

COOK COUNTY SHERIFF'S MERIT BOARD

In the Matter of:

CORRECTIONAL OFFICER	)	
DION I. GAINES, SR.	)	
██████████	)	Docket No. 2118
CHICAGO, ILLINOIS 60620	)	
EMPLOYEE # ██████████	)	
STAR #15709	)	

**DECISION**

This matter coming on to be heard pursuant to notice before Vince T. Winters, Board Member, on February 2<sup>nd</sup> and 3<sup>rd</sup> 2021 the Board finds as follows:

**Jurisdiction**

Dion I. Gaines, Sr., hereinafter Respondent, was appointed a Correctional Officer on March 21, 2005. On November 9, 2014, the Respondent was assigned to Division IX of the Cook County Department of Corrections ("CCDOC"), located at 2834 W. 31<sup>st</sup> Street, Chicago, Illinois 60608. Respondent's position as a Correctional Officer involves duties and responsibilities to the public; each member of the Cook County Sheriff's Merit Board, hereinafter Board, has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term; the Board has jurisdiction of the subject matter of the parties in accordance with 55 ILCS 5/3-7001, *et seq*; and the Respondent was served with a copy of the Complaint and notice of hearing and appeared before the Board with counsel to contest the charges contained in the Complaint.

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

## **Background**

By complaint dated July 20, 2018 Petitioner sought termination of Respondent, alleging that Respondent did violate certain General Orders and that such action is in violation of Rules and Regulations of the Department of Corrections and the Cook County Sheriff's Merit Board.

After the case was continued from time to time, and discovery completed, it was called for a formal hearing on February 2<sup>nd</sup> and 3<sup>rd</sup>, 2021. At the hearing, court reporter being present, all witnesses sworn under oath, testimony was taken from witnesses called by the Sheriff as well as testimony from the Respondent and witnesses called on her behalf. Documents were introduced by Petitioner and Respondent and received into evidence. The Petitioner and Respondent made closing arguments addressing the issues in the hearing.

## **Issues Presented:**

The Respondent was charged with violations of the Rules and Regulations of the Cook County Department of Corrections, more specifically:

**GENERAL ORDER 24.9.1.0 (effective date: July 11, 2011)**

**REPORTING INCIDENTS, in its entirety, including but not limited to, the following subparts:**

### **II. POLICY**

**It is the policy of the CCDOC to have written procedures for reporting and documenting incidents involving staff, inmates, and visitors, as well as to ensure that incidents or problems with the facility, i.e., sanitation, plumbing, electrical, ventilation, or any other situation that creates a dangerous workplace, are reported and documented in a timely and professional manner.**

**Employees shall immediately report to their supervisor any information indicating a violation or attempted violation of criminal laws, or a threat to the safety and security of the facility, its property or any person.**

**Reports shall be made verbally and in writing as directed by this order.**

### **VI. DEFINITIONS**

**A. Unusual incident – Generally, a wide range of incidents or situations that 1) may or may not disrupt the operations of the CCDOC, 2) that are not a routine**

occurrence, and 3) that requires follow up by CCDOC staff. Examples of unusual incidents include but are not limited to:

1. Accidental injuries, sports related injuries.
  2. Non-life threatening medical incidents.
  3. Problematic sanitation, plumbing and lighting conditions.
  4. Heating, ventilation and air conditioning (HVAC) malfunctions.
- B. Reportable incident – Any incident or situation which disrupts the operations of the CCDOC or requires an investigation or follow up by CCDOC staff. Reportable incidents include but are not limited to unusual incident and serious incidents.
- C. Serious incident – Any incident or situation which significantly disrupts the operation of the CCDOC and/or requires an investigation to be conducted by Cook County Sheriff's Police (CCSPD), Criminal Intelligence Unit (CIU), Office of Professional Review (OPR), or any other appropriate authority.

