



STATE OF NEW JERSEY

In the Matter of Christopher Livoti
and Mark Quinerly, Bergen County,
Sheriff's Department

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket Nos. 2022-2791 and
2022-2825
OAL Docket Nos. CSV 03864-22 and
CSV 03865-22
(Consolidated)

ISSUED: AUGUST 13, 2025

The appeals of Christopher Livoti and Mark Quinerly, County Correctional Police Officers, Bergen County, Sheriff's Department, 10 working day suspensions, on charges, were heard by Administrative Law Judge William Courtney (ALJ), who rendered his initial decision on July 8, 2025. Exceptions were filed on behalf of the appellants and a reply was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent, *de novo* evaluation of the record, including a thorough review of the exceptions and reply, the Civil Service Commission (Commission), at its meeting on August 13, 2025, adopted the Findings of Fact and Conclusions. However, it did not adopt the ALJ's recommendation to uphold the 10 working day suspensions. Rather, for the sustained misconduct, it determined the proper penalties were 30 working day suspensions.

Regarding the charges, notwithstanding the appellants' exceptions arguing to the contrary, the Commission finds that the ALJ's findings and conclusions were appropriate and based on the credible evidence in the record. In this regard, his findings were based on his credibility determinations of the testimony of the witnesses as well as his assessment of the documentary and video evidence in the record. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record

as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. See *N.J.S.A. 52:14B-10(c)*; *Cavalieri v. Public Employees Retirement System*, 368 *N.J. Super.* 527 (App. Div. 2004). The Commission finds no persuasive evidence in the record or the appellants' exceptions to demonstrate that the ALJ's credibility determinations, or his findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. As such, the Commission affirms the ALJ's findings regarding the charges in this matter.

Finally, regarding the penalty, similar to its review of the underlying charges, the Commission's review of the penalty is *de novo*. In this regard, *N.J.S.A. 11A:2-19* specifically states "[t]he Civil Service Commission may increase or decrease the penalty imposed by the appointing authority, but removal shall not be substituted for a lesser penalty." Further, in addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 *N.J.* 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. *George v. North Princeton Developmental Center*, 96 *N.J.A.R. 2d* (CSV) 463. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. See *Henry v. Rahway State Prison*, 81 *N.J.* 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Moreover, the Commission emphasizes that a County Correctional Police Officer, similar to a municipal Police Officer, is held to a higher standard than a civilian public employee. 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).

The Commission wholly agrees with the ALJ's assessment of the appellant's misconduct, but finds, that here, a more severe penalty is warranted. In this regard, the ALJ found:

There was no evidence presented at the hearing concerning prior disciplinary action against either officer, so I am assuming there was none. I FIND the circumstances here warrant the penalty imposed. V.X. was hospitalized and was required to undergo surgery to address the injuries he received on December 6, 2021. In addition to the punctured lung he received as a result of the Officer's actions, V.X.'s medical records revealed facial bruising with ecchymosis to the left eye and tenderness to palpitation to the left Zygomatic bone (left Jaw). See Corrigan Report at p.9. The UF Policy indicates that even in situations where officers are justified in using force, Officers "shall only use that degree of force that is reasonable, necessary and proportionate

considering the totality of the circumstances, including the subject's mental condition, the nature of the offense, and most importantly the level of resistance or threat known to the officer at the time." See R-8, p.22. The totality of the circumstances here includes an inmate suffering from severe depression who was at risk of hurting himself. The task given to the officers was to place the inmate into a safety smock so he wouldn't hurt himself. Spraying the inmate with OC spray at a point where he was not taking any aggressive action against the Officers, tackling him and punching him to the extent he needed to be hospitalized does not seem to be a reasonable way to ensure the inmate's safety.

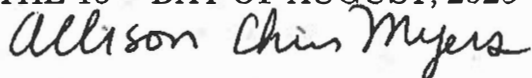
As stated above, a County Correctional Police Officer must be held to a higher standard. The appellants' actions in this matter fell well short of what would be expected of a County Correctional Police Officer and are worthy of significant sanction. As such, the Commission finds that the 10 working day suspensions originally imposed insufficient to account for the unreasonable and excessive use of force applied, such that they would not sufficiently serve to ensure that the appellants understood the extent of their inappropriate conduct. Accordingly, the Commission imposes a 30 working day suspension, which it believes more accurately reflects the nature and severity of the misconduct and should impress upon the appellants that any future misconduct may result in more severe disciplinary action, up to removal from employment.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellants was justified. However, it finds that the appropriate penalties should be 30 working day suspensions. The Commission therefore imposes 30 working day suspensions and dismisses the appeals of Christopher Livoti and Mark Quinerly.

