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STATE OF NEW JERSEY

In the Matter of Taqiyyah Davidson, Essex County CSC Docket No. 2014-2874 OAL Docket No. CSV 06246-14	:	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

ISSUED: JUL 3 0 2015 (WR)

The appeal of Taqiyyah Davidson, a Juvenile Detention Officer with the Essex County Department of Civilian Services, of her removal, effective February 18, 2014, on charges, was heard by Administrative Law Judge Leland McGee (ALJ), who rendered his initial decision on June 22, 2015, modifying the removal to a 240 day suspension. Exceptions were filed on behalf of the appointing authority.

Having considered the record and the attached ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on July 15, 2015, accepted and adopted the findings of fact but did not adopt the ALJ's recommendation to modify the removal to a 240 day suspension. Rather, the Commission upheld the removal.

DISCUSSION

The appointing authority issued the appellant a Final Notice of Disciplinary Action (FNDA), removing her, effective February 18, 2014, on charges of incompetency, inefficiency or failure to perform duties; conduct unbecoming a public employee; other sufficient cause; and two violations of county policies regarding ethics and fraternization. Specifically, the appointing authority asserted that the appellant failed to disclose her relationship with T.W., an inmate at the Essex County Juvenile Detention Center (ECJDC), and that she had visited him while he was incarcerated at a facility in Union County. Upon the appellant's appeal, the matter was transmitted to the Office of Administrative Law (OAL) for a hearing as a contested case.

In the initial decision, the ALJ set forth the testimony of the witnesses, including, in part, Shiranda Morton, a certified Police Training Commission Instructor for the Essex County Police Academy; Anudrea Williams, an investigator in the Internal Affairs unit of the ECJDC; Denise Britton, an Admissions and Records Officer; and Barbara Graves-Screen, an Admissions and Records Officer. Morton, Britton and Graves-Screen testified that they separately conducted ethics training courses that covered fraternization which the appellant attended. Morton testified that the appellant received a grade of 90 percent after attending her course. Morton and Williams testified that the appellant was interviewed as part of the investigation regarding the instant charges and that during the interview, the appellant denied having received any training regarding the fraternization policy. However, Morton testified that the appellant had signed a document indicated that she had received such training. Moreover, Morton testified that the appellant had initially denied visiting T.W. while he was incarcerated in Union County. Rather, the appellant stated that she had only dropped off T.W.'s mother to visit him. Morton testified that the appellant only admitted to visiting T.W. after being confronted with video and other evidence. Morton stated that, as far as she was aware, the appellant never informed any of her supervisors of her relationship with T.W., who is a high ranking member of a street gang. Morton explained that the appellant's relationship with T.W. could cause a security threat to the operation of the facility because T.W. was still in contact with inmates housed there. Graves-Screen testified that she had attended the interview as the appellant's union representative. Graves-Screen testified that although it was not prohibited for a Juvenile Detention Officer to have a relationship with an inmate who is incarcerated at another facility, policy demands that the Juvenile Detention Officer inform the proper authorities of that relationship.

The ALJ also set forth the testimony of the appellant, who testified that she has known T.W. since approximately 2004 and considers him a younger sibling. The appellant stated that although she never interacted with T.W. when he was incarcerated at her facility, she did visit him multiple times when he was incarcerated in a Union County facility. However, she maintained that she was unaware that she was required to inform anyone of her relationship with T.W. with relation to her visiting him in another facility. Based on the foregoing, the ALJ found the testimony that the appellant received training which included the fraternization policy and the requirement that relationships with inmates must be disclosed, to be credible. As a result, the ALJ upheld the charge of conduct unbecoming a public employee and the two violations of county policies regarding ethics and fraternization. Specifically, the ALJ found that the appellant visited T.W., an inmate who was incarcerated at a facility in Union County and failed to notify the appointing authority of her relationship with him. However, the ALJ dismissed the charges of incompetency, inefficiency or failure to perform duties and other sufficient cause. Nevertheless, the ALJ found that because the appellant was "an inexperienced young lady who made reckless and immature decisions" and did

not have a prior disciplinary record, it was appropriate to modify the removal to a 240 day suspension (a 120 day suspension for each offense).

In its exceptions, the appointing authority argues that the ALJ incorrectly imposed a 240 day suspension instead of upholding the removal. In this regard, the appointing authority argues that the concept of progressive discipline is not appropriate in this matter as the appellant's conduct was sufficiently egregious as to justify her removal despite her lack of any disciplinary record. It asserts that by fraternizing with T.W., a high ranking gang member, the appellant "compromised the security" of the ECJDC and that, due to her actions, she cannot be trusted to perform her duties. Finally, the appointing authority maintains that in a quasi-military institution such as a correctional facility, adherence to the rules and strict discipline are of the upmost importance.

Upon its *de novo* review of the record, the Commission agrees with the ALJ's finding of facts as contained in the initial decision and his upholding of the charge of conduct unbecoming a public employee and violations of county policies. In this regard, there is no dispute that the appellant fraternized with T.W. by visiting him multiple times while he was incarcerated at a Union County facility and that she failed to disclose her relationship with him to the proper authorities.

With regard to the penalty, the Commission's review is also *de novo*. Although the Commission applies the concept of progressive discipline in determining the level and propriety of penalties, an individual's prior disciplinary history may be outweighed if the infraction at issue is of a serious nature. *Henry v. Rahway,* 81 *N.J.* 571, 580 (1980). It is settled that the principle of progressive discipline is not "a fixed and immutable rule to be followed without question." *See Carter v. Bordentown,* 191 *N.J.* 474 (2007). In the instant matter, the appellant's actions warrant major discipline and the appellant's removal from employment is appropriate regardless of the appellant's prior disciplinary history. While the ALJ considered a 240 day suspension as an appropriate penalty in the instant matter, *N.J.A.C.* 4A:2-2.4(a) provides that a suspension may last for no more than six months (approximately 120 working days).[1] More importantly, the ALJ failed to fully appreciate the seriousness of the appellant's conduct. The appellant is a public safety employee who maintains safety and security in the potentially dangerous environment of a juvenile detention facility, while promoting adherence to the law among detainees, and as such, is held to a higher standard of public duty. This standard includes upholding an image of utmost confidence and trust, since Juvenile Detention Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community. The public expects and demands such officers to follow orders and exhibit a respect for rules, regulations, procedures, and

