



STATE OF NEW JERSEY

In the Matter of Sean Tonner
 East Jersey State Prison,
 Department of Corrections

CSC DKT. NO. 2018-1063
 OAL DKT. NO. CSV 15786-17

FINAL ADMINISTRATIVE ACTION
 OF THE
 CIVIL SERVICE COMMISSION

ISSUED: DECEMBER 21, 2018 BW

The appeal of Sean Tonner, Senior Investigator, Parole and Secured Facilities, East Jersey State Prison, Department of Corrections, 60 working day suspension and demotion to Correction Sergeant on charges, was heard by Administrative Law Judge David M. Fritch, who rendered his initial decision on November 15, 2018. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting on December 19, 2018, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending and demoting the appellant was justified. The Commission therefore affirms those actions and dismisses the appeal of Sean Tonner.

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 19TH DAY OF NOVEMBER, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 15786-17

AGENCY DKT. NO. 2018-1063

**IN THE MATTER OF SEAN TONNER,
EAST JERSEY STATE PRISON,
NEW JERSEY DEPARTMENT
OF CORRECTIONS.**

Brian M. Cige, Esq., for appellant (Law Offices of Brian M. Cige, attorney)

**Karen Campbell, Esq., Legal Specialist, for respondent pursuant to N.J.A.C.
1:1-5.4(a)(2)**

Record Closed: October 11, 2018

Decided: November 15, 2018

BEFORE DAVID M. FRITCH, ALJ:

STATEMENT OF THE CASE

Senior Investigator Sean Tonner ("appellant") appeals the decision of the New Jersey Department of Corrections ("DOC"), East Jersey State Prison ("respondent") to impose a sixty-day-working suspension and demotion to the rank of corrections sergeant for charges of conduct unbecoming a public employee, other sufficient cause, threatening, intimidating, harassing, coercing, or interfering with fellow employees on

state property, and violation of a rule, regulation, policy, procedure, order, or administrative decision. The appellant denies the allegations.

PROCEDURAL HISTORY

The DOC issued a Preliminary Notice of Disciplinary Action ("PNDA"), dated July 11, 2017, notifying Tonner of the charges against him. (R-1.) After a departmental hearing held on September 18, 2017, DOC sustained the following charges which were incorporated into a Final Notice of Disciplinary Action ("FNDA"), dated October 10, 2017, with a proposed penalty of a sixty-day-working suspension and demotion to the rank of correction sergeant: N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, DOC Human Resources Bulletin ("HRB") 84-17 §§ C-11, conduct unbecoming an employee, C-24, threatening, intimidating, harassing, coercing, or interfering with fellow employees on state property, and E-1, violation of a rule, regulation, policy, procedure, order, or administrative decision.

The appellant timely requested a hearing and the matter was transferred to the Office of Administrative Law ("OAL"), where it was filed on October 24, 2017, to be heard as a contested case. N.J.S.A. 52-14B-1 to 15 and 14F-1 to 13. The matter was heard on June 7, 2018, and July 11, 2018. The record remained open for the parties to provide post-hearing submissions and closed on October 11, 2018.

TESTIMONY AND FACTUAL DISCUSSION

For Respondent

Duane Grade, Chief Investigator, DOC Special Investigations Division ("SID"), has been with DOC for twenty-two years, assigned to SID since 1996, and has served as the chief investigator for SID since 2017. SID, which used to be called Internal Affairs, is the investigative arm of DOC. SID investigates crimes occurring in DOC

facilities and charges of crimes involving DOC employees. Grade reports directly to the director of DOC.

At the time of the incident giving rise to this matter, Grade was asked by Manuel Alfonso, who was the chief investigator of SID at that time, to join him in a meeting with the appellant and Adrian Ellison. The meeting was held at DOC headquarters in Trenton, New Jersey. Both Tonner and Ellison were senior investigators with SID at that time. Ellison was also president of the Fraternal Order of Police ("FOP"), the labor union that represented SID investigators. The purpose of the meeting was for Chief Alfonso to give discipline to Tonner arising from a prior incident. After the meeting, Tonner and Ellison were going to the Edna Mahan Correctional Facility¹ ("Mahan") where Tonner worked so that Tonner could gather his personal items from his office. There was also a request made that Tonner's supervisor not be present at the facility when Tonner returned to Mahan that afternoon.

Grade had read reports that, subsequent to the meeting, Tonner had made statements threatening his supervisor. That conduct, as alleged, would be in violation of DOC rules and regulations. (R-3.) Grade knew that these allegations were referred to the Hunterdon County Prosecutor's Office ("HCPO") for possible criminal charges, but he was not aware of when the charges were referred or when a response from HCPO declining to bring criminal charges was received. As a matter of policy, anytime there is an allegation of possible criminal conduct, DOC refers the matter to the appropriate prosecutor's office for review and determination if criminal charges are appropriate.

Adrian Ellison, Senior Investigator with DOC, has been with DOC for twenty-five years and with SID since 2008. He is also president of the FOP and part of his duty as FOP president is to accompany union members to disciplinary meetings.

Ellison was present at the February 15, 2017, meeting at DOC headquarters with Chief Alfonso, Tonner, and others. At that meeting, Tonner was served with a notice of

¹ The Mahan facility is located in Clinton, New Jersey. (See R-2.)

disciplinary charges, and notified he was going to be demoted. After being served with these charges, Tonner was visibly shaken and clearly upset. Chief Alfonso asked Ellison to accompany Tonner back to Mahan to gather his belongings from his office since Tonner was going to be transferred to another DOC facility. Ellison knew that Tonner's supervisor, Gene Scott, was part of the complaint that led to the disciplinary charges raised at this meeting. He was also aware that Scott and Tonner did not get along, so Ellison asked that Scott not be present at Mahan when they went there to collect Tonner's belongings. After leaving the meeting, Ellison ran into DOC Investigator Valisa Leonard at DOC headquarters and asked her to accompany them to Mahan. Leonard also served as the sergeant-at-arms for the FOP.

