



STATE OF NEW JERSEY

 DECISION OF THE
 CIVIL SERVICE COMMISSION

 In the Matter of Matthew Radecky,
 Pohatcong, Police Department

 CSC Docket Nos. 2022-2658 and
 2022-3018
 OAL Docket Nos. CSR 03575-22 and
 04635-22
 (Consolidated)

ISSUED: MAY 3, 2023

The appeals of Matthew Radecky, Police Sergeant, Pohatcong, Police Department, two removals, effective April 5, 2022, on charges, were heard by Administrative Law Judge Danielle Pasquale (ALJ), who rendered her initial decision on March 28, 2023. Exceptions were filed on behalf of the appellant and appointing authority and a reply to exceptions was filed on behalf of the appellant.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, including a thorough review of the exceptions, the Civil Service Commission (Commission), at its meeting on May 3, 2023, adopted the ALJ's Findings of Facts and Conclusion and her recommendation to modify the removals to a six-month suspension.

Upon its *de novo* review of the ALJ's thorough and well-reasoned initial decision as well as the entire record, including the exceptions filed by the appointing authority, the Commission agrees with the ALJ's determinations regarding the charges, which were substantially based on her assessment of the credibility of the witnesses. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 N.J. 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor*, 158 N.J. 644 (1999) (quoting *State v. Locurto*, 157 N.J. 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in

its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. See *N.J.S.A. 52:14B-10(c)*; *Cavalieri v. Public Employees Retirement System*, 368 *N.J. Super.* 527 (App. Div. 2004). In this matter, the exceptions filed by the appointing authority are not persuasive in demonstrating that the ALJ's credibility determinations, or her findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. In this regard, the ALJ concluded that "[h]aving had an opportunity to observe the demeanor of the witnesses and the lack of any reports, police cameras or contemporaneous statements, and their own self-interest, it is my view that no one in the department was 100% credible." Thereafter, the ALJ made numerous detailed credibility determinations and presented logical and reasonable explanations for each. Upon its review, the Commission finds nothing in the record or the appointing authority's exceptions to question those determinations or the findings and conclusions made therefrom.

Similar to its review of the underlying charges, the Commission's review of the penalty is *de novo*. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 *N.J.* 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. *George v. North Princeton Developmental Center*, 96 *N.J.A.R. 2d* (CSV) 463. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. See *Henry v. Rahway State Prison*, 81 *N.J.* 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. See *Carter v. Bordentown*, 191 *N.J.* 474 (2007).

In this matter, the Commission agrees with the ALJ's recommendation to modify the removal to a six-month suspension. While the appellant's misconduct is very serious, the Commission does not find it so egregious, under the circumstances presented, to warrant removal from employment. Specifically, as found by the ALJ,

However, under the circumstances, major discipline is the appropriate discipline, and I am persuaded that while I did consider removal, a 6-month suspension is appropriate given his clean record and his terrible personal circumstances at that point in time. Watching your child in pain and constant struggle including his suicide attempt and the sheer and utter stress of COVID-19, his divorce, his current marital and financial problems, coupled with drinking amounted to very poor judgment on one very unfortunate night. Accordingly, I **FURTHER CONCLUDE** that the penalty of the maximum suspension is the only

one available to the department or myself in this matter as the reason for the FFD was sound, the presence of his gun while highly depressed and going to attend a bachelor party, getting highly intoxicated resulting in hospitalization were a safety hazard for him and potentially the safety of others.

While the Commission notes that the appellant, a supervisory-level law enforcement officer, is held to a higher standard, the reasons expressed by the ALJ for the reduction in penalty are supportable. In this regard, as the appellant had a lengthy unblemished career, the Commission finds that the six-month suspension imposed should serve as more than sufficient warning that any future infraction will likely result in his removal from employment. Accordingly, for the reasons expressed by the ALJ, the Commission agrees that removal would not be the appropriate result in this matter.

However, the Commission, given the appellant's history, has some trepidation allowing his reinstatement without positively establishing his current fitness for duty. Accordingly, it further orders that the appointing authority send him for a fitness for duty examination upon his reinstatement. Should he not be fit for duty at that time, it may bring forth contemporaneous disciplinary action seeking his removal from employment based his unfitness. However, as any such unfitness would be based on his current status, it in no way affects the other remedies provided to the appellant by the Commission as detailed below.

Since the removal has been modified, the appellant is entitled to be reinstated with mitigated back pay, benefits, and seniority pursuant to *N.J.A.C.* 4A:2-2.10 from six months after the first date of separation until the date of actual reinstatement. However, he is not entitled to counsel fees. *N.J.A.C.* 4A:2-2.12(a) provides for the award of counsel fees only where an employee has prevailed on all or substantially all of the primary issues in an appeal of a major disciplinary action. The primary issue in the disciplinary appeal is the merits of the charges. See *Johnny Walcott v. City of Plainfield*, 282 *N.J. Super.* 121,128 (App. Div. 1995); *In the Matter of Robert Dean* (MSB, decided January 12, 1993); *In the Matter of Ralph Cozzino* (MSB, decided September 21, 1989). In the case at hand, although the penalty was modified by the Commission, charges were sustained, and major discipline was imposed. Consequently, as appellant has failed to meet the standard set forth at *N.J.A.C.* 4A:2-2.12, counsel fees must be denied.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty imposed by the appointing authority. However, in light of the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay are finally resolved. In the interim, as the court states in *Phillips, supra*, if it has not already done so, upon receipt of this decision, the appointing authority shall

immediately reinstate the appellant to his permanent position.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was not justified. The Commission therefore modifies that action to a six-month suspension.

It further orders that the appointing authority send the appellant for a fitness for duty examination upon his reinstatement. Should he not be fit for duty at that time, it may bring forth contemporaneous disciplinary action seeking his removal from employment based his unfitness. However, any such unfitness in no way affects the other remedies provided to the appellant by the Commission as detailed below.

The Commission orders that the appellant be granted back pay, benefits, and seniority from six months after the first date of separation to the actual date of reinstatement. The amount of back pay awarded is to be reduced and mitigated as provided for in *N.J.A.C. 4A:2-2.10*. Proof of income earned, and an affidavit of mitigation shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision. Pursuant to *N.J.A.C. 4A:2-2.10*, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay. However, under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay dispute.

Counsel fees are denied pursuant to *N.J.A.C. 4A:2-2.12*.

The parties must inform the Commission, in writing, if there is any dispute as to back pay within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to R. 2:2-3(a)(2). After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3RD DAY OF MAY, 2023



Allison Chris Myers
Acting Chairperson
Civil Service Commission

**Inquiries
and
Correspondence**

**Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P.O. Box 312
Trenton, New Jersey 08625-0312**

Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

CONSOLIDATED

**IN THE MATTER OF MATTHEW RADECKY,
POHATCONG TWP. POLICE DEPARTMENT.**

OAL DKT. NO. CSR 03575-22
AGENCY REF. NO. N/A

**IN THE MATTER OF MATTHEW RADECKY,
POHATCONG TWP. POLICE DEPARTMENT.**

OAL DKT. NO. CSR 04635-22
AGENCY REF. NO. N/A

Frank C. Cioffi, Esq. for appellant Matthew Radecky (Sciarra & Catrambone, LLC,
attorneys)

Christopher M. Kurek, Esq., for respondent Pohatcong Twp. PD (Apruzzese,
McDermott, Mastro & Murphy, P.C., attorneys)

Record Closed: February 15, 2023

Decided: March 28, 2023

BEFORE DANIELLE PASQUALE, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Matthew Radecky ("Appellant" or "Radecky") appeals from the decision of the Pohatcong Township Police Department ("Respondent", "Pohatcong" or "Department", "PTPD") to remove him from his position as a Police Sergeant at the Department on charges arising from alleged incidents occurring on or about March 16, 2021 through August, 2021 (J4) and April 17 and 18, 2021 (J3) respectively. The events surrounding March 16, 2021, and subsequent dates in March and August of 2021 outline six (6)

charges, each alleging violations of: N.J.A.C. 4A:2-2.3(a)(1) failure to perform duties; N.J.A.C. 4A:2-2.3(a)(2) insubordination; N.J.A.C. 4A:2-2.3(a)(6) conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(7) Neglect of Duty; and N.J.A.C. 4A:2-2.3(a)(12) other sufficient cause. The April 17th and 18th incident (aka "the Bachelor Party Incident") include sustained charges of N.J.A.C. 4A:2-2.3(a)(6) conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(12) other sufficient cause other and violations of two Standard Operating Procedures ("SOPS"), one involving firearms and one regarding rules and regulations/ code of conduct as outlined below. Appellant asserts that either the charges are not proved, or rather that the punishment of removal is unwarranted as he has no prior discipline and thus any of the violations should not amount to a removal if the instant charges are upheld.

The first Preliminary Notice of Disciplinary Action (PNDA) (J1) dated October 7, 2021 was issued to Radecky alleging failing to follow an order to take the first phase of a fitness for duty examination by Chief Robb ("Robb") on March 16, 2021. As part of that order, Radecky would be assigned desk duty until the results of the fitness for duty were determined. The department then learned that he took the first phase of the fitness for duty, but never returned to work for the remainder of his scheduled desk duty that day. They claimed that Radecky did not have permission to take off of work nor did he request time off until fifteen (15) minutes were remaining on his shift. In short, the department outlined that Radecky disobeyed a direct order for desk duty and neglected his assigned duty by not showing up for work as outlined in detail below stemming from the March 16, 2021 incident. A Final Notice of Disciplinary Action (FNDA) (J4) dated October 7, 2021, was issued to Radecky sustaining all charges and ordering his removal effective on a date "TBD" to be determined. The other allegations stemming from J4 are outlined in the charges and specifications below.

Another PNDA was issued on October 25, 2021 regarding the charges of conduct unbecoming and other sufficient cause for events which allegedly occurred on April 17 into the morning of April 18, 2021. That PNDA (J2) outlined that on April 17, 2021, Sergeant Radecky attended a bachelor party for another member of the Pohatcong Township Police Department ("PTPD"). After attending an event at Top Golf in Edison, New Jersey, Radecky and other members of the PTPD decided to travel to a bar, The

Standard in Easton, Pennsylvania. Upon arrival at The Standard, Radecky was initially denied entry because he was in possession of a firearm. Radecky secured his firearm in another officer's vehicle and was subsequently admitted to the bar. In addition to N.J.A.C. 4A:2-2.3(a)(6) conduct unbecoming and N.J.A.C. 4A:2-2.3(a)(12) other sufficient cause, Radecky was charged with violations of the Pohatcong Twp P.D. SOP (Firearms), Article II, Section D, Part 5; and PTPD SOP (Rules and Regulations) Article IV (Code of Conduct): Section B, Part 6; & Section D, Part 2, Clauses I & J as outlined in the attached addendum as relayed below. These charged were sustained and a Final Notice of Disciplinary Action was issued on April 5, 2022 noting another removal to be effective immediately. (J3)

As a result of the above, the appellant requested a hearing and filed his appeal with the Office of Administrative Law (OAL), pursuant to N.J.S.A. 40A:14-202(d). Radecky originally filed his appeal with the OAL on May 3, 2022.

The matter was originally assigned to me on May 18, 2022. Subsequently, after conferencing the case, the parties realized that the original file was missing the second FNDA. As a result of the deficiency, the Appellant's attorney requested an adjournment to include the FNDA stemming from the March 16, 17, 22 and numerous days during the month of August 2021, now marked J4. In short, the original file was adjourned to fix the filing to include the J4 FNDA and to be consolidated with the original file. As a result, the appeal was not perfected until June 7, 2022. With consent of his adversary, and in the normal course, a waiver letter of back pay was received on July 21, 2022 waiving the requirement that Radecky be restored to pay status if a final determination is not rendered in 180 days from the conclusion of the final day of hearing. I set the case down for in-person hearings at Appellant's request which were heard on October 3, October 14, October 18 and October 25, 2022. Upon receiving the post-hearing submissions accordingly closed the record.

ISSUES PRESENTED

Should the disciplinary charges outlined below against Sergeant Radecky be upheld and if so, is removal the appropriate penalty?

