STATE OF NEW JERSEY

In the Matter of Richard Thomas, *et al.*, Police Sergeant, various jurisdictions	:	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
CSC Docket Nos. 2025-2123, *et al.*	:	Examination Appeal

ISSUED: November 26, 2025

Richard Thomas (PM4702F), Asbury Park; Courtney Campbell, Christopher Dodson, Michael Gunsser, Ermindo Marsini, Ivaylo Penchev and Irwin Sanchez (PM4703F), Atlantic City; Daniel McNerney (PM4704F), Bayonne; Paul Pariona (PM4707), Belleville; Michael Alvarez (PM4709F), Bergenfield; Joseph Condito and Darwin Rubio (PM4712F), Bloomfield; Matthew Harris (PM4715F), Bordentown; Michael DeFluri, Matthew Farnkopf, Scott Mesmer, Kyle Patrick, David Quinn and John Sullivan (PM4716F), Brick; William Cox (PM4723F), Carteret; Malek Badeer (PM4727F), Clifton; Brielle Gallagher, Kevin Hankins, Dennis Lazanja, Michael Meagher, Jean Mimy, Daniel Mooney, Shynese Mosley and Michael Suarez (PM4737F), Elizabeth; Joseph Pride (PM4738F), Elmwood Park; Kyle McGuire (PM4739F), Ewing; Zackery Pittius (PM4745F), Freehold; Matthew Adomanis (PM4747F), Gloucester Township; Massimo DiMartino (PM4748F), Hackensack; Sean Dorney, Michael Mancino, Michael Mancuso, Hubert Markowski, Jason Miller, Justin Mura and John Murphy (PM4750F), Hamilton; Freddy Lecca (PM4752F), Harrison; Timothy Henn (PM4755F), Hillside; Jesse Castellano and Roberto Cuevas (PM4756F), Hoboken; Preston Kunz (PM4761F), Jackson; Christopher Smolt (PM4762F), Jefferson; Lizaida Azmy, Lance Blue, Lauren Brazicki, Lydiana Diaz, Maciej Kuzmicki and Nydia Rodriguez (PM4763F), Jersey City; Jonathan Dowie and John Fearon (PM4765F), Kearny; John Ganley and Matthew McKee (PM4768F), Lakewood; Javier Perez (PM4773F), Linden; Joseph Pannullo (PM4778F), Long Branch; Jordan Saini (PM4780F), Lower Township; Anthony Morgante (PM4785F), Marlboro; Salvatore Albanese, Dominick Librie, Sean MacDonald and Jesse Toma

(PM4787F), Middletown; Sean Freeman, Jose Gomez, Christopher Mohr, Josue Plaza and Robert Runof (PM4797F), New Brunswick; Daniel Estremera (PM4798F), Newark; Keri Shutz (PM4801F), North Brunswick; Devon Bernard (PM4806F), Orange; Jigar Rana (PM4808F), Passaic; Ferdi Abedinoski, Rafael Campos, Eliana Dominguez, Manuel Lojo, Marisol Morales, Shedy Omar, Michael Rosario and Anais Suriel (PM4809F), Paterson; Kevin Berdnick and Gabriele DiPietro (PM4824F), Rockaway; Carlos Gonzalez (PM4825F), Roselle; Christopher Blath (PM4838F), South Plainfield; Robert Furman, Drew Inman, Nicholas Morgante, Miguel Torres and Derick Tosado (PM4843F), Trenton; Daniel Bretton and Carlos Rodriguez (PM4845F), Union City; Michael Beaty, Samantha Bierilo, Thomas Kelly, Francine Rocha and Ricardo Santos (PM4846F), Union Township; Stephen Saldutto (PM4849F), Verona; Daniel Ortiz (PM4851F), Voorhees; Kevin Norton (PM4854F), Wanaque; Michael Weber (PM4856F), West Milford; Jarel Ferren (PM4862F), Winslow; and Jake Fasano (PM4863F), Woodbridge; appeal the examination for Police Sergeant (various jurisdictions). These appeals have been consolidated due to common issues presented by the appellants.

This was a two-part examination, which was administered on March 1, 2025, consisting of a video-based portion, items 1 through 20, and a multiple-choice portion, items 21 through 80. The test was worth 80 percent of the final average and seniority was worth the remaining 20 percent. As noted in the 2025 Police Sergeant Orientation Guide (Orientation Guide), which was available on the Civil Service Commission's (Commission) website, the examination content was based on the most recent job analysis verification which includes descriptions of the duties performed by incumbents and identifies the knowledge, skill and abilities (KSAs) that are necessary to perform the duties of a Police Sergeant. As part of this verification process, information about the job was gathered through interviews and surveys of on-the-job activities of incumbent Police Sergeants throughout the State. As a result of this process, critical KSAs were identified and considered for inclusion on the exam.

Lojo, Omar and Patrick contend that at review, their ability to take notes on exam items was curtailed and they were not permitted to review their answer sheets. As such, they request that any appealed item in which they selected the correct response be disregarded and that if they misidentified an item number in their appeals, their arguments be addressed. It is noted that the review procedure is not designed to facilitate perfection of a candidate's test score, but rather to facilitate perfection of the scoring key. To that end, knowledge of what choice a particular appellant made is not required to properly evaluate the correctness of the official scoring key. Appeals of questions for which the appellant selected the correct answer are not improvident if the question or keyed answer is flawed. With respect to misidentified items, to the extent that it is possible to identify the items in question, they are reviewed. It is noted that it is the responsibility of the appellant to accurately describe appealed items.

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

In the video-based portion of the examination, candidates were presented with a scenario, "Recording Police Activity." The instructions for this portion indicated that candidates were to assume the role of a Police Sergeant. The video segment indicated that an individual arrived at the stationhouse to speak with a supervisor regarding an incident that occurred in his apartment building in which he observed an officer being aggressive with someone he was questioning. The individual indicated the following:

> I wanted to come in and tell someone about what happened to me in my apartment building. I was walking through the apartment building when I noticed an officer getting aggressive with someone he was questioning. I took out my phone and started recording the interaction between the officer and the guy.
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> At first the officer didn't see me, but I felt like he was getting rough with him, so I said, loud enough that he could hear, that he needed to calm down and he didn't need to act so tough with the guy. At first the officer told me to move away so I wouldn't interfere, but I guess the officer thought I was being too critical because he came over to me and demanded that I tell him why I was recording, and to repeat what I said.
>
> The officer told me I wasn't allowed to record police activity and demanded that I stop recording. The officer told me that if I didn't keep my mouth shut and mind my business, that I'd be arrested. I kept recording and I told the officer that I could say what I wanted. That's when he tried to block my phone from recording what was going on. He was still blocking me when he told me that I needed officer consent to record, and that I was on private property and I wasn't allowed to record them. When I told the officer that I lived in the building, he demanded that I show him some ID to prove I belonged there.

For questions 1 through 9, the directions for this section provided:

> After listening to what has been reported to you, and considering N.J. Attorney General Directive No. 2021-11, you are evaluating the actions taken by the individual and the officer in this incident. Consider the following actions:
>
> - The individual recorded the police activity taking place.
> - [eight more bulleted statements are listed] . . .

> For questions #1-9, use the information contained in the scenario, and the notes you may have taken, to decide if each action is or is not permitted according to N.J. Attorney General Directive No. 2021-11.

Question 3 refers to the statement, "The officer directed the individual to move away so he would not interfere with the police activity." The keyed response is option a, "This action is permitted."[1] Since Saini selected the correct response, his appeal of this item is moot. Azmy, Freeman, Gomez, Inman, Lazanja, Lojo, Marsini, Mooney and Omar maintain that option b, "This action is not permitted," is the best response. In this regard, they argue, in part, that the scenario does not indicate that the individual was in a "position that materially impede[d] or interfere[d] with the [officer's] safety or [his] ability to perform [his] duties." Specifically, the individual indicates that "at first the officer didn't see me" and the officer "came over to me" which would suggest that the individual was not materially impeding or interfering with the officer. Diaz argues that this item should be omitted from scoring since "the question does not present a valid scenario in which the individual may have gotten too close or interfered with the officer's actions. The situation described fails to establish any evidence of obstruction or interference on part of the bystander." It is noted that the Division of Test Development, Analytics and Administration (TDAA) contacted Subject Matter Experts (SMEs) regarding this matter who indicated that the exact location of the individual is immaterial as it is the officer who determines whether or not an individual's actions are considered a distraction. In this regard, the SMEs indicated that the bystander admitted to loudly commenting on the officer's conduct while recording, which could reasonably be perceived as a distraction or potential interference. In other words, the bystander's shouting could be considered a distraction for the officer which would interfere with their ability to perform their duties. The SMEs noted that Directive No. 2021-11 allows officers to take reasonable steps to prevent interference with their duties, including directing individuals to move away. As such, the SMEs indicated that the officer's instruction was a lawful, precautionary measure to maintain control of the scene and is permitted under the directive. Accordingly, the question is correct as keyed.

Question 6 refers to the statement, "The officer threatened to arrest the individual." The keyed response is option b, "This action is not permitted." Directive No. 2021-11 provides, in pertinent part:

> As long as the recording takes place in a setting in which the bystander has a legal right to be present and does not interfere with an officer's

[1] Directive No. 2021-11 provides, in pertinent part:

> If a bystander is recording police activity from a position that materially impedes or interferes with the safety of officers or their ability to perform their duties, or that threatens the safety of members of the public, an officer may direct the bystander to move to a position that will not interfere. However, the officer shall not order the bystander to stop recording.

