

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2020-150

MARK DARNELL

APPELLANT

VS. FINAL ORDER
SUSTAINING HEARING OFFICER'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF JUVENILE JUSTICE

APPELLEE

*** **

The Board, at its regular August 2021 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated July 16, 2021, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 25th day of August, 2021.

KENTUCKY PERSONNEL BOARD


MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Jamhal Woolridge
Mark Darnell
Cynthia Watson
Hon. Rosemary Holbrook

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
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APPELLEE

* * * * *

This matter came on for evidentiary hearing on May 3, 2021, at approximately 9:30 a.m., EST, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Colleen Beach, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by KRS Chapter 18A.

Appellant, Mark Darnell was present, but was not represented by legal counsel. Appellee, Justice and Public Safety Cabinet, Department of Juvenile Justice (DJJ), was present and represented by the Hon. Jamhal Woolridge. Also present was Larry Jackson as Agency representative.

The matter involved the suspension of Appellant from his position as Youth Worker Supervisor at the Maysfield Youth Development Center for three (3) working days, effective June 2, 2020, for alleged misconduct and poor work performance. The burden was on the Appellee to prove by a preponderance of the evidence that the disciplinary action was taken with just cause and was neither excessive nor erroneous.

BACKGROUND

1. **Larry Jackson** is a Superintendent II at Mayfield Youth Development Center ("Mayfield YDC"). He has been at his current position for almost four (4) years and has been employed by DJJ for the past seventeen (17) years. As Superintendent, he is responsible for the general oversight of the entire facility.

2. Jackson stated that Mayfield YDC is a residential treatment program for twelve (12) to twenty (20) year olds. Currently, Mayfield's juvenile population is comprised of youth adjudicated to be "sex offenders," who are wards of the state.

3. Appellant is a Youth Worker Supervisor at Mayfield YDC. His duties include the supervision of staff during a shift and ensuring that policies and procedures are followed by residents and staff.

4. As for staff training, Jackson testified that all Youth Workers must complete Youth Worker Academy where they learn a restraint technique called AKIDO. In addition to the Academy training, Maysfield YDC holds monthly training sessions for staff members.

5. On October 24, 2019, the Internal Investigations Branch (IIB) of the Justice and Public Safety Cabinet received a call on their hotline. The caller was a juvenile resident at Maysfield YDC, and he alleged that Appellant had used excessive force on him during a restraint. Jackson explained that Maysfield YDC had a dedicated phone line “for residents to access to call Frankfort to report abuse.”

6. IIB conducted an investigation into the reported excessive force and substantiated the claim. As a result of IIB’s conclusion that there was “sufficient evidence to believe that the incident did occur,” Jackson prepared a Major Corrective Action Request and attached supporting documentation, which included the video of the incident, staff statements, Appellant’s evaluations, and DJJ policies. The request was sent to Bryan Bacon, Facilities Regional Administrator, and then went up the chain-of-command.

7. Jackson introduced Appellee’s Exhibit 19, a video recording of the incident of October 23, 2019. This video was then reviewed by the Hearing Officer and all parties. (This exhibit was placed into the record **UNDER SEAL**).

8. Jackson stated that the youth in question had mechanical restraints on his wrists and feet, and a belly chain around his waist. Jackson noted that Appellant was standing behind Youth* and “took him down” to the bed, where Youth* lay briefly face down.

9. With no objection from Appellee, **Appellant, Mark Darnell**, testified out-of-order to explain the actions in the video. Appellant first noted that Youth* had been threatening to bite staff. He was actively resisting the restraints. Appellant tried to guide him to the bed, but Youth* was making “jerking movements,” and “stood up without permission.” Appellant stated that he was observing Youth*’s body language. He attempted to prevent Youth* from standing up by performing a “Modified Control I” AKIDO restraint. Three other staff members were also in the cell at this time.

10. Appellant stated that he had a “split second” to decide what to do. Because Youth* was being “argumentative and threatening,” Appellant used his shoulder and elbow to guide Youth* to the bed, which was “soft and padded.”

