

B-86

STATE OF NEW JERSEY

In the Matter of David Arce, *et al.*,  
Correction Major (PS1857I),  
Department of Corrections

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket No. 2016-4535

Examination Appeal

ISSUED: **DEC 07 2016**

(JH)

David Arce, Trevor Beatty, Tara Thomson and Thomas Zwolinski appeal the promotional examination for Correction Major (PS1857I), Department of Corrections. These appeals have been consolidated due to common issues presented by the appellants.

The subject examination was administered on May 12, 2016 and consisted of 70 multiple choice questions.

The appellants maintain that they were only provided with 30 minutes for review and they were not permitted to review their test booklets, answer sheets and the correct answer key. In addition, they contend that their ability to take notes on exam items was severely curtailed. As such, they request that any appealed item in which they selected the correct response be disregarded and that if they misidentified an item number in their appeals, their arguments be addressed.

Regarding review, it is noted that the time allotted for candidates to review is a percentage of the time allotted to take the examination. The review procedure is not designed to allow candidates to retake the examination, but rather to allow candidates to recognize flawed questions. First, it is presumed that most of the questions are not flawed and would not require more than a cursory reading. Second, the review procedure is not designed to facilitate perfection of a candidate's test score, but rather to facilitate perfection of the scoring key. To that end, knowledge of what choice a particular appellant made is not required to properly evaluate the correctness of the official scoring key. Appeals of questions for which the appellant selected the correct answer are not improvident if the question or keyed answer is flawed.

With respect to misidentified items, to the extent that it is possible to identify the items in question, they are reviewed. It is noted that it is the responsibility of the appellant to accurately describe appealed items.

In addressing challenges to the scoring key, only arguments and contentions as they relate to disputed issues will be reviewed herein. An independent review of the issues presented under appeal has resulted in the following findings:

For question 21, candidates were presented with a letter written by one of their subordinates to a municipal city manager regarding a program at their facility. Candidates were required to determine the best or most effective method of expressing the thought implied in the indicated portion of the letter. The question refers to the fifth sentence of the second paragraph, which states, "It is worth noting that Warden Johnson will not hesitate to turn students away that do not follow the cell phone policy." The keyed response is option b, "It is worth noting that Warden Johnson will not hesitate to turn students away who do not follow the cell phone policy." Mr. Zwolinski maintains that option c, "It is worth noting that Warden Johnson will not hesitate to turn students away that do not follow the cell phone policy," is equally correct. In this regard, he contends that "that" refers to a group of people and not a single person. He also presents that "'students' is always considered a thing, not a person."<sup>1</sup> A review of online sources finds that either *who* or *that* may be used when referring to people.<sup>2</sup> As such, the Division of Test Development and Analytics determined to double key this item to option b and option c.

Question 24 asks, in general practice, for when it is appropriate to use abbreviations/acronyms. The keyed response is option d, "For note taking purposes." Mr. Arce argues that "a law enforcement officer's notes are considered legal documents and if abbreviations/acronyms are used it should be clearly defined first then repeated throughout the text. The keyed answer doesn't indicate whether or not the abbreviations/acronyms were first written out and then repeated in the 'note taking.' The question is misleading and did not provide enough information to be answered correctly." James E. Guffey, *Report Writing Fundamentals for Police and Correctional Officers* (2005) provides that a report "provides the official record of an event for purposes of testimony, civil liability, retrieval, and posterity . . . Notes are the 'grist' for your report." Guffey further indicates that while "notes are evidence and subject to subpoena," "abbreviations/acronyms should be used for the purposes of note taking[.] [H]owever, most agency guidelines do not recommend

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<sup>1</sup> Other than his opinion, Mr. Zwolinski does not offer any support from an authoritative grammar source regarding his proposition.

<sup>2</sup> See e.g., <http://blog.oxforddictionaries.com/2012/09/that-who-which/>; <http://grammarist.com/usage/that-who/>; <http://www.thewritingsite.org/who-vs-that>.

using them for report narratives. This should be your practice.” As such, the question is correct as keyed.