CHARGES AND SPECIFICATIONS

Preliminary Notice of Disciplinary Action Dated October 7, 2021:

Charges:

N.J.A.C. 4A:2-2.3(a)(1) Failure to perform duties;
N.J.A.C. 4A:2-2.3(a)(2) Insubordination
N.J.A.C. 4A:2-2.3(a)(6) Conduct unbecoming a public
employee;
N.J.A.C. 4A:2-2.3(a)(7) Neglect of duty;
N.J.A.C. 4A:2-2.3(a)(12) Other sufficient cause;

Specifications:

Charge No. 1:

On March 16, 2021, Sgt. Radecky was ordered to take the first phase of a fitness for duty examination by Chief Robb. As part of that order, Sgt. Radecky would be assigned desk duty until the results of the fitness for duty were determined. Sgt. Radecky took the first phase of the fitness for duty, but never returned to work for the remainder of his scheduled desk duty. Sgt. Radecky did not have permission to take off of work nor did he request time off until 15 minutes remaining (6:45 p.m.) of his shift. Sgt. Radecky disobeyed a direct order for desk duty and neglected his assigned duty by not showing up for work.

Charge No. 2:

On March 17, 2021, Sgt. Radecky was ordered to take his second phase of a fitness for duty exam. On March 16, 2021, Sgt. Radecky called off sick for his fitness for duty exam. Sgt. Radecky was ordered to provide a doctor's note that excused him from missing the fitness for duty exam. Sgt. Radecky provided a note that said he was in the care of his therapist, but it did not excuse him from missing the exam as he was ordered to do.

Charge No. 3:

On March 22, 2021, Sgt. Radecky was on desk duty from 11:00 a.m. to 9:00 p.m. Sgt. Radecky was directed that he was not authorized to leave the office to answer calls or utilize

a police vehicle, even in the event of an emergency. Sgt. Radecky as the supervisor knew that Ptl. Vergalito would be working alone. Our department rules and past practice is that when there is an open shift, the supervisor or officer in charge will attempt to fill the open shift. Sgt. Radecky failed to perform his duty as a sergeant and neglected to fill the shift leaving an officer to work alone with no back up.

Charge No. 4:

On Thursday, August 12, 2021 the Warren County Prosecutor's Office filed for TERPO against Sgt. Radecky, Lt. Derick Kries, and Sgt Teddy Garcia went to Radecky's residence, _____, to serve the order on Sgt. Radecky. While serving the order, as part of the order they were to seize any and all firearms along with a 12-gauge shotgun inside Sgt. Radecky's home safe. The safe was completely cleared out on April 19, 2021, by Sgt. Cozze and Chief Robb. On April 19, 2021, Sgt. Radecky signed an order to turn over all weapons and firearms, including personally owned, which included imitation firearms within his household. Sgt. Radecky violated the order by possessing the 12-gauge shotgun.

Charge No. 5:

On August 2, 2021, Sgt. Radecky was provided an order for a re-evaluation of a fitness for duty. As part of that order he was to continue weekly therapy sessions and have his doctors provide a report to the Chief of Police. The order stated the note would be supplied to the Chief of Police every day by 1500 hours. During the week of August 16, 2021, to August 20, 2021, Sgt. Radecky failed to provide an updated treatment letter to the Chief of Police as the order stated.

Charge No. 6:

On August 31, 2021, Chief Robb ordered Sgt. Radecky that his internal affairs interviews on the open and pending IAs needed to be completed by September 7, 2021. On September 14, 2021 the Chief was advised by the Warren County Prosecutor's Office that Sgt. Radecky's attorney told them he has no obligation to produce his client for the internal interview with their office. This is in direct violation of the August 31, 2021 order. Sgt. Radecky failed and neglected to cooperate with an internal affairs investigation as ordered.

All the charges above indicate that each of the alleged failures amount to the identical violations of violation of N.J.A.C. 4A:2-

2.3(a)(1) failure to perform duties; (2) insubordination; (6) conduct unbecoming a public employee; (7) neglect of duty; and (12) other sufficient cause. (J1)

On April 5, 2022, the Department issued a Final Notice of Disciplinary Action ("FNDA"). The FNDA sustained all of the charges within the PNDA and removed Radecky from employment. (J4)

Preliminary Notice of Disciplinary Action dated October 25, 2021:

Charges:

N.J.A.C. 4A:2-2.3(a)(6) Conduct unbecoming a public employee;

N.J.A.C. 4A:2-2.3(a)(12) Other sufficient cause;

Pohatcong Township Police Department SOP (Firearms), Article II, Section D, Part 5:

Pohatcong Township Police Department SOP (Rules and Regulations) Article IV (Code of Conduct): Section B, Part 6; & Section D, Part 2, Clauses I & J.

Specifications:

Addendum to Preliminary Notice of Disciplinary Action (31A)

Incident(s) giving rise to the charge(s) and the date(s) on which it/the occurred: (continued):

After leaving the bar, Sgt. Radecky and the other members of the party returned to the parking lot of the Phillipsburg Mall. At that time, Sgt. Radecky's firearm was returned to him. Due to his intoxication, Patrolman Alan Hill took Sgt. Radecky's keys to prevent him from driving his vehicle. While attempting to retrieve his keys from Ptlmn. Hill, Radecky fell to the ground. Dsg. Ryan Barsony observed Sgt. Radecky on the ground and exited his vehicle to check on him. At that time, Sgt. Radecky commented to Dsg. Barsony, "don't fuck me over, I am tired." Dsg. Barsony helped Sgt. Radecky to his feet, and while walking, Sgt. Radecky began to cry and said, "just do me a favor, kill me now and put a bullet in my head, shoot me, I am tired." Sgt. Radecky went back to the ground, with Dsg.

Barsony helping him so he didn't get hurt. Because of Sgt. Radecky's continued comments, Dsg. Barsony advised Ptmm. Hill and Ptmm. Frank Doehler to call Chief Scott Robb. Dsg. Barsony restrained Sgt. Radecky for everyone's safety.

Upon the arrival of Chief Robb, it was determined that Sgt. Radecky was to be taken to the St. Luke's Hospital, Warren Campus. While at the hospital Sgt. Radecky attempted to grab Sgt. Cozze's firearm. Furthermore, while at the hospital, Sgt. Cozze removed Sgt. Radecky's off-duty, department issued, Glock 43 handgun from Sgt. Radecky's cargo pants pocket. Two (2) small airplane bottles of alcohol were also removed from Sgt. Radecky's other cargo pants pocket. Sgt. Radecky later admitted that his BAC at the hospital was approximately 0.27 (J2)

Per this second PNDA, Radecky was also immediately suspended on October 25, 2021.

On April 5, 2022, the County issued a Final Notice of Disciplinary Action ("FNDA"). The FNDA sustained all of the charges within the PNDA and removed Radecky from employment. (J3)

FACTS

The parties stipulate to the Exhibits and move Joint Exhibits J-1 through J-39 into evidence as true copies of documents. The parties to the above matter hereby stipulate to the following facts, and thus I **FIND** them as **Fact** in this matter.

1. On April 1, 2007, Petitioner was hired as a Police Officer with the Township of Pohatcong.
2. On or about September 2018, Petitioner was promoted to the rank of Sergeant with the Township.
3. On October 7, 2021 as well as October 25, 2021, Petitioner was served with a Preliminary Notice of Disciplinary Action. Both PNDAs sought Petitioner's removal from his position with the Township.

4. Following a Departmental hearing, on April 7, 2022, Petitioner was served with two (2) Final Notices of Disciplinary Action.
5. The two (2) FNDAs effectively terminated Petitioner from his position with the Township.
6. Prior to the two (2) April 5, 2022 FNDAs, Petitioner received no more than a minor discipline during his tenure with the Township.

Accordingly, and based upon due consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following **FACTS**:

A. Summary of Testimony

The April 17, 18 2021 Bachelor Party Allegations (J3) :

For the sake of clarity please note that Sgt. Radecky was charged with N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming, (12) other sufficient cause as well as violations of PTPD SOP (Firearms), Article II, Section D, Part 5 and PTPD SOP (Rules & Regulations) Article IV (Code of Conduct): Section B, Part 6; & Section D, Part 2, Clauses I & J for the events stemming from April 17 and 18, 2021 as outlined and stipulated above.

Trial Testimony of Patrolman Alan Hill regarding the Bachelor Party :

Patrolman Hill ("Hill" or "Ptlm. Hill") testified on behalf of the Department regarding J3, the FNDA surrounding the events of April 17 and April 18, 2021 also referred to as "the bachelor party incident". He has been employed by the Pohatcong Police Department for approximately seventeen (17) years at the time of his testimony. At the time of the hearing he was on loan to the Drug Enforcement Agency ("DEA"). He has known Radecky for most of that time and considers him a friend. It was clear that he cared about Radecky in general, and on the night in question as will be outlined in his testimony below and thus I so, **FIND**.

Hill testified that he attended the same bachelor party Radecky attended on April 17, 2021. Hill testified that the plan was to meet at the parking lot of Phillipsburg Mall and then go to a Top Golf located in Edison, New Jersey. Hill testified that they all drank for over a one (1) hour ride on the party bus for Officer Vergalito's ("Vergalito") bachelor party. He testified that Radecky brought his own cooler filled with Old-Fashioneds (mixed whiskey drinks) and did drink a lot. For about two (2) hours at Top Golf, he detailed that he ate, drank, and hit golf balls. Hill testified that he observed Radecky consuming alcohol throughout the night. Hill admitted that both he and Sergeant Ryan Barsony ("Barsony") were also drinking. Hill testified that at Top Golf, he did not see Radecky since he was with another group, so he did not know what Radecky ate or drank there.

After Top Golf, the party bus drove another hour and took the officers back to the Phillipsburg mall parking lot. Hill testified that after returning to the mall parking lot, some of the officers including he and Radecky, went to two (2) bars called the "Standard" and "Center Square" in Easton, Pennsylvania. Hill recalled that the officers left the bars sometime before they closed around 2 a.m. Hill testified that he did not remember speaking with Radecky while they were at "The Standard." In fact, Hill testified that he does not remember how Radecky got back to the mall parking lot from Easton. Hill recalled that there were several officers in the parking lot when they returned from Easton including himself, Ptlm. Doehler, Sgt. Barsony, Sgt. Radecky, and the Ptlm. from Lopatcong Township that he did not know.

Hill testified that at one point in the parking lot after the long night of drinking he saw Barsony trying to speak with Radecky and that Barsony was trying to prevent Radecky from driving.

Hill testified that at that point, Hill also realized that Radecky should not drive home as he observed he was very impaired, so Hill offered for him to stay at his house. Hill said Radecky just wanted to go home and declined the offer. In an effort to stop him from driving, Hill testified, as was later corroborated by several witnesses, that he grabbed Radecky's keys out of his hand and took them. He attempted to stick them in his own pocket so that Radecky had no choice but to go home with Hill. Hill attempted a slow jog

away and then realized that Radecky had tripped or tackled him likely unintentionally to get his keys back, upon which they both fell.

Shortly after that, upon relaying the information that Rackecky told Hill that he was going to put a bullet in his head, Barsony then ordered him to call the Township's Chief of Police, Scott Robb ("Robb"). Hill testified that he also heard Radecky making the suicidal comments before he was ordered to call the Chief. During that time, he saw Barsony holding Radecky on the ground and Radecky crying and then heard him say to Barsony something like "don't call the Chief", "he has it out for me", "just put a bullet in my head, kill me already." Hill interpreted Radecky's comments as evidence that he wanted to die. Hill testified that Chief Robb was called because he was on duty and Hill followed Barsony's Order to call him.

While they waited for Chief Robb to arrive, Hill testified credibly that Barsony stayed on the ground and restrained Radecky to try and calm him down and so that he would not run away. Hill, Barsony and Chief Robb took Radecky to Warren County Hospital, as they believed his words and actions qualified as a "crisis situation" and that they feared he could harm himself. Hill admitted that neither he nor Barsony searched Radecky before transporting him to the hospital. Hill and Barsony helped get Radecky in the back of the Chief's car. Hill got in the back seat with Radecky and held his arm on one side while Barsony was on his other side, while the Chief drove them to the hospital.

When they arrived at the hospital, Hill testified that Radecky had calmed down and so Hill held his hand and offered to walk him into the hospital. As they walked to the entrance, Radecky stopped, hunched over and started crying. At some point, Sgt. Cozze ("Cozze"), of the PTPD arrived at the hospital in uniform. Hill had no knowledge of how or why Cozze was contacted. Sometime after that, Radecky stopped cooperating and had to be assisted into the hospital by Barsony, Cozze, and Chief Robb. Hill testified that he did not see Radecky reach for Cozze's weapon. Hill testified that he spent time with Radecky outside of work before and never saw him behave the way he did on April 17, 2021.