> safety or lawful duties, the officer shall not . . . [d]etain, arrest, or threaten to arrest a bystander based on activity protected by the First Amendment, including but not limited to the bystander's verbal criticism, questioning of police actions, lawful recording of the officers, or gestures.

Given that the SMEs have indicated that the individual's shouting could be considered a distraction for the officer which would interfere with the officer's ability to perform their duties, it is not clear, pursuant to Directive No. 2021-11, whether the individual may be arrested. As such, this item should be omitted from scoring.

Question 9 refers to the statement, "The officer demanded to see the individual's identification." The keyed response is option b, "This action is not permitted." Directive No. 2021-11 provides, in pertinent part, "As long as the recording takes place in a setting in which the bystander has a legal right to be present and does not interfere with an officer's safety or lawful duties, the officer shall not . . .[d]emand the bystander's identification." Given that the SMEs determined that the individual's shouting could be considered a distraction for the officer which would interfere with the officer's ability to perform their duties, it is not clear, pursuant to Directive No. 2021-11, whether the officer may request the individual's identification. Accordingly, this item should be omitted from scoring.

For question 10, since Kuzmicki and Norton selected the correct response, their appeals of this item are moot.

For questions 11 through 20, the directions for this section provided:[2]

> Now that the individual has requested to make an internal affairs complaint, you are reflecting on the procedures outlined in the N.J. Attorney General's Internal Affairs Policy and Procedures. Consider the following statements:
>
> - If internal affairs personnel are not available, supervisory personnel should accept reports of officer misconduct.

[2] Harris and Norton argue that the instructions for this section were unclear. Harris asserts that "consider the following statements" used in the directions would "lead test takers to believe these points were the actual AG guidelines for reference." Norris contends that that the instructions "seemed to suggest that the provided statements were direct excerpts from the Attorney General Guidelines. It should have been explicitly stated that the statements may be true or false and that it was the test takers responsibility to access their accuracy. As presented, the format was misleading and may have impacted the fairness and validity of the responses." The instructions do ***not*** indicate that the bulleted statements are taken from the Attorney General's Internal Affairs Policy and Procedures. Moreover, the instructions clearly state that candidates were "***to decide if each statement is true or false according to the Attorney General's Internal Affairs Policy and Procedures***" (emphasis added).

- [nine more bulleted statements are listed] . . .

> For questions #11-20, use the information contained in the scenario, and the notes you may have taken, to decide if each statement is true or false according to the N.J. Attorney General's Internal Affairs Policy and Procedures.

Question 11 refers to the statement, "If internal affairs personnel are not available, supervisory personnel should accept reports of officer misconduct." The keyed response is option a, "This is a true statement." Marsini contends that the correct response is option b, "This is a false statement." In this regard, he maintains that section 5.1.1. (Accepting Reports Alleging Officer Misconduct) of the N.J. Attorney General's Internal Affairs Policy and Procedures (Internal Affairs Policy) provides, "All complaints of officer misconduct SHALL be accepted from all persons who wish to file a complaint, regardless of the hour or day of week." Marsini argues that "in context of Attorney General guidelines, 'shall' indicates a mandatory requirement, while 'should' denotes a recommendation or best practice, meaning compliance is advised but not strictly enforced." It is noted that section 5.1.1 provides:

> All complaints of officer misconduct shall be accepted from all persons who wish to file a complaint, regardless of the hour or day of the week. This includes reports from anonymous sources, juveniles, undocumented immigrants, and persons under arrest or in custody. Internal affairs personnel, if available, should accept complaints. *If internal affairs personnel are not available, supervisory personnel* ***should*** *accept reports of officer misconduct*, and if no supervisory personnel are available, complaints should be accepted by any law enforcement officer. At no time should a complainant be told to return at a later time to file their report.

As such, the statement in this item is identical to what is stated in the Internal Affairs Policy. Accordingly, Marcini's argument is misplaced.

Question 12 refers to the statement, "A complainant must make a sworn statement to initiate the internal affairs process." The keyed response is option b, "This is a false statement." Toma argues that the statements listed in the instructions and the Internal Affairs Policy contradict each other. In this regard, he asserts that what is being asked is, "'An individual making an internal affairs complaint MUST make a sworn statement' True or False? The answer would be TRUE according to the given directions in the test booklet but false according to the actual A.G. Guideline (this question should be double keyed)." It appears that Toma mistakenly believed that the statements listed in the test booklet were taken from the Internal Affairs Policy. As noted above, the directions for this section indicated

that candidates were to determine whether the listed (bulleted) statements were true or false pursuant to the Internal Affairs Policy. In this regard, it is not clear how Toma determined that the statement in question 12 is "TRUE according to the given directions." As indicated above, this statement is incorrect pursuant to the Internal Affairs Policy and thus, the correct response is option b, "This is a false statement."

Question 13 refers to the statement, "Complainants should be encouraged to take some time after the incident to ensure that he or she wants to submit a complaint." The keyed response is option b, "This is a false statement." Since Mancino selected the correct response, his appeal of this item is moot. Fearon presents that "there is no direct guidance in the AG Internal Affairs directive specifically about giving people time before they make their complaint . . . It doesn't make sense that giving someone extra time to make a decision would be a bad thing. By answering 'false' it seems like the supervisor is being guided to rush the complaint and that is surely wrong." Section 5.1.2 of the Internal Affairs Policy provides, in pertinent part, "Members of the public should be encouraged to submit their complaints as soon after the incident as possible." Thus, the question is correct as keyed.

For question 14, since Abedinoski selected the correct response, his appeal of this item is moot.

Question 16 refers to the statement, "Supervisors should be authorized to informally resolve minor complaints, whenever possible, at the time the report is made." The keyed response is option a, "This is a true statement." Quinn presents, "From memory, question 16 did not specify whether the supervisor would resolve the complaint at the time it was made, therefore the given statement would be a false statement as it is only partially correct." As indicated above, the statement for this item clearly provides ". . . at the time the report is made." As such, Quinn's argument is misplaced. Bernard maintains that "IA has to handle it." Section 5.1.12 of the Internal Affairs Policy provides:

> In some cases, a complaint is based on a misunderstanding of accepted law enforcement practices or the officer's duties. Supervisors should be authorized to informally resolve minor complaints, whenever possible, at the time the report is made. If the complainant is not satisfied with such a resolution, the complaint should be forwarded to internal affairs.

Thus, a supervisor would initially be provided with the opportunity to informally resolve a minor complaint. However, as indicated above, in the event that a complainant is not satisfied "with such a resolution," then the matter would be forwarded to Internal Affairs. As such, the question is correct as keyed.

Question 18 refers to the statement, "Once a complaint has been received, the subject officer shall be notified in writing that a report has been made and that an

investigation will commence." The keyed response is option a, "This is a true statement." Since Blath selected the correct response, his appeal of this item is moot. Pannullo contends that "as the supervisor regardless of the outcome of the complaint it will be recorded on an IA report form and then forwarded to Internal Affairs. Internal Affairs will then notify the subject officer not the supervisor that took the complaint. That is why this question is wrong because it is the perspective that I am the supervisor not Internal Affairs. I answered the question like the directions stated[,] I am to assume the role of the police Sergeant supervisor." It is noted that the question does not ask who is responsible for notifying the officer. In this regard, as indicated previously, candidates were directed to determine if the statement "is true or false ***according to*** the [Internal Affairs Policy]." Section 5.1.14 of the Internal Affairs Policy provides that "once a complaint has been received, the subject officer shall be notified in writing that a report has been made and that an investigation will commence." As such, this statement is true pursuant to the Internal Affairs Policy and thus, the question is correct as keyed.

Question 19 refers to the statement, "A complainant cannot remain anonymous and their name, address, and phone number must be included on the complaint form." The keyed response was indicated as option a, "This is a true statement." Sections 5.1.1, 5.1.4, 5.1.7 and 7.1.3 of the Internal Affairs Policy provide that complaints may be anonymous and must be accepted.[3] It is noted that TDAA was contacted regarding

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[3] Section 5.1.1, as indicated above, provides in pertinent part, "All complaints of officer misconduct shall be accepted from all persons who wish to file a complaint, regardless of the hour or day of the week. This includes reports from anonymous sources, juveniles, undocumented immigrants, and persons under arrest or in custody." Section 5.1.2 provides, in pertinent part:

> Law enforcement agencies are encouraged to establish systems to enable complaints to be accepted by telephone or by email if a complainant does not wish to be interviewed in person or wishes to remain anonymous. Under no circumstances shall it be necessary for a complainant to make a sworn statement to initiate the internal affairs process. Furthermore, every police agency shall accept and investigate anonymous complaints (emphasis added).

Section 5.1.7 provides:

> Anonymous reports of improper conduct by an officer *shall be accepted*. All efforts will be made to encourage full cooperation by the complainant. The investigation of anonymous complaints can be troublesome. However, accurate information about officer wrongdoing may be provided by someone who, for any number of reasons, does not want to be identified. Therefore, an anonymous report must be accepted and investigated as fully as possible. In the event an agency receives an anonymous complaint, the officer accepting it should complete as much of the internal affairs report form as he or she can given the information received.

In addition, Section 7.1.3 provides, in pertinent part, "All relevant identifying information concerning the complainant should be recorded, *e.g.*, name (unless the complainant wishes to remain anonymous), complete address, telephone numbers and area codes . . ."

this matter and indicated that the question had been miskeyed as option a and has been rekeyed to option b, "This is a false statement," prior to the lists being issued.