When Ellison, Tonner, and Leonard arrived at Mahan, DOC Investigator Renee Caldwell-McCray was there. Tonner and Ellison entered Tonner's office, while Leonard and Caldwell-McCray remained outside. Once inside the office, Tonner asked Ellison "why the fuck did you tell them not to have that pussy Jerome [Scott] here?" Tonner added that "I was going to shoot that motherfucker." Surprised at what he had heard, Ellison asked Tonner to repeat himself because he could not believe that the situation between Tonner and Scott had gotten to that point, but Ellison was sure that there was no ambiguity as to what Tonner had just said. Ellison noted that Tonner was armed with his service weapon at the time he made the statement about Scott.

Ellison tried to calm Tonner down and called for Leonard to come into the office while Tonner continued to pack his personal items. Tonner continued to blurt out expletives regarding that "big steroid motherfucker," and told Ellison that he had been wanting to get out of Mahan for a year. Ellison asked Tonner to repeat what he had said in front of Leonard but Tonner refused, saying "every time I say something in front of you, I get in trouble." Ellison left the building and asked Leonard to come with him. Outside, he explained to Leonard what happened and Leonard went back inside to ask Tonner to turn over his weapon. Tonner told Leonard that he was just venting and there was no need for him to surrender his weapon. Tonner made no additional comments after that.

Ellison explained that he held no animus towards Tonner and that he was in a very difficult position as the union president having to testify against a union member like Tonner. He and Tonner had a good relationship to that point, and Tonner would often call Ellison in his role as the union president with issues regarding his supervisor. Based on what he had heard Tonner say at Mahan, Ellison believed he had a duty to report the incident and sent Chief Alfonso an email detailing what had happened. (R-3.) After sending this email, Ellison did not take any further action on this matter.²

Gerome Scott, DOC Principal Investigator, SID has been with DOC for twenty-three years and has been the principal investigator at the Mahan facility since 2015. In that capacity, he supervises two investigators in the SID unit as well as two investigators in the fugitive unit. Tonner worked for Scott from 2015 until Tonner was transferred to DOC's Mountainview facility in 2017.

Chief Alfonso called Scott to tell him that Tonner was being disciplined with a fifteen-day suspension and demotion to a uniform rank. He was told that Tonner was upset due to the discipline imposed and was on his way back to Mahan. Alfonso asked Scott to leave the facility when Tonner came back because it would be in everyone's best interest to avoid a potential confrontation with Tonner. Scott complied and left the facility, not returning until around 4:00 p.m. that day. Later, he received a "duty to warn" call from DOC Investigator Edwin Soltys to warn him that Tonner had threatened him and let him know that Soltys was going to go and get Tonner's weapon.

Scott was involved in prior disciplinary incidents involving Tonner. One was an exchange where Tonner had used profanity in an email copying the chief. The chief administered verbal counselling to Tonner, and Scott had to issue a written letter of counselling to Tonner from that incident.

Another prior incident involved the investigation of an allegation from a female inmate against a prison administrator under the Prison Rape Elimination Act ("PREA").

² Ellison also gave a recorded interview to Investigator Soltys of DOC's internal affairs unit regarding this incident on March 31, 2017. (R-10.) The interview with Soltys was consistent with Ellison's hearing testimony.

The victim inquired as to the status of the complaint and Tonner reported that he had interviewed the victim, gathered reports, and forwarded the information to the PREA coordinator, Investigator Soltys, and the chief. When the Commissioner's office sought to follow up on the status of the investigation, however, Tonner could not locate the videotaped statements, and the investigation had to be reopened a year later. Tonner was disciplined for his failure to complete that investigation when he reported that the investigation had been completed.

In July 2016, Tonner's then-girlfriend was involved in a domestic incident with Tonner, and she was arrested in Pennsylvania. After her arrest, the authorities notified DOC because she was also a DOC employee. Upon learning of the incident, Scott tried to contact Tonner to see if he was "ok," calling his state-issued cell phone, but Tonner did not answer. When Scott had local police do a wellness check on Tonner, they learned that Tonner had put his phone on vibrate and forgot to put the ringer back on. Tonner was subsequently disciplined for his failure to respond to Scott's phone calls since he was on call at the time.

Another prior disciplinary incident from October 2016, was due to Tonner's work at DOC's Mountainview facility on a weekend with the Drug Interdiction Unit ("DIU"). Tonner submitted his time on this assignment as overtime, but he should have put the time in as "comp time" since time on DIU jobs were compensated with comp time. The chief disciplined Tonner, and he had to pay back the overtime paid to him. When Ellison first notified Tonner that he was being disciplined for the overtime incident, Ellison reported that Tonner called Scott a "black monkey." Upon hearing this, Scott filed an Equal Employment Discrimination ("EED") complaint against Tonner so he could be separated from him, but no findings were proven.

There is a policy within SID that personnel involved in a personal relationship with someone who also works for DOC cannot work together in the same facility. Tonner, however, was dating someone who also worked at Mahan. When Tonner left Mahan to work at the Mountainview facility, he wrote to the chief and indicated, in writing, that he was no longer in a relationship with someone working at Mahan. Tonner

did not correct this when he was transferred back to Mahan—even though he was still in a relationship with this individual. At the February 2017, meeting, Tonner received notice of discipline for his failure to inform DOC that he was in a personal relationship with another DOC employee who also worked at Mahan. Tonner was contesting the discipline in that matter, and it is still under appeal within the OAL.

When he was informed about Tonner's verbal threat, Scott was concerned because of his prior interactions with Tonner. He believed that Tonner blamed him every time he was disciplined, and the current discipline was going to cause Tonner to lose his current position and impact his livelihood. Scott was aware that the incident had been reported to HCPO for possible criminal charges, and he was called by the first assistant prosecutor from HCPO to tell him that they did not believe the incident, as reported to them, met all the criteria to constitute a terroristic threat, so they were not filing criminal charges against Tonner. Scott could not recall, however, when he received that call.

Valisa Leonard, DOC Senior Investigator, SID, has been with DOC since 2000 and has worked in SID/internal affairs since 2012. On the day that Tonner received disciplinary charges from Chief Alfonso, Ellison saw her at the DOC central office and asked her if she would accompany him and Tonner to Mahan. Leonard believed Ellison asked her to come along because of her role as Sergeant-at-Arms with the FOP and because she was a friend of Tonner's who might be able to give Tonner a little personal support.