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 13TH DAY OF AUGUST, 2025



Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
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

(CONSOLIDATED)

INITIAL DECISION

OAL DKT. NO. CSV 03864-22
AGENCY DKT. NO. 2022-2791

CHRISTOPHER LIVOTI,

Appellant,

v.

**COUNTY OF BERGEN, SHERIFF'S
DEPARTMENT,**

Respondent.

MARK QUINERLY,

Appellant,

v.

**COUNTY OF BERGEN, SHERIFF'S
DEPARTMENT,**

Respondent.

OAL DKT. NO. CSV 03865-22
AGENCY DKT. NO. 2022-2825

David J. Alteri, Esq. for appellant, Christopher Livoti (Galantucci & Patuto, Esqs.,
attorneys)

Robert M. Biagiotti, Esq. for appellant, Mark Quinerly (Faugno, Weis, Katcher
and Duarte, attorneys)

Brian M. Hak, Esq. for respondent, County of Bergen Sheriff's Department (Eric M. Bernstein & Associates attorneys)

Record Closed: January 15, 2024

Decided: July 8, 2025

BEFORE **WILLIAM COURTNEY, ALJ**:

STATEMENT OF THE CASE

Corrections Officers ("C.O.") Mark Quinerly and Christopher Livoti, appeal the imposition of a 10-working day suspension for essentially failing to abide by the Bergen County Sheriff's Department's Standard Operating Procedure("SOP") concerning the Use of Force.

PROCEDURAL HISTORY

On or about April 26, 2022, the Bergen County Sheriff's Department ("Department") served C.O. Quinerly and C.O. Livoti with Final Notices of Disciplinary Action ("FDNA") charging them with various violations of the Department's Rules and Regulations and a violation of a Department SOP concerning the Use of Force. Both Appellants filed timely Notices of Appeal and both matters were transferred to the Office Decision of Administrative Law on May 12, 2022, for resolution. On July 1, 2022, the matters were consolidated, and a hearing was held on October 10, 2023. The record closed on January 15, 2024, after the parties' submitted summations.

BACKGROUND AND FINDINGS OF FACT

On October 6, 2021, inmate V.X.("Inmate") was inside of a cell located in the medical unit of the Bergen County Jail ("BCJ") after medical staff had placed him on suicide watch¹. The most reliable evidence concerning why the Inmate was placed on

¹ At the hearing Internal Affairs Officer Christopher Corrigan indicated the inmate was on suicide or homicide watch. I have reviewed the record, and I cannot find any credible evidence the Inmate had expressed any homicidal ideations. I FIND that any references in the record to suicide /homicide ideations are intended to describe the types

suicide watch is contained in the Internal Affairs investigation report of Detective Christopher Corrigan ("IA Report"). V.X's medical records were summarized in the IA Report as follows:

On Wednesday, October 6, 2021, Nurse Alyissa Cacciatore documented that during the intake medical screening, Inmate [V.X.] denied sustaining injuries during his arrest.

It was documented that Inmate [V.X.] was expressing suicidal / homicidal thoughts / intents / plan, specifically he was having hallucinating flashbacks which were vivid images that make him want to hide under the table. He did not elaborate any further and stated that he "can't tell you now" regarding his homicidal ideations.

It was documented a month prior, inmate [V.X.] was hospitalized at New Bridge Medical Center (NBMC) for three weeks for suicidality and depression. (the exact date of his hospitalization was not documented). Inmate [V.X.] has a history of suicide attempts and his last attempt by self-harm was in February of 2021. Inmate [V.X.] informed the intake nurse that he was "extremely depressed" but refused to elaborate.

