



## STATE OF NEW JERSEY

In the Matter of Kimberly Arnold-  
Murphy, *et al.*, County Correctional  
Police Lieutenant, various  
jurisdictions

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket Nos. 2024-2465, *et al.*

Examination Appeal

**ISSUED:** February 26, 2025

Kimberly Arnold-Murphy, Michael Costa, Dejanirah Dupree, Ruqayyah Finn, Ebony Mullin, Julia Pena, Stephanie Scott, Hugo Villota and Martin Viola (PC4255E), Essex County; and Derek Horvath and Konstantin Smirnov (PC4256E), Ocean County; appeal the promotional examination for County Correctional Police Lieutenant (various jurisdictions). These appeals have been consolidated due to common issues presented by the appellants.

The subject exam was administered on May 23, 2024 via a computer-based testing system and consisted of 70 multiple choice questions.

Costa contends that at review, he was only allowed 40 minutes to review and his ability to take notes on exam items was curtailed. As such, he requests that any appealed item in which he selected the correct response be disregarded and that if he misidentified an item number in his appeal, his arguments be addressed. It is noted that the time allotted for candidates to review is a percentage of the time allotted to take the examination. The review procedure is not designed to allow candidates to retake the examination, but rather to allow candidates to recognize flawed questions. In this regard, it is presumed that most of the questions are not flawed and would not require more than a cursory reading. With respect to misidentified items, to the extent that it is possible to identify the items in question, they are reviewed. It is noted that it is the responsibility of the appellant to accurately describe appealed items.

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

Question 1 provides candidates with four statements and indicates that CO Barton is working intake when Inmate Herbert Killinger is brought in. CO Barton begins completing the intake form manually. The question asks, “based on *N.J.A.C.* 10A:31-6.2 Intake form, the intake form shall include but is not limited to which information?” Costa argues that “it serves no useful purpose to determine who can or cannot memorize items that routinely appear on any form, let alon[e] an intake form, which is NOT routinely completed by someone of that rank . . . Because this is not something that a Correctional Police Lieutenant ROUTINELY handles and again because the job specification for this title does not list any requirement that a correctional police lieutenant MUST memorize 26 plus items that simply appears on a form anywhere on the job specification for this title, this is not an appropriate item that should appear on this type of examination.” As noted in the 2024 County Correctional Police Lieutenant Orientation Guide:

A job analysis was conducted to identify the knowledge, skills, and abilities that are necessary to perform the job of County Correctional Police Lieutenant . . . Based on this job analysis, a number of work components were identified, and it is from these work components that a distinct exam has been developed. During the job analysis, correctional personnel who hold the rank of Lieutenant or higher ranked each County Correctional Police Lieutenant work component in terms of its importance. Exam questions will relate to those work components that were determined to be most critical. A list of the most critical work components, along with the relative test weight of each, is shown below:

<b><u>Weight</u></b>	<b><u>Test Content</u></b>
31.00%	<i>N.J.A.C.</i> 10A:31
. . .	

It is further noted that the Division of Test Development, Analytics and Administration (TDAA) was contacted regarding this matter and indicated that pursuant to the job analysis, knowledge of *N.J.A.C.* 10A:31 correlated to better job performance as a Correctional Police Lieutenant. As such, this question is appropriate for the subject title.

Question 2 indicates that there is a passive resistance situation happening in the outdoor recreation yard. The question asks, based on *N.J.A.C.* 10A:31-7.2 (Passive resistance),<sup>1</sup> for the action that should not be taken. The keyed response is

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<sup>1</sup> *N.J.A.C.* 10A:31-7.2 provides:

option d, “Force, such as less lethal devices, may be used if, in the judgment of the adult county correctional facility Administrator or designee, the seriousness of the situation warrants.” Costa maintains that “this question asks about passive resistance . . . Because this section of the code does not specifically list examples of passive resistance or less lethal force, this item should be removed from the scoring process because it is subject to misinterpretation. Other areas of force specifically list examples therefore this question is faulty.” The question does not ask for examples of passive resistance. Rather, as noted above, the question asks for the action that should **not** be taken according to *N.J.A.C. 10A:31-7.2*. Since option d is *not* one of the actions provided pursuant to *N.J.A.C. 10A:31-7.2*, the question is correct as keyed.

Question 5 indicates that Inmate Brooks has just left the kitchen area and CO Magley informs Inmate Brooks that he will now be pat searched. Inmate Brooks asks CO Magley why that is necessary and claims he has done nothing wrong. The question asks, based on the information from this scenario and *N.J.A.C. 10A:31-8.2A* (Pat search),<sup>2</sup> for the best response for CO Magley to give. The keyed response is option a, “Inmates may be pat searched upon departure from kitchen or dining areas.” Costa asserts that option b, “Inmates may be subject to random pat searches at the discretion of any custody staff member with no explanation required,” is equally correct.<sup>3</sup> Costa argues that *N.J.A.C. 10A:31-8.2A* provides that “pat searches may be conducted ‘at any time.’ It also states that ‘it is not limited to’ . . . Inmates may be searched by one officer at the kitchen area and then also upon return to his housing

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- (a) Staff at each facility shall develop a written plan for maintaining security and custody of inmates, in the event of passive resistance by inmates.
  - (b) In the event of passive resistance by inmates, the facility shall be secured.
  - (c) Additional custody staff shall be readily available in passive resistance situations.
  - (d) Back up support shall be obtained from outside resources if, in the judgment of the adult county correctional facility Administrator or designee, the seriousness of the situation warrants.

<sup>2</sup> *N.J.A.C. 10A:31-8.2A* provides, in pertinent part:

- (b) Pat searches of inmates may be conducted at any time in the following circumstances:
  1. Prior to the departure or return of the inmate to or from any area where the inmate has had access to dangerous or valuable items
  2. Prior to entering or departing the visiting area; or
  3. Under any other circumstances where conditions indicate a need for such searches, such as, but not limited to, upon departure of inmates from kitchen or dining areas.
- (c) In addition to the foregoing routine searches, a pat search may be conducted at any time when there is a reasonable suspicion that the inmate is carrying contraband. Factors that may form the basis for such search include, but are not be limited to:
  1. Personal observations of activities or conditions that may be interpreted in light of the custody staff member's experience and knowledge of the inmate as indicating the possession of contraband; or
  2. Information received from a third party who is believed to be reliable.