## VII. PROCEDURES

- A. Notification
1. All reportable incidents occurring within CCDOC involving staff, inmates, or visitors are required to be verbally reported and documented on an Incident Report by staff via the chain of command.
- B. Incident Report Requirements
2. CCDOC staff shall completely and accurately document any incident or situation that he or she observes or that is reported to him/her.
  3. All CCDOC staff shall promptly prepare the Incident Report and forward the report to the supervisor.
  6. Incident Reports shall be prepared immediately after an incident in order to be as accurate as possible; however, they shall be completed, submitted and reviewed by a supervisor prior to being relieved from duty.
- C. Any employee failing to file a report or filing a false report shall be subject to disciplinary action up to and including termination of employment and/or the filing of criminal charges.
- F. General Reporting Guidelines

2. Complete and accurate documentation of events and incidents within CCDOC facilities and other sites are essential. Written reports and reports in IMACS serve to keep staff informed of developments and problem areas within the facility. Reports are also instrumental in the planning and implementation of Sheriff's Office policies and procedures.
5. Be very specific when describing events. Do not use vague descriptions such as "strange" or "weird"; describe the actual behavior that you witnessed.

#### **VIII. APPLICABILITY**

This General Order is applicable to all employees of the Cook County Department of Corrections. All employees shall familiarize themselves with the contents of this order. All supervisors will review the contents of this order with all employees under their supervision as appropriate, and ensure the provisions as outlined are strictly adhered to. This order is for strict compliance.

**GENERAL ORDER 24.9.9.3 (effective date: November 3, 2015)**

**SANITATION, FIRE, HEALTH AND LIFE SAFETY INSPECTIONS**, in its entirety, including but not limited to, the following subparts:

#### **II. POLICY**

It is the policy of the CCDOC to provide staff, inmates, and visitors, a clean, sanitary and safe environment consistent with all applicable laws and current correctional standards. In order to do so, it is essential that meaningful and effective compliance inspections be conducted throughout CCDOC.

#### **VI. DEFINITIONS**

- E. Security checks – Physical and visual observation conducted at irregular intervals in living units, cells and other areas throughout CCDOC for the purpose of identifying any compromises to safety or security.

#### **VII. PROCEDURES**

- A. Security Checks

1. Living unit officers shall complete security checks of assigned areas beginning 15 minutes after the start of his/her shift, continue throughout the shift and conclude 30 minutes prior to the end of their shift. Security checks shall be made within 30 minutes at irregular intervals. The time of each security check shall be documented in the Living Unit Logbook.

**GENERAL ORDER 9.34 (effective date: 01-14-08)**

**SECURITY AND CONTROL**, in its entirety, including but not limited to, the following subparts:

**I. POLICY**

It is the policy of the Cook County Department of Corrections (CCDOC) to have cell locking procedures to maintain a safe and secure environment for all inmates and personnel.

**II. PROCEDURES**

**A. Locking and Unlocking Cells in Living Units**

2. Each Officer will use the key to open the cell doors one (1) at a time. Officers must then physically and visually check the door locking mechanism to ensure that there are no obstructions in the doorjamb that could prevent the lock from functioning properly. This practice will also be used anytime an inmate is entering or exiting their cell, except in an emergency.

**POST ORDER 44.9.48.0 (effective date: 7-11-11)**

**DIVISION IX, LIVING UNIT S 2G**

**I. LOCATION OF POST**

Division IX, 2<sup>nd</sup> Floor South

**II. POST DESCRIPTION**

Personnel assigned to Living Unit S 2G are responsible for the safety, sanitation, security and coordinating services provided to all inmates housed in the living unit.

**III. HOURS OF OPERATION**

**24 – Hours**

**V. DUTIES AND RESPONSIBILITIES**

Duties and responsibilities include, but are not limited to, the following:

**All Shifts**

- **Conduct and document security inspection of living unit including all locking mechanisms.**
- **Conduct random thirty (30) minute physical security checks on living unit, verbally communicate with inmates and document in the living unit log book.**

**SHERIFF'S ORDER 11.2.20.1 (effective: March 12, 2015)**

**CONDUCT POLICY, in its entirety, including but not limited to, the following subparts:**

**II. POLICY**

**Members of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning member conduct.**

**Every member is also subject to the provisions contained throughout this policy and applicable written directives, as well as any additional guidance**

on conduct that may be disseminated by the CCSO or the member's supervisors.

