



STATE OF NEW JERSEY

In the Matter of Richard Groth,
Correctional Police Officer (S9988A)

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

CSC Docket No. 2019-3012

Examination Appeal

ISSUED: May 1, 2020 (JH)

Richard Groth appeals the validity of the Correctional Police Officer (S9988A) examination. It is noted that the appellant passed the subject test with a final average of 99.940 and appears at rank 64.

By way of background, it is noted that the Division of Test Development and Analytics (TDA) contracted with a private vendor to develop an examination to assess candidate readiness for entry into law enforcement titles considered to have common knowledge, skills, abilities and other characteristics.¹ In this regard, this examination is utilized to test all entry level law enforcement titles areas, including: Correctional Police Officer;² Correctional Police Officer, Juvenile Justice Commission; County Correction Officer; Municipal Police Officer;³ and Sheriff's Officer. Prior to 2010, the entry level law enforcement examination (LEE) consisted of one announcement and applicants were to file one application and indicate their title areas of interest by checking the corresponding box(es) on their application. However, beginning in 2010, separate announcements were issued for the above

¹ It is noted that TDA contracted with PSI Services (PSI) to develop the subject examination to assess candidates for entry level law enforcement titles.

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

³ The Municipal Police Officer title area includes County Police Officer, Park Police Officer, Campus Police Officer Recruit, Police Officer Recruit Human Services and Police Officer Palisades Interstate Park.

noted title areas but all of the LEE areas continued to be tested using the LEE examination. In this regard, the 2010 entry level law enforcement cycle consisted of three title area announcements and five different symbols.⁴ However, regardless of how many announcements candidates applied for, they were scheduled for one test session. If a candidate achieved a passing score, it was applied to each resulting pool for which the candidate submitted an application. The eligible lists for the above noted title areas resulting from the 2010 LEE were set to expire in June 2013, at which time the next testing cycle would be announced. However, the Department of Corrections (DOC) anticipated that the list for Correction Officer Recruit would be exhausted before a new list would become available. Accordingly, based on the DOC's pressing need to fill positions, a separate announcement for Correction Officer Recruit (S9988R) was issued in December 2012 and subsequently, the announcement for the 2013 LEE (S9999R)⁵ was issued in June 2013. It is noted that the 2013 Law Enforcement Examination Fact Sheet, which was available to candidates on the Commission's website, indicated, in part, that candidates who had taken the 2013 Correction Officer Recruit exam (S9988R) "and apply for any title within the 2013 LEE announcement [(S9999R)] will NOT be scheduled to take the LEE exam . . . [and] will automatically have their score applied to all titles for which they apply as part of the 2013 LEE announcement . . ."⁶ For the 2016 testing cycle, the 2016 Law Enforcement Examination Fact Sheet informed candidates that "anyone who applies for (or has applied) for more than one of the following titles/symbols in 2016 will only have one opportunity to sit for the exam, regardless of the number of titles for which you have applied: Entry-Level Law Enforcement (LEE – S9999U), Correction Officer Recruit (S9988U), Parole Officer Recruit (S1000U), and Parole Officer Recruit Bilingual in Spanish and English (S1002U). The score achieved on the exam will be applied to any of these aforementioned symbols for which you applied." Given that the next testing cycle

⁴ Specifically, announcement 1 (S9999M) included the following title areas: Municipal Police; Municipal Police Officer (Bilingual in Spanish/English); Municipal Police Officer (Bilingual in Korean/English); Municipal Police Officer (Multilingual in Spanish/Portuguese/English); Campus Police Officer Recruit; County Police Officer; Park Police Officer; Police Officer Recruit, Human Services; Police Officer, Palisades Interstate Park; Sheriff's Officer; Sheriff's Officer (Bilingual in Spanish/English); and State Park Police Officer Trainee. Announcement 2 (S9988M) included the following title areas: Correction Officer Recruit; Correction Officer Recruit, Juvenile Justice; and County Correction Officer. Announcement 3 included the following title areas: Parole Officer Recruit (S0738M); Parole Officer Recruit, Juvenile Justice (S0739M); and Parole Officer Recruit (Bilingual Spanish/English) (S0740M). *See N.J.A.C. 4A:4-2.3(c)*.

