

On appeal, the appellant disagrees with his scores for each technical question. He also contends that another candidate had prior history as an SME, and may have received preferential treatment and was recognized by staff administering the examination. He argues that this is unfair, and that all candidates should have had access to the training, scoring forms, and “insider information” possessed by this candidate. The appellant requests that the test be re-administered after all candidates receive this information, and that only a written test be given.

CONCLUSION

As to the candidate with prior experience as an SME, to insure objectivity, candidates are scored in accordance with pre-established, anchored responses. Individuals who function as SMEs or assessors do not get training to take examinations nor can any individual be an SME for an examination for a title which they hold. SMEs are always in higher-level titles than the examinations for which they provide input on scoring issues. *See In the Matter of Robert Carter* (MSB, decided May 28, 2003). The appellant has merely made unsubstantiated accusations that he and other candidates were disadvantaged by not being selected in the past as SMEs to receive training and “inside information.” This argument is unpersuasive and does not warrant another administration of the examination.

The Police Administration question pertained to the N.J. Attorney General Law Enforcement Directive No. 2016-1, Automated Deconfliction of Planned Law Enforcement Operations and Investigations. The appellant correctly answered parts A and C. Part B asked candidates to identify a minimum of six investigative/criminal enforcement activities that would be considered “planned operations.” The assessor indicated that the appellant missed opportunities to mention an undercover operation involving either anticipated contact with a specific target/suspect, whose identity is known before the operation, or a planned meeting or other event arranged or otherwise expected to occur at a specific premises or location; and, a “controlled buy” or similar operation where a confidential informant or other civilian operating under instructions from a law enforcement officer engages in contact that otherwise would constitute a crime and that involves either an anticipated contact with a specific target/suspect, or a planned or other event that was arranged or otherwise expected to occur at a specific premises or location.

On appeal, the appellant argued that he stated he mentioned criminal investigations, and planned operations which he believes are the same as those mentioned by the assessor.

In reply, in response to Part A, the appellant recognized a planned operation as one of the types of deconfliction, and he briefly described it. Without indicating that he was responding to question 2, the appellant stated, “Now, um, when you’re

looking at specific crimes, you have to go on a State ah website ah database and include all the information in your criminal investigation. Name of the people involved, the location of the people involved, and um, what you're gonna, what you plan to do. But it has to be planned, it's not spontaneous. A spontaneous investigation does not have to have a deconfliction." The appellant then responded to Part C. At this point, he had not mentioned an undercover operation or a "controlled buy" or similar operation.

The appellant then added to his response without indicating which part he was responding to, but it appeared to be Part A. At this point, the assessor asked the appellant to read and answer Part B. It is noted that the question included the phrases "investigative/criminal enforcement activities" and "planned operations." As such, it is expected that a candidate would use these words in a response. However, they are not buzzwords for which candidates automatically receive credit. Credit is given for what is said, and words are taken in the context of a sentence or passage in which they are given. In his response, the appellant looked briefly at Part B, and stated "Part B is who (pause) six investigatives. What are we investigating?" This is not what Part B was asking. The appellant continued with, "We are investigating individuals. We're investigating locations, whether residences or businesses. We're looking at specific crimes. We're looking to see if um, any groups are involved. We're looking to see if terrorism is involved. We're looking to see how, what, how widespread the involvement is. Um, we're not going um, to be looking at people based specifically on their political or um ah church ah attendance. Um, we're going to be looking to see if this could be um racketeering. It could be an organized crime group. That's about it, I don't have too much here." There is nothing in this passage that suggests that the appellant was referring to undercover operations or a "controlled buy" or similar operation. The appellant appears to have misread Part B, and provided responses that were not pertinent to the question. While he answered Parts A and C, the appellant did not properly respond to Part B, and his score of 3 for this question is correct.

The Police Management question involved the discovery of a decedent on a public nature trail by two officers, and one took a photo of himself with the decedent, a "selfie," which he sent to his friends and which appeared on social media. This caused the public to be concerned for their safety, upset the deceased's wife, and overwhelmed the dispatchers with complaints. Candidates were asked for actions to be taken, or ensure are being taken, to address the situation. The assessors indicated that the appellant missed opportunities to immediately issue a press statement to calm concerns about safety and assure the public that a swift internal investigation would be undertaken; ensure media evidence of the officer's photo is preserved; and to consider putting the officer on modified duty or suspension pending the outcome of the investigation. On appeal, the appellant indicated that he said this was a criminal investigation and that he would get the facts, and he obtained a search warrant for the phone. He also states that he

considered a suspension after formal charges were issued, and he listed the factors utilized for immediate suspension.