[R-3 at p.5]

I FIND that the medical record cited in the IA Report provided valid reasons why V.X. was placed on suicide watch. After his medical screening, a BCJ Mental Health Services Status Notification Form was completed for [V.X.] which indicated he had been evaluated and required to be placed on Suicide Watch - Level 1 and was to be housed in a medical unit. See R-3 at p.5. According to Detective Corrigan, Level 1 status is where an inmate is placed in a safety smock that prevents them from harming themselves or others. They are then put into a cell in the medical department that is equipped with a surveillance camera to continuously monitor the inmate. The room contains a suicide

of inmates that were required to wear the protective gown, known as a suicide gown, that the Inmate was ordered to wear after meeting with medical personnel upon his admittance to the BCJ on June 6, 2021.

safety bed that cannot be ripped or torn, and the walls are made of glass so the inmate can be observed. See October 10, 2023 hearing transcript, hereinafter "T" at 15:25-16:16. It is undisputed that Officers Livoti and Quinerly were charged with the responsibility of placing V.X. into the prescribed safety smock.

A video of the entire incident² that took place on October 6, 2021, was played at the hearing and was admitted into evidence as Exhibit R-3. I **FIND** that the contents of the video were accurately summarized by Detective Corrigan in the IA Report as follows:

At approximately 17:21:36 hours, Inmate [V.X.] enters medical cell # 22.

At approximately 17:21:40 hours, Officer Livoti approaches cell #12, stands in the doorway and is speaking with [V.X.].

At approximately 17:22:36 hours, Officer Quinerly enters Cell #12 with a suicide smock and blanket which he places on the suicide prevention bed.

At approximately 17:22:42 hours, Officer Quinerly approaches Officer Livoti and inmate [V.X.] with a plastic garbage bag in his hand and joins their conversation.

At approximately 17:25:10 hours, Inmate [V.X.] throws his bed roll onto the suicide prevention bed and walks toward the back wall of the cell as the conversation with Officer Quinerly and Officer Livoti continues.

At approximately 17:26:50 hours, Inmate [V.X.] steps toward the direction of Officer Quinerly moving his hands up and down as their conversation continues.

At approximately 17:26:56 hours, Inmate [V.X.] steps back towards his previous spot against the back cell wall and their conversation continues.

² It should be noted that the surveillance cameras at the BCJ do not have recording capabilities. Accordingly, there was no sounds or voices recorded on Exhibit J-1.

At approximately 17:27:42 hours, [V.X.] raises both hands toward the direction of officer Livoti and Officer Quinerly.

At approximately 17:27:47 hours, Officer Livoti administers his OC Spray toward the direction of Inmate [V.X.'s] facial area.

At approximately 17:27:54 hours, Officer Livoti approaches Inmate [V.X.], grabs him by the jumpsuit and takes him down to the suicide prevention bed.

At approximately 17:27:55 hours, Officer Quinerly who is standing by the door, approaches Officer Livoti to assist him in restraining Inmate [V.X.].

At approximately 17:28:09 hours, Officer Quinerly delivers hand strikes to the right side of Inmate [V.X.'s] lower body.

At approximately 17:28:20 hours, Officer Quinerly delivers hand strikes to the right side of Inmate [V.X.'s] lower body.

At approximately 17:28:55 hours, Officer Livoti retrieves his two-way radio from his duty belt and appears to transmit a message while Officer Quinerly handcuffs Inmate [V.X.].

At approximately 17:29:18 hours, Officer Livoti places his hand on the center of Inmate[V.X's] upper back.

At approximately 17:29:45 hours, the response team arrives in cell #12 and Officer Livoti and Officer Quinerly assist Inmate [V.X.] to his feet.

At approximately 17:29:56 hours, Inmate [V.X.] is escorted out of cell #12 to the Medical Exam Room where he is decontaminated.

[Id. at p.6-7]

On or about October 7, 2021, the day following the incident, V.X. was being examined by a counselor who documented that he presented as being depressed. R-3 at p.8. V.X. also made allegations to the counselor that excessive force was used against him the previous day. As a direct result of V.X.'s excessive force claims the matter was referred to Detective Corrigan for investigation. T11:25-12:6. Later that same day, Doctor

Diana Riccioli documented that V.X. was lying down and unable to move without flinching and that he was not able to converse for a long period of time due to pain in his rib cage. A chest x-ray was eventually performed at the North Bergen Medical Center ("NBMC") that revealed V.X. was suffering from a new moderate size pneumothorax (a/k/a "collapsed lung"). As a result of his injury, V.X. was transported back to NBMC via ambulance and admitted to the hospital on October 7, 2021. R-3 at p. 9.