⁵ The 2013 LEE announcement included the following title areas: Municipal Police Officer; Other Police Officer titles; Sheriff's Officer; County Correction Officer; and Correction Officer Recruit, Juvenile Justice Commission. Applicants were to file one application and indicate their areas of interest by checking the corresponding box(es) on their application.

⁶ It is noted that the resulting S9988R eligible list promulgated on May 23, 2013 and was set to expire on May 22, 2015. Given that the next testing cycle was anticipated to occur in 2016, a separate announcement for Correction Officer Recruit (S9988T) was issued on December 4, 2014, in order to ensure the availability of an adequate candidate pool for that title.

was anticipated to be announced in 2019, a separate announcement was issued for Correction Officer Recruit (S9988V) in May 2017 in order to ensure the availability of an adequate candidate pool for that title. As noted on the S9988V announcement, “Candidates who took the 2016 Law Enforcement Examination [(S9999U)], 2016 State Correction Officer Recruit [(S9988U)], 2016 Parole Officer Recruit [(S1000U)], or the 2016 Officer Recruit Bilingual in Spanish and English [(S1002U)] exam and apply for this current announcement will NOT be scheduled to take another exam. Instead, candidates who took the [S9999U, S9988U, S1000U or S1002U] exam will automatically have their score applied to this current announcement and subsequent eligible list.” In order to ensure the availability of an adequate candidate pool for the Correctional Police Officer title, the announcement for the subject test was issued on December 1, 2018. Subsequently, the Entry Level Law Enforcement examination (S9999A) was announced on July 1, 2019 and included all of the five title areas noted above. However, as indicated in the 2019 Law Enforcement Examination (LEE) Fact Sheet, “scores from ANY previous examination will **NOT** be carried over to this announcement. Anyone wishing to receive a score and be part of the 2019 LEE eligible pool MUST apply for this announcement . . .”

In an appeal filed at the test center, Groth indicated that “there were many police officer questions which should not be included in a Corrections Officer [*sic*] Exam.” In a subsequent submission filed on April 27, 2019, Groth asserts that “during the test I noticed that several questions dealt entirely about Police related issues and NOT about items that a correctional police officer needs to know or perform. You’re [*sic*] Job Specification for Correctional Police Officer does not indicate that an individual testing for that title needs to have Police Officer knowledge and abilities that were included in this exam. Many of the 48 questions tested in the Ability Portion of this exam DID NOT include questions that a Correctional Police Officer will deal with.” He argues:

A test must be valid or it will not stand up to judicial review. A valid test is one that accomplishes what it is supposed to accomplish. An entrance level exam is supposed to identify those candidates who have the required knowledge and abilities to most effectively perform the duties for the position in which they are testing for. According to law, any testing device used to select employees is required to be a valid predictor of job performance in the future . . . There must be statistical evidence to demonstrate that there’s a direct relationship between performance on the selection device and performance in the target position. NJ Civil Service Commission should never use a device that hasn’t been validated. Title VII of the Civil Rights Act is applicable to the public sector and a test must be valid in the eyes of a court who must agree that it is. Examiners who are preparing a test for a Correctional Police Officer position must have an objective, measurable

goal. The test device used must require candidates to approximate the demands of the actual job. For you to develop any other type of test is foolhardy.

Groth adds, “I’m sure that you know that there are two basic methods of establishing validity. First is the criterion-related validity and the second is content validity⁷ . . . Should you choose not to follow accepted validity guidelines, future court action might result which could be very costly to the State of New Jersey and to the NJ Civil Service Commission itself. Please take appropriate action to correct the faulty portions of this exam before that occurs.” Groth asserts that the Commission “need[s] to have separate Subject Matter Experts (SME’s) from the NJ Department of Corrections (NJDOC), review that material and determine exactly which questions are valid and which ones need to be removed before a list is established.” Specifically, Groth refers to:

Questions in which you ask for an appropriate charge under [N.J.S.A.] Title 2C, is not listed as a knowledge or ability for the title and therefore should NOT be included on this type of exam. Another example from memory was that there were specific crimes with descriptions given by various witnesses and then a candidate was asked which suspect description was probably incorrect. A correctional police officer does not interview witnesses to street crimes as tested and it is not listed as either examples of work performed or the knowledge and ability under the Job Specification for that title. They

⁷ Groth further opines:

Criterion-related validity involves an empirical demonstration that those who do well on the exam may very well be hired to perform the duties of correctional police officer. If there is a direct correlation between test scores and eventual job performance, then the test is valid. While in theory, this is the preferred method of establishing test validity, for a number of reasons it is not the kind of validity that examiners most commonly rely on. One reason why it is difficult to use criterion-related validity is the difficulty in finding an acceptable technique to rank job performance so that the required correlation study can be made comparing the results of test scores resulting from job performance. The most common method used to measure the validity of an exam is content validity. Content validity is established by proving that a test is a fair reflection of the content of the job which portions of this test did not do. Content validity is built into a test by having trained experts perform a job analysis to identify the tasks performed by the incumbents in the job for which the test is being used for. NJ Civil Service Commission allegedly did this in the form of the job specification. The knowledge and abilities needed to perform the tasks of Correctional Police Officer were identified. It is then that a proper test should have been constructed which accurately measure the needed knowledge and abilities in which portions of this test did not. NJ Civil Service Commission must rectify this matter which will only measure those items that a correctional police officer must know.

also gave sentences about Police related items and you had to place them in the proper order and you determined that based on proper police issues not correctional related issues. These types of questions should have been correctional related and not Police related and therefore need to be eliminated from the scoring process since they are 'faulty.' This test was more designed as an entrance level law enforcement test (LEE) and not a correctional police officer (CPO) exam. As a retired police lieutenant⁸ I know what a police officer job is and have taken prior correctional officer entrance exams in the past from this state⁹ as well as others. This particular test was geared more towards a person wanting to enter the field of Police work, NOT corrections.

Finally, Groth maintains that the Commission "need[s] to do the following in order to rectify this situation:"

1. Review the material in the Ability Section and eliminate those questions which are not valid for the title of Correctional Police Officer.
2. Should additional information for a successful appeal be needed regarding specific test items that must be removed, either allow a subject matter expert or a candidate like myself, the opportunity to review the exam, take notes, and submit a more specific appeal which would better identify those questions which need to be removed since they are NOT valid as to the title being tested . . .
3. Take the necessary steps to ensure that when a test is given, such as this one, you need to field test the exam to ensure that errors like this will not happen again . . .

CONCLUSION

TDA contacted PSI in regard to this matter and PSI indicated that the LEE "is a proprietary entry-level selection battery designed for administration to entry-level candidates to identify those who possess the critical abilities and personal

⁸ A review of the record finds that Groth received a regular appointment to the Police Lieutenant title effective April 5, 1994 and retired effective February 1, 1997.

⁹ It is noted that available records show that the appellant applied for and was admitted to the S9999D (announcement issued on December 3, 2001), S9999F (announcement issued on December 1, 2003), S9999H (announcement issued on December 1, 2005), S9999K (announcement issued on December 1, 2007), S9988M (announcement issued on July 1, 2010), S9988R (announcement issued on December 3, 2012), S9988T (announcement issued on December 4, 2014), S9988U (announcement issued on July 1, 2016) examinations as well as the subject examination and the S9999A examination.

characteristics required for success in any law enforcement job title, including corrections titles.” PSI noted that “entry-level candidates taking the LE[E] are not presumed to have any technical knowledge pertaining to *any* law enforcement position, including police officer or correction[al police] officer.” In this regard, PSI emphasized that this is explicitly stated in the Assessment Preparation Guide for the New Jersey Civil Service Commission 2019 State Correctional Police Officer Examination (Assessment Preparation Guide)¹⁰ which provides:

[A]ll information necessary to answer the questions is contained within the test itself. This test is designed to assess abilities, not specific knowledge about law enforcement. Any law enforcement terms or procedures that are included in the test will be defined or described so that all candidates have the same information on which to base their answers.

PSI further emphasized that the items that Groth references “are designed to be ‘face’ valid, that is to be within the context of law enforcement, but they do not depend on any knowledge of the job. All information needed to answer any question is provided within the question itself and/or the passage preceding the question. The items are merely a vehicle for assessing the abilities underlying performance as identified based on our program of content and criterion-related validity conducted with many law enforcement titles in numerous law enforcement agencies, including the 13 job titles in the State of New Jersey.”

