



STATE OF NEW JERSEY

In the Matter of Vincent Conti, Essex
County, Department of Corrections

CSC Docket No. 2024-2280
OAL Docket No. CSR 07550-24

**DECISION OF THE
CIVIL SERVICE COMMISSION**

ISSUED: SEPTEMBER 29, 2025

The appeal of Vincent Conti, Investigator, Secured Facilities, removal, effective June 29, 2023, on charges, was heard by Administrative Law Judge R. Tali Epstein (ALJ), who rendered her initial decision on August 4, 2025. Exceptions were filed on behalf of the appointing authority and a reply was filed on behalf of the appellant.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, including a thorough review of the exceptions and reply, the Civil Service Commission (Commission), at its meeting on September 24, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to reverse the removal.

As indicated above, the Commission has thoroughly reviewed the exceptions and finds them unpersuasive and unworthy of extensive comment. In this regard, the ALJ's recommended reversal was based on her determinations pursuant to the Attorney General (AG) Guidelines for internal investigations and *O'Rourke v. City of Lambertville*, 405 N.J. Super. 8 (2008). In this regard, the ALJ performed a thorough review of the record and the standards outlined and found the violations of the AG Guidelines during the investigation of this matter were of such magnitude that dismissal of the charges was warranted. Specifically, the ALJ stated:

This is one of those cases where a *de novo* hearing at the [Office of Administrative Law] OAL cannot cure the deviation from the [AG Guidelines]. Hamlin's conflict of interest injected unreliability into the impartiality in the investigatory process that cannot be remedied by a post-hoc plenary hearing before this Tribunal.

She further found that:

A plenary hearing at the OAL will not remedy the flawed investigation process and the compromised evidentiary foundation that led to the charges against Conti and the termination penalty. The Tribunal cannot reconduct the investigation or verify that Hamlin viewed all of the available video footage from the time the Durango was assigned until the damage was discovered and verify that no one else operated the Durango outside of the days that Hamlin included in the Investigation Report. Nor can the Tribunal rule out that the Durango may have been vandalized on any of the days that it was stationary, as that finding was not addressed in the Investigation Report. Nor can the Tribunal test the pieces of plastic that Yannuzzi collected nearly contemporaneously with the date that the damage was reported by Theodoridis. Stated otherwise, a plenary hearing at the OAL cannot cure the inadequacies of an investigative process that was tainted by Hamlin's self-interest in the outcome.

Hamlin's disqualifying conflict of interest, his focus on including certain video footage and his own exculpatory statements in the Investigation Report, and his reliance on materials found at the scene that were discarded or photographed a month after the alleged incident and never tested to support the sustained findings of his investigation, inject doubt in the reliability and thoroughness of the investigation that cannot now be remedied. This conclusion is reinforced by the fact that Hamlin's Investigation Report definitively stated that the red plastic pieces that Yannuzzi discarded were "parts to the Dodge Durango tail light [sic]," and Hamlin made no attempt to test the pieces he recovered from the scene of the alleged impact over a month after the damage was reported to confirm whether they were actual pieces of the Durango taillight. *See O'Rourke* at 21 ("Moreover, the report the supervisor produced . . . confirm[ed] the court's suspicion" that the investigator lacked objectivity.)

Thus, I **CONCLUDE** that the violation of IAPP 4.2.6 tainted the process from its inception. I further **CONCLUDE** that because the result of the IAPP deviation could not be remedied by a *de novo* hearing, Conti was deprived of a fair investigation, and the charges against him cannot stand.

Upon its *de novo* review of the record and the ALJ's analysis, as well as the appointing authority's exceptions, the Commission agrees that the charges in this matter must be reversed. In this regard, while procedural deficiencies at the departmental level which are not significantly prejudicial to an appellant are generally deemed cured through the *de novo* hearing received at the OAL per *Ensslin v. Township of North Bergen*, 275 N.J. Super. 352, 361 (App. Div. 1994), *cert. denied*, 142 N.J. 446 (1995) and *In re Darcy*, 114 N.J. Super. 454 (App. Div. 1971), the facts of this matter cannot support that excusal of the procedural violations in this case. In this regard, the Court in *O'Rourke*, *supra* at 23, stated:

In summary, we are convinced that when a law enforcement agency adopts rules pursuant to *N.J.S.A.* 40A:14-181 to implement the Attorney General's Guidelines, the agency has an obligation to comply with those rules. Because it failed to do so, *and because the deficiencies tainted the disciplinary process*, the City's decision to remove plaintiff from his position cannot stand. (emphasis added).

Initially, the Commission notes that the *O'Rourke* matter was decided in a jurisdiction not covered under the Civil Service Act, *i.e.*, Title 11A of the New Jersey Statutes. Regardless, where applicable, the Commission believes it should also be applied to Civil Service jurisdictions. A plain reading of the above holding indicates that in order to find that charges should be dismissed, there must be a showing that the deficiencies also tainted the disciplinary process. In this matter, the ALJ found that the violations did, indeed, so taint the process as to not survive the granting of a *de novo* hearing. The Commission finds nothing in the ALJ's findings or analysis of this matter to disagree.