Question 20 refers to the statement, "The subject officer shall only be notified in writing of the investigation's outcome if the complaint is sustained." The keyed response is option b, "This is a false statement."[4] It is noted that Abedinoski and Markowski misremembered this item. Specifically, Abedinoski indicates that this item "stated that [the] subject [is] to be notified in writing only." As such, Abedinoski's argument is misplaced. Markowski argues for the keyed response as he indicates that "the answer that police officers are only notified in writing of the sustained complaint is false and incorrect." Gunsser contends that "the statement is interpreted in such a way that 'in writing' is the only required method of communication for notifying the officer if a complaint is sustained . . . The emphasis on written notification makes it the preferred choice and that other methods of communication are less adequate. The question is written in such a manner that is confusing as to what it is truly asking." The focus of this statement was on whether an officer would need to be informed (in writing) if the complaint was not sustained, *i.e.*, the focus was not on the mode of communication. Moreover, this item specifically refers to the Internal Affairs Policy, which as noted above, provides, in pertinent part, that "the subject officer shall be notified ***in writing*** of the investigation's outcome" (emphasis added). Section 6.2.4 of the Internal Affairs Policy does not indicate other modes of communication to notify the subject officer under these circumstances. As such, the question is correct as keyed.

Question 24 provides:

> At about 11:00 p.m. on October 29, Detective Dooner, a narcotics investigator for the Sea View Police Department, and several other police officers, all in an unmarked police car and in civilian's clothes, drove into the parking area of a large apartment complex. The officers drove near "the point," which is a portion of the parking area that is known for its high incidence of drug trafficking and where groups of people congregate at all hours of the day and night. Although the weather was cold, a group of twenty or more persons had gathered there. As the officers neared "the point," their vehicle was recognized as a police car and some of the people in the crowd yelled a warning that the police were coming. Four or five persons broke away from the crowd and ran. One of the persons that ran away was later identified as Doug Willet. Detective Dooner and another officer followed Willet in their

[4] Section 6.2.4 of the Internal Affairs Policy provides that "if the investigator determines that the complaint is unfounded, exonerated or not sustained, the investigative report is to be forwarded to internal affairs for review and entry in the index file and filing. The subject officer shall be notified in writing of the investigation's outcome."

> police car until he ran into an alley. When Willet entered the alley, Detective Dooner and the other officer got out of their vehicle and ran after him on foot. Detective Dooner yelled, "Police, stop!" two or three times, but Willet continued his flight. As Willet ran into a lighted area, Detective Dooner recognized Willet as someone whom he had seen in the complex on previous occasions conversing with convicted drug dealers. At one point in the chase, Willet tripped and fell. Detective Dooner and the other officer caught up with him, grabbed him on the ground, handcuffed him, and advised him that he was under arrest. One of the officers grabbed a baseball cap balled up in Willet's hand, opened it, and saw that it contained a substance which appeared to be cocaine.

The question asks, based on relevant New Jersey case law, for the true statement. The keyed response is option d, Given the totality of the circumstances, the officers "established probable cause to arrest Willet once he refused the officers' lawful order to stop." It is noted that this item is based on *State v. Doss*, 254 *N.J. Super.* 122 (App. Div. 1992). Gonzalez, who selected option a, Given the totality of the circumstances, the officers "never established probable cause to lawfully arrest Willet," argues that *State v. Doss*, *supra*, is "contradict[ed by] a newer case, *State v. Goldsmith*."[5] In this regard, he presents:

> Some key points from *Goldsmith*:
>
> Reasonable Suspicion Requirement: The court reiterated that an investigatory stop requires specific and articulable facts indicating that a person is engaged in criminal activity. Mere hunches or generalized suspicions are insufficient.
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> High Crime Area Consideration: While the nature of an area can factor into the totality of circumstances, simply labeling a location as 'high-crime' does not diminish an individual's constitutional protections against unreasonable search and seizures. Defendant Doss should never have been seized due to recent case law.
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> While both cases operate within the Fourth Amendment framework, their opposite treatment of suspicion-based searches creates a confusing and contradictory legal landscape. One rewards law enforcement flexibility (*Doss*), while the other limits it sharply (*Goldsmith*), leaving both police and citizens unsure of where the constitutional line is drawn.

[5] Although Gonzalez does not provide a citation for this matter, it appears that he is referring to *State v. Goldsmith,* 251 *N.J.* 384 (2022).

The situation presented in *State v. Doss*, *supra,* is clearly distinguishable from that in *State v. Goldsmith*, *supra*.[6] As such, the determination in *State v. Doss*, *supra*, is not contradicted by that in *State v. Goldsmith, supra.*[7] Accordingly, the question is correct as keyed.

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[6] As discussed by the court in *State v. Goldsmith*, *supra:*

> Two police officers were on patrol in Camden in what they believed to be a 'high-crime area' known for shootings and drug dealing. While approaching [a] vacant house, the officers observed two individuals standing in front of it. When the officers exited their vehicle, the two individuals walked away. At the same time, a third person, [Goldsmith], exited the walkway that leads to the rear of the house. Based on his training, 20 years of experience, and his belief that the vacant house was used for the sale of drugs and weapons, [one of the officers] found it suspicious that [Goldsmith] was on the walkway next to the vacant house and believe [Goldsmith] was engaged in drug dealing activity. So the officers approached [Goldsmith], blocked his path at the end of the walkway, and began questioning him, asking for his name and for an explanation of his presence on that walkway. *Id*. at 388.

The court noted that "the totality of circumstances of [an] encounter must be considered in a very fact-sensitive analysis to determine whether officers objectively possessed reasonable and articulable suspicion to conduct an investigatory stop. [citation omitted]. Following those principles to the present case, we find that the information officers possessed at the moment they detained defendant did not constitute reasonable and articulable suspicion that [Goldsmith] was engaged in unlawful activity." *Id.* at 401. The court found that the officer's "vague testimony fell short of providing factual support for his conclusory statement that the area was high crime." *Id.* at 404. The court further noted:

> [E]ven if [the officer] had provided more information regarding the prevalence of crime in the area, that would have been insufficient to justify the stop because the other factors on which the officers relied were also insufficient -- even when taken together -- to form a reasonable and articulable suspicion that [Goldsmith] was engaged in criminal activity . . . [The officer] testified that he was suspicious of [Goldsmith] based on his training and experience that drugs and guns are often stored in walkways, because of general 'reports [he had] been having in the area,' and because of his belief that criminal activity was taking place at the vacant house. None of those non-specific, non-individualized factors however, 'meet the constitutional threshold of individualized reasonable suspicion' that this particular defendant was engaged in criminal activity. [citation omitted]. Aside from [Goldsmith's] presence on that walkway, none of those factors are specific to [Goldsmith] engaging in behavior indicative of criminal activity. *Id.* at 405-406.

[7] The court in *State v. Doss*, *supra,* determined:

> [F]or more than 20 people to have gathered in a parking lot at 11:30 p.m. on a cold, dark . . . night in an area where drug trafficking was known to be prevalent was suspicious. When someone in the crowd shouted an alarm as soon as he recognized that the vehicle which had arrived was a police car, causing three or four persons, including [Doss], to separate themselves from the crowd and run, the circumstances were sufficient to cause an experienced policeman to think that the persons who were fleeing had engaged in criminal conduct and they were trying to hide from the police. When [the detective] recognized [Doss] as someone he had seen conversing with convicted drug dealers on a

Question 25 presented candidates with four statements. The question asks, based on relevant New Jersey case law, "when analyzing the totality of the attendant circumstances, which are factors a New Jersey court will consider when determining when a person is considered 'in custody' so as to trigger the requirement of *Miranda* warnings?" The keyed response is option d, which included all four statements: I, "The physical surroundings of the questioning"; II, "The nature and degree of the pressure applied to detain the individual"; III, "The duration of the detention"; and IV, "The language used by the officer in summoning the individual." Norton maintains that "the question omitted additional important factors such as: physical surroundings - for example, being questioned in police headquarters versus a public place[;] the degree of pressure or coercion used by officers to detain or question the individual. These are well established elements under NJ case law when applying the totality of circumstances test. The answer, while partially correct, was incomplete and may have misled the test taker into eliminating other valid factors." As indicated above, both statements I and II are included in the keyed response. As such, Norton's argument is misplaced.

Question 26 provides:

> During the course of a sexual abuse investigation, a County Prosecutor's detective telephoned Scott Marx and asked if he would be willing to discuss allegations that Marx's uncle, Thomas Howe, had sexually abused Jennifer, a 9-year-old relative. Scott Marx, who was 28 years old, expressed his willingness to speak with the detective. The detective did not tell Marx that Jennifer had also implicated Marx in the sexual abuse. As agreed, at 10:30 a.m. the next day, Marx went to the police department and upon his arrival, he was given *Miranda* warnings. Marx indicated that he understood the warnings and also signed a *Miranda* warning card, which contained, in writing, each of the rights read to him. Thereafter, Marx gave a formal taped statement regarding what he had witnessed of Howe abusing Jennifer. Afterwards, the detective expressed his concern that Marx may have also been sexually

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number of occasions, the officer's suspicion would necessarily have been heightened. *Id.* at 127.

The court further noted:

> When [Doss] continued his flight from the pursuing police officers despite their shouted orders to halt, his refusal to obey their orders, together with all of the other circumstances of the case, gave the police reasonable cause to believe that he had committed or was then committing a criminal offense . . . Consequently, when [the detective] and the other policeman caught up with [Doss] and handcuffed him . . . they had probable cause to effect his arrest. The concurrent seizure and search of the cap which he held crumpled up in his hand, revealing the cocaine which it contained, was lawful because it was incident to a lawful arrest. *Id.* at 130.

