



STATE OF NEW JERSEY

In the Matter of Michael Kelly,
Jackson Township, Department of
Law and Public Safety

**DECISION OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2025-2400
OAL Docket No. CSR 08502-25

ISSUED: July 13, 2026

The appeal of Michael Kelly, a former Police Sergeant with Jackson Township, Department of Law and Public Safety, of his removal, effective July 3, 2024, on charges, was heard by Administrative Law Judge Mamta Patel (ALJ), who rendered her initial decision on May 20, 2026. Exceptions were filed on behalf of the appellant, and a reply to the exceptions was filed on behalf of the appointing authority.

Having considered the record and the attached ALJ's initial decision, and having made an independent evaluation of the record, including a thorough review of the exceptions and reply filed by the parties, the Civil Service Commission (Commission), at its meeting on July 1, 2026, adopted the ALJ's Findings of Fact and Conclusions of Law as contained in the ALJ's initial decision and the recommendation to uphold the removal.

The Commission makes the following comments. As indicated above, the Commission thoroughly reviewed the exceptions filed by the appellant in this matter. The Commission finds the exceptions unpersuasive as the ALJ's findings and conclusions in upholding the removal were based on her thorough assessment of the record and are not arbitrary, capricious, unreasonable or legally incorrect. Concerning the appellant's assertion that it was a conflict of interest for Ocean County to investigate its own office and the investigator failed to question members of the Ocean County Prosecutor's Office who approved the appellant's paperwork, resulting in the record being incomplete and thereby inappropriately shifting the

burden of proof to him, as stated by the ALJ:

White testified that, as the investigator, he determined that the documents he reviewed during the investigation, as well as Kelly's own admissions during the investigation, were sufficient to sustain his findings. It is routine for law enforcement to conduct internal investigations of its own members; therefore, the fact that Kelly named OCPO members who may have known of Kelly's DRE activities did not preclude the OCPO from conducting the investigation.

Further, the ALJ found that the testimony of the appointing authority's witnesses was credible and consistent with the documentary evidence. The Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. *See N.J.S.A. 52:14B-10(c); Cavalieri v. Public Employees Retirement System*, 368 N.J. Super. 527 (App. Div. 2004). Therefore, the appointing authority satisfied its burden of proof.

Regarding the appellant's argument that since the Ocean County Prosecutor's Office concluded its investigation on February 27, 2023, the 45-day rule was violated, the ALJ noted that:¹

The plain language of 40A:14-147 clearly states that the forty-five day time limit for bringing charges does not commence until the person filing the complaint obtains sufficient information to file the matter. Here, Kunz, the chief of Jackson and the appointing authority under which Kelly is employed, received notification of the sustained charges against Kelly on May 28, 2024. Kelly was served with the PNDA on July 3, 2024, thirty-six days after Kunz became aware of the sustained charges Kelly.

Consequently, the ALJ appropriately dismissed the appellant's argument that the charges should be dismissed due to a violation of *N.J.S.A. 40A:14-147* (the 45-Day

¹ The appellant was also charged with violations of *N.J.A.C. 4A:2-2.3(a)*. However, the 45 day time limitation contained in *N.J.S.A. 40A:14-147* only expressly applies to charges related to violations of departmental rules and regulations, and not to administrative charges.

Rule).

Similar to its review of the underlying charges, the Commission's review of the penalty is *de novo*. In addition to considering the seriousness of the underlying incident in determining the proper penalty, the Commission utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 N.J. 500 (1962). Further, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. *See Henry v. Rahway State Prison*, 81 N.J. 571 (1980). It is settled that the principle of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown*, 191 N.J. 474 (2007). Even when a Police Officer does not possess a prior disciplinary record after many unblemished years of employment, the seriousness of an offense occurring in the environment of a correctional facility may, nevertheless, warrant the penalty of removal where it compromises the safety and security of the institution, or has the potential to subvert prison order and discipline. In this regard, the Commission emphasizes that a Police Officer is a law enforcement officer who, by the very nature of his job duties, is held to a higher standard of conduct than other public employees. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also, In re Phillips*, 117 N.J. 567 (1990). Moreover, the Commission is also mindful that:

The appraisal of the seriousness of [the appellant's] offense and degree to which such offenses subvert discipline . . . are matters peculiarly within the expertise of the corrections officials. The appraisal is subject to *de novo* review by the [Commission], *Henry v. Rahway State Prison*, *supra*, but that appraisal should be given significant weight. *Bowden v. Bayside State Prison*, 268 N.J. Super. 301, 306 (App. Div. 1993), *cert. denied*, 135 N.J. 469 (1994).

In the instant matter, in upholding the removal, the ALJ noted that the appellant's "dishonesty is deeply troubling, as honesty and integrity are crucial traits for any officer, whether an officer or a supervisor." The ALJ found that despite the appellant's 22 years of service, "Kelly knew or should have known better than to certify information as accurate, that he knew was incorrect." Accordingly, given the appellant's egregious behavior, removal is clearly the appropriate penalty.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Michael Kelly.

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 1st DAY OF JULY, 2026



Mary Cruz
Acting Chairperson
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Inquiries
and
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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 08502-25

AGENCY REF. NO. N/A

**IN THE MATTER OF MICHAEL KELLY,
JACKSON TOWNSHIP, DEPARTMENT OF
LAW AND PUBLIC SAFETY.**

Charles J. Sciarra, Esq., for appellant Michael Kelly (Sciarra, Catrambone, Curran & Gray, LLC, attorneys)

Boris Shapiro, Esq., for respondent Jackson Township, Department of Law and Public Safety (Apruzzese, McDermott, Mastro & Murphy, attorneys)

Record Closed: April 8, 2026

Decided: May 20, 2026

BEFORE **MAMTA PATEL**, ALJ:

STATEMENT OF THE CASE

During the 2021–2022 federal fiscal year, Sergeant Michael Kelly, a police officer in Jackson Township, submitted numerous erroneous reimbursement requests to the Ocean County Prosecutor’s Office (OCPO) for his work as a drug recognition expert (DRE). These errors were, at worst, intentionally false and, at best, sloppy, causing his superiors to doubt his integrity. Must Kelly be terminated? Yes. Honesty, integrity, and

truthfulness are essential qualities for law enforcement. Ruroede v. Borough of Hasbrouck Heights, 214 N.J. 338 (2013).

PROCEDURAL HISTORY

On May 28, 2024, Chief Matthew Kunz of the Jackson Township Police Department (Jackson) received a letter informing him that the OCPO Professional Standards Unit (PSU) had concluded an investigation that sustained falsification charges against appellant Michael Kelly, which would require disclosure of his misconduct in a court proceeding, as well as require close supervision of his work. The OCPO also shared copies of the internal investigative report and the Summary and Conclusions Report, dated May 21, 2024. On July 3, 2024, Jackson served Kelly with a Preliminary Notice of Disciplinary Action (PNDA) and suspended him effective that same day. Jackson charged Kelly with: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); (3) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (4) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (5) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12) for violating Jackson's Disciplinary Code, Article VII, Section 24-32(a)(18), Failure to comply with proper order or directives of the Director of Public Safety, Chief of Police or superior officers, Section 24-32(a)(22), Falsifying any report, and Section 24-32(a)(31), Failure to properly carry out any investigations, assignments, or other duties assigned.

On April 22, 2025, after a departmental hearing, Jackson issued Kelly a Final Notice of Disciplinary Action (FNDA). The notice states that between February 2022 and October 2022, Kelly, who served as a certified DRE and designated administrator/coordinator of the State DRE Grant for Ocean County, submitted inaccurate/false reports to Ocean County seeking reimbursement for off-duty work. In addition, Kelly willfully failed to follow the Ocean County Prosecutor's Office directives regarding DRE callouts.

As a result, Jackson sustained the following charges against Kelly: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-

2.3(a)(1); (2) insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); (3) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (4) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); (5) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (6) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12) for violating Jackson's Disciplinary Code, Article VII, Section 24-32(a)(18), Failure to comply with proper order or directives of the Director of Public Safety, Chief of Police or superior officers, Section 24-32(a)(22), Falsifying any report, and Section 24-32(a)(31), Failure to properly carry out any investigations, assignments, or other duties assigned. Consequently, Jackson terminated Kelly, effective July 3, 2024.

On April 29, 2025, Kelly effectuated his appeal of Jackson's determination to the Civil Service Commission (CSC) and directly filed with the Office of Administrative Law (OAL) under N.J.S.A. 40A:14-202(d). The OAL filed it as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

From December 8, 2025, through December 11, 2025, I held a hearing. At the outset, it should be made clear that this case concerns only the paperwork submitted by Kelly for reimbursement for his work as a DRE and does not involve any questions regarding the competency of any DRE evaluation. In a letter dated December 16, 2025, Mr. Sciarra, on behalf of Kelly, waived the 180-day time frame. On March 23, 2026, the parties submitted written summations, including Kelly's motions to dismiss, arguing that (1) a preponderance of the evidence does not support the charges; (2) the OCPO was conflicted in conducting the investigation; (3) the OCPO's investigation violated the forty-five-day rule; and (4) the OCPO's investigation violated the Attorney General's Internal Investigation interview rules. On April 8, 2026, Jackson filed its response to the motions, and I closed the record.

DISCUSSION AND FINDINGS OF FACT

Testimony

Introduction and the Drug Recognition Expert Program

The Jackson Township Police Department hired Kelly in December 2002. Kelly had served as a police officer for twenty-two years before his removal. In 2018, Kelly was promoted to patrol sergeant. Kelly worked the 1:00 p.m. to midnight shift. Kelly testified that he took the sergeant's exam and ranked first. He also testified that he took the lieutenant's exam last year and ranked first. Kelly stated that in 2007, he was approved to attend training with the New Jersey State Police (NJSP) to become a certified DRE. In 2014, Kelly became a certified DRE instructor. On January 1, 2020, Kelly took over as Ocean County DRE grant administrator after the former grant administrator, Lt. Christopher Dudzik, resigned. Kelly served as the Ocean County DRE grant administrator until September 28, 2022, when the OCPO took over the DRE grant administration in November 2022. Kelly was also the president of the New Jersey Association of Drug Recognition Experts, a non-governmental organization. He also founded his own company, D.I.C.E. (Drug Impairment Consulting & Experts, LLC), which provides training to law enforcement agencies across New Jersey on various DRE topics.

As the Ocean grant administrator, Kelly agreed to be available for consultation and to issue orders to DREs as needed; to hold and attend staff meetings with DREs; and to log all DRE callouts. Kelly testified that he also reviewed and submitted all DRE reimbursement requests. Additionally, as a certified DRE instructor, Kelly reviewed evaluations conducted by other DREs to ensure that they followed the twelve-step process established by the International Association of Chiefs of Police (IACP). Kelly was also responsible for submitting Quarterly DRE Grant Reports to the OCPO, summarizing, among other things, the total number of DRE callouts in Ocean County, the names of the responding officers, the requesting agencies and their locations, and the dates of each DRE callout. The reports also included quarterly expenditures for callouts, DRE roving patrol, DRE recertifications, meetings, and DRE report reviews. As an independent

contractor, Kelly also agreed to submit an invoice for payment, initially capped at \$5,000 and later increased to \$6,000 per year for his services. (P-5 at MK 142.)

Included in the documents submitted by Kelly is a sample DRE Callout Certification from Dudzik, which explains the information required for each item listed on the certification form. (P-19 at MK 464.)

Kelly also testified that during his tenure as the Ocean grant administrator, he closely collaborated with Robert Parlow, the project director at the OCPO, and Edward O'Connor, the deputy director of the State Division of Highway Traffic Safety, which funded the grant.

Arroyo

Marcos Arroyo, sergeant first class and assistant unit head of the Alcohol and Drug Testing Unit (ADTU) at the NJSP, testified to provide a foundation for understanding the DRE program, its certification process, and its funding. Arroyo, whom the NJSP has employed since October 2003, served as a general road-duty trooper until 2008. In 2008, Arroyo applied for and was selected to transfer to the ADTU, where he has served as the assistant unit head since 2023. Arroyo was certified as a DRE before transferring to the ADTU. Arroyo explained that the ADTU trains all State and local law enforcement officers in driving while intoxicated (DWI) enforcement and certification courses.

The ADTU instructs, certifies, re-certifies, and, if necessary, decertifies DREs and DRE instructors. The National Highway Traffic Safety Administration and the State Division of Highway Traffic Safety (Highway Traffic Safety) oversee all DRE training. In 2023, Lt. Michael Gibson, the former State DRE coordinator, was promoted to ADTU unit head, and Arroyo became the assistant unit head. Arroyo was then appointed DRE State coordinator by the director of Highway Traffic Safety and served in that role from 2023 to 2024. After Arroyo was appointed assistant unit head, he trained another trooper to serve as the DRE State coordinator because he could not fulfill both roles simultaneously. Arroyo testified competently and convincingly, provided a thorough history, and demonstrated a clear understanding of the state's DRE program.

