of  
Corrections

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC DKT. NO. 2019-1198  
OAL DKT. NO. CSR 15990-18

ISSUED: AUGUST 16, 2019 BW

The appeal of David Boyd, County Correction Officer, Cumberland County, Department of Corrections, removal effective October 12, 2018, on charges, was heard by Administrative Law Judge Catherine A. Tuohy, who rendered her initial decision on July 3, 2019. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of August 14, 2019, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of David Boyd.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 14<sup>th</sup> DAY OF AUGUST, 2019

*Deirdre L. Webster Cobb*

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
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Attachment



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. CSR 15990-18

AGENCY DKT. NO. N/A

**IN THE MATTER OF DAVID BOYD,  
CUMBERLAND COUNTY (DEPARTMENT OF CORRECTION).**

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**Arthur J. Murray, Esq.,** for appellant (Alterman and Associates, LLC, attorneys)

**Theodore E. Baker, Esq.,** for respondent

Record Closed: May 20, 2019

Decided: July 3, 2019

BEFORE **CATHERINE A. TUOHY, ALJ:**

**STATEMENT OF THE CASE**

Appellant, David Boyd, a Corrections Officer with respondent the Cumberland County Department of Corrections (CCDOC), appeals his removal, effective October 12, 2018 following an investigation that determined he had engaged in conduct unbecoming a public employee and over familiarization/fraternizing with inmates and sleeping on duty. Appellant was charged with violations of N.J.A.C. 4A:2-2.3(a)6 conduct unbecoming; N.J.A.C. 4A:2-2.3(a)7 neglect of duty; N.J.A.C. 4A:2-2.3(a)12 other sufficient cause; and violations of county policy 3.02A, also known as 84-17 T - violation of a rule, regulation, policy, procedure, order or administrative decision; B – Performance: 4. sleeping while on duty (essential) and 9. incompetence or inefficiency; and C – personal conduct 11. conduct

unbecoming a public employee. Appellant denies the allegations, except admits to sleeping while on duty and rule violations, however submits his conduct does not warrant removal.

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### **PROCEDURAL HISTORY**

On May 22, 2018 respondent issued a Preliminary Notice of Disciplinary Action setting forth the charges and specifications made against the appellant (J-1). Appellant requested a departmental hearing which was held on October 5, 2018. On October 6, 2018 respondent issued a Final Notice of Disciplinary Action sustaining the charges in the Preliminary Notice and removing appellant from employment, effective October 12, 2018 (J-2). Appellant filed a direct filing removal appeal on October 25, 2018 to the Office of Administrative Law (OAL) where it was filed on October 25, 2018 as a contested case pursuant to N.J.S.A. 52:14B-1 to 15; N.J.S.A. 52: 14F-1 to 13. The hearing was held on January 7, 8, 14, February 6, 7, 8, and 13, 2019. The record remained open to allow the parties to submit post-hearing submissions and the record closed on May 20, 2019.

### **FACTUAL DISCUSSIONS AND FINDINGS**

**Detective Joseph Lowry** testified on behalf of the respondent. He is currently employed by the Cumberland County Prosecutors Office and until today was assigned to the Professional Standards Unit (PSU) for the past three years. He has been employed in law enforcement for thirty-five years. He worked for the Augusta County Sheriff's Department in Virginia for five years; then the Bridgeton Police Department for four years and then worked for the New Jersey State Police for twenty-one years until he retired. The last nine years of his employment with the State Police he worked in the Internal Affairs Department and retired as a Lieutenant. He then worked for two years at the Camden County Prosecutors Office before his current position.

Detective Lowry was contacted July 18, 2017 by the Cumberland County Prosecutor's Office Organized Crime Bureau (OCB) and advised that they had received information that might be indicative that one of the officers from the Cumberland County Corrections department may be involved in bringing drugs into the jail. In this case, it was determined that the Cumberland County Narcotics Task Force OCB would be the lead

investigating authority since they received the information and the Prosecutor's Office would assist and if they thought they could make a criminal prosecution, they then would step in and take over the case. The PSU monitored the investigation and Detective Ryan Breslin from OCB who was employed by the Cumberland County Prosecutor's Office conducted the investigation. No other persons from PSU were involved. The actual detective work was done by Detective Lowry and Detective Breslin. If an officer was involved in bringing drugs into the jail or distributing drugs on the street, that would be a criminal activity that they would investigate. They received information from many sources including the Cumberland County Corrections Department as well as the Prosecutor's Office that Officer David Boyd was involved in bringing narcotics into the jail and distributing them in D Pod and possibly another pod.

OCB received information from multiple sources, including two confidential informants (CI) as well as confidential sources that drugs were being brought into the jail. A confidential informant is someone documented and vetted as a source by the Cumberland County Prosecutors Office. They are assigned a confidential number and their information has been assessed as credible based upon past experiences with them. A confidential source is someone who comes forward of their own volition that has not been documented but is providing information regarding an investigation. A confidential source can be a person on the street, an inmate or a corrections officer. Detective Lowry is not familiar with the confidential informant involved in this investigation and has no personal information regarding same.

Detective Lowry prepared a report, Cumberland County Prosecutor's Office Internal Affairs Investigation Report, Case PSU 17-0058 (R- 1) that was submitted on April 4, 2018. He initially met with Detective Breslin who had advised him that he received information from a CI that C.J. was an inmate in D-Pod and was involved in narcotics use and distribution within the jail. Officer Boyd had provided C.J. with a cell phone to facilitate drug transactions within the jail. Detective Breslin provided the number for the cell phone. Detective Lowry did not run the number. Detective Breslin obtained the Communication Information Orders from the Superior Court as they were taking the lead on the investigation. C.J. was an inmate who was incarcerated during the time from August 17, 2016 until August 22, 2017. During that same meeting with Detective Breslin, Detective

Lowry was informed that the CI had indicated that J. D., an individual known to OCB, was incarcerated pending trial on drug kingpin charges and was in D-Pod and had fronted a kilogram of cocaine to Officer Boyd. Detective Lowry also had conversations with Sergeant Holbrook of the Special Investigations Unit of the CCDOC, who was his main contact at the facility during the investigation. Sgt Holbrook confirmed that Officer Boyd was assigned to D-Pod.

OCB believed that J.D.'s drug operation was still being run by his girlfriend, D.D., while he was incarcerated, and OCB was interested in that members of his operation were still out on the street. They knew where she lived and that she drove a black suburban. She was ultimately charged with crimes relating to the J.D. drug distribution network and her daughter A.A. was also arrested. Detective Lowry could not prove that a criminal enterprise was being run from the jail by J.D., otherwise criminal charges would have been filed. However, all of the information provided, observations made, communication information orders obtained, videos that were reviewed and conversations that were translated of the calls, all were indicative that what the CI and sources said was going on was accurate.

Inmate video conference calls are recorded, and a court order was obtained to listen to the conversations between J.D. and D.D. which were in Spanish and reviewed by a Spanish speaking officer, Detective Sergeant Perez. There was no information pertaining to Officer Boyd that was captured in these conversations although there were calls between D.D. and J.D. indicative of narcotic distribution (R-1, page 13). Information leaked out that they were watching Officer Boyd and the cell phone activity subsided. The CI advised that the cell phone number 609-579-8592 was the cell phone Officer Boyd gave to inmate C.J. (R-1, page 2). Detective Breslin used this number to obtain a Communications Information Order (CIO) from the cell phone provider for that phone. The results of the CIO would show the cell phone activity from that phone and they would check for other telephone numbers of interest made to or called from that phone. The CI saw Officer Boyd give the cell phone to C.J. by smuggling in the phone under his tactical vest and then give it to C.J. Detective Lowry could not verify this information on video surveillance.

On October 12, 2017, Detective Breslin found a number associated with Officer Boyd 856-641-5733 by doing a "clear" search which is a data base utilized by law enforcement (R-1, page 4). Detective Breslin cross-referenced C.J. number with the number associated with Officer Boyd and found that there were twenty-three contacts between the phones while C.J. was incarcerated.

A CIO was also applied for Officer Boyd's telephone by Detective Breslin. When J.D. was calling from the videoconference number at the jail, he was calling D.D.'s cell phone. A CI had contacted Detective Breslin and provided a cell telephone number for D.D. as being 856-378-9549 (R-1, page 6). A CIO for that telephone number and for the number associated with Officer Boyd was obtained November 9, 2017. The CIO does not provide recordings of the conversations just the call record activity dates and times that there were communications between the two phones. Detective Breslin analyzed the call records and determined that in an approximately forty-day period between October 1, 2017 and November 9, 2017 those two telephone numbers communicated 167 times (R-1, page 8). Detective Lowry does not know the substance of any of those contacts.

Officer Boyd was not interviewed by Detective Lowry because it was an active criminal investigation and they were trying to develop the case. Around mid-November a confidential source advised that the phone Officer Boyd had given to C.J. to use was provided to J.D. to use to contact D.D. Officer Boyd would smuggle the phone in and give it to J.D. Sgt Henry was provided with information from a confidential source that Officer Boyd stopped bringing in the phone for J.D. and that J.D. began using the jail telephones to conduct business (R-1, page 9). At some point Officer Boyd suspected he was under investigation.

The telephone number of the CCDOC 'trunk' line is a land line 856-453-9804 and is not a recorded line. Detective Lowry does not know if this number goes to a specific area in the jail for example, the officers' desk at D-Pod or a switchboard. He does know that you can make direct calls out on the line and receive calls. He can match this number with video within the pod and outside in the parking lot and with D.D.'s cell phone number. Between November 9, 2017 and December 7, 2017 D.D.'s cell number was contacted 397 times by the jail number 856-453-9804. From October 1, 2017 to November 9, 2017,

1,365 telephone calls were received by D.D.'s cell phone from the jail trunk line (R-1, page 10).

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As a law enforcement officer, the frequency of these phone calls raises concerns because D.D. is involved in the drug network of J.D. and there are numerous communications from the jail. Detective Lowry did not know if inmates had access to the 9804 jail number. He does know that Officer Boyd used that number on November 16<sup>th</sup> because he watched him use it. Detective Lowry viewed surveillance videos of the CCDOC during this time frame. There was a telephone in D-Pod on the officers' desk. The information they received was that Officer Boyd was bringing drugs into the jail. Officer Boyd was off for a period of time and when he returned, they believed drugs would be coming back into the jail. Detective Lowry only looked at one night of video surveillance from the jail.

There was surveillance done on Officer Boyd to try and make a link to D.D. in-person or to see if a drop was being utilized or if Boyd was going to a known drug location to either get drugs or deliver drugs. The surveillance did not last long because it was difficult to conduct surveillance without being seen. On September 14, 2017, Officer Boyd worked the night shift and they followed him when he left the jail. He parked in the driveway of I.T., a cousin, who was arrested for drugs and weapons charges and was incarcerated at the jail on September 15, 2017. Detective Lowry believed Officer Boyd was making contact with I.T., a person known to be involved with narcotics. Officer Boyd left his post on D-Pod and was observed communicating with I.T. inside the jail. Detective Breslin received authorization to install a GPS tracking device on Officer Boyd's vehicle, a white Journey. On multiple occasions, Officer Boyd's vehicle was at D.D.'s residence. No wiretaps were applied for Officer Boyd's telephone.

The week of October 23, 2017, the CI contacted Detective Breslin to advise him that Officer Boyd and J.D. were going to take a break for a couple of weeks from bringing drugs into the jail because J.D.'s 'spiritual father' told him to take a break (R-1, page 6). Officer Boyd's first day back to work was October 16, 2017 after a break. Detective Lowry reviewed the recorded surveillance tapes for October 16, 2017 for the interior and exterior of the jail and the parking lot by Rudolphi's bakery. Detective Breslin had reviewed the



videos and said they contained items of interest, so Detective Lowry requested copies of the surveillance. The system is not as accurate as a cell phone. The time documented on the surveillance tape is the time he documented in his report. The video times are close but not exact - within approximately two minutes of their actual occurrence. They had received information from multiple sources that Officer Boyd was bringing in drugs to the jail, sometimes smuggled in his tactical vest or when he was bringing in food from his vehicle after going out for a lunch break. He would bring in food and deliver it to J.D. He reviewed hours of video and concentrated on October 16, 2017. He watched the video from the camera on the building pointing towards the parking lot adjacent to Rudolphi's along Atlantic Street; and the camera angle that showed the officers desk on D-Pod; and the camera angle showing J.D.'s cell. He looked at twelve hours of video. He saw Officer Boyd's white Dodge Journey in the parking lot. D.D. had a black Chevrolet suburban with New Jersey license M14HNR (R-1, page 8). Detective Breslin did a surveillance at D.D. and J.D.'s residence at Duchess Place. They knew they lived there due to the initial investigation. When they arrested J.D. on the initial drug charges that landed him in the county jail, that is where he was arrested. Detective Breslin observed D.D.'s black suburban at that residence. He had run her license plate through DMV and the black suburban was registered to her at that address.

At 9:22 p.m. Officer Boyd's vehicle lights flashed, and no one was seen around the vehicle at the time. At 9:34 p.m. a dark suburban pulled behind Officer Boyd's vehicle close to Rudolphi's Bakery parking lot. A short, heavy set female exited the suburban driver's seat and walked towards Officer Boyd's vehicle carrying a plastic bag. She attempted to open the front passenger side of Boyd's vehicle, but the door did not open. She then went around to the rear of her vehicle. Then at 9:37 p.m. Officer Boyd's vehicle lights flashed again, and the female went to the front passenger's side of Officer Boyd's vehicle, opened the door and placed the plastic bag on the front passenger seat and when she turned around she was not holding the plastic bag. She had put it in Officer Boyd's car and closed the door and at 9:38 p.m. Officer Boyd's vehicle's lights flashed again for the third time. She is later observed from a different angle at 9:39 p.m. raising her hand up with her cell phone with the light on waiving towards the jail. At 9:40 p.m. she drives away. He did not observe anyone else in that vehicle. He reviewed other surveillance to corroborate the activity in the parking lot with events inside the jail. Sgt Holbrook provided

the video from inside the jail. At 9:20 p.m. Officer Boyd had multiple conversations with a Hispanic male who was right next to the desk leaning down and whispering to him. At 9:22 p.m. he observed Officer Boyd talk on the desk phone and then put it down. From 9:22 p.m. – 9:33 p.m. Officer Boyd was on the landline. Another camera angle from D-Pod showed activity between 9:35 p.m. – 10:35 p.m. surrounding J.D.'s cell 4017. Numerous Hispanic males entered and exited the cell and communicated with Officer Boyd at the desk. Between 10:35 – 10:43 p.m. Officer Boyd was in J.D.'s cell. The first time he saw lights flash on Boyd's vehicle was 9:22 p.m. and at 9:34 p.m. the SUV pulled up. Between 9:22 – 9:37 p.m. he observed the desk phone in D-Pod being used by Officer Boyd. The CIO's all match up with the cell phone use and the landline at the jail desk in D-Pod because he can correlate the call between D.D. cell phone call to the 9804 jail line and he observed Officer Boyd using the phone on the video. They all match up with what he observed in the parking lot.

The call records for 856-641-5733, Officer Boyd's cell phone were obtained for October 16 and October 17, 2017 pursuant to a CIO (R-2). There were calls made relevant to his observations made on that date. The call records for 856-378-9549 were also obtained pursuant to a CIO (R-3). At 21:49 a text message came in to Boyd's cell phone, but Detective Lowry could not show telephone activity correlating with what he observed on the surveillance of the car in the parking lot. The only relevance of R-2 is for the two entries seven and eight from the bottom up for 856-982-3686 of two that calls are at 21:49 which is the time frame of the D-Pod surveillance video. There is a text message at 7:53 and that 21:49 a text message came in to Officer Boyd's cell phone. Detective Breslin would be in a better position to interpret the data. He did not know if any of the numbers were associated with D.D. on R-2.