Thus, the Commission rejects the appointing authority's arguments in its exceptions that the ALJ should have decided the matter on the merits of the charges, as per above, it is clear that the charges were properly dismissed based on the tainted investigation. Similarly, whether charges are dismissed procedurally or on the merits, such dismissal entails that such charges were not warranted and no infirmities attached can continue to be ascribed. For example, the appointing authority's continued concern about the appellant's veracity is of no concern to the Commission, since, based on the ALJ's initial decision and the Commission's affirmance of that decision dismissing the charges, the appellant's veracity is no longer in question in this particular matter. Whether the appellant's veracity going forward is at issue is not a question properly before the Commission at this time.

Since the removal has been reversed, the appellant is entitled to be reinstated with mitigated back pay, benefits, and seniority pursuant to *N.J.A.C.* 4A:2-2.10 from the first date of separation without pay until the date of actual reinstatement. Moreover, as the appellant has prevailed, he is entitled to reasonable counsel fees pursuant to *N.J.A.C.* 4A:2-2.12.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty imposed by the appointing authority. However, per the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay or counsel fees are finally resolved. In the interim, as the court states in *Phillips, supra*, if it has not already done so, upon receipt of this decision, the appointing authority shall immediately reinstate the appellant to his permanent position.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was not justified. The Commission therefore reverses the removal and grants the appeal of Vincent Conti.

The Commission orders that the appellant be granted back pay, benefits, and seniority from the appellant's first date of separation without pay to the actual date of reinstatement. The amount of back pay awarded is to be reduced and mitigated as provided for in *N.J.A.C.* 4A:2-2.10. Proof of income earned, and an affidavit of mitigation shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision.

Additionally, the Commission orders that counsel fees be awarded to the attorney for the appellant pursuant to *N.J.A.C.* 4A:2-2.12. An affidavit of services in support of reasonable counsel fees shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision.

Pursuant to *N.J.A.C.* 4A:2-2.10 and *N.J.A.C.* 4A:2-2.12 the parties shall make a good faith effort to resolve any dispute as to the amount of back pay or counsel fees. However, under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay dispute.

The parties must inform the Commission, in writing, if there is any dispute as to back pay or counsel fees within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to R. 2:2-3(a)(2). After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 24TH DAY OF SEPTEMBER, 2025



Allison Chris Myers
Chairperson
Civil Service Commission

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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 07550-24

**IN THE MATTER OF VINCENT CONTI,
ESSEX COUNTY DEPARTMENT OF
CORRECTIONS.**

Zinovia H. Stone, Esq., for appellant, Vincent Conti (Caruso Smith Picini, P.C.,
attorneys)

Courtney M. Gaccione, Esq., for respondent, Essex County Department of
Corrections (Chiesa Shahinian & Giantomasi PC, attorneys)

Record Closed: June 19, 2025

Decided: August 4, 2025

BEFORE **R. TALI EPSTEIN**, ALJ:

STATEMENT OF THE CASE

Appellant, Vincent Conti (Conti), an internal affairs (IA) investigator employed by the Essex County Department of Corrections (ECDOC or respondent), was terminated for causing damage to an IA vehicle and subsequently filing a false report denying knowledge of the damage. Should Conti be terminated where the lead investigator who prepared the investigative report supporting the charges against him was a conflicted co-worker? No. The failure of the lead investigator to recuse from the case was a violation of the Attorney General Guidelines on Internal Affairs Policy and Procedures

(IAPP) that “undermine[d] the fairness of the process at its inception and taint[ed] the entire proceeding.” O’Rourke v. City of Lambertville, 405 N.J. Super. 8, 22 (App. Div. Oct. 31, 2008).

PROCEDURAL HISTORY

On June 28, 2023, ECDOC served Conti with a Preliminary Notice of Discipline and Statement of Charges (PNDA) seeking Conti’s removal. (J-2.) The PNDA charged Conti with incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); conduct unbecoming a public employee in violation of N.J.A.C. 4A:202.3(a)(6); neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); misuse of public property, including motor vehicles, in violation of N.J.A.C. 4A:2-2.3(a)(8); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12). ECDOC also charged Conti with violations of its Department Rules and Regulations.

A single hearing date was held on December 22, 2023, before Conti waived his right to a departmental hearing on March 22, 2024. ECDOC issued a Final Notice of Discipline (FNDA) on April 5, 2024, sustaining the charges in the PNDA and terminating Conti’s employment with ECDOC, effective June 29, 2023. (J-3.)

Conti appealed his removal, and on May 31, 2024, the matter was filed simultaneously with the Civil Service Commission and the Office of Administrative Law under the expedited procedures of N.J.S.A. 40A:14-202(d), for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23.

Following telephonic prehearing conferences, the parties requested a two-day hearing in August. The prehearing order dated July 2, 2024, provided for the same. The hearing commenced on August 21, 2024. At the conclusion of the second day of the hearing, on August 22, 2024, the parties requested additional hearing days. Two more hearing days were scheduled and held on September 3, 2024, and September 12, 2024. The parties, then again, requested more hearing days, which were scheduled for the earliest available and agreeable dates on the Tribunal’s calendar. The fifth day of the

hearing took place on November 25, 2024, and the hearing concluded on December 9, 2024. In total, the Tribunal heard six days of testimony, including testimony from three expert witnesses. The parties requested to submit written summations following receipt of the hearing transcripts. On April 28, 2025, the Tribunal received the parties' written summations and requested additional briefing regarding Conti's claim that ECDOC's alleged violations of the IAPP warranted dismissal of the charges. ECDOC timely served its supplemental post-hearing brief responding to Conti's claim on June 6, 2025. Conti's post-hearing reply brief was timely received on June 19, 2025, and I closed the record on that date.