[1] In this regard, while it is permissible to allocate discrete periods of suspension for separate charges contained on a Final Notice of Disciplinary Action, the total period of suspension cannot exceed six months.

policies. *See Moorestown v. Armstrong*, 89 *N.J. Super.* 560 (App. Div. 1965), *cert. denied*, 47 *N.J.* 80 (1966). *See also In re Phillips*, 117 *N.J.* 567 (1990). Moreover, the Commission is also mindful that:

> The appraisal of the seriousness of [the appellant's] offense and degree which such offenses subvert discipline . . . are matters peculiarly within the expertise of the corrections officials. The appraisal is subject to *de novo* review by the [Civil Service Commission] [citation omitted] but that appraisal should be given significant weight. *Bowden v. Bayside State Prison*, 268 *N.J. Super.* 301, 306 (App. Div. 1993), *cert. denied*, 135 *N.J.* 469 (1994).

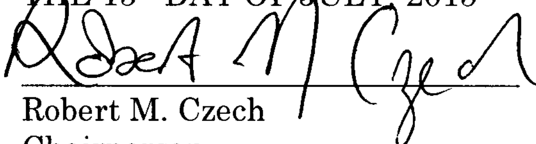
Thus, the appellant's interactions with inmates should be beyond reproach. As the appointing authority observes, fraternization compromises safety in correctional facilities and can place everyone in danger. The appellant's conduct clearly violated the appointing authority's fraternization policy. Additionally, the Commission finds that fraternization with an inmate, even an inmate in another correctional facility, is an extremely serious and egregious breach of security. Moreover, given her short record as a Juvenile Detention Officer, the seriousness of the appellant's conduct and her attempts to conceal her visits with a known gang member by failing to report them as required, is troubling. In this regard, the record reflects that the appellant had received at least two trainings on the fraternization policy which required her to report her visits with an inmate. Accordingly, the foregoing circumstances provide a sufficient basis to uphold the removal.

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 Taqiyyah Davidson.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15th DAY OF JULY, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 06246-14

AGENCY DKT. NO. N/A

IN THE MATTER OF TAQIYYAH DAVIDSON, ESSEX COUNTY DEPARTMENT OF CITIZEN SERVICES.

Michael V. Calabro, Esq., for appellant Taqiyyah Davidson (Goldstein & Handwerker, attorneys)

Keisha Clarke, Assistant County Counsel, for respondent Essex County Department of Citizen Services (James R. Paganelli, Essex County Counsel, attorney)

Record Closed: November 13, 2014 Decided: June 22, 2015

BEFORE **LELAND S. MCGEE**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

The Essex County Department of Citizen Services (County), Juvenile Detention Center), respondent, brings a major disciplinary action against Taqiyyah Davidson, appellant. Appellant appeals the substantiated charges and termination by respondent. Respondent alleges that appellant violated N.J.A.C. 4A:2-2.3(a)(1), N.J.A.C. 4A:2-2.3(a)(6), N.J.A.C. 4A:2-2.3(a)(12), Essex County Juvenile Detention Standard of

conduct and Code of Ethics Order #08-01, and Essex County Juvenile Detention Center Fraternizing Policy #03-13.

On February 18, 2014, respondent served appellant with a Preliminary Notice of Disciplinary Action (PNDA) that noted the possible disciplinary action of removal. Appellant requested an internal disciplinary hearing, which commenced on March 12, 2014. On May 2, 2014, a Final Notice of Disciplinary Action (FNDA) dated April 21, 2014, was personally served on appellant. The FNDA sustained the charges of incompetency, inefficiency or failure to perform duties; conduct unbecoming a public employee; other sufficient cause as set forth in the Preliminary Notice; Essex County Juvenile Detention Standard of Conduct and Code of Ethics Order #08=01; and Essex County Juvenile Detention Center Fraternizing Policy #03-13. Appellant's removal was upheld. Appellant requested an appeal on May 7, 2014, within twenty days of receiving the FNDA.

On May 23, 2014, the New Jersey Civil Service Commission, Division of Merit System practices and Labor Relations, transmitted the within matter to the Office of Administrative Law (OAL), for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. On June 30, 2014, a prehearing conference was held and a prehearing order was issued by the undersigned. Hearings in this matter were scheduled for and held on August 11, and 13, 2014. Appellant's responsive post-hearing brief was received at OAL on November 13, 2014, and the record closed.

FACTUAL DISCUSSION

On August 11, 2014, the parties executed a Stipulation of Undisputed Facts (J-1). I **FIND** the following undisputed **FACTS**:

1. Officer Taqiyyah Davidson has been employed as a Juvenile Detention Officer since June 12, 2010. Taqiyyah Davidson received new-hire training on June 23, 2010.

2. Officer T. Davidson is also a C.O.T.A. graduate (police academy). She began training on June 13, 2011, and graduated on August 3, 2011. She scored 90% on the ethics/leadership portion of the exam. Ethics for Detention Officers is part of training. Unethical behavior, inappropriate relationship with residents, and on-duty misconduct are included in training.
3. Taqiyyah Davidson had ample opportunity to inform the Agency that T.W. was a friend but she never did despite her surprising recent assertion that they had been friends for a while.
4. Officer Taqiyyah Davidson failed to ask for permission, by submitting a written request to the Director of the facility to visit with former resident T.W., who sits in Union County Correctional facility.
5. T.W. was arrested in Elizabeth New Jersey and charged with robbery, attempted murder on a law enforcement officer, and weapons possession for an unlawful purpose. He is currently being held at the Union County Correctional facility, Elizabeth, New Jersey.
6. Officer Taqiyyah Davidson is being charged with being in violation of Essex County Juvenile Detention Standards of Conduct and Code of Ethics Order #08-01: IV General Conduct; 1. Prohibited Associations and Establishments:

   > a. Officers shall not knowingly commence or maintain a relationship with any person who is under criminal investigation, indictment, arrest or incarceration by this or another police or criminal justice agency, and/or who has an open and notorious criminal reputation in the community (for example, persons whom they know, should know or have reason to believe are involved in felonious activity), except as necessary to the performance of official duties, or where unavoidable because of familial relationships.