Question 27 indicates that you are required to describe the injuries present on a victim. The question asks for the best way to describe the injuries present on a victim. The keyed response is option c, “The victim displays ballistic trauma to the back, indicating that he was shot from behind.” Ms. Thomson and Mr. Zwolinski refer to the job description for Correction Major and argue that that a Correction Major would not oversee an investigation of this type. They contend that this item has no relevancy to the duties and responsibilities of a Correction Major. The item is sourced to Guffey, *supra*, which provides:

You should not try to be too specific about injuries. If you write in your report, for example, that the victim sustained shotgun wounds to the abdomen because you see several entry wounds, it may turn out that these were multiple wounds from a handgun . . . Some examples of proper descriptions of injuries include:

- The victim sustained gunshot wounds to the chest (abdomen, shoulder, etc.).
- The victim sustained stab wounds to the abdomen (back, etc.).
- The victim sustained slash wounds to the face (neck, back, etc.) .

As such, the keyed response does not express the concept presented in the text.<sup>3</sup> Given this, the Division of Test Development and Analytics determined to omit this item from scoring prior to the list being issued. Accordingly, the issue of whether this item is relevant to the subject title is moot.

For question 42, since Mr. Arce selected the keyed response, his appeal of this item is moot.

Questions 46 through 57 refer to the Armory Operations Policy (Armory Policy) presented to candidates in the test booklet.

Question 52 indicates that riot gear for an officer at your facility consists of a helmet, shield, body armor, and baton. The question asks for the riot gear storage method that best adheres to the spirit of the guidelines listed in the Armory Policy. The keyed response is option c, “Riot helmets are lined up on a shelf on the left side of the armory and body armor is lined up on the wall directly underneath the helmets. Batons are kept in cubby holes directly under the body armor and shields

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<sup>3</sup> It is noted that none of the remaining answer choices express this concept.

are lined up along the floor under the baton cubby holes.” Mr. Beatty maintains that option b, “10 separate boxes, each containing one helmet, one piece of body armor, one shield, and one baton are kept along the left side of the armory,” is the best response. It is noted that the Division of Test Development and Analytics contacted Subject Matter Experts (SMEs) regarding this matter who indicated that option c presents the quickest way for the team to get suited up. One of the SMEs further indicated that when their facility tried the box method, it slowed the process down. Thus, option b is not the best response.

Question 55 indicates that you are looking to make the Armory Policy as concise as possible. The question asks for the section of the General Requirements that you could consider removing because the functions of this staff member are of the least importance to the maintenance of the armory. The keyed response is option d, “Section 4- Correctional officers.” Ms. Thomson argues that option a, “Section 1 – Facility administrator,” is the best response.<sup>4</sup> She asserts that while Correctional officers are required to know the rules and regulations and utilize the equipment governed by the Armory Policy for their day-to-day work, the Facility administrator does not have day-to-day involvement in the Armory Policy. The question does not ask about “day-to-day involvement in the Armory Policy” but rather, armory maintenance, *i.e.*, management. The Armory Policy provides, in section IV, Department Directives, that Correctional officers are responsible for the following:

- uphold responsible use of all armory equipment as dictated by this policy;
- immediately notify the armory officer of any damaged or missing equipment;
- ensure assigned items are handled with care and used only for their intended purpose;
- attend a comprehensive training program in the use and purpose of all of the items contained within the facility armory; and
- sign an agreement to follow the guidelines set forth in this policy.

As such, a Correctional officers’ role is focused on armory utilization rather than armory maintenance. However, as indicated in section III, Definitions, the Facility administrator is the individual responsible for the division, facility or program operation and management. As such, the question is correct as keyed.