<sup>3</sup> It is noted that Costa misidentified option b as option c.

unit by another officer. This is common practice in corrections and because a pat search is a limited and non-intrusive procedure, it is done at an officer[']s ‘discretion’ so long as it is not done as punishment.” Despite Costa’s claims, *N.J.A.C. 10A:31-8.2A(b)* provides, as noted previously, that pat searches may be conducted at any time ***in the following circumstances . . .***” (emphasis added) and *N.J.A.C. 10A:31-8.2A(c)* provides, in pertinent part, that “a pat search may be conducted at any time ***when there is reasonable suspicion that the inmate is carrying contraband***” (emphasis added). Thus, pursuant to *N.J.A.C. 10A:31-8.2A*, certain criteria must be met in order to perform a pat search and is not performed “at the officer’s discretion so long as it is not done as punishment.” Accordingly, the question is correct as keyed.

Question 11 indicates that your facility has 300 inmates. The question asks, based on *N.J.A.C. 10A:31-13.13* (Sick call), how many times per week should sick call be conducted. The keyed response was indicated as option d, four times per week. It is noted that *N.J.A.C. 10A:31-13.13* provides:

- (a) Sick call conducted in adult county correctional facilities by a physician and/or other qualified medical personnel shall be available to each inmate as follows:
  1. Facilities with fewer than 100 inmates shall conduct sick call at least once a week;
  2. Facilities with 100 to 300 inmates shall conduct sick call at least three times per week; and
  3. Facilities with over 300 inmates shall conduct sick call at least four times per week.

It is further noted that TDAA was contacted regarding this matter and indicated that the question had been miskeyed to option d and has been rekeyed to option c, three times per week, prior to the lists being issued.

Question 14 provides candidates with four statements. The question refers to *N.J.A.C. 10A:31-16.3* (Disciplinary report) and asks for the true statement(s). Costa argues, in part, that a Correctional Police Lieutenant “does not need to memorize items . . . which are usually pre-printed on a standardized disciplinary report form. Ensuring and reviewing those reports contain what is required is the job of a supervisor and not to memorize items which appear on such a standardized form and disciplinary report.” Costa presents that Correctional Police Officers would complete this type of report which would be reviewed by a Correctional Police Sergeant before being submitted to a Correctional Police Lieutenant. As noted previously, the 2024 County Correctional Police Lieutenant Orientation Guide indicated that during the job analysis, knowledge of *N.J.A.C. 10A:31* was identified as a critical work component. Furthermore, as also noted previously, knowledge of *N.J.A.C. 10A:31*

correlated to better job performance as a Correctional Police Lieutenant. Accordingly, this question is appropriate for the subject title.

Question 18 asks, according to *N.J.A.C. 10A:31-17.5* (Records in disciplinary detention), for the information that shall be maintained in an inmate's Disciplinary Detention record.<sup>4</sup> The keyed response is option d, "date of admission." Arnold-Murphy, who selected option a, "relevant past infractions," argues that "past infractions would fall under number 6: any special problems, such as medical, behavioral, etc. which may be the result of the current infraction that placed the inmate in Disciplinary Detention in the first place." The question refers specifically to *N.J.A.C. 10A:31-17.5* which clearly does not indicate "past infractions" as one of the pieces of information that is maintained in an inmate's Disciplinary Detention record. As such, the question is correct as keyed.

Question 22 asks, according to the specific language in *N.J.A.C. 10A:31-6.9* (Availability of information to adult county correctional personnel), for who may have access to information from inmate records.<sup>5</sup> Candidates were required to complete the following sentence, "Information may be provided only to personnel who have . . ." The keyed response is option d, "a clear and specific need to know the information for use in connection with their work responsibilities." Costa who selected option c, "been designated as confidential staff by the adult county correctional facility Administrator or designee," argues, "I believe the question included items that have been determined to be 'confidential' records. Since this is not listed specifically in the code, I believe that this question is faulty and should be removed from the scoring process." As noted above, this item specifically refers to *N.J.A.C. 10A:31-6.9*. Pursuant to *N.J.A.C. 10A:31-6.9(b)*, "Information may be provided only to personnel who have a clear and specific need to know the information for use in connection with their work responsibilities." As such, the question is correct as keyed.

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<sup>4</sup> *N.J.A.C. 10A:31-17.5(c)* provides that a record stating the following information shall be maintained in Disciplinary Detention:

1. The inmate's name;
2. The inmate's number;
3. The date of admission;
4. The type of infraction leading to Disciplinary Detention;
5. The expiration date of Disciplinary Detention; and
6. Any special problems, such as medical, behavioral, etc.

<sup>5</sup> *N.J.A.C. 10A:31-6.9* provides:

- (a) Information from inmate records shall be provided to adult county correctional facility personnel on a limited basis.
- (b) Information may be provided only to personnel who have a clear and specific need to know the information for use in connection with their work responsibilities.
- (c) The provision of information shall be determined by the Administrator or designee in accordance with written policies and procedures established by the facility.

Question 23 asks, according to *N.J.A.C. 10A:31-8.18* (Use of non-deadly force; when justified), “which is **NOT** an example of mechanical force?” The keyed response is option c, Use of “a firearm with beanbag ammunition.” Costa misremembered this item as asking, “as to what was considered mechanical force.” The question clearly asks for the option which is **not** an example of mechanical force. *N.J.A.C. 10A:31-8.18(b)2* provides, in pertinent part:

‘Mechanical force’ which means the use of some device or substance, other than a firearm, to overcome an individual’s resistance to the exertion of the authority of the custody staff member. Examples of mechanical force include, but are not limited to, the use of a baton or other object, use of canine physical contact with an individual, or use of a chemical or natural agent.

Thus, the question is correct as keyed.

