



STATE OF NEW JERSEY

In the Matter of Jeffrey Palladino,
Police Lieutenant (PM0731V),
Mount Laurel

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2018-1203

Examination Appeal

ISSUED: May 23, 2019 (TMG)

Jeffery Palladino appeals the validity of the promotional examination for Police Lieutenant (PM0731V), Mount Laurel.

The subject exam was administered on October 5, 2017 and consisted of 80 multiple choice questions.

On appeal, Palladino presents that the 2017 Police Lieutenant Orientation Guide, under the heading, "Potential Source Material," indicates the following text, Kären Matison Hess, Christine Hess Orthmann, and Shaun LaDue, *Management and Supervision in Law Enforcement* (7th ed. 2015). He argues:

The test material was inappropriate[:]

1. The education requirements for Police Lieutenant in a New Jersey Civil Service Police Department is a High School Diploma or General Equivalency Diploma (GED).¹
2. The [suggested] text . . . is in [sic] a college level education, text book, consisting of 672 pages.

¹ The job specification for Police Lieutenant indicates the following education requirements: graduation from high school, vocational high school, or possession of an approved high school equivalent certificate.

3. Different racial and ethnic groups enroll in degree-granting institutions at massively disproportionate rates.
4. The selected text had potential to adversely affect candidates that have not had college level exposure.
5. Questions 30-64 or 42.5% of the 80 questions [on the] examination [are] based on the selected text.
6. The selected text had the potential to cause eligible candidates not to register for the examination.
7. The examination did not meet the core foundations in Pillar 5 set forth in The President's Task Force on 21st Century Policing. Simply put, this examination did not measure what was recommended by the President's Task Force on 21st Century Policing.²
8. The selected text is clearly a college level academic text book designed to be used in conjunction with an instructor lead [*sic*] course. This is evidenced by the publisher's own online reviews³ and instructor companion website.
9. The use of the selected text as a college text book is evidenced by several current college course syllabuses.⁴

² The appellant appears to be referring to the *Final Report of the President's Task Force on 21st Century Policing*. Office of Community Oriented Policing Services (2015). Retrieved from https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf. The report indicates that "the task force was created to strengthen community policing and trust among law enforcement officers and the communities they serve . . . [T]he President gave the task force an initial 90 days to identify best policing practices and offer recommendations on how those practices can promote effective crime reduction while building public trust." It is noted that the report contains six topic areas or "pillars": Pillar 1: Building Trust & Legitimacy; Pillar 2: Policy & Oversight; Pillar 3: Technology & Social Media; Pillar 4: Community Policing & Crime Reduction; Pillar 5: Training & Education; and Pillar 6: Officer Wellness & Safety. The report provides recommendations under each of the six pillars as well as in Appendix E: Recommendations and Actions. The report indicates that Pillar 5 "focuses on the training and education needs of law enforcement." As the Commission does not provide training or education to law enforcement officers, it is not clear how the Commission "did not meet the core foundations." Further, the appellant does not provide any further discussion or clarification as to what he means by "this examination did not measure what was recommended by the President's Task Force on 21st Century Policing." As such, the Commission is unable to address his concerns in this regard.

³ While the appellant does not provide any further information regarding "the publisher's own online reviews," it is noted that currently, the only review available on the publisher's website is the following, "The text is well organized and covers a vast management area that could be used at not only the first line supervisory level, but in some areas, at an executive level." Retrieved from <https://www.cengage.com/c/management-and-supervision-in-law-enforcement-7e-hess/9781285447926#reviews> on May 22, 2019.

⁴ In support of #9, the appellant provides "a sampling of College course syllabuses utilizing the selected text" from Holmes Community College in Goodman, Mississippi (<https://www.holmescc.edu/>), CRJ 1323 Police Administration & Organization; Wor-Wic Community

The appellant refers to a graph, Figure 19.1 “Percentage distribution of total undergraduate student enrollment in degree-granting institutions, by race/ethnicity: Selected years, 1990 through 2013,” found in a report published by the U.S. Department of Education, *Status and Trends in the Education of Racial and Ethnic Groups 2016*.⁵ He argues that “this graph clearly shows that there is a massively disproportionate rate of college enrollment between different racial and ethnic minorities.”