Question 57 indicates that the Armory Policy was created to allow flexibility for individual facilities to develop their own specific armory policies. The question presents candidates with three statements and asks how you can best adjust the content of this policy to make it more applicable to the specific needs of your own

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<sup>4</sup> It is noted that she misremembered the question as asking, “According to the policy who is the least important staff member?”

individual facility without altering the intent of the original Armory Policy. The keyed response, option b, did not include statement III, "Change the roles and responsibilities of each staff member." Mr. Beatty argues that "each facility would not have the same amount of staff, positions or armory setup. By changing the roles of staff, it allows each facility to ensure that the job positions and staffing demands currently in place at each facility can still operate the Armory according to Policy without creating addition[al] staff positions to do so." Changing the roles of *each* staff member would violate the essence of the policy. In this regard, it is noted that the Policy does not afford as much flexibility as to allow a Correctional officer to serve as the Warden. Thus, the question is correct as keyed.

Question 61 refers to the following incident that took place between two correctional officers at your facility:

On May 2, CO Bennett was escorting Inmate Hoecker back to his housing unit. When CO Bennett entered the housing unit area, he asked CO Smith to open the sally port to Inmate Hoecker's housing block. CO Smith did not respond to CO Bennett's request, so CO Bennett raised his voice and asked CO Smith, once again, to open the sally port. CO Smith responded by telling CO Bennett, in a loud voice, that he didn't have to shout and that he should be respectful. CO Bennet[t] was upset by CO Smith's response and the two began to yell at each other. The issue was resolved once their supervisor, Sergeant Lewis, entered the area and commanded the officers to stop arguing. Sergeant Lewis then asked CO Smith to follow him out of the area and CO Smith complied without further incident.

The question asks, based on an initial conclusion, for the most likely cause of the key issue presented in the above scenario. The keyed response is option a, "CO Smith could not hear CO Bennett's initial request." Messrs. Arce and Zwolinski argue that option b, "CO Smith and CO Bennett have not received proper teamwork training," is the best response. Specifically, Mr. Arce presents that there was not enough information provided in the question to determine whether or not CO Smith heard the request. Mr. Arce asserts that the argument "indicates that the two officers have not been trained on how to work together. If they had training, the escorting officer would have made eye contact with the booth officer first and then requested the door to be opened." Mr. Zwolinski contends that "Correctional staff has very stressful tasks to perform each and every day. If because the officer did not hear the other caused the incident, it is his reaction that was failed teamwork. Correctional staff must maintain professionalism each and every day in the face of the very difficult tasks at hand." Mr. Zwolinski maintains that due to the noise levels in a correctional facility, it is a common occurrence for officers to not hear one another. However, "due to the teamwork concept[,] staff does not argue and shout over not being heard." While CO Smith and CO Bennett may not have behaved

appropriately, it cannot be concluded that the officers did not receive proper teamwork training. As such, option b is not the best response.

Question 62 indicates that an incident occurred during inmate transport in which a transportation van broke down due to poor regular upkeep. Prior to using the vehicle, the operating officer examined the vehicle and found no visible damage or defects. Consider this section of your facility's vehicle policy:

**Vehicle To Be Inspected Before Use:** Officers assigned to operate departmental vehicles shall, before use, examine the vehicle assigned to him/her and report any unrecorded damage or operational defects at once to his/her superior officer and make a written report. Failure to report damage, defects or loss of equipment will create the assumption that the inspection was made and that the assigned operator is responsible for the damage, defects or loss of equipment present. The most senior officer assigned to a vehicle will be responsible for the proper maintenance of his/her vehicle to [e]nsure that the vehicle is regularly serviced.

The question asks, based on the contents of the policy and the events that occurred in the above scenario, for the problem that should be addressed with the facility's vehicle policy. The keyed response is option d, "The policy should specify what is meant [by] 'regularly serviced' to ensure [that] the vehicle is being properly maintained." Mr. Arce maintains that option b, "In addition to the checks stated above, a maintenance check should be performed on the vehicle before operation," is the best response. He presents that he "work[s] for the transportation unit and every vehicle has a maintenance check before it's driven." It is noted that a definition of "maintenance check" is not provided and thus, it is not clear what would be inspected during a "maintenance check" or whether it would have revealed the cause of the breakdown. Thus, option b is not the best response.