Question 29 indicates that you are reviewing de-escalation techniques with your staff and candidates are presented with four statements. The question asks, based on the New Jersey Attorney General Guidelines Use of Force Policy, for examples of de-escalation techniques that you should review with your staff. The keyed response, option c, does not include statement II, “Having multiple officers address an inmate at one time.” Dupree misremembered statement II, which she claims “does not state have multiple Officers address the inmate all at one time.” In this regard, Dupree maintains that “having multiple officers address the inmate is using additional resources to resolve the situation and also create[s] time needed to allow the situation to resolve itself.” Technique II, as noted above, clearly states, “Having multiple officers address an inmate **at one time**.” It is noted that the Guidelines provide, under the section “Core Principle Two [(Force as a Last Resort and Duty to De-Escalate)]” in pertinent part, “Officers should employ de-escalation techniques when feasible, which include, but are not limited to, the following . . . techniques to promote rational decision making, such as ensuring that **only one officer addresses the person**, and the other officers remain detached as safety permits as to not escalate the situation; and splitting up individuals at the scene who may be arguing” (emphasis added). Accordingly, statement II is incorrect.

Question 32 indicates that two days ago, Inmate Rodgers was determined to be at risk of self-harm and was assigned to a private cell for close observation by custody staff. Inmates in private cells under suicide watch are checked by staff in staggered intervals every 15-30 minutes. Yesterday evening, Inmate Rodgers was found deceased. He was discovered slumped over sitting on the floor of his cell. It was later determined that Inmate Rodgers was dead for five hours before being discovered and that he died from a heart attack. The question asks, “based on the information provided in the scenario, which **MOST** likely went wrong that led to this outcome?” The keyed response is option b, “Custody staff neglected to perform

adequate checks on Inmate Rodgers.” Pena argues that option c, “Inmate Rodgers should have been sent to the medical unit rather than a private cell,” is the best response. In this regard, Pena contends:

At no point in the scenario does it indicated that Inmate Rodgers was evaluated or assessed by a medical professional, despite the reports of him being a risk of self[-]harm. Instead, Inmate Rodgers was placed inside a private cell by custody staff without any proper assessment by medical personnel to ensure that the appropriate placement and care is given to Inmate Rodgers in the event that it was determined that he required further medical intervention and care beyond what was determined by custody staff.

The focus of the question is not whether Inmate Rodger’s placement in a private cell for close observation was appropriate. Rather, the question is asking for the most likely reason that Inmate was not discovered deceased for five hours. It is further noted that SMEs reviewed this item and determined that since the question did not indicate that Inmate Rodgers was exhibiting signs of a medical emergency prior to his placement in the cell, sending him to the medical unit would not be appropriate. As such, option c is not the best response.

Question 33 indicates Inmate Rodriguez, a female inmate at your facility, was sexually assaulted by a male officer. Inmate Rodriguez reported the assault and despite having letters written by the officer where he admitted that he assaulted her, her report was determined to be unsubstantiated. The officer, who was close to retirement, was able to retire early. Angered by the result of the investigation, Inmate Rodriguez became vocal about the findings of the investigation, and it became widespread information throughout the facility. The question asks, based on the information provided, which message this situation most likely sends to victims of sexual assault at your facility. The keyed response is option a, “A sexual assault by a custody staff member is not worth reporting.” There is no description in the question as to how the report was determined to be unsubstantiated. In other words, there is no indication in this item whether the determination was correct or incorrect. If the determination were appropriately made, it is not clear how any of the options provided to candidates would be correct. Given this, TDAA determined to omit this item from scoring prior to the lists being issued.

Question 34 and 35 refer to a scenario presented to the candidates in the test booklet:

Approximately 50 inmates were in the outdoor recreation yard when COs Scott and Michael arrived to escort Inmate Bernard from the yard. Inmate Bernard was being brought to a secure location to be questioned regarding a contraband investigation. As Inmate Bernard was being

escorted from the yard, inmates began throwing rocks and attacking COs Scott and Michael. A code was called, and a team arrived to secure the scene. A verbal warning was announced for the inmates to stop attacking and they refused.

Question 34 asks for the best way to handle the attacking inmates at this point. The keyed response is option c, “Deploy oleoresin capicum (O.C.) spray.” Arnold-Murphy, who misremembered the question as asking, “what should be done next after the inmates continue throwing rocks,” argues that option d, “Review video footage to determine who started attacking the officers,” is the best response. Given that the officers are currently under attack, the priority should be to stop the attack, rather than attempt to review video footage, at this point. It is noted that TDAA contacted Subject Matter Experts (SMEs) regarding this item. Given that this question does not indicate certain factors, *e.g.*, the size of the yard, how far away the inmates are from the officers, whether there are inmates who are not throwing rocks and their location, or the wind direction, which may affect the effectiveness and/or the determination to implement OC spray, it is not clear how candidates could arrive at the keyed response. As such, TDAA determined to omit this item from scoring prior to the lists being issued.

Question 35 indicates that once the inmates were subdued and secured, both custody staff and inmates received necessary medical attention. Candidates are presented with four actions and are asked to identify the most appropriate actions at this point. The keyed response is option b, II, “Start an investigation into the attack,” and III, “Continue the contraband investigation and the questioning of Inmate Bernard.” Dupree and Scott refer to *N.J.A.C. 10A:31-16.3* (Disciplinary Report) and *N.J.A.C. 10A:31-16.9* (Investigation) and maintain that option c, I, “Implement disciplinary actions to all inmates involved in the attack,” II, and IV, “contact administration/outside county officials to notify them of the situation,” only, is the best response. It is noted that TDAA contacted SMEs regarding this matter who indicated that typically, a Lieutenant would not be responsible for contacting administration/outside county officials. In addition, at this point, you do not have all of the facts yet and you need to start an investigation in order to identify which inmates were involved in the attack and what disciplinary actions should be taken. As such, the question is correct as keyed.

Question 40 indicates that CO Back is assigned to Housing Unit 10E when Inmate Short calls CO Back to his cell to speak with him. Inmate Short tells CO Back that Inmate Gambar (Inmate Short’s cell mate) is trying to kill himself. CO Back observes Inmate Gambar with what appears to be toilet paper wrapped around his neck. CO Back is unsure if Inmate Gambar really wants to harm himself. The question asks for the best way for CO Back to handle the situation at this point. The keyed response is option c, “Although CO Back is unsure if this is a legitimate suicide attempt, he should treat it as a legitimate attempt and get the inmate assistance to

avoid further escalation.” Villota argues that option a, “CO Back should question Inmate Gambar to see if he really intends on harming himself,” is the best response. Villota contends that since “the information was obtained by a 3rd party and the first thing that should be done, considering that the officer is uncertain, is ask the inmate to see what the inmate’s body language, state of mind and behavior. If the CO dialogues with the inmate, he might be successful in obtaining further information and ensuring that the inmate is referred and assisted accordingly.” It is noted that TDAA contacted SMEs regarding this matter who indicated that while custody staff may relay their observations to medical staff, it is ultimately medical staff’s responsibility to evaluate the inmate and determine whether there was an actual suicide attempt. Thus, option a is not an immediate action that would address the situation.

