

**BOARD OF CITY SERVICE COMMISSIONERS
CITY OF MILWAUKEE**

IN THE MATTER OF
ANTIONE YOUNG
V.
CITY OF MILWAUKEE

FINDINGS AND DECISION

This is the written determination of the Board of City Service Commissioners on the administrative appeal hearing in this case. A timely appeal was received from Antione Young (hereinafter the "Appellant") challenging his separation from the position of Business Systems Coordinator, Milwaukee City Attorney's Office (hereinafter the "Department") on December 11, 2024.

A multi-day administrative appeal hearing was held in hybrid format (both in-person and by video conference) pursuant to Sec. 63.43, Wis. Stats. and City Service Commission Rule XI on Monday, April 7, 2025 at 9:00 a.m.; Tuesday, April 8, 2025 at 1:30 p.m.; Monday, April 21, 2025 at 9:00 a.m.; and Tuesday, May 20, 2025 at 1:00 p.m. The witnesses were sworn and all testimony was taken by a Court Reporter.

Appearances:

City Service Commission:	Francis Bock, President Marilyn Miller, Vice President Janet Cleary, Commissioner Steve Smith, Commissioner Kristin Urban, Executive Secretary Elizabeth Moore, Administrative Support Specialist
Commission Represented By:	Patrick McClain, Assistant City Attorney
Appellant Represented By:	Ben Hitchcock Cross, Counsel for Appellant
Department Represented By:	Katherine Headley, Assistant City Attorney
Witnesses:	Craig Sarnow, Assistant Chief of Police, MPD Mary Schanning, Deputy City Attorney, CAO Evan Goyke, City Attorney, CAO Harper Donahue Director, DER

Sharon Crowe, Personnel Manager, CAO (Former)
Tawauna Swanigan, Business Finance Manager, CAO
Robin Pederson, Deputy City Attorney, CAO
Charles Hughes, Manager, Municipal Court
Naomi Sanders, Deputy City Attorney, CAO
Appellant

ISSUE

The issue is whether the action taken by the Department was reasonable in accordance with City Service Commission Rule XI, Section 6.

Based upon the evidence in the record, the Commission finds as follows:

FINDINGS OF FACT

A. Introduction

1. Appellant was first employed by the City of Milwaukee as an IT Support Associate with the Department of Administration, Information and Technology Management Division, on June 28, 2021.
2. Appellant transferred to the City Attorney's Office as an IT-Support Specialist - Senior on February 6, 2022.
3. Appellant's position was later reclassified to Business Systems Coordinator.
4. Appellant was separated from city service on December 11, 2024 based on his inability to obtain clearance to access Criminal Justice Information ("CJI"), which prevented Appellant from performing an essential function of his position.
5. Appellant filed a timely appeal of his separation.
6. A multi-day administrative appeal hearing was held on April 7, April 8, April 21, and May 20, 2025, during which evidence and testimony was received by the Commission.
7. The credible evidence in the record supports the following findings.

B. CJIS Security Policy

8. CJI is the term used by the Federal Bureau of Investigation (“FBI”) to describe all of the data used by law enforcement agencies to perform their mission and enforce the laws, “including but not limited to: biometric, identity history, person, organization, property (when accompanied by any personally identifiable information), and case/incident history data.” (Exh. D-12 at A-5).
9. Local law enforcement agencies such as the Milwaukee Police Department (“MPD”) are permitted to access various national CJI databases and systems through an agreement with the FBI’s Criminal Justice Information Services (“CJIS”) Division.
10. Local law enforcement agencies who wish to access the CJIS network must sign a terms-of-service agreement and agree to comply with CJIS policies, including the CJIS security policy.
11. The CJIS security policy was entered into the record as Exhibit D-12 and is publicly available on the FBI’s website.
12. CJI can exist as either “physical media” or “digital media.” (Exh. D-12 at A-6; A-13).
13. Section 5.9 of the CJIS security policy requires agencies to physically secure and control access to areas that contain CJI; these areas are known as “physically secure locations.” (*Id.* at 135).
14. Agencies must also control physical access to any information system transmission lines, as well as any information system devices that display CJI which are located within the physically secure location.
15. Section 5.12.1 of the CJIS security policy requires agencies to screen every person who will have “unescorted access” to a physically secure location or unencrypted CJI. (*Id.* at 146).
16. The screening process must include a national fingerprint-based background check.