Arroyo testified that a DRE is called to evaluate a driver when the driver is pulled over for DWI and tests at or below .07 blood alcohol content (BAC), which is below the legal limit of .08 BAC, but the officer believes the driver is impaired. Currently, there are 410 DREs throughout the state. Law enforcement agencies without a DRE can call a nearby agency's DRE, usually within the same county, to conduct the evaluation.

Arroyo testified that DREs undergo extensive training and must be recertified every two years. To become certified as a DRE, an officer must be among the top DWI officers and be certified in both the Field Sobriety Test and Advanced Roadside Impaired Driving Enforcement.

To begin the DRE certification process, an officer must apply to the NJSP, be selected to participate, and complete seventy-two hours of classroom training. The first phase is a sixteen-hour overview of Field Sobriety and Advanced Roadside Impaired Driving. The second phase consists of fifty-six hours of in-class instruction on a twelve-step process for determining whether an individual is under the influence of drugs or alcohol, in accordance with IACP standards. The third phase requires completing clinical studies, during which the officer must perform twelve DRE evaluations on live volunteers, during which a DRE applicant uses the standardized twelve-step evaluation process to evaluate subjects, form an opinion on impairment, and identify the specific drug(s) causing it. The evaluations are conducted over three weeks, reviewed by instructors, and the officer must achieve a 75 percent proficiency rate.

The ADTU also certifies DRE instructors. A DRE becomes eligible to serve as an instructor after completing one year as a DRE. All NJSP troopers in the ADTU are instructors, and they also train some local and municipal officers to become instructors. Instructor training is a weeklong course that covers instructional methods. A DRE instructor must also complete required training hours. Yearly recertification requires a four-hour class and ongoing knowledge of any updates. All DRE officers and instructors are held to high standards because they are often called to testify in court. Arroyo testified that the State DRE coordinator reviews all requests for certifications, recertifications, and instructor certifications for DRE officers statewide. If the paperwork and training

requirements are satisfied, the applications are forwarded to the IACP, which issues the certifications.

When a DRE conducts a DRE evaluation on a subject, the DRE completes a DRE evaluation form, also known as the DRE face sheet. The DRE face sheet includes the subject's name, the evaluator's name, and, if applicable, the instructor witness's name. If reviewed by a DRE instructor, the face sheet will also contain the instructor's signature and the review date. The form also lists the case number, the date and location of the evaluation, and documents the twelve-step evaluation process. It states the substance, if any, that the subject was found to be under the influence of, along with the urinalysis or blood test result. The second page provides space for the officer to write a narrative of the arrest and evaluation. (JK2-I at 89–90.)

Arroyo testified that a DRE must recertify every two years. To do so, a DRE must submit four DRE evaluations to the State DRE coordinator: three hands-on evaluations with live subjects and one evaluation witnessed by a DRE instructor, confirming that the evaluation was conducted in accordance with the twelve-step standard. The evaluation subject can be a role-player. DREs need to maintain at least a 75 percent proficiency rate in their evaluations. Additionally, DREs must complete eight hours of in-class training every two years to maintain their DRE certification. To facilitate this, the NJSP sponsors and administers this training and offers opportunities for hands-on evaluations.

The completed DRE recertification packet is submitted to the State DRE coordinator, who reviews it and forwards it to the IACP, which issues the certification to the evaluator or instructor.

Arroyo testified that before 2020, DRE evaluations were maintained on paper, which occasionally caused problems when appearing in court, submitting for recertification, or preparing year-end reports because the documents could be lost. In 2020, the NJSP received a grant from Highway Traffic Safety and purchased software from the Institute for Traffic Safety Management Research (ITSMR) to replace the paper evaluation form, which, when used correctly, significantly improved case management and report accuracy. The software was installed on a tablet that NJSP also purchased

and provided to local law enforcement agencies. The ITSMR program also helped with preparing the DRE annual reports required for submission to Highway Traffic Safety. Arroyo testified that in 2020, the ADTU issued a directive requiring all DREs to submit DRE evaluations, observations, and reviews through the ITSMR program. All DREs and instructors are required to maintain a rolling log of DRE evaluations and of evaluations reviewed.

Additionally, to ensure that DRE evaluations were properly and consistently administered, the ADTU and Highway Traffic Safety implemented a 50 percent review of every DRE evaluation conducted by a DRE instructor. Arroyo explained, for instance, that if a DRE conducted ten evaluations, five of them would be flagged in the ITSMR program for instructor review. When an evaluation is flagged, the DRE is prompted to submit it to a DRE instructor, who can be selected from a drop-down menu in the software. The DRE instructor receives an email about a pending review. The DRE instructor reviews the evaluation in the ITSMR program, documents any corrections in the box provided on the evaluation form, and returns it to the DRE for correction and email approval. If there are no corrections, the DRE instructor can sign, date, and approve it. The NJSP and Highway Traffic Safety can now generate various reports and access information as needed. In real time, the ITSMR program has proven invaluable: the DRE can now recall an evaluation, send it to instructors for review, and, if a question or issue arises during the evaluation, share it with an instructor. Currently, twenty-four states use ITSMR software.

The Ocean County DRE Grant

Arroyo testified that eleven counties have DRE callout programs funded through a grant from the Highway Traffic Safety program. The DRE grant is federally funded and operates on the federal fiscal year, which runs from October 1 through September 30 of the following year. The purpose of the grant funding is to offset the overtime costs of DRE evaluations conducted in each county, so that each police agency in that county is not responsible for the overtime incurred in dispatching a DRE who is not on duty at the time of the call. Each county is responsible for establishing its procedures governing

callouts and reimbursements. DREs are encouraged to perform DRE activities while on duty when possible and to submit for overtime only when necessary.

Arroyo testified that he verified with the OCPO that, at all relevant times, the OCPO was operating under Law Enforcement Directive LED-2013-012 (2013 Directive), which had been in effect since June 3, 2013. (JK2-F at 58–62.) Requests for reimbursement for DRE callouts in Ocean County were submitted to the OCPO quarterly. Notably, the distribution list for the 2013 Directive includes Ocean County chiefs of police, the sheriff's department, and OCPO detectives; the only NJSP recipient of a copy was the Tuckerton Barracks station commander, located in Ocean County. (Ibid.)

Additionally, the 2013 Directive mandates that law enforcement agencies participating in the DRE reimbursement program adhere to the procedures specified in the directive.

The 2013 Directive explicitly states, "The objective of this program is to provide Ocean County Law Enforcement Officers in the field with certified Drug Recognition Experts (DREs) capable of gathering evidence that is necessary to substantiate or strengthen charges of drug influence in DUI cases." (JK2-F at 58–62.) Additionally, the 2013 Directive outlines three situations in which a DRE may seek reimbursement from the OCPO: (1) DRE callout; (2) DWI checkpoints; and (3) court compensation. Specifically, regarding DRE callouts, the 2013 Directive states that if a DRE is on duty and working within the requesting agency, the officer shall conduct the evaluation. When no DRE is available, the requesting agency would call a DRE from its own agency, and the grant would cover the cost. If there was no DRE in the requesting agency, the request had to be made through the Ocean County Communications Center, which would send a mass text to DREs in the county; the first responding DRE would then be assigned to cover the evaluation. This directive remained in effect until the OCPO superseded it in September 2022. (Ibid.)

Arroyo testified that the Highway Traffic Safety grant also reimbursed instructors for one hour for each evaluation they reviewed by other DREs, as confirmed in an email

dated January 27, 2022, from O'Connor, deputy director of Highway Traffic Safety, which increased the DRE evaluation review rate to \$60 per report reviewed. (P-3 at MK 069.)

Arroyo's Review of Kelly's Reimbursement Forms and DRE Decertification

On February 15, 2023, Lt. Casey M. Long, OCPO, sent Kelly an email advising that, upon reviewing his 2022-2023 first-quarter DRE reimbursement submissions, OCPO found several discrepancies and asked him to correct and resubmit the forms. Casey also informed Kelly that he was to refrain from conducting any DRE instructor evaluations until further notice. (P-2 at MK 057.) Casey informed Gibson, and on the same date, Gibson sent Kelly an email, copying Arroyo, stating that, based on information received from OCPO, Kelly should refrain from performing any DRE evaluations, reviewing DRE reports, or providing instructional assistance during DRE training until an inquiry was resolved. (P-2 at MK 056.) On February 27, 2023, Lt. Casey M. Long, OCPO, sent a memorandum to Capt. Elliot Morgan, OCPO, highlighted several discrepancies in Kelly's 2022–2023 first-quarter reimbursement requests. (P-14 at MK 365-368.) Arroyo testified that the memorandum was also forwarded to Gibson at the ADTU, who shared it with Arroyo.

Arroyo testified that he did not immediately review the information from the OCPO. However, as noted above, he was copied on Gibson's email and was therefore aware that Kelly had been suspended from conducting any further DRE evaluations or reviews. Additionally, while Arroyo was the State DRE coordinator, he received a letter dated June 14, 2023, from Bradley Billhimer, the Ocean County prosecutor, addressed to Matthew Kunz, the chief of the Jackson Township Police Department. (P-14 MK 369.) Among other things, Billhimer informed Kunz that the OCPO had reviewed Kelly's DRE grant reimbursement request and found that the documents Kelly submitted were incomplete and inaccurate. The letter also stated that Kelly was no longer the OCPO DRE grant administrator and that the OCPO had removed Kelly from the DRE callout list. (*Ibid.*) Arroyo further testified that he was unable to review the allegations at that time because he had been temporarily reassigned.

Arroyo testified that upon returning to the ADTU on August 1, 2023, he emailed Kelly to inform him that he had received a copy of the June 14, 2023, letter to Kunz and that he would conduct a DRE certification inquiry as the State DRE coordinator. Additionally, Arroyo testified that on August 24, 2023, he asked Long to send him the 2013 and 2022 DRE call-out directives. Arroyo also requested that Long send him Kelly's three prior-quarter reimbursement requests for the 2021–2022 fiscal year, covering January through September 2022.

Arroyo testified that he was not conducting an Internal Affairs investigation for disciplinary reasons. He repeatedly told Kelly, including in emails dated August 1, 2023, and November 7, 2023, and during a meeting on October 16, 2023, that he was conducting a DRE certification inquiry to verify the integrity of the DRE program and to determine whether Kelly needed to be decertified for submitting inaccurate forms. (JK2-G.)

Arroyo testified that the documents he received from the OCPO did not include the DRE face sheets. They contained only the OCPO's DRE callout certification forms and Kelly's quarterly payment request forms to the OCPO. Arroyo explained that the information Kelly requested and submitted on the DRE callout certification includes:

1. Name of the responding DRE;
2. Requesting municipality;
3. Date the request is made;
4. Location of the evaluation;
5. Subject;
6. Start and end times; and
7. Total duty time of the event.

The second half of the DRE callout certification includes a statement that reads: "I HEREBY CERTIFY THE ABOVE REPRESENTATIONS ARE CORRECT" and requests the DRE's name, department/agency, signature, and date. Below it, there is space for

the reviewing officer's and the project director's signatures, which at the time were Kelly and Parlow. As noted above, because Kelly served as the grant administrator for his own submissions, he also signed as the reviewer. (JK2-H.)

Next, Arroyo testified that the Request for Payment form, which was submitted every quarter at the time, requests the following information:

1. Date of the submission;
2. Name of the payee;
3. A column for the date of the service that was rendered;
4. A column for a description of services rendered; and
5. A corresponding column for the amount per hour and total amount.

The Request for Payment form includes two certifications: one for the county official who reviews and signs the form, and another for the "Claimant's Certification & Declaration," which states:

I, do solemnly declare and certify under the penalties of Law that within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated herein; that no bonus has been given or received by any person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.

[JK2-H.]

The certification concludes with a field for the date and the submitter's signature. All the forms mentioned were completed and submitted by Kelly. (JK2-H.)

At the time, the OCPO did not require the DRE to submit copies of the DRE face sheet with reimbursement requests. It is undisputed that Parlow and Billhimer signed off on each of Kelly's reimbursement requests and, if needed, could have requested copies of the DRE face sheets. Because Arroyo had access to the ITSMR program, he retrieved

Kelly's rolling logs of DRE evaluations and reviews. However, because Kelly did not include the subject's name in the subject line of the DRE callout forms, Arroyo could only search for related DRE evaluations by date. Arroyo testified that he then cross-checked the dates Kelly requested reimbursement against the corresponding face sheets in the ITSMR program that Kelly had prepared, witnessed, or reviewed as an instructor. These face sheets contained additional information, such as the names of the arrestee, witness, evaluating officer, and reviewing officer; the dates the evaluation was conducted and reviewed; and the location of the requesting agency.

