



STATE OF NEW JERSEY

In the Matter of Usama Constant, *et al.*, County Correctional Police Lieutenant, various jurisdictions

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

Examination Appeal

CSC Docket Nos. 2025-2857, *et al.*

ISSUED: November 26, 2025

Usama Constant and James Lapp (PC5098F), Bergen County; and Ryan Dill and William Nagy (PC5106F), Monmouth County; appeal the promotional examination for County Correctional Police Lieutenant (various jurisdictions). These appeals have been consolidated due to common issues presented by the appellants.

The subject exam was administered on May 20, 2025 as a written test and consisted of 70 multiple choice questions.

Nagy contends that at review, he was only allowed 30 minutes to review and his ability to take notes on exam items was curtailed. As such, he requests that if he misidentified an item number in his appeal, his arguments be addressed. He also complains that his rights were violated because he was not given the number of questions he respectively answered correctly and incorrectly along with the actual questions that he answered incorrectly, as candidates were in the 2024 administration. It is noted that the time allotted for candidates to review is a percentage of the time allotted to take the examination. It is further noted that the 2024 examination was administered as a computerized exam where the review process allows candidates to receive an unused exam booklet, the key, and a copy of their responses. This year, however, there was too large a population to facilitate the administration of a computerized exam and thus, the examination was administered as a written test. Therefore, the review process for written exams used in administrations of County Correctional Police Officer written exams from prior years was followed, which does not include candidates being provided with a copy of their

responses during review. Nagy's rights were not violated as all candidates in this year's administration received the same review process. Moreover, the review procedure is not designed to allow candidates to retake the examination, but rather to allow candidates to recognize flawed questions. First, it is presumed that most of the questions are not flawed and would not require more than a cursory reading. Second, the review procedure is not designed to facilitate perfection of a candidate's test score, but rather to facilitate perfection of the scoring key. To that end, knowledge of what choice a particular appellant made is not required to properly evaluate the correctness of the official scoring key. With respect to misidentified items, to the extent that it is possible to identify the items in question, they are reviewed. It is noted that it is the responsibility of the appellant to accurately describe appealed items.

An independent review of the issues presented under appeal has resulted in the following findings:

For question 11, since Nagy selected the correct response, his appeal of this item is moot.

For question 16, since Lapp selected the correct response, his appeal of this item is moot.

Question 17 provides that on Tuesday during the daily collection of mail, Inmate Carlton provided three letters to be sent out to three different family members. Wednesday was a national holiday. On Thursday, two days later, Inmate Carlton's three letters had not been sent out despite being collected on Tuesday. The question asks for the true statement based on the information provided and the specific language in *N.J.A.C. 10A:31-19.3*, Processing mail.¹ Option a was that the regulation was violated in this scenario; option b was that the regulation was not violated in this scenario; option c was that there is not enough information to know if the regulation was violated in this scenario; and option d was that conditions contained in this scenario are not applicable to the regulation. The keyed response is option b. Constant argues that this scenario does not give enough information to determine if the facility was in violation because there is no mention as to the exact time the letters were received or collected. He contends that the time is relevant in this question as the regulation references a period of "24 hours," and the question does not specify an exact elapsed time. Constant offers the following counterexample: if the letters were collected at 2:00 p.m. but not mailed until 4:00 p.m. on Thursday, then the regulation is violated. Lapp similarly argues that the question lacks sufficient information to determine whether the regulation was violated because the

¹ "Outgoing correspondence shall not be held within the adult county correctional facility more than 24 hours after the correspondence has been received or collected for mailing, except on weekends, holidays or during emergency incidents." *N.J.A.C. 10A:31-19.3(b)*.

question does not specify the time of mail collection on Tuesday or the exact time it currently is on Thursday. “The absence of these time-specific details makes the question unclear and ambiguous. Without this clarification, it is impossible to determine if the 24-hour rule has been violated. Therefore, this question could either violate the rule, not violate it, or require additional information to make a determination.” It is noted that the phrase “except on weekends, holidays or during emergency incidents” must be read as acting to toll the period of “24 hours” mentioned earlier in the regulation. If it is not read in such manner, the regulation would effectively be interpreted to provide the facility with an indefinite period of time to hold an inmate’s mail in the facility whenever and merely because a weekend, holiday, or emergency incident intervenes. This would be an unreasonable reading of how the regulation operates. The question makes no mention of the time the mail was collected on Tuesday and the time it now is on Thursday. Therefore, in the fact pattern presented, the facility might be violating the regulation (option a), or it might not be violating the regulation (option b). The question was also susceptible to a candidate believing that option c, that there is not enough information to know if the regulation was violated, is the best response. Given these ambiguities, the Division of Test Development, Analytics and Administration (TDAA) determined to omit this item from scoring prior to the lists being issued.