While it initially concerned me that Hill did not author a report, have a video or give any statements until they were required and given to the Warren County Prosecutor's Office ("WCPO") months later, this was later explained by Chief Robb as he testified at trial that he directed all officers not to author a report. Thus, Hill's credibility was not as damaged as it otherwise would be by failing to file a report if he was following his chain of command especially since he was off-duty and inebriated. His trial testimony also mirrors his statement as taken by the WCPO. His consistency did not seem rehearsed, but rather authentic. He was clearly close to Radecky, obviously concerned about his safety while still being constrained in his testimony as the Chief was sitting in the courtroom throughout the hearing. In addition, I believed Hill when he said he took Radecky's keys as he was clearly too drunk to drive. Hill admitted he was drinking as well. These admissions added to his credibility. As such, I gave his testimony regarding the timeline, Radecky's mental state and his statements that Radecky wanted to die, and to "just put a bullet in his head" a lot of weight. I believed him wholeheartedly when he asked and/or mentioned this to Barsony to get him, a ranking officer and friend involved. As such, I **FIND** his testimony as **FACT** in this matter and found him to be authentic and very credible albeit under less-than-ideal circumstances.

Trial Testimony of Sergeant Cozze:

Sergeant Cozze has been employed with the PTPD since 2003. On the night in question, while he was off-duty, Cozze testified that he received a knock on his door at home in the early morning of April 18, 2021 from Officer Cliff Tinsman ("Tinsman") and was notified by Tinsman that Chief Robb was trying to contact him. Cozze testified that the Chief told him to respond to the hospital but that he never told him why he was needed at the hospital. In fact, Cozze testified that he did not recall why the Chief was asking him to come the hospital in the middle of the night until he got to the hospital. However, he did note that he decided to put his uniform on, stop by work to pick up his patrol car and drive it to the hospital.

After arriving at the hospital, Cozze saw Chief Robb, Barsony, Radecky, and Hill standing outside the hospital by the Chief's car. After getting masks, since this took place during a surge in the COVID 19 pandemic, he approached and saw that Barsony was

holding Radecky. Specifically, he testified that he was holding Radecky's arms "from behind" and "the group was trying to encourage him to go into the hospital." Cozze could smell alcohol coming from Radecky and thought he appeared to be intoxicated, as he was swaying, slurring his words, and appeared "quite upset" and in need of help. Cozze helped put a mask on Radecky who appeared not to recognize him.

Then, Cozze testified that while they were standing there, he noticed Radecky looking down at his right thigh holster where his duty weapon was located. He then stated, "his eyes got kind of big and fixated and it only took about maybe a couple of seconds for this whole thing to happen, but he's looking at my side arm and he tilts his head forward and he lunges for it with both hands for my side arm and I stepped back and pushed his hands away and then Sergeant Barsony, the Chief and I secured him physically." All the while, Barsony was behind Radecky and the Chief was nearby as well.

After that, Cozze, Barsony, and Robb physically escorted him one on each arm into the side entrance of the hospital. Cozze noted as the other witnesses did and as I observed in court that Barsony is a larger man and quite strong. Specifically, Cozze stated "Barsony is very large, and he had him with his arms pulled back a little bit and we all just did our part carrying him in. I don't know if he was on his tiptoes or if he was walking, but we escorted him in physically. He noted that Barsony put him on a bed and tried "very hard" to calm him down. He noted that Radecky was "very emotional". Then hospital staff rushed in and started an evaluation, said they had to get him changed into gowns and such." Cozze noted throughout his testimony that Barsony continued to try and deescalate the situation as he and Radecky were talking very close to each other. After they got Radecky into his room, he claimed they had to help change him. Cozze testified he was helping and noticed a bulge in Radecky's cargo pants pocked, so he reached in and pulled out a Glock pistol in a holster. There was only one bed in the 12' by 10' room and he handed the gun to another officer; he does not recall which. He noted nurses were there as well. Cozze also saw someone, and does not recall who, pull out empty airplane bottles of alcohol from Radecky's pants that were handed to him, that he then handed off to someone else. While in the room, Radecky was upset that he [himself] was there, was upset that Cozze was there, and did not want to lay in the bed. He testified

specifically that he was "very agitated" and "expressing himself verbally that he was upset that he was, there that I was there, and he didn't want to sit on the bed, he didn't want to lay on the bed. At one point, he sat at the foot of the bed with his feet on the ground and he was leaning at the waist looking like he was falling asleep. And at that point a nurse came in and give him some kind of sedative. I don't remember how she gave it to him, in an IV or some way, but put him to sleep."

On cross examination, Cozze stated that he did not recall if he drafted a report for the incident with Radecky. He does recall being questioned by the WCPO. He noted that he normally would have written a report. On cross he also was fuzzy on details about Chief Robb's order and what the Chief told him before he responded to the hospital. He is also unclear about the details of the incident until he saw the two off-duty sergeants at the scene as well as the Chief. At one point, Cozze admitted that he learned that Radecky had "some sort of mental break down and they needed to get him to the hospital." He admitted that in his eighteen (18) years he would have considered this a crisis situation and that normal protocol would have required him to pat down an individual in such a crisis to make sure there was no weapon. He did not do that until he got Radecky into the hospital room. He clarified that Barsony is probably 6'4", 6'5" tall and approximately 275-280 pounds; a physically strong and in-shape individual. At this point on cross, Cozze was asked whether Barsony was restraining him when he allegedly lunged for his weapon. For the first time, Cozze says Barsony was no longer restraining Radecky. Then he said, "he did not believe so because he lunged forward, and I stopped him." He also admitted on cross that he never announced that Radecky lunged for his weapon at the scene. He also admitted that Barsony and the Chief were right there when Radecky allegedly lunged for his weapon.

Cozze testified that at one-point Radecky's wife, Wendy Parcell ("Wendy" or "Parcell"), arrived at the hospital. Cozze opined that she did not want to go into the room at first, as she was concerned about the ice cream shop that she and Radecky were opening in the near future. Specifically on cross-examination when asked why he was in the room with Radecky and not his wife, he said "she was sitting outside on the sidewalk with her back against the wall texting on her phone." This version of events was corroborated by Chief Robb and others.

Next, Cozze continued that after the hospital, in the early morning hours of April 18th, 2021 on the Chief's verbal order he went with him to Radecky's house to retrieve any and all weapons he had stored there, which was in the interest of safety. Radecky's wife, Wendy helped show Cozze and Chief Robb where Radecky stored the weapons in their home. Cozze identified J-18 as the list of many firearms retrieved from Radecky's home. He also noted that Ms. Parcell was aware of all the safes in the house and thus where the guns were located. On cross-examination there were a lot of questions regarding the written order which was not served until the following day on April 19th, 2021. Cozze did not dispute that he followed a verbal order of his superior Chief Robb to retrieve the weapons for obvious safety concerns given the mental state of Radecky at the time the Chief ordered the retrieval of all his weapons.

Cozze opined, as most of the officers did, that the events of April 17 and 18 of 2021 were different than a normal crisis situation, as this involved a "close friend", another officer on the force. As such, he admitted he treated the situation differently than he may have under normal circumstances. He continued in pertinent part: "He's someone that I share an office with. He's someone that I count on to watch my back and I watch his. Someone that I know as family. Someone that I've known for years. It was an emotional connection that you don't have with the general public. You have compassion for the public, but not the same connection."

Upon my questioning, Cozze characterized his call from the Chief to arrive at the hospital as a "dire" situation because it was 2 o'clock in the morning and he was off-duty. He maintained that Chief Robb did not say why exactly he had to respond. When I pressed him on why he did not ask follow up questions about if someone was dead, hurt, or further details, he claimed he asked zero questions and no details were offered by the Chief. He said he instinctively went to the side entrance, again, not because of any details by the Chief but because it was 2 o'clock in the morning. He also noted in response to my questions, that he believes he did not author a report because he knew that the WCPO would be doing an IA ("Internal Affairs") investigation "at some point". He also revealed that there was some tension between him and Ms. Parcell. For example, when Cozze questioned why she was not in the room with her husband, he said she was too concerned

with the opening in the very near future of an ice cream shop. He claimed that her response, after she was texting "a bunch" was ... "I can't believe you're here, he doesn't trust you, blah, blah, blah". Cozze continued that regardless of whether he likes him, he thought that it was more important to be with her husband. Upon further questioning, he admitted that he normally would write a report about a situation like this, and he never revealed that it was the Chief that said not to. As with Hill, I learned later in the hearing that it was the Chief who ordered no reports be written. As a result, this rehabilitated Cozze's credibility somewhat. The lack of a report, would otherwise be very curious to me with regard to this on-duty officer responding to this crisis situation. It is clear that this was the Chief's decision, as he later testified, he ordered no reports be written, and thus I so **FIND**.

I also believe that Cozze had Radecky's best interest with regard to getting him help. However, Cozze's testimony regarding the lunging of his gun is not believable to me. Perhaps observing Radecky in his drunken state he mistakenly thought that perhaps Radecky was trying to grab his gun, but with the strength and close proximity of the large and strong Barsony and the Chief I **FIND** his testimony regarding this part to be much less credible; in fact, it does not make sense and thus I so **FIND**.

Overall, I **FIND** Cozze to be less than entirely credible as I did not believe that he had no idea why he was going to the hospital. Especially because he believed a 2 a.m. call to the hospital would be "dire". If that were the case, I am not sure why he went to the headquarters to get the car. Conversely, I do understand why he got in uniform. I did not believe that version which is also espoused by Chief Robb. However, I do believe that he and Chief Robb recovered his home arsenal including a 12-gauge shot gun after the incident on April 18th 2021 as that testimony is corroborated by Chief Robb, Radecky, Radecky's wife and the documentary evidence. I also believe that Cozze cared about Radecky. I also believe that he knew Barsony was trying to deescalate the situation. I **FIND** his credibility was hurt by his having to weigh his duty to his commanding officer who specifically ordered him not to write a report and his normal operating procedures. There is no video footage for me to look at to see if any of what Cozze said was true. What I do **FIND** as **FACT** is that he responded to the scene, saw a very drunk and distraught Radecky, helped get him into the hospital room with a caring and strong

Barsony where he found Radecky's weapon, spoke with Ms. Parcell and then responded to Radecky's home on a verbal order from the Chief and with the Chief as Ms. Parcell walked them through the home to make sure all of the weapons were retrieved including the 12-gauge shotgun which is the subject of a violation of the other FNDA (J4).

Det. Sgt. Ryan Barsony's Trial Testimony regarding the Bachelor Party:

Det. Sgt. Ryan Barsony ("Barsony") has been employed with the PTPD for twenty (20) years. Barsony attended the bachelor party on April 17, 2021, along with fellow PTPD officers: Ptl. Webb, Ptl. Vergalito, Sgt. Radecky, Ptl. McGuinness, Det. Wojcik, Ptl. Doehler, Ptl. Nauta and Lopatcong Officer Tyler Plesnarski. He testified as Hill did that they met at the Phillipsburg Mall parking lot and took a party bus to Top Golf. He noted that people brought their own drinks, and everyone was drinking on the bus to Top Golf. After Top Golf, the bus returned to the Phillipsburg Mall and a group of them went to Easton, Pennsylvania to a bar/club in Center Square. Barsony drove a few officers to the bars but Radecky did not go with him. However, Radecky did go to the bars in Easton.

After leaving the bars in Easton, Barsony returned to the Phillipsburg Mall parking lot. As he was getting ready to leave, he saw Radecky and Hill on the ground. He stopped his car and got out because he was concerned that Radecky may have been hurt as Radecky was motionless. Barsony approached Radecky, who then started to say, "don't fuck me over" over and over again, which Barsony believed was in reference to an internal affairs investigation he was doing regarding Radecky. Radecky was emotional and Barsony helped him to his feet, at which time Radecky started crying, became more emotional, and repeatedly said to "do him [Radecky] a favor and put a bullet in his head, please kill me, I'm so tired..." Barsony testified that Radecky was very emotional, was crying, and became limp, so he helped guide Radecky back to the ground. Barsony was trying to comfort Radecky but also was not sure what he would do so he held him against the ground – all while Radecky kept saying to put a bullet in his head becoming more emotional. Barsony then told Ptl. Doehler and/or Ptl. Hill to call Chief Robb because he was working that night.