R-3 are the call records for D.D.'s cell telephone number 856-378-9549. At 21:30 the calling number is the CCDOC landline indicating a call was made from that line and the call went to D.D.'s telephone number. Reviewing the surveillance of D-Pod, it shows Officer Boyd on the landline at that time on the desk phone and it shows D.D. in the parking lot trying to get into Officer Boyd's vehicle. At 21:50 the call went out from the jail landline to D.D.'s cell phone (R-3). Looking at surveillance Officer Boyd is talking on the desk telephone at 9:37 – 9:40 p.m., the time D.D. is trying to get into Boyd's car and then gets

access and holds her phone up in the air. There is phone communication coordinating the locking and unlocking of the vehicle. Starting at 21:30 there are phone calls between the 9804 (jail line) number and 378-9549 (D.D.) right before D.D. pulls into Rudolphi's parking lot. At 21:35 the jail line is calling D.D.'s cell phone. These are voice calls (R-3). Based on his review of the records and the surveillance film, Detective Lowry believes these calls were made between Officer Boyd and D.D. Somebody matching the description of D.D. is placing something in Officer Boyd's vehicle coordinated through the use of these phones.

Detective Lowry saw Officer Boyd using a cell phone that he pulled out from his vest at 20:20 on the surveillance. His cell phone was communicating with someone at 21:49, but he does not have anything on R-2 indicating that Officer Boyd was communicating with anyone from his cell number at 20:20 that matched his view of the surveillance video. A CO should not have a cell phone in the correctional facility.

Detective Lowry concluded that Officer Boyd and D.D. were communicating for the unlocking of his vehicle and the placement of a bag in his vehicle and the relocking of his vehicle and her showing the illuminated phone being waived at the jail. There were numerous phone calls between the numbers, but Detective Lowry has no visual confirmation other than for October 16, 2017. He could not determine what number Officer Boyd was using at 20:20 on the video. Prior to October 16, 2017 there were numerous calls between Officer Boyd and D.D. After November 9, 2017 the frequency of the calls diminished. Between November 9 and December 7, there were only three contacts between the phones, as compared to 167 times the previous billing cycle. This corroborated information that they received that Officer Boyd knew about the investigation and the communications almost stopped.

On December 18, 2017, Detective Breslin reviewed the results of the CIO for D.D. and found that D.D.'s cell phone had been contacted 397 times from the 856-453-9804 jail line between November 9 – December 7, 2017 (R-1, page 10). Detective Lowry was certain that D.D. was involved in drug distribution either inside the jail or outside the jail.

There was a wire tap affidavit authorizing release of the video visitation conversations between J.D. and D.D. which were all in Spanish which had to be translated. They did not involve Officer Boyd.

On cross-examination, Detective Lowry said there were two CIs, none of whom he spoke to, and eight other confidential sources that he did not know who they were or whether they had criminal records. He did speak to one inmate, out of the ten sources in his report, but did not know his criminal record (R-1, page 2).

In his report, Detective Lowry came to the conclusion that there was insufficient evidence for a criminal prosecution of David Boyd (R-1, page 1). The IA department reports to the prosecutor, but the first assistant prosecutor, Harold Shapiro, reviewed the investigation report. There was no physical evidence of any drug activity, so they could not prove a case beyond a reasonable doubt. Detective Lowry did not know if any of the confidential informants were offered any favorable treatment in exchange for the information they provided regarding Officer Boyd. Detective Breslin was also involved in an investigation of J.D. but Officer Boyd was not a target in that investigation.

Detective Lowry never interviewed inmates C.J. or J.D. in connection with his investigation. He did not know if Officer Boyd was searched as he came in and out of the jail. The clear search done by Detective Breslin he believes referenced a female residing with Officer Boyd, but it would be reflected in his report. Detective Lowry did not cross reference any of the calls reflected in the telephone logs to see if Officer Boyd was working or not working when any of the calls were made. Detective Breslin was the field expert and had advised that it was almost impossible to obtain the text message content from the cell provider, so they did not attempt to obtain a warrant for the text messages. Boyd was alleged to have given a cell phone to inmate C.J. and to inmate J.D. but he did not know if it was the same cell phone. There was no investigation undertaken or any information obtained as to how Officer Boyd learned he was under investigation. Detective Lowry did not know for certain if Officer Boyd knew he was under investigation. When Officer Boyd was not working D-Pod, another officer would be working D-Pod and have access to the desk phone, yet there were no cross references to the call logs and Officer Boyd's work schedule.

Based on Detective Lowry's review of the October 16, 2017 surveillance tape and the records, it is his belief that it was D.D. in the parking lot. He does not know with certainty. He could not read the tag number of the car. It matched her description and it was her cell number on the records. The parking lot is not a restricted lot. Detective Lowry does not know the details of the GPS device being installed on Officer Boyd's car. Detective Breslin advised that the vehicle was at the D.D. Dutchess place address on more than one occasion. They did not have correlating information that it was Officer Boyd that drove it there. He did not know if Officer Boyd was searched or not searched as he entered the jail. The videos Detective Lowry reviewed had no audio. He did not review any videos with audio or of any of the cameras located at the entrance to the facility. There was at least one shakedown of D-Pod during his investigation but no one found a cell phone. He believes that they did find CDS on the cellmate of J.D. There was no information indicating that Officer Boyd was the source.

On re-direct, Detective Lowry stated that in his view of the surveillance tape from October 16, 2017 Officer Boyd spent a significant amount of time in J.D.'s cell (R-1, page 10). Detective Lowry when viewing another camera angle of D-Pod observed Officer Boyd inside Delgado's cell from 10:35 p.m. to 10:43 p.m. on October 16, 2017 (R-1, page 7).

**Detective Ryan Breslin** testified on behalf of the respondent. He has been employed by the Cumberland County Prosecutor's Office since November 5, 2007 and is currently assigned to the major crime's unit. He was previously assigned to OCB from May 2015 until June 25, 2018. OCB focuses on narcotics enforcement and organized crime activity such as gang activity, whereas the major crimes unit focuses on shootings, homicides and robberies. He is a member of the NJ Narcotics Enforcement Association and attended several schools and has an investigators certificate from the state of N.J. While in OCB he dealt with CIO's that provide call detail records from cell providers without the location information. It will tell you between who the calls were made, the date and the length but not the location the calls are coming from.

In July 2017, while Detective Breslin was working for OCB, he received information from a CI regarding a Cumberland County Corrections Officer that was allegedly smuggling contraband into the county jail. The CI did have a criminal history. Later in the

investigation in October or November 2017, CI number two provided information from within the jail. These informants were different individuals than the informants referenced in Sergeant Holbrook's investigation. He received the same information from the two CI's, the only difference initially was that the second CI said it was an officer "Lloyd" that was involved but Detective Breslin was able to learn that the officer in D-Pod was Officer Boyd and all of the other information matched up. Usually there is a reason an informant is giving information and they usually have a criminal record. Both informants indicated that Officer Boyd was bringing contraband into the jail and CI number two provided the cell number for D.D., the girlfriend of J.D. who was an inmate in D-Pod. After C.J. was out of the pod, J.D. was identified as the individual Officer Boyd was working with CI number one provided them with C.J.'s cell number. The information was that C.J. had a cell phone in the county jail according to CI number one. They did a "clear" search on Officer Boyd which provided a cell number for him. A clear search reveals all information of public record. He obtained the call detail records for C.J., D.D. and Officer Boyd. The results showed that there were contacts between the number for C.J. and Officer Boyd and Officer Boyd and D.D. The CI number one had provided information in the past and was deemed to be reliable. The clear search for Officer Boyd indicated his cell number was 856-641-5733 and when cross-referenced with the records for C.J. cell number 609-579-8592 were found to have communicated twenty-three (23) times (R-1, page 4). The content of the communication was not known. D.D.'s cell number was 856-378-9549 (R-1, page 8). He did do a clear search on D.D. but this cell number did not come up. The subscriber information however was for an address known to be associated with D.D. at North Pearl Street. This was known from a previous narcotic investigation where she was receiving shipments of cocaine through the U.S. postal service at that address. As a result of that investigation, criminal charges were brought against D.D., her daughter A.A., J.D., J.S. and I.G. There was a jury trial in May 2018 and they were found guilty, except for A.A. During his investigation, J.D. was in the Cumberland County jail, D-Pod. D.D. was out on bail up until her conviction in May 2018. This investigation began in July 2017 and ended in February 2018 because in November 2017 the communications between the cell numbers dried up as was revealed by the second set of CIOs'. There was a large amount of communications between the cell phones of D.D. and Officer Boyd between October 1 and November 9, 2017 – 167 communications. He did not personally observe any of these conversations taking place. He was not concerned with other telephone numbers. He did

review the surveillance tapes and the call records for Officer Boyd (R-2) and for D.D. (R-3) to correlate a phone call D.D. received from the trunk line from the jail the same time she was in the parking lot at the jail on October 16, 2017. Text messages are indicated as "text" or lasting "0". The sixth call from the bottom of R-3 is a voice call from the jail line, 856-453-9804, at 21:30 to D.D. cell lasting 274 seconds or four and a half minutes. The last two entries on R-3 at 21:50 is for 842 seconds or twelve minutes from the jail to D.D.'s cell phone. On R-2, the call records for Officer Boyd's cell phone the eighth and ninth up from the bottom on October 16, 2017 at 21:49:08 and the 21:49:54 the number 856-982-3686 is texting 856-641-5733. There was a clear search done on the 3686 number that came back for another female, not D.D. He personally watched the inside portion of the video on October 16, 2017 and the parking lot surveillance. The inside surveillance showed the desk and a number of a row of cells. On the video, Officer Boyd is using the desk phone at the jail when an SUV matching the black Chevrolet suburban that D.D. drove pulled into the parking lot by Rudolphi's bakery. A female exited the car with a similar build to D.D. He knew her from the previous investigation surveillance and face to face contact so when he saw the figure on the camera, they were similar. He could not say definitely it was her, but she had the same hair and body style. She was short and a little bit stocky. Her gait was the same and he thought it was D.D. She was not the height of the vehicle. Officer Boyd was never charged as a result of this investigation.

From a review of the phone records, he could not tell if anyone else used these cell phones as opposed to the subscriber of the phones. E.D. at North Street was the subscriber for number 856-378-9549. The subscriber for the 856-641- 5733 was a L.L. at the same Park Avenue address as Officer Boyd. When Detective Breslin reviewed the results of the CIO he found that D.D.'s cell phone of 856-378-9549 had been contacted by the 856-453-9804 jail line 397 times between November 9, 2017 and December 7, 2017 (R-1, page 10). He did not know who had access to the trunk line in the jail, but J.D. was in the jail and D.D.'s daughter A.A. were in the jail and they took that into account as to why there were so many calls she received from the jail. A review of the detailed call records for D.D.'s phone from October 1, 2017 to November 9, 2017 revealed that her number received 1,365 calls from the jail trunk line 856-453-9804 which were all voice calls since this was a landline (R-1, page 10). After the calls between Officer Boyd and D.D. dried up, they thought perhaps they could obtain information regarding phone

conversations between D.D. and J.D. and got a wiretap. The phone calls between J.D. and D.D. were in Spanish and translated but he does not recall anything specific in the synopsis other than they were involved in a relationship and nothing regarding drug activity. There was nothing in their conversations referencing Officer Boyd.

Detective Breslin did not participate in the preparation of the report and did not review it (R-1). His involvement was that he received the initial information from the CI in July 2017 and then corroborated there was in fact an Officer Boyd who worked at the Cumberland County jail. He then passed this information up to their PSU professional who contacted the jail who advised that they had also received a similar complaint. They then participated in an investigation to see if there was anything criminal in nature involved that could lead to criminal charges against Officer Boyd and to determine the larger scope of any conspiracy in organized crime. He prepared the CIO and wiretap applications for J.D. and D.D. and participated in the surveillance of Officer Boyd. After he obtained the disc of J.D.'s calls that were translated and reviewed and there was nothing on the calls regarding Officer Boyd, his involvement ceased.

D.D.'s residence at Dutchess Place was monitored although it was a difficult neighborhood to conduct surveillance. A GPS unit was placed on Officer Boyd's white Dodge Journey. This vehicle was at D.D.'s residence several occasions in the month of October 2017. There were calls in or around those visits on the same dates between D.D. and Officer Boyd's cell numbers. D.D.'s daughter, A.A. also resided at that address. J.D. was arrested at a Dutchess place address which shared a driveway and large backyard with D.D.'s Dutchess place address and formed basically, a compound. Both residences were used by J.D., D.D. and A.A. I.G. was part of a previous investigation involved in shipping cocaine from Puerto Rico to D.D. I.G. was also found guilty in the Spring 2018.

On cross-examination, Detective Breslin testified that OCB was a five-person unit within the prosecutor's office supervised by a sergeant and lieutenant. When this investigation was opened, Detective Breslin advised his sergeant as to the information he received and that he corroborated that there was a D. Boyd and his sergeant gave him the go ahead to investigate and then advised their lieutenant who advised the PSU. The result of this investigation was that there was insufficient evidence for criminal prosecution of



David Boyd (R-1, page 1). Detective Breslin was aware and participated in this decision as well as his sergeant and lieutenant. The assistant prosecutor assigned to OCB, Katie Wilson was also involved in the decision as well as the prosecutor, Jennifer Web McCrae and the first assistant prosecutor, Harold Shapiro, due to the nature of the complaint.

CI number one gave information about C.J. possessing contraband within the jail yet OCB did not charge C.J. with possession of contraband. J.D. was also incarcerated in the county jail based on a previous drug investigation and CI number two advised that since C.J. had switched pods, J.D. was now Officer Boyd's contact within the jail and receiving contraband, yet OCB did not charge J.D. pursuant to any criminal statutes as to possessing contraband within the jail facility. CI number one was known to be a reliable informant whose information usually leads to a conviction. A communication data warrant (CDW) also provides cell site information in addition to the information a CIO contains, however in order to obtain a CDW, probable cause must be established. No CDW's were obtained in this investigation because they believed they had enough information based on knowing Officer Boyd's address, not because they did not believe they could establish probable cause. Detective Breslin believed they could have obtained a CDW if he applied for one in this case.

On October 16, 2017 based upon his review of the surveillance of the outside of the jail by Rudolphi's bakery, he believed that it was D.D. and her vehicle that he observed that night. If he had obtained a CDW in addition to the CIO for the phone calls being made from D.D.'s cell phone, he would have known the closest cell tower that those calls were actually being placed from. If that location was not the cell tower location closest to Rudolphi's bakery and that parking lot, he could have eliminated D.D. as being the individual. If he got the CDW and it confirmed that it was 'pinging' closest to the cell tower near Rudolphi's bakery that would have substantiated his belief the it was D.D. and her vehicle in the parking lot that night. However, he did not do that.

CI number one received payment for supplying OCB with information. He does not recall the criminal history of CI number one. He is still a CI for OCB. The information led to the initiation of the investigation which lead to no charges. He does not recall the criminal history of CI number two. He does not know if the information provided led to any

favorable treatment regarding any pending charges against them. Detective Breslin spoke to two sources who were inmates, but he was not familiar with their criminal history. The information supplied from the sources was that Officer Boyd was bringing contraband into the jail, that is a cell phone. Based upon the information he received, they were not able to actually corroborate that Officer Boyd brought narcotics into the Cumberland County jail. Detective Breslin is not aware of any shakedowns of the jail that were done during the course of his investigation or whether any contraband was found. He never requested that no shakedowns take place because they would have wanted business to go on as usual during their investigation.

There were twenty-three contacts between the telephone number of C.J. given to Detective Breslin and the cell phone number that came up for Officer Boyd as a result of the clear search. Detective Breslin did not know who purchased the phone that C.J. was using. He did cross-reference the fact that C.J. was incarcerated during the time he was using that cell phone. He did not cross-reference to see if Officer Boyd was working at the times. He did not apply for a CDW for C.J.'s phone. If he had he may have been able to substantiate that the phone calls were taking place at the jail facility.

