



STATE OF NEW JERSEY

In the Matter of Jeremy Baltimore,
et al., Correctional Police Sergeant
(PS6184I), Department of Corrections

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

CSC Docket Nos. 2019-901, *et al.*

Examination Appeal

ISSUED: November 21, 2018 (JH)

Jeremy Baltimore, Vincent Canonica, Kevin DiLello, Mark Ferrera, Mark Littles, Janina Love, Joseph Sorantino and Patrick Wood appeal the written examination for Correctional Police Sergeant (PS9466I), Department of Corrections.¹ These appeals have been consolidated due to common issues presented by the appellants.

The subject examination was administered on July 28, 2018 and consisted of 75 multiple choice questions. Candidates were tested in one of two sessions, the morning session or the afternoon session. It is noted that candidates who were tested in the morning session received test booklet A and those who were tested in the afternoon session received test booklet B. Both booklets contained the same questions, but each booklet presented the questions in a different order.

Canonica and Wood argue that they were only provided with 30 minutes for review and they were not permitted to review their test booklets, answer sheets and the correct answer key. In addition, they contend that their ability to take notes on exam items was curtailed. As such, appellants request that any appealed item in which they selected the correct response be disregarded and that if they misidentified an item number in their appeals, their arguments be addressed.

¹ On May 1, 2018, Public Law 2017, Chapter 293 took effect, renaming Correction Sergeant to Correctional Police Sergeant. *See also N.J.S.A. 11A:2-11.1.*

Regarding review, it is noted that the time allotted for candidates to review is a percentage of the time allotted to take the examination. 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. Appeals of questions for which the appellant selected the correct answer are not improvident if the question or keyed answer is flawed.

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.

In addressing challenges to the scoring key, only arguments and contentions as they relate to disputed issues will be reviewed herein. An independent review of the issues presented under appeal has resulted in the following findings:

Question 15 in booklet A (question 18 in booklet B) indicates that Officer Lyman was supervising inmates in the dayroom area of a medium-security unit when Inmate Ferrero started acting irate for unknown reasons. Inmate Ferrero pushed papers off Officer Lyman's desk and Officer Lyman ordered Inmate Ferrero to stop and face the wall. Inmate Ferrero then proceeded to take a garbage can and throw it at the officer's desk. The question asks what Officer Lyman should do next. The keyed response is option c, "Call a code to get assistance in controlling Inmate Ferrero." DiLello asserts that option b, "Repeat the order to stop and face the wall," is the best response. Specifically, he maintains that "if the officer is at the desk a code 33 should be called but if the officer is not near the desk then there was no intent of harm to any person and the order should be repeated." The Subject Matter Experts (SMEs) determined that the inmate is being aggressive and attempted to assault the officer by throwing the garbage can. As such, the SMEs determined that at this point, a code should be called to get control of the inmate. The SMEs further determined that option b is incorrect since the inmate may become further irate and the situation needs to be under control immediately. Thus, the question is correct as keyed.

Question 18 in booklet A (question 15 in booklet B) indicates that while conducting a strip search of an inmate, Officer Daye searched the inmate's boots, did not find anything, and handed the boots back to the inmate. After the inmate was handed his boots, Officer Daye noticed the inmate fidget with the boots and slide them under the bed, which made Officer Daye suspicious. The question asks for the best way for Officer Daye to handle this situation. The keyed response is

option c, “Ask the inmate to hand the boots back and search them again.” Canonica contends that option d, “Continue the strip search and document the inmate’s suspicious behavior afterwards,” is the best response. In this regard, he refers to *N.J.A.C. 10A:3-5.7(a)*² and argues that “the boots have already been thoroughly searched by Officer Daye with negative results of contraband . . . Revisiting an article of clothing that the officer has already thoroughly searched and has determined to be free of contraband, is not systematic. The strip search should be completed from begin[n]ing to end to ensure the inmate, and all of his personal possessions are free of contraband. Furthermore, any article of clothing that is thoroughly searched should not be handed back to the inmate until the strip search is complete.” The focus of the question is not whether it was appropriate to hand the boots back to the inmate prior to the completion of the strip search. Rather, candidates are required to determine what Officer Daye should do at this point given the scenario presented. The question clearly indicates that the inmate’s behavior has caused Officer Daye to become suspicious. The SMEs determined that under these circumstances, there is sufficient reason to believe that the boots may contain contraband and thus, the boots should be searched again. As such, the question is correct as keyed.