FACTUAL DISCUSSION AND FINDINGS

Based upon the testimony the parties provided and my assessment of its credibility, together with the documents¹ the parties submitted and my assessment of their sufficiency, I **FIND** the following **FACTS**:

Conti was hired by ECDOC as a corrections officer, effective April 26, 2010. Following his completion of the Basic Course for Investigators as prescribed by the Police Training Commission, Conti was assigned to ECDOC's Internal Affairs Bureau (IAB) as an investigator of secured facility, in or about June 2019. (J-1, ¶¶ 1–2.)

ECDOC served Conti with a PNDA, dated June 28, 2023, charging Conti with various violations of Civil Service Rules and ECDOC Rules and Regulations.

As alleged in the specifications, on March 23, 2023, IAB Investigator Maria Theodoridis (Theodoridis) noticed that “the Dodge Durango plate #ZMR19D had damage to the driver-side back bumper (which was pushed in) and had a broken taillight.” (J-1, ¶ 9; J-2.)

Earlier that month, on March 6, 2023, Fleet Director Nicholas Yannuzzi (Yannuzzi) had assigned the Dodge Durango plate #ZMR19D (Durango) for IAB use. (R-1.) As of

¹ The parties submitted a joint stipulation of facts, which was received in evidence as J-1.

March 2023, there were only three investigators assigned to the IAB: Conti, Theodoridis, and Herbert Hamlin (Hamlin), all of whom had rightful access to the Durango, in addition to Yannuzzi. (T1², 313:20–22; T6, 7:11–17.)

The PNDA specifications further recite that Hamlin’s review of video surveillance “led to the findings” that: (1) Conti was operating the Durango on March 21, 2023; (2) while Conti is backing into a parking space at approximately 13:07:22 hours that day, the vehicle is observed to “stop abruptly” and “then adjust forward”; (3) Conti then exits the Durango, “approaches the rear driver side of the vehicle and appears to inspect the area” before leaving. The specifications also allege that “pieces of the broken taillight were discovered” in the same area.³

The PNDA specifications also refer to an “investigation” related to the incident that, as “sustained by Investigator Hamlin,” concluded that “Conti was operating the Dodge Durango, when, while backing into a parking space, he collided with the concrete base of the light pole, causing damage to the rear driver side bumper and taillight.” (J-1, ¶ 9; J-2.) The PNDA also specifies that “Conti failed to report the damage” and “lied about having knowledge of the incident.” (Id.)

On April 23, 2024, ECDOC served Conti with an FNDA, dated April 5, 2024, sustaining the charges in the PNDA and terminating Conti’s employment with ECDOC, effective June 29, 2023. The FNDA also adopted the specifications “[a]s outlined in the [PNDA].” (J-1, ¶10; J-3.)

As noted in the specifications underlying the sustained charges, Hamlin “ordered, obtained, and reviewed” the video footage from March 21, 2023, that “led to the findings” against Conti. (J-2; J-3.)

² References to the hearing transcripts are denoted herein by “T” followed by the day of the hearing (e.g., “T1” refers to the transcript from the first day of the six-day hearing).

³ There was no forensic testing performed to determine whether the red plastic pieces, collected by Yannuzzi on or about March 27, 2023, were pieces from the Durango’s taillight, and the pieces were discarded. See infra at 8. Approximately one month later, on May 2, 2023, Hamlin returned to the scene and photographed red fragments in the same area, but no testing was performed on those pieces either. Id.

Hamlin's video review (commencing on April 5, 2023) followed an April 3, 2023 request from Captain Antonio Pires (Pires) that each of the three IAB investigators "provide a written memo stating their knowledge or lack of in [sic] damage to the vehicle that was assigned to IAB (Dodge Durango plate #ZMR19D)." (R-21.)⁴

Hamlin testified that his reason for ordering and reviewing the video footage was because "with that April 3rd request the direct blame was now coming – falling onto me – as well . . . [as] onto the unit." (Tr. 1, 313:10–19.) Hamlin agreed that he was motivated to conduct the video review at that time because he was concerned that blame could be placed on him unless he was able to disprove it. (Tr. 1, 314:1–4.) Hamlin never had any further conversations with Conti regarding the damage to the Durango or what Hamlin intended to do to informally investigate the damage to the Durango. (Tr. 2, 64:5–14).

Hamlin prepared the requested memo, dated April 5, 2023, and hand-delivered it to Chief Thomas McEnroe (McEnroe). Hamlin's memo stated that on March 23, 2023, he told Theodoridis that he "did not cause the damage, nor was aware of how the damage occurred." (J-7.) During that interaction, Hamlin also told McEnroe that he was reviewing video footage from the time that Theodoridis reported the damage and as far back as when the Durango was assigned for IAB use on March 6, 2023. McEnroe had no objection to Hamlin's plan and, as Hamlin recalls, McEnroe told him "to kind of run with it." (Tr. 1, 314:7–25.) While McEnroe recalls selecting Hamlin to perform the video review, McEnroe also testified that he had just started as chief of the IAB on April 3, 2023 (two days earlier), "there was a lot going on when I got there," and he "was trying to get up and running." (Tr. 1, 75:11–18; 76:2–13.) Under the circumstances, I **FIND** that Hamlin's recollection is likely more accurate regarding this point.