Detective Breslin did a clear search on Officer Boyd which is based on public information. If he was living with someone, in order for that person's name to come up on a clear search of his property, they would have to have some public record associated with the property, such as a phone bill, cable bill or a lease in their name in order to come up on a clear search of Officer Boyd. Hypothetically, if his cousin was staying with him because he had a fight with his parents, but his license, address all remained at his parents address, his name would probably not come up on a clear search.

As far as the 167 contacts between D.D.'s cell phone and Officer Boyd's cell phone, he did not recall if he cross referenced to see if Officer Boyd was working on those days. There was no CDW done to determine the location of the phones during those 167 calls. R-3 is the call record of the number associated with D.D. The 278 second and 274 second call, approximately four and a half minutes long, on October 16, 2017 is the same call, one is longer than the other by four seconds due to routing. This is the call he believes substantiates that D.D. is talking with Officer Boyd on the date in question. Looking at

R-1, page 7, listing times on the surveillance video listing activity in D-Pod, from 9:22-9:33 p.m. Officer Boyd is on the telephone for eleven minutes. D.D. is not on her cell phone according to R-3 for eleven minutes, but only four and a half minutes. There are also two minutes of the videotape when Officer Boyd is not on the phone and D.D. is still on her cell phone 9:33 p.m. – 9:35 p.m., according to these times.

Detective Breslin believes D.D. to be 5'5" – 5'6" height and stocky, approx. 140 – 150 lbs. He does not remember how she was wearing her hair. He previously indicated that she had the same gait as D.D. even though she was walking from one car to the other parked behind it in the parking lot. Detective Breslin never saw or was made aware of any video of D-Pod of Officer Boyd handing a cell phone to either inmate C.J. or J.D. The desk phone at D-Pod was accessible to other officers, during different shifts and breaks. The 397 outgoing calls from the jail were not correlated with Officer Boyd's work schedule. If he got a CIO for the outgoing calls and reviewed video surveillance, he could see if the D-Pod desk phone was being used at the time the calls were being made and who was sitting at the D-Pod desk. Aside from the October 16, 2017 video surveillance, showing Officer Boyd on the desk phone in D-Pod, they could not confirm how many other telephone calls from the jail line were made by Officer Boyd. The 1,365 telephone calls from the jail line to D.D. are a lot of calls. There was no cross-reference to Officer Boyd's work schedule for any of those calls and no video surveillance of any of these other calls aside from the October 16, 2017 surveillance. The GPS device was on Officer Boyd's car for thirty days and indicated that the car was at D.D.'s Dutchess Place address. They could not tell if Officer Boyd was with his vehicle on any of those occasions. They did surveillance of D.D. a few times for a few minutes and did see her with another Hispanic male in her suburban who they could not identify. Their investigation did not reveal that D.D. was involved in an intimate relationship with anyone other than J.D.

On re-direct examination, Detective Breslin was made aware that Officer Boyd would enter and stay in J.D.'s cell for long periods of time, after lockdown which raises concerns that they would be discussing business after hours.

The surveillance times on the tape and the call records were synchronized by Detective Lowry. At 9:38 p.m., Officer Boyd answered the desk phone. At 9:46 p.m.

Officer Boyd stood, stretched and looked at the clock several times and answered the phone again. At 9:46 p.m. he hung up. There was a call at 9:50 p.m. – 10:04 p.m. to D.D.'s cell phone (R-3). At 10:08 p.m. Officer Boyd is back on the desk phone. At 10:20 p.m. Officer Boyd looked at clock, took out a cell phone and appeared to be sending text message (R-1, page 7). It appeared that Officer Boyd took the cell phone out of his vest. There was no reason for Officer Boyd to have a cell phone in the jail.

Detective Breslin did a clear search on C.J. and there was no cell number for him. They never received information that Officer Boyd gave his car to someone else to use and they never considered it because they tracked the vehicle from his place of residence and at the county jail when he was working. It was first at the Vineland address and then at the Mill Village address. It was never reported that his vehicle was being driven by someone else. They never learned that D.D. was involved in an intimate relationship with anyone related to Officer Boyd. Detective Breslin can distinguish an African American from a Hispanic male. They had only seen a Hispanic male with D.D.

On re-cross examination, Detective Breslin has no video or voice corroboration that Officer Boyd or D.D. were communicating, just that the phones were communicating.

**Sergeant William Holbrook** testified on behalf of the respondent. He has been employed by the CCDOC since 2007 and is currently a sergeant assigned to the Special Investigations Unit (SIU) since 2013. The SIU investigates administrative matters within the facility involving both staff and inmates and is similar to an internal affairs department. He was the principal investigator assigned to the Boyd investigation. This matter initially came to his attention in August 2017 when an inmate, D.S. filed a grievance that he was being threatened and harassed by officers at the facility (R-4). After receiving the remedy form, Sergeant Holbrook interviewed D.S. who was in a lock down unit and having trouble with the officers in that unit because he believed Officer Boyd was retaliating against him. Officer Boyd was bringing contraband into the jail and he and inmate D.S. had a mutual friend who had been incarcerated, D.B. Officer Boyd said he would take care of D.S. because of their mutual friend but D.S. felt disrespected that he was asked to be involved. Also, around that same time another inmate who was working on an outside detail and who was charged with attempting to introduce contraband into the facility, stated during

an internal hearing that he was not the source, that it was Officer Boyd who was bringing in the contraband. During their interview of D.S., he indicated that Officer Boyd was bringing in contraband – marijuana, suboxone or tobacco and supplying it to a C.J. and a J.D. Since these allegations involved criminal activity, Sergeant Holbrook notified the prosecutor's office. After notifying the prosecutor's office, he later learned that they were already investigating Officer Boyd. The prosecutor's office took the lead until the investigation was returned back to Sergeant Holbrook. No criminal charges were brought against Officer Boyd. On April 10, 2018 he received a declination letter from the prosecutor's office indicating that they would not be pursuing criminal charges, but it was within their discretion to take any administrative action that needed to be taken (R-6).

Sergeant Holbrook prepared a summary report of his investigation (R-5). The SIU does not determine what administrative charges are to be brought, that is up to the administration. The Preliminary Notice of Disciplinary Action (31-A) sets forth the administrative charges brought against Officer Boyd (J-1). When Sergeant Holbrook was reviewing the information submitted to the prosecutor's office, he noticed violations of policy including failure to conduct tours every thirty minutes, sleeping on duty and fraternization. As a corrections officer, you do get familiar with the inmates you are working with in your unit, but you are not permitted to be over familiar with the inmates in your unit. You have to represent authority. You do your job and assist the inmates, but you do not become personal with them. That is over familiarization. It is not normal for a corrections officer to be going into inmates' rooms, closing the door, spending more time with certain inmates than the rest. Sergeant Holbrook was concerned that Officer Boyd was having inappropriate contact with C.J. and J.D and communicating with them much more than the other inmates in the unit.

Officer Boyd worked 7:00 p.m. to 7:00 a.m. and was the only officer on his shift assigned to D-Pod. The shift starts at 7:00 p.m. and inmates are locked in for the shift change to allow the officer time to come in and get his report. They are then let out until lockdown time at 10:30 p.m. until the next morning breakfast time. In general, an officer should not be inside an inmate's cell after lockdown. Officer Boyd had more interactions with inmates C.J., J.D., O.R., G.R., C.S. and N.M. than with the remainder of the D-Pod population.

On August 2, 2017 Officer Boyd had a conversation with N.M. and then N.M. left and then came back and handed Officer Boyd a bottle of lotion which Officer Boyd proceeded to rub on his face and forearms. R-9 is the lotion video from August 2, 2017, 7:00 p.m. to midnight, camera sixteen, D-Pod, right. An officer is not supposed to accept anything from an inmate because you do not know what has been placed in it and it could be bleach or something else.

C.J. and Officer Boyd are observed conversing on the video while Officer Boyd is moving his desk further back into the red zone from the red line (R-9). Inmates can usually come up to the line to the desk to talk to the officer but should not enter the red zone unless they have permission to do so. They can be given permission to come into the red zone to clean the area.

An officer is allowed to go into an inmate's cell to check on him and make sure he is okay. He should step in and hold the door open and then step out but not stay in and allow the door to close or he could get locked in. Also, if an officer is in an inmate's cell, he cannot properly supervise the rest of the unit. There were between forty to fifty inmates housed in D-Pod at this time. An officer is required to make a tour of the entire pod twice an hour to monitor the inmates. The times can vary to ensure the tours are not predictable and the inmates kept on their toes. The tours are required to be documented in the desk activity log book. Notations are made as to the activities going on at the time such as whether the inmates are watching TV, playing games, resting or eating dinner.

Officer Boyd was observed going into a vacant cell with inmate C.J. on August 2, 2017 (R-5, page 2 and R-10 video). There was no reason for an officer and an inmate to be going into a vacant cell. Officer Boyd pulled out a chair from the vacant cell and switched his desk chair for that one (R-10).

On August 2, 2017 Officer Boyd had several conversations with G.G. Officer Boyd was viewed exiting a vacant cell after having had the door closed for one minute and exits the cell and walks towards inmate G.G. who was gesturing towards his and J.D.'s cell, 4017. Inmate O.R. exited his cell, 4016, which was right next to J.D. and G.G.'s. Officer Boyd is observed greeting inmate O.R. by touching forearm to forearm, which Sergeant

Holbrook explained was not appropriate. Officer Boyd entered J.D.'s cell, 4017, at 7:46 p.m. and was in there for twelve minutes, during which time the rest of the inmates were unsupervised (R-9). At 7:51:50, the inmates all started coming out from lockdown which for this shift is usually 6:30 p.m. to 7:30 p.m. to allow for a changing of the shifts and reporting. Officer Boyd was still in cell 4017 until 7:58 p.m. (R-9 & R-10). There would be no reason for Officer Boyd to be in that cell that long. If he had observed anything unusual he would have had to notify someone.

Lockdown was at 10:30 p.m. At approximately 11:16 p.m., forty-five minutes after lockdown, Officer Boyd is viewed going over to cell 4016 and for almost twenty minutes until 11:35 p.m. is standing inside the open doorway, with his hands on top of the door conversing with the inmates. The only doors that should be open at this time would be the doors of the inmates who are cleaning. Sergeant Holbrook explained that the inmates use toothpaste caps as blockers to prevent the cell doors from locking. J.D. is seen leaving cell 4016 at 11:40:12 and returning to his cell 4017. Inmates are supposed to be secured after lockdown and not be allowed to go freely between the cells. Officer Boyd is sitting at his desk at this time at 11:40:17 (R -7 & R-9). Also, inmate C.J. is seen on the videos after lockdown walking about at 11:10 p.m.

R-11 and R-12 are videos of D-Pod on August 2 through August 3, 2017 from Midnight to 5:00 a.m. and 5:00 a.m. to 7:00 a.m., right side view. At 12:07 a.m. Officer Boyd gets up from his desk and goes over to vacant cell 4028 and stays in there for about a minute and then goes to cell 4017 and stays there for about ten minutes until 12:20 when he exits and goes to pick up the unit phone and then returns to cell 4017 and reenters at 12:21:13. He is in there another three minutes and goes back out to the unit phone at 12:24:17 and is on the phone for twenty-thirty seconds and reenters cell 4017 again at 12:25:01 and remains there until 1:17, fifty-two minutes. No one is guarding the unit during this time. At 1:17 a.m. he exits to use the unit phone sits down and is on the phone until 1:30 a.m. at which time he reenters cell 4017 at 1:30:32 and then exits out at 1:32 picks up the radio to his mouth and walks to the pod door and exits the unit at 1:32.

Officer Boyd returns a little after two and goes to cell 4028, stays there a minute comes out and re-enters cell 4017 at 2:16:58 and is in there for roughly thirteen minutes

until 2:30 a.m. He reenters cell 4017 and remains there for an hour between 3:00 a.m. to 4:01 a.m. (R-11). Officer Boyd goes back into cell 4017 at 5:39 and remains in there until 5:41:45 about three minutes. At 5:35:48 Officer Boyd walks over to cell 4017 opens the door and enters and stays in there close to two minutes (R-12).

On August 3, 2017 G.G. was transported to the drug program at the Damon House after having been incarcerated for several months at the jail. He was refused entry into the program because he tested positive for THC, which indicates the inmates have access to drugs within the jail facility.

Sergeant Holbrook observed Officer Boyd enter G.G. and J.D.'s cell on ten occasions and spending over two hours in their cell in total, during his shift between the evening of August 2 and the morning of August 3, 2017 (R-5, page 2). Some type of issue would have had to be going on that would require an officer to go into an inmate's cell that many times in a shift and that would be something that would have to be reported, by either calling a supervisor or making a notation in the log book. Sergeant Holbrook checked the log book and there was no record as to why Officer Boyd was in that room that many times and for such a long period of time.

On September 19, 2017 Sergeant Holbrook was advised by Detective Lowry that I.T. was incarcerated and that Officer Boyd might try and contact him. Sergeant Holbrook checked the video of the holding area and listening to the audio he heard the inmate request Officer Boyd to contact 'Tammy' and have her contact his lawyer, Ron Helmer. (R-5, pages 3-4, R-14 and R-15). At the time Sergeant Holbrook was investigating this, he did not have any information regarding the relationship between I.T. and Officer. Boyd. If a corrections officer is aware a relative is in the facility, the fact should be reported to a supervisor and documented. This was not done.

Sergeant Holbrook produced and played a CD of a video visitation of J.D. from October 12, 2017 at 9:40 p.m. (R-8). Video visitations are usually fifteen minutes long and the inmate pays for them. On the left side of the screen you can see J.D. talking on the phone in front of the camera and on the right side of the screen you can see who he is visiting with via their laptop from their location. D.D., I.G. and another unidentified Hispanic



male are in the video. In the video visitation, Officer Boyd appears smiling behind J.D. and raises his arm as if in a greeting to the visitors, who in turn smiled back. Officer Boyd appeared first for about four or five seconds. C.S., another inmate in an orange shirt, appears in the video and waves to J.D.'s visitors. Usually other inmates do not appear in an inmate's video visitations. Later in the visit, Officer Boyd appeared again behind J.D. and holds up his handcuffs and opens and closes them and then walks away. Officer Boyd appears to be smirking. J.D. and D.D. are smiling and I.G. is shaking his head. Sergeant Holbrook explained that normally officers do not appear in inmates' visitation videos unless they are just walking by to make sure nothing inappropriate is taking place.

On October 12, 2017 at 4:26 a.m. Officer Boyd is on video (R-6) from 4:26 a.m. until 5:08 a.m. in a laid-back position for forty-two minutes and then made an entry in his log book and then returned to the laid-back position for fifty-two minutes and appeared to be sleeping. From 6:00 a.m. to 6:28 a.m. Officer Boyd is in a laid-back position until the shift commander, Lieutenant Ciancaglini entered the pod and checked the log book. Officer Boyd was in his seat for over two hours and did not make a check of the inmates every thirty minutes as required (R-5 & R-6). Officer Boyd was supposed to walk around the unit and check on the inmates that they are there and that they are okay and that nothing is going on.

Sergeant Holbrook produced a video of the exterior parking lot on October 16, 2017 pursuant to a request by the prosecutor's office (R-17 and R-18). Officer Boyd's white Dodge Journey's lights are observed flashing at 9:22 p.m. At 9:34 p.m. a dark SUV pulled directly behind Officer Boyd's vehicle in the Rudolphi's parking lot. At 9:36 p.m. an individual approaches Officer Boyd's vehicle and tried the door but could not get in. At 9:37 p.m. the lights on Officer Boyd's vehicle flash again and the person opens the front passenger door and places a bag in the vehicle. The lights go off at 9:37:48. The SUV backs out of the parking lot at 9:40:49 and a light can be seen from the front passenger side window of the SUV.

The CCDOC has adopted Policy Number 302(a) also known as Policy Number 84:17 regarding employee discipline which lists offenses and the range of penalties for each offense (R-19). CCDOC Policy 4.18 is the policy regarding Over familiarization/

Fraternization with Inmates (R-20). CCDOC Policy 4.13 is the Code of Ethics (R-21). The subject of CCDOC Policy Number 4.22 is also Overfamiliarity/ Fraternizing with Inmates (R-22). These policies were all in effect in 2017.