> abused by Howe as well. Marx became extremely and visibly upset. At first, Marx denied that he had been abused by Howe. However, when the detective continued confronting Marx by telling him that Jennifer had made several sexual accusations against Marx as well, Marx cried and had trouble speaking at first. He was not given the *Miranda* warnings a second time. Ultimately, Marx confessed to sexually assaulting Jennifer and gave a second formal taped statement regarding the confession. Marx was then arrested.

Gallagher and Mimy challenge the validity of this item. Specifically, they argue that typically, Police Sergeants operate in the field or in a noncustodial setting, such as a crime scene or motor vehicle stop. They maintain that typical Police Sergeant duties include supervising patrol officers, managing field operations, and conducting preliminary investigations. They argue that this item is more appropriate for the specialized roles of detectives and investigative personnel, not the operational duties of a Police Sergeant. Furthermore, they refer to the job specification for Police Sergeant and argue that a Police Sergeant's job description does not include conducting custodial interrogations; administering *Miranda* warnings in controlled environments; obtaining formal confessions in investigative settings; or engaging with subjects already identified as suspects based on prior intelligence. Rather, they maintain that Police Sergeants and field officers typically conduct preliminary fact-finding in the field; respond to incidents, motor vehicle stops, and calls for service; interact with individuals in noncustodial, public settings; and operate under reasonable suspicion standards and *Terry*[8] stops, and not under a custodial interrogation framework. It is noted that TDAA contacted SMEs regarding this matter who indicated that Sergeants must understand the legal principles governing interrogations, confessions, and suspects' constitutional rights to effectively supervise, review, and approve officers' actions. The SMEs noted that understanding *Miranda* and custodial arrests is very important. In this regard, they noted that Sergeants must be aware of when *Miranda* warnings are required. In addition, Sergeants regularly deal with subjects in custody and need to know when they can be questioned. Sergeants operate in a variety of environments and can easily move from the street into headquarters when a subject is in custody and questioned. The SMEs further noted that a Sergeant may be overseeing an officer or detective and should know when the questioning or interrogation requires a *Miranda* warning. As such, the SMEs rated the knowledge assessed in this item as "important" for successful performance as a Police Sergeant. Furthermore, it is noted that job specifications are not written to describe each and every duty assigned to a particular position. Moreover, the examples of work portion of a job specification provides typical work assignments which are descriptive and illustrative but are not meant to be restrictive or inclusive.

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[8] It is assumed the candidate is referring to *Terry v. Ohio*, 392 *U.S.* 1 (1968).

Question 27 provides that an officer has radioed to you requesting assistance on whether or not he is permitted to conduct a protective sweep. Candidates are required to complete the following sentence, "You inform the officer that a protective sweep may be completed only when officers are lawfully within a private premises for a legitimate purpose, which may include consent to enter, and the officers have . . ." The keyed response is option c, "a reasonable articulable suspicion that the area to be swept harbors an individual posing a danger." The question does not indicate the circumstances under which the protective sweep is to be conducted, *e.g.*, whether the sweep to be conducted incident to arrest and if so, is it at the home or outside of the home; or whether is it to be conducted in a non-arrest situation at the home or outside of the home.[9] Thus, it is not clear how candidates could arrive at the correct response. Accordingly, this item should be omitted from scoring.

Question 28 indicates that an officer, who is conducting a field inquiry of an individual, has developed reasonable suspicion that the individual is in possession of a weapon. The question asks, based on relevant case law, for the true statement. The keyed response is option b, "The officer is permitted to conduct a limited search of the individual's outer clothing for weapons." Mesmer, Patrick and Tosado refer, in part, to *Terry, supra.*, in which the Court held:

> where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. *Id.* at 30.

They argue that the question does not indicate that the officer had reasonable suspicion that "criminal activity may be afoot" which would justify a *Terry* stop. In addition, they maintain that the question does not indicate that the officer believed that his safety or the safety of others was at risk which would justify a limited search. Given the lack of specifics describing the circumstances of the encounter, this item should be omitted from scoring.

Question 31 indicates that up until yesterday, sixteen-year-old Jessica was living with her mother, Alice. Alice told Jessica she was no longer allowed to live in her house when she found out that Jessica was two months pregnant. Today, Jessica

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[9] It is further noted that the courts have permitted protective sweeps of automobiles, *see e.g.*, *State v. Lund*, 119 *N.J.* 35 (1990).

went to her mother's house to collect the rest of her belongings and when she arrived, Alice began calling her derogatory names and slapped her in the face, leaving a giant bruise. Jessica decided to contact the police to report her mother's behavior towards her. The question asks, based on *N.J.S.A.* 2C:25-19, for the true statement. The keyed response is option c, "A charge under the Prevention of Domestic Violence Act would be appropriate for Alice."[10] Bernard presents, "Child emancipation not clearly defined mainly as to w[h]ether or not pregnancy alone automatically triggers emancipation. Conflicting sources." It is noted that Bernard does not cite or provide documentation regarding the "conflicting sources" as he asserts. However, the question specifically refers to *N.J.S.A.* 2C:25-19 which defines an emancipated minor as "a person who is under 18 years of age but who has been married, has entered military service, has a child or is pregnant or has been previously declared by a court or an administrative agency to be emancipated." As such, the question is correct as keyed.

Question 34 indicates that at the request of the responding officer, you were dispatched to the local grocery store where you were informed of an altercation between a customer and cashier. The customer was angry that the cashier was not ringing her items up fast enough because the cashier was having a non-work-related conversation with another co-worker. The customer yelled, "I'm going to hurt you," grabbed the cashier's hair, and shoved her face into the register, leaving a small cut. The question asks, based on the information presented in the scenario, for the most appropriate *N.J.S.A.* 2C charge for the customer. The keyed response is option c, Simple Assault.[11] Estremera, Fasano, Murphy and Plaza maintain that option a, Aggravated Assault,[12] is the best response. Specifically, Estremera refers to *N.J.S.A.*

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[10] *N.J.S.A.* 2C:25-19a provides that domestic violence means, in part, the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor: (1) Homicide *N.J.S.A.* 2C:25-11-1 *et seq.*[;] (2) Assault *N.J.S.A.* 2C:12-1 . . ." *N.J.S.A.* 2C:25-19d provides that a victim of domestic violence means, in pertinent part, a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present household member or was at any time a household member.

[11] *N.J.S.A.* 2C:12-1a (Simple assault) provides that a person is guilty of assault if he: (1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or (2) Negligently causes bodily injury to another with a deadly weapon; or (3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

[12] *N.J.S.A.* 2C:12-1b (Aggravated assault) provides, in pertinent part, that a person is guilty of aggravated assault if he: (1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or (2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or (3) Recklessly causes bodily injury to another with a deadly weapon; or (4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in subsection f. of *N.J.S.A.* 2C:39-1, at or in the direction of another, whether or not the actor believes it to be loaded . . .; (7) Attempts to cause significant bodily

2C:12-1b(1) and argues that although "the actor only inflicted a small cut against the cashier and did not cause serious bodily injury, her threat before her actions here knowingly manifested extreme indifferences to the value of human life by attempting to cause such injury and proved her state of mind was to knowingly cause injury." Fasano refers to *N.J.S.A.* 2C:12-1b(7) and contends that "forcibly grabbing someone by the hair and shoving their face into a cash register is an attempt to cause significant bodily injury . . . Shoving someone's face into a heavy, blunt object like a cash register could cause loss of consciousness, a broken nose (loss of smell), a broken eye socket (loss of sight) or many other injuries that would be considered significant bodily injury. Even though the injury is minor, the attempt to cause greater harm is evident in the aggressive nature of the act." Murphy refers to *N.J.S.A.* 2C:12-1b(2) and asserts that the cash register meets the definition of a deadly weapon[13] in this scenario which "It's no different from an instance in which an offender slams a victim's head against the concrete sidewalk, a wall, or any other solid object." Murphy also refers to *N.J.S.A.* 2C:12-1b(7) and argues that "Using force to strike a victim's face against the cash register can absolutely cause significant bodily injury, as there are many different injuries that could realistically be caused by this. If the victim's eye were to strike a sharp corner on the object, temporary blindness or partial blindness could be a result. The victim's orbital bone or nose could be broken in this manner which could lead to temporary loss of function of a bodily member/organ or impairment of any of the five senses." Plaza refers to *N.J.S.A.* 2C:12-1b(1) and contends that the "suspect purposely and knowingly shoves/slams the victim's face into cash register (object) and victim sustains an injury to her face. The attempt of the suspect is clear, that they used the cash register as a weapon in order to purposely cause injury to the victim . . . It can be argued that the actor[,] in attempting to cause serious bodily injury, specifically by shoving/ slamming the victim's face into the cash register (weapon), they were exposed to potential injury . . . The act is not what injury was sustained, but what was a possibility of the attempt." It is noted that TDAA contacted SMEs regarding this matter who indicated that simple assault would be the only appropriate charge under the circumstances presented in the scenario. In this regard, the SMEs noted that the cashier's face was shoved toward the register, not slammed, and the resultant injury was a small cut. The SMEs noted that the given that the injury is minor, nor was a deadly weapon used, the scenario does not meet the statutory level of significant or serious bodily injury, which would warrant a charge of aggravated assault. Accordingly, the question is correct as keyed.

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injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury.

[13] *N.J.S.A.* 2C11-1(c) defines a deadly weapon as "any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury or which in the manner it is fashioned would lead the victim reasonably to believe it to be capable of producing death or serious bodily injury."