Barsony testified credibly and empathetically as he continued to explain the chaotic scene in the parking lot. He stated:

As he was on the ground he was lying on his back. I was trying to comfort him. I didn't know what his intentions were or where this was all coming from to be totally honest so I kind of just--- I had my knees on the ground on each side of his body and I had both of my arms under his arms with my hands basically like petting his head and trying to calm him down. He was up and down for a little bit. He'd get upset, then he was okay, not okay, but not as emotional, but still just said I'm tired, just do me a favor, Ryan, just put a bullet in my head, kill me now. I'm like Matt, relax, everything--- like everything is going to be okay, what's going on and he wasn't physically trying to get away or fight or resist, it was just in my---at that moment in my mind I'm like he needs to be comforted to let him know that everything is okay.

Barsony continued on Direct that he believed the reason he said "don't fuck me over" is because there was an IA investigation open for Radecky by the PTPD and he was the IA officer in charge of the investigation. Barsony said the only one on duty that night was the Chief and "[a]gain, I knew he was working. At some point he would be notified of the situation anyway, so I asked them to call him."

Chief Robb then arrived, and they decided to take Radecky to the St. Luke's Hospital, Warren Campus. Barsony and Hill helped get Radecky into the Chief's car and rode to the hospital with him, with each one on either side of Radecky in the back seat. When they arrived at the hospital, Cozze pulled up at some point, who grabbed masks from his car. Barsony testified that he didn't want Radecky to get hurt, or feel like he was being left alone, so he stayed with him and kept his arms around him. They then went into the hospital and got Radecky to his room, all the while Radecky kept saying to "put a bullet in his head" – "kill me now". In the hospital room, Barsony stayed up by Radecky's head, trying to comfort him and let him know that everything was going to be okay. It is clear that Barsony was concerned about Radecky as a friend, not just a co-worker. He was credible, compassionate, careful, sought to deescalate a crisis situation and called Chief Robb as they truly needed help. I do not believe Barsony did this to hurt Radecky,

I **FIND** his testimony to be highly credible in that he assessed the situation, his testimony lines up with Hill's regarding the parking lot, Radecky's mental state and level of intoxication. It is clear, and thus I **FIND** that Barsony was looking to help him, keep him safe and get him further help that could not be administered in the parking lot and that none of his actions were affected by his ongoing IA investigation. I **FIND** calling the Chief was his best course of action and I **FIND** that his credibility is similarly not affected by the lack of report since that was ordered by his superior Chief Robb. I gave Barsony's emotional, straightforward, honest testimony enormous weight as he was truly concerned about his friend who was sitting only feet away from him. He was giving him eye contact and showed true compassion in a potentially embarrassing and emotionally fraught situation involving his friend's livelihood. Additionally, I **FIND** that Barsony was hands-on with Radecky the entire time and I believe him when he says that he did not see him lunge at Cozze's gun. In fact, I am sure that would not even be possible given the size difference between Barsony and Radecky. As such I **FIND** his testimony to be straightforward, empathetic, and carried a lot of weight as he was direct, honest and thus highly credible. He testified while having to face his boss in court, as well as admitting the truth even when this could have put him in a negative light. He was honest in the face of all of that, as such I gave him testimony enormous weight., and thus I so **FIND**.

Chief Scott Robb's Testimony as to the April 17, 18 Bachelor Party Incident

Chief Robb has been with the PTPD for twenty-two (22) years and has served as Chief of Police for since 2017. Chief Robb testified that on in the early morning hours of April 18th, about 1 or 2 a.m. that he needed to respond to the mall after receiving a phone call and responded within a few minutes. He testified that he was on-duty as most of the force was at the bachelor party in question.

Chief Robb testified that he ordered Tinsman, the only other officer schedule to be on-duty that night, not to respond to the mall. Chief Robb testified that after he got out of his vehicle, he immediately heard Radecky say that he wanted someone to shoot him. Chief Robb testified that he believed Barsony had the situation under control and was attempting to deescalate the situation.

Chief Robb testified that he was aware that prior to April 17, 2021, Radecky was dealing with a lot with his son's mental health and financial and marital issues which is why he sent him for the Fitness for Duty Exam and a follow up where he was cleared for duty as noted throughout. On the night of the incident, after putting him in his car, Chief Robb testified that Radecky was still asking for someone to put a "bullet in his head." Chief Robb testified that at some point he called Cozze and without providing him details, he ordered him to appear at the hospital. Chief Robb testified that he did not tell Tinsman why he needed him to go to Cozze's house.

Chief Robb testified that he arrived at the hospital with Radecky before Cozze arrived. He explained that he did not immediately take Radecky to the hospital because he was still emotional. Along with Cozze, Chief Robb is the only person who believes Radecky lunged for Cozze's firearm.

Chief Robb testified that he did not speak with Radecky's wife Wendy Parcell until after Radecky was admitted to the hospital. The next day Chief Robb spoke with Dr. Lewis Schlosser from the Institute of Forensic Psychology. Based on Chief Robb's account, Dr. Schlosser found on April 18, 2022 Radecky unfit for duty based upon the night's events. Chief Robb testified he then responded to Radecky's house to confiscate his weapons.

Chief Robb testified that due to the involvement of two of his Sergeants, he referred the matter to Warren County Prosecutor's Office ("WCPO"). Chief Robb testified that he referred the matter to the WCPO the night of the incident. The WCPO substantiated the allegations against Radecky and referred the matter back to the PTPD for the determination of the disciplinary action. Chief Robb testified that the charges in the April 5, 2022 FNDA "the bachelor party incident" (Exhibit J-3) relate to the allegations sustained by the WCPO.

On cross-examination, Chief Robb testified as noted above that he worked the night shift so that the others could attend the bachelor party. He continued that Hill called him on his cell phone directly, consistent with what Hill and Barsony testified. He claimed that he wanted to assess the situation with Radecky at the mall before calling for an

ambulance if needed. He testified that when he first arrived at the mall parking lot, he did also see Barsony lying on top of Radecky. He also heard Radecky saying to Barsony "someone kill me". Upon hearing that the Chief immediately noted this was a crisis situation.

During cross examination, Chief Robb testified that when it was determined that Radecky was going to be taken to the hospital, he called Cozze to meet them there. During both his direct and cross examination, Chief Robb testified that he did not brief Cozze about the situation but instead ordered him to immediately respond to the hospital.

Chief Robb testified that although Cozze was acting in a law enforcement capacity, and Robb admitted he did not want this incident to be properly documented, in short that he did not want anyone to write a report. On cross examination, he admitted that due to the fact that his Sergeant was in a crisis situation he agreed to the characterization that he wanted to keep it "under wraps".

Chief Robb testified that he stayed out of Radecky's hospital room because of triggers likely due to the on-going IA investigation regarding the charges in J4, but was in the parking lot with him and others for almost an hour before taking him to the hospital. I believe him when he said he thought Barsony was helping Radecky and possibly getting him under control.

Chief Robb testified that he directed the WCPO to investigate the entire incident but that he did direct the WCPO to investigate Radecky as he was the individual who was intoxicated and armed and in a crisis situation. As this was all admitted by Chief Robb, I **FIND** his testimony with why he singled Radecky out for the WCPO investigation to be credible based upon a totality of the circumstances as outlined above. Specifically, the ongoing IA, his previous FFDs being completed merely a month earlier and him being cleared to work albeit while still attending counseling. Counsel for Radecky has an understandable concern that they were all drinking and "perhaps" there was another armed officer, so Radecky was singled out. However, I **FIND** this allegation lacks merit as this was the only officer who was three times over the legal limit, suicidal, had just been cleared for duty the month prior for mental health issues. In addition, as will be

shown below as corroborated by the documentary evidence by the WCPO, Radecky was the only officer whose weapon was taken off him at the bar and for which he retrieved and then continued to drink. He is the only officer who was in such a crisis that he needed to be hospitalized. While I do not think the investigation was not handled exactly as the SOPs would require, that issue is not before me. What is before me is whether Chief Robb's account is credible as to the issues above. I **FIND** that his testimony overall was credible and corroborated by the other witnesses as well as Radecky's own admissions about his mental state and intoxication. However, I do not believe that he saw Radecky lunge for Cozze's gun. Again, if that were a charge he wanted lodged against Radecky, he could have had contemporaneous reports written by him and/or Cozze. Furthermore, Barsony testified clearly and repeatedly that he had Radecky in hand and was trying to deescalate and protect him throughout. I **FIND** that Chief Robb's testimony regarding the lunging for Cozze's gun simply not believable and likely impossible given Radecky's level of despair, intoxication and Barsony's strength and protection.

Michael Tampier's Testimony as to the April 17, 18 Bachelor Party Incident

Michael Tampier ("Tampier") worked for dispatch for Warren County Communications ("WCC") for approximately the last ten (10) years. He testified forthrightly that he got a call from Officer Dohler from the parking lot at the mall requesting an ambulance. Dohler called on his cell phone to WCC and Tampier confirmed that there is a dedicated line for the local police departments including PTPD. As this involved an officer and a sensitive situation, he called and spoke to the Chief on the phone who told him to "hold off" on calling the ambulance. He did this as part of his training and pursuant to his experience on the job. This version of events is largely undisputed and Tampier while nervous, was forthcoming and direct and thus I **FIND** it as **FACT**.

Lt. Derek Kries Testimony regarding the April 17, 18 Bachelor Party Incident

Lieutenant Derek Kries "Kries" is employed by the Warren County Prosecutor's Office for the last eighteen (18) years and conducted an internal affairs investigation regarding Sgt. Radecky's conduct on April 17/18, 2021. (J-13). At the time of his

testimony Kries was the Lieutenant who supervised the Special Victim's Unit ("SVU"), the Internal Affairs Unit and was the polygraph examiner for the WCPO. His training and experience included "training the trainers" in IA since 2011 and he had tutelage for his training under previous supervisors with his current level of experience in IA. Since 2011, he had conducted approximate a dozen IA investigations directly and assisted on about another dozen.

This IA investigation was assigned to him by his then Chief Trogan and then the current Chief Devlin. To determine if Radecky violated administrative policies of the PPTD Rules and Regulations. Kries testified forthrightly that he was assigned to an incident where Radecky was highly-intoxicated, taken to a hospital, had his duty weapon on him at the time and was possibly suicidal. He learned that the wife noted that "he would be dead if he lost his job."

During the course of the investigation the WCPO applied for a Temporary Extreme Risk Protective Order ("TERPO") on or about August 12, 2021 because as of the time of the FFDE, there was zero protection other than Chief Robb's direct order from April 18, 2021 (the day at the Bachelor Party Incident) "which didn't hold any legal weight" by the WCPO's estimation to prevent Radecky from possessing firearms at that point in time. He stated in pertinent part: "to my knowledge, he still had his firearms identification card. And we did not know the outcome of what that September 9, 2021 FFD with Dr. Schlosser was going to essentially going to come out." And if that was not favorable, Kries testified that he could still be suicidal and the only way to prevent the possession of firearms was to issue a TERPO.

During his investigation, Kries interviewed officers who attended the bachelor party and who were present at the Phillipsburg Mall and hospital. After his investigation, Kries determined that Radecky had violated the Article II, Section D, Part 5 of the Pohatcong Police Department SOP (Firearms) based on the fact that he was in possession of his firearm while consuming or under the influence of alcohol. This was because Officer Tyler Plesnarki had stated in his interview that Radecky had his firearm with him when they went to the bars in Easton and that he had a firearm in his pocket at the hospital.

Kries also concluded that Radecky had violated Standard Operating Procedures (Rule and Regulations), conduct unbecoming a police officer based on Radecky's overall conduct that night. Kries stated in his report and testified in kind "this conduct includes but is not limited to, 'unlawful, disorderly, immoral, deceitful, dishonest or unethical conduct by a police officer that adversely affects the moral efficacy or good order of the police department or damages his reputation of the officer or the department.'" (J-13) He noted that his intoxication, which he learned was three (3) times over the legal limit, the need to go to the hospital, having to be restrained while shouting suicidal comments and violating the firearms police amounted to conduct unbecoming: I agree and thus I so **FIND.**

In addition, Kries cited the SOP that "off-duty employees will not consume alcoholic beverages to the extent it results in inappropriate offensive behavior tending to discredit themselves or department." He elaborated that the amount of alcohol he consumed and having to be transported to the hospital to be treated amount to the violation of SOP Article II Section D, part 5. Kries concluded that Radecky violated the Rules and Regulations regarding alcoholic beverages for inappropriate behavior and being under the influence while in uniform. (J-13). This was because his off-duty weapon is considered part of the uniform. He recounted that Radecky had to place his weapon in Plesnarski's vehicle that night because he could not take his gun into the establishment. Then Cozze confirms that that same duty weapon was found on him in the hospital. Kries confirmed that Chief Robb wanted the incident and specifically Radecky's conduct on the night of April 17 into the morning of April 18, 2021 to be investigated for the reasons he outlines above.