On cross-examination, Sergeant Holbrook testified that the correctional facility can house a maximum of 500 inmates. In 2017, there were between 300 to 400 inmates housed at the facility. At the current time, there are approximately 300 inmates in the jail. The uniformed staff consists of about 140 rank-and-file officers, sixteen sergeants, five - six lieutenants and two captains. The civilian administration consists of the warden and an assistant warden. The current Warden is Richard Smith who started in February 2017 and the assistant warden is Charles Warren who started in May 2017. Prior to them the administration would have been Warden Bleckey and Assistant Warden Shore.

Sergeant Holbrook's civil service title is that of corrections sergeant. Civil service also has a title of investigator and chief investigator of secured facility which requires a sixteen-hour course. No one in the CCDOC SIU has that title. Sergeant Holbrook has never undertaken that sixteen-hour course. He is familiar with the attorney general guidelines for internal affairs operations and Cumberland County does follow the guidelines.

As a sergeant in internal affairs, he could at any time have requested Officer Boyd to provide a statement. He did not want to interfere with the prosecutor's investigation but after receipt of the declination letter from the prosecutor's office dated April 10, 2018 (R-6) he could have spoken to Officer Boyd. Exhibit R-5 is a summary of Sergeant Holbrook's investigation dated May 17, 2018. Exhibit R-7 is a report of the full investigation that started August 15, 2017 and closed May 17, 2018. After the declination letter received and up until the investigation ended, Sergeant Holbrook decided that he did not need Officer Boyd's interview. He does not know if Officer Boyd has any explanation as to any of the allegations raised. Sergeant Holbrook never asked to see if Officer Boyd wanted to give a voluntary statement.

There were multiple policy changes with the new administration. Under Warden Bleckey, officers could have outside food delivered to them to the front desk. Warden

Smith put an end to this practice and there was no longer allowed food deliveries to the jail. Officers could go out to their cars to eat their lunch. After Warden Smith stopped the delivery of food from restaurants to the jail, Sergeant Holbrook disagreed that a lot of officers had wives, girlfriends and friends bring them food and put food in their cars for them in the parking lot during their break. Most people came in with their lunchbox and placed it in their locker. However, there was nothing impermissible in having someone bring them their food and put it in their car.

D-Pod was a minimum- security unit with a few medium security inmates. Officer Boyd had no say as to the classification of the inmates. There was no evidence that Officer Boyd ever requested any particular inmates to be in his pod. Although they referred to J.D. as a "kingpin" he was still in a minimum- security unit. Nothing prevented the administration from placing J.D. in a more secured unit if they believed he was running a drug ring.

Sergeant Holbrook does not make the decision to open an investigation. The warden or assistant warden or their designee makes the decision to conduct an investigation. In February 2017, the warden's designee was Captain Michael Plough who directed this investigation to be commenced. If tangential violations are uncovered during an investigation, it would be passed on to the administration and then a different investigator may be assigned to conduct a separate investigation. Inmates frequently complain about officers. Sergeant Holbrook did not check into the criminal history of any of the inmates that were making criminal accusations against Officer Boyd.

There is always a superior officer supervising a shift. As of January 8, 2017, the correctional officers worked twelve-hour shifts. Superior officers worked eight-hour shifts. The 4:00 p.m. to midnight shift had at least one lieutenant and three sergeants working that shift. The midnight to 8:00 a.m. shift would have one to two lieutenants and two to three sergeants working per shift. Historically, that was the lowest staffed shift. The central control is staffed by corrections officer. The command center is the shift commanders' office. In 2017 it was a small room with three desks with three computers and single monitors and a camera system with one monitor and twenty different views of the facility. They could watch whatever location they wanted. Policy and procedure

dictated that tours be conducted. All of the superior officers would be required to tour. The shift commander would designate how it would be accomplished. A superior officer would have to physically tour the facility. When a supervisor was going to tour, the correction officers would be notified that a supervisor was on his way which was an indirect "tipping off". Central control would not know if an inmate put a toothpaste cap to prevent the door from locking. If the doors were locked by central control it would show as locked in central control.

The allegations against Officer Boyd include undue familiarity/fraternization which involved using the inmates' lotion, going into the inmates' cell; sleeping on the job; allowing inmates to go into the red zone; and other contacts on the outside and including the prosecutors' information regarding the telephone contacts. At no time prior to Sergeant Holbrook's investigation of Officer Boyd, did any officers in central control report anything suspicious going on in D-Pod based upon their view of the surveillance monitors. He did not receive any information from any superior officers who were in the command center viewing random feeds of D-Pod indicating that they observed anything suspicious regarding Officer Boyd. The superior officers that made tours of D-Pod did not raise any issues about Officer Boyd from the date he started on June 23, 2014 up until the time Sergeant Holbrook began his investigation.

Agency training covers inmate manipulation, undue familiarity/fraternization and different scenarios. The policy and procedures do not specifically provide examples of what is considered "over familiarization".

The CCDOC is required to have every post covered at all times based on minimum staffing requirements. Mandatory overtime is required to cover the minimum staffing requirements. An officer usually cannot exceed sixteen hours of work time per shift, or four hours of overtime unless there is some emergency. Sergeant Holbrook does not know what Officer Boyd's schedule was prior to the evening of October 12, 2017 when he appears to be sleeping on duty. Sergeant Holbrook is not aware of any other instances of Officer Boyd sleeping on duty. This was a tangential issue Sergeant Holbrook discovered when viewing the videos that had been provided to the prosecutor's office to see if there

were other violations of policy and procedures shown in the videos. Sergeant Holbrook does not speak Spanish nor does Officer Boyd.

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From August 2, 2017 to August 3, 2017 Officer Boyd entered a cell ten to twelve times for a total of two hours which comprised part of the charges of undue familiarity. At no time from the time Officer Boyd started in 2014, up until August 2, 2017 could Sergeant Holbrook identify any other times Officer Boyd entered a cell in violation of policy, aside from what he has testified to in the course of this proceeding. Other than the one specific instance when the inmate gave Officer Boyd the lotion, Sergeant Holbrook was not aware of Officer Boyd receiving anything else from any other inmate. I.T. was never put in D-Pod but remained in the holding area and released. Officer Boyd did not report to SIU that he was related to I.T., however Sergeant Holbrook did not know if Officer Boyd reported that fact to his supervisor. Sergeant Holbrook did not know of any other improper video visits involving Officer Boyd aside from the incident of October 12, 2017. As far as the multiple violations of the red zone on October 16, 2017, Sergeant Holbrook was not aware of any other red zone violations by Officer Boyd. He believed it was an ongoing occurrence. The moving of the desk in D-Pod did not constitute a violation of any policy.

Sergeant Holbrook did not participate in the prosecutor's office investigation concerning the phone contacts aside from providing them with a list of the calls from the jail. He does not know the direct line from D-Pod telephone. No documents have been produced identifying the phone number on the officers' desk in D-Pod as the number identified by the prosecutor's office. The CIO with D.D.'s number shows the jail number. Sergeant Holbrook never received a complaint that Officer Boyd received an inordinate number of telephone calls while on duty. Sergeant Holbrook stated that there is a "blue line" where corrections officers do not report on other officers. Of the 1,279 calls from the jail, aside from the one that Officer Boyd is viewed on the video on the desk phone correlated with the call received from the jail to D.D.'s cell phone, there is no other corroboration that Officer Boyd was on any of those calls and there is no other video that corroborates this fact.

The investigation never substantiated that Officer Boyd brought any contraband into the facility.

A trustee is an inmate that has a job, usually assigned by the sergeant in charge of the supply closet, Sergeant Johnson. There are trustees that can leave the area where they are housed to do their job. Trustees are paid one dollar per day and will get work credits. He is not familiar with any officers being written up for a red zone violation, but it would depend on the ultimate outcome. The same for the violation of accepting the lotion from an inmate, it would depend on whether anyone was hurt. Sergeant Holbrook did not find that Officer Boyd falsified any documents.

Sergeant Holbrook authored R-7 which was the full investigation and R-5 is the summary report highlighting the charges he believed were substantiated. R-7 contains interviews of inmates accusing Officer Boyd of doing voodoo but was discounted. He submitted all he found in R-7 and it was up to the administration to determine the charges contained in the PDNA.

On re-direct examination, Sergeant Holbrook was trained in various investigation skills to become an internal affairs investigator that took approximately one year. As the courses were offered he took them. He has been in the internal affairs department for six years and prior to that time held almost every other position in the jail, except as supervisor. Fraternization is covered in the code of ethics and in the Agency training and manual. Over familiarization or fraternization refers to not getting personal with the inmates, not getting involved with lengthy conversations, not spending lengthy periods of time in the inmates' cell which raises suspicions, not accepting gifts or anything from an inmate and not giving anything to an inmate. There is also a prohibition against associating with criminal elements and an officer has to disassociate himself from those persons, even if he knew them from before he became an officer. You cannot pass any information from the facility to someone outside the facility. Officer Boyd should have documented the fact that his cousin I.T. was in jail when he learned of the fact.

The jail has a major issue with blocking the locking device of cell doors and inmates are disciplined for blocking same.

**David Boyd** testified on his own behalf. Officer Boyd is thirty years old, single and has a nine-year old stepson with his girlfriend, L.L. Although they are currently separated, Officer Boyd still maintains a relationship with his stepson. Officer Boyd is a graduate of Cumberland Regional High School. He did not attend college although he had a football scholarship to the University of Kentucky and Virginia Tech. He declined the football scholarships in order to try and succeed in the Mixed Martial Arts arena. Following his high school graduation, he worked various jobs until he took the civil service test and began his employment June 23, 2014 with the Cumberland County Department of Corrections. He underwent two weeks of agency training, then attended the police and corrections officers' training academy in Camden for twelve weeks and then completed an additional two weeks of agency training prior to beginning work at the Cumberland County Department of Correction at the end of September 2014. The police Academy training was from 6:00 a.m. to 3:30 p.m. He worked as a corrections officer until he was suspended without pay in May 2018.

Officer Boyd worked a twelve-hour shift from 7:00 p.m. to 7:00 a.m. in D-Pod in 2017 and 2018. When he reported for work at the correctional facility, he had to undergo a search prior to entering the facility to maintain a secured perimeter and prevent contraband from coming into the facility. He had to take off his vest, tactical belt, boots, handcuffs, radio, pepper spray, flashlight, cut-down tool, pen and notebook and pass through a metal detector. He was wanded and patted down by another officer. As a correctional officer, mandatory overtime was required. Oftentimes he would volunteer for an additional four hours overtime in order to prevent from being ordered to do overtime.

D-Pod was located on the third floor of the annex portion of the jail which was located down the hallway from the old jail. The facility consisted of the old jail, the new jail and the annex which were all connected by hallways. The annex section of the jail is located on the Atlantic Avenue side by Rudolphi's bakery. D-Pod housed mostly older minimum-security inmates as well as some medium security inmates and some younger inmates who were connected. The average number of inmates that were housed in D-Pod were approximately thirty-eight to thirty-nine in 2017 and approximately forty-two in 2018. There were two inmates in each cell. There was one common area called the day room which had two TVs and tables for the inmates which was located on the first floor of D-Pod.

The second floor of D-Pod had a shower and cells but no common area. Each of the cells had a window, but most of them were sprayed over with white paint to allow light to enter the cell but to prevent one from looking out the cell window. A couple of windows in the back were missed by the maintenance department and not sprayed with white paint. If officer Boyd wanted to look out the window, he would have to go into one of the cells that had a window that was not sprayed over. There were no windows by the officer's desk. None of the windows overlooked the parking lot.

When Officer Boyd began his shift at 7:00 p.m. all of the inmates were supposed to be in their cell with the door locked, except perhaps a trustee could be out cleaning. After Officer did his 'count' and completed two cell searches, he would let the inmates out of their cells at approximately 7:45 – 8:00 p.m. They would remain out of their cells until the 10:30 p.m. lockdown time and remain in their cells until breakfast the next day at approximately 7:00 a.m.

The jail cell doors were metal air pressure doors whose locks oftentimes did not work. This was an ongoing problem. There were multiple maintenance reports done for some cell locks.

There was a red zone in D-Pod that was marked on the floor with red tape. It was an approximate 15' x 15' area where the officer would keep his belongings in D-Pod and in which the inmates were not supposed to cross over without permission from the officer. There is also a chest within this red zone in which cleaning supplies are kept.

Prior to receiving the final notice of disciplinary action in this case, Officer Boyd had not been verbally counseled, written up or received any minor or major discipline for any of the charges that were contained in the FNDA. Prior to receiving the PNDA in this case, his file jacket contained only one verbal warning for abuse of sick time.

Officer Boyd did not know C.J. until he became an inmate and assigned to D-Pod. Jones was a trustee. Officer Boyd never gave C.J. a cell phone or allowed him to use anyone else's cell phone in the correctional facility. He never allowed C.J. to sell, distribute, or use narcotics, or gave him any other contraband. The confidential informant



claims that C.J.'s cell number was 609-579-8592. Officer Boyd does not recognize that cell number and did not use, purchase or lease any cell phone with that telephone number. Officer Boyd never called from that telephone number or received a call from that telephone number. Officer Boyd did not know J.D. by name prior to starting work at the Cumberland County jail. He explained that when he saw the video visit of J.D., he recognized him and I.G. as individuals to whom he had previously sold dogs. J.D. became a trustee after requesting the position and was hired by Sergeant Johnson. He never supplied anyone with contraband or allowed contraband supplied by someone else to be used in the CCDOC facility.

Officer Boyd did not know D.D. prior to becoming employed by the Cumberland County Department of Corrections. He never gave or allowed any inmates to use a cell phone or any contraband in the CCDOC facility and never allowed any contraband supplied by someone else to be used by any inmates in the facility. Officer Boyd never brought his cell phone into the perimeter of the jail. He always entered the Broad Street side which was a main entrance to the jail. He has seen cell phones used in the jail by the higher ups. There have been occasions when one of them would leave their cell phone and he would put it in his pocket and return it to them. The electronic monitoring program employees had cell phones for use in the facility.

From 2017 to the summer of 2018 Officer Boyd did not have any cell phone registered personally to him. He had the use of two cell phones registered to other people that he had access to including a cell phone registered in his mother's name, T.G. that number was 856-392-0544. From February 7, 2018 and on he used cell phone number 856-776-0975 and currently uses that number. In 2017 he was living with his fiancée L.L., his stepson, W.L., L.L.'s sister, C.L. and his cousin Adrian Boyd. In November 2016 he and L.L. lived together and Adrian Boyd and C.L. moved in in December 2016 to the 206 E. Park Ave. address. He lived at that address until September 2017 when he moved out of the house because he had gotten caught cheating on L.L. in the summer 2017 and again in November 2017. He moved out in September 2017 and moved into Apartment 207 in Mill Village. His cousin Adrian Boyd moved in with him there as well as his other cousins, J.P. and C.R. They lived there until they lost the apartment in September 2018 at which time Adrian Boyd went back to live with his parents. Officer Boyd resided with a

girlfriend, C.J. until November 2018 and then went to live with his aunt L.S. in November 2018.

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Officer Boyd drove a white Dodge journey that he owned with L.L. L.L. drove a black Nissan ultima. She was a co-signee on both of those cars. He also had access to various vehicles his parents owned. Officer Boyd allowed everyone he lived with to use his Dodge journey including Adrian Boyd, L.L., C.L. and then later on when he moved in with his other cousins, C.R. and J.P. He also allowed his mother to use his car. In October 2018 his Dodge journey was repossessed. He currently uses his parents' multiple cars.

On August 2, 2017 he accepted an unknown liquid from an inmate named N.M. and rubbed it on his face and forearms because his skin was dry. He does not deny that this happened and now knows that it was a violation. However, he does not believe he should be terminated for it since it was a stupid mistake and only happened once.