During his hospitalization, V.X. complained of back and left side rib pain. It was also noted in the hospital records that V.X. had facial bruising with ecchymosis to the left eye with tenderness to palpitation of the left zygomatic bone (a/k/a left cheek). V.X. underwent a chest tube surgical procedure to relieve the pneumothorax and was admitted to the hospital for further monitoring. The NBMC records document that V.X. remained hospitalized until October 10, 2021. Id.

Officers Livoti and Quinerly did not testify at the hearing. However, documentation of their accounts as to what had occurred that day is contained in the IA Report authored by Detective Corrigan along with Detective Corrigan's testimony at the hearing. I **FIND** Detective Corrigan's testimony to be direct, consistent with his report and highly credible. He answered all questions posed to him and there was no indication that the statements he took from V.X., Officer Livoti and Officer Quinerly were inaccurate or biased in any way.

Detective Corrigan testified that in his interviews with both Officers he reviewed the video of the incident. T 14:14-15:5. He indicated that when V.X. was brought to the medical unit, he did not want to change into the safety smock, stated that he was not suicidal and that he did not know why he had to wear it. T 16:17-21. The officers tried to de-escalate the situation by talking to V.X. but eventually Officer Livoti administered OC spray at the inmate, and he was guided down to the floor where he was handcuffed and taken out the unit. After he concluded his investigation, Detective Corrigan found that Officers Livoti and Quinerly had violated the Bergen County Sheriff's Department's Use of Force Policy ("UF Policy") CD-SOP11-4.33. The UF Policy indicates that force shall only be used as a last resort when necessary to accomplish lawful objectives that cannot reasonably be achieved through verbal commands, critical decision making and tactical

deployment or de-escalation techniques. Force shall never be used as a retaliatory or punitive measure. R-3, p.17.

While I am satisfied that the use of force against V.X. was intended to accomplish the lawful purpose of placing him into a safety smock, I **FIND** that the Use of force here was not exercised as a last resort and that their lawful purpose could very well have been accomplished through critical decision making or tactical deployment of additional staff.

Detective Corrigan goes on to note that the UF Policy also provides that consideration should be given when feasible as to whether the inmate is experiencing a behavioral or mental health crisis. When such a condition exists and interferes with an inmate's failure to comply with an officer's command, the officer "shall", when feasible, consider whether specific techniques or resources would help to resolve the situation without the need to utilize force. T18:3-23. According to the Bergen County Sherriff's Office Standard Operating Procedure (CD-SOP-11-4.33)³ Techniques for responding to an inmate experiencing a behavioral or mental health crisis include:

1. Obtaining information about the person from available sources, including family members, caregivers, or others who know the individual;
2. Decreasing exposure to potential threat by moving to a safer location. This may involve creating distance, seeking cover, tactically repositioning, concealment and/or placing barriers between the uncooperative person and the officer; slowing down the pace of the incident by the officer slowing his speech, talking deep breaths and or applying critical thinking;
3. Keeping the non-compliant person confined to a limited area and calling for a supervisor back-up officers and specially trained resources to assist in resolving the incident. These specially-trained resources may include Crisis Intervention Team-trained officers, behavioral or mental health care providers, negotiators...;

³ A copy of CD-SOP -11-4.33 was submitted into evidence as Joint Exhibit 3 (J-3). J-3 was the document Detective Corrigan was referring to during this portion of his testimony.

4. Using time as a de-escalation strategy, thereby creating an opportunity to calm the non-compliant person;
5. Using simplified speech and shorter verbal instructions;
6. Eliminating or reducing sensory distractions (bright flashing lights, sirens, or other loud noise);
7. Any reasonable strategy that lessens the emotional anger, frustration, combativeness of the subject or others who may be present may be appropriate.