17. No person may access a physically secure location or unencrypted CJI until the agency has completed the screening process and determined that access is appropriate.
18. The formal authorization for an individual to have unescorted access to a physically secure location or unencrypted CJI is known as “CJIS clearance.”
19. Each agency must determine what constitutes “unescorted access” based on the agency’s unique circumstances, giving particular consideration to whether individuals will have “logical or physical access to any information system resulting in the ability, right, or privilege to view, modify, or make use of unencrypted CJI.” (*Id.*).
20. “Physical access” includes “physical presence within the proximity of computers and network devices (e.g., the ability to insert a boot disk or other device into the system, make a physical connection with electronic equipment, etc.).” (*Id.* at A-13).
21. Agencies may not approve CJIS clearance for individuals with felony convictions but may ask that such denials be reviewed by the CJIS Systems Officer (“CSO”), which is the individual responsible for administering the CJIS network in each state, territory, or federal agency. (*Id.* at 146-47; A-3).
22. Agencies may approve CJIS clearance for individuals with misdemeanor convictions, but only if the “the nature or severity of the misdemeanor offense(s) do not warrant disqualification.” (*Id.* at 147).
23. CJIS clearance may be denied to any person if “access to CJI by the person would not be in the public interest...” (*Id.*).
24. The CJIS Division conducts triennial audits of local law enforcement agencies to ensure compliance with CJIS policies.
25. If an agency is found to be out of compliance with CJIS policies during an audit, the agency may lose access to the CJIS network.

C. The Milwaukee Police Department

26. MPD is an authorized user of the CJIS network and is required to comply with CJIS policies.
27. Pursuant to the CJIS security policy, MPD is responsible for screening any person who will have unescorted access to physically secure locations or unencrypted CJI within MPD's control.
28. Non-MPD employees may request CJIS clearance by completing form PL-8E ("Sponsorship Request for Non-Department Personnel"). (Exh. D-1).
29. PL-8E forms are processed by the MPD Administration Bureau.
30. The PL-8E form permits individuals to apply for three different levels of CJI access: (1) MPD Network Access Tier I; (2) MPD Network Access Tier II; and (3) MPD Physical Access Tier III. (Exh. D-1).
31. Consistent with the CJIS security policy, any person who submits a PL-8E form must undergo a national fingerprint-based records check. (Exh. D-1 at 2).
32. No person may access a physically secure location or unencrypted CJI within MPD's control until the MPD Administration Bureau completes the required screening and determines that access is appropriate.

D. The City Attorney's Office Ordinance Enforcement Division

33. The City Attorney's Office provides legal services to the City of Milwaukee and its agencies.
34. Because the City Attorney's Office maintains computers and databases containing confidential information (such as attorney-client privileged information), it is one of the few city departments that is permitted to maintain its own Information Technology ("IT") position.
35. The City Attorney's Office staff is divided between two office locations.

36. The main office of the City Attorney is located in the Zeidler municipal building, and houses the majority of the Department's attorneys and support staff.
37. A satellite office in the Police Administration Building houses the Department's Ordinance Enforcement Division ("OED").
38. OED is responsible for prosecuting city ordinance violations in the City of Milwaukee Municipal Court, which is also located in the Police Administration Building.
39. Because OED's responsibilities are prosecutorial in nature, OED staff requires access to CJI in order to carry out their duties.
40. OED partners with MPD to access CJI through the CJIS network.
41. Consistent with the CJIS security policy, OED staff must complete the required screening process and secure MPD's approval before they can access CJI.
42. The City Attorney's Office does not have the authority to independently grant CJIS clearance; only MPD can grant CJIS clearance.
43. Because OED's computers have access to CJI, the OED office is a physically secure location under the CJIS security policy and clearance is required to have unescorted physical access to the office.
44. While individuals without CJIS clearance may have escorted physical access to the OED office, MPD does not permit individuals without CJIS clearance to access computers containing CJI—even if that person has an escort.

E. Appellant's CJIS Application

45. Appellant transferred to the City Attorney's Office as an IT-Support Specialist - Senior on February 6, 2022.
46. The IT-Support Specialist - Senior position was the only IT position in the City Attorney's Office.

