



**STATE OF NEW JERSEY  
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**DATE:** September 18, 2025  
**TO:** Commissioners  
**FROM:** Counsel Staff  
**SUBJECT:** Developments in Counsel's Office since August 28, 2025

**Commission Cases**

**Appeals from Commission Decisions**

No new appeals from Commission decisions were filed since August 28.

**Commission Court Decisions**

No new Commission court decisions were issued since August 28.

**Non-Commission Court Decisions  
Related to the Commission's Jurisdiction**

New Jersey Supreme Court rules police Internal Affairs reports are not criminal records, but, prior to consideration of release under common law right of access, information must be redacted pertaining to arrest, criminal charges and disposition if a related criminal matter has been expunged.

States Newsroom, Inc. v. Jersey City, 261 N.J. 392 (Sup. Ct. Dkt. No. A-25-24)

The New Jersey Supreme Court affirms as modified an Appellate Division order and remands for further proceedings to the trial court a request for documents under the common law right of access. States Newsroom requested the production of an Internal Affairs report concerning off-duty misconduct of a Jersey City Police Lieutenant who had negligently discharged a firearm after consuming alcohol. The City denied access, claiming that the municipal interest against disclosure outweighed the public interest in disclosure where, in the City's view, the conduct did not implicate concerns of public trust related to bias or dishonesty, and the Lieutenant did not hold a high position. While this civil case was pending, the Lieutenant secured an expungement of the criminal record, and the trial court refused to order disclosure of the record because it determined, without in camera review, that the report largely contained information about the Lieutenant's arrest, conviction and adjudication of the criminal case. The trial court also sealed the entire file. The Appellate Division reversed, finding that the Internal Affairs report was not a criminal record entitled to expungement, but that it could contain references to the criminal aspects of the incident, which should be considered for disclosure under the common law right of access. The Appellate Division also reversed the order sealing the record. The Supreme Court held that the expungement statute did not categorically bar the release of Internal Affairs reports but that it did bar the release of any information included that would reveal an expunged arrest, conviction or related proceeding. The Court ordered the trial court to redact those portions of the record, then conduct the common law balancing test on the remainder of the report, weighing whether "interests that favor disclosure outweigh concerns for confidentiality."

Appellate Division affirms State Police Superintendent's summary dismissal of a Trooper for violating Last Chance Plea Agreement.

Dare v. New Jersey State Police, 2025 N.J. Super. Unpub. LEXIS 1565 (App. Div. Dkt. No. A-1406-23)

The Appellate Division of the Superior Court, in an unpublished opinion, affirms the New Jersey State Police Superintendent's decision to dismiss Trooper I. James Dare from employment. Dare

had a history of disciplinary issues, first in 2015 where he was involved in an off-duty motor vehicle accident and left the scene without notifying law enforcement. In 2016, he pled guilty to an off-duty DWI. In 2017, Dare sent alarming text messages to his former spouse and asked a friend about how to acquire an untraceable firearm, for which he was charged with departmental infractions. As a result of these issues, he signed a Last Chance Plea Agreement and agreed to a 528-day suspension without pay. In 2023, Dare had a mental health incident at work, for which he attended in-patient treatment. However, it is alleged that he left the treatment center without notifying the State Police Compliance Unit and was suspended without pay. Dare was to be dismissed from employment, and a Loudermill hearing was scheduled, but he was unable to attend as he was receiving in-patient psychiatric treatment. The Appellate Division upheld the dismissal because Dare voluntarily waived the right to a plenary hearing before the OAL when he signed the Last Chance Plea Agreement, and found the Superintendent's actions were not arbitrary or capricious.

Appellate Division invalidates police sergeant promotional exam after CSC removes 10 questions due to disparate racial impact.

Spallacci et al. v. Civil Service Commission, 2025 N.J. Super. Unpub. LEXIS 1606 (App. Div. Dkt. No. A-1777-23)

The Appellate Division of the Superior Court, in an unpublished opinion, reverses the CSC's decision to omit the last ten questions in scoring the February 23, 2019, promotional police sergeant exam because the questions created an adverse impact on racial minority examinees. Specifically, the analysis found that the last ten questions were omitted by examinees at much higher rates (18-28%) compared to the normally less than one percent of the testing population omitting a question. Rates of omission were higher among Black and Hispanic examinees compared to White examinees. The Appellate Division determined this was arbitrary, because the instructions of the exam provided that "candidates should budget their time so that they can respond to all questions within the allotted time." The Appellate Division also found that the elimination of the last ten questions did not rectify the adverse impact of the test scores for minority candidates under federal law, but only reduced those impacts. The Appellate Division found that other questions, not just the last ten, may have caused greater racial disparities but the CSC refused to disclose such evidence, which proved fatal to its case and undermined the integrity of the entire exam. Thus, the Appellate Division invalidated the entire exam.