Kries testified that as a result of the April 17, 2021 incident, WCPO applied for a Temporary Extreme Risk Protective Order ("TERPO") after discussions with Chief Robb, Two Assistant Prosecutors assigned to these matters and his Chief of Detectives at the WCPO. As such, this was eventually ordered by Municipal Court Judge Mellinger. Kries noted that once the emergency was over (the suicidal piece) Radecky was eventually cleared to work by Dr. Schlosser after the in-patient treatment, as such the WCPO did not seek a permanent Order to confiscate his guns. That decision was made with his administration and the Assistant Prosecutors who based it upon the medical evaluation.

He emphasized that this was not his sole decision to make and he did not disagree with it. Kries testified steadfastly and dispassionately that the investigation was as to Radecky only because of the suicidal threats and the facts that he was drunk, armed and had to be hospitalized. Kries was highly credible, not a member of the PTPD and thus had no vested interest in pleasing the department itself, his report is entirely consistent with all of the credible trial testimony and documentary evidence in this case, as such I gave his testimony enormous weight, and thus I so **FIND**.

To that end, Kries admitted plainly that the WCPO did not investigate the other officers to determine if their conduct violated any Township policies which added to his credibility and thus, I so **FIND**. This admission only adds to his credibility as he did not hedge or apologize for this as he gave a full explanation about why this investigation was asked for and conducted largely for the temporary emergency with Radecky, and thus I so **FIND**.

Francis Doehler's Testimony regarding the April 17, 18 Bachelor Party Incident

Officer Doehler ("Doehler") attended the bachelor party on April 17, 2021. Doehler remembers that the plan was to meet at the parking lot of the Phillipsburg mall and then the group was going to take a bus to a "putting range." Doehler testified the group was drinking on the bus while traveling to Top Golf and he remembers interacting with Radecky while the group was at Top Golf but does not remember if Radecky was carrying his off-duty weapon.

After returning to the mall parking lot, Doehler recalled that the group went to the Brass Rail and then went to the bars in Easton, Pennsylvania and remembers going to back to mall before going home. While waiting for an Uber, Doehler testified that Barsony and Radecky were face to face but then eventually ended up on the ground. Doehler testified that Barsony wanted him to contact dispatch before contacting Chief Robb.

Clifford Tinsman's Testimony regarding the April 17, 18 Bachelor Party Incident

Officer Tinsman ("Tinsman") was working patrol for the Township the night of April 17, 2021. Tinsman testified that Chief Robb was also working patrol with him the night of April 17, 2021. Tinsman testified that at one point he received a radio transmission for either he or Chief Robb to contact dispatch. Tinsman testified that at some point Chief Robb ordered him to go and wake up Cozze. After doing so, Tinsman returned to his patrol duties by himself for the rest of the evening/shift. He testified directly, professionally and dispassionately. His testimony is also corroborated by all of the relevant witnesses and the WCPO investigation, as such I **FIND** it as **FACT**.

Tyler Plesnarski's Testimony regarding the Bachelor Party

Officer Tyler Plesnarski ("Plesnarski") works as a patrolman for Lopatcong Township. Plesnarski testified that he attended Officer Vergalito's bachelor party on April 17, 2021. After getting back from Top Golf, he drove himself, Doehler, and Radecky to the Brass Rail. After leaving the Brass Rail, Plesnarski testified that he drove Radecky and Doehler to the Standard in Easton.

After leaving the Standard, Plesnarski testified that he went back to the mall because he still had Radecky's belongings that included a pocketknife and handgun. Plesnarski testified that before Radecky went into the Standard, Radecky secured the handgun in Plesnarski's vehicle which was stored and secured in a lock box. Plesnarski testified that he did not see Radecky with the weapon at any other point during the night.

Upon arriving back to the mall, Plesnarski returned Radecky's handgun and pocketknife to who he initially thought was Barsony. Upon answering some of my questions, he was not sure if he gave it to Barsony or to Radecky. Given his direct testimony and the fact that he was also drinking that night, I did not think this discrepancy affected his version of facts regarding the gun. As such, I found him to be credible and **FIND** his testimony as **FACT**.

Wendy Parcell's Testimony regarding the Bachelor Party

Wendy Parcell met Radecky in 2015 while she was working for Warren County Communications. Parcell testified that she married Sergeant Radecky in 2019. She recalled that Radecky was sent for a Fitness for Duty Examination ("FFDE" or "FFD") in early March of 2021 and believed quite rightly that the order for the FFDE was related to troubles Radecky had concerning his son A.R. Parcell remembers having to ask Radecky to leave his shift on two (2) separate occasions because of mental health issues A.R. was having. Parcell believed that the FFDE order was because Radecky either had to leave work or take off from work because of his son's medical appointments, not necessarily the toll it was taking on his own mental health.

Parcell testified that although Radecky eventually passed his FFDE, Radecky believed that Chief Robb was targeting him and wanted to get rid of him.

Parcell testified that on April 17, 2021 she knew Radecky was attending a bachelor party for a fellow officer. Parcell testified that Radecky called her when the group returned from Top Golf and that she received the phone call between 9:30PM and 10PM. Parcell remembers that Radecky told her that the group was going to grab dinner at the Brass Rail. She testified that the next person she spoke with that night was Chief Robb at around 3 a.m.

She testified that Chief Robb told her about the incident during the phone call. When she arrived at the hospital, Parcell testified that Barsony first approached her, and she immediately could smell the alcohol. Parcell testified that the nurse at the hospital told her that her husband had been sedated. Parcell testified that Cozze was standing in Radecky's hospital room and was wearing his full uniform and was also carrying his service weapon.

After leaving Radecky's room, Parcell testified that she went outside to speak with Chief Robb to address him because she fully believed he was responsible for what happened to Sergeant Radecky that night.

He -- I told him that it was his fault that everything has happened and that he put a target on my husband's back and

it was his fault. And he said, "How is this my fault?" and I said, "Well, because those bullshit write-ups from -- from before" and he said -- I remember him saying, "I wasn't going to do anything with those write-ups" and I said, "What do you mean?" like -- he's like, "It was just -- I just wanted to pull him into my office and -- and rip him a new one. I wasn't actually going to discipline him for them" and I said, "Well, how is he supposed to know that? Like what do you expect?" How is somebody supposed to know that you're not going to actually go through with the discipline? And he just -- he just kind of shrugged his shoulders and he said, "This isn't -- this isn't on me. This is on you" and I said, "How is this on me?" and he's like, "Because you put too much pressure on him by opening up that ice cream shop." And I said, "How -- I just started doing the shop, like how is this on me, like, you know, like. It wasn't something that's been years like. It has been like one month if that that I had even signed my lease for my -- for the shop. And I said "How is this on me? Like how can you blame me for this?" and he just -- and then we just stopped talking.

After asking Chief Robb what would happen next, Parcell testified that Chief Robb told her Radecky would not bounce back from this. Parcell obviously cares about her husband and was rightfully emotionally in obviously caring deeply about his son and his suicide attempts. She bought into the narrative, perhaps rightly about some of the charges from the J4 FNDA being motivated by a grudge of some sort. However, there was no love lost between Parcell and any member of the PTPD. In fact, there seemed to be a palpable dislike and mistrust that went both ways. She was especially suspicious of the motivations of Chief Robb and Cozze. Parcell is not impartial and has a lot riding on the outcome of this matter. To that end, I disagree with her characterization of Chief's Robb's unscrupulous motives as to launching the WCPO investigation of Radecky to the exclusion of the other officers for the Bachelor Party Incident, and thus I **FIND** her not to be credible in this regard. In addition, with regard to the IA at the PTPD and the Chief's order of the FFDE; I **FIND** that she is not credible in that regard either. Again, she has a lot riding on the outcome of this case and she had an obvious animus against Chief Robb and Cozze throughout their testimony and her own. However, as to her husband's mental state and his troubles with his son and her emotional and honest testimony about their unimaginable pain watching their struggles with Radecky's son, I **FIND** it as **FACT**.

Radecky's Testimony as to the April 17, 18 Bachelor Party Incident

Sergeant Radecky ("Radecky") was hired by the PTPD on April 1, 2007. Prior to beginning his career with the PTPD, Sergeant Radecky worked for the Warren County Sheriff's Office and the Warren County Correctional Facility. Initially, Radecky worked as a patrol officer before being appointed to the PTPD Detective Bureau in 2015 where he worked from 2015 through 2018 and is one of two (2) Sergeants in the entire department.

While working in the Detective Bureau, Radecky worked with Chief Robb. In October of 2018, Radecky was promoted to the rank of Sergeant. At the time of his promotion there were two (2) other Police Sergeants. As a Police Sergeant for the Township, Radecky was responsible for five (5) patrolmen. Because of the Covid-19 Pandemic Chief Robb and Radecky worked from home from March 2020 through March of 2021, which he claims candidly and credibly made communications more difficult, as this is largely uncontested, I **FIND** it as **FACT**.

When he did have the chance to speak with Chief Robb, Radecky testified that he spoke with Chief Robb about his son A.R.'s mental health issues. In February of 2021, Radecky testified that he had to leave work because his son had attempted suicide. Radecky testified that he had to respond to his son's crisis in the middle of his shift while he was informed by a friend that his son was cutting himself in his room. His wife Wendy was able to go up the room when Radecky told him what was going on and the tragic information was unfortunately accurate.

After his son's suicide attempt, Radecky testified that he spoke with Chief Robb about his current mental health state. Radecky testified that one day in March of 2021, he was ordered in on his day off and told that he needed to report for a FFDE. Radecky testified that he took five (5) sick days in the beginning of 2021 and that all five (5) sick days were due to his son's mental health issues. On the same day he was ordered to appear for the FFDE, Radecky testified that he received the March 11, 2021 order (J-10A) and was told he must comply with it and he correctly believed that if he did not

comply with the order he could be disciplined. As this is largely uncontested, I **FIND** it as **FACT**.

Radecky testified that on April 17, 2021, he met with a group at the Phillipsburg mall parking lot around 4 p.m. On the bus, Radecky testified that the officers were drinking and talking amongst themselves. Radecky testified that the group was at Top Golf between two and three hours. After Top Golf, the bus took them back to the mall parking lot.

Radecky testified that his initial plan was go directly home but then the group decided to grab dinner at a local restaurant called the Brass Rail. He testified that before leaving for Top Golf he locked his weapon in his car. As Radecky has the most to lose in this case, and it does not coincide with any of the other credible evidence in this case, I **CANNOT FIND** this as **FACT**. When the group came back to the parking lot, Radecky testified that he grabbed his badge and gun before leaving for the restaurant. Radecky testified that took the gun with him to the Brass Rail for security reasons. This part of Radecky's testimony is wholly incredible. He did not lock it in his car as no one else saw him take it out. By all accounts he was already intoxicated and it was not until the gun was taken off him at one of the bars that anyone learned that he had a weapon on him, as such I so **FIND**.

Radecky unconvincingly testified that he had no intention on drinking during the course of the night, as he came with a cooler full of hard alcohol to make the Old-Fashioneds. Radecky testified he that took his weapon to Brass Rail because he believed they were only grabbing food. Due to the kitchen being closed at the Brass Rail, the group decided to go the bars in Easton, Pennsylvania. Upon arriving at the bars, Radecky testified that he was going to remain outside because he was carrying his weapon. However, he was told he can secure the weapon in Plesnarski's truck. Again, this version does not hold water based upon the whole of the credible and logical testimony. Radecky was armed the entire time and when he arrived at the bar he was wanded and told to leave or surrender/secure his weapon, and thus I so **FIND**.

Radecky then secured his weapon in a lock box within Plesnarski's vehicle. While inside the bars, Radecky testified that he began to consume an unknown amount of alcohol. Radecky testified that he did not remember much of the remainder of the night because he was intoxicated. Radecky testified that he believes they were at the Standard between three and four hours. As these facts are largely uncontested, I **FIND** them as **FACT**.