The appellant offers, as an alternative to the subject suggested text, “the United States Department of Justice reports on law enforcement topics . . . The reports address real and current issue that police managers must be aware of . . . The U.S. DOJ compiles a comprehensive review of a [sic] policing issues and offers insight into policing in America and the best practices moving forward into 21 [sic] Century Policing objectives. The U.S. DOJ materiel [sic] is truly the material that the police profession needs to focus attention on, not the Wallenda Effect as in the selected text.” Specifically, the appellant presents, “using the publication date of 2015 as in the selected text, the below represents a small fraction of potential examination material that is available: The President’s Task Force Task Force on 21st Century Policing - May 2015[;]⁶ An Assessment of Deadly Force in the Philadelphia Police Department - March 2015[;]⁷ Investigation of the Ferguson

College in Salisbury, Maryland (<https://www.worwic.edu/>), CMJ 151 Police Administration; and Clayton State University in Morrow, Georgia (<https://www.clayton.edu/>), CRJU 3230 Law Enforcement Administration.

⁵ The appellant appears to be referring to Musu-Gillette, L., Robinson, J., McFarland, J., KewalRamani, A., Zhang, A., and Wilkinson-Flicker, S. *Status and Trends in the Education of Racial and Ethnic Groups 2016* (NCES 2016-007). U.S. Department of Education, National Center for Education Statistics (2016). Retrieved from <http://nces.ed.gov/pubsearch>.

⁶ The appellant appears to be referring to the *Final Report of the President’s Task Force on 21st Century Policing*, *supra*.

⁷ The appellant appears to be referring to Fachner, George and Steven, Carter, *An Assessment of Deadly Force in the Philadelphia Police Department*. Collaborative Reform Initiative (2015). Retrieved from <https://ric-zai-inc.com/Publications/cops-w0753-pub.pdf>.

Police Department - March 2015[;]⁸ Investigation of the Baltimore City Police Department - August 2016.”⁹

The appellant refers to *In the Matter of John Mayer, et al., Police Lieutenant (various jurisdictions)* (CSC, decided February 12, 2014) and requests that he not be “offer[ed] a blanket rejection of this appeal.” He further suggests that the Commission “confer with a [sic] Subject Matter Experts (SME[s]) from several disciplines to include educators, prosecutors and professionals from the New Jersey Division of Civil Rights. There are plenty individuals at the New Jersey Attorney General’s Office that qualify as law enforcement educators as well as holding factuality [sic] positions in colleges and universities.”

CONCLUSION

N.J.A.C. 4A:4-6.3(b) provides that the appellant in an examination appeal shall have the burden of proof.

Although the appellant posits theoretical harms, he does not provide any specifics or evidence of such harm. For example, the appellant has conjectured, in essence, that a potential applicant, who presumably does not possess a college education, would access the Orientation Guide and look up the potential source materials, research or obtain the suggested text and determine that the text was used in college classes. As a result, this potential candidate would choose not to file an application. However, the appellant has not produced the names of any such individuals. Furthermore, the appellant has not shown how he would be impacted by these hypothetical harms.

Regarding the appellant’s argument that the suggested text is “a college level academic text book” and thus, is inaccessible for those individuals without a college education, it is not clear how the appellant arrived at that conclusion. Although the appellant presents that the suggested text is used at three colleges, it does not necessarily follow that the text would be incomprehensible to an individual who does not possess college experience or a college education. Moreover, even assuming that the appellant’s proposed materials are suitable as testing sources for a Police Lieutenant in New Jersey, it is noted that a review of these alternative sources

⁸ The appellant appears to be referring to *Investigation of the Ferguson Police Department*. U.S. Department of Justice, Civil Rights Division (2015). Retrieved from https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