Question 20 in booklet A (question 17 in booklet B) indicates that Officer Carson is returning from his break back to his unit when he sees an inmate laying on the ground unresponsive. The question asks what Officer Carson should do first. The keyed response is option a, “Call a medical code.” DiLello contends that b, “Administer Narcan,” is equally correct. He maintains that each option “depends on w[he]ther or not you have direct or indirect access to the inmate. Locking gates and such between the officer an inmate would mean Code and then Narcan. Direct access means Narcan then call the Code.” The SMEs indicate that since you do not know what is wrong with the inmate, Officer Carson should call a medical code before doing anything else. As such, the question is correct as keyed.

Question 23 in booklet A (question 24 in booklet B) presents candidates with four statements and asks for the ones that are common effects that result from the use of Oleoresin Capsicum (O.C.) spray. The keyed response is option d, I, Hyperventilation, II, Nasal discharge, III, Shortness of breath, and IV, Involuntary eye closure. Baltimore and Ferrera argue that statement I is incorrect. Specifically, Baltimore argues that “the NJDOC does not train their custody staff that hyperventilation is an effect of OC spray.” In this regard, Baltimore refers to the Basic Course for State Corrections Officers, Instructional Unit 9.5, Chemical

² *N.J.A.C. 10A:3-5.7(a)* provides that a strip search shall be conducted while the inmate is unclothed. A strip search includes a thorough and systematic examination of the inmate's body and orifices, including visual inspection of external genital and anal areas, as well as the inmate's clothing and all personal possessions.

Agent Devices (Effective October 2012) which provides, under Performance Objective 9.5.1:

B. OC (also referred to as Oleoresin Capsicum) . . .

b. Effects of Contact with OC:

- Considered an inflammatory agent.
- Upon contact the mucous membranes of the eyes, nose and throat become inflamed and swell.
- The symptomatic swelling produces involuntary eye closure, nasal and sinus drainage and coughing

Ferrera indicates that he contacted “the manufacture[r] of the New Jersey Dept of [C]orrection O.C. spray[,] Sab[re],” regarding the common effects. In this regard, Ferrera provides a copy of an email from the Law Enforcement Sales Manager, Sabre Security Equipment Corporation,³ in which the Law Enforcement Sales Manager indicated that “hyperventilating itself is not a common effect of OC nor are we aware of any studies that show OC causes hyperventilating at all. Fear, panic & anxiety are common psychological symptoms of an OC exposure though.” Given the foregoing, the Division of Test Development and Analytics determined to double key this item to option c, II, III, and IV only, and option d.

For question 25 in booklet A (question 25 in booklet B), since DiLello selected the correct response, his appeal of this item is moot.

Questions 26 through 29 in booklet A (questions 1 through 4 in booklet B) refer to the Prison Rape Elimination Act (PREA). Candidates were instructed that “your answers should be based on the U.S. Federal PREA regulations, not on any PREA regulations that may have been developed by your individual facility.” Love and Wood present that “these questions were faulty because the because the New Jersey Department of Corrections provided a handbook which included PREA information according to the state policy not the federal policy, which the questions in the Department of Corrections has stated guidelines which are followed according to each state under federal law [*sic*]. Each state facility also has a specific policy regarding PREA; therefore, the source was not specified to the state training or the State Guidelines.” Love and Wood provide copies of the New Jersey Department of Corrections PREA Overview/Sexual Abuse Victim Response which states, “This guide is for the New Jersey Department of Corrections (NJDOC) custody and civilian staff. Use it to find information quickly to help support a victim of sexual misconduct. Because this guide is a quick reference, it highlights only the most important information on advocacy techniques and legal/medical