Radecky testified emotionally about his son's mental health issues and how it affected him. His testimony moved me and the rest of the courtroom with angst and pain that was palpable. To that end, it coincides with Chief Robb's account of why the FFD was ordered in the first place, for his own safety and to make sure he was fit for the job which includes carrying a weapon. Radecky did not dispute any of the allegations about the bachelor party except for the part where he asked this court to believe that after the gun was taken from him at the bar in Easton, that he retrieved the gun from Plesnarski's car "for his safety". This is where he really lost credibility. Radecky testified and it is undisputed that he was one of the authors of the SOP regarding the inability for off-duty officers to be armed while drinking. In short, I **FIND** that his self interest in the outcome of this case and his clear knowledge of the SOP makes his story of taking the gun anywhere that night for anyone's safety wholly incredible.

Radecky testified that he does not remember how he got back to the mall parking lot. He does not remember if the other officers had their weapons on them during the course of the night. Radecky testified that the next thing he remembers from that night was waking up in the hospital and that when he woke up, Wendy told him that he tried to kill himself and that Chief Robb seized his weapons. After getting discharged from the hospital, Radecky went directly to an in-patient program at Penn Medicine in Princeton. Radecky testified that he went to the in-patient program as a requirement to return to work. Radecky testified that he remembers his wife informing him about the requirements in Chief Robb's April 19, 2021 order which included him relinquishing all weapons. (Exhibit J-10F). Although his wife told him about the order, Radecky not surprisingly does not remember receiving or signing a copy of the order as he was three times over the legal limit, and thus I so **FIND**.

With regard to the incident that occurred on April 17, 2021, there is no dispute that Radecky had some form of a mental break down as is characterized by his own attorney. Radecky received treatment and continues to receive treatment for the mental lapse that caused the incident on April 17, 2021. While there is no dispute that something happened on April 17, 2021.

As stipulated above, prior to the instant matters, appellant received only one (1) minor discipline during his entire tenure at the Pohatcong P.D. He is also only one (1) of two (2) Sergeants in the department. There are no Lieutenants and of course only (1) Chief. Radecky argues that the PTPD's investigation from the Bachelor Party Incident was targeted to have him terminated from his position. Based upon Radecky's testimony admitting most of the events from April 17th into 18th, I **FIND** this argument meritless as Radecky had little credibility with regard to the J3 FNDA charges. His testimony about not planning to drink was completely unbelievable as he brought his own cooler of his whiskey drinks. In addition, I **FIND** he was the only officer so drunk and in a crisis and armed. As such, I **FIND** Radecky's version of events of the Bachelor Party incident to be wholly unreliable.

The FNDA (J4) charges from the March 16, 17, 22, August 12, 2, 31 allegations

For the sake of clarity, this testimony will refer to the Charges individually. Please note that each of the six (6) charges for the dates in question all allege identical violations of N.J.A.C. 4A:2-2.3(a) 1) Failure to perform duties, 2) insubordination, 6) conduct unbecoming, 7) neglect of duty and 12) other sufficient cause.

Radecky, Robb and Barsony Testimony as to the March 16, 17, 22 and August allegations (FNDA J4)

Radecky again testified in his own defense. He testified as to each charge. In direct opposition to his testimony as to the J3 FNDA charges, I **FIND** his testimony as to most of these charges to be entirely credible with the exception of the Charge 4, where I **FIND** he did violate the Chief's order not to possess any firearms at the time they were

recovered by the WCPO as will be outlined below. His testimony as to Charges 1, 2, 3, 5 and 6 were only disputed by Chief Robb and Barsony. However, Barsony's testimony was very honest in that he did not have any IA investigative training and that most of his orders came from Chief Robb and that many of the relevant omissions alleged on Radecky's part were not followed up on by Barsony. He merely took Chief Robb's word for it in most cases, and thus I so **FIND**.

A. Failure to Report/ Charge 1 of FNDA J4

As to Charge 1, on March 16, 2021, Radecky was scheduled to work the 7:00 AM to 7:00 PM general assignment shift. He testified that Chief Robb allowed him to take personal time for the March 16th appointment. He testified that since he could not be armed and would be on desk duty to take the exam, he did not want his team (officers under his supervision) to learn of the FFD. Based on his text message conversation with the Chief, Radecky's understanding was that he could take personal or vacation time instead of being on desk duty. After completing the first portion of the FFD, Radecky did not report to work because he believed he could use his vacation time. Radecky testified that when he attempted to put his vacation day into the scheduling system, he was denied the use of a vacation day. See P-38.

Radecky further testified that no one from the Township contacted him to see where he was on March 16th after he completed the first part of the test. As a Sergeant, Radecky testified that the practice was to call an officer who failed to report for their shift. Radecky convincingly testified that people run late, the appointment was virtual and oftentimes if someone is running 10-15 minutes late, the sergeants or someone from the department would check to see if there is a reason they did not report. His testimony as to everything above was entirely credible and I **FIND** it as **FACT** that he did not fail to report to work as alleged in Count 1 of FNDA J3. This part did appear to be setting him up for failure even though Chief Robb knew that Radecky was in a bad way, so much so that he needed and complied with taking the FFD exam. Chief Robb admitted that "the practice" was not a rule and his testimony did not overcome Radecky's clear credible testimony that he believed he could use his vacation time as he had done in the past.

B. Failure to Provide a Sick Note/Charge 2 of FNDA J4

After his vacation was denied, Radecky testified that he texted Robb and told him that he would be out sick the next day because he had to take care of his son. Although he was taking a sick day, Radecky testified convincingly that he was still prepared to attend the second portion of his FFDE. Radecky testified that he never told Robb to cancel the test. Chief Robb later admitted he never told Radecky that he was cancelling the test.

When he was scheduled to appear for the test, Robb cancelled it without telling Radecky. In fact, Radecky testified credibly and directly that he did not find out that the exam was cancelled until Dr. Schlosser, the Forensic Psychiatrist did not come on-line. In fact, Radecky called Dr. Schlosser's office to make sure that he did not do anything wrong and that's when Olivia, his contact at Dr. Schlosser's office informed him that the Chief had called and cancelled it. I believe Radecky wholeheartedly when he said that Chief Robb never texted him to say as much, in fact, Chief Robb admitted that when he testified in the case.

Radecky continued solidly on the stand that after calling out sick, Robb asked Radecky to provide an explanation as to why he could not attend the test. Although he provided Robb with two doctors' notes Radecky testified he did not provide a further explanation because he was able to attend the evaluation. I **FIND** that Radecky was truthful in this testimony and that lines were getting crossed by no fault of his own or because he was under a microscope later on in the year after he was involved in the bachelor party incident wherein, he admitted to using poor judgment and ultimately bringing a lot of attention to the PTPD. To that end, I **FIND** that Chief Robb should have told Radecky he was cancelling the second part of the test. As such, I **FIND** this charge unsustainable as well.

Charge 3 of FNDA J4- Failure to cover an open shift.

On March 22, 2021, Radecky was scheduled to work 11AM-9PM. While he was awaiting the results of his FFDE, Radecky was assigned to desk duty since he could not carry his weapon until he was cleared to do so. On March 22, 2021, Radecky testified, and it is undisputed that he initially reported work at 11a.m. and then went to take the FFDE at 2PM. After completing the examination, Radecky believes he returned to work between 430PM and 5PM.

From 5PM-9PM, Radecky testified convincingly that if he was not assigned to desk duty, he would have been working patrol with Officer Vergalito. Radecky testified that Chief Robb worked on March 22, 2021 from 7AM-5PM. Radecky testified that Vergalito was the only officer working patrol from 5PM-9PM. Radecky testified that there is no policy that requires two officers to be on patrol at all times and none was presented to me at hearing. In fact, Radecky testified that everyone has worked patrol by themselves at some point. Radecky testified that there is consistently a one-to-two hour gap in schedules which would require an officer to work patrol alone. Radecky testified that the gaps are even longer when officers are out sick or on vacation. In short, the testimony and documentary evidence show that there are "gaps" in coverage regularly since the PTPD was adjusting work schedules as Robb discussed in detail during his testimony. Chief Robb admitted there was no actual SOP or rule but that it was a "practice" and that gaps did happen.

As Radecky testified directly and credibly in this regard and it was corroborated by others' testimony including Barsony and Robb, I **FIND** it as **FACT**, that he did not violate this unwritten and oftentimes unfollowed "suggested" policy.

Charge No. 4- Violation of Chief Robb's April 19th Order

On August 12, 2021, the Warren County Prosecutor's Office ("WCPO") obtained a Temporary Extreme Risk Protection Order (TERPO) against Radecky. (J-10). The TERPO provided for the search and seizure of any firearms located at Radecky's residence, as well as his New Jersey Firearms Identification Card. (J-10). The TERPO was related to an incident involving Radecky that occurred in April 2021, the Bachelor

Party Incident. (J-10). On April 19, 2021, the day after the incident Chief Robb rightly issued an Order to Radecky ordering him to undergo a separate FFDE. (J-10F). Robb's April 19, 2021 Order also contained restrictions, including revoking Radecky's right to carry a weapon off duty and requiring him "to turn over all weapons and firearms including personal owned which includes any imitation firearms within your household." (J-10F). After the April 17, 2021 incident, Robb and Cozze went to Radecky's residence, emptied his safe of all weapons and took a nightstand that contained an additional firearm. All of the firearms were taken to the Pohatcong Police Department where there were logged. As this is supported by the overall credible testimony of the witnesses and the documentary evidence, I **FIND** it as **FACT**.

After being discharged from in-patient, Radecky testified it was his understanding that all of his weapons had already been removed from his house. Radecky testified that he owns twenty-five different weapons and has five separate locations in his house to secure his weapons. Radecky testified that he can store between four and five rifles or a shotgun in the safe in his basement. When he returned home from the in-patient program, Radecky claims he did not confirm that all the weapons were removed from his house as it was not the first thing on his mind. This part of Radecky's testimony was not believable, and thus I so **FIND**. To clarify, while I do believe it was not the first thing on his mind to check his safes, I **FIND** that his wife informed him that the safes were entirely cleared out and he should have known by August 12, 2021 (months after he was issued the order in question) whether there were any guns in his possession.

After the TERPO was issued on August 12, 2021, Detectives from the WCPO went to Radecky's residence to serve the TERPO. The Detectives searched the residence and recovered a 12-gauge shotgun located inside of the safe at Radecky's home. Radecky's possession of the 12-gauge shotgun violated Robb's April 18, 2021 Order. (See J-13-15).

Robb testified that the April 19, 2022 Order was provided to Radecky while he was still at the hospital. Robb provided Radecky's friend, Anthony Gadel, two copies of the Order to bring into Radecky. A copy that was signed by Radecky was returned signed to the Chief. According to Chief Robb, Radecky complied with all portions of his Order,

except the restriction relating to weapons in his possession. Radecky never asked the Chief any questions pertaining to the contents or requirements that were imposed in the Order. This retrieval of weapons was done by the WCPO in response to a TERPO that they issued on their own accord with the help of Assistant Prosecutor's and eventually approved by a Judge. Radecky's story about one shot-gun being accidentally left strains credulity, as such I **FIND** his possession of the 12-gauge shotgun and his firearms card after Chief Robb's April 19th, 2021st order was in direct violation of said order. As such I **FIND** this charge is sustained as other sufficient cause as defined above and charged in the specifications of J4.

Charge 5/ J4 FNDA Failure to Provide Weekly Treatment Notes.

After completing the in-patient program, Radecky testified that Chief Robb was going to schedule another FFDE. Although he was cleared to work following the FFDE, WCPO still applied for and served a TERPO as Lt. Kries testified, based upon the Bachelor Party Incident. After being served with the TERPO, Radecky was immediately suspended without pay from Township. As part of his requirements, Radecky needed to provide Chief Robb with a weekly doctor's note. Radecky testified that he did not tell Chief Robb about his cancelled appointment until August 27, 2021. Radecky believed the note he provided to Robb should have been a sufficient explanation.

Cause the -- the stipulations were that it had to be in a letter format from my individual therapist and I didn't have a letter. So I -- I didn't -- I was going to be in violation of the order anyway because I didn't see my doctor. So honestly, it didn't -- it wasn't -- I thought I was -- I thought I was doing the ri -- I thought I was doing well. I got my letter the next time. I thought that that would be sufficient.

I believed Radecky when he testified as to this and I believe that Chief Robb's testimony requiring more given that the therapist was the one to cancel and Radecky was entirely compliant up until the doctor's cancellation; I **FIND** Radecky attempted to comply with this order and thus this charge is similarly not sustained.