### **III. APPLICABILITY**

This policy is applicable to all CCSO members. Any member found in violation of this policy may be subject to discipline, up to and including termination of employment, in accordance with any applicable collective bargaining agreements and state and federal statutes. Any conflict with existing collective bargaining agreements shall be resolved in favor of the applicable collective bargaining agreement.

### **IV. COMPLIANCE WITH ALL LAWS, ORDINANCES AND REGULATIONS**

Members shall respect and protect the civil and legal rights of all individuals; uphold the constitution of the United States and the State of Illinois; obey all applicable federal, state and local laws; comply with court decisions and orders of courts having jurisdiction; and comply with lawful rules, written or verbal orders, SEAM articles, policies and procedures issued by the CCSO or by any supervisor.

### **V. CONDUCT POLICY**

A. The continued employment or retention of every CCSO member shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any member to meet the guidelines set forth in this policy, whether on-duty or off-duty may be cause for disciplinary action, up to and including termination.

### **VI. CONDUCT WHICH MAY RESULT IN DISCIPLINE**

**The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of the CCSO. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient service. Conduct which may result in discipline includes but is not limited to the following:**

**B. Conduct**

- f. Failure to report activities on his/her own part or the part of any other member where such activities may result in criminal prosecution or discipline under this policy.**

**E. Performance**

- 3. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors.**
- 13. The falsification of any work related records; the making of misleading entries or statements with the intent to deceive; or the willful and unauthorized destruction, alteration, removal, and/or mutilation of any CCSO record, book, paper or document.**
- 23. Commit acts that jeopardize the security of CCSO facilities; the health, safety and welfare of subjects; any CCSO member; visitors; or the public.**



- 26. Any knowing or negligent violation of the provisions of policy, operating procedures or other written directive of an authorized supervisor. Members are responsible for reading and becoming familiar with the contents of applicable policies and procedures, and are responsible for compliance with the content contained therein.**
- 29. Failure to disclose or misrepresenting facts, or the making of any false or misleading statement on any application, examination form or other official document, report or form, or during the course of any work-related investigation.**
- 30. Giving any false or misleading statement, or misrepresenting or omitting material information, to a supervisor or other person in a position of authority in connection with any investigation or in the reporting of any CCSO-related business.**
- 31. Failure to take reasonable action when required by law, statute, resolution or approved CCSO practices, policies or procedures.**
- 43. Any other on- or off-duty conduct which a member knows or reasonably should know is unbecoming a member of the CCSO; which is contrary to good order, efficiency or morale; or which tends to reflect unfavorably upon the CCSO or its members.**

**44. Any failure or refusal of a member to properly perform the function and duties of an assigned position.**

1. Furthermore, the RESPONDENT's actions violated the Rules and Regulations of the Cook County Sheriff's Merit Board, specifically:

**COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS, in its entirety, including but not limited to, the following subparts:**

**Article X, Paragraph B**

**No Police Officer, Police Sergeant, Police Lieutenant of the Cook County Sheriff's Police Department, Correctional Officer, Correctional Sergeant, Correctional Lieutenant, Correctional Captain of the Cook County Department of Corrections or Deputy Sheriff, Deputy Sergeant, Deputy Lieutenant of the Cook County Sheriff's Court Services Department will:**

3. **Violate any of the Sheriff's Executive Orders, General Orders, Special Orders, Directives or Rules and Regulations of the Cook County Sheriff's Department or Cook County Sheriff's Merit Board Rules and Regulations.**

**Issues Presented:**

Whether the actions of the Respondent violated any of the General Orders and Rules and Regulations set forth above and what discipline is warranted if a violation occurred.

**Resolution of Issues:**

We the Board find that Respondent Dion I. Gaines, Sr, Star #15709 did violate General Order 24.9.1.0 Reporting Incidents, General Order 24.9.9.3, General Order 9.34, Post Order 44.9.48.0 Division IX, Living Unit S 2G, Sheriff's Order 11.2.20.1, and Cook County Sheriff's Department Merit Board Rules and Regulations.

