

inmates, subject only to the limitations necessary to maintain the safe, secure and orderly operation of the facility.” Palma argues that Question 10 should be stricken from the examination because option c was an accurate statement, thereby leaving no correct response to Question 10. *N.J.A.C.* 10A:31-14.3(b) provides that “[c]are, custody and treatment services of inmates shall be provided equally to male and female inmates.” The foregoing regulation does not contain any limiting language to the effect of “subject only to the limitations necessary to maintain the safe, secure and orderly operation of the facility.” Therefore, option c is the correct response to Question 10, as it is a false statement according to the language of *N.J.A.C.* 10A:31-14. Thus, the question is correct as keyed.

Question 26 presents a scenario involving a use of force incident involving officers and an inmate on a Friday at 0200 hours. The scenario states that the use of force was necessary and justified. However, upon video review Monday morning, it was discovered that CO Sutherland (who was involved in the incident) did not report his actions regarding his involvement in the incident. It is further noted that CO Sutherland’s actions did not violate the use of force policy when using force, he just failed to report his actions. The question asks for the best way to handle the situation. The keyed response is option c, “Lieutenant Martinez should have a private meeting with CO Sutherland to discuss his performance.” Palma argues that the correct response is option b, “CO Sutherland should be charged with a major disciplinary infraction.” In this regard, he contends that *N.J.A.C.* 10A:31-8.17(f) and the New Jersey Attorney General’s Use of Force Policy unequivocally require the use of force to be reported and leave no room for deviation. He observes that since there was no indication that CO Sutherland was physically or mentally unable to report the incident, he has no excuse for failing to promptly file the use of force report. The Division of Test Development and Analytics (TDA) contacted four Subject Matter Experts (SMEs) who have knowledge regarding the performance standards and requirements of the job. The SMEs assert that option c is the best response. In this regard, the SMEs note that meeting with CO Sutherland is a form of corrective action. They also observe that it is important to evaluate why CO Sutherland did not file a report before deciding whether it warrants major discipline. Further, one SME observes that all correctional facilities have different policies and avers that discipline is not a one-size-fits-all approach. Moreover, two SMEs contend that if this were a first offense, major discipline would not be an appropriate action in this context. TDA similarly asserts that it is critical to meet with CO Sutherland first, as it’s important to find out why he did not submit a report. TDA also proffers that it is important for a supervisor to ascertain whether or not this was a first offense before determining the next course of action. The Commission agrees that option c is the best response based upon the foregoing explanations offered by TDA and the SMEs. Thus, the question is correct as keyed.

Question 67 is part of a section of the exam designed to measure candidates’ ability to review documents for accuracy. Candidates review a fictitious narrative,

incident report, incident report summary, and a placement in pre-hearing detention memorandum. Candidates answer the question by determining which report, if any, differs from the narrative regarding the information in the question. The information in Question 67 is Sergeant Hart's identification (ID) number. Sergeant Hart's ID number is listed as 04013 in the narrative and in the incident report summary; and 04031 in the incident report and the placement in pre-hearing detention memorandum. The keyed response is option a, the incident report differs from the narrative. Rice argues that it should be double keyed with option c, that the placement in pre-hearing detention memorandum differs from the narrative. The Division of Test Development and Analytics has determined to double key this item to option a and option c prior to the lists being issued.

CONCLUSION

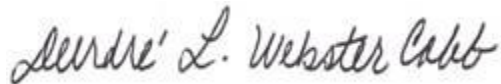
A thorough review of the appellants' submissions and the test materials reveals that, other than the scoring change noted above, the appellants' examination scores are amply supported by the record, and the appellants have failed to meet the burden of proof in this matter.

ORDER

Therefore, it is ordered that these appeals be denied.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF DECEMBER, 2021



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