47. The job description for the IT-Support Specialist - Senior position required Appellant to provide IT support “in the Office of the City Attorney in the main office location and at the City Attorney’s Ordinance Enforcement Division in the Police Administration Building.” (Exh. A-27 at 1).
48. One of the position’s essential functions was to “[a]ssist[] the Ordinance Enforcement Division staff in the use of specialized software and resources.” (*Id.* at 2).
49. Appellant’s position was later reclassified to Business Systems Coordinator; however, the requirement to “[a]ssist[] the Ordinance Enforcement Division staff in the use of specialized software and resources” continued to be an essential function of position. (Exh. A-18 at 2).
50. The Business Systems Coordinator position remained the only IT position in the City Attorney’s Office.
51. On April 28, 2022, Appellant applied for CJIS clearance using form PL-8E. (Exh. D-1).
52. Consistent with the CJIS security policy, MPD conducted a background check on Appellant.
53. Appellant’s background check revealed numerous misdemeanor convictions between 1998 and 2015, including theft, retail theft, possession of cocaine and THC, fraudulent use of a financial transaction card, and disorderly conduct. (Exh. A-3 at 3-16).
54. Appellant was also arrested and charged with misdemeanor retail theft in 2019, but the charge was ultimately dismissed pursuant to a deferred prosecution agreement.
55. Appellant’s criminal history report further revealed several felony arrests and charges, but none of these resulted in a felony conviction.
56. Notably, in 2012, Appellant was charged with one felony count of misappropriation of personal identification to obtain value or benefit.
57. This charge was ultimately dismissed, but was read in during Appellant’s sentencing for a misdemeanor conviction of fraudulent use of a financial transaction card in November, 2013.

58. After reviewing Appellant's background check, MPD concluded that the volume and nature of Appellant's criminal offenses disqualified him for CJIS clearance.
59. On May 6, 2022, MPD formally denied Appellant's request for CJIS clearance. (Exh. D-1 at 1).
60. As a result of this denial, Appellant was prohibited from accessing the OED office without an escort, and was completely prohibited from accessing OED computers.
61. However, due to an apparent misunderstanding of the CJIS security policy, the City Attorney's Office allowed Appellant to have escorted access not just to the physical space of the OED office, but to OED computers as well.

F. 2024 CJIS Division Audit

62. In April, 2024, Evan Goyke was elected to the office of Milwaukee City Attorney.
63. In April or May, 2024, City Attorney Goyke became aware of Appellant's limited access to the OED office, but was not aware that Appellant's access to OED computers was prohibited by the CJIS security policy.
64. Sometime in October or November, 2024, the FBI CJIS Division commenced its triennial compliance audit of MPD.
65. This was the first CJIS audit to occur after Appellant's transfer to the City Attorney's Office.
66. As part of the audit, OED was required to complete a "Technical Security Questionnaire" by November 23, 2024. (Exh. D-2).
67. The questionnaire presented a series of "yes" or "no" questions regarding OED's compliance with CJIS policies, including whether OED complies with section 5.12.1 of the CJIS security policy and whether OED restricts access to digital and physical CJI to authorized individuals. (Exh. D-2 at 1-3; 7).
68. The questionnaire was originally reviewed by OED Legal Administrative Specialist Senior Mary Lyles.

69. After reviewing the document, Ms. Lyles became concerned that Appellant's access to OED computers might violate the CJIS security policy and could prevent OED from certifying compliance during the audit.
70. Ms. Lyles therefore forwarded the questionnaire and her concerns to Deputy City Attorney ("DCA") Mary Schanning.
71. DCA Schanning conducted an investigation into the issue during which she reviewed the CJIS security policy, Appellant's CJIS application, and Appellant's criminal history report.
72. DCA Schanning also contacted the Department of Employee Relations and MPD to gather additional information.
73. MPD's Chief of Staff referred DCA Schanning to the Assistant Chief of the MPD Administration Bureau, Craig Sarnow.
74. As the head of the MPD Administration Bureau, Assistant Chief Sarnow is authorized to approve or deny requests for CJIS clearance.
75. Prior to DCA Schanning contacting him, Assistant Chief Sarnow was not aware that Appellant had access to the OED office or computers.
76. Assistant Chief Sarnow confirmed to DCA Schanning that MPD's denial of Appellant's 2022 request for CJIS clearance was appropriate given Appellant's criminal history.
77. Assistant Chief Sarnow further confirmed that Appellant should not have access to OED computers.
78. DCA Schanning asked if Appellant could simply submit a new request for CJIS clearance, but Assistant Chief Sarnow stated that MPD would re-deny any new request because the basis for the initial denial (Appellant's criminal history) had not changed.
79. Assistant Chief Sarnow stated that, given the length and nature of Appellant's criminal history, granting CJIS clearance to Appellant would not be appropriate.
80. Assistant Chief Sarnow stated that OED (and possibly even MPD) could lose access to the CJIS network if Appellant was allowed to continue accessing OED computers.