Question 18 asks for the *false* statement according to the specific language in *N.J.A.C. 10A:31-9.6, Storage of weapons*.² The keyed response is option b, that all law enforcement officers entering the adult county correctional facility shall check their weapons at the facility’s weapons collection station located “within” the security perimeter. Lapp argues that the correct response is option d, that weapons may be used only under orders of the adult county correctional facility Administrator or designee, in emergency situations in which any lesser degree of force would be

² The regulation provides:

- (a) Firearms shall be located in an arsenal readily available in case of emergencies, but outside the security perimeter.
- (b) All law enforcement officers entering the adult county correctional facility shall check their weapons at the facility's weapons collection station located outside the security perimeter.
- (c) Weapons may be used only under orders of the adult county correctional facility Administrator or designee, in emergency situations in which any lesser degree of force would be ineffective, or would subject the custody staff to serious threat of injury.
- (d) A strict accounting procedure governing the issue, use and return of weapons shall be developed by the designated staff person. This procedure shall include a record of the lethal and non-lethal projectiles expended.
- (e) Any staff or inmate injured in an incident where a weapon is used shall receive an immediate medical examination and treatment.

ineffective, or would subject the custody staff to serious threat of injury. The statement, he contends, implies that the facility administrator is the sole individual authorized to permit weapons into the facility. “While this is true in some instances, the phrasing is misleading and can cause confusion. Under [N.J.A.C.] 10A:31-7.5(f),³ lethal weapons may only be used under strict supervision and when deemed necessary by either the adult county correctional facility administrator or the senior supervisory custody staff member. Therefore, the facility administrator is not always the only person authorized to permit [l]ethal weapons into the facility.” The question is correct as keyed. Under N.J.A.C. 10A:31-9.6(b), all law enforcement officers entering the adult county correctional facility shall check their weapons at the facility’s weapons collection station located *outside* – not “within” – the security perimeter, making option b a false statement. Option d is not misleading as it was taken verbatim from N.J.A.C. 10A:31-9.6(c) and thus a *true* statement.

Question 20 asks which can be considered special visits according to N.J.A.C. 10A:31-20.8, Special visits,⁴ considering the following visits: (I) visits from persons who have come long distances; (II) visits to hospitalized inmates; (III) visits to inmates in disciplinary status; and (IV) visits between inmates and parole advisors. The keyed response is option d, all four. Nagy argues that the question is flawed. Specifically, while conceding that N.J.A.C. 10A:31-20.8 mentions all four types of visit, he contends that the regulation is contradicted by another, N.J.A.C. 10A:31-17.7(b).⁵ The question is correct as keyed. As Nagy acknowledges, N.J.A.C. 10A:31-

³ “Lethal forms of weaponry shall be used only with strict supervision and when the seriousness of the situation warrants as set forth in the Attorney General’s Use of Force Policy.”

⁴ N.J.A.C. 10A:31-20.8(b) provides:

Special visits may include, but are not limited to:

1. Visits from persons who have come long distances;
2. Visits to hospitalized inmates;
3. Visits to inmates in disciplinary status; and
4. Visits between inmates and
 - i. Members of the clergy;
 - ii. Social service agency representatives;
 - iii. Prospective employers;
 - iv. Sponsors;
 - v. Parole advisors;
 - vi. Foreign counsels; and
 - vii. Representatives of the media.

⁵ Inmates in Disciplinary Detention shall not be provided with visit or telephone opportunities while in Disciplinary Detention except for:

- i. Legal visits and legal telephone calls when authorized by the adult county correctional facility Administrator or designee; and
- ii. Special visits or telephone calls when compelling reasons exist and when authorized by the adult county correctional facility Administrator or designee.

20.8 mentions all four types of visit. *N.J.A.C. 10A:31-17.7(b)* is not in conflict as it provides that inmates in Disciplinary Detention shall not be provided with visit or telephone opportunities while in Disciplinary Detention *except for special visits* or telephone calls when compelling reasons exist and when authorized by the adult county correctional facility Administrator or designee.

Question 32 provides that you have been informed that Inmate Sloane has been refusing meals. The housing unit sergeant has spoken to Inmate Sloane privately about this, but Inmate Sloane was unwilling to say why he hasn't been eating. Consider the following actions: (I) find out how long Inmate Sloane has been refusing meals; (II) have Inmate Sloane seen by mental health staff; (III) meet privately with Inmate Sloane to explain the consequences of starvation; and (IV) determine, if possible, whether Inmate Sloane is fasting for religious reasons. The question asks, "Which action(s) should be taken **FIRST**?" The keyed response is option c, I and II only. Lapp concedes that "the keyed response is correct and both actions would be taken." However, he argues that "[t]he question explicitly asks for the first action you would take. It does not inquire about what you would do immediately, but rather specifically seeks the initial step. The first action can only be one distinct step, not a compound answer . . . This is very [misleading] and I believe should be rekeyed to the most important first action you would complete as the questions clearly asks." However, the question did not "explicitly ask[] for the first action." Rather, it asked for the "action(s)" (emphasis added) that should be taken first, the parenthetical plural indicating that the answer could include more than one action. Given this and Lapp's concession that "the keyed response is correct and both actions would be taken," the question is correct as keyed.