Question 63 indicates that Sergeant Bowers has been consistently arriving to work a few minutes late over the past month. On some of those days, she had visibly bloodshot eyes and seemed to be mildly agitated while working. There have not been any reported performance issues with Sergeant Bowers during this period, but you have heard that she has been less available for listening to inmate complaints. The question asks, considering only this information, for what can be correctly concluded. The keyed response is option b, Sergeant Bowers "has had attendance issues and is less receptive to listening to inmate grievances." Mr. Arce and Ms. Thomson argue that option c, "will begin to perform her work poorly if she continues this behavior," is correct. Mr. Arce contends that "there is no information that she has attendance issues and is less receptive to inmate issues. If she continues to come in late and not respond to inmate complaints as required then she will be performing poorly." Despite Mr. Arce's claims, the question clearly

states that Sergeant Bowers has been consistently arriving to work a few minutes late over the past month. It is noted that tardiness is considered an attendance issue. The question also clearly states that Sergeant Bowers has been less available for listening to inmate complaints. Ms. Thomson presents that “as a Correction Major[,] it is your job to . . . recognize that the progression of this behavior could impact not only the personal performance of the Sergeant, but could lead to a decrease in moral[e] of the entire staff . . . Choice ‘B’ is a simple, obvious conclusion, choice ‘C’ allows the Major to project possible outcomes and devise a solution.” As noted above, the question asks for what can be correctly *concluded* based on the information you have. Option c makes assumptions that may or may not come to pass. Option b is the only conclusion that can be drawn from the facts presented. Accordingly, the question is correct as keyed.

Question 67 refers to Richard P. Seiter, *Correctional Administration: Integrating Theory and Practice* (2d ed. 2011). The question indicates that as part of the development of a mission statement for your organization, you need to distinguish between goals and objectives. The question requires candidates to complete the following sentence, “According to Seiter, goals . . .” The keyed response is option a, “are the specific activities to be accomplished which will ensure the objectives are met.” Ms. Thomson<sup>5</sup> refers to Seiter which states, “It should be noted that the use and definitions of specific terms is not universal, and many agencies use ‘goals’ as the broader activities between mission at the top and specific steps to be taken at the bottom of the hierarchy,”<sup>6</sup> and argues that the keyed response is inaccurate. The question indicates that you need to distinguish between goals and objectives and specifically refers to the definition of goals presented in the subject text. In this regard, Seiter provides that “goals are the specific activities to be accomplished as a part of the strategies and programs. By accomplishing the goals, the objectives are therein met. Goals are measurable and usually have a timetable for completion.” As such, the question is correct as keyed.

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<sup>5</sup> It is noted that Ms. Thomson selected option d, “specify the accomplishments that need to be completed in order to fulfill the mission statement, and objectives are the specific activities that need to be completed to meet the goals.”

<sup>6</sup> Seiter refers to the following illustration:

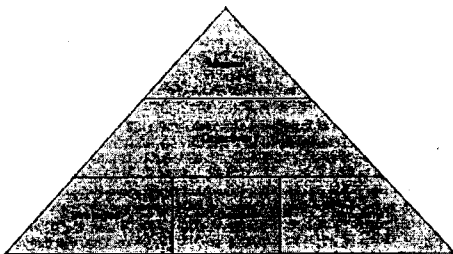


Figure 4.1  
Relationship of strategic choice elements.

CONCLUSION

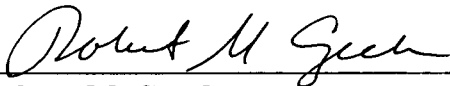
A thorough review of the appellants' submissions and the test materials reveals that, other than the scoring change noted above, the appellants' examination scores are amply supported by the record, and the appellants have failed to meet their burdens of proof in this matter.

ORDER

Therefore, it is ordered that these appeals be denied.

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

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
THE 7TH DAY OF DECEMBER, 2016



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