7. Officer Taqiyyah Davidson is being charged with Violation of Civil Service Statute 4A:2-2.3: 1. willful violation of (a) any of the provisions of Civil Service statutes, rules regulations, or other statutes relating to the employment of public employees or probationers; and (b) the County of Essex Policies and Procedures; 2. conduct unbecoming an employee in the public service; and 3. other sufficient cause; fraternizing.

8. Officer Taqiyyah Davidson is being charged with violating Essex County Juvenile Detention Center Fraternizing Policy #03-13 as it relates to restrictions regarding contact with current and former residents:

> 1. Ongoing employee contacts with former residents or their families and close associates will be limited to those persons with whom the employee was acquainted or associated before the resident's entry into the Essex County Juvenile Detention Center. In such cases, the employee is obligated to advise the Director or Superintendent in writing of the nature, extent and history of the relationship.
>
> 2. Staff **will not** engage in any of the following activities related to residents or their family members and close associates; a. Engage in any non-incidental contact outside the Essex County Juvenile Detention Center. 3. Employee visits or communications with incarcerated relatives or associates: a. An employee who wishes to visit with a resident (whether or not they are a resident or an associate) in this facility or an inmate of any other correctional facility under the jurisdiction of the New Jersey Department of Corrections or Juvenile Justice Commission shall submit a written request for permission to visit that person to the Administrator/Superintendent of the particular correctional facility at which the resident/inmate is housed. The employee shall also notify in writing, the Administrator of the Essex County Juvenile Detention Center that the employee intends to visit an inmate at any other correctional facility.

9. On Tuesday February 18, 2014, Officer Davidson was interviewed in the Office of Internal Affairs. Present during the interview was IBEW representative Barbara Graves-Screen and Investigator Andre Williams. Officer Davidson was briefed on the purpose of the interview and questioned regarding her association with former resident T.W. Officer Davidson stated that inmate T.W. is a family friend that she has known for a long time. At no time, whatsoever, even after she received training did she inform her superior of the relationship with a juvenile resident. This is a requirement. Davidson was asked about the visitation and she admitted to dropping T.W.'s mother off at Union County Jail Sunday, February 16, 2014

10. OMITTED

11. OMITTED

12. The County has her signature signing into the jail on each of these occasions as well as video surveillance. On this occasion, she was seen on camera exiting the facility.
13. She was also questioned regarding the training in ethics/fraternizing she received during C.O.T.A. and during in-service training that she signed for. Davidson stated she did not recall the policies. She further denied signing that she received training. She did in fact sign.
14. On February 18, 2014, Taqiyyah Davidson was immediately suspended and ultimately terminated for willfully violating all of the aforementioned Statutes, Policies and Procedures.
15. On March 12, 2014, a hearing took place with regards to disciplinary action sought by the County.
16. On April 11, 2014, the hearing officer found for the County and sustained the specifications. He determined that the following mitigating factors warranted a three-month suspension and not the appellant's termination as proposed by the County:

> 1. Ms. Davidson was not the subject of any disciplinary action in the past.
>
> 2. She has not violated the fraternization policy since being notified of the infraction; and
>
> 3. The County presented no evidence that her job performance had been otherwise unsatisfactory.

SUMMARY OF TESTIMONY

Shiranda Morton

Shiranda Morton (Morton) testified that she is employed as in Internal Affairs Investigator and a certified Police Training Commission Instructor for the Essex County Police Academy. She is familiar with the appellant, Taqiyyah Davidson, who started her employment with Essex County on or about June 12, 2010. Appellant participated in the Academy Training conducted by Morton on July 16, 2011, using a Power Point

presentation. (R-1.) The topics that she covered in the training included ethics, fraternization, general conduct expectancy of privacy, unethical situations, different forms of fraternizing, policies and procedures on fraternizing. The Power Point presentation defined "fraternizing" and it was discussed during the training. (R-1 at p. 6.)

Morton testified that on week four of the Academy training, she taught professional development, which includes ethical leadership. Appellant received a grade of 90% for that class wherein fraternization was taught. (R-3.)

Morton testified that she conducted an interview of appellant on or about February 18, 2014, as a part of her investigation. Her partner Investigator Audrey Williams and the IBEW Representative Barbara Graves-Green were present. The reason for the investigation was that "we had knowledge" that appellant had been visiting a former inmate, T.W. As a result of the interview and investigation, Morton prepared an Investigative Report that she prepared on February 24, 2014. (R-5.)

Morton testified that during the interview, she asked appellant if she'd ever visited T.W. while he was incarcerated. Appellant's response was "no" that she had only dropped T.W.'s mother off to visit and did not admit to visiting him during the investigation. Morton presented video and other evidence to appellant confirming that she visited T.W.; however, appellant gave a verbal response, "she just kind of smirked and laughed—laughed it off." (1T27:23-1T28:1) The evidence included copies of portions of the sign-in book from the Union County Jail. (R-6.)

Morton testified that during the interview she asked appellant whether she was aware of the fraternization policy. Morton testified that in a written statement, appellant indicated that she never signed for a fraternization policy. In reference to the New Hire Training Roster, Exhibit R-2, Morton stated that appellant signed the document on June 23, 2010, confirming that she received ethics training. The instructor was Denise A. Britton.

Morton testified that during the interview, appellant initially stated that she only went to the jail to drop off T.W.'s mother and that she never went into the facility. After the interview, and after viewing the evidence that appellant went to the jail, appellant stepped out of the office with her union representative and returned with her Administrative Report of the incident. (R-14.) Morton read the section of the report wherein appellant admitted that she went into the facility to visit T.W., a family friend. The report went on to state that appellant was not aware that she needed permission to visit him. Further, that she did not sign anything confirming that she was aware of a fraternization form or policy. Appellant submitted this document after the interview. Morton testified that during the training she reviewed in detail the fraternization policy including the written permission requirement and that appellant signed that she received the training a second time: once by Morton and once by Denise A. Britton.

Morton testified that, as far as she was aware, appellant never informed any of her supervisors that she had a relationship with T.W. She stated that in this particular situation, the reason for prohibiting relationships with inmates is that T.W. was a registered known, highly ranked member of the crip street gang. Her relationship with him could cause a severe security threat to the operation of the facility because he is still in contact with other inmates that appellant supervises.