Detective Corrigan testified that he believed the Officers violated the policy as stated above. The video revealed that the officers were near the door of the cell and if they thought the inmate was aggressive or that he was coming at them, as they alleged, all they had to do was step outside and shut the door⁴. They also failed to call for help from a supervisor, medical staff or someone with their qualifications to assist during the incident. T 20:20-21:13. He further noted that when Officer Livoti utilized his OC Spray, V.X. had stepped back from the officers and was standing against the wall in a non-threatening manner and was not even close to the Officers. T 21:15-18.

Dr. Richard Celeste, the respondent's Use of Force expert, also found that the crucial time to evaluate V.X.'s behavior was at the time the OC spray was administered. T 75:1-4. At the time OC spray was administered against V.X., he categorized V.X.'s behavior as either a "cooperative person" or "passive resister". T 76:24-77:3. Dr. Celeste cited the Bergen County Sheriff's Office (Correction Officer Specific) Use of Force Policy ("UF Policy ") dated 2/1/2011 and revised on 9/23/21 when he described the specific types of individuals that OC spray could be deployed against. In accordance with the UF Policy, "OC Spray may be used against specific individuals who are "active resisters", "threatening assailants" or "active assailants." Dr. Celeste disagreed with respondents Expert, Glen Garrels, who found that V.X. was an active resister and that the use of the OC Spray was appropriate. In reaching his conclusion, Dr. Celeste emphasized that in the case of a single inmate or detainee (which is the case here) an active resistor is an inmate or detainee who fails to comply with an order relating to handcuffing inside of a

⁴ Detective Corrigan also noted that the inmate was there for suicide prevention, he wasn't there because he was combative.

cell or secured tier. That was not the case with V.X. His refusal did not relate to and order to be handcuffed, it related to a refusal to be strip searched and a refusal to put on a suicide robe. See t 75:18-76:14.

Dr. Celeste viewed V.X. as a "passive resistor" which is defined as a person who is non-compliant in that they fail to comply in a non-movement way with verbal or other direction from an officer. He testified it appeared V.X. was being a passive resistor when he refused to put the safety smock on.

LEGAL ANALYSIS

In an appeal from disciplinary action taken against a law enforcement officer in a civil service matter, the appointing authority bears the burden of proving the charges upon which it relies by a preponderance of the competent, reliable and credible evidence. N.J.S.A. 11A :2-21; N.J.A.C. 4A:2-1.4(a). For the following reasons, I **CONCLUDE** that the Bergen County Sheriff's Department has sustained its burden with respect to charges against Officers Livoti and Quinerly.

Although the Officers did not testify, on the day of the incident they each submitted Operations Reports ("O.R.") to explain what had occurred. R-5. These O.R.'s along with the video evidence, were utilized by BCSO's Use of Force expert, Dr. Richard Celeste and the Officers' Use of Force expert, Glen Garrels as basis for their opinions. After reviewing both O.R.'s and the videos, I **CONCLUDE** that the officers' description of the events that day is inconsistent with what appears on the videos and that the officer's description as to what occurred lacks credibility. I base this finding on the manner in which the Operations Reports were worded as well as their inconsistency with the video evidence of the incident. While the O.R.'s seemingly contain two independent reports that corroborate each other, the wording of both reports make it clear that Officers Livoti and Quinerly prepared the reports together and were not independently drafted. The O.R. reports are virtual mirror images of each other and, at times, use the exact same words, sentences and even paragraphs. This could not have occurred without the Officers

working together to prepare the O.R.'s. For instance, the second paragraph in both reports state:

While inside of the cell, Inmate [V.X.] refused multiple commands to remove his clothing and stated "I'm not changing up! I don't care how many of you they send in! I'm taking at least one of you out with me. Go suit up a team I'll take one of you out right now.

[R-5 pp.1 and 3]

The third fourth and fifth paragraphs in both reports were virtually identical and changed only with respect to how the officers were identified. The highlighted portions set forth below identify the words that were changed between the two reports. The third, fourth and fifth paragraphs of Officer Livoti's Operations Report stated:

While stating this, he approached the **Central One District Supervision Officer Mark Quinerly #1575** while taking an aggressive stance and flailing his hands. Officer **Quinerly** and I then gave multiple verbal commands to stop moving toward us, but inmate [V.X.] continued to flail his arms and make verbal threats specifically by yelling repeatedly "I'm taking at least one of you out!" Officer Quinley then gave [V.X.] a final verbal warning to remove his clothing and comply with our orders, to which he refused and again yelled "I'm taking one of you out!