The memos prepared by Theodoridis and Conti and submitted to McEnroe also disclaimed responsibility for the damage to the Durango. Specifically, Theodoridis's memo, dated April 3, 2023, stated that "[t]he reported damage to the Dodge Durango plate #ZMR19D was not done by this writer." (J-4.) Likewise, the final version of Conti's memo, dated April 4, 2023, included a definitive statement that he was "unaware of how

⁴ Pires also requested that Yannuzzi provide him with a memo. (Id.)

or when [damage to the rear of the vehicle] occurred.” (J-6.)⁵ On April 5, 2023, McEnroe signed off on each of the investigator’s memos, and they were provided to Pires. (J-4; J-6; J-7.)

During the last week of April 2023, Hamlin met with McEnroe again to report his findings based on his review of video footage from the Employee Parking C (North) at the Essex County Correctional Facility, located at 354 Doremus Avenue in Newark. (Tr. 1, 102:2–14.)

Hamlin advised McEnroe that the damage to the Durango “appears to be an accident, and it involved Investigator Conti.” (Tr. 1, 103:18–24.) McEnroe viewed the video footage that Hamlin obtained from March 21, 2023, and observed Conti “backing into the space and the vehicle appeared to strike the pole behind the space.” (Tr. 1, 110:1–7.) Hamlin also showed McEnroe photographs of the damage to the Durango, and McEnroe testified that the pictures also captured “glass pieces of the red glass from the lens of the light” in the “debris field” on the ground “underneath the pole.” (Tr. 1, 111:4–112:5.) There was no evidence presented that the red “glass pieces” McEnroe saw in the photograph were pieces of a taillight or pieces of the Durango’s plastic taillight.

McEnroe testified that the meeting with Hamlin took place in McEnroe’s office on either April 26th or April 27th, “because at that point we . . . took a number and initiated an investigation.” (Tr. 1, 103:25–104:4) McEnroe explained that when an IAB case number is obtained, then a formal IAB investigation is opened and tracked. (Tr. 1, 104:6–16; 145:22–24.)

McEnroe assigned Hamlin to conduct the investigation regarding the damage to the Durango. (Tr. 1, 102:2–5.) Hamlin undertook the assignment and prepared the investigative report that supported the charges against Conti. Hamlin did so notwithstanding his concern about a potential conflict of interest. Indeed, Hamlin testified

⁵ McEnroe testified that he told Conti to revise the initial draft of his memo because McEnroe did not believe it was responsive to Pires’s request. After asking Conti “point-blank” if he was responsible for the damage to the Durango, and upon hearing Conti’s denial, McEnroe told Conti that “[h]e should document that fact.” (Tr. 1, 92:7–93:4.)

that his concern arose prior to his video review. Specifically, Hamlin acknowledged that by looking into the cause of the damage to the Durango, he could potentially be investigating one of his IAB co-workers. While it was not his “intent” that his video review would “turn into a formal Internal Affairs investigation,” Hamlin admitted that he did “have consideration that it may end up that way” (Tr. 2, 106:3–107:13; 114:23–115:4) and that he undertook the video review to exculpate himself and avoid blame falling on him. (Tr. 1, 313:8–314:4).

On May 25, 2023, Hamlin submitted his investigation report, also dated May 25, 2023 (Investigation Report), to McEnroe. The Investigation Report noted Conti as the “suspect,” and the report was titled “Departmental Vehicle Damage – Investigator V. Conti #2759.” Hamlin signed off on the Investigation Report as the “investigator,” and McEnroe as the “supervisor.” (J-8.)

Among other things, Hamlin addressed his own exculpatory statements in the “Synopsis” section of the Investigation Report. Hamlin reported that he “advised Investigator Theodoridis that [he] had no knowledge about the damage to the vehicle nor was [he] aware of how the damage occurred.” (Id.) The “Synopsis” also recounted the initial steps Hamlin took after Theodoridis advised him on March 23, 2023, that “she had observed the damage to the vehicle.” (Id.) Further, Hamlin reported an additional exculpatory statement in the “Synopsis” that after observing the damage to the vehicle, he spoke with Theodoridis and Conti and “informed them that [he] did not cause the damage, nor was aware of how the damage occurred.” (Id.) Hamlin also mentions in the “Synopsis” that Theodoridis then inquired of Conti whether he was aware of the damage or how it may have occurred, and Conti advised that he had “no knowledge regarding how the vehicle was damaged.” (Id.)

The Investigation Report then recounts “Information received from Sgt. N. Yannuzzi,” a summary of each IA investigator’s memo, prepared in response to the April 3, 2023 request from Pires, and a summary of the video surveillance camera footage from Camera 215, Gate 9 that Hamlin reviewed before a formal IA investigation was opened.

Regarding the video surveillance, Hamlin summarized his review of footage from five days: Thursday, March 16; Friday, March 17; Monday, March 20; Tuesday, March 21; and Wednesday, March 22, 2023. The Investigation Report did not address Hamlin's observations of the video footage he reviewed from the other days in March 2023, when Hamlin claimed that the vehicle was stationary. (Tr. 2, 72:25–73:9.) Hamlin's video review was completed before the formal IA investigation was opened.