11. On cross-examination of Appellant’s narration of the video, he was asked if Youth*’s head had come close to the wall after he “took him down.” Appellant answered that his head was approximately six inches from the wall. Appellant added that he knew he could be “forceful” in putting Youth* on bed without him hitting his head on the wall. “I was attempting a Modified Control technique and I was doing the least restrictive action by putting him on the bed in a relatively safe way.”

12. **Larry Jackson** then resumed his testimony on direct examination. Through his testimony, the following DJJ policies were entered into the record:

- DJJ Policy and Procedure, Policy 318, Behavior Management, Section I, which reads:

Staff shall utilize behavior management methods and techniques to promote an environment that supports treatment and teaches new skills to youth. Staff shall respond to youth behavior in a controlled well-disciplined and safe manner.

- DJJ Policy and Procedure, Policy 318, Behavior Management, Section IV, that reads in relevant part:

Staff shall utilize least restrictive behavior management techniques that will safely manage the behavior of youth.

- DJJ Policy and Procedure, Policy 324, Restraints, Section I, which reads:

Staff shall utilize appropriate behavior management methods and techniques to promote a safe and secure program culture. Staff shall be permitted to use approved methods of restraint for youth in instances of justifiable self-defense, protection of youth or others, protection of property, prevention of escape, or to maintain or regain control.

- DJJ Policy and Procedure, Policy 324, Restraints, Section IV(C)(1)(a) and (c), which read in relevant part:

C. Three types of restraints approved shall be:

1. Physical Restraint

- a. Staff shall utilize only agency approved and trained skills in the physical management of aggressive youth.

...

- c. Staff shall use only the level of physical restraint necessary to control aggressive behavior, until the youth is able to demonstrate self-control. The use of physical restraint shall end as soon as:

- i. The student's behavior no longer poses an imminent danger of serious physical harm to self or others; or
 - ii. A medical condition occurs putting the student at risk of harm.
- DJJ Policy and Procedure, Policy 104, Employee Code of Conduct, Section IV(B), which reads:

Employees shall perform their work assignments competently and in a professional manner. It is the responsibility of each employee to know and act in accordance with Department policy and standard operating procedures.

12. Jackson recommended that Appellant be suspended for one (1) day. He explained that while Appellant's transition of Youth* to the bed "was not an approved move, he felt that Appellant had meant Youth* no harm. "But if IIB substantiates, you've got to get something," Jackson stated.

13. Commissioner LaShana M. Harris informed Appellant, in a letter written January 7, 2020, that his "involvement as an alleged perpetrator" was substantiated, which meant that "the investigation indicated that there is a sufficient evidence to believe that the incident did occur." Jackson was copied on the letter, and through his testimony the letter was entered into the record as Appellee's Exhibit 18.

14. On cross-examination, Jackson agreed that a "Control 1" restraint technique involved the guiding of a youth's elbow. When asked if Appellant had his hand on Youth*'s elbow as he attempted to guide Youth* to the bed, Jackson responded, "I could see that."

15. Jackson acknowledged that the isolation cell Youth* had been in was very small. He agreed that a youth who was trying to leave the cell attacking and threatening to bite could be considered a threat to himself and staff members.

16. Jackson stated that he had worked with Appellant for six (6) or seven (7) years and had observed him restrain other "out of control" residents. Addressing Appellant, Jackson stated, "You are usually calm and level-headed. You do your best to follow policy."

17. **Bryan Bacon** is a Facilities Regional Administrator at DJJ. His job duties include the supervision of Superintendents at certain juvenile facilities, including Maysfield YDC. He was employed as a Superintendent at the Maysfield YDC from 2005 until his promotion to his current position in 2017.

18. In October 2019, Jackson reported to him that he had completed a Major Corrective Action request for Appellant. Bacon is charged with approving such requests up the chain-of-

command. He stated that, when considering such actions, he “generally ensures that the request is complete and has all necessary documentation attached.” He added that if the Superintendent has made a recommendation as to the level of discipline, Bacon will review that, and note any difference of opinion, if any.

19. In Appellant’s case, Bacon agreed with Jackson that a one- (1) day suspension was appropriate. He explained that any time IIB substantiates an allegation of misconduct, discipline of some level must be implemented. He also noted that Appellant was a supervisor, and management has “higher expectations” for these staff members.

20. On cross-examination, Bacon acknowledged that he had, in fact, witnessed Appellant de-escalate juveniles in a calm and professional manner.