Arroyo testified that his initial review of Kelly's reimbursement requests for the last three quarters of the 2021–2022 fiscal year revealed several inconsistencies and discrepancies, primarily involving incorrect dates and locations. On October 16, 2023, Arroyo met with Kelly and reviewed all discrepancies he found across Kelly's reimbursement requests, Kelly's rolling log from the ITSMR program, and the corresponding DRE evaluations. Arroyo testified that Kelly tried to explain the inconsistencies as mistakes; however, Arroyo identified multiple errors that could not be justified as genuine errors. Kelly told Arroyo that he was following an updated DRE policy he had drafted, but later Arroyo confirmed with the OCPO that Kelly's draft policy had never been approved. The only directive that superseded the 2013 Directive was the OCPO 2022 Directive, which took effect on September 15, 2022.

Arroyo further testified that on November 2, 2023, he emailed Kelly requesting copies of the DRE evaluation face sheets he sought reimbursement for, including the following dates:

2nd Quarter 2022

February 7, 2022

February 18, 2022

February 28, 2022

March 2, 2022

March 3, 2022

March 23, 2022

3rd Quarter 2022

April 24, 2022

April 25, 2022

June 7, 2022

June 12, 2022

4th Quarter 2022

July 14, 2022

August 15, 2022

September 5, 2022

September 26, 2022

[JK2-G.]

On November 7, 2023, Kelly responded by writing, “I have no discrepancies on my end. Here is what I have so far. I will send you the names of the reports I corrected during the time period you requested.” (JK2-G.) Arroyo testified that Kelly provided the following names of DRE evaluations that were reviewed or witnessed:

2nd Quarter 2022

February 1, 2022 – Instructor Witness – Recert. Keefe, McNally, or Soriano

February 7, 2022 – Instructor Witness – Recert. Harry Bugal

February 18, 2022 – Instructor Witness – Recert. Hubert

February 28, 2022 – Instructor Witness – Recert. Adam Koeppen

March 2, 2022 – Instructor Witness – Robert Westfall

March 3, 2022 – Instructor Witness – Recert. “Mine” (Kelly)

March 23, 2022 – Instructor Witness – Recert. Sean Varady

3rd Quarter 2022

April 24, 2022 – Report Reviews (4) reports

April 25, 2022 – Instructor Witness – Recert. Chris Vallet (two others that day)

June 7, 2022 – Report Reviews (4) reports

June 12, 2022 – Instructor Witness – Recert. Ryan Grohowski

4th Quarter 2022

July 14, 2022 – Report Reviews (4) reports

August 15, 2022 – Instructor Witness – Recert. Steve Cilento

September 5, 2022 – Instructor Witness – Recert. Adam Fulmore

September 26, 2022 – Report Reviews (4) reports

[JK2-G.]

Arroyo testified that Kelly never disclosed that, as a DRE instructor, he was witnessing and seeking reimbursement for DRE reevaluations outside Ocean County. Arroyo explained that Kelly's email failed to reconcile the discrepancies he found; in fact, it created additional ones. After reviewing information from the OCPO, the ITSMR program, and Kelly, Arroyo found that, in addition to providing incorrect dates, locations, and names that did not match, many of Kelly's callouts were for recertifications outside Ocean County, where he served as a witness. First, the 2013 Directive applies only to DRE evaluations conducted within Ocean County. Second, although a DRE instructor can witness and provide instruction, witnessing DRE evaluations is not eligible for reimbursement under the DRE grant. Recertification DRE evaluations involve Kelly observing an officer's evaluation with role-players rather than actual arrestees. Arroyo testified that he has firsthand knowledge of the DRE grant from attending Highway Traffic Safety meetings, where DRE grants and reimbursement criteria were discussed. He

stated that he has advocated reimbursing witnesses for recertification sessions, but Highway Traffic Safety has denied these requests.

Importantly, Arroyo testified that there were no checks and balances on Kelly's reimbursement requests. Kelly submitted his own requests, reviewed and certified them as correct, and then forwarded them to Parlow, who reviewed and approved them without examining the corresponding DRE face sheets.

On November 13, 2023, Arroyo met with members of the OCPO, including Parlow and Long, and provided them with all the documents and information he had reviewed. Arroyo also confirmed that the only reimbursement directive in effect during the 2021–2022 fiscal year was the 2013 Directive and that the draft policy Kelly wrote and shared with him was never approved. Arroyo further testified that, despite his numerous requests, Kelly never provided any documentation from any authority approving his draft.

Arroyo testified that, after discovering numerous discrepancies and incomplete information in Kelly's grant reimbursement documents, and in consultation with the Attorney General's Office, he decertified Kelly. On November 14, 2023, he sent a letter to Kelly officially decertifying him as a DRE under the authority granted to him as the State DRE coordinator and as the person in the ADTU responsible for certifying and decertifying DREs, as designated by the IACP. The decertification was based on "performance or ethical issues, even if not directly related to the duties as a DRE, which restrict the DRE's ability to testify in court, impact the DRE's credibility, or brings discredit upon the DEC Program." (JK2-Y; P-16 at MK 392–98.)

Subsequently, Arroyo received a call from Det. Christopher White of the OCPO's PSU, who informed him that the OCPO would initiate an investigation and wanted to discuss Arroyo's findings. On January 18, 2024, Arroyo met with White, provided copies of all the information he had reviewed, and discussed the discrepancies he had identified. Arroyo confirmed that his interview was not recorded, that he did not request it be recorded, and that he did not prepare a report summarizing his findings. Arroyo testified that, under the New Jersey Attorney General's Internal Affairs Policy & Procedures, his meeting with White was not required to be recorded unless he requested it.

Removal of Kelly as Ocean's DRE Grant Administrator

Due to a change in administration at the OCPO, Kelly was removed as Ocean's DRE grant administrator on September 28, 2022, before any formal review of Kelly's reimbursement requests. It was decided that the OCPO would administer the DRE grant. (P-2 at MK 038.)

After Kelly was removed as the grant administrator, on October 5, 2022, O'Connor emailed Kelly to explain that the OCPO had deducted \$6,000 from Contractual Services coverage to cover Kelly's administrative fees. O'Connor noted that the OCPO likely did not want to pay a municipal officer a stipend while also covering evaluations and instructor reviews. (P-2 at MK 039.)

Effective September 15, 2022, the OCPO issued an updated DRE Directive (2022 Directive). (JK2-F at 63–72.) The 2022 Directive was distributed to all Ocean County law enforcement personnel and OCPO staff. It replicated the 2013 Directive, granting Ocean County law enforcement access to locally employed certified DREs. (*Ibid.*) Additionally, the 2022 Directive outlined reimbursement for the same three situations as the 2013 Directive, including: (1) DRE callout; (2) DWI checkpoints; and (3) court compensation. Like the 2013 Directive, the 2022 Directive reaffirmed that DREs responding to callouts could only be reimbursed under the grant for evaluations performed while off duty. (*Ibid.*) The OCPO also emphasized that DRE evaluations and reviews should, whenever possible, be conducted on duty to minimize overtime.

However, the previous DRE callout form was replaced by the 2022 DRE reimbursement initiative form (2022 DRE reimbursement form), which differs significantly and requires much more information. The 2022 form includes separate documents for DRE callouts and DRE testimony. Additionally, the 2022 DRE reimbursement form now asks for more details about DRE callouts, including the DRE's identification and contact information. The form is also organized by area and specifies whether the reimbursement request is for a callout, DWI checkpoint, or court testimony. For callouts, the form now requests:

1. Name of DRE, phone number, and email;
2. DRE's department;
3. Date;
4. Case number;
5. Date of callout;
6. Requesting municipality;
7. Requesting officer;
8. Suspect's name;
9. Time request received;
10. Evaluation start time;
11. Evaluation complete time; and
12. Start and end times for completing the report and video review.

[JK2-F at 72–75.]

The 2022 DRE reimbursement form not only requires the DRE to certify and sign that the statements on the form are true and accurate but also mandates that the form be submitted through ITSMR and signed by the DRE's supervisor. Additionally, a copy of the DRE face sheet must accompany the reimbursement request. Notably, neither the 2022 Directive nor the DRE reimbursement form authorizes reimbursement when serving as a witness for recertification—a change that could have been made at this time but was not.

On November 16, 2022, Parlow emailed the Ocean County DREs, stating that, effective October 1, 2022, all reimbursement requests should be submitted using the 2022 forms. Parlow also attached a copy of the new DRE reimbursement form, along with the request-for-payment form, which was not changed. (P-2 at MK 041.)

On December 19, 2022, Sgt. Brad Frank, OCPO, sent a group email to Ocean County's DREs confirming that his office had assumed the administrative duties related to the Ocean DRE grant. Frank also reminded the DREs to use the new 2022 form and to include copies of the face sheet with their reimbursement requests. (P-2 at MK 043.)

On December 31, 2022, Kelly submitted his first DRE reimbursement requests for the 2022–2023 quarter, covering October 1, 2022, through December 31, 2022. On January 24, 2023, Frank emailed Kelly, asking him to resubmit his reimbursement request and include a 2022 DRE reimbursement form for each report reviewed, with the case number, requesting officer, suspect's name, and call-out date and times. Additionally, Kelly was informed that he would not be reimbursed for the DRE callout he conducted on December 4, 2022, because it took place in Perryville, Hunterdon County. Frank confirmed that the Ocean grant did not reimburse calls outside of Ocean County. (P-2 at MK 048.)

This is what prompted Casey's February 15, 2023, email to Kelly, in which he advised Kelly that their review had identified several discrepancies and told him to resubmit the 2022–2023 first-quarter DRE reimbursement request. Long asked Kelly to include the relevant dates, case numbers, suspect details, and corresponding face sheets. He also attached a copy of the 2022 DRE reimbursement form. In the email, Long wrote that Kelly was suspended from conducting any DRE instructor reviews. (P-2 at MK 050.) Kelly testified that Long lacked the authority to suspend him from conducting instructor reviews.

As noted earlier, Gibson was also advised of Kelly's inaccurate submissions and suspended Kelly from performing any further DRE work while his office conducted an inquiry. On February 27, 2023, Casey sent a letter to Captain Elliot Morgan, OCPO. In the letter, Long stated that Kelly initially requested reimbursement for twenty-six hours, including a DRE evaluation in Perryville, Hunterdon County, which he was told to remove. Long also instructed Kelly to resubmit his requests with case numbers, suspect details, requesting agency, and times. Long went on to explain that on February 7, 2023, Kelly resubmitted his reimbursement request, reducing the hours to sixteen, excluding the Perryville DRE evaluation, and noting that he had mistakenly included a training that he

also removed. Long wrote that the OCPO's review suggested that the report review dates did not align with the reimbursement dates, and some overtime hours were logged before the actual arrest and DRE evaluation. Long asked Kelly to resubmit the reimbursement requests and sent him a sample completed form. On February 16, 2023, Kelly resubmitted the reimbursement request for this time, totaling twenty-two hours. Ultimately, due to ITSMR program glitches at the time, Long could not verify the accuracy of the information and recommended suspending Kelly from further participation in the Ocean DRE grant program. (P-14 at MK 365–68.)

The OCPO's Internal Affairs Investigation

White testified that he has been employed by the OCPO as a detective in the PSU for the past six years, investigating local and county police officers for violations of administrative rules and regulations and for criminal conduct. Previously, White spent twenty-one years with the Secret Service, retiring as a senior special agent.

White has attended several courses sponsored by the Attorney General's Office on Internal Affairs investigations and has taught multiple classes at the OCPO on Internal Affairs investigation techniques. While at the PSU, White has investigated between twenty-five and thirty-five complaints.

White testified that on December 15, 2023, he sent Kelly a letter informing him that the OCPO PSU would investigate allegations of falsification and misrepresentation in documentation related to the DRE program he had submitted to the NJSP and the OCPO. (JK2-C; P-14 at MK 364.) Kelly was advised to bring all supporting documentation with him to the interview. White also testified that the DRE reimbursement requests he reviewed included those Arroyo examined, including Kelly's reimbursement requests from February 2022 through September 2022, which were governed by the 2013 Directive.

White testified that on January 18, 2023, he and Det. Sgt. David Margentino, Jr., met with Arroyo. During the meeting, Arroyo provided copies of all the documentation he reviewed between February 2022 and September 2022, including DRE callout certifications and request-for-payment forms he received from the OCPO; the

corresponding DRE evaluations/face sheets; Kelly's rolling log from the ITSMR program of the DRE evaluation reports Kelly conducted, reviewed, or was named as a witness to; and emails between Kelly and him. White confirmed that he did not record his conversation with Arroyo and was not required to do so. White stated that the Attorney General's Guidelines for conducting Internal Affairs investigations do not require Internal Affairs to record statements from officers in cases that do not arise from a civilian complaint. White further testified that he was unaware of any conflict between the OCPO and Kelly that would prevent him from investigating Kelly.

On March 20, 2024, White and Margentino interviewed Kelly in the presence of his attorney, Charles Sciarra. White's interview with Kelly was video recorded, and the investigation was reduced to a written report. Both the video and the report were referenced during the hearing, and I reviewed both independently. (JK2-B; JK2-D.) Before questioning Kelly, White informed him that he and Margentino would be asking questions about his alleged compliance with the following Jackson Township Police Department Rules and Regulations:

3.1 PROFESSIONAL AND GENERAL CONDUCT

1. 3:1.1 Standards of Conduct

Employees shall conduct their private and professional lives in such a manner as to avoid bringing the department into disrepute.