Officer Boyd stated that he recognized telephone number 856-641-5733 as Adrian Boyd's old cell phone number. Adrian Boyd and L.L. went to the Sprint store so that L.L. could upgrade her phone and put Adrian Boyd on her plan. Officer Boyd gave L.L. the money to upgrade her and Officer Boyd's mother's cell phone. L.L. gave her old phone to Adrian Boyd. The telephone number was never registered in Adrian Boyd's or Officer Boyd's name. Adrian Boyd used his tax money to purchase the phone from L.L., but the phone was registered under L.L.'s name. Officer Boyd rarely used Adrian Boyd's phone number 856-641-5733. He only used it if his phone was dead or charging, perhaps only once a month. There were twenty-three contacts between telephone number 856-641-5733 and C.J. number of 609-579-8592. Officer Boyd did not initiate any of these contacts and never received any contacts from these numbers. He does not deny these contacts were made but it was not him but was whoever had those phones.

Officer Boyd heard the testimony that the C.I. claimed that the D.D.'s cell telephone number was 856-378-9549. Officer Boyd did not recognize that telephone number and he has not called that number or received any calls from that number. There were 167 contacts between Adrian Boyd's cell number registered to Officer Boyd's fiancé and D.D.'s cell number but Officer Boyd did not make or receive any of those calls. Adrian Boyd and

D.D. were in a sexual relationship. In April 2017 Officer Boyd observed Adrian Boyd face timing a woman but when he saw the video visit in October 2017 he realized it was the same woman. Officer Boyd told Adrian Boyd at that point who J.D. and D.D. were and that I.G. used to buy the dogs. Officer Boyd told AB. in October 2017 that because of his job he could get into trouble. Adrian Boyd said he was going to cut off the relationship. To his knowledge, they are no longer in a relationship, but he does not know exactly when it ended. On October 2, 2017 when Officer Boyd was in J.D.'s cell, J.D. said he needed a video visit to talk to his wife. That is why when Officer Boyd saw the video visit he realized that D.D. was Delgado's wife. Officer Boyd learned from the higher ups that J.D. was in jail because he was the actual kingpin. Officer Boyd told his cousin Adrian Boyd in October that D.D. was J.D.'s wife because she was on the video visit with him and that Officer Boyd could get in trouble if Adrian Boyd ever brought her to his house or was seen with her. Officer Boyd thought it would be a form of fraternization because Adrian Boyd was living with him and involved with her. D.D. was arrested in September 2018.

The landline number within the correctional facility is 856-453-8904. Officer Boyd did not recognize that number. There is a telephone on the officers' desk in D-Pod. You cannot dial that desk number directly from outside the facility. It can receive calls indirectly. The main number of the jail is 856-451-8000. You would have to dial that number and then dial the D-Pod extension number of 12305. You could also call the supervisor's desk and request to be transferred to D-Pod. If the jail calls you, the number would be the main number 856-451-8000. If D-Pod called his cell phone the main jail number would appear. He never received any cell communication from D.D. or from 856 378-9549 at the D-Pod desk. He also never used the telephone at the D-Pod desk to call D.D. or cell number 856 378-9549.

There has been testimony in this case about 397 contacts and 1,365 contacts between cell phone number 856-378-9549 and the landline 856-453-9804. Officer Boyd was not the recipient of any of these contacts and did not initiate any of these contacts. He does not know anything about the phone number of 856-453-9804.

Officer Boyd is familiar with the Coombs Drive address because it is the address of his uncle I.C. He has been at that address thousands of times in his lifetime and

approximately hundreds of times in the year 2017. Prior to receiving discovery in this case, he was not aware that this address was an address of interest to the Cumberland County Prosecutor's office.

Officer Boyd is not familiar with the Dutchess Place address and he has never been to that address. His white dodge vehicle was at that address according to GPS records. If that is the address of D.D., his car was driven there by his cousin, Adrian Boyd who was having an affair with D.D.

I.T. is Officer Boyd's cousin and the son of his uncle I.C. He is approximately thirty-two to thirty-three and was incarcerated at the Cumberland County jail. He had contact with him and other inmates that were in the intake area. Officer Boyd was passing through to deliver his paperwork to his supervisor and did advise his supervisor that I.T. was his cousin so he would not be assigned to his unit. The supervisor told Officer Boyd to contact Officer Ross to make sure I.T. would not be put in D-Pod. I.T. called Officer Boyd over and asked him to get him a call which he said he could not do. Then he wanted Officer Boyd to call his mother and have her call his job to fax his paystubs to his lawyer, so he could bail him out. Officer. Boyd did not do what he requested. That weekend when he went fishing with his uncle, his aunt asked him what jail I.T. was in and he gave her the telephone number of the jail. He did not make a written report that he had a family member in the jail because he has so many family members that work in the jail and they all know who he is related to because he is local. I.C. is a corrections officer and is related to him. His stepfather D.G. is a sergeant at the jail. H.T., G.C., J.U. are all relatives of his and there are a number of other officers who are like family to him because they have been coming to his home since he was young.

A review of the video footage from October 16, 2017 showed a female placing something in his car that was parked in the parking lot by Rudolphi's parking lot directly behind the jail parking lot. An officer is allowed to leave the facility during his shift. You have three breaks, one half hour lunch break and two fifteen minutes breaks. You would sign a book if you were leaving the facility. You only have to clock in when you come in at the beginning of your shift and when you are done at the end of the shift. From the time he began working at the jail in 2014, he has had various individuals deliver food and other

things and leave it in his car including his fiancé, L.L., nurse J.O., and Zuleika Maldonado who he began dating in July 2017 while still seeing L.L., and his little sister, N.G. Sometimes his sister would bring him things his stepson left at their house when she was babysitting. Zuleika Maldonado is Hispanic, 5'4" 150-160 lbs., thick, with dark hair. Nine out of ten times when Zuleika Maldonado delivered food to him, she was accompanied by Chinesse Gross who would drive her mother's car or her boyfriends' black truck. D.D. has never put anything in his car.

When Officer Boyd first started the job, he could go outside on his break and eat outside with L.L. and eat in her car. If he could not get relieved for some reason, she would just leave the food for him in his car. The rules changed when Warden Smith came in and the officers were not allowed to have food brought in from the outside. Deliveries to his car increased after Warden Smith changed procedures. The officers could eat the jail food, but it was horrible. Officer Boyd always got Chinese food delivered. He would call from the jail phone if he could not get relieved and meet whoever was delivering the food for him. Then he would just eat in his car and go back to work afterwards. From 2014 to 2018 he received 150 – 200 deliveries of food. For the year 2017 he received fifty-sixty deliveries of food while he was working. Adrian Boyd never delivered any food to him.

On October 2, 2017 he bumped inmate O.R.'s forearm in greeting. He does not deny that and explains they were told in the academy to never offer an open handshake to an inmate. Also, Officer Boyd's hands were wet as he was just coming out of the bathroom at the time, so he bumped arms with O.R. who was a trustee.

On August 2, 2017 to August 3, 2017 Officer Boyd admits that he went into J.D. and G.G.'s cell ten to twelve times for a total of two hours. On August 2, 2017 C.J. told Officer Boyd that J.D. and G.G. had something important to tell him. Officer Boyd went into their cell and G.G. was translating for J.D. who advised that inmates D.S., G.K. and another inmate were caught in the gym smuggling in contraband and were caught by IA. Inmate D.S. said he was a 'blood' and his 'homey' was Sergeant Holbrook. Another wave was coming in and if J.D. could get the mop bucket from Officer Boyd to bring in the contraband. This information was relayed to Officer Boyd over the course of the evening

which is why Ofc. Boyd went back into the cell so many times. Ofc. Boyd had to do his job in between gathering this intelligence. He later learned this information was all 'smoke' because inmate G.G. was found to have had drugs in his system. Officer Boyd told Officer Church about this conversation in general but not specifics.

Officer Boyd told his father, Sergeant Govan that night or the next day that the inmates were going to try and sneak contraband into the gym. His father told him to advise his relieving officer, Officer Nardelli who relieved Officer Boyd at 7:00 a.m. and to tell Officer Church since he was next door in C-Pod and that anyone entering D-Pod had to be patted down. Officer Boyd understands now that the amount of time he spent in the cell and the failure to document it in his log book is a violation of CCDOC policy. He does not dispute what the video tapes show. He was surprised when he watched the tapes how much time he was in the cell. He has never spent that much time in an inmate's cell before that time or since. He believed he was gathering intelligence but now he realizes he should have reported it.

Officer Boyd appeared in the J.D. video visit on October 12, 2017. An officer is required to monitor the visit to make sure nothing inappropriate is going on. The only individual Officer Boyd recognized by name in the video was I.G. who he had previously known from selling dogs to him. He recognized D.D. by face but did not know her by name. Then Officer Boyd made a round and saw inmate C.S. in the video visit so he said to both, C.S. and J.D. the next time he sees that happen he is going to lock them up and he pulled out his handcuffs. Other inmates are not allowed in an inmates' video visits.

On October 12, 2017, Officer Boyd was observed on three different occasions either sleeping or not attending to his duties for periods of forty-two minutes, fifty-two minutes and twenty-eight minutes. Officer Boyd admits that he may have been sleeping but admits to being lax in his duties in that he failed to perform his tours, which is a violation of the policies of the CCDOC. He does not believe he should be terminated for this violation in that it happened once, and nobody ever said anything to him about it and he should have received a verbal or written warning.

On October 16, 2017 Officer Boyd allowed inmates to engage in conversation with him in the red-zone. The red-zone is a taped area that the inmates cannot cross into without permission. Normally the trustees need access to cleaning supplies that are right behind his desk and they will ask permission and he will grant them permission to enter the red zone. He should not be penalized because he gave them permission for them to enter the red-zone.

Officer Boyd is not and never has been a member of the Crips or any other gang organization (R-7). He had to pass a background check and a psychological evaluation before becoming a corrections officer. He was never advised that there were any red flags raised during these checks. To the extent that inmates do not respond to his verbal warnings or orders and he has advised them that he will use his pepper spray or pulls out his handcuffs, from an inmates' perspective that may be a threat. Officer Boyd leads the group when there is a cell extraction or when a code is called. A code '26' is for medical; a code '56' is for inmates fighting; and a code '99' is for an officer down. Officer Boyd would be called to leave D-Pod and have to suit up with tactical gear and lead a group into the problem area. There are also random shakedowns of a cell or cells in search of contraband.

On cross-examination, Officer Boyd agreed that the biggest question in this whole case is whether the telephone number 641-5733 was being used by himself or Adrian Boyd. Because if Officer Boyd was making those phone calls to the numbers that were listed on the call logs search it would be improper. A critical fact is that if Officer Boyd was making the calls it would be highly improper because he knows that he cannot fraternize with inmates or criminal elements. Officer Boyd disagreed with the statement that if he was the person making the calls he should not be a corrections officer because D.D. was never arrested while he was there and if he was supposed to be talking to her, he would not have known her criminal history if she lied about it. He was not aware of the criminal history of D.D. or know that she was convicted of drug distribution in May 2017. He knew her husband, J.D. was involved in criminal activity because he was an inmate in Officer Boyd's pod. Officer Boyd would not knowingly relay messages between J.D. and his family members because that would be improper. The telephone number 641-5733 was in the account of L.L. That phone number was not Officer Boyd's telephone number at all.

Officer Boyd has changed his cell telephone number several times if he changed girlfriends. The telephone number 609 or 856-392-0544 was the number he used in 2017 and was one of his primary numbers. The second telephone number of 856-776-0975 was another number he used. Around November 2017 the physical telephone Adrian Boyd was using was returned back to L.L. Officer Boyd did not know if Adrian Boyd continued to use the telephone number that had been associated with that telephone. He did not know if Adrian Boyd transferred the number to another telephone. He did not know he was paying Adrian Boyd's bill he just gave L.L. money when she asked. Officer Boyd paid Adrian Boyd for helping him with his dogs.

C.J. was a trustee who Officer Boyd did not know until he was placed in his pod and later became a trustee. No inmate gives information unless they want something out of it. On August 2 he sent C.J. into cell 4028 to clean the room. Officer Boyd also kept his chair in that room and would trade it out for the chair that was there that Officer Vulcan sat. Officer Boyd may have spoken to G.G. in 4028 to also clean the room. Officer Boyd did give a forearm bump as a form of greeting to inmate O.R. Officer Boyd said this was not inappropriate but shows he has a rapport with his inmates. An open handshake would be a friendly gesture and he was instructed never to use an open handshake with inmates.

Officer Boyd did a cell search of cell 4017 on August 2, 2017 at 7:46 p.m. of G.G. and J.D.'s cell (R-5, page 2). It was standard procedure to conduct two cell searches each shift and his supervisor should have a report. He does not recall what he found as a result of that search. G.G. was taken out to go to a drug program on August 3, 2017 and was returned for testing positive for drugs. G.G. was in D-Pod five or six months before this happened. G.G. was a drug addict and it did not surprise Officer Boyd that he was getting drugs and was in the jail. On August 2, 2017 Officer Boyd went into G.G. and J.D.'s cell numerous times because he thought he was gathering intelligence but later learned he should have documented the fact that he spent a couple of hours in their cell. Officer Boyd may have taken some notes of the information relayed but did not give them to anyone.

They would not make a report of the information they were relaying to Officer Boyd. In retrospect, he should have written a report because of the seriousness of this case.



Officer Boyd has relatives that have been in the jail including I.T. and S.B. The video and report on September 19, 2017 shows I.T. in the hold two area and that was the first time Officer Boyd realized he was in the jail. I.T. called out to officer Boyd to contact "Tammy" and gave him a telephone number. He took his notepad out and pretended to write down a number, but he did not. He was trying to deceive I.T. into thinking he was helping him. I.T. also asked him to have "Tammy" contact his lawyer Ron Hellmer (R-5, page 4). Officer Boyd did not contact anyone on I.T.'s behalf. The following weekend when he went fishing with his uncle, he told his aunt that I.T. was in his jail which he should not have done and gave his aunt the admissions number for the jail to find out where I.T. was placed. In retrospect, he should have made a report that an inmate was trying to make contact with him because it gave the wrong impression.

Officer Boyd was supposed to monitor the J.D. video visitation and appeared in the video. Officer Boyd saw C.S. appear in the video and as a warning to J.D. and C.S. pulled out his handcuffs and threatened to lock them both up if it happened again. Officer Boyd made a gesture, a wave to the person watching the video, I.G. who he recognized as a dog breeder from Puerto Rico who had bought dogs for Officer Boyd in the past. He also saw the woman in the video talking to J.D. and J.D. later told Officer Boyd, D.D. was his wife. Officer Boyd saw her before when Adrian Boyd was facetimeing her. When Officer Boyd saw the video, he talked to Adrian Boyd about his contact with D.D. and told Adrian Boyd that she was the wife of J.D., a drug kingpin, and he should leave her alone. Adrian Boyd was wrong with the dates.

The inmates cannot be in the red zone unless given permission. Officer Boyd said every time the videos show an inmate in the red zone, Officer Boyd gave them permission to enter the red zone.

Lockdown was at 10:30 p.m. however trustees were allowed out to clean. A lot of the cell room doors did not lock. On September 16, 2017, lockdown was at 10:30 and a video showing C.S. bringing his mattress into J.D.'s cell for a "Santaria consult", a religious practice. C.S. asked Officer Boyd permission to go into J.D.'s cell and he gave it (R-5, page 6). Officer Boyd said it is easier to watch the inmates after lockdown when the others were in the cell. Officer Boyd did not document the fact that he allowed C.S. in J.D. and

G.G.'s cell after lockdown for religious purposes although he realizes now that he should have done so. He has let inmates out of their cell earlier during lockdown for Ramadan prayers at 4:30 a.m. Officer Boyd did not prevent anyone from practicing their religious beliefs and did not believe he was giving them preferential treatment. Officer Boyd did not recall how long the consult was. Officer Boyd was often called during the night by a supervisor to assist other officers and had to leave his pod and the supervisors would arrange for coverage of his unit while he was assisting elsewhere.

His cousin Adrian Boyd was not involved with drugs or with any criminal element as far as Officer Boyd was aware.