In reply, the appellant received credit for initiating an investigation, and for considering disciplinary action for the officer, which were separate actions. The appellant did not issue a press statement, or consider putting the officer on modified duty or suspension, which were separate actions. The appellant indicated that as part of his administrative investigation he would gather facts, reports and radio tapes, and considered a search warrant for the phone as the officer has done this before. However, he did not ensure media evidence of the officer's photo is preserved, which is a different action from obtaining a search warrant for the phone, as photos on the phone could be deleted or the phone could be compromised. Candidates are told they cannot receive credit for information that is implied or assumed. If the appellant knew he was taking these actions, he needed to have verbalized them in his presentation.

The Criminal Law question regarded activating an Amber Alert. Part B asked for specific circumstances that the law enforcement officials should consider when making an Amber Alert activation determination in cases of family abductions. The assessor indicated that the appellant missed the opportunity to indicate that specific circumstances include whether there was a family history of domestic violence or child abuse, or a history of custody disputes or past abductions; or whether the abductor is believed to be under the influence of alcohol or drugs.

On appeal, the appellant argues that there was no abductor. He also argues that he said he would check domestic violence history within the family, prior abductions, prior violence, whether there was a prior history of drug or alcohol abuse, was the child taken before and how was a child returned, he obtained a computerized criminal history, and he checked prior violence within the family.

In reply, the question asked for specific circumstances to be considered for Amber Alert activations in cases of family abductions. The appellant is correct that it did not indicate that there was a child that had been abducted. The appellant spent some time on a tangent, indicating what an Amber Alert was and indicating partners in Amber Alerts. Neither of these were direct responses to the questions. The appellant received credit for indicating a past history of violence by the abductor towards the child, and for prior threats of harm to the child. A separate response was a family history of domestic violence or child abuse, or a history of custody disputes or past abductions. The appellant stated that he had to look into prior abductions. Further, the appellant also asked if the person had a history of alcohol or drug abuse. The appellant considered these comments in his presentation, and he should receive credit for them. A holistic view of the appellant's presentation indicates that his score for this component should be raised from 3 to 4.

The Leadership/Supervision question pertained to a poor or nonexistent relationship between the department and the community. The Mayor has made improving relations between the department and the community a focus of the administration, and the candidate is tasked with repairing their relationship and developing partnerships with community. This question asked for actions to be taken, or ensured are taken, to address the situation. The assessor indicated that the appellant missed opportunities to reach out to professional organizations for advice, and to review the Mission Statement and Core Values and update them if necessary. On appeal, the appellant states that he said he would reach out to business, community, faith-based, educational, civic and youth groups that he had previously established partnerships with, other law enforcement agencies, and elected officials.

In reply, a review of the appellant's video and related examination materials indicates that the appellant stated, "To start with, we should already have partnerships in the community. We should have partnerships with all types of groups. We should have partnerships with our elected officials. We have partnerships with ah other law enforcement agencies. We should have partnerships with the business community, um the faith based community, the educational community, the schools, civic associations, the rotary club, um, all these things we should be involved in." Assuming that partnerships were already created with these sectors of the community does not establish that he reached out to professional organizations for advice. The appellant received credit for meeting with community leaders to facilitate better communications, meeting with school officials, and meeting with business owners. While the appellant mentioned various community sectors, at no point did he ask for advice from professional organizations such as NJSACOP and IACP. This is a separate action from performing a survey, having partnerships, identifying the negative perceptions, or having meetings. The appellant missed the actions noted by the assessor and his score of 3 for this component is correct.

A thorough review of appellant's submissions and the test materials indicates that, except for question 3, 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 granted in part. The appellant's score for question 3 should be raised from 3 to 4 and the remainder of the 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 ON
THE 3rd DAY OF OCTOBER, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P. O. Box 312
Trenton, New Jersey 08625-0312

c: James Mooney
Joseph Denardo
Michael Johnson
Records Center