2. 3:1.5 Performance of Duty

All employees shall promptly perform their duties as required or directed by law, rules and regulations or written directive, or by lawful order of a superior officer.

3. 3:1.7 Obedience to Laws, Ordinances, Rules and Written Directives

Employees shall obey all laws, ordinances, rules and written directives of the department.

4. 3:1.10 Neglect of Duty

Members and employees shall not commit any act nor shall they be guilty of any omission that constitutes neglect of duty.

3:4 POLICE RECORDS AND INFORMATION

5. 3:4.3 Reports

No employee shall knowingly falsify any official report or enter or cause to be entered any inaccurate, false, or improper information on records of the department.

3:7 DUTY CONDUCT

6. 3:7.18 All Other Conduct

Misconduct by a police officer need not be predicated on the violation of any particular department rule or regulation. Police officers are called upon to exercise tact, restraint and good judgment in their relationship with the public and must present an image of personal integrity and dependability in order to have the respect of the public. The department will take appropriate disciplinary action against any officer whose actions violate this standard of good behavior.

[JK2-C.]

White testified that he and Margentino asked Kelly to clarify the inaccuracies in his 2021–2022 reimbursement requests. Each submission will be addressed below in chronological order.

Kelly testified that he would submit overtime payment requests to Jackson for the DRE work, which likely meant he had already been paid by the time he submitted the DRE callout and reimbursement certifications to the OCPO. The reimbursement payments would then be paid directly to Jackson.

White and Kelly confirmed that the DRE callout certification should be completed on the day the activity occurs, while the reimbursement certifications are submitted quarterly. Each completed DRE certification for that quarter is listed on the OCPO

request-for-payment form. Kelly testified that his responsibility as the DRE grant administrator was to verify that the information on the reports was accurate.

Kelly admitted that he conducted DRE activities outside of Ocean and completed the DRE callout certification on the same day as the reported activity. Although the 2013 Directive states that its purpose is to assist Ocean County law enforcement, Kelly testified that he was unaware, before the Internal Affairs investigation, that DRE evaluations conducted outside Ocean County were ineligible for reimbursement, as he believed the grant was statewide. Additionally, Kelly testified and acknowledged that he did not follow the 2013 Directive, which requires all requests for DRE callouts to be assigned through the Ocean County radio room. Kelly stated that the DREs had his personal cell phone number and would contact him directly. Instead of referring them to the radio room, he responded or called another DRE to handle the request. The reimbursement request also included serving as a witness during another officer's DRE evaluation, which involved role-playing for recertification and was not eligible for reimbursement.

On March 31, 2022, Kelly submitted a payment request for the second quarter of 2021–2022, covering eight DRE callouts, seven of which contained inaccurate information, that occurred between February 1, 2022, and March 31, 2022, totaling \$1,920. (JK2-I.)

White testified that he asked Kelly about the DRE callout certification dated February 1, 2022. Kelly confirmed that, as the submitter, he reviewed and certified that the submitted information was accurate. (JK2-I.) On the DRE certification, Kelly identified the requesting municipality as Jackson Township, the location of the callout as Jackson Township, and the subject as DRE recertification. The DRE face sheet provided to the PSU by Arroyo indicates that on February 1, 2022, Kelly observed an officer's DRE recertification evaluation. In other words, this was not an evaluation of an actual subject; rather, an officer was role-playing the subject so the evaluating officer could complete the twelve-step process in front of Kelly, an instructor, to verify that the evaluation was conducted as required. Additionally, the evaluation took place in Flemington Borough, Hunterdon County, not Ocean County.

White testified that he asked Kelly about the February 7, 2022, DRE callout certification Kelly signed and submitted, which listed the requesting municipality and location as Jackson Township. (JK2-M.) Kelly's rolling log, extracted from the ITSMR program and provided by Arroyo, does not show a corresponding DRE evaluation for Kelly dated February 7, 2022. However, in the email Kelly sent to Arroyo, in which he attempted to reconcile the inconsistencies Arroyo identified, Kelly wrote that on February 7, 2022, he witnessed a DRE recertification evaluation conducted by Harry Bugal, Jr. The DRE face sheet provided by Arroyo for Bugal shows that Kelly role-played the arrestee during the evaluation, which took place on December 6, 2021, not February 7, 2022, in Clinton Township, Hunterdon County. (Ibid.) Additional documentation provided by Kelly at the hearing shows that on February 1, 2022, Parlow emailed Kelly, stating that he met with the OCPO on February 7, 2022. (P-2 at MK 49; P-9 at MK 226.) During the hearing, Kelly unsuccessfully tried to reconcile this inconsistency. Kelly testified that DREs sometimes sent him reports late, and that his signature and the review date indicate that he reviewed the evaluation. Specifically, Kelly explained that Bugal delayed sending him the DRE evaluation report. This was not about what day Kelly reviewed Bugal's report; it was about his location on February 7. Kelly testified that he would have completed the DRE callout certification on the same day as the meeting. He admitted that, after reviewing his timesheet, he attended a meeting at the OCPO on February 7, 2022, and that the information on the DRE callout certification was in error. Additionally, the documentation Kelly provided at the hearing shows that Bugal emailed him on February 9, 2022, requesting that Kelly review the December 6 evaluation. The DRE face sheet indicates that Kelly reviewed and signed it on February 20, 2022. (P-9 at MK 224–25.)

White testified that he also asked Kelly about a DRE callout certification Kelly signed and submitted, dated February 18, 2022. (JK2-N.) On the DRE certification, Kelly lists the requesting municipality and location as Jackson Township for a recertification. Arroyo's review in the ITSMR program did not show a corresponding DRE evaluation; however, in the email Kelly sent to Arroyo, Kelly wrote that he witnessed a DRE recertification evaluation conducted by Timothy Hubert. The DRE face sheet for Hubert, which Arroyo provided, shows that it was conducted on April 14, 2022, in Linden City, Union County. (Ibid.) Kelly testified that, as the documents confirm, on February 18, 2022, he was a panelist on Municipal Cannabis Law, sponsored by the League of

Municipalities, via the internet, most likely from his home. (P-9 at MK 222.) During the hearing, Kelly admitted that he attended the meeting in his role as president of the New Jersey DRE association, a private organization, and therefore would not be eligible for reimbursement under the DRE grant. (Ibid.)

White testified that during the investigation, Kelly was asked about the DRE callout certification he signed and submitted, dated February 28, 2022. (JK2-L.) Kelly certified that the requesting municipality and location were Jackson Township for recertification. In Kelly's email to Arroyo, he wrote that he was a witness for a DRE recertification evaluation for Adam Koeppen on February 28, 2022. The corresponding DRE face sheet for that date shows that Kelly was a witness for a DRE recertification for Robert Westfall, with Koeppen listed as a role-player, and indicates that the evaluation occurred in Toms River, not Jackson Township. (Ibid.) According to the DRE face sheet, the evaluation took place between 7:25 p.m. and 7:55 p.m. Kelly's work hours are from 1:00 p.m. to midnight. Reimbursement requests are only for DRE activities performed during an officer's off-hours. Additionally, the 2013 Directive does not provide compensation for witnessing DRE recertification evaluations. Interestingly, after the OCPO took over the administration of the grant, Kelly did not submit any reimbursement requests for witnessing DRE evaluations. (P-29 at MK 726–956.)

White also asked Kelly about the DRE callout certification he signed and submitted, dated March 2, 2022. Kelly certified that the requesting municipality and location were Jackson Township for a recertification. (JK2-L.) In the email Kelly sent to Arroyo, he wrote that on March 2, 2022, he witnessed Westfall's DRE recertification evaluation. However, as established above, Westfall's recertification evaluation was conducted on February 28, 2022. During the investigation and hearing, Kelly stated that on March 2, 2022, he attended a meeting of the New Jersey Police Traffic Officers Association. A subsequent review of documents confirms Kelly's attendance at the meeting. (P-9 at MK 272–77.) Again, Kelly admitted that he completed the DRE certification on the same day he attended the meeting and did not provide a plausible reason why the form wasn't filled out correctly. Kelly testified that he had a lot on his plate and that this was simply a mistake.

During the internal investigation, Kelly was also asked about the DRE callout certification he signed and submitted, dated March 3, 2022. Kelly certified that the requesting municipality and location were Jackson Township for a recertification. (JK2-K.) Arroyo was unable to locate a corresponding DRE evaluation in the ITSMR program. However, in the email Kelly sent to Arroyo, he wrote that on March 3, 2022, he conducted his own DRE recertification evaluation. The OCPO found the corresponding DRE face sheet, which shows it was conducted on February 21, 2022, in Mendham Borough, Morris County, not March 3, 2022. Kelly testified that on March 3, 2022, he attended a Highway Traffic Safety meeting concerning the DRE FY 2023 grant. (P-9 at MK 278–79.) Training was covered by the stipend Kelly received and was not reimbursable under the Ocean DRE grant.

During the investigation, White questioned Kelly about the DRE callout certification he signed and submitted, dated March 31, 2022. Kelly confirmed that the requesting municipality was Jackson Township, the location was the OCPO, and the subject was a DRE meeting. (JK2-J.) Arroyo's search in the ITSMR program showed that on March 31, 2022, Kelly was a witness to the DRE recertification evaluation for Brian Dickson in Clinton Township, Hunterdon County. (Ibid.) Kelly could not explain the reason for the discrepancy.

On June 30, 2022, Kelly submitted a payment request for the third quarter of 2021–2022, covering eight DRE callouts, three of which contained inaccurate information, from April 5, 2022, to June 22, 2022, totaling \$2,160. (JK2-O.)

White testified that he asked Kelly about the DRE callout certification he signed and submitted, dated April 25, 2022. Kelly certified that the requesting municipality and location were Jackson Township for a recertification. (JK2-Q.) The DRE face sheets provided by Arroyo show that Kelly served as a witness for Christopher Vallet and Anthony Moreno during their DRE recertification evaluations. Additionally, the face sheets reveal that both evaluations were conducted in Raritan Township, Somerset County. Kelly told White during the Internal Affairs investigation that he submitted his overtime request for an April 6 recertification in the next pay period because he did not want the overtime pay to appear in the pay period covering April 6. Instead, he submitted

an overtime request for observing two DRE recertification evaluations during the April 25 pay period. Kelly testified that the reimbursement request was for a DRE recertification evaluation for Mark Rodina, for which Kelly was a witness. The DRE face sheet for Rodina shows that the evaluation was conducted on April 6, 2022, in Jackson Township. (JK2-R.) Kelly also testified that the reimbursement request had to align with the time he submitted for overtime.

White testified that he also asked Kelly about the DRE callout certification he signed and submitted, dated June 12, 2022. (JK2-O.) Kelly certified that the requesting municipality and location were Jackson Township for a recertification. However, on the payment request form, Kelly wrote that he attended a DRE meeting. During the Internal Affairs investigation, and in Kelly's email to Arroyo, he stated that on June 12, 2022, he was a witness at a DRE recertification for Ryan Grohowski. Margentino later found a DRE face sheet for Grohowski showing the evaluation was conducted on June 18, 2022, in Point Pleasant Borough. (JK2-P.) Kelly unconvincingly testified that Grohowski's report was wrong and that Grohowski submitted the report late. Kelly testified that Grohowski never submitted the evaluation through the ITSMR program. However, during the hearing, Kelly was shown his rolling log, which in fact shows that the evaluation was conducted on June 18, 2022. (P-1 at MK 003.) There was no explanation of what Kelly actually did on June 12, 2022.

White testified that he asked Kelly about the DRE callout certification he signed and submitted, dated June 22, 2022. (JK2-S.) Kelly certified that the requesting municipality and location were Jackson Township for a DRE callout for Thomas Reilly. However, the corresponding DRE face sheet for June 22, 2022, indicates that Kelly conducted a DRE evaluation on Michael Diaz at the Perryville Station in Hunterdon County. The DRE face sheets for Thomas Reilly show one conducted on May 30, 2022, correctly listed on the payment request, and another on June 5, 2022, incorrectly listed. (*Ibid.*) During the hearing, Kelly testified that he wrote the wrong date on the June 22, 2022, evaluation, and it should have been June 5, 2022. Kelly testified that he was not trying to hide that he performed DRE evaluations outside Ocean County and that all DRE evaluations are documented in the Ocean County DRE Quarterly Reports he submitted to the OCPO. (P-8 at MK 197–217.) However, my review of the information Kelly

submitted in the OCPO DRE Grant Third Quarter Report, covering April 1, 2022, through June 31, 2022, shows that Kelly listed himself as responding to a DRE callout on June 22, 2022, in “Jackson,” when, as stated above, Kelly conducted a DRE evaluation of Diaz in Hunterdon County, not Jackson. (P-8 at MK 207.)