Question 41 indicates that CO Rodney observed Inmate Fenimore struggling to breathe while the inmate was lifting weights in the indoor recreation area. CO Rodney asked Inmate Fenimore if he needed medical attention and the inmate said that wasn’t necessary. About 15 minutes later, Inmate Fenimore passed out and an emergency medical code was called. Inmate Fenimore had a heart attack and was taken to the local hospital for treatment. Unfortunately, Inmate Fenimore died as a result of the heart attack. Inmate Fenimore’s family is now questioning whether more could have been done to prevent Inmate Fenimore’s death. Candidates were presented with four statements. The question asks for the action that would have most likely prevented inmate Fenimore from dying (if possible). The keyed response is option d, CO Rodney should have, II, “told Inmate Fenimore to stop lifting weights since he was struggling to breathe”; and IV, “informed a supervisor of his observation and requested for Inmate Fenimore to be seen by the medical unit,” only. Viola, who selected option a, I, “immediately documented that Inmate Fenimore declined medical treatment” and II, only, argues that an inmate may refuse medical treatment and “if he refuses and something happens to him, as long as he documented and refused medical, that’s on him . . . Inmates can refuse medical treatment as long as he is alive and stable.” The question asks for actions that could have prevented the inmate’s death. Statement I is not a preventative measure under these circumstances. Accordingly, option a is not the best response.

Question 42 indicates that Lieutenant Hopkins is completing a tour when an officer informs him that an inmate is refusing a housing move and making threats of harming any custody staff who attempts to move him from his cell. The question asks for what Lieutenant Hopkins should do next. The keyed response is option a, “Contact a housing unit sergeant to assist with having a dialogue with the inmate.” Arnold-Murphy, Dupree, Scott and Viola argue that option b, “Contact his supervisor to request a forced cell suited team,” is the best response. Specifically, Arnold-Murphy maintains that “if I am the Lieutenant of the unit and I am speaking to the inmate, it would be because the unit Sergeant was unable to convince the inmate to accept his housing location. I do not believe as a higher-ranking supervisor, that I

need to ask anyone of a lower rank to assist me. I believe that we would be able to pass it up to a Captain, but if I have my suited team on standby, the inmate will see that we are here to assist him in accepting his new housing location as peacefully as possible, but if it warrants force will be used.” Dupree asserts that option b is the best response since “it informs the Supervisor of the area which will be the Sergeant as to what’s going on and also you are taking corrective action as a Lieutenant by requesting a suited team to resolve the issue.” Dupree presents that “there have been multiple past civil service test questions similar to this situation which resulted in calling a suited team.”<sup>6</sup> Viola argues that as a Lieutenant, “why would I call a Sergeant (a lower supervisor) to talk to him if the inmate already refused to be moved? That’s disrespecting the chain of command and the Lieutenant.” Scott, who selected option d, “Have a forced cell suited team on standby and ready for action as a means of constructive authority,” argues that a suited team is appropriate as the inmate is making threats and Lieutenant Hopkins “is already on scene and is authorized to take immediate action. Waiting for a sergeant to come and assist with dialogue does not immediately address the irate inmate. In fact, it gives the inmate more time to become agitated and irate. The suited team is on standby, does not say that the team was being used at that given moment.” At the outset, it is noted that despite the appellants’ argument that contacting the housing unit sergeant “disrespects” the Lieutenant and/or the chain of command, this action follows the chain of command. In this regard, since the officer has reported this situation, the housing unit sergeant should be the first person to address this incident in the chain of command. In addition, allowing the housing sergeant to *assist* in having a dialogue with the inmate is a way to potentially de-escalate the situation. However, it is further noted that it is not clear from the question stem how the inmate is making threats, *e.g.*, is the inmate yelling threats which could agitate other inmates? Given that sufficient information is not presented in the scenario to allow candidates to determine whether having a dialogue or extraction would be appropriate, TDAA has determined to double key this item to option a and option b prior to the lists being issued. With regard to option d, this option does not indicate what, if any, proactive measures you are taking. In this regard, while this option indicates that you have an extraction team on standby, it does not indicate what action(s) you are taking to deal directly with the inmate. As such, option d is not the best response.

Question 43 indicates that Center Control was notified by a housing unit officer that visible black smoke and signs of a fire were coming from a common area. Center Control ordered the evacuation of the housing unit and notified the local fire department. Candidates are presented with four statements. The question asks, as the shift commander, for the action(s) you should take or ensure are being taken during this incident. The keyed response, option d, includes statement II, You should

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<sup>6</sup> Although Dupree does not provide citations, it appears that she is referring to *In the Matter of Eric Matlock, et al., County Correction Captain* (CSC, decided August 16, 2017); *In the Matter of Donato Serafino, County Correction Sergeant* (CSC, decided September 10, 2019); and *In the Matter of Christina Bell, County Correctional Police Captain* (CSC, decided February 7, 2024).

ensure “an area for triage and medical care is set up.” Costa argues that statement II is incorrect since the question “does not mention any injuries or how serious the fire may be . . . Setting up an area for triage and medical at this point is totally inappropriate without determining how serious the situation is.” It is noted that Costa does not offer any documentation or other information beyond his opinion to support his argument. *See N.J.A.C. 4A:4-6.3(b)*. It is also noted that SMEs reviewed this matter and determined that setting up an area for triage and medical care would be appropriate under the circumstances. As such, the question is correct as keyed.