Concerning the information received from Yannuzzi, the Investigation Report notes that Hamlin spoke with Yannuzzi "on or about Friday, March 24, 2023,"⁶ and Yannuzzi informed Hamlin that he had recovered pieces "of what appeared to be a broken taillight" at the base of a light pole located in Employee Parking Area (North), which "were consistent with the damage to the taillight observed upon the [Durango]." (J-8.) But Yannuzzi had already "discarded" the pieces when Hamlin spoke with him. Hamlin further reports that he went to the same area where Yannuzzi said he found the pieces and "discovered small red colored plastic pieces." (Id.) Notably, the Investigation Report does not specify when Hamlin returned to the scene, but it was established at the hearing that he collected and photographed the red colored pieces on May 2, 2023, more than a month after Yannuzzi told Hamlin that he recovered and discarded the broken pieces he found near the light pole. (R-3, R-4.)⁷ On cross-examination, Hamlin also conceded that he did not know if the pieces he recovered belonged to the Durango, and no forensic testing was performed on the red plastic pieces that Yannuzzi or Hamlin believed to be pieces of the Durango taillight. (Tr. 2, 207:4–24; 210:1–14.) Nevertheless, in the "Conclusion" section of the Investigation Report, Hamlin categorically states that on March 21, 2023, Conti was observed on surveillance video operating the Durango, "where parts to the Dodge Durango taillight were located by Sgt. N. Yannuzzi and Investigator Hamlin." (J-8.)

⁶ Hamlin conceded at the hearing that he erred when he reported that the discussion with Yannuzzi happened on March 23, 2023, the same day that Theodoridis observed the damage to the Durango. The discussion did not occur until Monday, March 27, 2023. (Tr. 2, 38:4–39:10.)

⁷ R-3 and R-4 were admitted into evidence as photographs that Hamlin took with his phone on May 2, 2023. R-3 depicts small red specks among more prominent blue specks and what appears to be a larger blue shard next to a smaller red fragment on the ground between the curb and the light pole. Hamlin testified that the photograph also captured "a piece of chrome-like finishing" and "some clear pieces as well." (Tr. 2, 43:5–9.) Hamlin described R-4 as a picture of "the concrete base of the light pole located in parking Area C North" which appeared to have "gray or maybe black" discoloration. (Tr. 2, 48:8–11; 48:24–49:4.)

Based on the “activity captured on surveillance video, information provided by Yannuzzi] and materials discovered in the Employee Parking Area C (North),” Hamlin concludes that there is “sufficient evidence” that Conti was operating the Durango when “it struck the concrete base of the light pole located in the parking area” and “[u]pon causing the damage . . . failed to notify or report the damage . . . and denied having knowledge of the damage or how the damage was caused.” (Id.) However, Hamlin conceded at the hearing that in his review of the video footage, he was not able to see the point of contact or the light breaking. (Tr. 2, 249:22–25.)

Under the section of the Investigation Report titled “Findings,” Hamlin writes: “This investigation is **sustained**.” (Id., emphasis in the original.) Hamlin sums up by identifying the ECDOC policy, rules and regulations that he found Conti to have violated, including “withholding information or giving false information.” (Id.)

Upon his completion of the Investigation Report, Hamlin presented the report to McEnroe for his review. McEnroe signed off on the Investigation Report, and it was forwarded to the Discipline Unit. (Tr. 1, 112:13–19; Tr. 2, 66:3–14.) When asked if he made any disciplinary recommendations concerning Conti “as a result of the findings in Hamlin’s report,” McEnroe testified that he told Director Charles and Captain Radice (then a lieutenant in the Discipline Unit) that “we couldn’t have [Conti] in internal affairs.” (Tr. 1, 112:20–113:8.) McEnroe explained that with the “sustained finding” of “not telling the truth,” Conti could not stay on the job as an IAB investigator. (Tr. 1, 114:9–17.)

On June 28, 2023, ECDOC served Conti with a PNDA, charging Conti with various violations of Civil Service Rules and ECDOC Rules and Regulations. The specifications to the PNDA expressly referenced that the “investigation was sustained by Hamlin.” (J-2.) Conti was immediately suspended pending “ultimate removal.” (Id.)

The PNDA also advised that the departmental hearing would be held on July 27, 2023. The departmental hearing date was subsequently adjourned and rescheduled several times. On December 22, 2023, the departmental disciplinary hearing commenced. Following more unsuccessful attempts between the parties to schedule a mutually agreeable date for the continuation of the hearing, on March 14, 2024, Conti

advised of his decision to waive the continuation of the departmental hearing under N.J.A.C. 4A:2-2.5(d).

On April 23, 2024, ECDOC issued the FNDA (dated April 5, 2024), sustaining the charges in the PNDA. (J-3.)

This appeal followed.

LEGAL DISCUSSION AND CONCLUSIONS OF LAW

All law enforcement officers in New Jersey are subject to the IAPP. Specifically, N.J.S.A. 40A:14-81 provides that every law enforcement agency in the State must “‘adopt and implement guidelines’ . . . ‘consistent with the’ [IAPP].” O’Rourke v. City of Lambertville, 405 N.J. Super. 8, 19 (App. Div. 2008). There is no dispute that the IAPP applies to the operation of ECDOC’s IAB, including the procedures for conducting internal affairs investigations. As stated in the IAPP, “[t]he goal of internal affairs is to ensure that the integrity of the agency is maintained through a system of internal discipline where an objective and impartial investigation and review assure fairness and justice.” IAPP 4.1.1. To that end, IAPP 4.2.6 dictates that “[i]nvestigators **must** recuse from cases where they have a conflict of interest that **may** prevent them from being impartial in the investigation of a subject officer.” (Emphasis added.) The express terminology contained in this guideline, as bolded above, is critical to the analysis of whether there was a violation of IAPP 4.2.6 in the investigation of Conti. As it concerns an investigator’s obligation to recuse, IAPP 4.2.6 is not discretionary. The unambiguous language of IAPP 4.2.6 also makes clear that it is the potential for partiality that triggers mandatory recusal once a conflict of interest is identified; no actual bias need be demonstrated.