White testified that he also asked Kelly questions about his payment request dated September 30, 2022, which covered the fourth quarter of the 2021–2022 fiscal year and listed seven DRE activities, five of which contained inaccurate information, from July 14, 2022, through September 30, 2022, totaling \$1,920. (JK2-T.)

White testified that he asked Kelly about his DRE callout certification dated July 14, 2022, and the related line item on the request-for-payment form dated September 30, 2022, both of which he signed and submitted. (JK2-V.) Specifically, Kelly sought reimbursement for reviewing other officers’ DRE evaluations. In his email to Arroyo, Kelly wrote that he had reviewed four DRE evaluations. Kelly’s ITSMR rolling log, however, does not show that Kelly reviewed any evaluations on July 14, 2022, or within a nearby date range. (*Ibid.*) During the investigation, Kelly stated that he could not provide the specific evaluations for which he requested reimbursement. Kelly testified that officers from police agencies outside of Ocean County would email him evaluations to review. However, Kelly testified that he did not submit reimbursement requests for those reviews because O’Connor told him they were not eligible for reimbursement under the DRE grant. In fact, during the hearing, Kelly declared that he “definitely” did not submit reimbursement requests for reviewing DRE evaluations from officers outside of Ocean County. During the hearing, Kelly was shown all the evaluations he provided; only two indicated that he reviewed and signed the face sheets on July 14, both from the same officer in Clinton Township, Hunterdon County. (P-33 at MK 1197, MK 1202.) The DRE face sheets show that one evaluation was conducted on July 6, 2022, and the other on June 17, 2022. (*Ibid.*)

White also testified that he asked Kelly about the DRE callout certification he signed and submitted, dated August 15, 2022. (JK2-U.) In Kelly’s email to Arroyo, he wrote that on August 15, 2022, he was a witness for a DRE recertification evaluation for Stephen Cilento. The corresponding DRE face sheet for Cilento shows that the

evaluation was conducted on August 4, 2022. Kelly testified that he did not submit a payment request on August 4, 2022, until the following pay period because he was unable to request additional overtime during that pay period. Additionally, Kelly's testimony that he believed he could change the date on the reimbursement-request certification, on which he certifies the accuracy of the provided information, so that it would coincide with his overtime submission, is unbelievable.

Next, White asked Kelly about the DRE callout certification dated September 5, 2022, which he signed and submitted, certifying the requesting municipality and location as Jackson Township. (JK2-X.) On the corresponding reimbursement request form, Kelly requested reimbursement for four hours. In his email to Arroyo, Kelly wrote that on September 5, 2022, he served as a witness for a DRE recertification evaluation for Adam Fulmore. However, the DRE face sheet for Fulmore shows that the evaluation was actually conducted on September 23, 2022, in Somerville Borough, Somerset County. Kelly testified that he reviewed reports on September 5, 2022, but, during the hearing, he was unable to identify which reports he had reviewed, and the ITSMR rolling log did not indicate that he reviewed any reports on that date. (Ibid.) My review of over 1,000 documents provided by Kelly during the hearing revealed that he reviewed and signed one evaluation on September 5, 2022, involving a DRE evaluation in Lacey Township. Kelly requested four hours of reimbursement; however, as previously established, DREs are entitled to only one hour of reimbursement per report reviewed. (P-33 at MK 1217.) This supports my earlier observation: Kelly's record-keeping and his testimony that he deliberately kept the information on the DRE callout certification vague to make it easier to access do not make sense. In fact, it's more like searching for a needle in a haystack.

White testified that he also asked Kelly about the DRE callout certification dated September 26, 2022, which Kelly signed and submitted for review of four reports. (JK2-T.) Kelly did not provide Arroyo or White with any evaluations he reviewed on September 26. Additionally, Kelly's ITSMR rolling log does not show that Kelly reviewed any evaluations on or about September 26, 2022. (Ibid.) Again, during the hearing, Kelly was unable to identify the specific reports he reviewed. However, my independent review of the documents Kelly provided revealed that Kelly reviewed and signed only one evaluation on September 26, 2022, not four, and it was a DRE evaluation from an officer

in Somerville Borough, Somerset County, which, by Kelly's own admission, is not subject to reimbursement. (P-33 at MK 1225.)

The last entry White testified that he asked Kelly about was the DRE callout certification dated September 30, 2022, which Kelly had signed and submitted for review of four reports. Kelly certified that the requesting municipality and location were Jackson Township. (JK2-W.) The ITSMR rolling log does not show that Kelly reviewed any DRE evaluations on September 30, 2022. However, Arroyo provided a DRE face sheet dated September 30, 2022, which shows that Kelly conducted a DRE evaluation in Perryville, Hunterdon County. (Ibid.) Kelly testified that he did respond to a DRE callout in Perryville on September 30 but did not submit a reimbursement request for the callout; instead, he submitted a reimbursement request for the review of four DRE evaluations. (Ibid.) Kelly testified that he wasn't hiding the fact that he conducted DRE evaluations outside of Ocean County. However, the September 30 evaluation was not included in the OCPO DRE Grant Fourth Quarter Report, prepared by Kelly, covering July 1, 2022, through September 30, 2022. (P-8 at MK 197–203.) Additionally, neither the ITSMR rolling log nor any of the DRE evaluations provided by Kelly show that he reviewed any reports on September 30, 2022.

White admitted that he did not believe that it was necessary to interview O'Connor or Parlow. White also testified that he believed that the errors on Kelly's forms were not innocent mistakes and that he had sufficient information to find that Kelly knowingly and intentionally submitted numerous reimbursement requests based on information provided by Arroyo, Kelly, and other sources. On May 21, 2024, White sustained charges finding Kelly violating Jackson's Policies and Procedures, 3:1.1, Standards of Conduct; 3:1.5, Performance of Duty; 3:1.7, Obedience to Laws, Ordinances, Rules and Written Directives; 3:1.10, Neglect of Duty; 3:4.3, Reports; and 3:7.18, All Other Conduct. Police officers are called upon to exercise tact, restraint, and good judgment in their relationship with the public and must represent an image of personal integrity and dependability in order to have the respect of the public. The department will take appropriate disciplinary action against any officer whose actions violate this standard of good behavior. (JK2-A.)

Kelly testified that as the DRE grant administrator, he held Ocean DREs to a high standard and implemented the instructor's review of 100 percent of DRE evaluations. In contrast, the ITSMR system flags only 50 percent for review. However, Kelly's testimony that Ocean County holds itself to a higher standard contradicts the fact that, as the grant administrator, he submitted reimbursement requests replete with errors.

Kelly acknowledged that the OCPO did not want to approve his draft policy updates until the New Jersey Supreme Court decided State of New Jersey v. Olenowski, 255 N.J. 529 (2023). Olenowski involved the scientific reliability of DRE evaluations. The New Jersey Supreme Court decided the case in November 2023, after the OCPO took over the administration of the Ocean grant. Kelly provided a 2023 DRE Grant breakdown that included additional items for reimbursement, but no evidence was presented to verify that this was ever approved. (P-9 at MK 228.)

Kelly provided no evidence that Parlow or O'Connor knew what Kelly was doing or approved his conduct, as neither testified. Records provided by Kelly at the hearing show that on January 27, 2022, O'Connor sent an email to the DREs in which he explicitly outlined the activities eligible for reimbursement under the DRE grant, contradicting Kelly's testimony. There was no evidence that Kelly's 2021 draft policy was ever approved or that anyone other than Kelly followed it. In fact, the documentation Kelly provided conflicts with his testimony. Specifically, in an email dated May 5, 2021, to Parlow, Kelly attached an updated 2021 draft DRE policy and letter, writing, "I have attached a copy of the New Ocean County DRE Policy. Once this is approved by the Prosecutor, I would like to distribute it to all the municipalities in Ocean County." (P-24 at MK 678–86.) Notably, the policy does not authorize dispatching DREs to requesting agencies outside Ocean County, nor does it authorize reimbursement for witnessing DRE evaluations for recertification. On November 19, 2021, after a DRE meeting with Ocean County DREs, Kelly sent a summary email. (P-4 at MK 108–09.) In that email, he stated that he included a copy of the draft DRE policy, but wrote, "Our new policy is up to date and waiting to get approved by the Prosecutor." (Ibid.) In another email dated May 21, 2022, referencing a DRE requesting a copy of the policy that included changes Kelly discussed in a March 21, 2022, email, Kelly wrote, "The county will not adopt the new policy until Olenowski is ruled." (P-4 at MK 112.) An additional email exchange between

Kelly, Long, and Parlow dated August 26, 2022, shows that Kelly requested a meeting to discuss an updated DRE policy; in Long's response, he wrote, "As of now, please stand down from moving forward with the issuance of any policies pertaining to the DRE response/grant related protocols until further notice." (P-2 at MK 32–33.) During the Internal Affairs investigation, Kelly acknowledged that the OCPO never adopted his policy.

Chief Kunz and Discipline

Chief Matthew Kunz testified that he was appointed chief of the Jackson Township Police Department in May 2008. Kunz became a police officer in Jackson in 1990. In 1996, Kunz was promoted to police detective, and in 1997, he was promoted to sergeant. In 2001, Kunz was promoted to lieutenant, and in 2004, to captain. In 2006, Kunz was appointed director of police safety, and in 2008, Kunz was appointed chief when the title was restored.

Kunz testified that he was unaware that the OCPO was conducting an Internal Affairs investigation but did not dispute the OCPO's authority to do so. Kunz testified that the OCPO is the primary law enforcement agency in Ocean County and that the Jackson Police Department reports to the OCPO. The OCPO also oversees the Ocean DRE grant. Aside from allowing certified DRE officers in Jackson to respond to DRE calls and participate in related activities, Jackson has no other involvement with the Ocean grant. Although Kunz testified that he was unaware that Kelly was the subject of an Internal Affairs investigation, records show that he received a letter dated June 14, 2023, from Billhimer, the Ocean County prosecutor, informing him that due to numerous errors in Kelly's reimbursement requests for DRE work, he had been removed from the on-call DRE list and would no longer be reimbursed through the DRE grant. This is different from being informed that the OCPO was conducting an Internal Affairs investigation for violations of police rules and regulations that could lead to discipline. (P-14 at MK 369.)

Kunz further testified that Kelly had previously been disciplined for allegations of untruthfulness. On March 7, 2013, Kunz issued Kelly a two-day suspension for improper use of sick leave. (JK-4.) Kunz explained that on December 5, 2012, Kelly called in sick

but actually attended a training class. Kunz also testified that, as part of a settlement agreement, Kelly pled guilty to N.J.A.C. 4A:2-2.3(a)(1), incompetency and inefficiency or failure to perform duties, and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, for violation of Jackson's code, including failure to properly supervise subordinates or properly fulfill the duties of a superior officer. (JK-5.)

Kunz received a letter dated May 28, 2024, from the OCPO notifying him of the outcome of an investigation it conducted regarding Kelly's requests for reimbursement under the Ocean DRE grant. Additionally, Kunz received a letter notifying him that, based on the findings, Kelly was subject to the Brady-Giglio policy, which requires in camera review of the sustained charges in cases involving Kelly. The letter outlines certain parameters that must be followed when Kelly is a witness or participant in a case. (JK-3.) Kunz testified that he also received and reviewed a copy of the OCPO's investigative Summary and Conclusions Report.

Based on his review of the information from the OCPO, on July 3, 2024, Kunz issued a PNDA to Kelly, finding violations of State and departmental rules and regulations. (JK-1.) Kunz also testified that Jackson's disciplinary code, established by ordinance, requires removal from office for falsifying any report. (JK-1E at 52-56.)

Findings

Having had an opportunity to consider the evidence, observe the witnesses who testified, and consider the written summations, I **FIND** the following to be pertinent **FACTS** in this case. I **FIND** that the 2013 Directive was in effect during the 2021–2022 fiscal year. The 2013 Directive only allows reimbursement for three specific DRE assignments: 1) when the responding officer is conducting the DRE evaluation; 2) when an officer is assigned to a DWI checkpoint; and 3) when an officer is required to testify in court or when counsel requests time with the officer to prepare for a court hearing. Further, I **FIND** that the only NJSP station in Ocean County is in Tuckerton. Testimony from Arroyo and an email from O'Connor dated January 27, 2022, confirmed that DRE instructors are also compensated for one hour for each DRE evaluation report reviewed. Additionally, I **FIND** that Highway Traffic Safety has explicitly denied using DRE grant funds to reimburse

DREs for witnessing recertifications. I further **FIND** Kelly's testimony that the 2013 Directive does not prohibit conducting DRE evaluations outside Ocean unpersuasive and **FIND** that its purpose was to reimburse work within Ocean County. Kelly's response outside Ocean was not rare but a common practice and pattern, and it was not for performing actual DRE evaluations but for serving as a witness for recertification when there was no urgency to respond. Therefore, I **FIND** that the Ocean DRE grant was intended only to reimburse DREs for callouts, the time officers spend conducting evaluations and writing reports, checkpoint attendance, court time, and DRE instructors reviewing evaluations. I further **FIND** that the 2021 policy Kelly drafted and followed was never sanctioned by the OCPO or O'Connor. Moreover, the 2021 draft policy did not include authorization for reimbursement as a witness for DRE evaluations or for DRE evaluations outside Ocean County.