Question 44 indicates that CO Ramirez was serving a food tray to Inmate Rojas when CO Ramirez was suddenly splashed with an unknown substance through the port door. As CO Ramirez backed away, he felt the areas of exposed skin on his arm that came in contact with the unknown substance become irritated and began to burn. CO Ramirez calls a code and officers begin to arrive. Officers are instructing the inmate to stop, but he is still throwing the unknown substance. The candidates were provided with four statements. The question asks, “which immediate actions upon arrival of the assisting officers are INCORRECT?” The keyed response is option b, II, “CO Ramirez should be taken to a hospital for evaluation after debriefing the shift commander and writing a report”; and IV, “Inmate Rojas should be instructed to place his hands in the port and prepare to be handcuffed.” Costa asserts that statement I, “Body worn cameras should be activated upon arrival and until Inmate Rojas is contained and the scene is secured,” is also incorrect. Specifically, Costa argues that Attorney General Guidelines “specifically instructs what regular municipal, county and state are required to do [with respect to body worn cameras but] NOT CPOs ... Since there are no guidelines to follow, statement I has to be considered incorrect. Since no body cameras are worn, an officer cannot be expected to turn something on that they are not issued, trained in or have any agency policy or procedure.” A review of available information finds that there are no Attorney General Guidelines or statutory provisions that address body worn cameras for County Correctional Police Officers. In addition, a review of available information finds that while Bergen, Gloucester and Middlesex counties utilize body worn cameras for its County Correctional Police Officers,<sup>7</sup> it is not clear whether body worn cameras are used in *all* other county facilities. Given this, TDAA determined to double key this item to option b and option c, I, II and IV, prior to the lists being issued.

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<sup>7</sup> See [https://www.northjersey.com/story/news/bergen/hackensack/2023/03/13/bergen-county-nj-corrections-officers-body-cameras/70003927007/#:~:text=While%20New%20Jersey%20uniformed%20patrol,to%20the%20Attorney%20General's%20Office](https://www.northjersey.com/story/news/bergen/hackensack/2023/03/13/bergen-county-nj-corrections-officers-body-cameras/70003927007/#:~:text=While%20New%20Jersey%20uniformed%20patrol,to%20the%20Attorney%20General's%20Office;); <https://www.gloucestercounty.nj.gov/519/Body-Cameras>; and <https://www.middlesexcountynj.gov/government/departments/departments-of-public-safety-and-health/office-of-adult-correction-and-youth-services/adult-corrections>

Question 45 indicates that Inmate Jones has just finished mopping an area of the housing unit as instructed. Upon hearing CO Maddox tell him that he missed a small area and to complete his work duty, Inmate Jones becomes irate and strikes CO Maddox across his face with the mop handle. Inmate Jones begins to scream obscenities and threats while continuing his assault. Candidates are presented with four actions. The question asks for the incorrection actions when handling this situation. The keyed response is option II, "Inmate Jones should be removed from the area and immediately placed in a Close Custody Unit," only. Pena argues that statement II is correct. In this regard, Pena maintains that "Given the circumstances, [statement II] would be an appropriate option due to the inmate being irate towards the officer. Based on the inmate's action, he should be charged accordingly and placed in a restricted close custody area where he is observed/monitored closely." It is noted that SMEs reviewed this matter and indicated that in order to place an inmate in a Close Custody Unit, a medical evaluation is required prior to placement in that housing assignment. As such, statement II is incorrect.

For questions 46 and 47, candidates were provided with the following scenario in the test booklet:

You supervise Sergeant Westin, who is typically an average performing sergeant. Sergeant Westin recently returned from a brief paternity leave and has a newborn at home. Since his return, you have heard officers complain that he is irritable and slow to respond to their questions and concerns. You decide to meet with Sergeant Westin privately to discuss how he is doing and see if you can help him.

Question 46 refers to Gerald W. Garner, *Supervising Police Employees in the Twenty-First Century* (2019) and asks, based on the information provided by Garner regarding addressing problems with subordinates, for the statement that would be best to use to start your meeting with Sergeant Westin. The keyed response is option c, "I wanted to meet with you today to talk about how you are doing since you recently returned from paternity leave, which I know can be a difficult transition. How has the return been and are there any challenges you've been dealing with?" Horvath asserts that option a, "You seem to be struggling a bit since your return from paternity leave, which is understandable. I want you to know that I am here to help you solve any problems you've been having. Let's figure out how we can get you back on track," is the best response. Horvath refers to Garner, Chapter 10, "Your Role as Counselor and Confidant," which provides, "Make it clear that you want to help. That should be your opening to your subordinate;" "You should emphasize that you want to help solve an apparent problem;" "The fact that you want to help should begin and conclude your counseling session;" and "Reinforce the fact that you care." It is noted that Garner further provides, in pertinent part, "Focus on behavior, not the individual. Your counseling conversation with your employee should include a lot

of 'I's' (I am concerned; I am worried') and few references to 'you.' 'You' tends to bring with it blame for something." In this regard, option a focuses on "you" statements and appears accusatory, *i.e.*, "**You** seem to be struggling," "I am here to help you solve any problems **you've** been having." By using this approach, it could appear that you are accusing or blaming Sergeant Westin of struggling and/or having problems which may result in the Sergeant becoming defensive or shutting down communication with you. By focusing on "I" statements and not on the Sergeant's behavior in option c, you are approaching the conversation in a neutral context. In other words, in option c you are asking the Sergeant whether he is experiencing any challenges rather than telling him that he's struggling, as in option a. Accordingly, option c is the best response.

Question 47 refers to Garner, *supra*, and indicates that during your meeting with Sergeant Westin, you realize that he doesn't seem comfortable opening up to you." The question asks, "based on the information provided by Garner on addressing problems with subordinates, which would be **MOST** helpful at this point?" The keyed response is option a, "Offer resources he can utilize (e.g., employee assistance) and let him know that you are available to talk to or help him with problems he's facing." Dupree and Viola argue that option c, "Recommend that he reaches out to an outside professional counselor or utilizes the employee assistance program at work to help him with the transition back to work," is the best response. Specifically, Viola presents, "In the past I was given this wrong because civil service stated we are not a licensed therapist or doctor." Although Viola does not provide any further information in this regard, it is noted that the question specifically refers to Garner. Dupree contends that option a is not the best response since the question "already indicates that the officer is not comfortable talking with you . . . Being a superior [*sic*] you may make the Officer feel like if they do not come speak to you there can be retaliation. Once you see that your officer is uncomfortable speaking with you, about anything personal you should no longer insert yourself and just officer outside professional resources. Taking yourself out [of] the situation completely may also make the officer feel more comfortable utilizing the resources provided." Dupree refers to Garner, Chapter 10, "Your Role as Counselor and Confidant," which provides, in part:

Offer some other options whenever possible. Your employee may be embarrassed to open up to you or he may feel that you do not have the expertise to help him. You may agree with that assessment. For that reason, you should be prepared to offer him some alternatives for follow-up help. It could be Alcoholics Anonymous or a mental health counseling service or one of a dozen other resources depending upon the problem or problems involved. It will be worthwhile for you to keep a list of potential professional helpers in your area. Share it with your troubled employee. Follow-up with him to see if he has made the connection.