When they arrived at Mahan that day, DOC Senior Investigator Renee Caldwell-McCray was in the back office. Tonner arrived after Leonard and Ellison. Tonner and Ellison went into Tonner's office and Leonard stayed outside talking to Caldwell-McCray. Leonard was not present in Tonner's office when she heard Ellison calling her into the office. When she entered the office, she saw Tonner packing up, putting things in boxes, and Ellison asked Tonner to say what he just said. Tonner told Ellison, "look man, let me get this done, I'm just upset." Tonner appeared red-faced, and his eyes were watering while he continued to pack. Tonner kept repeating that he was upset and

mad, he was complaining about not bringing home enough money to pay the bills and wanting to transfer to another SID office to get away from "that steroid motherfucker" which Leonard believed was a reference to Scott. (See R-4.) Leonard's written report of the incident also confirmed that, when Ellison asked Tonner to repeat what he had said, Tonner responded "every time I talk to you (Ellison), I get in trouble." (R-4.)

Ellison left the office and went to his car. Leonard went with him and they spoke in Ellison's car. Ellison told her that Tonner just said that he would shoot Scott if Scott was there and they had to get Tonner's gun. Because they had a good rapport, Leonard went back inside to get Tonner's gun and talk to him. She told Tonner what Ellison had told her about what he said regarding Scott. Tonner told Leonard that he was "venting" because he was mad. Leonard asked Tonner for his weapon, but Tonner refused to turn it over to her, saying that he did not feel there was any reason for him to give it up, he was not going to hurt anybody. During their conversation, Tonner never denied making any threat or statement to Ellison regarding Scott. He just did not agree that he needed to surrender his weapon but offered no further explanation. Leonard's report of the incident documented that, when asked to surrender his duty weapon, Tonner told her he "was not going to do anything to that man." (R-4.) Leonard and Tonner hugged, and Leonard went back outside to see Ellison and left.

While Leonard did not hear the exchange between Ellison and Tonner, she does not believe that Ellison would make this story up. During her testimony, Leonard was visibly crying. The reason for this, she explained, was that it was difficult for her to testify in this hearing because she and Tonner remain friends. Leonard wrote a report about the incident at the direction of Soltys documenting her interactions with Tonner that day. (R-4.)

Renee Caldwell-McCray, DOC Senior Investigator, SID, has been with DOC for seventeen years and, since 2007, holds the title of investigator. She worked at Mahan with Tonner and both she and Tonner were supervised by Scott. She was present at Mahan when Tonner and Ellison arrived with Leonard to clear out Tonner's office. She knew that Scott had been asked to leave the facility that day but did not know why. She

did not witness any conversation between Ellison and Tonner while at the facility first hand but was told by Ellison about a conversation he had with Tonner where Tonner made a threat against Scott. Ellison told her that Tonner had said if Scott were there, he would have shot him. After telling her about his conversation with Tonner, Ellison left the facility. She heard some additional conversation going on in Tonner's office after Ellison left, but she could not hear what was being said. She did not talk to Tonner that day.

Michael Alfonso, DOC Chief Investigator (retired), SID has been with DOC for over twenty-eight years and was the chief investigator of SID from November 2015, until he retired in April 2017. As the chief investigator of SID, Alfonso supervised over 100 people and was the highest-ranking law enforcement officer within SID. Alfonso called for the meeting on February 15, 2017, so Tonner could be issued disciplinary paperwork. After the meeting, Tonner was going back to Mahan with Ellison to gather his personal belongings because Tonner was going to be temporarily transferred to DOC's Mountainview facility.

At Ellison's suggestion, Alfonso called ahead to Mahan to have Tonner's supervisor, Scott, leave before Tonner arrived. He agreed with Ellison's suggestion to ask Scott to leave Mahan before Tonner got there because he saw that Tonner was visibly upset in the meeting and appeared to be blaming Scott for the disciplinary action taken against him that day. Alfonso felt that, because emotions were running high, it would be better if Scott were not present when Tonner returned to Mahan in order to avoid a situation or confrontation. Later that day, Alfonso got a call from Ellison telling him that Tonner threatened Scott when they went up to Mahan. Ellison told Alfonso that Tonner called Scott a "steroid motherfucker" and asked why Scott was not present because Tonner was going to shoot him.

Alfonso was particularly concerned with this information because he saw how Tonner was upset in their meeting that day. Alfonso told Ellison to write up the incident for him, and he contacted Soltys and directed him to get a few more DOC investigators

and go to Tonner's home to seize Tonner's service weapon. This was done as a precaution to minimize any danger to the people involved, including Tonner himself.

The email he received from Ellison (R-3) suggested to him that there may be potential criminal charges brought as a result of Tonner's conduct, which is why it was referred to HCPO. While DOC has the ability to investigate criminal matters, only a prosecutor's office has the authority over bringing any criminal charges, so the prosecutor's office makes the ultimate determination if a matter proceeds criminally or administratively.

Alfonso directed Soltys to contact the HCPO to advise them of the incident, gather preliminary facts, and send his findings to HCPO to allow them to ultimately make a determination if criminal charges would be brought. Because of the potential for criminal charges, Soltys' investigation was limited to interviewing persons who were not subject to possible criminal charges since they did not want to compel testimony from a DOC employee in an internal investigation that may lead to criminal charges against that employee because doing so would infringe upon their rights in any potential criminal proceeding.

Alfonso reviewed a letter from HCPO (P-2) which indicated that they received the investigation report from DOC on May 25, 2017. Alfonso suggested that this was the date they received a report on the incident from Soltys, but not the date that the matter was referred to them by DOC. HCPO declined to bring criminal charges and referred the matter back to DOC on June 12, 2017. (Id.)