It is undisputed that since Kelly took over as Ocean's DRE grant administrator, he has been completing the DRE callout form, listing Jackson as the requesting agency and the location, without challenge from the OCPO. Unfortunately, the OCPO approved Kelly's reimbursement requests without reviewing or comparing them with the actual DRE face sheets associated with the callout forms or Kelly's rolling logs from the ITSMR program. It was not until after the OCPO took over the administration for the Ocean DRE grant in November 2022 and reviewed Kelly's first-quarter submissions for the 2022–2023 fiscal year (October 1, 2022, through January 31, 2023) that it was alerted to the numerous errors in Kelly's documentation. Long asked Kelly to correct and resubmit the first-quarter submissions. I **FIND** that Long did not start an investigation for disciplinary reasons but advised Gibson, which led to Kelly's suspension from performing additional DRE activities.

Kelly's testimony that he intentionally kept the information on the reimbursement forms vague and wrote Jackson as the requesting municipality and the location on the DRE callout certification to make it easier for him to keep track of the DRE evaluations is bewildering. During the hearing, Kelly stated that if anyone needed the specifics of any information in the DRE callout certification, they could check his rolling logs. However, we discovered that it was not so simple. One reason is that Kelly did not submit all his DRE transactions through the ITSMR program. Additionally, during the hearing, Kelly

himself was stammering over his papers and was often unable to clearly explain how each DRE callout certification matched specific DRE evaluations. He frequently could not find an evaluation corresponding to a particular day. Kelly further testified that he did not receive any training on how to fill out the forms, an equally unconvincing claim. The cover page of the DRE callout form is titled Ocean County Prosecutor's Office, DRE CALLOUT CERTIFICATION. The document is a certification. Further down, above the officer's signature line, it states, "I HEREBY CERTIFY THE ABOVE REPRESENTATIONS ARE CORRECT." (JK2-I.) First, the information required on the DRE callout certification form—namely: 1) Responding DRE; 2) Requesting municipality; 3) Location; 4) Subject; and 5) Times—does not require any special expertise to understand, especially for an officer who ranked first on the sergeant's and lieutenant's exams and was certified as a DRE instructor and County DRE grant administrator. Regardless, if there was any confusion, Kelly only needed to look through his own documentation to find instructions from Dudzik, the former DRE grant administrator, on what information was required for each item on the certification form. (P-19 at MK 464.) I **FIND** Kelly intentionally did not provide the information as requested on the DRE certification form.

What made it difficult, or nearly impossible, to comprehend Kelly's record-keeping, even for himself, was that he did not record all his DRE transactions in the ITSMR program as required. I **FIND** that the reimbursement requests submitted by Kelly from February 1, 2022, through September 30, 2022, are not merely vague but contain misleading, inaccurate, and false information.

Neither Parlow nor O'Connor testified. The evidence revealed that Parlow signed Kelly's reimbursement requests without reviewing the corresponding DRE face sheets. In addition, emails from O'Connor provide the activities that the DRE grant covers. I **FIND** that there is no evidence in the record that Kelly's practice of responding to DRE callouts outside of Ocean County and submitting reimbursement requests for witnessing DRE evaluations for officers' recertifications was sanctioned by the OCPO or O'Connor. On November 7, 2023, Kelly emailed Arroyo, who was reviewing his fitness as a certified DRE, the names of DRE evaluations for the corresponding dates that Arroyo listed, which

I **FIND** did not match the information in the ITSMR program and were later found not to match the actual DRE face sheets.

Specifically, I **FIND** that Kelly falsely certified that on February 1, 2022, the requesting agency and the location of the DRE callout were both Jackson, when in fact he was in Flemington Borough, Hunterdon County, which was not eligible for reimbursement under the 2013 Directive. Further, I **FIND** that Kelly served as a witness to the DRE evaluation, which was also not eligible for reimbursement under the DRE grant.

I **FIND** that Kelly falsely certified that on February 7, 2022, the requesting agency and the location of the DRE callout were both Jackson. First, the ITSMR program does not show that Kelly performed any DRE evaluations or reviewed evaluations on February 7, 2022. Second, the information Kelly provided to Arroyo, that he was a witness to Bugal's DRE recertification, contradicts the information in the ITSMR program because Bugal's DRE face sheet shows that the evaluation was conducted on December 6, 2021, not February 7, 2022. Third, Kelly served as a witness. Fourth, Bugal's DRE evaluation was conducted in Clinton Township, Hunterdon, not Ocean County. Fifth, on February 7, 2022, Kelly was at a meeting at the OCPO, and for all the reasons stated, I **FIND** the callout was not eligible for reimbursement.

I **FIND** that Kelly falsely certified that on February 18, 2022, the requesting agency and the location of the DRE callout were both Jackson, and that the DRE callout was ineligible for reimbursement. First, the ITSMR program does not show that Kelly performed or witnessed any DRE evaluations on that date. Second, the information Kelly provided to Arroyo that he witnessed a DRE evaluation for Hubert is contradicted by the DRE face sheet, which shows that Hubert's evaluation took place on April 14, 2022, in Linden City, Union County. Third, on February 18, 2022, Kelly was actually a panelist on Municipal Cannabis Law, sponsored by the League of Municipalities.

I also **FIND** that Kelly falsely certified that on February 28, 2022, the requesting agency and the location of the DRE callout were both Jackson, and that the DRE callout was ineligible for reimbursement. First, Kelly served as a witness for Westfall, not

Koeppen, as he advised Arroyo, and second, the DRE evaluation took place in Toms River, which, although in Ocean County, was not in Jackson, as certified.

I further **FIND** that Kelly falsely certified that on March 2, 2022, the requesting agency and the location of the DRE callout were both Jackson, and that the DRE callout was ineligible for reimbursement. First, as established above, Kelly served as a witness for Westfall on February 28, 2022, not March 2, 2022. On March 2, 2022, Kelly attended a meeting of the New Jersey Police Traffic Officers Association.

I **FIND** that Kelly falsely certified that on March 3, 2022, the requesting agency and the location of the DRE callout were both Jackson, and that the DRE callout was ineligible for reimbursement. Kelly inaccurately advised Arroyo that he conducted his own DRE recertification evaluation on March 3, 2022. Kelly's corresponding DRE face sheet shows his DRE evaluation was conducted on February 21, 2022, not March 3, 2022, in Mendham Borough, Morris County. On March 3, 2022, Kelly attended a Highway Traffic Safety meeting regarding the DRE FY 2023 grant, which was covered by the Ocean DRE grant stipend Kelly received.

I **FIND** that Kelly falsely certified that on March 31, 2022, the requesting agency was Jackson, and the location of the DRE callout was the OCPO. The evidence shows that on March 31, 2022, Kelly witnessed a DRE recertification evaluation in Hunterdon County, which is ineligible for reimbursement.

I **FIND** that Kelly falsely certified that on April 25, 2022, both the requesting agency and the location of the DRE callout were Jackson. The evidence shows that on April 25, 2022, Kelly witnessed two DRE recertification evaluations in Somerset County that were ineligible for reimbursement. I further **FIND** that he intentionally submitted an inaccurate reimbursement request to coincide with his overtime request to Jackson. He actually worked on April 6, 2022, but did not submit it until the next pay period.

I **FIND** that Kelly falsely certified that on June 12, 2022, the requesting agency and the location of the DRE callout were both Jackson, and that the DRE callout was ineligible for reimbursement. During the Internal Affairs investigation, and in Kelly's email to Arroyo,

he stated that on June 12, 2022, he was a witness at a DRE recertification for Grohowski. The DRE face sheet for Grohowski shows that the evaluation was conducted on June 18, 2022, in Point Pleasant Borough. There was no explanation of what Kelly actually did on June 12, 2022.

I **FIND** that Kelly falsely certified that on June 22, 2022, the requesting agency and the location of the DRE callout were both Jackson for Thomas Reilly. The evidence shows that on June 22, 2022, Kelly conducted a DRE evaluation on Diaz in Hunterdon County, and, therefore, the DRE callout was ineligible for reimbursement.

The hearing revealed several dates on which Kelly requested reimbursement for reviewing evaluations by other DREs, but the ITSMR rolling log did not show that he had reviewed those evaluations on those dates. Arroyo testified that the NJSP required all DRE activity to be submitted through the ITSMR program. Additionally, the NJSP mandated the review of at least 50 percent of DRE evaluations. However, Ocean, as recommended by Kelly, chose to review all of the County's DRE evaluations. Kelly testified that Ocean had six instructors, including himself, reviewing evaluations. He also stated that during the Internal Affairs investigation, he provided the PSU with all the evaluations he reviewed. The issue is not that Kelly did not review evaluations; rather, the problem is that Kelly certified on reimbursement forms that he reviewed evaluations on specific days, but neither the ITSMR program entries nor the evaluations he submitted match the dates he claimed to have reviewed reports. The most reliable way to determine which evaluations Kelly reviewed is by the date and his signature as the reviewer on the evaluation forms.

I **FIND** that Kelly falsely certified that on July 14, 2022, the requesting agency and the location of the DRE callout were both Jackson for the review of four DRE evaluations. Kelly told Arroyo he reviewed four evaluations on July 14, 2022. I **FIND** that Kelly reviewed and signed only two DRE evaluations on July 14, both from the same DRE officer who conducted evaluations in Hunterdon County, and that these evaluations, as Kelly admitted, were not eligible for reimbursement under the 2013 Directive.

I **FIND** that Kelly falsely certified that he was a witness to a DRE evaluation on August 15, 2022. First, I **FIND** that Kelly was not present for a DRE evaluation on that date. Kelly told Arroyo that he witnessed Cilento's DRE evaluation. Second, I **FIND** that Cilento conducted the DRE evaluation on August 4, 2022, not on August 15, 2022. Third, I **FIND** that Kelly improperly submitted overtime for a pay period in which he did not actually perform the overtime work.

I **FIND** that Kelly falsely certified that on September 5, 2022, the requesting agency and the location of the DRE callout were both Jackson for a recertification. In Kelly's email to Arroyo, he wrote that on September 5, 2022, he served as a witness for a DRE recertification evaluation for Adam Fulmore. However, the DRE face sheet for Fulmore shows that the evaluation was actually conducted on September 23, 2022, in Somerville Borough, Somerset County, which was not eligible for reimbursement. During the hearing, Kelly testified that he reviewed reports on September 5, 2022, but was unable to identify which ones. My review of over 1,000 documents provided by Kelly during the hearing revealed that he reviewed and signed one evaluation on September 5, 2022, involving a DRE evaluation in Lacey Township. Kelly requested four hours of reimbursement; however, as previously established, DREs are entitled to only one hour of reimbursement per report reviewed.

I **FIND** that Kelly falsely certified that on September 26, 2022, and September 30, 2022, the requesting agency and the location of the DRE callout were both Jackson for the review of four DRE evaluations, respectively. I **FIND** that Kelly reviewed and signed only one evaluation on September 26, 2022, not four, for a DRE evaluation in Somerset County, which was not subject to reimbursement. I further **FIND** that Kelly did not review any DRE evaluations on September 30, 2022, but did conduct a DRE evaluation in Hunterdon County, which was not subject to reimbursement. I also **FIND** that Kelly tried to conceal the DRE evaluation because he did not include it in the OCPO DRE Grant Fourth Quarter Report, which he prepared and covered all DRE activity in Ocean between July 1, 2022, and September 30, 2022.

I **FIND** that the errors found in the 2022–2023 first-quarter submissions resulted only in ordering Kelly to submit a corrected reimbursement form and removing his name

from the list of Ocean DREs. No evidence was presented that the OCPO intended to initiate an investigation in February 2023. To the contrary, in an email dated February 16, 2023, in response to Kelly asking Long if he was the subject of an investigation, Long wrote, “I am not aware of any internal affairs investigation in regards to his matter.” (P-7 at MK 164.)

Between 2023 and 2024, Arroyo was the State DRE coordinator. As such, under the IACP Drug Evaluation and Classification Program Standards, he was responsible for ensuring that DREs met approved standards for conduct and qualifications. Section IV, Standards for Decertification or Deactivation of Drug Recognition Experts and Instructors, 4.1a, provides that a DRE can be decertified when

[p]erformance or ethical issues, even if not directly related to duties as a DRE, . . . restrict the DRE’s ability to testify in court, impact the DRE’s credibility, or bring[] discredit upon the DEC program.

[JK2-Y.]