Officer Boyd said that no one ever overdosed in his pod, no drugs were found in D-Pod, and no telephone was found on C.J. or J.D. The prosecutor's office said when they traced the number that was supposed to be C.J.'s cell number it did not come back as belonging to C.J.

During fall 2017 there were twenty-three calls between the 5733 cell number and the cell number that was associated with C.J. Officer Boyd does not know anything about any contact between Adrian Boyd and C.J. Adrian Boyd told Officer Boyd that he did not know a C.J.

On re-direct, Officer Boyd said if he knew Adrian Boyd was contacting C.J., someone with criminal charges, he would have to disassociate himself from Adrian Boyd.

Officer Boyd sold I.G. a puppy in 2012. Officer Boyd did not conduct background checks on the individuals to whom he sold dogs.

**Adrian Boyd** testified on behalf of the petitioner. He currently resides in Bridgeton, N.J., is a high school graduate and currently employed by Seabrook Brothers and Sons. He is Officer Boyd's cousin and has known him for twenty-four years. They are as close as brothers. They have lived together in the past at two locations. Adrian Boyd moved in with Officer Boyd at a Park Avenue address in Vineland after having a fight with his parents in December 2016. He lived with Officer Boyd, Officer Boyd's fiancé L.L., her son and her

sister, C.L., until September 2017. In September 2017 Officer Boyd and Adrian Boyd moved to 207 Mill Village in Millville and lived there with their cousins, J.P. and C.R. Adrian Boyd lived with Officer Boyd at that address until March or April 2017. Officer Boyd supported him as he did not work during this time.

When Adrian Boyd moved in with Officer Boyd he did not have a cell phone and could not get one because he did not have any credit. He bought a cell phone from Officer Boyd's fiancé' – it was a 5733 number. That phone was always in his possession. Adrian Boyd did not have a car and drove Officer Boyd's white Dodge journey. Adrian Boyd knows D.D. as "we had dealt with each other for a little while" meaning they had a sexual relationship, but she was not his girlfriend and he did not really care about her. He started "dealing" with her in March 2017 and ended the relationship the weekend of Thanksgiving 2017. She lived in Fairfield Manor towards the Millville area. Adrian Boyd always went to her address in Officer Boyd's white journey. He later found out that she had a boyfriend, J.D. Adrian Boyd later learned she had criminal charges against her and that her boyfriend did also. Officer Boyd asked Adrian Boyd if he knew D.D. and he said he did. Officer Boyd told Adrian Boyd to end the relationship because J.D. was in the jail where Officer Boyd worked. Once Adrian Boyd learned who J.D. was he knew he had to end the relationship. Adrian Boyd ended the relationship with D.D. following his conversation with Officer Boyd.

On cross-examination, Adrian Boyd said he met D.D. when he was visiting his friend T.S. who lived next door to her. D.D. was forty-four years old and Adrian Boyd was twenty-four years old. He always dated older woman because he did not have to worry about statutory rape charges. He wanted to learn about her Santeria religion. She was from Puerto Rico and spoke a little English. He can speak a little Spanish. Adrian Boyd learned later that J.D. was a drug kingpin and he did not want to get killed by having an affair with his wife. Adrian Boyd did not know where D.D. worked, if she had children or who lived with her. He would go to her house, they would have sex, he would eat food and then he would leave. That was the extent of the relationship and she was not his girlfriend and he did not know much about her. Sometimes they would get a hotel room. He was not working, and she paid for the rooms. He knew she had money, but he did not know what she did. He said he would call her sometimes if he was bored and speak to her on the

cellphone. Adrian Boyd drove Officer Boyd's car to D.D.'s house. He never rode in her car. He described D.D. as having a slim waist, thick thighs, 5'6" and 200 lbs. She wore her hair long.

Adrian Boyd used Officer Boyd's cell phone which was in the name of his fiancé. Adrian Boyd used Officer Boyd's cell phone with the number ending '5733' until he broke up with D.D. around Thanksgiving in November 2017. Officer Boyd got caught cheating on L.L. in October 2017, but he moved out in November 2017. He was involved with D.D. for approximately seven months, from March 2017 until November 2017. It was not until Officer Boyd asked him out of the blue if Adrian Boyd knew D.D. on September 11, 2017. He said he did but did not say they were having sex. The cell phone was in L.L.'s name. She had three phones, one for her, one for Officer Boyd and the one that Adrian Boyd received. The cell phone was returned to L.L. after her and Officer Boyd broke up.

J.D. bought a pit bull from Officer Boyd years ago. He was not aware of any criminal charges against D.D. while he was seeing her. The last time he saw her was November 13, 2017 when he went to see her and told her he had another girlfriend, so he could break off the relationship. He never talked to Officer Boyd about the allegations that Officer Boyd was having contact with D.D. He was in court to say that the cell phone was his. AB. did not talk to Mr. Murray or Officer Boyd about his testimony. No one told him why his testimony was necessary.

On re-direct Adrian Boyd said he did go to Mr. Murray's office five or six months ago. They also met this morning for a few minutes to go over his line of questioning.

On re-cross, Adrian Boyd said he misunderstood the question, when he was asked if he ever met with Mr. Murray to review his testimony.

**Chinesse Gross** (Gross) testified on behalf of the petitioner. Gross is a childhood friend of Officer Boyd. She lives in Millville and has attended some college courses. She is currently employed by Ranch Hope, a shelter for children. Zuleika Maldonado (Maldonado) is a mutual friend of Officer Boyd and Gross. She was aware Office Boyd was a corrections officer that worked the overnight shift. She would accompany

Maldonado approximately twenty to twenty-five times when she brought Officer Boyd Chinese food. She would put the food in his truck which was a white Dodge that was parked in the parking lot by the bakery on the Atlantic Avenue side. She had a blue Acura that was owned by her mother, but her boyfriend, K.G. had a black Tahoe SUV. They would alternate who drove, but Gross stayed in the car while Maldonado put the food in Officer Boyd's car. They would park behind Officer Boyd's vehicle in the parking lot when making the delivery. Gross could not provide any of the dates in 2017 that she and Maldonado delivered Chinese food for Officer Boyd. She spoke to Mr. Murray briefly before she testified and knew what questions he was going to ask her.

On cross-examination, she said there was a Chinese restaurant in either Vineland or Bridgeton they would go to. She lived in Vineland and would go to Bridgeton to deliver Officer Boyd the food. She does not remember the first time she delivered the food or the last time she did. She dated K.G. seven months but cannot recall the exact dates. Officer Boyd called Maldonado and requested she bring him food and then she would call her. They were in a relationship for a couple of months. She does not know the year, but it was summer. She does not know L.L. She just remembers going at night to deliver the food. She remembers the car door usually being left open since Officer Boyd could not use the phone.

**Marvin F. Church** testified on behalf of the petitioner. He resides in Vineland, completed the twelfth grade and has been a corrections officer with the CCDOC for twenty-one years. He knows Officer Boyd as a friend and co-worker. Officer Church did not know Officer Boyd before he started working for Cumberland County. He currently works the 7:00 p.m. to 7:00 a.m. shift and also worked that same shift in 2017. He is currently assigned to central control but in 2017 he was assigned to C-Pod which housed minimum security inmates. He and Officer Boyd worked the same shift in 2017 until Officer Boyd got suspended. Officer Boyd did come to talk to him about inmate conversations three or four times, about bringing contraband into the jail. He advised Officer Boyd it could be lies and that you cannot believe everything people say. He did not report anything Officer Boyd said to anyone else. He did not know what type of contraband or what inmates were involved.

On cross-examination, Officer Church admitted that a corrections officer must prevent contraband from coming into the facility, so if he heard about contraband being brought into the facility it should be reported. However, Officer Church stated that first you have to make sure it is not a lie, because most people and inmates lie. He said he would be reporting things all his life if he reported everything he heard from inmates. Officer Boyd talked to him three or four times about inmates bringing in contraband and he did not tell Officer Boyd to report it to someone because people lie about everything. He doubted contraband was getting in. The only way you can get something in there was through a messed-up officer and that was back in 2015 – 2016. That is not possible now because the officers get wanded and searched and not even an officer could get something in the facility at the present time. Officer Church did not tell anyone else about these conversations with Officer Boyd.

**Zuleika Maldonado** (Maldonado) testified on behalf of the petitioner. She is twenty-three years old and lives in Bridgeton and completed eleventh grade. She works at Seabrook. She met Officer Boyd in July 2017 at Shop Rite and started dating until January 2018 when she found out Officer Boyd had a fiancé. They are still talking and trying to work it out. She is 5'5" and weighs 150 lbs. She does not have a car and did not have one in 2017. Officer Boyd worked the 7:00 p.m. to 7:00 a.m. shift. She brought him Chinese food twenty to twenty-five times while they were dating. She always went with a friend, Gross who drove her boyfriends' black Tahoe or her mothers' blue Acura. Officer Boyd would call her before work or during work from the jail phone to ask that she bring him food at the jail. He would leave the back-seat door of his white Dodge open. It was always parked in the same parking lot by Rudolphi's bakery. They would park besides or behind his car. She is unable to specifically identify by date any of the twenty to twenty-five food deliveries she made to Officer Boyd at the Cumberland County jail since it was two years ago.

On cross-examination, Maldonado says they took Officer Boyd food three times per week. She met Officer Boyd while they were both shopping at Shop Rite. He was not honest with her that he was not dating anyone else. She heard rumors and confronted him with it and he was honest about it. She had never been to his house while she was dating him. They always brought him Chinese food either from Vineland or Bridgeton.

She does not know Adrian Boyd. She does not know if anyone else ever took food to Officer Boyd at the jail.

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**Darren Govan** testified on behalf of the petitioner. Sergeant Govan finished twelfth grade and has been employed by the CCDOC for twenty-one years. He was hired in September 1998 and became a sergeant in December 2015. As a sergeant of corrections, he assigns posts, oversees the orderly running of the facility, supervises the officers to make sure they are doing their jobs and supervises the inmates to make sure they are in compliance with the rules of the facility. The sergeant makes tours or rounds of the facility, which includes D-Pod. Sergeants work an eight-hour shift and rounds are done four times daily, usually every two hours.

Sergeant Govan has been Officer Boyd's stepfather since Boyd was two years old. Officer Boyd lived with him from the time he was three years old until he was twenty years old. There are no department rules prohibiting him from supervising Officer Boyd. Sergeant Govan is currently the desk sergeant who handles all the paperwork and phone calls, assigns the breaks and basically acts as the administrator of the other sergeants for the lieutenant. His desk is in the command center which has monitors to view all of the facility except the bathrooms and inmates' cells due to privacy issues. You can see D-Pod from the monitors and both the sergeant and lieutenant can view them.

Officer Boyd told Sergeant Govan in a conversation they had, that the trustee inmates were trying to move things into his pod. He advised Officer Boyd not to let the trustees enter his pod and to pat down every inmate that comes into his pod. The trustees usually are the ones who move things in the jail because they can move within the jail. In Sergeant Govan's experience, if all the officers pat down everyone coming into and leaving the pod, that prevents anything from being brought into the pod. If an inmate realizes certain officers are going to pat them down, they will not try and bring anything into the pod because they know they will be searched. This prevents contraband from being moved within the jail. Sergeant Govan did not pass this information received from Officer Boyd up the chain of command, although he probably should have. This was not an unusual occurrence that inmates frequently tell officers they have information that more often than not is false.

On cross-examination, Sergeant Govan admits as his stepfather he acted as Officer Boyd's natural father and cares for him and would not want to see anything bad happen to him. He helped Officer David get the job with the CCDOC. He did not have anything to do with his training. It is hard to watch everything at once on the monitors that display all the video cameras in the facility.

Sergeant Govan could not remember when he had the conversation with Officer Boyd about trustees trying to sneak something into his pod. He did not follow up with any specific facts or the circumstances surrounding this information and in retrospect should have been passed up the chain. He did not tell Officer Boyd to report it. Each officer has an informant that tells him what is going on in the unit. It is a daily occurrence that inmates will tell the officer something, whether it is true or not. An officer would have to validate the information prior to making a report, otherwise without any proof it would not be investigated because there is too much misinformation being reported by inmates. In a perfect world, everything you hear should be reported to IA, however, in reality, sometimes it is necessary for an officer to go into an inmates' rooms in order to do their jobs and get information. You cannot always report everything because then the informant would be labeled a snitch and then he would not be safe to stay in the jail. However, if you are in the cell of an inmate for two hours after lockdown that should be reported to your supervisor who would report it to internal affairs. Sergeant Govan was not aware that Officer Boyd was in the cell for two hours after lockdown. He did not know Officer Boyd's cell phone as it is listed under "David" in his phone. He believed Officer Boyd had a different number in 2017 than he does now. An officer can still hear what is going on in the unit while he is in a cell. An officer should not be unavailable to do his rounds.

Sergeant Govan first heard about the allegations against Officer Boyd from the Warden and the Assistant Warden who had called Sergeant Govan down to advise him. He was very upset in that the allegations were unbelievable to him. Sergeant Govan was told that Officer Boyd was selling kilos of cocaine and that the drug dealer he was dealing with bought Officer Boyd his new truck, which could not be true since it was later repossessed. Sergeant Govan was ashamed and embarrassed and distanced himself from Officer Boyd until the discovery packet came and he saw that none of the allegations that were alleged were in the packet. That is when his conversations with his stepson



picked up again. Sergeant Govan was never going to be involved in this case until reviewing the discovery packet and learning that the facts that were presented to him were false. He did not review any of the videotapes that were provided in discovery. He saw that there were allegations that Officer Boyd was having numerous cell telephone calls with the girlfriend of a drug kingpin, but Sergeant Govan did not have any independent knowledge confirming or denying same and pointed out that neither did respondent. If Officer Boyd had repeated or numerous contacts with persons involved in criminal activities, either inside or outside the jail, that would constitute improper fraternization.

Sergeant Govan's wife's sister is married to Adrian Boyd. Adrian Boyd, Jr. is his nephew and Sergeant Govan is not familiar with his living arrangements. Sergeant Govan does not know J.D. or D.D. Officer Boyd raised and sold dogs when he was a teenager, but Sergeant Govan did not know any specifics.

Contraband is a constant problem in the jail and the movement of drugs into the jail and overdoses in the jail are common problems. This is still happening even with Officer Boyd being suspended. People know they are going to jail so they swallow it or hide it up in their rectum. The location of the jail is in the city and contraband is thrown over the fence and when an outside jail detail goes out they pick up the contraband. He is tired of hearing it's the corrections staff. In twenty-one years, there have only been five officers convicted of smuggling drugs into the jail. There is a heroin problem in this country and addicts will always find a way to get the drugs.

It is a little unusual to be in an inmates' cell for two hours after lockdown and is contrary to policy. Officer Boyd did not tell Sergeant Govan that he was in an inmate's cell for two hours.

On re-direct, Sergeant Govan stated that they cannot watch everything that is going on at once in the facility on the monitors and that is why rounds are required to be made. Lieutenants also make rounds of the facility. If Officer Boyd had told him that he was in an inmates' cell for two hours he would have directed him to make a report and to never let that happen again.

Sergeant Govan stated that Officer Boyd came to him as a subordinate officer regarding the conversation he had with him regarding the trustees talking about moving things into the jail and as his supervising officer, Sergeant Govan should have reported it.

### Rebuttal Testimony

**Amy Brag** testified on behalf of the respondent. She has been employed by the Cumberland County Department of Correction for eighteen years and has been a lieutenant since July 2015. Prior to becoming a lieutenant, she was a sergeant since November 2008 and before that, she was a rank and file corrections officer. As a lieutenant, she oversees the entire facility and makes rounds of the facility two times every eight-hour shift.