I then notified Center Control via two-way radio of a "Disruptive Inmate" in the Central One Medical Unit and applied a one second burst of Oleoresin Spray ("OS") to the facial area of Inmate [V.X.]. **Officer Quinerly** and I brought Inmate [V.X.] to the ground in an attempt to secure him in handcuff restraints. Inmate [V.X.] continued to resist our control specifically concealing his arms and hands beneath his body while ignoring our orders to comply.

In an attempt to gain control of his arms, I delivered multiple strikes to Inmate [V.X.'s] midsection, finally allowing me to gain control of his left arm. With the assistance of Officer Quinerly, were (sic) able to gain control of his right arm

after a brief struggle, at which time I placed him in handcuff restraints.

[R-5, p.1]

The third, fourth and fifth paragraphs in Officer Quinerly's Operations Report stated:

While stating this, he approached me while taking an aggressive stance and flailing his hands. Officer Livoti and I then gave multiple verbal commands to stop moving toward us, but inmate [V.X.] continued to flail his arms and make verbal threats specifically by yelling repeatedly "I'm taking at least one of you out!" I then gave [V.X.] a final verbal warning to remove his clothing and comply with our orders, to which he refused and again yelled "I'm taking one of you out!"

Officer Livoti notified Center Control via two-way radio of a "Disruptive Inmate" in the Central One Medical Unit and applied a one second burst of Oleoresin Spray ("OS") to the facial area of Inmate [V.X.]. Officer Livoti and I brought Inmate [V.X.] to the ground in an attempt to secure him in handcuff restraints. Inmate [V.X.] continued to resist our control specifically concealing his arms and hands beneath his body while ignoring our orders to comply.

In an attempt to gain control of his arms, I delivered multiple strikes to Inmate [V.X.'s] midsection, finally allowing me to gain control of his left arm. With the assistance of Officer Quinerly, were (sic) able to gain control of his right arm after a brief struggle, at which time I placed him in handcuff restraints.

[R-5, p. 3]

Based on the fact that Livoti and Quinerly's O.R.'s were not written independently, I **FIND** that one does not corroborate the other. Because I cannot determine whose recollection is documented in the O.R.'s, I give no weight to either in my ultimate decision.

I also **FIND** the O.R.'s, as well as the statements made to Detective Corrigan during the Officer's interviews, to be unreliable because they appear to be inconsistent with the video evidence which I **FIND** to be more reliable.

At the beginning of Video 1, V.X. is communicating with Officer Livoti. During this time both Livoti and V.X. are standing 3-4 feet from each other and appear to be using their hands in a non-threatening manner while they are conversing. See Video 1 at 00:30. When Officer Quinerly enters the cell (Video 1 at 1:25) he appears to join in Officer Livoti's conversation with V.X. and he too uses his hands for what appears to be emphasis while communicating. At 4:00 in Video 1, V.X. moves towards the rear of the cell and further away both Officers and V.X. and the Officers continue to communicate using their hands for emphasis while speaking. At approximately 4:33 in Video, when V.X. was in a non-aggressive posture with his hands folded in front of him, it appears that Officer Livoti removed the O.C. container from his belt and placed it in his right hand. One minute later, V.X. took two steps in Officer Quinerly's direction while gesturing with his hands but immediately moved back to where he was originally standing. See Video 1 at 5:28. At no time during what both Officers described as aggressive action by V.X., did Officer Quinerly move back or away from V.X. when he stepped forward. Moreover, when V.X. took those two steps in officer Quinerly's direction, Officer Livoti took no action to defend Officer Quinerly or protect himself from this alleged aggressor even though he was standing right there with a OC canister in his hand. Based upon the events as depicted in Video 1, I **FIND** that V.X.'s actions on the day in questions were not aggressive and were not a threat to the safety of Officers Livoti and Quinerly. I also **FIND** from my review of the video that Officer Livoti administered the OC spray to V.X. at the direction of or with the consent of Officer Quinerly. The video clearly reveals that Officer Quinerly turned to Officer Livoti and made a hand gesture to him just prior to Officer Livoti administering the spray.