A. Charge 6, J4 FNDA Failure to Appear for Internal Affairs

Interview

Sergeant Radecky testified that he was never directly contacted by the WCPO about appearing for an interview. Further, Radecky never spoke with Chief Robb about the interview with WCPO. Radecky testified that no one from WCPO appeared at the Township on the date of his other interviews. Radecky testified that he did not receive orders from Robb to appear for the interview with WCPO. Kries testified that he was in coordination with the Chief to schedule Radecky's WCPO IA interview. He also admitted on cross examination that Radecky's attorney Cioffi explained why he advised him NOT to attend same as there was an on-going Internal Affairs investigation (eventually this one listed in FNDA J4) in keeping with Attorney General Guidelines. As such, I **FIND** as Radecky testified credibly in this regard and Kris corroborated same that this charge is similarly not sustained. See Appellant's Exhibit J-10 N-P.

B. Factual Discussion-Credibility

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958).

Due to the somewhat inconsistent testimony presented by the Department's witnesses and Radecky, the resolution of the charges against Radecky requires that I make credibility determinations with regard to the critical facts. The choice of accepting or rejecting the witnesses' testimony rests with the finder of facts. Freud v. Davis, 64 N.J. Super. 242, 246 (App. Div. 1960). In addition, for testimony to be believed, it must not only come from the mouth of a credible witness, but it also must be credible in itself. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 60 N.J. 546

(1974); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witness's story in light of its rationality, internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). A factfinder "is free to weigh the evidence and to reject the testimony of a witness even though not contradicted when it is contrary to circumstances given in evidence or contains inherent improbabilities or contradictions which alone or in connection with other circumstances in evidence excite suspicion as to its truth." In re Perrone, 5 N.J. 514, 521-22 (1950); see D'Amato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997).

Having had an opportunity to observe the demeanor of the witnesses and the lack of any reports, police cameras or contemporaneous statements, and their own self-interest, it is my view that no one in the department was 100% credible. However, their testimony was clear, with regard to the genesis of the FFD being Radecky's situational depression regarding his son's suicide attempt and ongoing stressful divorce and financial difficulties overall which caused issues with his second wife. To that end, as to the J4 FNDA, I **FIND** that only a violation of Charge Number 4 has been proved as Radecky clearly possessed the shotgun months after the Chief and Cozze cleared out all of his guns and gun safes. When the WCPO sought a TERPO after the bachelor party incident and his crisis, there was no reason for anyone to plant evidence. The WCPO came without notice and came as an independent entity. Conversely, I **FIND** that the version of events as to the remaining charges found at J4 were **NOT** proved by a preponderance of the evidence at the hearing or with any documentation.

Their testimony regarding the Bachelor Party Incident (outlined in FNDA J3) was slightly clearer albeit full of many intoxicated witnesses. It was intentionally not memorialized at all to as the Chief testified "protect our own" as a pattern and practice as well as to follow orders. However, it was investigated by the WCPO as to Radecky. I acknowledge but reject Appellant's argument that I should discount the WCPO investigation because the other officers were not charged. Radecky was clearly charged because not only did he have the gun on him even after it was confiscated and safely in officer Plesnarski's car, he was three (3) times over the legal limit for intoxication and was saying to multiple people, to "please just put a bullet in my head". It was clear even from

the officers that were partying, that his safety was their main concern. Barsony was extremely credible and convinced me that he was trying to help his friend, and even though there was an Internal Affairs Investigation ongoing that he was conducting, he had to go up the chain of command to ask the ranking officer on duty, Chief Robb, to come to the scene. I do believe Barsony's testimony coupled with Hill who were both clearly friends of Radecky and obviously concerned that he needed help and ultimately medical care. As such, I **FIND** the Department's witnesses as to the April 17 bachelor party incident was full of admittedly intoxicated off-duty officers, however, their stories line up with each other with regard to the major events. Hill was also drunk, and I do believe he acted in his friend Radecky's best interest by taking his keys to prevent him from driving or hurting himself. Barsony may have been drinking but no one described him as drunk and when he heard what Radecky was saying regarding just killing himself already, he confined Radecky for his safety and all witnesses corroborate that he attempted to deescalate the situation and calm Radecky out of sheer concern for his wellbeing. I believed him wholeheartedly when he said that his friend was in crisis and that he had to hold him and literally stroked his head to try and calm him down and help him through his critical moments.

Again, without a contemporaneous record; it is curious to me how the Department expects me to take them on their word when there was specifically a group hush as to the actual facts surrounding that particular drunken night and the charges stemming from earlier dates that were only really charged after Radecky's clearly concerning behavior at on April 17th and 18th 2021. However, as for the gun charge (the April 19th order from Robb not to possess any weapons) and attending the bachelor party with his weapon; I **FIND** that Radecky's testimony about needing it to go into the diner for "safety concerns" is downright unbelievable. He was in the throes of what his own attorney characterizes as a mental breakdown, resulting in a hospitalization that night and then for ten (10) days which should have been ninety (90) if it was not during the height of COVID-19 Pandemic. The stress in Radecky's home was very real including the heartbreaking reality that his son made a suicide attempt and was still struggling. He had financial and marital problems as corroborated by his own wife and other witnesses. He went to the party bus for the bachelor party with a cooler full of Old Fashioneds (hard alcohol) while he was still under investigation by his own department as to his fitness. In addition, once they ended

the first part of the evening, he could and should have kept the gun in the officer's car locker and not expect me to believe that he brought it into the diner for his own safety. Radecky testified, and it is uncontested that he himself was responsible for helping to write the SOP that forbade officers for having a gun off-duty while drinking. This was not one beer in a pub on the way home from work; this was a bachelor party, a night designed for heavy drinking with the entire force during an extremely stressful and emotional time in his life. This makes clear that bringing his weapon at all was at best a bad idea. The notion that others may have had guns is not before me nor was there any testimony to the contrary. In contrast, Radecky did and admitted it on the stand and then gave me an unacceptable explanation that he brought it into the diner (after drinking for several hours) for safety. It is clear, he was not ok to begin with before he had his first drink. The addition of the amount of alcohol he brought and consumed, and his mental state amounted to poor judgment. It ended up putting his life and potentially the lives of the others in jeopardy. Luckily, even after hours of drinking, Barsony was able to keep Radecky safe and calm until they were able to get him to the hospital.

However, I do not believe that he lunged for Cozze's gun. It goes without saying that many of the witnesses agreed there was tension between Cozze, Robb and Radecky due to the ongoing investigation regarding the various charges that eventually ended in FNDA J4. No other witnesses saw a blind drunk Radecky reach for his weapon at the hospital other than Cozze and Robb. They have their own self-interest to consider in this matter as so much of this case had no contemporaneous paperwork. The lack of any paperwork was at the Chief's direction, and it added to his credibility with regard to the Bachelor Party incident that when he took the stand after his officers did, he cleared the air and said that it was his order not to paper the event; he said he did this to keep Radecky from being embarrassed. I believed this and make no comment as to the legality of Robb's decisions, as they are not before me.

Not until the WCPO gets involved is there an investigation into the April 17th incident (FNDA-name exhibit) for which I can match up the in-person trial testimony with documentation. The WCPO investigation was done at Robb's direction as almost his entire force was involved and thus conflicted. To that end, Kries of the WCPO was the

crux of this case with regard to the FNDA (J-3) aka "the bachelor party incident". Kries' investigation, as outlined above, was detailed and the TERPO issued accordingly.

In short, I **FIND** that the version of events as to the bachelor party incident on April 17 and 18 charges found at J3 were proved by a preponderance of the credible relevant evidence at the hearing during the testimony and as noted in the WCPO reports, and thus I **FIND** those versions as fact in this matter. As to J4, I can only **FIND** a violation of Charge 4, in that Radecky clearly failed to follow Chief Robb's April 19th Order and possessed a 12-gauge shotgun as recovered by the WCPO.

LEGAL ANALYSIS AND CONCLUSIONS

A civil service employee who commits a wrongful act related to his or her duties, or gives other just cause, may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.3. In an appeal from such discipline, the appointing authority bears the burden of proving the charges upon which it relied by a preponderance of the competent, relevant, and credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk, 90 N.J. 550 (1982). The evidence must be such as to lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). Therefore, the tribunal must "decide in favor of the party on whose side the weight of the evidence preponderates, and according to the reasonable probability of truth." Jackson v. Del., Lackawanna and W. R.R. Co., 111 N.J.L. 487, 490 (E. & A. 1933). For reasonable probability to exist, the evidence must be such as to "generate belief that the tendered hypothesis is in all human likelihood the fact." Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959). Preponderance may also be described as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

The Civil Service Act, N.J.S.A. 11A:1-1 to -12.6, governs a public employee's rights and duties. The Act is an important inducement to attract qualified personnel to public service and is liberally construed toward attainment of merit appointments and broad

tenure protection. Essex Council No. 1, N.J. Civil Serv. Ass'n v. Gibson, 114 N.J. Super. 576 (Law Div. 1971), rev'd on other grounds, 118 N.J. Super. 583 (App. Div. 1972); Mastrobattista v. Essex Cnty. Park Comm'n, 46 N.J. 138, 147 (1965). The Act states that State policy is to provide appropriate appointment, supervisory and other personnel authority to public officials so they may execute properly their constitutional and statutory responsibilities. N.J.S.A. 11A:1-2(b). To carry out this policy, the Act authorizes the discipline and termination of public employees.

N.J.A.C. 4A:2-2.3(a) provides that a public employee may be subject to major discipline for various offenses. The burden of proof is always on the appointing authority in disciplinary matters to show that the action taken was justified. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a). The employee's guilt of the charge(s) must be established by a preponderance of the competent, relevant, and credible evidence. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk License Revocation, 90 N.J. 550 (1982). Precisely what is needed to satisfy the standard must be decided on a case-by-case basis. The evidence must be such as to lead a reasonably cautious mind to the given conclusion. Bornstein v. Metropolitan Bottling Co., 26 N.J. 263, 275 (1958). Preponderance may also be described as the greater weight of the credible evidence in the case, not necessarily dependent on the number of witnesses, but having the greater convincing power. State v. Lewis, 67 N.J. 47, 49 (1975). Credibility, or, more specifically, credible testimony, in turn, must not only proceed from the mouth of a credible witness, but it must be credible in itself, as well. Spagnuolo v. Bonnet, 16 N.J. 546, 554-55 (1954). Both guilt and penalty are redetermined on appeal from a determination by the appointing authority. Henry v. Rahway State Prison, 81 N.J. 571 (1980); West New York v. Bock, 38 N.J. 500 (1962).

I **CONCLUDE** that the Department has not proved by a preponderance of the competent, relevant, and credible evidence that Radecky did not follow the order on March 16 and the dates thereafter as he did attempt to report to his second FFD exam, but it was cancelled by Robb without informing Radecky. He did produce daily/weekly therapy reports with the exception of the week where the doctor had to cancel due to his own health. I also cannot **CONCLUDE** that he left his shift on March 22, 2021 for the reasons stated above. HOWEVER, as to Charge 4 the August 12, TERPO reveals that

Radecky possessed a 12-gauge shotgun, found in a locker previously cleaned out by Robb and Cozze and in clear violation of Chief Robb's April 19th, 2021 Order after the Bachelor Party incident and Radecky's hospitalization. Lastly, as to Charge 6 of FNDA J4, his attorney contacted Chief Robb and the WCPO regarding his legal advice that Radecky NOT ATTEND the IA investigation while his WCPO investigation was ongoing. He supported that with the AG Guidelines as outlined above. As a good faith attempt was made to communicate that and Radecky was following counsel's orders; **thus I CONCLUDE** that that charge cannot be sustained. HOWEVER, as noted above, with regard to Charge 4, as a result of the uncontested presence of the 12-gauge shot gun retrieved by the WCPO after Chief Robb's order; **I CONCLUDE** that the Respondent has proved by a preponderance of the credible evidence that Radecky is guilty of that Charge.

Other sufficient cause

Appellant has also been charged with a violation of N.J.A.C. 4A:2-2.3(a)(12) (other sufficient cause). Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct. Specifically, he is charged with violations of several PTPD SOPs: (Firearms), Article II, Section D, Part 5, (Rules & Regulations), Article IV, (Code of Conduct), Section B, Part 6; & Section D, Part 2, Clauses I & J. (J-3) Appellant's violations of these SOPs were addressed above with respect to the analysis of the charged violations of N.J.A.C. 4A:2-2.3(a)(1), (2) (6), (7), and (12). For the reasons stated above, **I CONCLUDE** that the appointing authority has demonstrated by a preponderance of the credible evidence that appellant violated the enumerated SOPs. Accordingly, **I CONCLUDE** that the charge of a violation of N.J.A.C. 4A:2-2.3(a)(12) (other sufficient cause) must be and is hereby **SUSTAINED**.