⁹ The appellant appears to be referring to *Investigation of the Baltimore City Police Department*. U.S. Department of Justice, Civil Rights Division (2016). Retrieved from <https://www.justice.gov/crt/file/883296/download>.

require a higher reading level than the suggested text. Specifically, samples from the suggested text as well as the appellant's proposed materials were reviewed for readability using the Flesch-Kincaid readability test.¹⁰ In this regard, the suggested text received a Flesch Reading Ease score of 41.8 and a Flesch-Kincaid Grade Level of 10.0; the *Final Report of the President's Task Force on 21st Century Policing, supra*, received a Flesch Reading Ease score of 22.6 and a Flesch-Kincaid Grade Level of 16.6; *An Assessment of Deadly Force in the Philadelphia Police Department, supra*, received a Flesch Reading Ease score of 28.8 and a Flesch-Kincaid Grade Level of 14.4; *Investigation of the Ferguson Police Department, supra*, received a Flesch Reading Ease score of 31.2 and a Flesch-Kincaid Grade Level of 14.3; and *Investigation of the Baltimore City Police Department, supra*, received a Flesch Reading Ease score of 35.9 and a Flesch-Kincaid Grade Level of 14.1.

With respect to the appellant's recommendation that the Commission "confer with [SMEs] from several disciplines . . . ," it is not clear for what purpose he is suggesting that the Commission consult with these individuals, *e.g.*, to recommend test material sources or to author test items or for another purpose. In addition, the appellant neither indicates how these individuals would qualify as SMEs¹¹ nor does he provide the names of any individuals he believes would be qualified.

In response to the appellant's concerns regarding the validity of the subject examination, the purpose of a promotional test is to determine whether the individual is qualified for the position and to determine the relative merit and fitness of the candidate population. The validity of an exam is determined by whether the subject matter of the question is related (content validity) to the title and whether the difficulty level is appropriate. As explained in the Orientation Guide, under the heading "Exam Development":

¹⁰ A Flesch Reading Ease score of 0-30 is considered college graduate level or very difficult to read; a score of 30-50 is considered college level or difficult to read; a score of 50-60 is considered 10th to 12th grade level or fairly difficult to read; a score of 60-70 is considered 8th to 9th grade level or being in Plain English; a score of 70-80 is considered 7th grade level or easy to fairly easy to read; a score of 80 to 90 is considered 6th grade level or easy to read; and a score of 90-100 is considered 5th grade level or very easy to read. *See, e.g.*, <https://blog.ung.edu/press/measure-readability/>; or https://www.ihs.gov/healthcommunications/includes/themes/responsive2017/display_objects/documents/Readability_Tools.pdf.

¹¹ The U.S. Office of Personnel Management offers the following definition of an SME, a "person with bona fide expert knowledge about what it takes to do a particular job. First-level supervisors are normally good SMEs. Superior incumbents in the same or very similar positions and other individuals can also be used as SMEs if they have current and thorough knowledge of the job's requirements." *See Delegated Examining Operations Handbook*. U.S. Office of Personnel Management (2007). Retrieved from https://www.opm.gov/policy-data-oversight/hiring-information/competitive-hiring/deo_handbook.pdf.

A job analysis was recently conducted to identify the knowledge and abilities that are necessary to perform the duties of a Police Lieutenant. A job analysis is the process of critically examining the Knowledge, Skills, and Abilities (KSAs) required to perform successfully on the job. As a part of this job analysis, staff from the Civil Service Commission visited various police departments throughout the state. They gathered information about the job through interviews and surveys of on-the-job activities of incumbent (permanent) Police Lieutenants. Based on the results, critical KSAs were identified and considered for inclusion in the exam. The exam is developed to measure these critical KSAs.

As such, the test content was appropriate to the Police Lieutenant title.

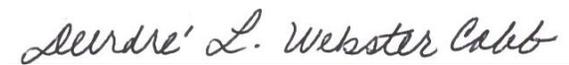
Accordingly, based on the foregoing, the appellant has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 22ND DAY OF MAY, 2019



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