Edwin Soltys, DOC Deputy Chief Investigator, SID, has been with DOC for over twenty-one years and has been assigned to SID since 2000. Soltys was promoted to the rank of deputy chief of SID earlier this year. Alfonso called Soltys to tell him about an incident at Mahan involving Tonner making a verbal threat against Scott and directed him to go to Tonner's home and take custody of Tonner's service weapon. Soltys went to Tonner's home with three senior investigators from DOC and some local police officers from the Palmer, Pennsylvania Police Department. Soltys' report documents

that he and three other DOC investigators, along with assisting officers from the Palmer Police Department, arrived at Tonner's home around 8:00 that evening. (R-2.) After they arrived at Tonner's home, Tonner surrendered his weapon without incident.

Soltys also contacted Scott to warn him about the verbal threat made by Tonner against him. This was done as part of a standard "duty to warn" protocol. When SID is made aware of a threat made by an inmate, or even a DOC employee, they contact the individual against whom the threat is made to advise them of the nature of the threat and the actions that are being taken. The day after he went to retrieve the weapon from Tonner, Soltys received a call to tell him that a complaint was made with the FOP about him entering Tonner's home and that Tonner may file criminal charges against him. Soltys does not recall who the call was from, but he advised Alfonso about the call. Alfonso advised that Soltys should "hold off" on leading the investigation into the incident until they determine if any charges were filed against him. After a month passed, and no charges were filed, Soltys was assigned to lead the investigation, and Soltys' investigation report confirms he was assigned to lead the investigation on March 20, 2017. (R-2.)

Because of the potential for criminal charges from Tonner's conduct, this matter was referred to HCPO for review. Soltys had DOC Sr. Investigator Michael Cubik inform HCPO of the incident on February 16 or 17, 2017. He asked Cubik to inform HCPO since Cubik was going to be at their office meeting with them on another unrelated matter. DOC provided the information they had to HCPO, which consisted of information and statements of non-targets. Soltys received a declination letter from HCPO via email on June 12, 2017, informing him that they were declining to bring criminal charges arising from the incident.

As part of Soltys' investigation, he conducted multiple interviews and documented the content of those interviews in his investigation report. (R-2.) After HCPO declined to bring criminal charges, Soltys conducted a video-recorded interview of Tonner on June 23, 2017, which was played into the record. (R-9.) During his video-recorded interview, Tonner confirmed that, following his meeting with Alfonso on

February 15, 2017, he went back to Mahan and met Ellison and Leonard there. (Id.) Tonner had seen Scott at Mahan earlier that day when he reported to work and before he was called down to the central office for a meeting with Alfonso, but Scott was not at Mahan when he arrived back there following his meeting with Alfonso. (Id.)

Tonner denied that he made any comments to Ellison about shooting Scott when they were at Mahan that day. (Id.) He asked Ellison why Scott was not there that afternoon, but he asked because he felt that Scott had started the process that led to his discipline and should be there to explain how the situation had gotten that far. (Id.) He asserted that this was the only mention he made of Scott that afternoon, "end of discussion." (Id.) Tonner felt that Ellison, as his union president, had let him down by allowing him to be disciplined and not helping him get transferred out of Mahan. (Id.)

Tonner also denied talking to Leonard about hurting anyone. (Id.) He said that the only mention about hurting anyone made in his discussions with Leonard were about him hurting himself. (Id.) Tonner said that this was now the second incident where he believed Ellison was making something up involving him and Scott. (Id.) He felt that Ellison was useless as a union representative and was creating this allegation to jam him up just as he did with the former allegation that he referred to Scott as a "monkey." (Id.) Tonner had no interest in shooting anyone, and never said he was going to shoot Scott. (Id.) When he spoke to Leonard about "venting" he was referring to his venting to Ellison about how he was disappointed in Ellison for letting him down as his union representative. (Id.) Tonner felt that Ellison was on Scott's "team" and that he and Scott were working together to try and get him fired with fabricated charges. (Id.) Tonner believed Ellison was fabricating the allegation against him because Ellison does not want him to continue working at DOC.

FACTUAL FINDINGS

Due to the conflicts between Tonner's prior statement (R-9), and the testimony of Ellison regarding what Tonner said to Ellison on February 15, 2017, in Tonner's office at the Mahan facility, a determination of credibility is required. Credibility is the value that

a finder of the facts gives to a witness' testimony. It requires an overall assessment of the witness' story in light of its rationality or internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). The choice of rejecting the testimony of a witness, in whole or in part, rests with the trier and finder of the facts and must simply be a reasonable one. Renan Realty Corp. v. Dep't of Cmty. Affairs, 182 N.J. Super. 415, 421 (App. Div. 1981).

Having had the opportunity to observe the appearance and demeanor of the witnesses, I **FIND** Ellison's testimony regarding his verbal exchange with Tonner on February 15, 2017, in Tonner's office at the Mahan facility to be credible. In addition to his role as president of the FOP, Ellison is a sworn law enforcement professional and an experienced criminal investigator. Tonner, in his June 23, 2017, statement to Soltys (R-9), attempted to discredit Ellison's account of the February 15, 2017, incident as being a biased fabrication designed to have Tonner dismissed from DOC.

While Tonner has a prior history of disciplinary actions involving Scott and Ellison, Tonner had no such negative history with Leonard. Having the opportunity to observe Leonard's testimony and her demeanor with the appellant during these proceedings, it is clear that Leonard and Tonner remain friends. Leonard has no known reason to fabricate her testimony in this matter and she was visibly distraught about giving sworn testimony that may be detrimental to someone she clearly considers to be her friend. I **FIND** Leonard's testimony in this matter to be extremely credible and her testimony provides corroboration to Ellison's testimonial account of the events of February 15, 2018.

While Leonard was not a witness to the verbal exchange between Ellison and Tonner, when she spoke to Tonner on February 15, 2018, he said to her that his exchange with Ellison was just venting. Tonner asserted in his statement to Soltys that the "venting" he was referring to was him expressing his frustrations with Ellison, not Scott, because he felt that Ellison had let him down. (R-9.) Tonner further said that, other than asking why Scott was not there to explain the disciplinary action, he did not

make any further mention of Scott that afternoon. (Id.) Leonard noted, however, that when she entered Tonner's office, Tonner was complaining about that "steroid motherfucker" which Leonard believed was a reference to Scott—indicating that Tonner was verbally venting at least some of his anger at that time towards Scott, consistent with Ellison's testimony.