As to the bachelor party incident and all charges found at FNDA (J3), **I CONCLUDE** that the Department has met its burden by a preponderance of the competent, relevant, credible evidence that Radecky is guilty of same and as such all charges shall be sustained.

When determining the appropriate penalty to be imposed, the Board must consider an employee's past record, including reasonably recent commendations and prior disciplinary actions. Bock, 38 N.J. 500 (1962). Depending on the conduct complained of and the employee's disciplinary history, major discipline may be imposed. Id. at 522-24. Major discipline may include removal, disciplinary demotion, suspension or fine no greater than six months. N.J.S.A. 11A:2-6(a); N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.4. A system of progressive discipline has evolved in New Jersey to serve the goals of providing employees with job security and protecting them from arbitrary employment decisions. The concept of progressive discipline is related to an employee's past record. The use of progressive discipline benefits employees and is strongly encouraged. The core of this concept is the nature, number and proximity of prior disciplinary infractions evaluated by progressively increasing penalties. It underscores the philosophy that an appointing authority has a responsibility to encourage the development of employee potential.

Here, Radecky argues and is stipulated by the parties that in the fifteen (15) plus years in Pohatcong, Radecky NEVER had any prior discipline and he was well liked by his fellow officers. He was one of only two Sergeants and had a close relationship with everyone on the force who testified at the hearing. In addition, he was cared for and respected.

However, under the circumstances, major discipline is the appropriate discipline, and I am persuaded that while I did consider removal, a 6-month suspension is appropriate given his clean record and his terrible personal circumstances at that point in time. Watching your child in pain and constant struggle including his suicide attempt and the sheer and utter stress of COVID-19, his divorce, his current marital and financial problems, coupled with drinking amounted to very poor judgment on one very unfortunate night. Accordingly, I **FURTHER CONCLUDE** that the penalty of the maximum suspension is the only one available to the department or myself in this matter as the reason for the FFD was sound, the presence of his gun while highly depressed and going to attend a bachelor party, getting highly intoxicated resulting in hospitalization were a safety hazard for him and potentially the safety of others.

I further **CONCLUDE**, that while the bachelor party incident was unfortunate in every respect, and the off-duty officers were drunk or drinking for those hours, I still gave weight to corroborated parts of their testimony. It was clear, as Radecky testified credibly, that he was in distress or having a "mental breakdown" as his attorney characterized it. He was understandably in distress due to the agonizing situation with his son coupled with a stressful divorce and financial issues with his second wife. Further, he was more inebriated than everyone at the party and he was the only one who was exhibiting suicidal ideations and had a loaded gun on him. I do note, that I considered the in-person testimony very carefully and watched the parties interact, especially because there is nary a video, report, a hospital record or any departmental record at all about the Bachelor Party Incident, other than the testimony that proved that his fellow officers were trying to keep this a secret "for Matt" or "one of their own". While this is certainly not police protocol, I cannot deny that I felt that the majority of the witnesses were sincerely concerned about Radecky's well-being. That collective concern coupled with the investigation by the WCPO and Kries professional and unbiased testimony proved the Department's case with regard to the violation of the SOP that Radecky helped write. In short, I **CONCLUDE** that all of the charges stemming from the April 17, 2021 bachelor party incident have been proved and thus I am imposing a penalty of a 6-month suspension for Radecky. It should be noted that his Fitness for Duty is not currently at issue in this case. This case, as noted above is merely what if any charges are sustained, and if so, what if any penalty I should impose. All witnesses testified that the emergency of that time period if not a current emergency which is why I **CONCLUDE** with his clean bill of health, his otherwise clean record and his reputation within the PTPD that the penalty of a six-month suspension is proper given that his personal circumstances at that time lead to the crescendo of the Bachelor Party Incident (FNDA J3).

ORDER

For the reasons set forth above, it is **ORDERED** that charges 1,2,3,5 and 6 entered on the FNDA, dated April 5, 2022 (J4), by the respondent, Pohatcong Township Police Department, against the appellant, Matthew Radecky, are hereby **DISMISSED**. It is **FURTHER ORDERED** that the Charge 4 is **AFFIRMED** as to N.J.A.C. 4A:2-2.3(a)(12)

other sufficient cause only. All of the charges of violations listed in the FNDA, also dated April 5, 2022 (J3) regarding the April 17th bachelor party incident are hereby **AFFIRMED**.

I **FURTHER ORDER** that the action of the appointing authority is **MODIFIED** from removal to a 6-month suspension for the appellant in his position as a Police Sergeant, effective October 7, 2021. Should the Commissioner conclude the penalty is properly modified from a removal to a six-month suspension, Radecky may be entitled to mitigated back pay, benefits, and seniority for the period following his six-month suspension, October 7, 2021, to his reinstatement, under N.J.A.C. 4A:2-2.10. See In re Wolff, 2010 N.J. AGEN LEXIS 693 (February 24, 2010).

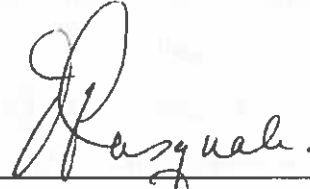
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, MERIT SYSTEM PRACTICES AND LABOR RELATIONS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

March 28, 2023

DATE



DANIELLE PASQUALE, ALJ

Date Received at Agency:

March 28, 2023

E-Mailed to Parties:

March 28, 2023

lr

APPENDIX

LIST OF WITNESSES

For Appellant:

Michael Tampier – Warren County Dispatch Center
Lieutenant Derek Kries – Lieutenant from Warren County Prosecutor's Office
Patrolman Frank Doehler
Patrolman Clifford Russell Tinsman
Patrolman Tyler Plesnarski – Lopatcong Twp. PD
Wendy Parcell – Radecky's Wife
Matthew Radecky

For Respondent:

Patrolman Alan Hill, Pohatcong PD
Sgt. Michael Cozze, Pohatcong PD
Detective Sergeant Ryan Barsony, Pohatcong PD
Chief Scott Robb

LIST OF EXHIBITS IN EVIDENCE

For Petitioner:

- P-6 TERPO Order
- P-8 Order PNDA dated August 24, 2021
- P-33 E-mail from Robb to Radecky, cleared for full duty, dated March 24, 2021
- P-36 Letter dated July 21, 2021, from Cioffi to Chief Robb to schedule additional fitness for duty post in-patient program
- P-37 E-mail with doctor's notes proving son's major depression and anxiety on 3/16/21 and 3/17/21
- P-38 Text messages from Radecky to Chief Robb dated 3/12 and 13/21

Joint Exhibits:

- J-1 Preliminary Notice of Disciplinary Action dated October 7, 2021
- J-2 Preliminary Notice of Disciplinary Action dated October 25, 2021
- J-3 Final Notice of Disciplinary Action dated April 5, 2022 (April 17, 2021 Incident)
- J-4 Final Notice of Disciplinary Action dated April 5, 2022 (Six Separate Incidents)
- J-5 IA 21-D-001
- J-6 IA 21-D-004
- J-7 IA 21-D-005
- J-8 IA 21-D-006
- J-9 IA 21-D-007
- J-10 IA Investigation Report dated 9/16/2021
- J-10-A 3/11/21 Order for Fitness for Duty Evaluation
- J-10-B 3/17/21 Email from Dsg. Barsony to Radecky re: Notice of IA Investigation (IA 21-D-001)
- J-10-C 3/17/2021 Order for Fitness for Duty Evaluation
- J-10-D 3/30/2021 Request for IA Investigation from Chief Robb to Dsg. Barsony
- J-10-E IA Complaint Notification dated 4/1/2021
- J-10-F 4/19/2021 Order from Chief Robb to Radecky re: mental health, fitness for duty, restrictions
- J-10-G 8/2/2021 Order for Fitness for Duty Evaluation and additional conditions of employment
- J-10-H 8/13/21 Email from Chief Robb to Dsg. Barsony to initiate IA Investigation
- J-10-I 4/13/21 Letter of representation from Frank Cioffi, Esq.
- J-10-J 8/23/21 Immediate Suspension Notice and 8/24/2021 PNDA (unsigned)
- J-10-K 8/27/2021 Email from Chief to Dsg. Barsony to initiate IA investigation and IA Complaint Notification dated 8/24/2021

- J-10-L 8/27/2021 Email from Dsg. Barsony to Radecky and Frank Cioffi, Esq. encl. IA Complaint Notification (IA 21-D-005) & 8/31/2021 Representation Letter from Cioffi
- J-10-M 8/27/2021 Email from Frank Cioffi, Esq. to Chief Robb and Springfield Psychological Note for 8/27/21 appointment
- J-10-N/P Emails (8/31/21 – 9/15/21) between Chief Robb, Frank Cioffi, Esq., Dsg. Barsony, and Art Thibault, Esq. re completion of IA interviews for open IA matters
- J-10-O Emails between Dsg. Barsony and Frank Cioffi, Esq. re interview with Radecky (9/8/21-9/9/21)
- J-10-Q List of questions Dsg. Barsony to ask Radecky at IA interview on 9/9/2021
- J-10-R Administrative Advisement Form signed by Radecky 9/9/2021
- J-10-S Email from Lt. Derek Kries, WCPO to Chief Robb re Radecky interview/statement to WCPO
- J-10-T IA Complaint Notification for IA 21-D-007
- J-10-U 10/31/21 Email and letter from Frank Cioffi, Esq. to Chief Robb re Radecky interview/statement
- J-10-V IA Complaint Notification and Representation Letter for IA 21-D-007
- J-10-W Letter from Dsg. Barsony to Radecky re outcome of IA investigations
- J-10-X Dsg. Barsony Qualifications/Certificates
- J-11 10/26/21 Memo to Radecky re violation of 8/3/21 Order
- J-12 10/25/21 Email from Radecky to Chief with Dr. Note for 10/22/21
- J-13 Warren County Prosecutor's Office Investigation Report, IA-21-0002 dated 9/23/2021 (4/17/21-4/18/21 Incident)
- J-14 WCPO Property and Evidence Log – IA-21-0002 (Typed)
- J-15 WCPO Property and Evidence Log – IA-21-0002 (Handwritten)
- J-16 Emails between Det. Derek Kries and Frank Cioffi, Esq. re interview with Radecky
- J-17 WCPO Transcript of Dsg. Ryan Barsony Interview dated 7/2/2021
- J-18 WCPO Transcript of Sgt. Michael Cozze Interview dated 7/12/2021
- J-19 WCPO Transcript of Ptlm. Frank Doehler Interview dated 7/12/2021
- J-20 WCPO Transcript of Ptlm. Allan Hill Interview dated 7/12/2021

- J-21 WCPO Transcript of Ofc. Tyler Plesnarski, Lopatcong PD, Interview dated 7/14/2021
- J-22 WCPO Transcript of Chief Scott Robb Interview dated 7/12/2021
- J-23 Radecky Personnel File Documents/Certificates/Qualifications
- J-24 Rules and Regulations for the Pohatcong Township Police Department
- J-25 Power DMS Sign-Off Sheet – Rules and Regulations
- J-26 SOP Re. Firearms
- J-27 Power DMS Sign-Off Sheet – Firearms SOP
- J-28 SOP: Minor Disciplinary Action
- J-29 Power DMS Sign-Off Sheet: Minor Disciplinary Action
- J-30 SOP: Sick Leave and Worker's Compensation Leave
- J-31 Power DMS Sign-Off Sheet: Sick Leave and Worker's Compensation Leave SOP
- J-32 SOP: Internal Investigations and Professional Standards
- J-33 Bridging Memorandum from Chief Scott Robb dated March 15, 2018 Re. SOPs/Directives, etc.
- J-34 PBA Contract (2016-2019) and MOA for 2020-2021
- J-35 Office of the Attorney General – Internal Affairs Policies and Procedures
- J-36 Report from Institute of Forensic Psychology dated August 18, 2021
- J-37 Temporary Extreme Risk Protective Order dated August 12, 2021
- J-38 Preliminary Notice of Disciplinary Action dated August 24, 2022
- J-39 E-mail from Chief Robb to Staff Sergeants dated March 25, 2021