21. The video of the restraint of Youth* on October 23, 2019, was played for Bacon to view. Bacon stated that he could not tell in the video if Youth* was actively resisting the restraint.

22. When asked if Youth* could have been dangerous if allowed to move freely, Bacon answered, “Generally, when a youth is isolated and has mechanical restraints on, there is not usually that level of interaction with staff. Isolation rooms are used so that staff does not have to continually put hands on the kids.” What he observed in that cell, he noted, “was more interaction than we usually see in an isolation room unless a youth is self-harming.” Bacon acknowledged that he was aware the youth had been agitated for some time.

23. Bacon testified that juveniles are placed in isolation rooms when they are “out of control,” or if they have gone AWOL. The room only contains a bed, toilet, and sink. As for mechanical restraints, these are employed when “multiple staff members have trouble managing the behavior of an out of control resident.”

24. **William Campbell** is the Director of Professional Development at DJJ, where he has been employed since 2007. His job duties include the oversight of the training programs for the entire department, including the Youth Worker Academy and in-service training.

25. Campbell stated that at the Academy, staff are taught two hours of AKIDO training, and learn “how to deal with individuals who are mechanically restrained.” Youth Workers are trained to mechanically restrain juveniles who are “non-combative,” that is, individuals who are restrained while waiting for transport, and those who are deemed “combative.”

26. The video of the restraint of Youth* on October 23, 2019, was played for Campbell to view. He stated that his objection to the restraint “arose when Youth* was tossed back to the bed.” According to Campbell, that action was unacceptable when a youth is cuffed. He stated, “If a resident has a mechanical restraint, they are already secured and in an isolated room. We don’t teach [staff] to throw [juveniles] on a bed due to safety concerns—there is no way for a juvenile to brace himself on the bed, even though it was cushioned.”

27. On cross-examination, Campbell was asked to address the danger that could arise in a situation where a resident is threatening to assault staff and is trying to run away. Campbell answered that Youth* was already in restraints, and there was more than enough staff to assist. As for whether Youth* could have bitten staff if he tried to run, Campbell noted that with shackles on, there is only so much distance that can be covered.

28. A better way for Appellant to have handled the restraint, Campbell testified, was to use a rear double arm technique to hold him in place until someone could have relieved Appellant. In the alternative, Appellant could also have transitioned the juvenile to the floor.

29. Campbell's issue with Appellant's conduct during the restraint was that Appellant "rapidly turned Youth* toward the bed with a little more force than was necessary." Appellant could have made the move toward the bed "so it did not appear so violent—it was more of a throw."

30. **George Scott** is the Deputy Commissioner of DJJ. He has been employed with DJJ for the past twenty-one (21) years. He began his tenure there as a Youth Worker and worked his way up the ranks to his current position, which he has held for the past eighteen (18) months.

31. Scott became aware of the incident regarding the restraint of Youth* when he received the investigative report from IIB, which was introduced into the record as Appellee's Exhibit 23. Investigator David Peel was assigned to investigate the incident, which he began on October 28, 2019. His investigation included the review of the video of the restraint, incident reports from October 23, 2019, and Youth*'s observation summaries. Peel also interviewed Youth*, the Appellant, and five other staff members. After completing his investigation, Investigator Peel compiled a report in which he concluded that the allegation against Appellant, that he had used excessive force in his restraint of Youth*, was substantiated.

32. Scott testified that he had watched the video of the restraint of Youth* prior to the evidentiary hearing. He described Appellant's action as "slamming [Youth*] down on a mat." He noted that the juvenile had not seemed like much of a threat. He added that Appellant's maneuver was "not a good technique on a hand-cuffed individual." Placing a resident in a prone position, Scott added, could also restrict the youth's breathing.

33. In deciding what level of punishment was appropriate for Appellant, Scott considered that the facility's Superintendent, Larry Jackson, had recommended a one (1) - day suspension, but the Division Director had recommended a five (5) - day suspension. Scott was also mindful that the restrained juvenile was "a young man who took a lot of energy." He determined that a three- (3) day suspension was the most appropriate disciplinary action. Through Scott's testimony, the May 29, 2020 suspension letter, suspending Appellant for three days beginning June 2, 2020, was introduced into the record as Appellee's Exhibit 22, and is attached as **Recommended Order Attachment A**.