Arroyo is employed by the NJSP, not the Jackson Police Department or the OCPO. As stated in his emails to Kelly on August 1, 2023, November 7, 2023, and November 16, 2023, his interest was in ensuring the integrity of the State’s DRE program and of Kelly’s DRE certification. I **FIND** Arroyo, as the State DRE, had a responsibility to review Kelly’s submissions to determine his status as a certified DRE. The errors found were related to the Ocean DRE grant. I **FIND** that as a law enforcement officer; Arroyo was compelled to share his findings with the OCPO.

It is unfortunate and potentially negligent on the part of the OCPO that it approved Kelly’s reimbursement requests without reviewing the DRE face sheet or Kelly’s rolling logs. Without examining the DRE face sheets, no one at the OCPO was aware that Kelly was not where he certified he was or that he was conducting DRE activities outside Ocean County and seeking reimbursement for them. Yet Kelly’s reimbursement requests continued to be automatically approved. Billhimer and Parlow approved all requests without question until the OCPO took over the administration of the Ocean DRE grant in October 2022. It wasn’t until the OCPO reviewed Kelly’s first quarter of the 2022–2023

fiscal year submissions that concerns about Kelly's documentation surfaced. However, the OCPO's negligence does not absolve Kelly's failure to comply with the 2013 Directive, his failure to maintain and submit accurate reports, or his duty to provide Arroyo and White with truthful information regarding his reimbursement requests during Arroyo's inquiry into Kelly's DRE certification and White's Internal Affairs investigation. The fact remains that Kelly was not authorized to seek reimbursement for DRE activities outside of Ocean County or to witness other DREs' evaluations. Kelly's duty was to ensure that all documentation submitted was accurate, which he did not do.

DISCUSSION AND CONCLUSIONS OF LAW

In appeals involving major disciplinary action, the appointing authority has the burden of proof. N.J.A.C. 4A:2-1.4(a). The proof must be by a preponderance of the evidence, In re Phillips, 117 N.J. 567, 575 (1990), and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980). The evidence should be such that it would lead a reasonably cautious mind to the given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Preponderance can be described as the greater weight of credible evidence in the case, not necessarily based on the number of witnesses but on the evidence's greater persuasive power. State v. Lewis, 67 N.J. 47 (1975).

Appellant's Motions to Dismiss

Jackson's Failure to Prove Case by a Preponderance of the Evidence

Kelly argues that the case should be dismissed because he did not intend to deceive the OCPO with his inaccurate reimbursement submissions. Additionally, Kelly contends that Jackson failed to meet the burden of proof because the OCPO's investigation was insufficient to support the charges. To the contrary, as stated above, the hearing before the OAL is de novo, and based on the evidence before me, there was more than enough evidence to demonstrate that, even when viewed in the light most favorable to Kelly, the errors found in Kelly's documentation indicate, at best, intentional negligence and, at worst, outright falsification. I **CONCLUDE** that this motion is without merit and is hereby **DENIED**.

Conflict

Kelly also argues that the OCPO should never have investigated the case because it involved other members of the OCPO, and White failed to question them, even though they may have known about Kelly's DRE activities, in violation of the Attorney General (AG) Guidelines. White testified that, as the investigator, he determined that the documents he reviewed during the investigation, as well as Kelly's own admissions during the investigation, were sufficient to sustain his findings. It is routine for law enforcement to conduct internal investigations of its own members; therefore, the fact that Kelly named OCPO members who may have known of Kelly's DRE activities did not preclude the OCPO from conducting the investigation. The OCPO issued the 2013 Directive that Kelly violated, and, as the county's chief law enforcement officer, it has the authority to investigate Kelly's conduct. Based on my consideration of the evidence before me, I **CONCLUDE** that the OCPO and PSU investigators did not violate the AG Guidelines in any way warranting dismissal of the charges, and the motion is **DENIED**.

Forty-Five-Day Rule

Kelly also argues that the case should be dismissed due to violations of N.J.S.A. 2A:157-10.1, which states that complaints charging a county investigator for removal must be filed no later than the forty-fifth day after the date when the person filing the complaint obtained sufficient information to do so. Here, Kelly was not an employee, let alone a county investigator, and, therefore, I **CONCLUDE** that N.J.S.A. 2A:157-10.1 does not apply.

Kelly argues that the complaint should be dismissed because the investigation initiated by the OCPO concluded on February 27, 2023, the same day Long sent a letter to Captain Morgan informing him of numerous errors in Kelly's requests for reimbursement for the first quarter of the 2022–2023 fiscal year, covering October 1, 2022, through December 31, 2022. However, at that time, the only action taken by the OCPO and Gibson was to suspend Kelly from further DRE activities.

Additionally, Arroyo's review of Kelly's reimbursement requests was strictly to determine Kelly's qualifications to maintain his DRE certification. In fact, Arroyo's review included documents from the 2021–2022 fiscal year, including February 1, 2022, through September 30, 2022. It was not until after Kelly was decertified as a DRE by Arroyo in November 2022 that the OCPO initiated its internal investigation against Kelly.

N.J.S.A. 40A:14-147 states that a complaint against an officer of a police department charging the officer with a violation of the internal rules and regulations established for the conduct of a law enforcement unit shall be filed no later than the forty-fifth day after the date on which the person filing the complaint obtained sufficient information to file the matter upon which the complaint is based. Additionally, the statute states that “the complaint shall be filed in the office of the body, officer or officers having charge of the department or force wherein the complaint is made”

In Grubb v. Borough of Hightstown, 331 N.J. Super. 398 (Law Div. 2000), the court addressed the statutory construction and interpretation of N.J.S.A. 40A:14-147 to determine whether the administrative charges against a police officer were filed within the time required. In that decision, the court states:

The construction of any statute begins with a consideration of its plain language. A statute should be given its plain meaning if it is “clear and unambiguous on its face and admits of only one interpretation.” Ultimately, the courts seek an interpretation that will “make the most consistent whole of the statute.” The primary task for the court is to “effectuate the legislative intent in light of the language used and the objects sought to be achieved.” The court fulfills its role by construing a statute in a fashion consistent with the statutory context in which it appears.

[Id. at 406 (citations omitted).]

The plain language of 40A:14-147 clearly states that the forty-five-day time limit for bringing charges does not commence until the person filing the complaint obtains sufficient information to file the matter. Here, Kunz, the chief of Jackson and the appointing authority under which Kelly is employed, received notification of the sustained

charges against Kelly on May 28, 2024. Kelly was served with the PNDA on July 3, 2024, thirty-six days after Kunz became aware of the sustained charges against Kelly. As such, I **CONCLUDE** that the service of the PNDA was not in violation of N.J.S.A. 40A:14-147, and the motion is **DENIED**.

Ocean's Investigation

Kelly also argues that all charges against him should be dismissed because the OCPO failed to conduct a thorough investigation in compliance with the Attorney General's Guidelines. Specifically, Kelly asserts that the OCPO violated the AG Guidelines because:

- 1) White failed to record Arroyo's interview.

The Attorney General's Internal Affairs Policy and Procedures, Section 7.1.6, states:

When taking a formal statement from an officer, the investigator shall video or audio-record the statement, except that in cases that did not arise from a civilian complaint, the investigator need not record the statement unless the officer being interviewed requests such.

[The Attorney General's Internal Affairs Policy and Procedures at 34 (2022), <https://www.njoag.gov/iapp/>.]

I **CONCLUDE** that the OCPO was not mandated to record Arroyo's statement.

- 2) White did not interview the witnesses Kelly mentioned.

As stated above, White testified that, as the investigator, he determined that the documents he reviewed during the investigation, along with Kelly's own admissions, were sufficient to support his findings. There is no provision in the AG Guidelines requiring the investigator to interview every witness mentioned during an investigation. Based on my review of the evidence before me, I **CONCLUDE** that the OCPO and PSU investigators

did not violate the AG Guidelines in any way warranting dismissal of the charges, and the motion is **DENIED**.

Charges

On April 22, 2026, Kelly was issued a FNDA charging him with: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); (3) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (4) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); (5) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and (6) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12) for violating Jackson's Disciplinary Code, Article VII, Section 24-32(a))(18), Failure to comply with proper order or directives of the Director of Public Safety, Chief of Police or superior officers, Section 24-32(a)(22), Falsifying any report, and Section 24-32(a)(31), Failure to properly carry out any investigations, assignments, or other duties assigned. Consequently, Jackson terminated Kelly, effective July 3, 2024.

In Township of Moorestown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965), certif. denied, 47 N.J. 80 (1966), the court held that police officers are a "special kind of public employee" who, therefore, are expected to "present an image of personal integrity and dependability in order to have the respect of the public." The New Jersey Supreme Court has upheld termination in cases where, for example, an officer provided conflicting statements to Internal Affairs investigators about an off-duty altercation. Ruroede v. Borough of Hasbrouck Heights, 214 N.J. 338, 362–63 (2013). An officer's dishonesty during an internal affairs investigation "is significant." Id. at 363.

Law enforcement officers take an oath to uphold the law; "the qualifications required to hold [a law enforcement] position require a high level of honesty, integrity, sensitivity, and fairness in dealing with members of the public[.]" State v. Gismondi, 353 N.J. Super. 178, 185 (App. Div. 2002). This includes always exercising candor, including when writing reports and during questioning by an investigator conducting an internal investigation.

Lastly, as broadly defined by case law, “unbecoming conduct” includes actions that negatively affect the morale or efficiency of a government unit or tend to erode public respect for government employees and confidence in the delivery of government services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998). The conduct in question and its surrounding circumstances only need to “be such as to offend publicly accepted standards of decency.” Karins, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)).

Kelly was charged with violations of Jackson’s Disciplinary Code, Article VII, Section 24-32(a)(18), Failure to comply with proper order or directives of the Director of Public Safety, Chief of Police or superior officers, Section 24-32(a)(22), Falsifying any report, and Section 24-32(a)(31), Failure to properly carry out any investigations, assignments, or other duties assigned.

Jackson Township Police Department Rules of Conduct, Rule 3:1.5, Performance of Duty, states:

All employees shall promptly perform their duties as required or directed by law, rules and regulations or written directive, or by lawful order of a superior officer.

[JK2-E.]

Rule 3:1.7, Obedience to Laws, Ordinances, Rules, and Written Directives, states:

Employees shall obey all laws, ordinances, rules, and written directives of the department.

[JK2-E.]

Testimony and documentation demonstrated that the 2013 Directive was solely intended to reimburse DREs for callouts in Ocean County, including the time officers spent conducting evaluations and writing reports, as well as for checkpoint attendance, court time, and DRE instructors’ review of DRE evaluations. No evidence was presented at the hearing indicating that reimbursement for DRE activities outside Ocean County—

such as serving as a witness during a DRE recertification evaluation—was allowed. Between February 1, 2022, and September 30, 2022, Kelly submitted several DRE reimbursement requests, certifying that all the information he provided was accurate. Fifteen of these requests contained inaccurate information. The testimony and records showed that Kelly did not follow the 2013 Directive. First, in twelve instances, Kelly requested reimbursement for conducting DRE evaluations, witnessing or role-playing during DRE recertification evaluations, and reviewing DRE evaluations—all of which occurred outside Ocean County. Second, a review of the DRE face sheets discussed above indicates that Kelly submitted at least nine reimbursement requests for witnessing evaluations and one for role-playing the arrestee, as well as one for his own recertification evaluation, none of which are eligible for reimbursement under the 2013 Directive. There was no evidence that serving as a witness for another officer's recertification qualified for reimbursement. In fact, Arroyo credibly testified that, despite his advocacy, Highway Traffic Safety has denied reimbursement for witness DRE callouts related to recertification. Therefore, I **CONCLUDE** that Kelly violated Jackson's Disciplinary Code, Article VII, Section 24-32(a)(18), for failure to comply with proper order or directives of the Director of Public Safety, Chief of Police, or superior officers, and the rule prohibiting the violation of laws, ordinances, rules, and written directives. I also **CONCLUDE** that Kelly violated Jackson's Disciplinary Code, Article VII, Section 24-32(a)(31), for failure to properly carry out any investigations, assignments, or other duties assigned.

Jackson Township Police Department Rules of Conduct, Rule 3:1.10, Neglect of Duty, states:

Members and employees shall not commit any act nor shall they be guilty of any omission that constitutes neglect of duty.

[JK2-E.]

Rule 3:4.3, Reports, states:

No employee shall knowingly falsify any official report or enter or cause to be entered any inaccurate false, or improper information on records of the department.

[JK2-E.]

Testimony and documentation presented during the hearing revealed that between February 1, 2022, and September 30, 2022, Kelly requested reimbursement for at least fifteen DRE callouts with incorrect dates, subjects, and locations. Additionally, Kelly continued to provide incorrect information to Arroyo, who was reviewing his reimbursement requests to determine whether Kelly should retain his DRE certification. Kelly also failed to address questions about his reimbursement requests during the Internal Affairs investigation or the hearing. Kelly certified on the DRE callout forms that the requesting municipality was Jackson and that the location of the evaluation, meeting, or review of evaluations was Jackson. However, the dates on the corresponding DRE face sheets showed that Kelly sought reimbursement for witnessing, role-playing, or conducting DRE evaluations in Hunterdon, Union, Morris, and Somerset counties. Twice, Kelly admitted that he intentionally manipulated the dates on the reimbursement requests because he needed them to match his overtime submissions, which he testified were not submitted during the pay period in which he actually performed the work. On two other DRE certifications, he claimed to have conducted DRE evaluations when, in fact, he attended meetings—one covered by his stipend, and the other in his capacity as president of the New Jersey DRE Association, which was not eligible for reimbursement.