For question 36, since Nagy selected the correct response, his appeal of this item is moot.

Question 38 provides that CO Reilly observes Inmate Barker, who is on cleaning duty, taunting another inmate in his locked cell. When CO Reilly approaches and tries to guide Inmate Barker away from the area, the inmate begins a vicious attack on CO Reilly, using his broom as a weapon. A code is called, and a responding officer is injured and knocked to the ground while trying to restrain the combatant inmate. Meanwhile, an enraged CO Reilly remains involved in the physical altercation with Inmate Barker, which is turning into a counterattack. A supervisor with backup officers arrives on the scene. The question asks what the responding supervisor should do first. The keyed response is option a, that the responding supervisor should ensure that Inmate Barker and CO Reilly are separated.

Dill argues that the correct response is option d, to direct officers to deploy O.C. spray while observing the situation. He contends that while separation of parties

may be an “eventual” objective, the first action a supervisor should take, per the Attorney General’s Use of Force Policy, is to order responding staff to deploy aerosol restraint spray. Dill bases this on the following specific arguments:

- According to Core Principle One of the Use of Force Policy, the preservation of human life is paramount. The inmate has already committed an assault with a potentially deadly weapon and continues to pose an imminent threat to officers on scene. Failing to act swiftly and decisively to neutralize that threat would be a violation of this principle. The use of aerosol spray constitutes the *minimal reasonable force necessary* to rapidly de-escalate the situation and protect life.
- The Use of Force Policy defines imminent danger broadly, including subjects who are armed and running for cover. Here, the inmate is actively armed; has caused serious bodily harm; and there is no indication that he has been disarmed or ceased his assault. The danger is clear and present. Under Core Principle Four, officers, and by extension supervisors, must avoid actions that increase the substantial risk of death or serious injury. Attempting to physically separate the inmate and officer, without first stopping the active assailant, creates an unacceptable risk to all involved.
- While Core Principle Five does outline the duty to intervene, the reasons listed (e.g., morale, civilian complaints, integrity) should be secondary to Core Principle One in this instance. Furthermore, the term “counterattack” in this context is ambiguous and open to subjective interpretation. A “counterattack” may in fact be a reasonable and proportional response to an active and ongoing deadly threat. Without additional clarity about the officer’s conduct or the inmate’s current behavior, prioritizing intervention over neutralization compromises safety and ignores lawful use-of-force standards.

Dill concludes by stating that the scenario lacks critical clarity regarding whether the inmate still possesses the weapon or continues the assault, yet both are implied by the nature of the question. Based on established policy and the preservation of life, according to him, the immediate priority must be to stop the threat using the least amount of force necessary. Dill maintains that ordering deployment of aerosol spray, option d, aligns with both the Use of Force Policy and the overarching goal of safety.

It is noted that TDAA contacted a subject matter expert (SME) regarding this item. The SME indicated that the first responsibility of the supervisor is to stop the assault or force and that separating the parties should be the initial reaction. The

SME highlighted that the question clearly indicates that CO Reilly is “enraged,” and the altercation is turning into a counterattack. An enraged counterattack, according to the SME, would lead a reasonable reader to interpret that CO Reilly has become the aggressor or is getting the upper hand. The SME emphasized that the primary responsibility of the supervisor on the scene is to *stop* the incident if it has gone too far or appears to be getting out of hand, and that is clear in Core Principle Five. As to option d, the SME emphasized this option directs officers to deploy O.C. spray while *observing* the situation, but it does not mention anything about stopping the incident. CO Reilly’s becoming the aggressor needs to be addressed immediately.

The question is correct as keyed. In option d, the supervisor is directing officers to deploy O.C. spray while observing the situation, but there is no mention of making any effort to separate the parties. Accordingly, option a is the best response.

For question 41, since Nagy selected the correct response, his appeal of this item is moot.

For question 49, since Nagy selected the correct response, his appeal of this item is moot.

Question 60 provides that you are required to make a statement to the public and media regarding an incident at your facility. Consider the following: (I) expect “surprise” questions; (II) avoid distractions; and (III) have a relaxed and professional image. The question asks what should be done when speaking with the public and the media based on the information provided in Gerald W. Garner, *Basic Handbook of Police Supervision: A Practical Handbook for Law Enforcement Supervisors* (2022). The keyed response is option b, III only. Nagy points out, correctly, that the text mentions all three actions, which would correspond to option d, I, II, and III. It is noted that TDAA was contacted regarding this item. It indicated that the question had been miskeyed to option b and has been rekeyed to option d, prior to the lists being issued.

CONCLUSION

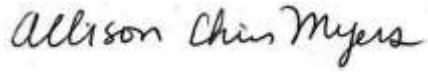
A thorough review of appellants’ submissions and the test materials reveals that, other than the scoring changes noted above, the appellants’ examination scores are amply supported by the record, and the appellants have failed to meet their burden of proof in this matter.

ORDER

Therefore, it is ordered that these appeals be denied.

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 26TH DAY OF NOVEMBER, 2025



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