The law also establishes that “[a]n agency representative’s failure to comply with the [IAPP] may necessitate that an employee be reinstated,” even when the employee engaged in the charged misconduct. In re Picariello, 2012 N.J. Super. Unpub. LEXIS 1624, *18 (App. Div. 2012), citing O’Rourke, at 19, cert. denied, 198 N.J. 311 (2009). While not all departures from compliance with the IAPP necessitate reinstatement, when the deviation “undermine[s] the fairness of the process at its inception and taint[s] the

entire proceeding[.]” reinstatement is appropriate. O’Rourke at 22 (reversing discipline against a police officer where the investigation was tainted by bias).

This is one of those cases where a de novo hearing at the OAL cannot cure the deviation from the IAPP. Hamlin’s conflict of interest injected unreliability into the impartiality in the investigatory process that cannot be remedied by a post-hoc plenary hearing before this Tribunal.

In an IAB group of three investigators, all of whom had access to the Durango and denied causing damage to the vehicle, there was an obvious and inherent conflict of interest in having Hamlin assigned to lead an investigation that identified Conti as the “suspect.” (J-8.) Hamlin acknowledged that he was a potentially implicated party and perceived the potential for a conflict of interest at the time he undertook his review of parking area surveillance footage. But motivated by an effort to absolve himself of blame, he proceeded with the review. When McEnroe directed Hamlin to open a formal IA investigation, Hamlin had already predetermined that Conti was responsible for the damage based on the circumstantial video footage from March 21, 2023, a conversation with Yannuzzi, and “materials” found at the scene that were not established to be broken pieces of the Durango taillight. (J-8.) Given that Hamlin knew that he was a possible target of an investigation into the cause of the damage to the Durango and that he would have to exonerate himself from blame,⁸ I **CONCLUDE** that there was a clear conflict of interest in assigning him to be the lead investigator and the author of the Investigation Report that resulted in the sustained charges and Conti’s termination. I further **CONCLUDE** that, under the circumstances, there was a potential for partiality in the investigation of a subject officer [i.e., Conti] sufficient to trigger the non-discretionary recusal mandated by IAPP 4.2.6.

I am unpersuaded by ECDOC’s argument that IAPP 4.2.6 does not apply because “Hamlin had already gathered the documentary evidence consisting of photographs, and

⁸ Indeed, the Investigation Report (J-8) contains Hamlin’s own denial of culpability or knowledge regarding the damage to the Durango (“I informed [Conti and Theodoridis] that I did not cause the damage, nor was aware of how the damage occurred”) and Hamlin references his April 5, 2023 memorandum (J-7) as further evidence of his lack of knowledge or involvement. (Tr. 2, 226–5:9.)

memorandums.” (Resp’t’s Supp. Post-Hearing Br. at 5.) To be clear, the “documentary evidence” that Hamlin had gathered before the IA investigation was opened was circumstantial. There was no direct evidence of impact; Hamlin conceded that he was unable to view the point of impact or the light breaking from the March 21, 2023 video footage, and Conti denied causing the damage. Nevertheless, Hamlin predetermined that Conti caused the damage to the Durango and then lied about his involvement.

ECDOC asserts that “the only remaining action to be taken as part of the Internal Affairs case was to summarize the evidence,” and, therefore, there was no conflict of interest at the time the IA investigation was opened. (Id.) I disagree. At the moment that McEnroe had reason to believe (i.e., based on Hamlin’s April 5, 2023 presentation to him) that the damage to the Durango was caused by (Conti’s) operation of the vehicle, and not by impact to the vehicle while stationary or by vandalism, he should have assigned someone outside of the three-person IAB⁹ to undertake the formal IA investigation. And Hamlin was required to recuse himself.¹⁰

Having concluded that there was a violation of IAPP 4.2.6, I must determine whether the disqualifying conflict of interest tainted the investigatory process in a way that prevented Conti from receiving the benefit of a fair investigation. Further, the deviation from the IAPP must rise to a level that cannot be remedied by an evidentiary hearing. See, e.g., Picariello, at *18.

ECDOC claims that the caselaw supports its position that any prejudice to Conti as a result of Hamlin’s conflict of interest is considered cured by a subsequent plenary hearing before this Tribunal. However, the cases that ECDOC relies on are distinguishable in that they concerned inconsequential procedural improprieties at the departmental level that were cured by a subsequent plenary hearing at the agency level. See, e.g., Ensslin v. Twp. of N. Bergen, 275 N.J. Super. 352 (App. Div. 1994) (delay in scheduling a hearing at the departmental level did not support a dismissal of the charges).

⁹ For the same reason that Yannuzzi was the only other person who had rightful access to the Durango, he too would have been conflicted from leading the formal IA investigation.