In response, Garner also provides, “Let your counselee know that you are always available. Be sure the employee knows that this is not the only time the two of you can talk . . . Your intention is to let your team member know that you really do care and are willing to go the extra mile to help, whatever that requires.” Option a recognizes that Lieutenant Westin is not comfortable with opening up to you by offering him alternative resources for help. However, option a also lets Lieutenant Westin know that you are available to him should he, at some point, like to speak to you about his problems. In other words, you are leaving the possibility open to Lieutenant Westin should he like to discuss this matter (or any matter) in the future and conveys that you are available to him. Option c, however, by only directing him to seek outside resources, makes it appear that you are merely concerned with his transition back to the workplace. As such, option c is not the best response.

Question 50 refers to Garner, *supra*, and indicates that you know praising subordinates is important, but you want to ensure not to overdo it or give praise that’s undeserved. The question asks, based on the information provided by Garner, for the most likely consequence of providing false praise to subordinates. The keyed response is option a, “Lessens the credibility of the supervisor.” Mullin, who selected option c, “Leads to confusion among subordinates,” argues that “if praise is given to a subordinate who doesn’t deserve it, it would lead to confusion amongst the other subordinates that are doing their job correctly. If someone who doesn’t deserve praise gets it, no one will want to do the right thing.” It is noted that Mullin does not offer any information from Garner to support her argument. *See N.J.A.C. 4A:4-6.3(b)*. In this regard, Garner does not indicate that employees are unable to recognize when praise is undeserved and would be confused by it. Specifically, it is noted that Garner provides, in the section, “Traps to Avoid,” “Most everyone likes to hear nice things about themselves. Your employees do, too. But giving them plaudits that are not true will destroy your credibility with them. It will not result in them liking you more. Police people are, after all, pretty good at detecting falsehoods. Make sure the nice things you have to say are all true.” As such, the question is correct as keyed.

Question 54 refers to Garner, *supra*, and indicates that Lieutenant Moes is a newly promoted lieutenant who wants to ensure his new unit is always clear on their tasks and can execute those tasks correctly. The question asks, based on the information provided by Garner on the toolbox of a great leader, for the best way Lieutenant Moes can ensure he accomplishes this. The keyed response is option d, Lieutenant Moes should “keep the lines of communication open and embrace questions.” Costa argues that option a, Lieutenant Moes should “establish a personal connection with each member of his unit,” is equally correct. Costa refers to Chapter 2, “Your Relationship with Your Crew,” in which Garner states, “perhaps the best means for learning about your team members and their abilities is simply to spend time with them in an informal workplace setting.” Dupree maintains that option b, “share how he envisions his unit performing and the bigger picture,” is the best response. Dupree refers to Chapter 1, “The Toolbox of a Great Leader,” in which

Garner provides, “Life and the society you labor in are way too complicated today for general instructions to have great value. Your people will want to know the goals and objectives that you want them to meet. Most will want to see the bigger picture. They want to know where you are leading. To gain their trust enough for them to want to follow you there, you must do several things and do them well.” Dupree also notes that Garner states, “Set and disseminate clearly the goals of the work group. This is the road map that you want your people to follow. But to do that, they need to know what it says. Make your expectations as clear as you possibly can.” It is noted that Garner provides, however, “Keep the lines of communication open. It is the ***surest way to keep your team on task, clear on what it is they are supposed to do and how they are supposed to be doing it.*** Ask and welcome questions to be sure everyone understands expectations” (emphasis added). As such, the question is correct as keyed.

Question 55 refers to Garner, *supra*, and indicates that you plan on meeting with Sergeant Franklin to discuss and find solutions for his recent problematic behaviors. The question asks, based on the information provided by Garner on the “difficult” employee, for the first thing you need to do before you begin your efforts to help Sergeant Franklin. The keyed response is option b, “Be aware of the laws, organizational rules, and policies.” Arnold-Murphy and Costa maintain that option c, “Seek out a private place and time to conduct the meeting with Officer Franklin,” is the best response. Specifically, Arnold-Murphy argues that Garner’s background is in municipal policing and “not corrections so his book is very subjective, suggestive and favorable more towards police officers and not corrections police officers.”<sup>8</sup> Arnold-Murphy refers to Chapter 12, “The Difficult Employee,” which “states that as a leader, I am expected by my organization to deal with one of my agency’s problematic children and address their problematic behavior. ‘It will require the application of all of your skills as a counselor, disciplinarian, and, most of all, a leader.’” Arnold-Murphy further notes that Garner “expresses how important it is to speak to the problematic employee. The book states, ‘The employee himself may be your best source for identifying the root cause of the ‘difficult’ behavior [. . .] There is at least one cardinal rule for dealing with problematical behavior by a ‘difficult’ employee. Do not delay in confronting the behavior in the hopes that it’ll get better [. . .] The sooner you meet the issue head-on, the sooner the chance for improved behavior to occur.’” Costa also refers to Chapter 12 and argues that Garner “discusses this situation and says, ‘You must first: be cognizant of laws OR organizational rules and policies that set parameters for your actions.’ He does not specifically state that this is the first thing you should do, but rather implies that you need to do one or the other. Since there are two options, only one answer cannot be FIRST.” Dupree argues that the question “was confusing based on the answer choices given. None of the

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<sup>8</sup> It is noted that Arnold-Murphy presents this argument in regard to questions 55, 56 and 59. However, Arnold-Murphy has not indicated how this affected her ability to answer the questions and has not submitted any information from an authoritative source to refute the information presented by Garner.

answer choices listed was related to Chapter 12[, “The D]ifficult Employee.[]” Scott, who selected option d, “Prepare a list of consequences to present to Sergeant Franklin should the behavior not change,” asserts that Garner “does not mention anything regarding having knowledge of rules, laws and policies.” Scott contends that Garner emphasizes communication with the employee.