34. At the end of Scott's testimony, Appellee rested its case-in-chief.

35. The Appellant, **Mark Darnell**, testified on his own behalf. He has been employed at Maysfield YDC as a Youth Worker for the past four and a half (4 ½) years. He began his employment with DJJ as a Youth Worker I in 2013. As a Youth Worker Supervisor, Appellant oversees second shift. His duties include the supervision of residents and staff. He is also called on to “de-escalate” out of control residents when the situation arises. Appellant is also certified as a Facilities Based Trainer in the AKIDO restraint method. In this capacity, he assists with monthly staff training.

36. As for the incident with Youth* on October 23, 2019, Appellant testified that Youth* had been “escalated” the day of the restraint and the day before. Youth* admitted that he was trying to get re-assigned to another facility because he had issues with some of the other residents. Youth* was exhibiting “belligerent and loud behavior; he was cussing and had been hitting walls and doors,” Appellant stated.

37. After Youth* had been placed in an isolation room, he wrapped a sheet around himself, and was trying to dismantle the security camera. Appellant testified that after two members entered the cell to remove the sheet, Youth* was attempting “to mitigate our ability to restrain him.”

38. Youth* continued to be combative, so mechanical restraints were put on his ankles and wrists. Appellant “had him sit down, but he was still trying to jerk away. He stood up without permission. I attempted to stop him. He began to wrestle; I could feel him tense up. I had a very short time to decide what to do. He was actively resisting, putting his force against mine. I felt the bed was the safest place to transfer him as it was padded. If I placed him on the floor, I thought it more likely he would be injured—in such a small room. I also thought him biting staff was a real threat. Also, if he had tried to run, he could have fallen.” Appellant added, “I felt the best course of action was to move him to the bed. I did it to prevent injury. I was not angry. I was not in a heightened state of emotion. I was speaking in a calm voice.”

39. Once Appellant secured Youth* on the bed, he left the cell. Appellant explained, “Because I had been the center of his escalation, I removed myself from the situation.”

40. After the facility counselor came in, the Youth Workers exited the cell. Youth* proceeded to roll off the bed, then went under the bed to avoid detection by the surveillance camera, Appellant stated. Youth* was asleep under the bed when third shift began.

41. On cross-examination, Appellant confirmed that Youth* had his hands restrained behind his back, a belly chain around his waist, and his feet were shackled. As for his position on the bed, Appellant testified that after he transitioned Youth* to the bed, “he landed on his shoulder and rolled face down.”

42. Appellant agreed that he could have used a “Right Double Arm Hook” maneuver, but added that, in his estimation, the move would not have controlled him.

43. Appellant added that even when a juvenile is in an isolation room, staff may still have to interact with him. In this instance, Youth* was presenting a danger to facility equipment (the security camera), and staff entered the room to prevent that. "Mechanical restraints are not the end of a restraint," Appellant stated. "The moment [Youth*] stood up, he may have harmed himself or attempted to run." Appellant felt that he could not just have left the room after Youth* was put in mechanical restraints. He felt he needed to ensure that Youth* did not hurt anyone—himself or staff.

44. As for the "take down," Appellant acknowledged that he did "use force" in the maneuver. But prior to that move, he had only used moderate force, and Youth* had over-powered him. "I used more force than his to get him to the bed safely." Appellant concluded his testimony, stating, "I acted professionally and calmly, and no one got hurt."

FINDINGS OF FACT

1. At the time of imposition of the three- (3) day suspension, Appellant, Mark Darnell, was a classified employee with status. He was employed as a Youth Worker Supervisor at Mayfield Youth Development Center (Mayfield YDC). He is also a Facilities Based Trainer in the AKIDO restraint method.

2. Appellant timely filed his appeal of this disciplinary action with the Kentucky Personnel Board.

3. Mayfield YDC houses juveniles, ages 12 to 20, who have been adjudicated "sex offenders," and are wards of the state. (Testimony of Larry Jackson.)