Officers Livoti and Quinerly also repeatedly state in their O.R. Reports that V.X. repeatedly yelled "I'm taking one of you out". While the actual communication between the parties was not discernable from Videos because there was no sound recording associated with them, it does not appear to me from the video evidence that V.X. was yelling at either officer or at anyone else.

Both Officers Livoti and Quinerly also claim in their O.R. reports that V.X. approached Officer Quinerly while taking an aggressive stance and “flailing his hands⁵.” In response, they claim they gave V.X. “multiple verbal commands to stop moving towards us, but Inmate [V.X.] continued to flail his arms and make verbal threats ...”. I **FIND** these statements less than credible because they are not supported by the video evidence. In Video 1, V.X. is seen taking two steps forward in the direction of Officer Quinerly (not Officer Livoti), on only one occasion. Video 1, at 5:38. Also, the entire event of V.X. stepping forward and then immediately back took less than 6 seconds and was hardly enough time for both officers to repeatedly tell him to “stop moving towards us”.

I also **FIND** the statement contained in the Officer’s O.R.’s that V.X. was flailing his arms as he allegedly moved toward both officers to be unsupported by the video evidence. See Video 1 at 5:38-5:43. As he was stepping forward, V.X. made two separate and coordinated motions with his hands which appear to be an attempt to emphasize what he was saying and not assaultive behaviors toward either of the officers. The verb “flail” is defined as (especially of arms and legs) to move energetically in an uncontrolled manner⁶. It is also described as the act of moving one’s limbs or body about randomly and wildly⁷. After viewing the video evidence, it does not appear that anyone, including V.X. was moving their hands in an uncontrolled, random or in a wild manner prior to the OC spray being utilized against V.X.

It is uncontested that V.X. was experiencing a behavioral or mental crisis on December 6, 2021. I agree with Detective Corrigan’s finding that when such a condition exists and interferes with an inmate’s failure to comply with an officer’s command, the UF Policy requires an officer, when feasible, to consider whether specific techniques or resources would help to resolve the situation without the need to utilize force. T18:3-23. Given that V.X. had just been brought into a secure cell in the medial department of the jail that was enclosed by glass walls permitting the officers to observe him from outside

⁵ The reference to V.X. flailing his hands appears to be an attempt to classify V.X. as an “active resistor” which is behavioral classification under the UF policy that would justify the use of OC spray and physical strikes. However, the definition of this behavioral classification requires the flailing of arms to be associated with an active attempt to avoid physical control, which is not present here. See R-8 at p.11.

⁶ Cambridge on-line Dictionary

⁷ Dictionary.com

of the room, I **FIND** that it was feasible to consider the various response techniques set forth in the U.F. Policy. As noted by detective Corrigan, had the Officers truly believed that V.X. was aggressive or about to assault them they should have stepped out of the cell and closed the door. They also could have sought help from a supervisor, medical staff or others qualified to assist. They could have called for back-up but chose not to do so even though the video evidence reveals that at least 10 additional officers responded to the scene in less than two minutes after the OC spray was administered. While I do **FIND** that both officers attempted to de-escalate the situation during the 6-minutes they spent speaking to V.X., I **FIND** that their limited attempt did not satisfy their obligation to consider the various response techniques available to them.

In evaluating the Officers' use of force in this case, I believe it is important to consider the specific circumstances presented. Medical personnel at BCJ believed that V.X. was suffering a mental health crisis and that he was at risk of committing suicide. The Officers were charged with placing V.X. into a safety smock so he could not harm himself. After trying for only 6 minutes, the Officers chose to spray an inflammatory agent into V.X.'s eyes that causes pain and temporary blindness, tackle him to the ground, repeatedly strike him⁸ with such force that his lung was punctured, cause him to undergo surgery and to be hospitalized for 3 days.

Given these circumstances, it would be difficult for any reasonable person to find that the level of force used here was appropriate. For all of the reasons set forth above, I agree with Detective Corrigan's conclusions and **FIND** that Officers Livoti and Quinerly violated the BCJ's UF Policy.