Question 35 indicates that Officer Moon is trying to get a better understanding of when a person is guilty of Aggravated Assault. Candidates are provided with three statements. The question asks, based on *N.J.S.A.* 2C: 12-1, "under which of these actions is a person guilty of Aggravated Assault?" The keyed response, option c, did not include statement I, "Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon." It is noted that *N.J.S.A.* 2C:12-1b (Aggravated assault) provides, in pertinent part, that a person is guilty of aggravated assault if he: (1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or (2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon. It is noted that TDAA was contacted regarding this matter and indicated that the question had been miskeyed as option c and has been rekeyed to option d, which includes all three statements, prior to the lists being issued.

Question 40 provides:

> Scott Pratt runs a reading group for young adults with developmental disabilities at the local library. After today's session was over, twenty-year-old participant, Rebecca, proceeded to enter the single-stall unisex restroom. Mr. Pratt followed behind and entered the restroom with Rebecca, forgetting to lock the door. He told Rebecca he wanted to reward her since she was doing a great job in reading group and began to remove her shirt. Rebecca became uncomfortable but was not mentally capable of understanding her right to tell Mr. Pratt to stop. He began to rub her breasts, became sexually aroused, and took Rebecca's hand and placed it down his pants to touch his genitals. Rebecca began to cry just as the librarian opened the door to use the restroom. She witnessed Mr. Pratt acting inappropriately with Rebecca and immediately notified the police.

The question asks, based on *N.J.S.A.* 2C:14, for the most appropriate charge for Mr. Pratt. The keyed response is option a, Aggravated Criminal Sexual Contact.[14] Since

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[14] *N.J.S.A.* 2C:14-1d provides in pertinent part that sexual contact means an intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor.

N.J.S.A. 2C:14-3a provides that an actor is guilty of aggravated criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in 2C:14-2a(2) through (7).

N.J.S.A. 2C:14-2a provides that an actor is guilty of aggravated sexual assault if the actor commits an act of sexual penetration with another person under any one of the following circumstances: . . .

Bernard selected the correct response, his appeal of this item is moot. Alvarez asserts that option c, Criminal Sexual Contact,[15] is the best response. In this regard, Alvarez presents that "Law enforcement officers are not medical professionals to be able to confidently up charge [*sic*] somebody that is mentally disabled. We would go with the appropriate charge of criminal sexual contact and then in the eyes of the court [*sic*] can always up the charge to aggravated sexual contact based on medical records that the prosecutio[n] receives." It is noted that the information presented in the question stem does not meet the criteria pursuant to *N.J.S.A.* 2C:14-3b, *i.e.*, the circumstances presented in *N.J.S.A.* 2C:14-2c(1) through (5). As such, a charge of criminal sexual contact is not appropriate. Badeer contends that option b, Sexual Assault, is equally correct. Badeer presents that "the fact that a third party intervention [*sic*] (librarian) had to open the door and inter[r]upt the ongoing sexual offense suggests that the assault was in progress, ongoing and escalating toward penetration. This supports an interpretation that the actor was either committing sexual assault or attempting

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(7) The victim, at the time of sexual penetration, is one whom the actor knew or should have known was:
   (a) physically helpless or incapacitated;
   (b) intellectually or mentally incapacitated; or
   (c) had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the distinctively sexual nature of the conduct, including, but not limited to, being incapable of providing consent, or incapable of understanding or exercising the right to refuse to engage in the conduct.

[15] *N.J.S.A.* 2C:14-3b provides that an actor is guilty of criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in section 2C:14-2c(1) through (5).

N.J.S.A. 2C:14-2c provides that an actor is guilty of sexual assault if the actor commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The actor commits the act using coercion or without the victim's affirmative and freely-given permission, but the victim does not sustain severe personal injury;
(2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;
(3) The victim is at least 16 but less than 18 years old and:
   (a) The actor is related to the victim by blood or affinity to the third degree; or
   (b) The actor has supervisory or disciplinary power of any nature or in any capacity over the victim; or
   (c) The actor is a resource family parent, a guardian, or stands in loco parentis within the household;
(4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim;
(5) The victim is a pupil at least 18 but less than 22 years old and has not received a high school diploma and the actor is a teaching staff member or substitute teacher, school bus driver, other school employee, contracted service provider, or volunteer and the actor has supervisory or disciplinary power of any nature or in any capacity over the victim. As used in this paragraph, "teaching staff member" has the meaning set forth in *N.J.S.A.*18A:1-1.

to do so." Candidates were instructed, in pertinent part, that "when answering questions contained in this test booklet, you should ***base your decisions on the information provided***, as well as your knowledge of the subject matter" (emphasis added). In this regard, the question stem does not indicate that an act of sexual penetration occurred prior to or at the time that the librarian opened the door to the bathroom. As such, this situation does not meet the criteria for a charge of sexual assault pursuant to *N.J.S.A.* 2C:14-2. Accordingly, the question is correct as keyed.

Question 41 in 40 ndicates that you are responding to a call for service alleging an act of Domestic Violence at a residence shared by a father and son. You learn that a physical confrontation between 55-year-old Kevin Baker and his 19-year-old son, Brian, has occurred, leaving Kevin with a small stab wound on his arm. During your questioning of Kevin, you learn that he has a registered handgun in his bedroom drawer and Brian has a collection of switchblade knives that are kept in the basement. At the end of your conversation, you determine there is probable cause to arrest Brian for Domestic Violence. The question asks, based on *N.J.S.A.* 2C:25-21, for the true statement. The keyed response is option b, You are "permitted to seize any weapon present on the premises that you reasonably believe would expose Kevin to a risk of serious bodily injury."[16] Campbell contends that the question "was worded 'You can . . .' meaning the officer can do which of the options listed below. The officer can do all the options that were listed below for the question." It is noted that Campbell has not provided any arguments or proof, beyond her own opinion, to show that options a, c and d would be appropriate actions pursuant to *N.J.S.A.* 2C:25-21. Alvarez, DeFluri, Mancino argue that option a, You are "permitted to only seize Brian's collection of switchblade knives if it is determined that they were used in the physical confrontation between Kevin and Brian," is the best response. Specifically, Alvarez contends that a judicial order would be needed to seize any weapon in the home. DeFluri maintains that "the victim's personally owned firearm[,] which does not pose a threat[,] would not be taken." Mancino contends that "the officer cannot simply seize weapons without certain stipulations. In order to seize a weapon from the scene without consent or a judicial warrant, it must be evidence (weapon used in the commission of the DV offense)." Inman asserts that the scenario did not provide "adequate information to make the determination if seizing the father['s] (victim['s]) firearms was legal or justifiable. The exam failed to disclose whether the father (victim) and son (suspect) resided together.[17] Additionally, the exam did not indicate if the suspect had access to his father[']s firearms, or if they were secured in a safe or place that only the father would have access to . . . By seizing a victim's firearms, it could expose him to risk of further violence, and deprive the victim of his ability and

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[16] *N.J.S.A.* 2C:25-21d(1)(b) provides, in pertinent part, that "a law enforcement officer who has probable cause to believe that an act of domestic violence has been committed shall . . . upon observing or learning that a weapon is present on the premises, seize any weapon that the officer reasonably believes would expose the victim to a risk of serious bodily injury."

[17] As noted above, the question clearly indicates that the "residence [is] shared by a father and son."

right to protect himself . . .” Runof asserts that “the firearm was not used in this incident, and it was not in plain view. The scenario had no mention of consent provided by the victim or a DV weapon seizure order issued by a judge. With the facts provided you would be unable to enter the victim’s bedroom and search his dresser for the weapon, making it impossible to seize the weapon.” Saldutto contends that “The scenario provided does not allow for the seizure of any weapons. Based on the information provided, the victim has a small cut on his arm; however, there was no information presented in this scenario indicating how it was sustained . . . The scenario explicitly provides that the weapons are not in plain view . . . Additionally, there are no facts presented that would lead a reasonable officer to believe that the weapons were used against the victim or would reasonably expose the victim to risk of serious bodily harm.” It is noted that Runof and Saldutto refer to the N.J. Attorney General’s Guidelines on Police Response Procedures in Domestic Violence Cases (revised November 1994) in support of their arguments.[18] TDAA contacted SMEs in regard to this matter who emphasized that the question asks what the officer is permitted to do pursuant to *N.J.S.A.* 2C:25-21. In this regard, *N.J.S.A.* 2C:25-21 permits the officer to seize any weapon that could expose the victim to serious bodily injury, regardless of ownership or protective intent. The SMEs indicated that an officer would be allowed to seize the firearm or any other weapon if leaving the weapon at the residence could put the victim in danger of the weapon being used. In this regard, the SMEs noted that the scenario indicated that the handgun was in a

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[18] This guideline provides, in pertinent part:

> I. Seizure of Weapons.
>
> A. Seizure of a Weapon for Safekeeping. A police officer who has probable cause to believe that an act of domestic violence has been committed may:
>
> 1. Question all persons present to determine whether there are weapons, as defined in *N.J.S.A.* 2C:39-1r, on the premises.
> 2. If an officer sees or learns that a weapon is present within the premises of a domestic violence incident and reasonably believes that the weapon would expose the victim to a risk of serious bodily injury, the officer should attempt to gain possession of the weapon.
> 3. If the weapon is in plain view, the officer should seize the weapon.
> 4. If the weapon is not in plain view but is located within the premises jointly possessed by both the domestic violence assailant and the domestic violence victim, the officer should obtain the consent, preferably in writing, of the domestic violence victim to search for and to seize the weapon.
> 5. If the weapon is not located within the premises jointly possessed by the domestic violence victim and assailant but is located upon other premises, the officer should attempt to obtain possession of the weapon from the possessor of the weapon, either the domestic violence assailant or a third party, by a voluntary surrender of the weapon.
> 6. If the domestic violence assailant or the possessor of the weapon refuses to surrender the weapon or to allow the officer to enter the premises to search for the named weapon, the officer should obtain a Domestic Violence Warrant for the Search and Seizure of Weapons.

drawer. The SMEs indicated that officers can act on their belief that leaving the weapon in a drawer could pose a danger to the victim. As such, the question is correct as keyed.