Garner indicates in Chapter 12:

Before you launch your effort to help your troubled employee towards a successful resolution of his troubling behavior, you need to know what you can and can’t do on the way to a positive outcome. You must first be cognizant of **laws or organizational rules and policies** that set parameters for your actions. Confer with your agency’s legal advisor or HR specialists for guidance if you have any doubts at all about the limits of your authority. It is preferable to get advice *before* you stray beyond the limits of what you are allowed to do and end up having to make amends. Once again, keep your chain of command advised of your plans and actions. (emphasis added)

It is further noted that TDAA contacted SMEs regarding this matter who indicated that option b is the first thing you should do to prepare to meet with the employee. They indicated that you should always know or review the laws, rules and policies before dealing with a difficult employee. Option c and option d should be done after you know what your parameters are based on relevant laws, rules or policies, and you have formulated plan to address the situation. As such, the question is correct as keyed.

Question 56 refers to Garner, *supra*, and asks, based on the information provided by Garner regarding working with a difficult boss, for the statement that is most helpful to remember when dealing with a supervisor you may not like. The keyed response is option c, “You and your supervisor share similarities: you both are working in a challenging law enforcement career and you both have your own worries and problems you’re dealing with.” Arnold-Murphy contends that option b, “Difficult supervisors have the tendency to get angry with their subordinates over small issues and you shouldn’t take your supervisors outbursts personally,” is the best response. Arnold-Murphy argues that Garner’s “perception is based on his work as a police officer where it is quite possible that the issues are the same across the board, but it is totally different when it comes from the aspect of corrections. We can’t take things personally in our field of corrections . . .” In her appeal, Arnold-Murphy narrowly focuses on the portion of option b which provides, “you shouldn’t take your supervisors outbursts personally,” while ignoring the preceding phrase, “Difficult supervisors have the tendency to get angry with their subordinates over small issues . . .” Arnold-Murphy does not provide any information from Garner that supports this phrase or from another authoritative source that indicates that this phrase is accurate in the

“field of corrections.” In this regard, it is noted that Garner indicates that “bad boss behavior can show up in almost endless varieties” and is not limited to anger. As such, option b is not the best response. It is noted that Garner provides, in the section, “Working for a Difficult Boss”:

Unusual is individual who honestly can state that he or she has never worked for a difficult boss. Unfortunately, there are more than a few of them out there. Their ‘difficulties’ run the scale, ranging from the simply irritating to the truly vile. And, as already noted, most are not difficult *all* of the time. Your challenge is to work with all of them acceptably and productively well without diluting your effectiveness and your ethics as a leader. All the same, it is important to remember that the vast majority of leaders you will encounter in policing are not greatly unlike you. They are trying to do a difficult job to the best of their ability. Like you, they have worries, fears, egos, and internal conflicts. But they are laboring, like you, to be good leaders and important, people-helping cause.

Thus, the question is correct as keyed.

Question 57 refers to Garner, *supra*, and indicates that you were recently promoted to the rank of lieutenant. During a meeting with fellow lieutenants regarding how to address overscheduling certain officers for overtime, you find yourself disagreeing with the group on potential solutions. The question asks, based on the information provided by Garner regarding your role as a member of the leadership team, for the best way to handle this situation. The keyed response is option a, “Respectfully state your opinion and be open to the group’s response.” Pena maintains that option c, “Present the group with sound and logical arguments regarding why the potential solutions already brought up may not work,” is equally correct. In this regard, Pena argues that “by expressing and presenting facts, arguments, example, and opinions[,] the team can accomplish the overall mission which is finding a solution to the discrepancy in the question . . . When presented with sound[,] local argument and facts[,] all team players should be open to suggestions, especially if facts are being presented on why the idea given may not work.” Garner provides, in Chapter 17, under the section, “Your Role as a Member of the Leadership Team”:

Always openly put forward your views and opinions during problem-solving discussions and debates. Advocate for your beliefs and never be afraid to speak up, even if it feels at the time like you are the Lone Ranger in the stand you have taken on a given topic. There is danger in groupthink and you don’t want to change your stand just because you were pressured and stampeded by other members of the team. Always feel free to disagree, just be respectful of others’ views when you do. *At the same time, be open*

*to changing your mind when you are presented with sound, logical arguments and facts.* (emphasis added)

Given this, TDAA determined to double key this item to option a and option c prior to the lists being issued.

Question 59 refers to Garner, *supra*, and asks, based on the information provided by Garner regarding your role as a member of the leadership team, for who best exemplifies a team player. The keyed response is option b, “Lieutenant Tonks is quick to acknowledge the contributions of her fellow supervisors.” Arnold-Murphy asserts that option d, “Sergeant Brink holds her fellow supervisors to a high standard and will pull others aside if she notices their performance slipping,” is the best response. Arnold-Murphy presents:

In the book it states in chapter 16, under ‘Be a team player,’ ‘In teamwork, your interaction with your fellow team members will almost certainly help you in learning things and developing allies for the times when you need assistance.['] So to hold your fellow supervisors to a higher standard, you push them to be better or to strive to be better. The foundation of teamwork, leaving no one behind, therefore, if I see you are falling short, I will speak to you privately to encourage you to be your best.

As indicated above, the question focuses on your role as a member of the leadership team, *i.e.*, your relationship with other supervisors. As such, it may not be your role to pull a fellow supervisor aside because they are not meeting **your** high standards. In Chapter 17, under the section, “Your Role as a Member of the Leadership Team,” Garner provides, “remain humble concerning your role in the group’s work and ultimate work product. Be quick to give credit to your team members. It is alright to play down your own role. Your colleagues know of your contributions. It’s important that others hear from you that it was the team that deserves the credit. That’s being a team player of the first magnitude.” Thus, the question is correct as keyed.

Questions 61 through 70 refer to a narrative, Incident Report, Incident Report Summary and a Pre-hearing Detention Memorandum form from the East Pelican County Prison provided to the candidates in the test booklet.

