



STATE OF NEW JERSEY

In the Matter of Curtis Langley, *et al.*, County Correction Lieutenant (various jurisdictions)

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

CSC Docket No. 2017-3738, *et al.*

Examination Appeal

ISSUED: AUG 21 2017 (JH)

Curtis Langley, Nicholas Palma and John Perdomo (PC2070U), Essex County; and John Donato, Nicole Horan, Steven Ingram, Chantannette Ketelaar, Michael Maloney, Michael Pluta and Sarah Prioli (PC2072U), Ocean County; appeal the promotional examination for County Correction Lieutenant (various jurisdictions). These appeals have been consolidated due to common issues presented by the appellants.

The subject examination was administered on May 4, 2017 and consisted of 70 multiple choice questions. It is noted that during the test administration, candidates were provided with two booklets, Booklet A (County Correction Lieutenant Supplemental Examination Material) and Booklet B (2017 County Correction Lieutenant Examination). Booklet A contained stimulus material and Booklet B contained the exam questions.

Messrs. Donato and Ingram present that they were only provided with 30 minutes for review and 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.

An independent review of the issues presented under appeal has resulted in the following findings:

Question 28 indicates that Sergeant Bloom calls you over the radio to report an incident happening in the Female Housing Unit. Inmate Conroy, who has a history of mental illness, has been yelling derogatory comments from her cell about officers and other inmates and has refused orders to stop. The question asks for what you should do first. The keyed response is option d, "Assemble a team to remove the inmate from her cell." Messrs. Donato, Ingram and Perdomo and Meses. Horan, Ketelaar and Prioli argue that option b, "Go and talk to the inmate to see what is wrong," is correct. Specifically, Mr. Donato and Ms. Horan, in part, refer to *N.J.A.C. 10A:31-8.18* (Use of non-deadly force; when justified) and argue that there is no immediate threat to safety or facility safety. Mr. Ingram contends that according to the General Standard Operating Procedures (SOPs) provided in Booklet A, "a code had to be used to assemble a probe team and a reaction team to any situation involving inmates in the jail. No code in this situation was ever called." Ms. Ketelaar argues that "you are dealing with a known mental health inmate . . . This inmate in question is not acting in a way that would jeopardize security or cause harm to anyone including herself . . . By removing the inmate from her cell you are potentially risking injury to not only the staff but also to the inmate." Mr. Perdomo maintains that since the inmate was not harming herself or others or being destructive, "talking to the inmate to see what is wrong and notifying Mental Health personnel would be the first line of approach." Ms. Prioli presents that "as long as the inmate is in her cell, she is not a threat to staff or other inmates . . . By assembling a team of officers and removing her from the cell, you would be using unnecessary force, creating a greater risk of injury to the inmate or staff." The Subject Matter Experts (SMEs) indicated that in some situations, extracting the inmate would be appropriate as the inmate's yelling could agitate the other inmates and put the inmate in danger. However, the SMEs further indicated that in other situations, it would be appropriate to speak with the inmate. Given that the question does not provide sufficient information regarding the incident, the Division of Test Development and Analytics has determined to double key this item to option b and option d prior to the lists being issued.

Question 38 indicates that you have observed a decline in CO Johnson's performance. When you ask Sergeant Thomas about CO Johnson's recent below-average performance, he tells you that he is not sure but he thinks she might be having issues at home. The question asks how you should handle this situation. The keyed response is option a, "Instruct Sergeant Thomas to have a counseling session with CO Johnson to discuss her recent decline in performance." Mr. Palma, who selected option d, "Refer CO Johnson to Employee Assistance Services," argues that "any staff having possible family/personal issues should be referred to Employee Assistance Services especially taking into account S[ergeant]t Thomas[] harsh attitude towards the situation for her own well[-]being [and] possible safety." At this point, it is not clear what is causing CO Johnson's performance to decline. Accordingly, Sergeant Thomas would need to speak with CO Johnson to ascertain the reason for the decline in performance since, as indicated in the question, he is not sure what the cause is. As such, sending CO Johnson to Employee Assistance Services is premature. Thus, the question is correct as keyed.