## Findings of Fact

An evidentiary hearing was held on February 2<sup>nd</sup> and 3<sup>rd</sup>, 2021. Present was the Sheriff through counsel as well as the Respondent and Respondent's counsel. Testimony was taken from the Respondent, Dion I. Gaines, Sr., as well as other witnesses called on behalf of the Sheriff and Respondent. The Sheriff admitted Exhibits # 1-3, 5-11, and 14-16 into evidence and Respondent admitted Exhibits # 1, 4-6,9, and 13 into evidence.

The Sheriff called Sergeant [REDACTED], who testified that in April 2016 he was assigned the South Tower Division 9, and that his duties were to manage the officers, outline their daily responsibilities for the shift, including taking over assignments, face-to-face meetings, exchange of keys, radios, and general information when officers change shifts. (R. 10). When an officer takes over a shift, they are required to make sure that they have all of their equipment accounted for from the previous shift. (R. 11). The equipment includes radios, keys, IDs, and making sure there is also a secure environment before you take it over. (R. 11). [REDACTED] testified that he recalled an incident on April 11-12, 2016 when several detainees were found to have popped out of their cells during the 11pm-7am shift; the shift that the Respondent was working on that night. (R.16). [REDACTED] testified that if an officer did not have their keys when they take over a shift, they are supposed to notify their immediate supervisor. (R. 19). On the night in question [REDACTED] was the Respondent's immediate supervisor and [REDACTED] testified that at no time on April 11-12, 2016 did the Respondent notify him that he was without his keys. (R. 20-21). [REDACTED] testified that had Respondent contacted the Watch Commander's Office regarding his key situation, he would have known about it because the lieutenant would have reached out to him. (R. 64). Exhibit 16, the video, was entered into evidence without objection, it shows that a detainee is out of his cell wandering around the upper catwalk. (R. 21, 22). The video also shows that between 11:15 pm and 12:09 am, multiple detainees are seen moving in and out of multiple cells on the top and bottom decks of the tier. (R. 22). The Sheriff enter exhibit 2, which was the Living Unit Log for Division 9, it was completed by the Respondent and signed by the sergeant. (R. 23). Living Unit Logs are Cook County official documents and it showed that Respondent had received his keys at the beginning of his shift without incident. (R. 23, 24). Respondent's Living Unit Log indicates that he performed physical safety checks at 11:36 pm and 12:04 am, on April 11-12, 2016, [REDACTED] identified the Respondent as sitting in the bubble at these times on the video. (R. 27, 33). At 12:15 am on April 12<sup>th</sup>, [REDACTED] sees himself and other supervisors entering Tier 2G and he also testified that Respondent opened the door with a key to let them onto the tier. (R. 37). At 12:20 am, the video shows the Respondent speaking with a detainee through a cell door hole and at 12:22 am, the video shows the Respondent exiting the tier. (R. 37, 38). The video shows the Respondent being gone from approximately 12:25am to 1:33am; during this time detainees were out of their cells, in other cells, and in the dayroom 16 times. (R. 40). [REDACTED] testified that after learning that detainees were out of there cells, they got additional officers and did an actual search. (R. 44). The video shows that when the additional officers did the actual search of the tier for the detainees, the Respondent was not at his post. (R. 45). The video also shows that they recovered a homemade knife, a shank, during the

search. (R. 47). [REDACTED] testified that he has written up officers in the past for only performing visual checks and not physical checks, he also has written up officers for falsifying documents for entering checks in living Unit Logs but only performing them visually. (R. 62). In April 2016, the policy was that officers were required to make physical checks, pull on doors, look inside the chuckhole to make sure that the detainees were alive and dwell and that there is no way to do that visually from the bubble. (R. 53). In April 2016, detainees did grieve that they were having to verbally contact or talk to guards every 30 minutes on the 11:00 pm- 7:00 am shift. (R. 54).