Question 43 provides:

> Sergeant Benton responds to a dropped 9-1-1 call originating from the home of Robert Carter. Upon arrival, three vehicles are observed in the driveway of the residence. A man answers Sergeant Benton's knock on the door and identifies himself as the homeowner. He denies calling 9-1-1 and claims that he is alone at the residence. Sergeant Benton radios dispatch to confirm that the 9-1-1 call originated from Carter's residence. After the dispatcher repeats the originating number, Carter confirms that it's his home phone number. Sergeant Benton notices that Carter has a small abrasion on the knuckle of his right hand, similar to what one would receive from punching something. Sergeant Benton asks him if he is married and Carter becomes agitated and says, 'I don't see what business it is of yours anyway, but I'm married.' Sergeant Benton thinks that Carter's demeanor is beginning to change, like he is starting to get frustrated that he is there and starting to ask these questions. Carter refuses Sergeant Benton's request to enter the house and look around. Once two backup officers arrive, Sergeant Benton tells Carter that he and the officers need to check the house. Carter slams the door closed and attempts to lock the door, but the officers push the door open. Sergeant Benton informs Carter that he is under arrest and the officers enter the residence. Carter physically resists arrest and a struggle between all four men ensues. Once Carter is secured, Sergeant Benton and one of the officers check the interior of the house and find nothing amiss.

The question asks, based on relevant New Jersey case law, for the true statement. The keyed response is option a, "The emergency-aid exception to the warrant requirement justified the police officers' intrusion into Carter's home." Since Perez selected the correct response, his appeal of this item is moot. DeFluri argues that option c, "The officers' warrantless entry into Carter's home was justified by the community caretaking exception," is correct. In this regard he refers to *State v. Edmonds*[19] which he claims would "justify the officer[s'] entry into the residence in

[19] While DeFluri does not provide a citation for this matter, it appears that he is referring to *State v. Edmonds*, 211 *N.J.* 117 (2012). As noted by the court in that matter, police received a 9-1-1 call in which the caller stated that his sister was being beaten by her boyfriend who had a gun. The caller provided his sister's name and address. Four officers were dispatched to the residence and were met at the downstairs door by the sister who stated that there was no problem and that only her 11-year old son was in the residence. She was agitated and refused to consent to the officers' request to enter the residence. Eventually the officers entered the residence and discovered the son standing in the

the fact pattern of this question under community caretaking." It is noted that this question is based on *State v. Reece*, 222 *N.J.* 154 (2015), in which the court noted that "the exception to the warrant requirement at issue here is the emergency aid doctrine . . ." *Id.* at 168. The court applied the two-pronged test articulated in *State v. Edmonds*, *supra*, to determine whether the emergency aid doctrine justified a warrantless search, *i.e.*, 1) the officer had an objectively reasonable basis to believe that an emergency requires that he provide immediate assistance to protect or preserve life, or to prevent serious injury; and 2) there was a reasonable nexus between the emergency and the area or places to be searched. *Id.* at 168-169. The court noted that "a dropped 9-1-1 call from a residence creates a 'presumptive emergency, requiring an immediate response,' because such a call suggests 'a person whose life is endangered but [is] unable to speak' made the call.'" [citation omitted]. However, this presumption may be dispelled by an explanation given by the homeowner to the responding officer, and thus, is a fact-sensitive inquiry. *Id.* at 169. The court determined that "the dropped 9-1-1 call in this case permitted [the officer] to presume that there was an emergency. In light of that presumption and based on his observations . . . [the officer] had 'an objectively reasonable basis to believe that an emergency require[d] that he provide immediate assistance to protect or preserve life, or to prevent serious injury.' [citation omitted]." *Id.* at 171. The court determined that the officers' warrantless entry into the home was justified under the emergency-aid doctrine. With regard to *State v. Edmonds*, *supra*, initially, it is noted that the circumstances in this matter are clearly distinguishable from those in *State v. Reece*.[20] In addition, the court in *State v. Edmonds*, *supra*, determined in that matter that "once the police determined that there was inadequate evidence to corroborate the report of domestic violence, and the parties' safety was not an issue, there was no objectively reasonable basis to conduct a search under either the community caretaking or emergency-aid doctrine." *Id.* at 121-122. Furthermore, as discussed by the court in *State v. Edmonds*, *supra*, the community-caretaking doctrine does not

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living room and the defendant in an adjoining room. Officers patted down the defendant and removed him from the room. Officers found a loaded gun under a pillow in the room the defendant had been in. When the defendant admitted the gun was his, the officers arrested him for possession of a weapon.

[20] In *State v. Edmonds*, *supra*, at approximately 1:00 a.m., the Roselle Police Department received a 9-1-1 call from a person identifying himself as "John Smith" who indicated that he believed his sister's boyfriend had a gun and was beating her up. *Id.* at 122-123. The caller provided his sister's name, Kamilah Richardson, and address in Carteret. Subsequently, the Carteret Police Department dispatched four officers to the address to investigate the domestic dispute. Upon their arrival, the officers were met by Richardson at the downstairs doorway. Richardson indicated that there was no problem and did not give consent for the officers to enter the home. Richardson further indicated that only she and her 11-year-old son were at home. The officers eventually entered the home and discovered Edmonds in an adjacent room. Edmonds was ordered to exit the room and was patted down for weapons but none were discovered. The officers searched the room where Edmonds had been found and discovered a loaded firearm. Edmonds indicated that it was his weapon and he was arrested for unlawful possession of the weapon. Richardson explained that she was having problems with an ex-boyfriend and she insisted that Edmonds had not engaged in any act of domestic violence. *See id.* at 123-124.

typically apply to a search of a home. In this regard, the court noted that the United States Court of Appeals for the Third Circuit, which has appellate jurisdiction over New Jersey, "explicitly rejected any extension of *Cady*[21] to the search of a home. [*Ray v. Township of Warren*, 626 *F.3d* 170, 177 (3d Cir. 2010)]." *Id.* at 144.

Question 45 provides:

> At 1:00 a.m., Officer Hogarth was dispatched to investigate a car parked in front of a home in Bridgeway Township. The dispatcher advised the officer that a neighbor had reported that the car was suspicious because the owners of the home it was parked in front of were out of town. When Officer Hogarth arrived at the residence, he discovered an unoccupied vehicle with Texas license plates parked in front of the house. Although the hood of the car was still warm, no one was seen in the immediate vicinity. A check of the residence revealed no sign of a burglary. After waiting about ten minutes, Officer Hogarth resumed patrol. Within five minutes later, the dispatcher advised Officer Hogarth that the same neighbor had called back and reported that the occupants of the vehicle had returned to it by way of a residential road that runs directly behind a row of commercial buildings and thereafter drove toward Route 72. Officer Hogarth located the vehicle traveling eastbound on Route 72 and followed it. After a short distance, the vehicle entered an unoccupied parking lot in a small commercial area and stopped with its lights off. Officer Hogarth positioned his patrol car to the right rear of the vehicle and projected his spotlight on the vehicle. When a backup officer arrived, Officer Hogarth approached the driver's side of the vehicle to inquire about the situation and discovered two occupants in the vehicle. The driver rolled down his window and Officer Hogarth ordered both occupants to place their hands on the dashboard. The occupants did not comply and the driver defensively started talking about his rights. The two officers drew their guns since they were not able to see the hands of the occupants. Officer Hogarth took hold of the driver's clothing, opened the door, and removed him from the car. Keeping hold of the driver's clothing, Officer Hogarth directed him to the back of the vehicle where he conducted a protective frisk, which revealed a hard object in the driver's pocket. Officer Hogarth reached in and removed a knife. A protective frisk of the passenger's person was conducted in the same manner and also produced a four-inch knife from inside a pocket.

The question asks, based on relevant N.J. case law, for the true statement. The keyed response is option b, "Under the totality of the circumstances, the protective frisk of

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[21] *Cady v. Dombrowski*, 413 *U.S.* 433 (1973), which involved the search of an automobile, introduced the community-caretaking doctrine.

both occupants was reasonable in light of the officers' legitimate concern for their safety."[22] Condito, DeFluri, Nicholas Morgante, Thomas and Torres maintain that option d, "Officer Hogarth lacked the required reasonable suspicion to conduct a field interrogation of the occupants; therefore, the occupants were unlawfully detained and the protective frisk was not justified," is the best response. Specifically, Condito presents that "the fundamental principles established in *Terry v. Ohio* require that officers possess at least a reasonable, articulable suspicion that an individual is, has been, or is about to be engaged in criminal activity to justify an investigatory stop." Condito maintains that although the court in *State v. Otero*, *supra*, "ultimately upheld the admissibility of the frisk, the legitimacy of the stop itself is questionable . . . . Without specific and articulable facts to support a reasonable suspicion of criminal activity, the stop in *Otero* arguably did not meet the constitutional threshold established by *Terry*." Condito contends that this item should be omitted from scoring "considering subsequent case law that has refined the standards for investigatory stops . . . Courts now demand clearer, articulable facts before allowing such encounters to escalate. As policing standards evolve, continued reliance on *Otero* without considering these developments risks applying outdated legal principles to modern day policing." DeFluri presents:

> The question mimics the fact pattern of *State v. Otero* in which the trial court granted the defendant's motion to suppress the evidence, ruling that the facts and circumstances facing the officers did not provide 'a reasonable belief that anyone was armed with anything.' *Id.* at 87. 'In deciding to suppress the evidence seized[,] the Law Division judge intimated that New Jersey's law regarding investigatory stops is more restrictive than that set forth in *Terry* and [those United States Supreme Court cases following Terry]." *Otero* at 90.