Following the testimony of Officer Barbara Graves-Green, Morton testified that the interview of appellant was not recorded.

<u>Anudrea Williams</u>

Sergeant Williams is an investigator in the Internal Affairs unit of the Essex County Juvenile Detention Center. He has held that position for eight years. Sergeant Williams was a part of the investigation of appellant which began on February 18, 2014. He was present during the interview of appellant during the investigation of charges brought against her for fraternization and violation of policies and procedures.

Sergeant Williams stated that in addition to himself, appellant was interviewed in the presence of her union representative, Barbara Graves-Green and Investigator Morton. Appellant stated that T.W. was a family friend and was asked if she ever visited him while he was incarcerated. Her only response was that she took his mother to the jail and dropped her off. She never admitted visiting T.W. herself. Appellant was presented with evidence of signing visitation logs, photographs of her going through the metal detector, and of giving her identification. When Investigator Morton asked appellant why she did not admit to visiting T.W., she smiled and shrugged her shoulders. Appellant did not provide the Administrative Report, Exhibit R-15 until the interview was completed.

Sergeant Williams stated that there is a rational basis for having a fraternization policy because law enforcement personnel are held to a higher standard and should not be involved with the criminal element on or off the job. There is a danger that the relationship could cause an office to succumb to requests to bring contraband into the jail for inmates. There was no indication that in fact appellant did acquiesce to any request from any inmate.

Sergeant Williams stated that all officers take an oath stating that they will abide by the rules and regulations of the facility and to uphold the oath as a juvenile detention officer. Appellant took that oath. To his knowledge appellant never asked permission to visit T.W. after he left the Juvenile Detention Center, nor was IA ever notified that she knew T.W.

William Oakley

Sergeant Oakley has worked with the Essex County Detention Center for twenty years. He is the senior training officer overseeing both the Academy Training and the New Hire training. He conducts 90% of the Academy Training. Ethics is one of the subjects included in the training.

Sergeant Oakley taught the Academy class 12-1, which was held June through August, and appellant was in that class. He did not recall whether the class was in the year 2011 or 2012. However, fraternization was included in the ethics curriculum. The course includes a discussion of the "boundaries" that must be maintained given the clientele that they work with. He discusses what residents might do to bend the rules and emphasizes that it is important to "keep residents at a distance." The range of punishment that could be imposed for fraternization is counseling to termination depending on the "degree" of fraternization. Sergeant Oakley distinguished between fraternization inside the facility and outside the building. The boundaries are "wider" outside of the building than inside because inside the building there are cameras and other means of monitoring behavior. This prevents officers from getting too close to the residents. Outside of the building they have to assure that officers do not overstep the boundaries because it could compromise the job.

Sergeant Oakley taught ethics leadership 7.2 on June 13, 2011, which covers the code of conduct within the job specification, on and off duty. It also includes a discussion of fraternization—officers' duties at work and what compromises their jobs on and off duty. All of what he teaches is contained in a curriculum and there is an exam at the end of each segment. If an officer gets a question wrong, it would be discussed, the question rephrased, and they would take it again. If a remediation class was necessary, it would be provided. A score of 90% is a good score and remediation would not be required.

In reference to Exhibit R-11, Sergeant Oakley identified it as Essex County Juvenile Detention Center's policy on fraternization, which was originally created in 2003 and revised in August 2011 and again in February 2014. It is included in the Policy Manual that is distributed to all Juvenile Detention Center Officers during their New Hire Training. It outlines the fraternization policy and consequences for violation of the policy. All new hires must sign for the Manual and sign for addenda as they are issued. It is the officer's responsibility to add any changes their respective manuals. They also provide their initials confirming that they take the classes.

Denise Britton

Officer Britton (Britton) is a training officer at the ECJDC. She teaches new recruits at the Academy. She was the ethics instructor for appellant and identified Exhibit R-2 as a New Hire Training Roster for a class that she taught. Fraternization is a part of the ethics training that she conducted. This was a week-long forty-hour training course. She is also responsible for maintaining the records of the training that recruits receive.

Britton stated that the fraternization portion of the training covers disclosure to the Administration of family members who are incarcerated that the officer might visit. It includes disclosing whether an officer knows a resident so that superiors avoid conflicts of interest by having the officer serve in a different unit from the friend or family member. The training also covers improper relationships with residents. The training includes discussions about family members as well as neighborhood friends or people that the officer just know regardless of where from.

Britton stated that a Policy Manual is provided to new hires, and it is updated periodically. Employees are required to sign for each update and indicate that date that it was received. The updates are in the form of a memorandum that is to be inserted into the policy book.

Britton stated that following the New Hire Training, officers receive periodic in-service training. State law requires twenty-four hours of training annually and requires that certain subjects be included in the training. Appellant has received such training and her records reflect that in 2011 she received four hours of in-service training and in 2013 appellant received nine hours of in-service training. Appellant has not been employed there since February 2014 so she did not receive any training during that year. Britton does not recall the specific subjects that she taught in these two training sessions.

Britton stated that although she is responsible for keeping track of how many hours of in-service training that each officer receives, the captains are responsible for ensuring that officers actually receive the required twenty-four hours of training annually.

Barbara Graves-Screen

Officer Graves-Green (Graves) has been employed at JDC for fifteen years. She is an officer in the in-take unit and is the shop steward for the union. She sat in on the investigative interview as a representative of appellant along with Morton and Williams. Graves is a certified trainer, which required a week-long training at Essex County Academy. She received her certification in either 2005 or 2006.

Graves stated that appellant was asked whether she went to visit T.W. and confirmed that she did visit him. Graves does not recall that appellant stated the reason for the visit.

Graves's testimony regarding the submission of Exhibit R-14, appellant's Administrative Report, is not clear. With respect to this exhibit she stated "[r]eading it right now I do know what the document is. Yes I can read what is being said." (T2:34-3 to 5.) Graves goes on to testify that she does not know when appellant prepared the document. When asked if she was present when appellant wrote and signed the document, Graves testified that "I know that Investigator Morton gave her some paperwork to fill out. I don't know if it was this document because I was not there, I was there but I don't know what she was writing out." (T2:34-9 to 15.) The inquiry continued as follows:

Q You are the union rep?
A Um hmm.