Sheriff called Officer [REDACTED] who testified that he was assigned to Division 9 in April 2016. (R. 76,77). [REDACTED] testified to the importance of key control when you come onto the start of your shift as well as the importance of having an accurate count of detainees and that they are in their cells. (R. 79, 80). [REDACTED] also testified that officers are required to go around every 28-30 minutes to verify that detainees are in their cells and it is supposed to be a physical check, you must pull on the door. (R. 80, 81). [REDACTED] testified that if you are not able to physically walk around the tier, you are required to note that in the Living Unit Log. (R. 81). On April 11<sup>th</sup> and 12<sup>th</sup> 2016 [REDACTED] and Respondent were partners and were each responsible for their own tier. (R. 82). [REDACTED] testified that Respondent never asked him to provide him keys to access his tier. (R. 83). [REDACTED] testified that Respondent should have notified him that he was going on break, but he never did, nor did Respondent ever call him to back him up. (R. 92, 96).

Sheriff called Investigator [REDACTED] that he works for the Cook County Sheriff's Office of Professional Review and was randomly assigned the Respondent's case. (R. 100-101). [REDACTED] testified that he reviewed all of the documentation, including the Complaint Register, the Living Unit Logs, some videos, interviews, memos, and general orders. (R. 104, 105, 106). [REDACTED] testified that he found a violation of multiple general orders (R. 107, 111, 112, 114).

Respondent testified that he has been employed by the Cook County Sheriff's Office for fifteen years and that he was currently assigned to Division 16 but was assigned to Division 9 the evening of April 11 and morning of April 12, 2016 (R. 155, 157). Respondent testified that he was not at roll call on the evening of April 12, 2016 and that he did not have keys to Tier 2G when he entered the bubble. (R. 158, 159). Respondent also testified that he did not perform the inmate count at the beginning of his shift although he admitted that it is his responsibility to do so. (R. 164). Respondent admitted that regardless of whether another officer performed the initial count it is his responsibility to confirm the count when he took over the tier. (R. 184). Respondent admitted that security checks are to be done every 30 minutes and that he did not go onto the tier and do physical checks. (R. 166, 167). Respondent went on the testify that he did not receive the keys from Officer [REDACTED] until 12:15am and then gave them back to [REDACTED] at 12:25am to go on a break. (R. 168, 169). Respondent also testified that he knew that because of the incidents that they were having with detainees popping out of cells, it was even more important in April 2016 to do a physical check to make sure all the doors were locked. (R. 185). Respondent admitted that he did not take over the shift correctly and that he never goes into the tier and pulled the doors every 30 minutes. (R.191, 196). Respondent admitted that there was no way for his supervisors to know that he only did visual checks because he never makes notations in the Living Unit Log and that he was never written up for visual only checks because his supervisors did not know he was doing visual checks only. (R. 202, 203, 204).

The Board finds the testimony of Sergeant [REDACTED], Officer [REDACTED] and Investigator [REDACTED] to be credible.

**Conclusions of Law**

Based on the evidence presented and after assessing the credibility of the witnesses and the weight to be given the evidence in the record, The Board finds that Respondent violate did violate General Order 24.9.1.0 Reporting Incidents, General Order 24.9.9.3, General Order 9.34, Post Order 44.9.48.0 Division IX, Living Unit S 2G, Sheriff's Order 11.2.20.1, and Cook County Sheriff's Department Merit Board Rules and Regulations.

Wherefore, based on the foregoing, it is hereby ordered that the Respondent Dion Gaines be suspended for ninety (90) days effective July 20, 2018.

JOHN J. DALICANDRO, Chairman  
BYRON BRAZIER, Vice-Chairman  
VINCENT T. WINTERS, Secretary  
KIM R. WIDUP, Board Member  
KIMBERLY PAT GODDEN, Board Member  
ELENI P. SIANIS, Board Member



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

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

Dion I. Gaines, Sr.  
Correctional Officer  
Docket No. 2118

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

John J. Dalicandro, Vincent T. Winters, Kimberly Pate Godden and Eleni P. Sianis.

Not Present: Kim R. Widup and Byron Brazier

DISSENT

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

[NONE]

DATED AT COUNTY OF COOK, STATE OF ILLINOIS, THIS 3<sup>rd</sup> DAY OF JUNE, 2021.