Because the facts and policy issues in the UF Policy violations are the same as the facts and issues in the remaining charges involving violations of the Bergen County Sherriff's Office Employee Rules and Regulations (GO-00-1.2), I **FIND** that the Obedience to Laws and Rules and Regulations violations (3:1.1), the Neglect of Duty violations (3:1.9) the Performance of Duty violation s (3:1.10) and Unbecoming Conduct violations

⁸ While the summary of the video evidence presented above indicates that only Officer Quinerly struck V.X., Officer Livoti indicated to Detective Corrigan "he may have delivered 1-2 open palm strikes to [V.X.'s] shoulder to loosen his arm."

(3:1.29) as well as any New Jersey Administrative Code Violations are subsumed within the UF Policy violation addressed above. The testimonial and documentary evidence provided at the hearing in this matter also focused on the UF Policy violations and not the violations of the Rules and Regulations or any Administrative Code violations.

A penalty of 10-working day suspension without pay is appropriate.

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 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. 11 A: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, 38 N.J. at 522-24.

Here, a 10-working day suspension without pay was imposed upon both officers. There was no evidence presented at the hearing concerning prior disciplinary action against either officer, so I am assuming there was none. I **FIND** the circumstances here warrant the penalty imposed. V.X. was hospitalized and was required to undergo surgery to address the injuries he received on December 6, 2021. In addition to the punctured lung he received as a result of the Officer's actions, V.X.'s medical records revealed facial bruising with ecchymosis to the left eye and tenderness to palpitation to the left Zygomatic bone (left Jaw). See Corrigan Report at p.9. The UF Policy indicates that even in situations where officers are justified in using force, Officers "shall only use that degree of force that is reasonable, necessary and proportionate considering the totality of the circumstances, including the subject's mental condition, the nature of the offense, and most importantly the level of resistance or threat known to the officer at the time." See R-8, p.22. The totality of the circumstances here includes an inmate suffering from severe depression who was at risk of hurting himself. The task given to the officers was to place

the inmate into a safety smock so he wouldn't hurt himself. Spraying the inmate with OC spray at a point where he was not taking any aggressive action against the Officers, tackling him and punching him to the extent he needed to be hospitalized does not seem to be a reasonable way to ensure the inmate's safety.

CONCLUSION

I **CONCLUDE** that the Final Notices of Disciplinary Action ("FNDA") issued to Officers Livoti and Quinerly on April 26, 2022, were appropriate. I further **CONCLUDE** that the 10-working day suspension imposed upon both Officers was appropriate.

ORDER

For the reasons set forth above,

IT IS on this 8th day of July 2025 **ORDERED** that:

1. The April 26, 2022 FNDA's issued to Officers Livoti and Quinerly are **AFFIRMED**.
2. Officers Livoti and Quinerly be disciplined for engaging in conduct that violated the Bergen County Sherriff's Department's Use of Force Policy CD-SOP11-4.33.
3. The discipline of Officers Livoti and Quinerly shall consist of a 10-working day suspension, without pay.
4. Any suspension already served by Officer Livoti or Officer Quinerly pursuant to the April 26, FNDA shall be credited against the 10-day suspension herein imposed.

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, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



July 8, 2025

DATE

WILLIAM J. COURTNEY, ALJ

Date Received at Agency:

Date Mailed to Parties:

APPENDIX

List of Witnesses

For Appellants:

1. Glen Garrels, expert

For Respondents:

1. Detective Christopher Corrigan
2. Dr. Richard Celeste

List of Exhibits

Joint Exhibits:

- J-1 Bergen County Video of 10/6/22 incident involving V.X.
- J-2 Inmate V.X. Arrest Record
- J-3 Bergen County Sheriff's Department SOP Revised -23-21

Appellants' Exhibits

- P-1 Curriculum Vitae of Glen Garrels
- P-2 Expert Report of Glen Garrels dated January 5, 2023

Respondent's Exhibits:

- R-1 FNDA of Christopher Livoti
- R-2 FNDA of Mark Quinerly
- R-3 Internal Affairs Report 1/20/22
- R-4 October 7, 2021 email from Allegretta to Giustra & Ruiz dated 10/7/2021
- R-5 Bergen County Sheriff's Operations report dated 10/06/21
- R-6 Use of Force Report 21-10-141

OAL DKT. NO.: CSV 03864-22 & CSV 03865-22

R-7 Use of Force Report 21-10-142

R-8 Celeste Expert Report

R-9 C.V. of Richard Celeste