Q You are there, am I correct?
A You are correct.

Q To see that her best interests are taken care of, is that correct?

A That is correct.

Q I am asking you, do you recall when she filled this out?
A I recall Investigator Morton asking her to write a statement.

Q Was that the day of the interview?
A Yes, it was.

Q And where did you go while she wrote the statement?
A I was right in there.

Q So you saw her write the statement?
A I seen her writing---

THE COURT: I can't hear you. Please move your hand.

THE WITNESS: I seen [sic] her writing something, yes. She was writing a statement for Investigator Morton.

Q So you were there when Taqiyyah Davidson wrote the statement?
A Yes.

Q Is it you testimony that you never read it?
A I never read that.

Q Okay, so as a union rep you never read the statement that she wrote?
A No.

(T2:35 – 6 to T2:36-12.)

Graves testified that she conducts training at the JDC. She stated that one or two months prior to the date of her testimony, she conducted training in fraternization. She later stated that it was two or three months, "the maximum," prior to the testimony. Graves was directed to conduct the training by Sergeant Oakley for the officers in the facility. The purpose of the training was to make sure that the officers were knowledgeable of the particular policy. Part of the training was to make it clear that having a relationship with someone outside of the facility who was incarcerated was not prohibited. The policy issue is failing to inform the proper authorities of that

relationship. She testified that, in the case of visiting someone who is incarcerated, the officer has an obligation to inform personnel in both the JDC and has to identify themselves as an officer at the facility being visited. Further in her testimony Graves was asked, " . . . and does either the Manual or the fraternization policy spell out the obligation to tell the facility that you are visiting? Is it written?" (T2:52-7 to 9.) In response she stated, "I am trying to remember the policy but I am not too sure that that is part of the policy." (T2:52-10 to 11.)

Graves testified that she never saw the policy on fraternization prior to the training. She stated that she "was told" that the policy existed but she was unaware of it. Graves stated that she conducted the training without prior knowledge of the fraternization policy because she is "trained to teach policy." She had not been specifically trained to teach the fraternization policy. Sergeant Oakley gave her the policy to use as part of the curriculum for the training.

Graves testified that there were several officers in her training class who were not aware of the fraternization policy. There were more than thirty officers in the class and she does not recall the names of the officers who were unaware of the policy. These were not new officers and the Training Department keeps a list of who attended. Graves has had twenty in-service trainings herself and does not recall instructors discussing fraternization.

Graves testified that the interview was recorded and that Morton used her cell phone to record the interview. She stated that when she arrived at the interview, she was informed that it would be recorded and Morton placed her cell phone on the table and started recording.

Charles Green

Charles Green (Green) is the Director of the Essex County Juvenile Detention Center. He has been the director there for four years and was the Administrator for approximately three years prior to that. His authority includes supervision of

investigations by the Internal Affairs Unit. He stated that investigative interviews take place in the Internal Affairs office and they are never recorded. He law enforcement experience includes a total of twenty-eight years at the Essex County Department of Corrections (Corrections). During the four years that he served as Director of JDC, he was a lieutenant in Corrections on loan from Corrections to the JDC. Prior to that assignment he served four years as a lieutenant in Corrections, five years as sergeant in Internal Affairs ("IA"), four years as an investigator in IA and fifteen years as an officer including three years on the County Executive Protection Team.

Green testified that he is aware of the fraternization policy and was in existence before he started working at the facility. There is a handbook (Manual) that is given to all new hires that contains a code of ethics. Fraternization is contained under the code of ethics. The Manual is updated by circulation of changes to the officers and they must sign for the updates. It is the individual officer's responsibility to place the updates in the handbook.

Green testified that Graves is a part of the Training Department and that she conducted training "within the past month and a half, two months." (2T:72-8 to 11.) Officer Britton and Sergeant Oakley are also a part of that department and assign trainers. That department also decides the subjects to be taught during training sessions. Graves should be fully familiar with the code of ethics and the fraternization policy. She formerly worked at Rikers Island, which has a fraternization policy. He has spoken with her about both the code of ethics and the fraternization policy and she "knows that information better than I do." (2T:62-12 to 13.) Graves is a shop steward and an admission and receiving officer.

> She used to train in that department. She is a great trainer. She knows that material better than the training officers. Graves-Green comes in my office, we go over material within the policies and some of the issues in the building. Just recently, yesterday we were talking about the fraternization policy and how officer's in that facility just want to be naïve towards the policy that we have in place. They know it but they just want to be naïve about it until something takes place.

(2T:89-23 to 90-9.)

Green testified that prior to coming to the ECJDC, he was a sergeant and investigator for the Essex County Correctional Facility. He recalls that as far back as 2002, he investigated alleged violation of the fraternization policy at the ECJDC. He stated that other law enforcement agencies in New Jersey also have fraternization policies; "I know that we have it with Corrections, I know that the Police Departments have it. I have thirty-two years of experience. I was in Corrections for twenty-eight years and I left there as a lieutenant and you know we emphasized that." (2T:67-3 to 10.)

Green testified that newly hired officers have an obligation to advise Administration, in writing, if they know any residents at the ECJDC. The purpose is to avoid putting officers in a compromising position. The obligation and its importance are taught to them during the new hire training. Green personally emphasizes it "when they first start or even when we have our tour meetings." (2T:64-18 to 65-3.) Tour meetings are monthly meetings lead by the captains, where the officers in a particular tour of duty get together to discuss issues related to the facility. He "walks in every so often. They discuss the policy, I have them go over the policies you know to re-brief them on policies because sometimes senior officers you know don't adhere to the policies like they should." (2T:68-13 to 22.) When he is present Green discusses any concerns that he might have.