Lieutenant Brag also maintains the overtime telephone contact list which contains a list of all the employees and contact numbers that they have provided either directly to her or to a supervisor. The list is periodically updated so that they have the employees current phone number. Usually the officer gives them their home telephone number and cell number, so they can be contacted if they are needed to work overtime. The Employee Home Cell telephone list for June 2017 reflects a telephone number for Officer Boyd of 856-462-4940 (R-23). The Employee Home Cell Phone list for November 2017 lists the cell telephone number for Officer Boyd as 856-641-5733 (R-24). This cell number was provided by Officer Boyd to Lieutenant Brag or another supervisor to update the list. Lieutenant Brag prepares the document. This document was created on November 6, 2017. When she creates the document, she saves it in a shared drive and can tell the last time the document was changed. The Employee Home Cell phone list for January 2018 listed the cell number for Officer Boyd as 856-641-5733. Also listed are telephone home contact numbers of 856-776-0536 and 856-392-0103 (R-25). This information had to be given to Lieutenant Brag or another supervisor by Officer Boyd in order to be updated on the list. The Employee Home Cell telephone list for July 2018 lists Officer Boyd's cell number as 856-641-5733 (R-26). There are no other lists that are kept for overtime purposes and these lists are accurate.

No activities are allowed after lockdown which is 11:30 p.m. until the following morning at 6:30 a.m. when the breakfast trays arrive. The only time an inmate is allowed

out is for an emergency or medication. Religious services are not allowed after lockdown. The only time inmates came out during lockdown was during Ramadan because they had to eat their breakfast before sunrise. There were no other special allowances.

On cross-examination she was able to determine the date she created R-24 because she checked her computer in anticipation of testifying. Lieutenant Brag stated that she creates the updates to the lists within the first seven to ten days of the month. R-25 was updated in the first ten days.

Although Officer Boyd was suspended sometime in May 2018 he remained on the list until Lieutenant Brag is notified that they are terminated and no longer employed. The home number is the number they can be reached at when they are not at work. The cell number likewise is the cell number they can be reached at and is not necessarily the names as to who the phone is registered to. No clear searches were done on these numbers to see who is associated with the number. Lieutenant Brag could not say she specifically called the 5733 number and got Officer Boyd or someone else.

There are currently six lieutenants at the jail and they are required to make two rounds in an eight-hour shift which should be randomly done and would include D-Pod.

**Detective Ryan Breslin** testified for respondent on rebuttal. C.J. name came up through a CI and a telephone number provided. The CI placed a phone call to that phone in July or August 2017 and Detective Breslin overheard the conversation on the speaker phone and C.J. acknowledged it was him. The clear search on that number revealed no information.

The clear search on Officer Boyd revealed a cell number associated to him at 641-5733. The clear search was done on Officer Boyd by using his name and date of birth. It is a search engine that law enforcement subscribes to that searched public records. He searched Officer Boyd and addresses came up and then he obtained the subscriber for the phone number and L.L. came up as the subscriber of that number. The Transunion credit report indicated that was Officer Boyd's cell number and another source listed that number as Officer Boyd's number, but he cannot remember the source.

On cross-examination, C.J. was an inmate at the Cumberland County jail at the time of the call made by the CI which he overheard on the speaker. If he was an inmate that was contraband and if they wanted to, they could have called SIU and have done a shakedown to find the phone. He did not know whether Officer Boyd was working at the jail at the time. He has seen no video footage of Officer Boyd handing C.J. a cell phone.

The 641-5733 cell number has been called the Boyd cell phone, but it would more accurately be described as a cell number associated to Officer Boyd by a clear search and whose subscriber was L.L.

Detective Breslin has not seen any of the documents marked R-23 through R-26 and has not done a clear search on the number indicated as Officer Boyd's contact number on R-23, that is 856-462-4940. On R-24 Officer Boyd's contact number is listed as 641-5733 a number that he did do a clear search on and was associated with Officer Boyd through his girlfriend L.L. R-25 has the same cell number but lists two additional numbers. He did not do a clear search on those numbers and does not know who those numbers were registered to. Lieutenant Breslin was looking for all numbers associated with Officer Boyd and perhaps having these numbers may have assisted in the investigation.

Detective Breslin did request Sergeant Holbrook to provide him with all the telephone numbers they had associated with Officer Boyd.

### Discussion

Credibility contemplates an overall assessment of the story of a witness in light of its rationality, internal consistency, and manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718 (9<sup>th</sup> Cir. 1963). A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App Div. 1958).

Adrian Boyd testified that it was he who was using cell phone number 856-641-5733 and not Officer Boyd. Officer Boyd testified that it was Adrian Boyd's cell number

856-641-5733 in contact with the cell number of D.D. 856-378-9549 because Adrian Boyd was having a sexual relationship with her. Adrian Boyd testified that he drove Officer Boyd's white Journey to D.D.'s Dutchess Place address. He would go to her house, they would have sex, he would eat food and then he would leave. That was the extent of their relationship and she was not his girlfriend. The call records indicate that there were 167 telephone calls between the two numbers during a forty-day period from October 1 through November 9, 2017, yet Adrian Boyd testified that he did not know anything about D.D., for instance, where she worked, what she did, who she lived with or how many children she had. Also, Officer Boyd testified that Adrian Boyd did not know C.J., yet C.J.'s telephone number appears on the call records twenty-three times. Adrian Boyd testified that he was in court to say the cell phone was his and not Officer Boyd's. Initially he stated that he did not talk to Officer Boyd about the allegations or Mr. Murray regarding his testimony but then admitted he had. Adrian Boyd's testimony was contrived and designed to supply his cousin Officer Boyd with an alibi. I deem Adrian Boyd's testimony not credible.

Officer Boyd testified that L.L. gave Adrian Boyd the cell telephone with number 856-641-5733 and that was not a cell number that he (David Boyd) used. The rebuttal testimony of Lieutenant Amy Bragg indicated that Officer Boyd himself provided the CCDOC with that cell number for purposes of updating the "Employee Home Cell Overtime Call List" for November 2017 (R-24). I deem Officer Boyd's testimony not credible in this regard.

Officer Boyd testified that he was in J.D. and G.G.'s cell after lockdown on August 2 – 3, 2017 ten times for a total of two hours because he was gathering 'intelligence'. He did not make any notes in the desk log activity book about anything unusual that would necessitate him being in that cell for that long a period of time. No reports were prepared regarding the inmates claims that contraband was going to be moved into the pod. I deem Officer Boyd's testimony not credible in this regard.

Officer Boyd also testified that he appeared in the October 12, 2017 video visit of J.D. opening and closing his handcuffs as a warning to inmate C.S. who interposed himself in the video. Having viewed the video, it appears that Officer Boyd is casual and friendly with the participants. Officer Boyd admitted to knowing one of the participants, I.G. as an

individual to whom he had sold a dog. I deem Officer Boyd's testimony in this regard not credible.

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The September 16, 2017 video showed inmate C.S. bringing his mattress into J.D.'s cell after lockdown. Officer Boyd said he gave them permission to do so because they were having a 'Santaria Consult' and Officer Boyd did not want to prevent them from practicing their religious beliefs. Officer Boyd did not document that he gave inmate C.S. permission to go into J.D.'s cell after lockdown for religious purposes. Inmates are to be in their own cells after lockdown. I deem Officer Boyd's testimony in this regard not credible.

Detective Lowry observed Officer Boyd using a cell phone that he pulled out from his vest at 20:20 on the surveillance video from October 16, 2017. Corrections officers are not permitted to have a cell phone in the correctional facility. Officer Boyd testified that on occasion, a 'higher up' would leave their cell phone in the jail and he would put it in his pocket and return it to them. I deem Officer Boyd's testimony not credible in this regard.

Although Detectives Lowry and Breslin made credible witnesses, the video surveillance from October 16, 2017 of the parking lot showing a woman placing a bag in Officer Boyd's vehicle was not dispositive that it was D.D. It was hard to see anything in the video and although the detectives believed it was D.D., they could not be sure. They also were not able to see the license on her car to confirm it was her vehicle. The call records also do not confirm that D.D. was in the parking lot communicating with Officer Boyd. There was also testimony, albeit vague, from Maldonado and Gross that they frequently brought Chinese food to Officer Boyd while he was working and placed it in Officer Boyd's car.

Sergeant Holbrook was a credible witness and testified as to various instances of inmates crossing into the 'red zone' on the video of October 16, 2017. However, he was aware of no officer having been previously reprimanded for such a violation and admitted that the officer could give permission for an inmate to step into the 'red zone'. Officer Boyd testified on every occasion that an inmate is seen in the red zone, he gave them permission to enter.

Based upon due consideration of the testimonial and documentary evidence presented at this hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following as **FACTS**:

David Boyd was employed as a corrections officer at the Cumberland County Jail from June 23, 2014 until his suspension May 22, 2018 and removal October 12, 2018. In 2017-2018 he worked the 7:00 p.m. to 7:00 a.m. shift and was assigned to D-Pod.

The Cumberland County Prosecutor's Office conducted a criminal investigation from July 18, 2017 through April 4, 2018 as to whether Correction Officer David Boyd was smuggling contraband into the Cumberland County Jail.

At the conclusion of the investigation, the Cumberland County Prosecutor's office found that probable cause did not exist to file criminal charges against Correction Officer Boyd and issued a declination letter dated April 10, 2018 (R-6).

Sergeant Holbrook, in reviewing information submitted to the prosecutor's office, noticed various violations of CCDOC policy including failure to conduct tours, sleeping on duty and over familiarization/fraternization with inmates and other criminal elements. Based on information learned from the criminal investigation, the Cumberland County Department of Correction filed administrative charges against Correction Officer Boyd (J-1 & J-2).

Inmate J.D., a 'drug kingpin' was confined in D-Pod. J.D.'s wife/girlfriend was D.D., also known to law enforcement as being involved in drug activities related to J.D. She drove a black suburban and resided at Dutchess Place, which was the same address where J.D. was arrested. Both, J.D. and D.D. were convicted of drug distribution in May 2018.

D.D.'s cellular telephone number was 856-378-9549.

A land line or 'trunk' line at the Cumberland County jail 856-453-9804 contacted D.D.'s cell number 1,365 times from October 1, 2017 to November 9, 2017 and 397 times

from November 9, 2017 until December 7, 2017. It is unknown whether the jail land line goes to any specific location within the jail, such as the officers' desk at D-Pod or some other location in the jail (R-1, page 10).

A 'clear search' of Officer Boyd identified a cell telephone number associated with Officer Boyd through his girlfriend, the cell phone subscriber, L.L. The cell telephone number associated with Officer Boyd was 856-641-5733.

The Cumberland County Department of Correction maintains a list of all employees and contact numbers that is periodically updated so that they have the current phone number in case an officer has to be contacted if they are needed to work overtime. This information is provided by the officer. The Employee Home Cell Phone list for November 2017 lists the cell phone number for Officer Boyd as 856-641-5733 (R-24). The Employee Home Cell Phone list for January 2018 also listed the cell telephone number for Officer Boyd as 856-641-5733 (R-25).

The call records indicated that D.D.'s cell phone 856-378-9549 and Officer Boyd's cell phone 856-641-5733 were in contact 167 times between October 1, 2017 and November 9, 2017 (R-1, page 8).

C.J. was an inmate in D-Pod incarcerated from August 17, 2016 until August 22, 2017 and involved in narcotics. He was also a trustee. A confidential informant advised that the phone number 609-579-8592 was the cell number of the phone Officer Boyd gave to inmate C.J. Detective Breslin was present when the CI placed a phone call to that number in July or August 2017, while C.J. was in jail, and overheard the conversation on the speaker phone and that C.J. acknowledged it was him. The cell telephone number of inmate, C.J., 609-579-8592 and the cell telephone number associated with Officer Boyd, 856-641-5733, were in contact twenty-three times.

On August 2, 2017 Officer Boyd was observed on video surveillance entering empty cell 4028 with inmate C.J. and were alone with no camera surveillance.



On August 2, 2017 Officer Boyd accepted an unknown liquid substance from inmate N.M. and rubbed the substance on his face and forearms.

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Officer Boyd greeted inmate O.R. by bumping forearms on August 2, 2017.

Cell 4017 is occupied by inmates J.D. and G.G. On August 2, 2017 Officer Boyd entered the cell at 7:46 p.m. and remained in the cell until 7:58 p.m., for twelve minutes, while the rest of the inmates in the unit were out and unsupervised.

Officer Boyd was seen standing inside the open doorway to cell 4016 with his hands-on top of the door, conversing with the inmates at 11:16 p.m., 45 minutes after lockdown, for twenty minutes on the surveillance video from August 2, 2017.

After lockdown and from 12:07 a.m. through 5:42 a.m. on August 3, 2017, Officer Boyd spent a total of over two hours in cell 2017 with inmates J.D. and G.G. Officer Boyd entered the cell ten different times during his shift (R-11 and R-12). No notation was made in the shift commander's log indicating any reason requiring Officer Boyd to be in that cell for that amount of time.

On September 14, 2017 surveillance indicated that Officer Boyd worked the night shift and then was followed to his cousin I.T.'s house. I.T. was arrested the next day for drug and weapons charges and incarcerated at the jail on September 15, 2017. On September 19, 2017 Officer Boyd was observed communicating with I.T. in front of the holding cell. The audio tape indicated that inmate I.T. requested Officer Boyd take a telephone number down and contact 'Tammy' when he had time. Officer Boyd was viewed reaching in his pocket and removing a white piece of paper. Officer Boyd was further asked that when he talked to 'Tammy', have her contact his lawyer, Ron Helmer. Officer Boyd testified that he pretended to write down the information I.T. told him, but never did pass on the information. Officer Boyd did not report that his cousin was detained in the facility or that he tried to make contact with him. In retrospect, Officer Boyd testified he should have made a report that an inmate was trying to make contact with him because it gave the wrong impression. Officer Boyd also admitted that he told his aunt that I.T. was in his facility, which he should not have done, and gave her the admissions number of the

jail. It is prohibited to pass any information from within the facility to someone outside the facility.

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A GPS tracking device installed on Officer Boyd's white Dodge Journey indicated that on multiple occasions, Officer Boyd's vehicle was tracked to D.D.'s Dutchess Place residence.

A CD of a video visitation of J.D. from October 12, 2017 at 9:40 p.m. was reviewed (R-8). On the left side of the screen you can see J.D. talking on the phone in front of the camera and on the right side of the screen you can see who he is visiting with via their laptop from their location. D.D., I.G. and another unidentified Hispanic male are in the video. In reviewing the video visitation, Officer Boyd appears smiling behind Delgado and raises his arm as if in a greeting to the visitors, who in turn smiled back. Officer Boyd appears first for about four or five seconds. R.S., another inmate in an orange shirt, appears in the video and waves to J.D.'s visitors. Usually other inmates do not appear in an inmate's video visitations. Later in the visit Officer Boyd re-appears behind J.D. and holds up his handcuffs and opens and closes them and then walks away. Officer Boyd appears to be smirking while he is doing this. J.D. and D.D. are smiling in response to this and I.G. is shaking his head (R-8). Officers usually do not appear in inmates' visitation videos unless they are just walking by to make sure nothing inappropriate is taking place. A review of the video indicates that Officer Boyd is joking and friendly with the individuals involved.

I.G. was involved in a previous criminal investigation involving shipping cocaine from Puerto Rico to D.D.'s address and was found guilty in the Spring 2018. Officer Boyd recognized I.G. in the J.D. video visitation as someone to whom he had previously sold a dog.

On October 12, 2017 starting at 4:26 a.m. Officer Boyd was in a laid-back position and appeared to be sleeping and not doing his job on three different occasions during his shift that night for forty-two minutes, fifty-two minutes and twenty-eight minutes. He did not conduct his tours during this time (R-6).

On October 16, 2017 after lockdown at 10:30 p.m. video surveillance showed inmate J.D. and C.S. still out of their cells and then inmate C.S. moving his mattress into J.D.'s cell 4017. Officer Boyd then entered J.D.'s cell at 10:35 p.m. leaving several inmates out unattended for eight minutes (R-5).

Detective Lowry observed Officer Boyd using a cell phone that he pulled out from his vest at 20:20 on the surveillance video from October 16, 2017. Correction officers are not permitted to have a cell phone in the correctional facility.