¹⁰ Hamlin’s self-serving testimony on cross-examination that IAPP 4.2.6 did not apply because “at that point” – when he was conducting his independent review – “it wasn’t a case,” is likewise unpersuasive. (Tr. 2., 220:15.)

As cautioned by the Appellate Division, “[t]he Ensslin decision cannot be read to mean that any irregularity in the disciplinary process, no matter how serious, can be cured by a subsequent evidentiary hearing.” O’Rourke, 405 N.J. Super. at 22.

Notwithstanding ECDOC’s characterization of the IAPP violation here as a defect of “no consequence” (Resp’t’s Supp. Post-Hearing Br. at 12), this is not the case of an insignificant procedural irregularity at the department level. In fact, Conti waived his right to continue with a hearing at the departmental level. But I cannot correct the taint that marked a predetermined, sustained finding by a conflicted investigator. Hamlin conceded that the investigative steps he took prior to opening a formal IA investigation were motivated by a desire to exculpate himself. He also acknowledged that he focused on surveilling video footage when the Durango was being operated. Therefore, his investigation report did not include a summary of his review of footage when the Durango was stationary, and the damage could have been potentially caused by vandalism. There was no conclusive finding in Hamlin’s Investigation Report that the damage to the Durango was not caused by vandalism. Instead, Hamlin sustained the finding that Conti, the singular “suspect” of the investigation, caused the damage based on (1) video footage that Hamlin admitted does not capture the point of impact and the taillight breaking and (2) pieces of red plastic that, based on his conversation with Yannuzzi, were discarded or were collected by Hamlin a month after the alleged incident and never tested to determine whether they were taillight pieces, much less pieces from the Durango’s broken taillight. A plenary hearing cannot now cure the fact that an impartial investigator was not assigned to conduct the formal IA investigation to validate Hamlin’s conclusions and self-exoneration.

Respondent’s reliance on the ALJ’s conclusion in In re Biazzo, CSC Dkt. Nos. 2013-1003, -1008, 2013 WL 7729961 (Dec. 27, 2013), to suggest a different result, is misplaced. Underlying the ALJ’s conclusion in that case that failure to follow the IAPP “in all of its details” did not “taint the process” was the fact that the target officers did not dispute and “always admitted” that they engaged in the conduct upon which the charges against them were based, as well as the “consequences of [their] action.” Id. at *48. Further, the alleged IAPP violations in Biazzo did not rise to the level “as to require that proof of guilt for administrative violations be pushed aside and discipline be denied

against an otherwise guilty officer.” Id. Indeed, the ALJ in Biazzo distinguished and downplayed the severity of the irregularities in that case from the Appellate Division’s finding in O’Rourke that the investigator’s “lack of objectivity in the investigation undermined the fairness of the process from its inception and tainted the entire proceeding.” Id.

In stark contrast to the charged officers in Biazzo, whose actions were not in dispute, Conti consistently has denied engaging in the charged conduct. He does not admit to causing the damage to the Durango and categorically disputes the resulting lack of candor charge. Unlike the mostly uncontroverted evidence against the charged officers in Biazzo, the evidence collected by Hamlin against Conti was circumstantial. Further, the IAPP violation here involved a conflict of interest that triggered Hamlin’s non-discretionary recusal and was much more serious than the deviations noted in Biazzo from the “details” of the IAPP. Accordingly, I am guided by the Appellate Division’s holding in O’Rourke that a lack of objectivity in the investigation undermined the fairness of the process at its inception and tainted the entire proceeding.

A plenary hearing at the OAL will not remedy the flawed investigation process and the compromised evidentiary foundation that led to the charges against Conti and the termination penalty. The Tribunal cannot reconduct the investigation or verify that Hamlin viewed all of the available video footage from the time the Durango was assigned until the damage was discovered and verify that no one else operated the Durango outside of the days that Hamlin included in the Investigation Report. Nor can the Tribunal rule out that the Durango may have been vandalized on any of the days that it was stationary, as that finding was not addressed in the Investigation Report. Nor can the Tribunal test the pieces of plastic that Yannuzzi collected nearly contemporaneously with the date that the damage was reported by Theodoridis. Stated otherwise, a plenary hearing at the OAL cannot cure the inadequacies of an investigative process that was tainted by Hamlin’s self-interest in the outcome.

Hamlin's disqualifying conflict of interest, his focus on including certain video footage and his own exculpatory statements in the Investigation Report, and his reliance on materials found at the scene that were discarded or photographed a month after the alleged incident and never tested to support the sustained findings of his investigation, inject doubt in the reliability and thoroughness of the investigation that cannot now be remedied. This conclusion is reinforced by the fact that Hamlin's Investigation Report definitively stated that the red plastic pieces that Yannuzzi discarded were "parts to the Dodge Durango tail light [sic]," and Hamlin made no attempt to test the pieces he recovered from the scene of the alleged impact over a month after the damage was reported to confirm whether they were actual pieces of the Durango taillight. See O'Rourke at 21 ("Moreover, the report the supervisor produced . . . confirm[ed] the court's suspicion" that the investigator lacked objectivity.)

Thus, I **CONCLUDE** that the violation of IAPP 4.2.6 tainted the process from its inception. I further **CONCLUDE** that because the result of the IAPP deviation could not be remedied by a de novo hearing, Conti was deprived of a fair investigation, and the charges against him cannot stand.