The policy for officers visiting residents in other facilities is to notify their employer and to get approval from the authorities at the facility that they are going to visit. The authorities at the visited facility will in turn contact the officer's home facility/employer. Green testified about an instance when he was an investigator in which a ten-year sergeant was terminated for fraternization. She was removed because she sent letters to an inmate at another facility and, through routine monitoring of the mail, the authorities at the other facility reported the contents of the letters to the sergeant's superiors. Further, during his tenure as Director, he terminated an officer in 2010 because she failed to notify the facility of her relationship with a resident at another facility. He became aware of the relationship when the officer attempted to visit

the inmate without getting prior permission from the visited facility. When they discovered that she was an officer, they notified Green's staff. There is a low rate of disciplinary action due to fraternization because "my staff knows the policy." (2T:70-7 to 16.)

Green testified about the progressive discipline policy in Essex County. Depending upon the circumstances, the progression could be counseling, then an oral warning, then a written reprimand. He chose termination in this case because of the severity of the offense—violation of the "anti-fraternization policy and visiting a security threat group member of a crips . . . ." (2T:74-18 to 20 and 2T:75-6 to 9.) It is not a violation of the policy if an officer gets authorization from their home facility to visit a resident at another facility and gets authorization from the facility that the officer plans to visit.

Green testified about another officer who was allowed to marry a man who was incarcerated and serving a twenty-year sentence. She was suspended for ninety days for not disclosing that she was going through the process of marrying the inmate. That case is different from the present matter in that the inmate that the officer was marrying was the father of her children. He was never a resident of the facility in which of officer was employed. In the present case, "T.W. was a resident who was locked down most of the time that he was in the facility. He received contraband such as cellphones, drugs; he appeared to do as he wanted. It was just like he was home." (2T:85-23 to 86-1.) This makes fraternization with such a person more egregious; particularly since he formerly resided in appellant's home facility and had been supervised by her. He was later housed in the Union County Corrections Facility for attempted murder of an officer.

Green testified that there is a difference between the policies issued by the County of Essex for all county employees and the Policy Manual issued by the JDC. The exhibit marked as P-1 is the JDC Policy Manual. This exhibit was appellant's Manual and not his updated 2011 Manual. It is the responsibility of the individual officers to update their books when updates are issued. In reference to Exhibit R-11,

page 3 of 4, there is a heading entitled "Employee Visit, Communication with Incarcerated Relatives or Associates." He read into this section into the record which sets forth the obligation of employees to report their "wishes to communicate . . . with a resident . . .[of] a Correctional Facility under the jurisdiction of the New Jersey Department of Corrections or Juvenile Justice Commission . . . ." (2T:96-14 to 98-4.) He stated that "[t]his has been part of the policy prior to me becoming the Director of the facility or the Administrator." (2T:98-18 to 20.)

Taqiyyah Davidson

Taqiyyah Davidson (Davidson) is twenty-six years old, lives in Newark, New Jersey and graduated from St. Peter's College with a Bachelor of Arts degree in criminal justice. Davidson is a juvenile detention officer (JDO) who first started training for the position on June 21, 2010. She completed the Essex Police Academy in June 2011. She was suspended on February 15, 2014.

Davidson testified that she has known T.W. since high school, approximately 2004. He is four years younger than she is and they grew up together as "big sister/little brother." She also knows T.W.'s mother. Davidson stated that T.W. graduated from high school and took college courses while he was at the JDC.

Davidson testified that during her first year at the JDC, T.W. was in the adult facility because he was eighteen years old. She was assigned to the female unit and never interacted with him while he was in the JDC. T.W. left in 2011 and was arrested again in 2013 for shooting a police officer. Davidson went to visit T.W. at the Union County Jail (UCJ). She left her driver's license "at the front" and visited with him from behind a glass window. Davidson indentified Exhibit R-6 as a list of signatures, including her own, for visitors of the UCJ, and she admits visiting him there. T.W. had been shot during the police-shooting incident and Davidson went to see how he was doing.

In reference to Police Academy Training, Davidson testified that they taught "ethics" as it applies to how to conduct yourself within the facility. The training was limited to how to interact around the residents. She stated that she was aware that as a correction officer, she could not have an emotional or physical relationship with the residents that she supervised but was not aware of the policy regarding people outside of the facility. The New Hire training did not included policies regarding outside activities. Davidson admits to visiting T.W. while he was in jail and included that information in her Administrative Report, Exhibit R-14. She acknowledged that the report was prepared during the interview and "everyone was sitting in the room but [the union representative] was not sitting next to [her]" and she did not show the report to her union representative.

Davidson testified that the interview was the first time that she became aware of the policy requiring notice to her employer when visiting T.W. She never received the policy regarding notice and does not know why she never received it. When she became aware of the policy, she ceased visiting T.W. Davidson stated that she was never advised that she had to submit in writing whether she had family members in the facility. She stated that on the date of hire, she had relatives who were residents in the Youth House.

Davidson stated that she received the employee handbook or Manual, Exhibit R-10, and periodically updated it. When IA Williams came to retrieve the County property, he had followed her in his vehicle to her home. She had her badge and ID on her and gave that to IA Williams. Davidson stated that she was unable to put her vehicle in park so that she could go into the house to get the handbook. IA Williams advised her to take the car to the mechanic and he would call the following day to retrieve the book. She stated that he never called and never came back to get the book. Davidson never told Williams that she did not have the handbook. Further, she was not aware that the handbook was considered County property.

Davidson state that she has never been disciplined or "written up" for absenteeism, tardiness, or any other offense.

In reviewing the handbook, Davidson read into the record the section that prohibits officers from having a relationship with any person who, among other things, is incarcerated. Appellant acknowledged that she had a relationship with T.W. She acknowledged that she had and read the handbook. She stated that she updated the handbook herself every time that she "signed off" for receiving a policy update. Davidson stated that she did not receive she started working at the facility in 2010 but did not receive the 2011 update. She stated that although she was aware of the prohibition, she was not aware that she had to tell her superiors about the relationship.

Davidson is not aware of how many times she actually visited T.W. but stated she was told between eleven and thirteen times. She stated that while attending the Police Academy, T.W. was incarcerated and never reported it to anyone; nobody asked while she was at the Academy.