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

Questions 43 and 44 refer to the work schedule for CO Vance presented to candidates in the test booklet. Upon review during the appeal process, the Division of Test Development and Analytics determined that the information necessary to answer these items was not included in Booklet A. As such, the Division of Test Development and Analytics has determined to omit these items from scoring prior to the lists being issued.

Question 47 indicates that Sergeant Thomas is dealing with a Code Brown in Housing Unit West South. While he is taking care of this problem, you become aware of a Code Blue being issued in Housing Unit West North. The question asks how you should handle the situation. The keyed response is option d, "Direct Sergeant Bloom and other available CO's assigned to both housing unit areas to handle the Code Blue." Mr. Ingram, who selected option b, "Leave your post to handle the Code Blue until Sergeant Thomas has finished with the Code Brown," inquires as to "why would you grab S[ergeant] Thomas from a Code Brown . . . and have him respond to a Code Blue . . . Either as the Lieutenant or you order S[ergeant] Bloom to respond to the medical situation which is the area he supervises." It is noted that Mr. Ingram appears to have misremembered the keyed response. Mr. Perdomo and Ms. Prioli argue that option b is the best response. Mr. Perdomo refers to *In the Matter of Correction Lieutenant, Department of Corrections* (Commissioner of Personnel, decided November 14, 2006)<sup>1</sup> for the proposition that "it is not outside the scope of the Correction Lieutenant title for those with the proper training to have the

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<sup>1</sup>It is not clear why Mr. Perdomo refers to a classification determination regarding the State Correction Lieutenant title.

responsibility to perform CPR and/or first aid, if necessary, until medical personnel arrive to take over for the procedure.” In this regard, Mr. Perdomo asserts that “if the lieutenant was able to respond and handle the [C]ode [B]lue until S[ergeant] Thomas finished [with the] Code Brown, it could have possibly saved someone’s life.” Ms. Prioli contends that “you would be pulling a sergeant and officers from their areas, therefore leaving those areas short staffed if an incident were to occur in their own areas of the jail.” Booklet A, under the section, “General Standard Operating Procedures (SOPs),” provides:

- During a Code Brown, two teams assemble near the action area.
- An initial probe team made up of three officers from the neighboring housing unit (north or south) assembles outside of the affected area ready to assist the CO who initiated the code.
- A reaction team made up of five officers from the far side housing unit (east or west) assembles near the response closet and equips themselves with riot shields, helmets, pepper spray, and batons in order to assist the probe team if necessary.
- During a Code Blue, the probe team will assist with clearing out non-affected inmates and locking them into their cells (reaction teams are not utilized for a Code Blue).
- A Code Blue should be initiated if there is serious risk to the health of an individual (e.g. difficulty breathing, fainting, chest pain, uncontrolled bleeding, sudden weakness, etc.).

Pursuant to the SOPs, for an incident in Housing Unit West South, the probe team would be pulled from Housing Unit West North and for an incident in Housing Unit West North, the probe team would be pulled from Housing Unit West South. However, given that the question indicates that you must respond to emergent situations in Housing Unit West North and South, it would not be prudent to pull staff from Housing Unit West South, where the Code Brown is occurring, in order to respond to the Code Blue in Housing Unit West North. Furthermore, the SMEs indicated that the Lieutenant, as shift commander, should not leave his post if he has other resources, *i.e.*, Sergeant Bloom,<sup>2</sup> at his disposal to handle the Code Blue. Thus, option b is not the best response.