4. On October 23, 2019, Youth*, a juvenile resident of Mayfield YDC, was exhibiting belligerent and combative behavior. After he was placed in an isolation cell, he attempted to dismantle a security camera. Appellant entered the cell, and Youth then wrapped a sheet around himself. Other staff members entered the cell to assist Appellant. Their attempts to de-escalate Youth* were unsuccessful. Appellant then attempted to get Youth* to a prone position on the bed. (Isolation/Incident Report Form, 10/23/19 at 7:30 p.m., Appellee's Exhibit 23.)

5. According to Appellant, Youth* "began to wrestle. I could feel him tense up...He was actively resisting, putting his force against mine. I felt the bed was the safest place to transfer him." (Testimony of Appellant.)

6. The Internal Investigations Branch (IIB) of the Justice and Public Safety Cabinet became aware of this incident on October 24, 2019, when Youth* called the DJJ hotline "with concerns regarding staff use of force during a restraint." (Appellee's Exhibit 23.)

7. Investigator David Peel was assigned to investigate the incident, which he began on October 28, 2019. His investigation included the review of the video of the restraint, incident reports from October 23, 2019, and Youth*'s observation summaries. Peel also interviewed

Youth*, the Appellant, and five other staff members. After completing his investigation, Investigator Peel compiled a report in which he concluded that the allegation against Appellant, that he had used excessive force in his restraint of Youth*, was substantiated. (Appellee's Exhibit 23.)

8. When Mayfield YDC Superintendent Larry Jackson received Peel's report, he sent a Major Corrective Action Request to Facilities Regional Administrator Bryan Bacon, who reviewed it, and then sent it up the chain-of-command. Jackson had requested, with Bacon's agreement, that Appellant be suspended for one (1) day. (Testimony of Larry Jackson and Bryan Bacon.)

9. George Scott, Deputy Commissioner of DJJ, reviewed the Major Corrective Action Request, along with the supporting documentation, including the video footage of the incident. In Scott's estimation, Appellant had "slammed" Youth* on to the bed. In his opinion, such a maneuver was "not a good technique on a hand-cuffed individual." Scott had also noted that in the video, "[Youth*] had not seemed to pose much of a threat." (Testimony of George Scott.)

10. Scott felt that a three- (3) day suspension was the more appropriate disciplinary action. He rejected the five- (5) day suspension proposed by DJJ's Division Director, in part because Scott was aware that Youth* was "a young man who took a lot of energy." (Testimony of George Scott.)

11. William Campbell, Director of Professional Development at DJJ, testified that the amount of force Appellant used transitioning Youth* to the bed was unacceptable as the juvenile was already mechanically restrained and in an isolation cell.

12. It is clear from the evidence that on October 23, 2019, Youth*, a Mayfield YDC resident, was in an isolation cell, and put in mechanical restraints due to his combative behavior. The evidence showed that Appellant forcefully transitioned Youth* from a standing position to a prone position on the bed. At the evidentiary hearing, Appellant claimed this maneuver was done to minimize the risk of Youth* trying to exit the cell or harm staff members by biting them. In the video footage of the incident, however, Youth* did not appear to be actively resisting Appellant's restraint, nor did he appear to be attempting to exit the cell. According to the IIB report and the testimony of William Campbell and George Scott, the amount of force Appellant used transitioning Youth* to the bed is not an acceptable or appropriate maneuver to use on a juvenile in an isolation cell with his ankles shackled and his wrists cuffed.

13. The Hearing Officer finds that Appellant used excessive force in his restraint of Youth* on October 23, 2019.

CONCLUSIONS OF LAW

1. A classified employee with status shall not be suspended except for just cause. [KRS 18A.095 (1).] Appointing Authorities may discipline employees for lack of good behavior

or for the unsatisfactory performance of duties. [101 KAR 1:345, Section 1.] A suspension shall not exceed thirty days. [101 KAR 1:345, Section 4(1).]

2. The Hearing Officer concludes as a matter of law that the evidence of record established that Appellant used excessive force in his restraint of Youth* on October 23, 2019. By his actions, Appellant violated the following policies and procedures:

- Justice and Public Safety Cabinet, Department of Juvenile Justice, Policy and Procedures, Employee Code of Conduct, Policy No. 104(IV)(B);
- Justice and Public Safety Cabinet, Department of Juvenile Justice, Policy and Procedures, Behavior Management, Policy 318(I) and (IV); and
- Justice and Public Safety Cabinet, Department of Juvenile Justice, Policy and Procedures, Restraints, Policy 324(I) and (IV)(c).