³ It is noted that this item is sourced to <https://www.sabrered.com/most-common-effects-pepper-spray> which lists hyperventilation under the heading, “Most Common Effects of Pepper Spray.”

procedures.” In this regard, the guide further notes, “The complete PREA standards are published in the Federal Register, Vol. 77, No. 199 (June 20, 2012), starting at page 37198. Go to: www.gpo.gov/fdsys/pkg/FR-2012-06-20/pdf/2012-12427.pdf.” Moreover, it is noted that the appellants do not describe how the questions and/or keyed responses to these items conflict with New Jersey Department of Corrections PREA policies. Thus, absent specifics, the Commission cannot address this matter further.

Question 40 in booklet A (question 50 in booklet B) referred to the Inmate Classification Policy presented to candidates in the test booklet. It is noted that while Wood provides in his appeal, “Question 50: What statement is accurate in terms of Karen Cotton reply?”, he does not present any arguments or raise any issues regarding this item. As such, the Commission cannot address this matter further.

Question 53 in booklet A (question 43 in booklet B) refers to an Incident Report provided to candidates in the test booklet. The question required candidates to determine what errors, if any, the sentence that starts with “When I ...” on line 18 contains.⁴ The keyed response is option b, contains one spelling error. Sorantino contends that option d, contains one spelling error and one punctuation error, is the best response. In this regard, he maintains that “the comma [*sic*] inside of the quotation marks should be outside of the quotation marks.” It is noted that other than his own opinion, Sorantino does not refer to an authoritative grammar source to support his claim. However, as indicated on the Chicago Manual of Style website,⁵ “the time-honored convention in American-style punctuation is to put the period inside the quotation marks.” Further, the APA Style blog⁶ notes that the American style punctuation system places periods and commas inside quotation marks, and provides the following example:

Participants who kept dream diaries described themselves as “introspective” and “thoughtful.”

Finally, as noted by the MLA Style Center website,⁷ “The *MLA Handbook* notes, ‘By convention, commas and periods that directly follow quotations go inside the closing

⁴ The sentence beginning on line 18 provides:

When I asked Inmate Riddle what the object was, she stated it was her “personal propertey.”

⁵ <https://www.chicagomanualofstyle.org/qanda/data/faq/topics/Punctuation.html>

⁶ <https://blog.apastyle.org/apastyle/2011/08/punctuating-around-quotation-marks.html>

⁷ <https://style.mla.org/punctuation-and-quotation-marks/>

quotation marks . . . This placement is traditional in the United States.” As such, the question is correct as keyed.

For question 63 in booklet A (question 73 in booklet B), since DiLello and Littles selected the correct response, their appeals of this item are moot.

CONCLUSION

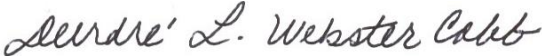
A thorough review of the appellants’ submissions and the test materials reveals that other than the scoring change noted above, the appellants’ examination scores are amply supported by the record, and the appellants have failed to meet their burdens of proof in this matter.

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
THE 21ST DAY OF NOVEMBER, 2018


Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries	Christopher S. Myers
and	Director
Correspondence	Division of Appeals and Regulatory Affairs
	Civil Service Commission
	Written Record Appeals Unit
	P.O. Box 312
	Trenton, New Jersey 08625-0312

c:	Jeremy Baltimore (2019-901)	Patrick Wood (2019-831)
	Vincent Canonica (2019-833)	Michael Johnson
	Kevin DiLello (2019-835)	Records Center
	Mark Ferrera (2019-902)	
	Mark Littles (2019-343)	
	Janina Love (2019-836)	
	Joseph Sorantino (2019-832)	