ORDER

Based on my findings of fact and conclusions of law, I **ORDER** that the charges against Conti be **DISMISSED** and the disciplinary action removing Conti from his employment be **REVERSED**.

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.

August 4, 2025

DATE



R. TALI EPSTEIN, ALJ

Date Received at Agency:

August 4, 2025

Date Mailed to Parties:

August 4, 2025

cc

APPENDIX

List of Witnesses

For Appellant:

Vincent Conti
Brian McKeever

For Respondent:

Thomas McEnroe
Herbert Hamlin
Nicholas Yannuzzi
Maria Theodoridis
Stephen Emolo
Adam Cybanski

List of Exhibits in Evidence

Joint Exhibits:

- J-1 Stipulated Facts
- J-2 Preliminary Notice of Disciplinary Action (31-A), dated June 28, 2023
- J-3 Final Notice of Disciplinary Action (31-C), dated April 5, 2024
- J-4 Memorandum from Inv. Theodoridis to Chief McEnroe, Re: Dodge Durango plate #ZMR19D, dated April 3, 2023
- J-5 Memorandum from Sgt. Yannuzzi to Capt. Pires, Re: 2004 Dodge Durango plate #ZMR19D, dated April 4, 2023
- J-6 Memorandum from Inv. Conti to Chief McEnroe, Re: Dodge Durango, dated April 4, 2023
- J-7 Memorandum from Inv. Hamlin to Chief McEnroe, Re: Vehicle Damage – Dodge Durango, dated April 5, 2023
- J-8 Investigation Report prepared by Inv. Herb Hamlin, dated May 25, 2023

- J-9 Excerpts from Essex County Corrections Rules and Regulations Manual: Table of Contents; 3:1.32–3:1.37, issued March 2023
- J-10 Essex County Corrections Vehicle Operations Policy, issued January 20, 2022
- J-11 Emails from Inv. Conti to Chief McEnroe (dated April 4, 2023, and April 5, 2023) with attached Memoranda

Appellant's Exhibits:

- A-1 Images of Parking Space
- A-3 Durango Work Invoice
- A-4 Brian McKeeever Curriculum Vitae
- A-5 Brian McKeeever Report
- A-6 Demonstrative (Drawn by McKeeever)

Respondent's Exhibits:

- R-1 Text message from Sgt. Yannuzzi to Inv. Hamlin, Re: Assignment of Durango to IAB, dated March 6, 2023
- R-2 Emails from Inv. Hamlin requesting video surveillance, dated April 5, 2023, May 9, 2023, and May 23, 2023
- R-3 Color photograph of ground by light pole taken by Inv. Hamlin on May 2, 2023 (1 of 3)
- R-4 Color photograph of concrete base of light pole located in Area C taken by Inv. Hamlin on May 2, 2023 (2 of 3)
- R-5 Color photograph of concrete base of light pole in proximity to the Area C sign taken by Inv. Hamlin on May 2, 2023 (3 of 3)
- R-6 Color photograph of parking lot/space and Area C sign taken by Inv. Hamlin on May 23, 2023 (1 of 7)
- R-7 Color photograph of parking lot/space and Area C sign taken by Inv. Hamlin on May 23, 2023 (2 of 7)
- R-8 Color photograph of parking lot/space and Area C sign taken by Inv. Hamlin on May 23, 2023 (3 of 7)

- R-9 Color photograph of parking lot/space and Area C sign taken by Inv. Hamlin on May 23, 2023 (4 of 7)
- R-10 Color photograph of parking lot/space and Area C sign taken by Inv. Hamlin on May 23, 2023 (5 of 7)
- R-11 Color photograph of parking lot/space, light pole and storage container taken by Inv. Hamlin on May 23, 2023 (6 of 7)
- R-12 Color photograph of parking lot/space, light pole and storage container taken by Inv. Hamlin on May 23, 2023 (7 of 7)
- R-13 Video Recording – Gate 9 on March 16, 2023
- R-14 Video Recording – Gate 9 on March 17, 2023
- R-15 Video Recording – Gate 9 on March 21, 2023
- R-16 Video Recording – Gate 9 on March 22, 2023
- R-17 ECDOC Fleet Directory
- R-18 Color photograph of Dodge Durango taken by Sgt. Yannuzzi on March 27, 2023 (1 of 3)
- R-19 Color photograph of Dodge Durango taken by Sgt. Yannuzzi on March 27, 2023 (2 of 3)
- R-20 Color photograph of Dodge Durango taken by Sgt. Yannuzzi on March 27, 2023 (3 of 3)
- R-21 Email from Sgt. Yannuzzi and response from Capt. Pires, Re: Vehicle Inspection Forms (with attachment), dated April 3, 2023
- R-22 Curriculum Vitae of Stephen N. Emolo
- R-23 SKE Forensic Consultants' Report, authored by Stephen N. Emolo, dated August 8, 2024
- R-24 Surveillance Camera Video Analysis Report, authored by Adam Cybanski, BSc, IIC3, dated August 5, 2024
- R-25 SKE Video with derived vehicle model (20.0321 Validation1)
- R-26 SKE Video with movement trackers (20.0321 Validation2)
- R-29 Video Recording taken by Sgt. Yannuzzi on March 27, 2023
- R-30 Curriculum Vitae of Adam Cybanski

The nonsequential numbering of exhibits reflects that certain pre-marked exhibits were either not identified or not admitted in evidence at the hearing.