Nicholas Morgante maintains that "the fact pattern of the question provided no details of criminal activity, or reason for a motor vehicle stop that would give an officer the right to seize the occupants. The question appeared to be based on (*State v. Otero*), however, [it] did not provide the full fact pattern of the case that would give an officer the information needed for the stop." Thomas argues:

> In this case, the officer lacked reasonable suspicion or probable cause that a crime is about to take place, has taken place or a crime was in the process of taking place. The officer conducted an investigation at the time of the call and found no wrongdoing. Stopping the vehicle after the fact of those finding[s] does not meet reasonable suspicion or probable cause and should be unlawful detention and improper frisk.

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[22] It is noted that this question is based on *State v. Otero*, 245 *N.J. Super.* 83 (1990).

Thomas contends that "on the fact pattern provided, there was no mention of any illegal activity to be committed. Just because a vehicle is parked in front of a residence with no other context doesn't make it suspicious. Therefore[,] on what grounds is there to even stop the vehicle [?] [The v]ehicle is parked legally and no crime has been committed." The court in *State v. Otero*, *supra*, discussed the requirements for a *Terry* stop and its application in New Jersey. In this regard, the court noted that "New Jersey law unquestionably permits police to 'stop and frisk' an individual in the absence of probable cause to arrest." *Id.* at 91. The court found that "the investigating officer had an articulable and reasonable suspicion upon which to base his decision to approach and investigate defendant." *Id.* at 92. The court further determined:

> The investigating officer, although initially performing only a field interrogation, justifiably felt compelled for reasons of safety to request that the occupants place their hands on the dashboard. The totality of the circumstances known to the investigating officer and his experience permitted his ordering the occupants to place their hands where they could be seen, even if such an order constituted a seizure of the person. *See generally Brown v. Texas*, 443 *U.S.* 47, 50, 99 *S.Ct.* 2637, 2640, 61 *L.Ed.*2d 357, 361 (1979) (discussing circumstances which amount to seizure of the person). When the occupants refused to comply with the officer's request, this resistance provided a reasonable suspicion that they might be armed, when viewed in light of the lateness of the hour, the evasiveness of their conduct, and their presence in places which aroused suspicion. The original investigatory encounter thus escalated into a 'stop and frisk' by reason of the actions of the defendant and the driver. The police officer had sufficient justification for his actions at each stage of the escalating encounter. The objective facts known to the officer led him to reasonably believe that his safety or that of his fellow officer would be jeopardized if preventive action were not taken. *State v. Lund*, 119 *N.J.* at 45, 573 *A.*2d 1376. *Id.* at 92-93.

It is noted that Condito and Thomas do not provide any evidence, beyond their own opinions, to support their contention that the stop was improper. In this regard, although Condito claims "subsequent case law . . . has refined the standards for investigatory stops," he does not refer to or cite any subsequent case which invalidates the court's determination in *State v. Otero*, *supra*. DeFluri cites a portion from *State v. Otero*, *supra*, in which the court discusses the history of the matter, *i.e.*, the determination of the motion judge and determination of the Superior Court, Law Division, but does not provide any further argument. With respect to Nicholas Morgante's claim that the question does not present the "full fact pattern of the case," it is noted that the fact pattern provided in the test booklet is virtually identical to that described in *State v. Otero*, *supra*. Moreover, Nicholas Morgante does not articulate what information he believes was omitted from the "full fact pattern of the case" and/or how it impacted the selection of his answer choice.

Question 49 indicates that at the request of the responding officer, you arrive at the Marshall residence, where Mark has just stabbed and injured his wife. Mark is standing on the front porch holding the knife and crying. You provide Mark with clear, simple instructions to put the knife down, place his hands above his head, and slowly walk down the stairs. Mark shouts, "My life is over. I can't believe what I have done." You assure him that you are there to listen to him and make sure he feels comfortable. You explain to him the benefits of cooperation with the police. Candidates were required to complete the following sentence, "According to the specific language used in the N.J. Attorney General's Use of Force Policy, verbal communication techniques that include giving clear and simple instructions, using active listening techniques to engage the suspect, and explaining the consequences of failing to comply with directions is known as . . ." The keyed response is option c, tactical communication.[23] Markowski contends that "the phrase 'giving orders' was used in the question and is not found in the definition of 'Tactical Communication' hence why this question should be thrown out as it was misleading and not the proper definition of 'Tactical Communication.'" As indicated above, this question does not contain the phrase, "giving orders." As such, Markowski's argument is misplaced.

Question 51 indicates that in your department, there has been an influx of reports on the Attorney General's Use of Force Reporting Portal of police officers displaying firearms to discourage resistance and ensure officer safety in potentially dangerous situations. During roll call, you plan to discuss circumstances which allow for an officer to point a firearm. Candidates were required to complete the following sentence, "According to the specific wording of the N.J. Attorney General's Use of Force Policy, officers may point a firearm at a person only when . . ." The keyed response is option d, "circumstances create a reasonable belief that it may be necessary for the officer to use deadly force." Lojo and Omar, who misidentified this item as question 53,[24] contend that option a, "there is imminent danger of bodily injury to the officer or a member of the public if the suspect is not immediately apprehended," is correct. In this regard, they indicate that pursuant to Section 2.3 (Force as a last resort) of the N.J Attorney General's Use of Force Policy (Use of Force Policy), "any force should be used as a last resort and that officers should use other means to gain compliance." They further refer to Section 4.4 (Force to apprehend a fleeing suspect) which provides, in part, that "an officer may only use deadly force to

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[23] The Use of Force Policy defines tactical communication as:

> Verbal communication techniques that are designed to avoid or minimize the use of force. Such techniques include giving clear, simple instructions or directions, using active listening techniques to engage the suspect, and explaining the consequences of failure to comply with directions or instructions, including that force may be used.

[24] Lojo and Omar described this item as the "question pertaining to when it is appropriate to unholster a firearm and use constructive authority." It is noted that question 53 refers to the Use of Force Report Narrative that was provided to candidates in the test booklet (see below).

apprehend a fleeing suspect in the rare case when the suspects escape would create an imminent danger of death or serious bodily injury to the officer or a member of the public if the suspect is not immediately apprehended." Lojo and Omar argue that "the stem of the question does not give enough information to determine that deadly force should/can be used, and the definition of imminent danger stipulates that it may be present if the subject is not pointing a weapon but running for cover. Depending on the circumstances, it MAY not be proper to use deadly force, but constructive authority (unholstering a firearm/pointing a firearm)." As indicated above, the question did not ask when or whether deadly force may be used. Rather, the question indicates that due to an increase in reports that officers are displaying firearms to discourage resistance and ensure officer safety in potentially dangerous situations, you are planning discuss circumstances which allow for an officer to point a firearm. Section 3.4 (Displaying of firearms) of the Use of Force Policy provides, in part:

> Special requirements must be met before an officer may display a firearm. Unholstering or pointing a firearm are tactics that should be used with great caution. The presence of an officer's firearm, under the right circumstances, can discourage resistance and ensure officer safety in potentially dangerous situations without the need to resort to force. At the same time, however, unnecessarily or prematurely drawing a firearm could limit an officer's options in controlling a situation, could create greater anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm.
>
> (a) *Pointing a firearm*. Consistent with training, officers may point a firearm at a person only when circumstances create a reasonable belief that it may be necessary for the officer to use deadly force. When the officer no longer reasonably believes that deadly force may be necessary, the officer shall, as soon as practicable, secure or holster the firearm.

Accordingly, the question is correct as keyed.

For questions 52 through 61, candidates were provided with a Use of Force Report Form and a Use of Force Narrative in the test booklet.

Question 56 asks, according to the information contained in the Use of Force Report Narrative, how Box 31 of the Use of Force Report Form should be completed. The key is option a, "Interviewing the suspect."[25] It is noted that Box 31 of the Use of Force Report Form is labeled, "OFFICER'S ACTIVITY WHEN FORCE WAS USED: (i.e., transporting, interviewing, etc.)." The Use of Force Report Narrative provides, in pertinent part, "I told him that he was under arrest for robbery and . . .

[25] It is noted that Gonzalez misidentified this item as question 35.

he resisted my arrest by flailing his arms and using his feet to kick my legs. I gave the direction to stop resisting and a verbal warning that force would be used if he did not comply. The suspect continued kicking me and flailing his arms. At this point, I used physical force with my feet to strike his legs, brought him to the ground, and safely restrained him." It is noted that TDAA was contacted regarding this matter and indicated that the question had been miskeyed as option a and has been rekeyed to option d, "Arresting the suspect," prior to the lists being issued.

Question 58 requires candidates to consider the following portion of the Use of Force Report Narrative, "On Friday, March 23, 2025, at aproximately 10:00 p.m., a 911 call was recieved indicating a robbery involving an intoxicated male." The question asks for the number of spelling errors in the sentence. The keyed response is option b, 2. Abedinoski contends that option c, 3, is correct and presents, "according to the type of writing style, 'a.m.' [*sic*] can be considered a misspleiign [*sic*] due to the periods as a capitalized AM/PM does not require." It is noted that "a.m." is an abbreviation for *ante meridiem* (before noon) and "p.m." is an abbreviation for *post meridiem* (after noon). Thus, the form of the abbreviation (*i.e.*, "p.m." in the above sentence) is a stylistic issue and is not a spelling issue.[26] As such, the question is correct as keyed.