Credibility determinations

When the testimony of witnesses is in disagreement, the trier of fact must weigh the witnesses' credibility in order to make factual findings. Credibility is the value that the fact finder gives to testimony of a witness and contemplates an overall assessment of the witness's story 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, 749 (9th Cir. 1963). Credible testimony must proceed from the mouth of a credible witness and must be such as common experience, knowledge, and common observation can accept as probable under the circumstances. State v. Taylor, 38 N.J. Super. 6, 24 (App. Div. 1955); Gilson v. Gilson, 116 N.J. Eq. 556, 560 (E. & A. 1934). A fact finder is expected to base credibility decisions on his or her common sense and life experiences. State v. Daniels, 182 N.J. 80, 99 (2004). Credibility is not dependent on the number of witnesses who appeared, State v. Thompson, 59 N.J. 396, 411 (1971), and the finder of fact is not bound to believe the testimony of any witness. In re Perrone, 5 N.J. 514, 521-22 (1950).

I **FIND** that the testimony regarding the training that appellant was required to take was credible and that both the new-hire training and the Academy training included fraternization and ethics policies concerning disclosure of relationships with incarcerated people and visits to same.

LEGAL ANALYSIS AND CONCLUSIONS OF LAW

The New Jersey Civil Service Law protects classified employees from arbitrary dismissal and other onerous sanctions. Prosecutor's, Detectives and Investigators Ass'n v. Hudson County Bd. of Freeholders, 130 N.J. Super. 30, 41 (App. Div. 1974); Scancarella v. Dep't of Civil Serv., 24 N.J. Super. 65, 70 (App. Div. 1952). The law provides relief to civil service employees from public employers who may attempt to deprive them of their rights. Prosecutor's, supra, 130 N.J. Super. at 41. To this end, the law is liberally construed. Mastrobattista v. Essex Cty. Park Comm'n, 46 N.J. 138, 147 (1965). Consistent with this policy of civil service law, there is a requirement that in order for a public employee to be fined, suspended, or removed, the employer must show just cause for its proposed action. The Merit System Board is charged with the duty of ensuring that the reasons supporting disciplinary action are sufficient and not arbitrary, frivolous, or "likely to subvert the basic aim of the civil service program." Prosecutor's, supra, 130 N.J. Super. at 42 (quoting Kennedy v. Newark, 178 N.J. 190 (1959)).

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant thereto, N.J.A.C. 4A:1-1.1 to 4A:2-6.2. However, public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a). An appointing authority may discipline an employee for sufficient cause, including failure to obey laws, rules and regulations of the appointing authority. N.J.A.C. 4A:2-2.3(a)(11). If sufficient cause is established, then a determination must be made on what is a reasonable penalty.

In attempting to determine if a penalty is reasonable, the employee's past record may be reviewed for guidance in determining the appropriate penalty for the current specific offense. The concept of progressive disciplinary action is described in West New York v. Bock, 38 N.J. 500, 519 (1962). In Bock, the officer had received a thirty-day suspension and seventeen minor-disciplinary actions during eight years of service. The prior disciplinary actions and the suspension of thirty days were strongly considered in determining if the thirty-day suspension was warranted. A civil service employee who commits a wrongful act related to his duties may be subject to major discipline. N.J.S.A. 11A:1-2(b), 11A:2-6, 11A:2-20; N.J.A.C. 4A:2-2.2, -2.3(a). Depending upon the incident complained of and the employee's past record, major discipline may include suspension, removal, etc. Bock, supra, 38 N.J. at 522-24.

In the instant matter, appellant had no history of previous disciplinary actions. Appellant began her employment as a Juvenile Detention Officer on June 12, 2010. She received new-hire training on June 23, 2010. She began her training at the Police Academy on June 13, 2011, and graduated on August 3, 2011. Appellant worked continuously until she was suspended and ultimately terminated effective February 18, 2014.

In disciplinary cases the appointing authority has both the burden of persuasion and production and must demonstrate by a preponderance of the competent, relevant and credible evidence that it had just cause to discipline the officer and lodge the charges. See Coleman v. E. Jersey State Prison, CSV 1571-03, Initial Decision (February 25, 2004), http://njlaw.rutgers.edu/collections/oal/ (citations omitted); see also N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550, 560 (1982); In re Darcy, 114 N.J. Super. 454, 458 (App. Div. 1971); N.J.S.A. 11A:2-6(a)(2), -21; N.J.A.C. 1:1-2.1, "burden of proof"; N.J.A.C. 4A:2-1.4. A preponderance of evidence has been defined as that which "generates belief that the tendered hypothesis is in all human likelihood the fact." Martinez v. Jersey City Police Dep't, CSV 7553-02, Initial Decision (October 27, 2003), http://njlaw.rutgers.edu/collections/oal/ (quoting Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959)).

Essex County Juvenile Detention Standards of Conduct and Code of Ethics

The Essex County Juvenile Detention Standards of Conduct and Code of Ethics Order #08-01 states, in part

> 10. Prohibited Associations and Establishments:
>
> b. Officers shall not knowingly commence or maintain a relationship with any person who is under criminal investigation, indictment, arrest or incarceration by this or another police or criminal justice agency, and/or who has an open and notorious criminal reputation in the community (for example, persons whom they know, should know or have reason to believe are involved in felonious activity), except as necessary to the performance of official duties, or where unavoidable because of familial relationships.
>
> [R-10.]

In the within matter, respondent asserts, and I agree, that appellant violated the Essex County Juvenile Detention Standards of Conduct and Code of Ethics. Appellant failed to disclose her relationship with T.W. and that she visited him on several occasions during the time that he was incarcerated in the Union County jail. Appellant admits that had a "big sister" relationship with T.W. Appellant admits to having signed for training that witnesses stated included discussion about the prohibition against fraternization. Appellant contends that she was unaware of the policy requiring her to report the relationship and to report/request permission to visit T.W. while he was incarcerated. There is credible witness testimony that appellant received at least two forms of training which informed her of her obligation to disclose the relationship and to give written notice to both her employer and to the facility at which she visited T.W. Accordingly, there is sufficient evidence in the record to support the charge violation of the Essex County Juvenile Detention Standards of Conduct and Code of Ethics Order #08-01, and I, therefore, **CONCLUDE** that the charge is sustained.

Conduct Unbecoming a Public Employee

"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 Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 NJ. 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 (Pa. 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)).

Police officers are held to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576-77 (1990). 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." Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (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. 1971), certif. denied, 59 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).