Question 53 indicates that while conducting roll call, you notice that Sergeant Bloom’s uniform has what appears to be a dark stain on the left shirtsleeve. When you ask Sergeant Bloom about the stain, he tells you that grape juice was spilled on his uniform when he dropped off his daughter at daycare that morning. This is the first time that Sergeant Bloom has had a stain on his uniform. The question asks how you should handle this situation. The keyed response is option b, “Empathize with Sergeant Bloom and suggest she bring an extra uniform shirt to the facility in case of future incidents.” Ms. Horan, who selected option a, “Issue a formal written

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<sup>2</sup>As noted in Booklet A, Sergeant Bloom oversees the Female/Medical Units.

warning regarding uniform cleanliness to Sergeant Bloom,” contends that “in the supplemental booklet, it states[,] ‘he sometimes makes minor mistakes with require corrective action’ . . . He has been on the job for 10 years and should already know to keep an extra clean uniform with him at work . . . Sympathizing with Sergeant Bloom at this point seems futile.” Messrs. Ingram and Langley, who selected option c, “Have Sergeant Bloom go home to change into a new shirt and come back to the facility as soon as he is able,” present that the use of the pronoun “she” in the keyed response renders it incorrect. Specifically, Mr. Langley emphasizes that this “caused delay and confusion in my answer selection because the only logical selection was answer ‘D’ to send him home because it clearly recognized S[ergeant] Bloom as a male supervisor.” Regardless of the gender of Sergeant Bloom, the focus of the question is what *you* should do in this situation. Furthermore, each of the answer choices, including the keyed response, clearly refer to Sergeant Bloom. Moreover, the SMEs indicated that while option c would resolve the situation, it would “short your shift” and leave the facility unnecessarily understaffed. The SMEs also indicated that since Sergeant Bloom, as indicated in Booklet A, is doing a commendable job so far, understanding is a key consideration in this situation. In addition, option b provides guidance on how to prevent future issues. The SMEs further determined that in this situation, it would be excessive to issue a formal written warning and start progressive discipline. As such, the question is correct as keyed.

Question 60 provides:

You are moderating a dispute between Sergeant Thomas and CO Vance about deficiencies in CO Vance’s work performance. The deficiencies being pointed out by Sergeant Thomas are valid and documented but CO Vance is disputing all of them point-by-point and interrupting the sergeant. During the meeting Sergeant Thomas says to CO Vance, ‘I’m sick of these stupid excuses, Vance. You’re a better officer than this and you’re setting a bad example for all of the other officers. Get your act together or get out.’ CO Vance looks at you for input.

The question asks how you should handle the situation. The keyed response is option a, “Separate the two officers and speak with them separately.” Mr. Palma contends that this situation does not involve two officers but “a Sergeant speaking with a subordinate who is being disrespectful and as a L[ieutenant,] you should not undermine his authority.” He maintains that option b, “Tell CO Vance that Sergeant Thomas is right and not to interrupt him,” is the best response. The SMEs indicated that taking sides during a heated dispute would not be an appropriate course of action for a Lieutenant. In this regard, the purpose of the meeting is to mediate the dispute between Sergeant Thomas and CO Vance. As such, the SMEs indicated that the Lieutenant should hear both parties and allow them to present their positions. Declaring that Sergeant Thomas is right before both parties have had the opportunity

to present their positions would be premature and negate the purpose of the meeting. Thus, option b is not the best response.

**CONCLUSION**

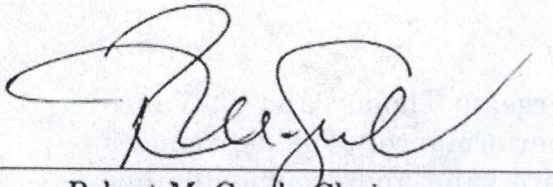
A thorough review of the appellants' submissions and the test materials reveals that, other than the scoring changes noted above, the appellants' examination scores are amply supported by the record, and the appellants have failed to meet their burdens of proof in this matter.

**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 16TH DAY OF AUGUST, 2017



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- Chantannette Ketelaar (2017-3809)

- Michael Maloney (2017-3810)
- Michael Pluta (2017-3800)
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