Leonard also testified that after she returned to Tonner's office to speak with him, she told Tonner what Ellison had told her about the verbal threat he made against Scott. In response, Leonard noted that Tonner never denied making any threat, but just dismissed Leonard's concerns that he may be a danger. In his interview with DOC, Tonner said that he and Leonard never discussed him hurting anyone other than himself (id.), however, Leonard testified that she addressed Tonner's threats to Scott in her discussions with Tonner and Leonard's report specifically states that, when Leonard asked Tonner to surrender his weapon, Tonner told her that he "was not going to do anything to that man." (R-4 [emphasis added].) This lends further credence to Ellison's account of events.

Leonard's written report also supported Ellison's testimony that, when Ellison asked Tonner to repeat what he had said in Leonard's presence, Tonner's response was "every time I talk to you [(Ellison)], I get in trouble." (R-4.) In his statement to Soltys, Tonner said he did not recall his response to this question to dispute the accounts of Ellison or Leonard. (R-9.) While Tonner asserted that the current incident was a second time that Ellison was fabricating a statement made by him about Scott, this comment to Ellison, as made in Leonard's presence, suggests that the current incident is the second time that Tonner made an intemperate comment to Ellison that got him into trouble. Whatever questions about Ellison's impartiality raised by Tonner's assertion that this was the second incident where intemperate comments he made about Scott to Ellison indicates a bias on the part of Ellison against him are more than overborne by the supporting and wholly credible testimony of Leonard.

Based upon the testimony and documentary evidence, and having had the opportunity to observe the appearance and demeanor of the witnesses, I **FIND** the following **FACTS**:

1. On February 15, 2017, Tonner was a senior investigator with the New Jersey DOC SID.
2. On February 15, 2017, Tonner was called to the DOC central office in Trenton, New Jersey, to meet with Chief Investigator Alfonso. At this meeting:
 - a. Tonner was accompanied by Ellison, who attended the meeting as his union representative. In addition to being a senior investigator with SID, Ellison was also the president of the FOP, the union that represented investigators within SID.
 - b. Grade was also present at this meeting.
 - c. Tonner was served with notice of disciplinary charges, and notified he was going to receive a fifteen-day-suspension and a demotion to his last permanent title of sergeant.
 - d. After being served with these charges, Tonner was visibly shaken and clearly upset.
 - e. Alfonso asked Ellison to accompany Tonner back to Mahan so Tonner could gather his belongings from his office since Tonner was going to be transferred to another DOC facility.
 - f. Because Tonner was visibly upset, Ellison asked Alfonso if Tonner's supervisor, Scott, could not be present at Mahan when they went there to clear out Tonner's belongings.

- g. Alfonso agreed to Ellison's request, and contacted Scott to ask him to not be present at Mahan when Tonner went back to collect his belongings. Scott complied and left Mahan before Tonner's arrival.
3. After leaving the meeting, Ellison encountered Leonard at DOC headquarters and asked her to accompany him and Tonner to Mahan.
 - a. In addition to being a senior investigator with SID, Leonard was also Sergeant-at-Arms for the FOP.
4. Upon arrival at Mahan, Ellison and Tonner went into Tonner's office, and Leonard remained outside the office.
5. Caldwell-McCray was present at Mahan when Tonner, Ellison, and Leonard arrived to clear out Tonner's office, but did not accompany Ellison and Tonner into Tonner's office—instead, she remained in her office at the facility.
6. Upon entering Tonner's office, Tonner stated to Ellison, "why the fuck did you tell them not to have that pussy Gerome here? I was going to shoot that motherfucker." Neither Caldwell-McCray nor Leonard were present in Tonner's office at that time to hear the verbal exchange between Ellison and Tonner.
7. During this exchange, Tonner was armed with his DOC service firearm.
8. Following this verbal exchange, Ellison summoned Leonard to Tonner's office.
9. When Leonard entered Tonner's office, Tonner continued packing his belongings. Tonner appeared red-faced, and his eyes were watering while he was packing.
10. As he continued to pack, Tonner kept repeating that he was upset and mad. Tonner was complaining about requesting a transfer to another SID

office to get away from "that steroid motherfucker" which Leonard believed to be a reference to Scott.

11. In the presence of Leonard, Ellison asked Tonner to repeat what he just said.
12. Tonner refused, responding to Ellison that "every time I talk to you [(Ellison)], I get in trouble."
13. Ellison left the building with Leonard and went to his car, leaving Tonner in his office. Ellison told Leonard that Tonner had just verbally threatened to shoot Scott and asked her to go back inside and get Tonner's gun.
14. Leonard returned inside and spoke to Tonner, explaining to him what Ellison had told her about his threat to shoot Scott. When Leonard asked Tonner for his weapon, Tonner did not agree to turn the weapon over. Tonner told Leonard that he was just venting and that he "was not going to do anything to that man." (R-4.)
15. Ellison notified Alfonso about the incident, and Alfonso contacted Soltys to inform him of what had been reported to him and to ask Soltys to go to Tonner's home and recover Tonner's service weapon. Alfonso also directed Soltys to contact HCPO to inform them of the incident and refer the matter to them for possible criminal charges.
16. Soltys contacted Scott to warn him of the verbal threat made by Tonner.
17. The evening of February 15, 2017, Soltys, accompanied by other investigators with SID and police officers from the Palmer Township Pennsylvania Police Department, went to Tonner's home and Tonner surrendered his service weapon without incident.
18. Soltys asked DOC Sr. Investigator Michael Cubik to inform HCPO of the incident, which Cubik did on February 16 or 17, 2017, to refer the matter to them for possible criminal charges.

19. On June 12, 2017, Soltys received a declination letter from HCPO via email informing him that they were declining to bring criminal charges arising from the incident.
20. Soltys conducted a video-recorded interview of Tonner (R-9) on June 23, 2017, and his report of the administrative investigation (R-3) was completed on July 5, 2017, and forwarded to Alfonso.

These factual findings are supported by a residuum of legal and competent evidence in the record.