In this regard, although Groth contends that “questions in which you ask for an appropriate charge under [*N.J.S.A.*] Title 2C” are not valid for the Correctional Police Officer title, as noted in the Assessment Preparation Guide, one of the ability areas is deductive reasoning which is described in the guide as the ability to apply general rules or regulations to specific cases or to proceed from stated principles to logical conclusions. The guide specifically indicates that a type of deductive reasoning question provides candidates with a law enforcement related term, such as a crime, and requires candidates to interpret the term with regard to a law enforcement related situation. Thus, this type of question is *not* measuring a candidate’s knowledge of, *e.g.*, *N.J.S.A.* 2C since, as indicated above, no actual knowledge of any statute, rule or regulation was required given that the

¹⁰ The Assessment Preparation Guide was developed by PSI and was available to S9988A candidates. As noted in the Assessment Preparation Guide, the subject test consisted of three test components: the Ability Test, the Work Styles Questionnaire, and the Life Experience Survey. The guide notes that the Ability Test “is designed to assess a series of abilities . . . determined to be important to the effective performance of law enforcement officers.” The guide further indicates that there were six ability areas that would be assessed and “this guide will provide you with definitions of these ability areas and examples of how they apply to the job of an entry-level law enforcement officer.” It is further noted that the identical information was provided in the Assessment Preparation Guide for the New Jersey Civil Service Commission 2019 Law Enforcement Examination (LEE) which was also developed by PSI and made available to S9999A candidates.

information needed to answer the question was provided in the test booklet. Rather, this type of item measures a candidate's deductive reasoning ability. In addition, Groth refers to items in which "there were specific crimes with descriptions given by various witnesses and then a candidate was asked which suspect description was probably incorrect," candidates were informed in the Assessment Preparation Guide that they would be presented with this type of item and more specifically, that this type of question assesses the Problem Sensitivity ability area which, as noted in the guide, is the ability to recognize problems as a whole or elements of the problem.¹¹ As such, Groth has erroneously relied on the content of these items as the basis for his validity argument.

Furthermore, PSI noted that "although Groth assumes a criterion-related validity study was not conducted because of the challenges inherent in such an approach," PSI indicated that local criterion-related validity studies were conducted in New Jersey. PSI also indicated that these studies "were conducted with NJ CSC law enforcement personnel across all 13 entry-level law enforcement job titles, including many correction officer job titles, and all geographic regions of the state. These studies provide support from a content and criterion-related validity standpoint for the validity of the LE[E] and for the similarity of the entry-level job titles (including Correctional Police Officer) in terms of the abilities and personal characteristics critical to effective job performance." PSI further indicated that "it is important to note, that the LE[E] underwent all the kinds of reviews, and more, mentioned in Groth's letter. The LE[E] was subjected to many forms of review by public safety testing specialists, SMEs, and cultural bias reviewers, etc."

Moreover, despite Groth's argument that the subject test is "a Corrections Officer [*sic*] Exam" and "designed as an entrance level law enforcement test (LEE) and not a correctional police officer (CPO) exam," as thoroughly discussed above, the Correctional Police Officer title *is* an entry level law enforcement title and thus, it has consistently been tested utilizing the LEE. Although separate announcements and symbols were used beginning in the 2010 testing cycle, the LEE was used to test *all* title areas. In addition, as indicated above, Groth has applied for the LEE since at least the 2001 testing cycle.¹² Thus, it is not clear from the record as to why, after taking the entry level law enforcement test on eight occasions prior to the subject test, the appellant is now challenging its validity. In this regard, the

¹¹ Although Groth claims that a Correctional Police Officer "does not interview witnesses to street crimes as tested and it is not listed as either examples of work performed or the knowledge and ability under the Job Specification for that title," the job specification for the Correctional Police Officer title, under the "Examples of Work" section, provides, "assists in performing investigations and prepares detailed, cohesive reports." As such, as part of the investigation process, a Correctional Police Officer may be required to interview witnesses, including inmates and/or facility personnel, regarding crimes under Title 2C or infractions of Title 10A that occurred in the facility.

¹² It is noted that electronic records are not available for entry level law enforcement exams announced or administered prior to the 2001 testing cycle.

appellant has neither presented any evidence that the S9988A test differs significantly from prior entry level law enforcement tests nor that the subject test was in any way invalid.

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 29TH DAY OF APRIL , 2020



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