The information in the DRE reimbursement requests was not merely vague, but false, and much of it was ineligible for reimbursement. Kelly's testimony that he was unaware that he could not conduct DRE activities outside of Ocean County due to a lack of training was not credible. A sergeant in Kelly's position should have been able to figure out the information requested on the form. He had a document in his possession that explicitly stated the information required for each item listed on the DRE Certification form. Officers are often required to fill out forms, and not every form requires instructions. Although the OCPO initially approved the reimbursement requests, as Arroyo testified, it

did so without comparing them to the corresponding DRE face sheets, which would have revealed that the work was performed outside Ocean County. Kelly falsely certified that he performed DRE activities between February 1, 2022, and September 30, 2022, contrary to the intent of the 2013 Directive. Additionally, Kelly falsely certified that he was in Jackson while performing DRE activities outside Ocean County, intentionally provided incorrect dates, and submitted reimbursement requests for activities not covered by the DRE grant. I therefore **CONCLUDE** he violated Jackson's Disciplinary Code, Article VII, Section 24-32(a)(22), for Neglect of Duty and Submitting False Reports.

Jackson Township Police Department Rules of Conduct, Rule 3:1.1, Standards of Conduct, states:

Employees shall conduct their private and professional lives in such a manner as to avoid bringing the department into disrepute.

[JK2-E.]

Rule 3:7.18, All Other Conduct, states:

Misconduct by a police officer need not be predicated on the violation of any particular department rule or regulation. Police officers are called upon to exercise tact, restraint, and good judgment in their relationship with the public and must represent an image of personal integrity and dependability in order to have the respect of the public.

[JK2-E.]

Given this discussion, as Kunz testified, the OCPO and Jackson have lost confidence in Kelly's ability to perform his duties with integrity, including restricting his ability to perform them unsupervised under a Brady-Giglio designation. Therefore, I **CONCLUDE** that Jackson has proved by a preponderance of the evidence that Kelly violated N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, for violating Jackson's Rules of Conduct by failing to perform duties, falsifying reports, and failing to exercise good judgment or present an image of personal integrity and dependability in order to have the respect of the public.

As such, I further **CONCLUDE** that Kelly violated the following subsections of N.J.A.C. 4A:2-2.3: (1) incompetency, inefficiency, or failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1); (2) insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); (3) inability to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(3); (4) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); and (5) neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7).

Penalty

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant thereto, N.J.A.C. 4A:1-1.1 to 4A:2-6.2. Public employees may be disciplined for a variety of employment-related offenses, including the general causes for discipline outlined in N.J.A.C. 4A:2-2.3(a). Major discipline may include the removal of the public employee from his position. N.J.A.C. 4A:2-2.2(a).

It is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. See Henry v. Rahway State Prison, 81 N.J. 571 (1980).

As previously stated, "Honesty, integrity, and truthfulness [are] essential traits for a law enforcement officer"; the Court has upheld termination where, for example, an officer made conflicting statements to Internal Affairs investigators about an off-duty altercation. Ruroede, 214 N.J. at 362–63; see also Gismondi, 353 N.J. Super. at 185 (recognizing that "the qualifications required to hold [a law enforcement] position require a high level of honesty, integrity, sensitivity, and fairness in dealing with members of the public").

Kunz testified that in 2013, Kelly was issued a two-day suspension for improper use of sick leave, and in 2022, he was suspended for two eleven-hour working days as a condition of a settlement for violation of Jackson's code, failure to properly supervise subordinates, or failure to properly fulfill the duties of a superior officer. Kunz further

testified that Jackson passed an ordinance that requires the termination of a police officer when a falsification charge is substantiated.

Kelly's dishonesty is deeply troubling, as honesty and integrity are crucial traits for any officer, whether an officer or a supervisor. During the Internal Affairs investigation and at the hearing, Kelly failed to provide compelling evidence that he was authorized to request reimbursement for activities outside Ocean County or for witnessing DRE recertification evaluations. Nor did he provide definitive documents showing that he did what he claimed to have done on the dates he certified. Instead, Kelly handed over 1,000 pages of documents, many of them duplicates, to the Internal Affairs investigators and me, and essentially said, "You figure it out." At best, Kelly's record-keeping was atrocious; at worst, it was intentionally false. The preponderance of the evidence shows that Kelly did not make mistakes but deliberately provided false information and certified its accuracy.

In this case, Kelly had over twenty-two years as a police officer and was a supervisor, the DRE Ocean grant administrator, and a DRE instructor entrusted with helping develop other officers and DREs. Kelly knew or should have known better than to certify as accurate information he knew was incorrect. Unfortunately, years of "getting away with it" eventually caught up to him and have now cost him his job. As such, and including consideration of Kelly's prior discipline, his supervisors losing confidence in his ability to perform his duties, and most importantly because "Honesty, integrity, and truthfulness [are] essential traits for a law enforcement officer," I **CONCLUDE** that Kelly must be removed from his employment as an officer with the Jackson Township Police Department. Ruroede, 214 N.J. at 362–63.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that Kelly be **REMOVED** from employment with the Jackson Township Police Department.

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 case. 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 under N.J.S.A. 52:14B-10.

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 the other parties.

May 20, 2026

DATE



MAMTA PATEL, ALJ

Date Received at Agency:

Date Mailed to Parties:

MP/jm

APPENDIX

Witnesses

For Appellant:

Michael Kelly, appellant

For Respondent:

Marcos Arroyo, sergeant first class, New Jersey State Police

Christopher White, investigator, Ocean County Prosecutor's Office

Matthew Kunz, chief of police, Jackson Township Police Department

Exhibits

For Appellant:

P-1 (MK 001–020)	NJ DRE Expert Program Logs of Drug Influence Evaluation
P-2 (MK 021–058)	Emails from January 12, 2022–February 16, 2023
P-3 (MK 059–107)	Emails from January 27, 2022–December 1, 2023
P-4 (MK 108–136)	Emails from March 2, 2021–September 29, 2022
P-5 (MK 137–144)	OCPO LED—Drug Recognition Expert Policy & Call-Out Procedure
P-6 (MK 145–157)	OCPO LED—Ocean County Prosecutor's Office Drug Recognition Expert Policy Reimbursement Initiative
P-7 (MK 158–196)	DRE reimbursement paperwork, policies, and emails
P-8 (MK 197–217)	Ocean County DRE Grant Second, Third, and Fourth Quarter Reports
P-9 (MK 218–320)	DRE evaluation & reimbursement forms, documents, and emails
P-10 (MK 321–324)	Table of DRE Reports
P-11 (MK 325–341)	Emails from January 27, 2022–December 19, 2022

P-12 (MK 342–353)	Emails regarding evaluations sent to Sgt. Michael Kelly for review
P-13 (MK 354–363)	Documents and emails regarding Sgt. Michael Kelly's DRE decertification
P-14 (MK 364–370)	Correspondence regarding the OCPO's investigation into Sgt. Michael Kelly
P-15 (MK 371–384)	Emails regarding evaluations sent to Sgt. Michael Kelly for review
P-16 (MK 385–407)	Emails regarding Sgt. Michael Kelly's DRE decertification
P-17 (MK 408–411)	Sgt. Michael Kelly's Xfinity Bill July 2, 2024— Not admitted
P-18 (MK 412–463)	Township of Jackson and Jackson PBASO Local 168A Contract
P-19 (MK 464–469)	OCPO DRE Callout Certification Form and Instructions
P-20 (MK 470–563)	DRE reimbursement forms, evaluation forms, and DRE emails
P-21 (MK 564–572)	Emails between Sgt. Michael Kelly and SFC Marcos Arroyo, October 16, 2023–November 20, 2023
P-22 (MK 573–620)	Emails regarding Sgt. Michael Kelly's DRE decertification letter
P-23 (MK 621–650)	Emails from April 3, 2023–October 16, 2023
P-24 (MK 651–716)	Emails regarding DRE policies and meetings
P-25 (MK 717–721)	December 5, 2014, email from Chris Dudzik regarding 2015 DRE grant procedure
P-26 (MK 722)	OCPO DRE Callout Certification Form
P-27 (MK 723–724)	Ocean County DRE List
P-28 (MK 725)	Ocean County Request for Payment Blank Form
P-29 (MK 726–997)	DRE paperwork & emails
P-30 (MK 998–1113)	DRE credit card statements— Not admitted .
P-31 (MK 1114–1115)	Email regarding audio recording of Sgt. Michael Kelly's interview— Not admitted .

P-32 (MK 1116–1135)	DRE Callout Certification & Request for Payment forms from October 2020–December 2020— Not admitted
P-33 (MK 1136–1232)	DRE Paperwork & Emails
P-34 (MK 1233–1234)	Email regarding cannabis law webinar February 22, 2022
P-35 (MK 1235)	Email regarding Sgt. Michael Kelly DRE decertification letter
P-36 (MK 1236–1237)	Email regarding Ocean County Meeting stating Casey Long was “miffed” about Sgt. Michael Kelly turning down OCPO personnel from attending conference
P-37 (MK 1238–1239)	Document explaining Ed O’Connor’s achievements with the DRE program
P-38 (MK 1240–1250)	Sgt. Robert Reiff’s transcribed interview, August 26, 2025— Not admitted
P-39 (MK 1251–1269)	Mark Rodina transcribed interview September 11, 2025— Not admitted
P-40 (MK 1270–1331)	Hearing transcript October 23, 2024— Not admitted
P-41 (MK 1332–1389)	Hearing transcript December 19, 2024— Not admitted
P-42 (MK 1390–1422)	Hearing transcript January 21, 2025— Not admitted
P-43 (MK 1423)	Audio of Sgt. Michael Kelly’s interview with Chris Dudzik and Brian Collins regarding the credit card statements— Not admitted

For Respondent:

JK-1	Final Notice of Disciplinary Action
JK-2	Ocean County Prosecutor’s Office (OCPO) IA Case File Index
JK2-A	IA Summary and Conclusions Report
JK2-B	IA Investigation Report
JK2-C	IA correspondence/forms (Notification Letter, Administrative Investigation Form)
JK2-D	Interview of Jackson Township Sgt. Michael Kelly (on CD)

JK2-E	Jackson Township Police Department Rules and Regulations and Township Code
JK2-F	OCPO DRE Policies dated June 3, 2013 (LED-2013-012) and September 15, 2022 (LED-2022-023)
JK2-G	Email from Sergeant Kelly to NJSP Sgt. Marcos Arroyo (November 10, 2023)
JK2-H	Blank OCPO DRE Callout Certification Form and Request for Payment from County of Ocean form
JK2-I	Documents relating to Sergeant Kelly's February 1, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-J	Documents relating to Sergeant Kelly's March 31, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-K	Documents Relating to Sergeant Kelly's March 3, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-L	Documents Relating to Sergeant Kelly's February 28 and March 2, 2022, DRE callouts, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-M	Documents Relating to Sergeant Kelly's February 7, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-N	Documents Relating to Sergeant Kelly's February 18, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-O	Documents Relating to Sergeant Kelly's June 12, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives

JK2-P	Signed DRE face sheet submitted by Ryan Grohowski (June 18, 2022)
JK2-Q	Documents relating to Sergeant Kelly's April 25, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-R	Signed DRE face sheet authored by JPD Officer Mark Rodina (April 6, 2022)
JK2-S	Documents relating to Sergeant Kelly's June 22, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-T	Documents Relating to Sgt. Kelly's September 26, 2022, DRE Callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives and rolling log
JK2-U	Documents relating to Sergeant Kelly's August 15, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives
JK2-V	Documents relating to Sergeant Kelly's July 14, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives and rolling log
JK2-W	Documents relating to Sergeant Kelly's September 30, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives and rolling log
JK2-X	Documents Relating to Sergeant Kelly's September 5, 2022, DRE callout, including DRE Callout Certification Form, Request for Payment Form, and accompanying face sheets/narratives and rolling log
JK2-Y	November 14, 2023, decertification letter addressed to Sergeant Kelly from the NJ AG's Office, signed by NJSP Sgt. Marcos Arroyo, accompanied by the DRE Decertification Form

JK2-Z	Copies of Sergeant Kelly's JTPD time sheets
JK2-AA	Log of reviewed reports
JK-3	Brady-Giglio letter from the OCPO (May 28, 2024)
JK-4	Prior Discipline: 2-Day Suspension (March 7, 2013)
JK-5	Prior Discipline: 2-Day Suspension (March 16, 2022)