LEGAL ANALYSIS AND DISCUSSION

A civil service employee's rights and duties are governed by the Civil Service Act, N.J.S.A. 11A:1-1 to 12.6. The Act is an important inducement to attract qualified personnel to public service and is to be liberally construed toward attainment of merit appointment and broad tenure protection. See Essex Council Number 1, N.J. Civil Serv. Ass'n v. Gibson, 114 N.J. Super. 576 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div. 1972); Mastrobattista v. Essex Cnty. Park Comm'n, 46 N.J. 138, 147 (1965). The Act also recognizes that the public policy of this state is to provide public officials with appropriate appointment, supervisory and other personnel authority in order that they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b). A public employee who is thus protected by the provisions of the Civil Service Act may nonetheless be subject to major discipline for a wide variety of offenses connected to his or her employment. The general causes for such discipline are enumerated in N.J.A.C. 4A:2-2.3.

In an appeal from a disciplinary action or ruling by an appointing authority, the appointing authority bears the burden of proof to show that the action taken was appropriate. Cumberland Farms, Inc. v. Moffett, 218 N.J. Super. 331, 341 (App. Div. 1987); N.J.S.A. 11A:2.21; N.J.A.C. 4A:2-1.4(a). The authority must show by a preponderance of the competent, relevant, and credible evidence that the employee is guilty as charged. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550

(1982). An appeal requires the OAL to conduct a de novo hearing and to determine the appellant's guilt or innocence, as well as the appropriate penalty. In re Morrison, 216 N.J. Super. 143 (App. Div. 1987); Cliff v. Morris County Bd. of Social Serv., 197 N.J. Super. 307 (App. Div. 1984).

Application of the Forty-Five-Day Rule to the Charges Against Tonner

The appellant asserts that the charges against him should be dismissed for violation of the "forty-five-day rule." Under N.J.S.A. 40A:14-147, charges for removal or reduction in rank against a police officer, "shall be filed no later than the 45th day after the date on which the person filing the complaint obtained sufficient information to file the matter upon which the complaint is based." The incident at issue happened on February 15, 2017, and, on the evening of the incident, Ellison sent an email to Chief Alfonso advising him of what transpired that afternoon. (R-3.) The appellant argues that Chief Alfonso was aware on February 15, 2017, of the information on which the charges against Tonner were based, but charges (R-1) were not filed against Tonner until July 19, 2017, well past the forty-five days allowed by the statute. This failure to comply with the forty-five-day rule, appellant claims, "require[s] a dismissal of the complaint." N.J.S.A. 40A:14-147.

The forty-five-day rule, by its plain language, is limited in applicability to complaints "charging a violation of the internal rules and regulations established for the conduct of a law enforcement unit" and do not apply to the general causes for major discipline listed under N.J.A.C. 4A:2-2.3(a). McElwee v. Borough of Fieldsboro, 400 N.J. Super. 388, 394-95 (App. Div. 2008). If it were to be applicable at all, the forty-five-day rule would only be applicable to a subset of the charges in this matter alleging violations of the HRB.

The Law Division has noted that "[t]he 45-day period runs from the date upon which the person responsible for the filing of the disciplinary complaint receives sufficient information upon which to base a complaint." Aristizibal v. City of Atlantic City, 380 N.J. Super. 405, 427-28 (Law Div. 2005). Soltys, in his testimony, explained that

DOC could not complete the administrative investigation and conduct an interview of Tonner while the matter remained with HCPO for potential criminal prosecution. Soltys' investigation was not, and could not be, completed until after HCPO referred the matter back to DOC for administrative action on June 12, 2017. (P-2.) After the matter was referred back to DOC, Soltys completed his interview of Tonner (R-9) on June 23, 2017, and his report on the administrative investigation (R-3) was completed on July 5, 2017, and forwarded to Alfonso. The preliminary notice of disciplinary action (R-1) was served on Tonner on July 14, 2017—nine days after Soltys completed his administrative investigation giving DOC adequate information upon which to base an administrative complaint against Tonner. (See P-2.)

Further limiting the application of the forty-five-day rule in this matter is the provision that the rule itself:

[S]hall not apply if an investigation of a law enforcement officer for a violation of the internal rules or regulations of the law enforcement unit is included directly or indirectly within a concurrent investigation of that officer for a violation of the criminal laws of this State. The 45-day limit shall begin on the day after the disposition of the criminal investigation.

[N.J.S.A. 40A:14-147 (emphasis added).]

This tolling provision is designed to permit “the completion of the criminal prosecution, including grand jury and all appeals, before the governing body is required to initiate and file administrative charges.” Aristizibal, 380 N.J.Super. at 425 (quoting Grubb v. Borough of Hightstown, 331 N.J.Super. 398, 405 (Law Div. 2000), aff’d 353 N.J.Super. 333 (App.Div. 2002)). The tolling avoids the inherent futility of proceeding with administrative charges while a criminal investigation is pending because:

[I]f such a criminal investigation were pending it is hard to envision how disciplinary proceedings could proceed since the subject of such an investigation would most likely decline to testify and invoke Fifth Amendment constitutional rights [citations omitted]—and might even seek a stay of administrative proceedings pending disposition of any such criminal investigation.

[Palumbo v. Township of Old Bridge, 243 N.J.Super. 142, 149-50 (App.Div. 1990).]

Tonner's conduct, as relayed by Ellison in his email to Alfonso, stating he wanted to shoot Scott and expressing this while in possession of a service firearm, raised a credible possibility of criminal prosecution. See N.J.S.A. 2C:12-13 (criminalizing terroristic threat "to commit any crime of violence with the purpose to terrorize another"); N.J.S.A. 2C:39-4(a)(1) (criminalizing possession of a weapon "with a purpose to use it unlawfully against the person or property of another"). The incident was referred, pursuant to DOC policy, to HCPO for investigation and possible criminal prosecution on February 16 or 17, 2017. HCPO did not complete their investigation and declined to bring criminal charges until June 12, 2017, when the matter was referred back to DOC for administrative action (P-2), making June 12, 2017, the day of "the disposition of the criminal investigation" as referenced in N.J.S.A. 40A:14-147.

