

B-37



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of James White,
Deputy Police Chief (PM0300T),
Weehawken

Examination Appeal

CSC Docket No. 2016-844

ISSUED: **OCT 13 2015** (RE)

James White appeals his oral score on the promotional examination for Deputy Police Chief (PM0300T), Weehawken. It is noted that the appellant received a final average of 90.200 and ranks second on the resultant eligible list.

The subject promotional examination was held on June 10, 2015. It is noted for the record that this was an oral examination consisting of four questions, relating to Police Administration, Police Management, Criminal Law, and Community Policing. The examination content was based on a comprehensive job analysis. Senior command personnel from police departments, called Subject Matter Experts (SMEs), helped determine acceptable responses based upon the stimulus material presented to the candidates, and they scored the performances. In each question, candidates were presented questions, or with a scenario and had to respond to a series of questions about the scenario.

Performances were taped and scored by SMEs. Each question, and overall oral communication, was rated on a five-point scale, with 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. The appellant received a score of 5 for Police Administration, 4 for Police Management, 5 for Criminal Law, 4 for Community Policing, and 5 for oral communication questions 1 and 2, and 5 for oral communication questions 3 and 4. On appeal, the appellant disagrees with his scores for the Police Management and Community Policing questions.

CONCLUSION

The Police Management question referred to a failure to take action. A short scenario was given to candidates regarding a complaint by one officer regarding another member of his squad who he claims stood by, and did not assist other officers with suspects who were resisting arrest. This officer claims that the supervisor knows about this behavior but will not do anything. The scenario indicates that, due to the sensitive nature of the situation, this will be handled as an internal affairs matter. Also, it states that the candidate will be required to oversee and address this matter personally.

Part C states that the investigation reveals the complaint was valid and the supervisor was aware of the officer's improper behavior and had failed to act on it. The question asked for actions that should be taken. The assessor indicated that the appellant missed the opportunity to monitor the officer's future behavior to ensure that this does not happen again. On appeal, the appellant states that he said that he would address the misconduct and take whatever action should be taken to stop it in the future. He states that he discussed the need for progressive discipline, including remedial training. He also states that it was excessive to receive a score of 4 for one missed opportunity.

In reply, as stated above, a score of 4 is a more than acceptable passing response. As noted on the Summary Scoring Sheet which each candidate reviewed, "The oral exam is based on a 5-point scale. On this scale, 5 is the best score. Below are examples of what the candidate missed in his/her responses. NOTE: this list may not include everything the candidate missed."

A review of the appellant's performance and examination materials indicates that he received credit for informing the officer of his improper behavior, for instituting appropriate disciplinary action for the officer, and for examining training needs. These were separate responses. It is noted that credit was not given for information that was implied or assumed. The appellant did not state that he would monitor the officer's future behavior to ensure that this does not happen again, as noted by the assessor. He missed other actions as well, such as reviewing the personnel action plan with the sergeant to ensure compliance. The appellant had a good understanding on how to take an internal affairs complaint, but he missed some actions which would elevate the performance to an optimal response. He also added information regarding internal investigations which was superfluous as it was not a direct response to the questions. He did not monitor his officer's future behavior as indicated by the assessor, and his score of 4 for this question will not be changed.

The Community Policing question pertained to a scenario regarding an increase in crimes and calls for service at a motel in the jurisdiction, including calls

involving prostitution, drug trafficking, and gang activities. The motel has drained department resources and is a source of embarrassment for the administration. Community leaders are fearful it will create an environment that will spread to other areas. The question asked for actions to take to address the problem, and the assessor indicated that the appellant missed the opportunity to conduct undercover operations at the motel such as vice, quality of life issues, etc. On appeal, the appellant states that he said he would contact the County Prosecutor's office for assistance in an investigation at the motel, and said he would not jeopardize an ongoing investigation. He also states that he contacted the New Jersey State Police Gang Task Force and drug units for assistance in the investigation. He states that it would be a mistake to conduct undercover operations without clearing this action with the County Prosecutor's office. He also states that he expressed the need for officers to be vigilant for human trafficking issues and address the need to be respectful of the rights of victims.

In reply, the SMEs determined that a proper action to take to address this problem would be to conduct undercover operations at the motel. To not state that he would conduct undercover operations due to the fact that he would have had to clear this action through the County Prosecutor's Office is unpersuasive. If the appellant felt that he could not do so without first contacting the County Prosecutor's office, he was free to express that opinion during his presentation. The appellant received credit for utilizing other law enforcement resources, such as contacting the County Prosecutor's office and contacting the State Police for assistance in the investigation, and this contributed to his score 4. Explaining the necessity for vigilance on human trafficking issues and addressing the need to be respectful of the rights of victims is not the same as conducting undercover operations at the motel. Again, credit cannot be given for information that is implied or assumed. Also, the appellant spent a portion of his time discussing human trafficking, which was not the concern of this scenario. A holistic view of the appellant's performance indicates that it exceeds an acceptable response, but the appellant missed actions necessary to elevate it to an optimal response. His score of 4 for this question is correct.

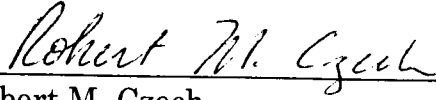
A thorough review of appellant's submissions and the test materials indicates that the appellant's test score is amply supported by the record, and appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION
THE 7th DAY OF OCTOBER, 2015



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