Officer Boyd had more interactions with inmates C.J., J.D., O.R., G.G., C.S. and N.M. than with the remainder of the D-Pod population which consisted of approximately forty to fifty inmates at the time.

### **LEGAL ANALYSIS AND CONCLUSIONS**

Appellant's rights and duties are governed by laws including the Civil Service Act and accompanying regulations. A civil service employee who commits a wrongful act related to his or her employment may be subject to discipline, and that discipline, depending upon the incident complained of, may include a suspension or removal. N.J.S.A. 11A:1-2, 11A:2-6, 11A:2-20; N.J.A.C. 4A2-2.

The Appointing Authority bears the burden of establishing the truth of the allegations by a preponderance of the credible evidence. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962) Evidence is said to preponderate "if it establishes the reasonable probability of the fact." Jaeger v. Elizabethtown Consol. Gas Co, 124 N.J.L. 420, 423 (Sup. Ct 1940) (citation omitted). Stated differently, the evidence must "be such as to lead a reasonably cautious mind to a given conclusion." Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958); see also Loew v. Union Beach, 56 N.J Super. 93,104 (App. Div. 1959).

Appellant was charged with "Conduct unbecoming a public employee," N.J.A.C. 4A:2-2.3(a)(6). "Conduct unbecoming a public employee" is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental

services. Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, supra, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Such misconduct need not necessarily "be predicated upon the violation of any particular rule or regulation but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct." Hartmann v. Police Dep't. of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)). The Civil Service Commission's precedents make clear that undue familiarity is a form of unbecoming conduct, as it undermines the perception of fairness and strict enforcement necessary in a penal institution. See, for example, In re Ridgeway, CSV 00552-05, Initial Decision (December 30, 2005), modified, Merit System Board (March 9, 2006), <http://nj.law.rutgers.edu/collections/oal/>.

The need for proper control over the conduct of inmates in a correctional facility and the part played by proper relationships between those who are required to maintain order and enforce discipline and the inmates cannot be doubted. "We can take judicial notice that such facilities, if not properly operated, have a capacity to become 'tinderboxes'." [Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305-06 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994).] The strong over familiarity policy is in place to prevent correction personnel from being manipulated by those in the system, which can ultimately compromise the security and safety of all those in the correctional system.

Officer Boyd's conduct in this matter erodes the public respect for law enforcement, because it creates the impression that correction officers are unable to maintain the impartial distance needed to do the job properly and fairly. Officer Boyd did not maintain an impartial distance between himself and the inmates he showed preferential treatment, especially J.D., G.G., C.J., O.R., C.S., N.M. and I.T. Furthermore, Officer Boyd's frequent contacts with individuals known to be involved in criminal activities such as D.D. erodes public respect for law enforcement. The call records indicated that D.D.'s cell phone 856-378-9549 and Officer Boyd's cell phone 856-641-5733 were in contact 167 times between October 1, 2017 and November 9, 2017. A GPS tracking device installed on Officer Boyd's

white Dodge Journey indicated that on multiple occasions, Officer Boyd's vehicle was tracked to D.D.'s Dutchess Place residence. There were twenty-three contacts between the telephone number of inmate C.J. and the cell phone number of Officer Boyd.

The surveillance images of Officer Boyd accepting lotion from an inmate, greeting an inmate with a forearm bump, appearing in the video visitation of D.D. and joking with the participants, allowing inmates out and in other cells after lockdown, and spending an inordinate amount of time in inmates' cells, demonstrates a pattern of undue familiarity with those inmates. Officer Boyd's conduct constitutes conduct unbecoming a corrections officer as it is contrary to maintaining the order and enforcing the discipline required in a correctional facility. Therefore, I **CONCLUDE** that the respondent has met its burden in proving the charge of conduct unbecoming a public employee by a preponderance of the credible evidence.

Appellant was also charged with neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7). There is no definition in the New Jersey Administrative Code for neglect of duty, but the charge has been interpreted to mean that an employee has failed to perform, and act as required by the description of their job title. Neglect of duty can arise from an omission or failure to perform a duty and includes official misconduct or misdoing, as well as negligence. Generally, the term 'negligent' connotes a deviation from normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977), neglect of duty implies nonperformance of some official duty imposed upon a public employee, not merely commission of an imprudent act. Rushin v. Bd. Of Child Welfare, 65 N.J. Super. 504, 515 (App. Div. 1961).

Officer Boyd admitted to sleeping while on duty as was evidenced in the surveillance video of October 12, 2017. He was in his seat for over two hours and did not complete his tours which were required to be done every thirty minutes to check on the inmates to make sure that they are okay and that nothing is going on. Also, the amount of time Officer Boyd spent in certain inmates' cells prevented him from overseeing the general D-Pod population. Officer Boyd also failed to act and perform in accordance with his position as corrections officer by violating the CCDOC policy on undue familiarity.

The CCDOC requires its members to always act in a professional manner, with honesty and integrity and has a policy prohibiting Overfamiliarity/Fraternizing with Inmates. Corrections officers are prohibited from having a personal relationship with inmates and should not act in any way that may cause that perception. A corrections officer has to represent authority. Any appearance of a relationship would be sufficient cause for discipline. It is not acceptable for a corrections officer to be going into inmates rooms and closing doors; spending more time with certain inmates than the rest of the population; accepting lotion from an inmate; greeting an inmate with a forearm bump; allowing inmates out after lockdown; allowing inmates to be in a cell other than their own after lockdown; improperly appearing in an inmate's video visitation; passing information from within the facility to someone outside the facility regarding an inmate; and being in inmates' cells for inordinate amounts of time.

All staff were required to immediately report to their supervisor any family members or friends that they are aware of in the jail. Not only did Officer Boyd fail to report that his cousin I.T. was in the facility, he appeared to assist him by talking to him while he was in the holding cell. Officer Boyd admitted that he should have reported that I.T. was attempting to make contact with him because he now realized it gave the wrong impression. Officer Boyd also admitted that he should not have advised his aunt that I.T. was in his facility. The CCDOC policy prohibits corrections officers from associating with criminal elements and an officer must disassociate himself from those persons even if they knew them from before they became a corrections officer.

Law enforcement personnel are prohibited from becoming overly familiar or fraternizing with inmates and from associating with persons engaged in or suspected of being engaged in criminal activities. The call records indicated that D.D.'s cell phone 856-378-9549 and Officer Boyd's cell phone 856-641-5733 were in contact 167 times between October 1, 2017 and November 9, 2017. D.D. was known by law enforcement personnel to be involved in narcotics distribution. A GPS tracking device installed on Officer Boyd's white Dodge Journey indicated that on multiple occasions, Officer Boyd's vehicle was tracked to D.D.'s Dutchess Place residence. There were also twenty-three contacts between the telephone number of inmate C.J. and the cell phone number of Officer Boyd.

I **CONCLUDE** that respondent has met its burden of proof in establishing that appellant's conduct constituted neglect of duty by a preponderance of the credible evidence.

Appellant has also been charged with violating N.J.A.C. 4A:2-2.3(a)(12), "Other sufficient cause." Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. Law enforcement personnel are prohibited from becoming overly familiar or fraternizing with inmates or from associating with persons engaged in or suspected of being engaged in criminal activities. As set forth in the findings of facts and as discussed above, appellant's conduct in this case violates the implicit standard of good behavior one would expect from a corrections officer. Therefore, I **CONCLUDE** that the respondent has met its burden of proof in establishing a violation of other sufficient cause by a preponderance of the credible evidence.

Appellant has also been charged with violations of CCDOC Policy 3.02A also known as 84-17: T - Violation of a rule, regulation, policy, procedure, order or administrative decision; B – Performance: 4. Sleeping while on duty (essential) and 9. Incompetence or inefficiency; and C – Personal conduct 11. Conduct unbecoming a public employee (R-19).

The CCDOC requires its members to always act in a professional manner, with honesty and integrity and has a policy prohibiting Overfamiliarity/Fraternizing with Inmates. Corrections officers are prohibited from having a personal relationship with inmates and should not act in any way that may cause that perception. Any appearance of a relationship would be sufficient cause for discipline. Officer Boyd failed to act with honesty and integrity and violated the CCDOC's Overfamiliarity/Fraternizing with Inmates Policy set forth in Policy No. 4.18 and 4.22 (R-20 and R-22). Appellant's conduct in failing to follow the Overfamiliarity/Fraternization policy is a violation of policy 84-17: T – violation of a rule, regulation, policy, procedure, order or administrative decision. Officer Boyd's sleeping on duty and failure to make his required tours of duty on October 12, 2017 is a violation of the 84-17 policy performance requirements and is indicative of neglect of duty, incompetency or inefficiency. Officer Boyd's over familiarization/fraternization with

inmates is a violation of the 84-17 policy personal conduct requirements and constitutes conduct unbecoming a public employee.

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I **CONCLUDE** that respondent has met its burden of proof in establishing violations of these department policies and rules of conduct by a preponderance of the credible evidence.

### **PENALTY**

The remaining issue is penalty. In general, principles of progressive discipline apply in Civil Service proceedings. W. New York v. Bock, 38 N.J. 500, 523 (1962). Although Officer Boyd's previous disciplinary history consisted of only one verbal warning for abuse of sick time, some infractions are so serious that termination is warranted, In re Carter, 191 N.J. 474, 484 (2007) (citing Rawlings v. Police Dep't of Jersey City, 133 N.J. 182, 197-98 (1993) (upholding dismissal of police officer who refused drug screening as "fairly proportionate" to offense)); see also In re Herrmann, 192 N.J. 19, 33 (2007). If the only violation Officer Boyd was guilty of was sleeping on duty and failure to complete his tours for the evening of October 12, 2017 perhaps a lesser penalty would be appropriate. However, the most egregious conduct of Officer Boyd warranting removal is his repeated pattern of fraternization with inmates and his association with criminal elements.

Appellants status as a corrections officer subjects him to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576-77 (1980). They represent "law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public." Township of Moorestown v. Armstrong, 89 N.J. Super. 560 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966). Maintenance of strict discipline is important in military-like settings such as police departments, prisons and correctional facilities. Rivell v. Civil Serv. Comm'n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 50 N.J. 269 (1971); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect of authority cannot be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191, 199 (App. Div. 1997).



In general, cases involving undue familiarity have resulted in termination. The appellant in Ridgeway, supra, was living with the father of her children, a parolee, at the time she was hired at South Woods State Prison. The Administrative Law Judge found credible her explanation that once she realized his presence could threaten her job, she failed to disclose it, because no one told her the Corrections authorities may have deemed the relationship acceptable. However, the Merit System Board terminated her on grounds that the failure to disclose was sufficient to threaten the security of the prison. In re Coon, CSV 10243-09 and CSV 04370-10, Initial Decision (September 28, 2012), adopted, CSC (November 8, 2012), <http://njlaw.rutgers.edu/collections/oal/>, involved release at the end of a working test period and violation of a Last Chance Agreement by a county correction officer who agreed to stop contact with an inmate, then continued it after the inmate was transferred to a jail in another county. In re Livingston, CSV 11903-08, Initial Decision (June 25, 2009), adopted, CSC (August 5, 2009), <http://njlaw.rutgers.edu/collections/oal/>, concerned a correction officer who was terminated when authorities learned she had an undisclosed relationship with an inmate that existed before, during, and after his incarceration.

In Skinner, appellant, a senior corrections officer, was removed for failing to report that his mother applied for a mortgage with an inmate's wife and was facilitating unauthorized telephone calls between the inmate and his family members. The Appellate Division upheld the removal, reiterating that an unduly familiar relationship "between an SCO and inmate or their family can lead to improper favors between guards and inmates . . . by, his actions, appellant imperiled not only himself, but his colleagues, inmates, and the public at large." In re Skinner, 2012 N.J. Super. Unpub. LEXIS 2665 (App. Div. 2012); see also In re Linthicum, 2013 N.J. CSC LEXIS 95 (February 20, 2013) (CSC upheld removal of senior corrections officer for providing clothes to an inmate's daughter, signing and giving a birthday card to the inmate's daughter and receiving gifts from the inmate's relatives); In re Cumberlander, 2011 N.J. CSC LEXIS 1267 (December 7, 2011) (CSC upheld removal of senior corrections officer for accepting food from inmates).

Officer Boyd's conduct in engaging in a pattern of fraternization with inmates and his association with criminal elements is inimical to that of a corrections officer charged

with maintaining the order and enforcing the discipline required in a correctional facility. Therefore, the only appropriate penalty in this case is removal.

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I **CONCLUDE** that the removal of the appellant was appropriate.

**ORDER**

Accordingly, I **ORDER** that the action of the respondent is **AFFIRMED**, as set forth above. Appellant's appeal is **DISMISSED**.

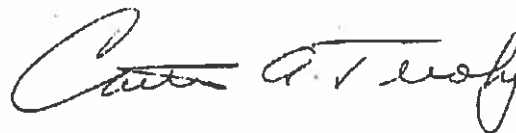
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 40A:14-204.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

July 3, 2019

DATE



\_\_\_\_\_  
CATHERINE A TUOHY, ALJ

Date Received at Agency:

July 3, 2019 (emailed)

Date Mailed to Parties:

July 3, 2019 (emailed)

CAT/mel

**APPENDIX**

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**WITNESSES**

**For Petitioner:**

David Boyd  
Adrian Boyd  
Chinesse Gross  
Zuleika Maldonado  
Officer Marvin Church  
Sergeant Daren Govan

**For Respondent:**

Detective Joseph Lowry  
Detective Ryan Breslin  
Sergeant William Holbrook  
Lieutenant Amy Brag

**EXHIBITS**

**Joint**

J-1 PNDA (31 – A)  
J-2 FNDA (31 – C)

**For Petitioner:**

None

For Respondent:

- R-1 Cumberland County Prosecutor's Office Internal Affairs Investigation Report dated April 4, 2018 (fourteen pages)
- R-2 Call Records for PTN 8566415733, page 34 of 88
- R-3 Call Records for PTN 8563789549, page 62 of 168
- R-4 Cumberland County Jail – Inmate Request Form (two pages)
- R-5 County of Cumberland DOC Special Investigations Unit Conclusion Report (seven pages)
- R-6 April 10, 2018 letter of Harold B. Shapiro, First Assistant Prosecutor to Warden Richard Smith, Cumberland County DOC
- R-7 County of Cumberland DOC Special Investigations Unit Report – Case Number SIU17-0033 (fifty-eight pages)
- R-8 CD of October 12, 2017 remote visitation
- R-9 CD video August 12, 2017 7:00 p.m. to midnight, right camera 16, D-Pod
- R-10 CD video August 12, 2017 7:00 p.m. to midnight, left camera D-Pod
- R-11 DVD D-Pod, right side view, August 2, 2017 midnight to 5:00 a.m. August 3, 2017
- R-12 DVD D-Pod 5:00 am to 7:00 a.m.
- R-13 left view of R-11 midnight to 5:00 a.m.
- R-14 September 18, 2017 video and audio CD camera #67 rear internal control
- R-15 September 18, 2017 video and audio CD camera #68 issue hall
- R-16 October 12, 2017 video CD D-Pod top tier 4:26 a.m. – 6:28 a.m.
- R-17 October 16, 2017 video CD exterior parking lot camera 153
- R-18 October 16, 2017 video CD exterior, parking lot camera 155
- R-19 Cumberland County DOC Policy Number 3.02A, a/k/a 84-17 (fourteen pages)
- R-20 Cumberland County DOC Personnel Policy Number 4.18 (two pages)
- R-21 Cumberland County DOC Code of Ethics (five pages)
- R-22 Policy Number 4.22 (two pages)
- R-23 Cumberland County DOC Employee Home Cell Overtime Call List – June 17, 2017 (five pages)

- R-24 Cumberland County DOC Employee Home Cell Overtime Call List – November 17, 2017 (five pages)

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- R-25 Cumberland County DOC Employee Home Cell Overtime Call List – January 18, 2018 (five pages)
- R-26 Cumberland County DOC Employee Home Cell Overtime Call List – July 18, 2018 (five pages)