Even if, at the time the matter was referred back to DOC for administrative action, DOC had adequate information on which to base a complaint without waiting for the completion of Soltys' investigation, the earliest date that the forty-five-day limit "shall begin" was June 13, 2017—"the day after the disposition of the criminal investigation." N.J.S.A. 40A:14-147. The preliminary notice of disciplinary action was served on Tonner thirty-one days later, on July 14, 2017. (R-1.) Accordingly, I **CONCLUDE** that the charges filed against Tonner on July 19, 2017, were within the forty-five-day time limit imposed by N.J.S.A. 40A:14-147 and are not subject to dismissal as untimely under the provisions of that statute.

Charges

The first charge against Tonner is conduct unbecoming a public employee. N.J.A.C. 4A:2-2.3(a)(6). "Conduct unbecoming a public employee" is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atlantic City, 152 N.J. 532, 554 (1998). See

also In re Emmons, 63 N.J.Super. 136, 140 (App.Div. 1960). It is sufficient that the conduct complained of and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, 152 N.J. at 555 (quoting In re Zeber, 150 A.2d 821, 825 (1959)). Such misconduct "need not be predicated upon the violation of any particular rule or regulation, but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct." Hartmann v. Police Department of Ridgewood, 258 N.J.Super. 32, 40 (App.Div. 1992) (quoting Asbury Park v. Dep't of Civil Service, 17 N.J. 419, 429 (1955)).

Tonner's status as a DOC Senior Investigator subjects him to a higher standard of conduct than ordinary public employees. In re Phillips, 117 N.J. 567, 576-77 (1990). As a law enforcement officer, Tonner represents "law and order to the citizenry and must present an image of personal integrity and dependability in order to have the respect of the public." Township of Moorestown v. Armstrong, 89 N.J.Super. 560, 566 (App.Div. 1965), certif. denied, 47 N.J. 80 (1966). Maintenance of strict discipline is important in military-like settings such as police departments, prisons, and correctional facilities. Rivell v. Civil Serv. Comm'n, 115 N.J.Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect for authority in such settings cannot be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J.Super. 191, 199 (App.Div. 1997).

In the present case, Ellison testified credibly that he heard Tonner state that he wanted to shoot his supervisor while in a DOC facility and armed with a service firearm. Although there were circumstances which may have explained why Tonner was venting his work-related frustrations to a colleague, who was also his union representative, these comments go far beyond that. Threatening to shoot one's supervising officer in the presence of another DOC Investigator while armed with a DOC service weapon displays a significant lack of judgment, thereby violating Tonner's obligations and duties. I **CONCLUDE** that Tonner's behavior on February 15, 2017, did rise to a level of conduct unbecoming a public employee, in violation of N.J.A.C. 4A:2-2.3(a)(6) and the respondent has met its burden of proof to sustain this charge.

Tonner has further been charged with violating N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause. There is no definition in the New Jersey Administrative Code for other sufficient cause. Other sufficient cause is generally defined in the charges against appellant. The charge of other sufficient cause has been dismissed when the "respondent has not given any substance to the allegation" Simmons v. City of Newark, CSV 9122-99, Initial Decision (February 22, 2006), adopted, Comm'r (April 26, 2006), <<http://njlaw.rutgers.edu/collections/oal/final/csv9122-99.pdf>>.

Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. Tonner's conduct was such that he violated this standard of good behavior. The testimony that Tonner verbalized a threat to shoot his supervisor in the presence of a fellow DOC investigator (and union representative) is credible. As such, I **CONCLUDE** that the respondent has met its burden of proof on this charge.

Tonner has also been charged with violating provisions of DOC Human Resource Bulletin ("HRB") 84-17, including: §§ C-11 (conduct unbecoming an employee), C-24 (threatening, intimidating, harassing, coercing, or interfering with fellow employees on state property), and E-1 (violation of a rule, regulation, policy, procedure, order, or administrative decision).

HRB 84-17, as amended, provides in pertinent part as follows:

In any disciplinary matter, reference must always be made to the collective bargaining agreement covering the disciplined employee, relevant Department of Personnel Rules, appropriate Department bulletins or memoranda, the Handbook of Information and Rules for Employees of New Jersey Department of Corrections, and/or the Law Enforcement Personnel Rules and Regulations.

[R-12]

Pursuant to HRB 84-17, Tonner was required to follow all policies established by DOC and—as it relates to this case—DOC Law Enforcement Personnel Rules and Regulations. (R-6.) Under these regulations, DOC officers shall not:

- a. Engage in threatening or assaultive conduct
- b. Direct insulting language, or behave in a disrespectful manner while in the performance of their duty

[R-6 at Article III, § 1.]

By threatening to shoot his direct supervisor and referring to that direct supervisor as “a steroid motherfucker” to another DOC employee, while in a DOC facility and armed with a DOC service weapon, Tonner’s conduct on February 15, 2017, clearly violated these provisions. As such, I **CONCLUDE** that Tonner’s conduct was in violation of DOC HRB 84-17 §§ C-11, C-24, and E-1 and the respondent has met its burden of proof to sustain these charges.

PENALTY

In West New York v. Bock, 38 N.J. 500, 522 (1962), which was decided more than fifty years ago, the New Jersey Supreme Court first recognized the concept of progressive discipline, under which “past misconduct can be a factor in the determination of the appropriate penalty for present misconduct.” In re Herrmann, 192 N.J. 19, 29 (2007) (citing Bock, 38 N.J. at 522). The Bock Court therein concluded that “consideration of past record is inherently relevant” in a disciplinary proceeding, and held that an employee’s “past record” includes “an employee’s reasonably recent history of promotions, commendations, and the like on one hand and, on the other, formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated, so to speak, by having been previously brought to the attention of and admitted by the employee.” Bock, 38 N.J. at 523-24.