81. DCA Schanning reported the findings of her investigation to City Attorney Goyke.
82. City Attorney Goyke and DCA Schanning concluded that it was not possible for Appellant to obtain CJIS clearance and, as a result, Appellant was unable to provide IT services at OED.
83. Because Appellant occupied the only IT position within the City Attorney's Office, the Department became unable to provide any IT services to OED.
84. City Attorney Goyke and DCA Schanning also concluded that OED could not certify compliance with the CJIS security policy during the 2024 audit if Appellant continued to serve as the Department's IT representative.
85. City Attorney Goyke attempted to identify a solution that would permit Appellant to remain in his position while still allowing the Department to both certify compliance with the CJIS security policy and provide IT services to OED.
86. Specifically, City Attorney Goyke considered sourcing IT support for OED from another Department or alternatively creating a second IT position within the City Attorney's Office for OED
87. City Attorney Goyke determined that neither of these options were viable; existing capacity constraints prevented other Departments from lending IT support to the City Attorney's Office, and the City Attorney's Office did not have the budget to create a second IT position.

G. Appellant's Separation

88. On November 20, 2024, City Attorney Goyke and DCA Schanning met with Appellant to discuss Appellant's inability to secure CJIS clearance and corresponding inability to provide IT support to OED—an essential function of his position.
89. After that meeting, Appellant was placed on administrative leave pending a final decision regarding Appellant's qualifications for his position.

90. A pre-separation meeting was held on December 2, 2024.
91. At the meeting, Appellant was provided information regarding the Department's investigation into Appellant's inability to obtain CJIS clearance, and was given the opportunity to ask questions and provide additional information.
92. Appellant asked if he could submit a new request for CJIS clearance, but was informed of MPD's decision to deny any new request due to Appellant's criminal history.
93. Appellant further asked if he could seek expungement of his criminal record and then reapply for CJIS clearance, but was informed that his criminal records were not eligible for expungement under Wisconsin law based on his age at the time of the offenses.
94. Finally, Appellant argued that his lack of CJIS clearance should not justify separation because he had been performing his job duties for over two years without the clearance, but was informed that his previous access to OED computers was based on a misunderstanding of the CJIS security policy and could not continue.
95. After considering all possible options, City Attorney Goyke concluded that separation was appropriate based on Appellant's inability to perform an essential function of his position.
96. City Attorney Goyke explained the separation decision in a letter dated December 5, 2024.
97. In the letter, City Attorney Goyke explained that Appellant's inability to obtain CJIS clearance due to his criminal background prevented Appellant from performing an essential function of his position—specifically, the requirement to assist “the Ordinance Enforcement Division staff in the use of specialized software and resources.” (Exh. D-6 at 1).

CONCLUSIONS OF LAW

1. Appellant was an employee holding a classified position in the City Attorney's Office, the appointing authority within the meaning of Sec. 63.43, Wis. Stats., and City Service Commission Rules I and XI.

2. The Department demonstrated by a preponderance of the evidence that Appellant is unable to obtain CJIS clearance due to his criminal background.
3. The Department further demonstrated that Appellant's inability to obtain CJIS clearance prevents Appellant from performing an essential function of his position; specifically, the requirement to assist OED staff in the use of specialized software and resources.
4. Based on the credible evidence in the record, the Department demonstrated by a preponderance of the evidence that the action of the Department was reasonable.

ORDER

By unanimous vote of the Board, the separation of the Appellant on December 11, 2024 is affirmed.

Dated and signed at Milwaukee, Wisconsin, this [DATE] 2025.

FRANCIS BOCK, PRESIDENT