Respondent has charged Davidson with the willful violation of Essex County Policies and Procedures by "continually and consistently" fraternizing with a former inmate who was incarcerated in the Union County Detention Facility and failing to notify respondent of the nature, extend, and history of their relationship despite the policy requiring her to do so. Based upon the evidence presented, I **CONCLUDE** that

appellant engaged in conduct unbecoming a public employee and has given other sufficient cause for disciplinary action by violating the Essex County Juvenile Detention Standard of Conduct and Code of Ethics Order #08-01

Essex County Juvenile Detention Center Fraternizing Policy

For the above-stated reasons, I **CONCLUDE** that appellant violated provisions of the Essex County Juvenile Detention Center Fraternizing Policy #03-13. I therefore **CONCLUDE** that the charge of is sustained.

Other Sufficient Cause, N.J.A.C. 4A:2-2.3(a)(12)

Respondent failed to prove that other sufficient causes existed pursuant to N.J.A.C. 4A:2-2.3(a)(12). There is no definition in the New Jersey Administrative Code for other sufficient cause. Other sufficient cause is generally defined in the charges against appellant. The charge of other sufficient cause has been dismissed when "respondent has not given any substance to the allegation." Simmons v. City of Newark, CSV 9122-99, Initial Decision (February 22, 2006), adopted, Comm'r (April 26, 2006), <http://njlaw.rutgers.edu/collections/oal/final/csv9122-99.pdf>. The FNDA does not identify or sustain charges for other sufficient cause. Therefore, respondent has not proven by any competent and credible evidence that appellant should be terminated for other sufficient cause, and I **CONCLUDE** that the charge of other sufficient cause should be dismissed.

PENALTY

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant thereto, N.J.A.C. 4A:1-1.1 to 4A:2-6.2. However, public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a). An appointing authority may discipline an employee for sufficient cause, including failure to obey laws, rules and regulations of the appointing authority. N.J.A.C. 4A:2-2.3(a)(11).

If sufficient cause is established, then a determination must be made on what is a reasonable penalty.

In attempting to determine if a penalty is reasonable, the employee's past record may be reviewed for guidance in determining the appropriate penalty for the current specific offense. The concept of progressive disciplinary action is described in West New York v. Bock, 38 N.J. 500, 519 (1962). In Bock, the officer had received a thirty-day suspension and seventeen minor-disciplinary actions during eight years of service. The prior disciplinary actions and the suspension of thirty days were strongly considered in determining if the thirty-day suspension was warranted. A civil service employee who commits a wrongful act related to his duties may be subject to major discipline. N.J.S.A. 11A:1-2(b), 11A:2-6, 11A:2-20; N.J.A.C. 4A:2-2.2, -2.3(a). Depending upon the incident complained of and the employee's past record, major discipline may include suspension, removal, etc. Bock, supra, 38 N.J. at 522-24.

In disciplinary cases the appointing authority has both the burden of persuasion and production and must demonstrate by a preponderance of the competent, relevant and credible evidence that it had just cause to discipline the officer and lodge the charges. See Coleman v. E. Jersey State Prison, CSV 1571-03, Initial Decision (February 25, 2004), http://njlaw.rutgers.edu/collections/oal/ (citations omitted); see also N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550, 560 (1982); In re Darcy, 114 N.J. Super. 454, 458 (App. Div. 1971); N.J.S.A. 11A:2-6(a)(2), -21; N.J.A.C. 1:1-2.1, "burden of proof"; N.J.A.C. 4A:2-1.4. A preponderance of evidence has been defined as that which "generates belief that the tendered hypothesis is in all human likelihood the fact." Martinez v. Jersey City Police Dep't, CSV 7553-02, Initial Decision (October 27, 2003), http://njlaw.rutgers.edu/collections/oal/ (quoting Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959)).

In the present case, there was no evidence that appellant had a history of prior disciplinary action. There was evidence that appellant made repeated visits to see T.W. at the Union County Facility although initially only acknowledged dropping off his

mother at the facility. There is sufficient credible evidence that appellant should have known the policy regarding fraternization, ethics, and the reporting requirements. The undersigned had the opportunity to observe her demeanor during the interview and during the hearing. Appellant is an inexperienced young lady who made reckless and immature decisions in this case. I **CONCLUDE** that the appropriate penalty in this matter is a 120-day suspension for each sustained offense, for a total suspension of 240 days. I further **CONCLUDE** that appellant must undergo "retraining" in the policy and procedures of the Essex County Juvenile Detention Facility.

ORDER

Based upon the foregoing and the Notice of Final Disciplinary Action, it is hereby **ORDERED** that the charges of conduct unbecoming an employee; and violation of rules, regulations, policies, and procedures, be **SUSTAINED**. It is further **ORDERED** that the charges of inability to perform duties, and other sufficient cause be **DISMISSED**.

It is further **ORDERED** that the determination of respondent, Essex County Juvenile Detention Center, to remove appellant, effective February 18, 2014, be **REVERSED** and a suspension of 240 days be imposed.

It is further **ORDERED** that appellant be retrained in all of the policies and procedures of respondent facility.

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. 52:14B-10.

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, P.O. 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.

June 22, 2015
DATE

LELAND S. MCGEE, ALJ

Date Received at Agency: June 22, 2015

Date Mailed to Parties: JUN 23 2015

DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

lr

APPENDIX

WITNESSES

For Appellant:

Taqiyyah Davidson

For Respondent:

Shiranda Morton

Anudrea Williams

William Oakley

Denise Britton

Barbara Graves-Screen

Charles Green

EXHIBITS

Joint:

J-1 Stipulated Facts

For Appellant:

P-1 Marked but not admitted

For Respondent:

R-1 Power Point training by Sergeant Morton

R-2 Training roster sign-in sheet

R-3 Test score sheet and attachment

R-4 New-Hire Power Point presentation

R-5 Investigative Report – Sergeant Morton

R-6 Excerpts from the Union County Correctional Facility sign-in book 1-2-14

R-10 Essex County Juvenile Detention Center Code of Ethics 2010

R-11 Essex County Juvenile Detention Center Fraternization Policy 10-30-03

R-14 Administrative Report – Taqiyyah Davidson

R-15 Excerpts from the Union County Correctional Facility sign-in book February 16, 2014 and surveillance photographs