Question 61 asks, “Which information, if any, is INCORRECT on the Incident Report?” The keyed response is option b, Location.<sup>9</sup> Villota argues that “in the narrative, it states ‘Friday, September 2, 2023.’ In the incident report it states, ‘Thursday, September 2, 2023.’ The day of the week are conflicting and different,

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<sup>9</sup> The narrative indicates that the incident took place in the cafeteria of Housing Unit C-1. However, the report indicates that it took place in the cafeteria of Housing Unit C-2.

making it incorrect.” It appears the Villota has misremembered the information contained in the Incident Report with that contained in the Incident Report *Summary*, as discussed below. In this regard, the Incident Report provides, “**Incident Date:** 09/02/2023.” As such, the question is correct as keyed.

Question 64 asks for the line in the Incident Report Summary that has incorrect information. The keyed response is option b, Line 3.<sup>10</sup> However, the narrative indicates that the incident took place on “Friday, September 2, 2023,” whereas the Incident Report Summary indicates that the incident took place on “Thursday, September 2, 2023.” Given that different days of the week are indicated, TDAA determined to double key this item to option a, Line 1,<sup>11</sup> and option b prior to the lists being issued.

For question 66, since Arnold-Murphy selected the correct response, her appeal of this item is moot.

For question 67, since Arnold-Murphy and Costa selected the correct response, their appeals of this item are moot.<sup>12</sup>

Question 68 refers to the Incident Report Summary which provides, “Four Officers from the response team and Sergeant Hailey Finberg (ID#3269-09) arrive on scene.” The question asks, based on proper grammar and spelling, for the correct way to write this sentence. The keyed response is option c, “Four officers from the response team and Sergeant Hailey Finberg (ID#3269-09) arrived on scene.”<sup>13</sup> Dupree and Mullin, who selected option b, “Four Officers from the Response Team and Sergeant Hailey Finberg (ID# 3269-09) arrived on scene,” argue that “response team” should be capitalized. They assert that “response team” is a proper noun as used in this sentence. Specifically, Dupree presents that “by capitalizing it you’re also recognizing the group as an important individual. You should also capitalize proper name[s] of government programs, official projects, formal groups, organizations, [and] company titles [*sic*] when they precede a

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<sup>10</sup> The narrative provides that “Inmate Capone shoved Inmate Heilman’s shoulder . . .” However, Line 3 of the summary provides, in part, “Inmate Capone then shoved inmate Heilmans face . . .”

<sup>11</sup> As noted previously, the narrative indicates that the incident took place on “Friday, September 2, 2023.” However, Line 1 of the summary provides, “While supervising inmates in Housing Unit C-1 cafeteria on Thursday, September 2, 2023 . . .”

<sup>12</sup> It is noted that Viola appealed this item claiming that he selected a different answer choice than that recorded by the computer. Given that this is a test administration issue, this matter will be addressed separately.

<sup>13</sup> It is noted that Viola appealed this item claiming that he selected a different answer choice than that recorded by the computer. Given that this is a test administration issue, this matter will be addressed separately.

name.” Mullin contends that “Response Team is the name of the team like Navy SEAL<sup>14</sup> is the name team [sic] or SEAL Team 6.” It is noted that neither the Narrative nor the Incident Report Summary provided to candidates capitalize “response team.”<sup>15</sup> Furthermore, it is not clear how Dupree and Mullin determined that “response team,” is a proper noun in this context. Moreover, “Sergant” is clearly misspelled in this option and thus, option b is not the best response.

Question 69 refers to the Incident Report Summary which provides, “The rounds was fired on Inmate Richard Suaves (inmate #4387-99) after putting CO Daniel Caster (ID# 2035-67) in a chokehold and Owen Wanelo (inmate #5600-04) after he lunged at Sergeant Hailey Finberg.” The question asks, based on proper grammar and spelling, for the correct way to write this sentence. The keyed response is option d, “The rounds were fired at both Inmate Richard Suaves (inmate #4387-99) and Inmate Owen Wanelo (inmate #5600-04) after Inmate Suaves put CO Daniel Caster (ID# 2035-67) in a chokehold and Inmate Wanelo lunged at Sergeant Hailey Finberg.” Mullin, who selected option b, “The rounds were fired at Inmate Richard Suaves (inmate #4387-99) after he put CO Daniel Caster (ID# 2035-67) in a chokehold and Inmate Owen Wanelo (inmate #5600-04) after he lunged at Sergeant Hailey Finberg,” maintains that the word “both” in option d “is not needed. The connecting word ‘and’ shows that the action was taken against both inmates . . . If the word ‘both’ is removed, the sentence still says the same thing.” It is noted that the Narrative provides, in pertinent part, the following:

Since the inmates were not subdued and a mob began to form, deadly force (live ammunition) was then introduced, and three rounds were used. Two rounds were used on Inmate Richard Suaves (inmate #4387-99) who put CO Daniel Caster (ID# 2035-67) in a chokehold; one round was used on Inmate Owen Wanelo (inmate #5600-04) as he lunged at Sergeant Hailey Finberg.

Since both option b and option d capture the essential elements of what is contained in the Narrative and option d is not clearly a better choice grammatically, TDAA determined to double this key this item to option b and d prior to the lists being issued.

## CONCLUSION

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<sup>14</sup> This analogy is not persuasive. In this regard, Navy SEAL is capitalized as 1) it refers to a specific military branch and is an official name; and 2) SEAL is an acronym for “sea, air, land.” Acronyms are typically capitalized. See e.g., <https://www.chicagomanualofstyle.org/qanda/data/faq/topics/CapitalizationTitles/faq0006.html>; <https://www.grammarly.com/blog/acronymsabbreviations/abbreviations/#:~:text=Typically%2C%acronyms%20and%20initialisms%20are,distinguish%20them%20from%20ordinary%20words.>

<sup>15</sup> In addition, the Incident Report and the Pre-detention Hearing Memorandum do not contain “response team.”

A thorough review of appellants' submissions and the test materials reveals that the appellants' examination scores are amply supported by the record, and the appellants have failed to meet their burden of proof in this matter.

### ORDER

Therefore, it is ordered that these appeals be denied.

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

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 26<sup>TH</sup> DAY OF FEBRUARY, 2025




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