“Although we recognize that a tribunal may not consider an employee’s past record to prove a present charge, Bock, 38 N.J. at 523, that past record may be

considered when determining the appropriate penalty for the current offense." In re Phillips, 117 N.J. 567, 581 (1990). Ultimately, however, "it is the appraisal of the seriousness of the offense which lies at the heart of the matter." Bowden v. Bayside State Prison, 268 N.J. Super. 301, 205 (App.Div. 1993), certif. denied, 135 N.J. 469 (1994). The respondent has proven by a preponderance of the credible evidence the following charges against Tonner: N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, DOC HRB 84-17 §§ C-11, conduct unbecoming an employee, C-24, threatening, intimidating, harassing, coercing, or interfering with fellow employees on state property, and E-1, violation of a rule, regulation, policy, procedure, order, or administrative decision. A sixty-working day suspension and demotion in rank to Correction Sergeant was imposed upon Tonner for his actions. The question to be resolved is whether the discipline imposed in this case is appropriate.

The appellant's prior disciplinary history (R-8) is as follows: an official reprimand for being late for duty on December 7, 1998, an official reprimand for violation of HRB 84-17 A-01 (calling an institution to request an "emergency comp day") on December 29, 2003, and a three-working-day suspension for violation of HRB 84-17 B-05 (failure or excessive delay in carrying out an order) on September 14, 2015. In mitigation, the appellant's employment history also includes the following commendations: December 20, 2002, for responding to a vehicle fire, March 20, 2003, for participation in Operation Liberty Shield at Newark Liberty International Airport, and November 3, 2005, for preventing the attempted suicide of an inmate. (Id.)

While the imposition of a sixty-working-day suspension and demotion in rank is a significant escalation from what was imposed in prior disciplinary actions, appropriate focus must be given to the nature and seriousness of Tonner's current actions. Given the serious nature of these actions—even without a prior disciplinary history—imposition of major discipline would be warranted. (See, e.g., R-12 at 11 (HRB 84-17 noting penalties for § C-24 violation first offense ranges from official written reprimand to removal).) Tonner's status as a law enforcement officer places his conduct under

heightened scrutiny. His primary duty is to enforce and uphold the law. "He carries a service [weapon] on his person and is constantly called upon to exercise tact, restraint and good judgment." In re Disciplinary Procedures of Phillips, 117 N.J. 567, 576-77 (1990) (quoting Moorestown, 89 Super. at 566). Being held to this heightened standard of conduct is one of the obligations Tonner undertook "upon voluntary entry into the public service." In re Emmons, 63 N.J.Super. at 142.

When uttered by an armed law enforcement officer, there is no such thing as an "idle" threat of violence. This is especially true when that verbal threat mentions the use of a firearm, is uttered within a DOC facility, is made in the presence of another sworn law enforcement officer who is duty-bound to take appropriate action upon hearing such a threat, and the statement is made while armed with a service firearm. A threat such as the one expressed by Tonner on February 15, 2017, must be taken seriously—even if it is uttered while "venting." The rapid and proportionate response of DOC to Tonner's utterances—Ellison's immediate report of the matter to senior members of DOC's chain-of-command, Soltys making a duty-to-warn call to Scott, DOC's referral to the Hunterdon County Prosecutor's Office for possible criminal charges, and the dispatching of DOC investigators to travel to Tonner's home in Pennsylvania accompanied by local law enforcement officers on the night of the incident to secure Tonner's service weapon—all underscore the gravity of Tonner's actions. While Tonner, and all law enforcement officers, are held to a high standard, Tonner's conduct on February 15, 2017, failed to live up to that standard to exercise "tact, restraint, and good judgment."

CONCLUSION

After having considered all of the proofs offered in this matter, the impact upon the institution regarding the behavior by the appellant herein, and in light of the seriousness of the offense and in consideration of the appellant's prior disciplinary record, I **CONCLUDE** that Tonner's conduct on February 15, 2017, was so egregious as to warrant the sixty-working-day suspension and demotion to the rank of corrections

sergeant as imposed by the appointing authority, which, in part, is meant to impress upon him, as well as others, the seriousness of his infractions.

ORDER

The respondent has proven by a preponderance of the credible evidence the following charges against Tonner: N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, DOC HRB 84-17 §§ C-11, conduct unbecoming an employee, C-24, threatening, intimidating, harassing, coercing, or interfering with fellow employees on state property, and E-1, violation of a rule, regulation, policy, procedure, order, or administrative decision. Accordingly, I **ORDER** that these charges be and are hereby **SUSTAINED**.

I **ORDER** that the penalty of a sixty-working-day suspension and demotion to the rank of corrections sergeant is hereby **AFFIRMED**. The appellant's appeal is **DISMISSED**.

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. 40A:14-204.

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.

November 15, 2018
DATE


DAVID M. FRITCH, ALJ

Date Received at Agency:

11/15/18

Date Mailed to Parties:

11/15/18

/dw

APPENDIX

LIST OF WITNESSES

For Appellant:

None

For Respondent:

Edward Soltys, DOC Deputy Chief Investigator, SID
Manuel Alfonso, DOC Chief Investigator, SID (retired)
Duane Grade, DOC Chief Investigator, SID
Lisa Gaffney, DOC Human Resource Manager 2
Adrian Ellison, DOC Senior Investigator, SID
Valisa Leonard, DOC Senior Investigator, SID
Renee Caldwell-McCray, DOC Senior Investigator, SID
Jerome Scott, DOC Principal Investigator, SID

LIST OF EXHIBITS IN EVIDENCE

For Appellant:

None

For Respondent:

- R-1 Preliminary and Final Notices of Disciplinary Action
- R-2 DOC SID Administrative Investigation Report by Edward Soltys, July 5, 2017
- R-3 Email from Adrian Ellison to Manuel Alfonso, February 15, 2017
- R-4 DOC SID Administrative Investigation Report by Valisa Leonard, February 15, 2017

- R-5 Weingarten Administrative Rights, June 23, 2017
- R-6 Law Enforcement Personnel Rules and Regulations
- R-7 Receipt form, Law Enforcement Personnel Rules and Regulations
- R-8 Work History, Sgt. Tonner
- R-9 Video interview of Sgt. Tonner
- R-10 Audio interview of Adrian Ellison
- R-11 Audio interview of Rene Caldwell
- R-12 DOC Human Resources Bulletin 84-17