3. Appellee employs a progressive policy of disciplinary action against employees. Appellant had no prior disciplinary action against him.

4. Appellee has shown by a preponderance of the evidence that there was just cause for disciplinary action against Appellant based on the incident involving Appellant's restraint of Youth* on October 23, 2019. Appellee has shown by a preponderance of the evidence that the disciplinary action taken, in the nature of a three - (3) day suspension, was neither excessive nor erroneous.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **MARK DARNELL V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE (APPEAL NO. 2020-150)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).


Any document filed with the Personnel Board shall be served on the opposing party.

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

ISSUED at the direction of **Hearing Officer Colleen Beach** this 16th day of July, 2021.

KENTUCKY PERSONNEL BOARD



MARK A. SIPER
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Jamhal Woolridge
Mark Darnell
Hon. Rosemary Holbrook (Personnel Cabinet)



JUSTICE AND PUBLIC SAFETY CABINET

Andy Beshear
Governor

Department of Juvenile Justice
1025 Capital Center Drive, 3rd Floor
Frankfort, Kentucky 40601-8205
Phone (502) 573-2738
Fax (502) 573-4308
www.kentucky.gov

Justice Mary C. Noble, Ret.
Secretary

LaShana M. Harris
Commissioner

May 29, 2020

Mark Darnell

Via Hand Delivery

PERNR

Based on the authority of KRS 18A.095 (1) and (8) and 101 KAR 1:345, Section 4, you are hereby notified that you are officially suspended from duty and pay for a period of three (3) working days, effective beginning June 2, 2020 and continuing on June 3, 2020 and June 4, 2020.

In accordance with 101 KAR 1:345, Section 1, you are being suspended from your position as Youth Worker Supervisor, at Mayfield Youth Development Center, for the following reason:

Misconduct and Poor Work Performance, i.e., as reported by Mayfield Youth Development Center, Juvenile Facility Superintendent II (JFSII) Larry Jackson, you demonstrated poor work performance and misconduct by using inappropriate or excessive force that could have resulted in an injury. The Justice and Public Safety Cabinet, Internal Investigations branch (IIB) conducted an investigation into the allegation and the allegation was substantiated. The findings are contained in the investigative report, IIB-2832-19.

On October 23, 2019, you were involved in a restraint of Youth* that could have resulted in an injury. According to the IIB findings, victim interview, staff interviews, and video evidence, you were observed using an excessive amount of force to control Youth*. The youth's hands were handcuffed behind his back, a belly chain was around his waist, and shackles were on his ankles. While in these full mechanical restraints Youth* attempted to standup. You responded by forcing Youth* face down onto a bed. The youth was handcuffed and landed on his face.

Your misconduct, demonstrated by using inappropriate or excessive force that could have resulted in an injury violates Department of Juvenile Justice policy

Mark Darnell
3-Day Suspension
May 29, 2020
Page 2

#104, "Code of Conduct", section IV (B and U); Department of Juvenile Justice policy #318 "Behavior Management", Section I, IV (D); Department of Juvenile Justice policy #324 "Restraints" section I, IV (C)(c).

For your information, the Kentucky Employee Assistance Program (KEAP) is a voluntary and confidential assessment and referral service for state employees. This service may help you with any personal problems that may be affecting your job performance. KEAP can be reached at (800)445-5327 or (502) 564-5788.

A copy of this notice is being furnished to the Personnel Cabinet in accordance with personnel rules. As an employee with status, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the day of receipt. Appeals must be made by completing the attached form and directing it to the address indicated on the form. (See KRS 18A.095 and 101 KAR 1:365, Appeal and Hearing Procedures.

Sincerely,



LaShana M. Harris, J.D.
Commissioner

LMH/ks

Attachments: Personnel Board Appeal Form

C: Hon. Mark A. Sipek, Executive Director, Personnel Board
Michele Barnes
George Scott
Rodney Moore
Tim Conn
Hillary Truesdell
Bryan Bacon
Larry Jackson
Cynthia Watson
DJJ Legal
DJJ Personnel
Personnel File