Question 59 requires candidates to consider the following sentence from the Use of Force Report Narrative, "As I approached the suspect he shouted with slurred speech you aren't taking me to jail." The question asks, in order to file a properly written report, how the sentence should be rewritten. The keyed response is option c, "As I approached the suspect, he shouted with slurred speech, 'You aren't taking me to jail.'" Farnkopf asserts that option b, "As I approached the suspect he shouted with slurred speech, 'you aren't taking me to jail,'" is the best response. In this regard, Farnkopf argues that in this sentence, "you" does not need to be capitalized. Specifically, he presents, "Purdue University, which is also commonly referred to for grammar guidance, states, 'Do not use a capital letter when the quoted material is a fragment or only a piece of the original materials complete sentence.'" Farnkopf contends that "while you can argue that [the quoted portion] is a standalone sentence, I think it is more likely that this is just a fraction of the dialogue of which it was pulled from . . . I believe that the capitalization of this quote is subjective and cannot be determined without knowing more of the conversation that the officer had with the subject." Ganley, who selected option d, "Approaching the suspect he shouted with slurred speech, 'You aren't taking me to jail,'" argues that the beginning of the quotation could be either "upper case or lower case." It is noted that typically, the

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[26] For example, the Chicago Manual of Style indicates that there are six accepted ways to write the abbreviations for *ante meridiem* and *post meridiem*: all caps with periods, 10 A.M., 10 P.M.; all caps without periods, 10 AM, 10 PM; small caps with periods, 10 A.M., 10 P.M.; small caps without periods, 10 AM, 10 PM; lowercase with periods, 10 a.m., 10 p.m.; and lowercase without periods, 10 am, 10 pm. *See* https://www.chicagomanualofstyle.org/qanda/data/faq/topics/Abbreviations/faq0095.html.

first letter of a quotation that is a complete sentence is capitalized even when it appears mid-sentence.[27] Despite Farnkopf's argument, there is nothing in the Use of Force Report Narrative that indicates that this is a fragment or portion of a complete sentence. Additionally, it is noted that an introductory expression, *i.e.*, "As I approached the subject," must be followed by a comma.[28] However, option b does not contain a comma after this phrase and thus, is not the best response. With respect to option d, it is not clear who is "approaching the suspect." In addition, this phrase is an introductory expression which would require a comma afterward. Given this, option d is not the best response.

Question 64 indicates that Officer Timmons witnesses a traffic violation and believes that the violator poses an imminent threat to the safety of the public. Once authorization requirements have been met and other factors have been considered to initiate a vehicular pursuit, Officer Timmons initiates the pursuit. Candidates were presented four statements. The question asks, based on the N.J. Attorney General's Vehicular Pursuit Policy,[29] for the true statements. The keyed response, option d, includes all four statements. Inman presents that the Vehicular Pursuit Policy "lists the role of the supervisor during a vehicular pursuit. Section 7 states 'there is a reasonable belief that violator poses an imminent threat to safety of the public or other police officers.' Therefore question 64 is incorrect." Section 3, "Deciding Whether to Pursue," of the Vehicular Pursuit Policy provides, in pertinent part, that "a law enforcement officer may only pursue under the circumstances described in subparagraph A or subparagraph B . . . (b) when an officer reasonably believes that the violator poses an imminent threat to the safety of the public or other officers."[30] As such, the stem of this question is correct. Weber asserts that statement I, As the pursing officer, Officer Timmons "shall immediately activate all emergency lights, siren, headlights, motor vehicle recorder, if equipped, and body worn camera, if equipped, upon the initiation of the pursuit," and statement II, "must immediately notify communications and a supervisor, providing as much known information as possible," are incorrect. In this regard, Weber presents that "initiating the pursuit itself entails obtaining approval from the supervisor, and the factors in [statement I] would have already been done during the 'authorization requirements have been

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[27] *See e.g.*, https://owl.purdue.edu/owl/general_writing/punctuation/quotation_marks/index.html.

[28] *See e.g.*, https://owl.purdue.edu/owl/general_writing/punctuation/commas/extended_rules_for_commas.html; and https://owl.purdue.edu/owl/general_writing/punctuation/commas/commas_after_introductions.html.

[29] N.J. Attorney General's Use of Force Policy, Addendum B, The Vehicular Pursuit Policy (December 2020) (Vehicular Pursuit Policy).

[30] Section 7, "Role of the Supervisor," of the Vehicular Pursuit Policy provides, in pertinent part, that "the supervisor shall permit a pursuit to **continue** only under the following circumstances . . . (b) There is a reasonable belief that violator poses an imminent threat to the safety of the public or other police officers" (emphasis added).

met[’] stage.” Regarding statement II, Weber argues that the question stem indicates that “‘once authorization requirements have been met,’ which is to mean the officer had already relayed ‘communication AND A SUPERVISOR as much information as possible’ in order to obtain the authorization (approval) for the pursuit. This step would have already been completed, albeit necessary, for the pursuit to be authorized.” It appears that Weber has misunderstood the provisions of the Vehicular Pursuit Policy with regard to what “authorization” entails. Section 3, “Decision of Whether to Pursue,” discusses the authorization requirements for a vehicular pursuit. In this regard, an officer does not “obtain” authorization from a supervisor for the pursuit. Rather, subsections 3.2 and 3.3 list the factors that an officer must consider in making the determination as to whether a vehicular pursuit may be undertaken.[31] Section 4, “Role of the Pursuing Officer,” of the Vehicular Pursuit Policy provides:

> 4.1 The decision to initiate and/or continue a vehicular pursuit requires weighing the need to immediately apprehend the violator against the degree of risk to which the officer and others are exposed as a result of the pursuit.
> 4.2 Upon the initiation of a pursuit, the pursuing officer shall immediately activate all emergency lights, siren, headlights, motor vehicle recorder (MVR), if equipped, and body worn camera (BWC), if equipped.
> 4.3 Once the pursuit has been initiated, the primary unit must immediately notify communications and a supervisor, providing as much of the following information as is known . . .
> 4.4 The pursuing officer shall have a continuing duty to update the supervisor and communications on the above information as the incident develops.

As such, statement I and statement II are correct.

Question 65 indicates that while on patrol, Officer Mann observes Kim fail to stop her motor vehicle at a red light. After Officer Mann activates his patrol vehicle’s emergency warning lights and audible device, Kim increases the speed of her motor vehicle and fails to stop at several stop signs to evade Officer Mann. For Officer Mann to initiate a vehicular pursuit, he must decide if Kim’s operation of her motor vehicle poses an imminent threat to the safety of the public or other officers. Candidates were required to complete the following sentence, “Based on the N.J. Attorney

[31] The Vehicular Pursuit Policy does not indicate that a supervisor authorizes the officer to initiate a vehicular pursuit. Rather, a supervisor makes the determination to continue the pursuit or to terminate it. In this regard, *e.g.*, as provided in Section 7, “Role of the Supervisor,” “Upon being notified or becoming aware of the pursuit, the supervisor shall decide as quickly as possible whether or not the pursuit shall be permitted to continue.”

General's Vehicular Pursuit Policy, Officer Mann must base that threat upon Kim's . . ." The keyed response is option d, "actions or operation of the vehicle prior to the initiation of the attempted motor vehicle stop."[32] Ferren maintains that option c, "actions or operation of the vehicle prior to and after the initiation of the attempted motor vehicle stop," is the best response. In this regard, Ferren argues that the Vehicular Pursuit Policy is misleading since "a vehicle can in fact be stopped, after the attempt, and then pose an imminent threat to the safety of the public and officers, concerning our pursuit. This decision can be made AFTER the vehicle was stopped based on many different scenarios." It appears that Ferren is confusing the determination to initially initiate a vehicular pursuit with continuing a pursuit. Nevertheless, this question specifically refers to the Vehicular Pursuit Policy, which as noted previously, provides that the officer's determination "is based on the violator's actions or operation of the vehicle ***prior*** to the initiation of the attempted motor vehicle stop" (emphasis added). As such, the question is correct as keyed.

Question 68 indicates that you are creating a presentation on the N.J. Attorney General Directive Establishing Policies, Practices, and Procedures to Promote Juvenile Justice Reform (No. 2020-12) for your department's designated juvenile officers. In preparation for the presentation, you create several scenarios. The question asks, based on the directive, "in which scenario may an officer perform a stationhouse adjustment, rather than pursuing a delinquency complaint against a juvenile?" The keyed response is option b, "13-year-old Luiz has no prior history of juvenile adjudications or stationhouse adjustments, and his current conduct constitutes a petty disorderly persons offense." Since DiPietro selected the correct response, her appeal of this item is moot. Albanese contends that "the AG guidelines and title 2C say that a juvenile should be given a curbside warning/adjustment for minor offenses. A petty disorderly persons offense is a minor offense and should not be a station house adjustment." Suriel asserts that option c, "14-year-old Jerimiah has a history of several stationhouse adjustments and his current conduct constitutes a disorderly persons offense," is the best response. Section I of this directive, "Curbside Warnings," provides, in pertinent part, that there shall be a presumption in favor of engaging in a curbside warning -- rather than initiating more formal action involving a juvenile -- when the officer personally encounters a juvenile who has allegedly engaged in conduct that appears to constitute: 1. a. An ordinance violation, such as loitering or curfew violations; or b. Activity that is dangerous or disruptive,

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[32] The Vehicular Pursuit Policy provides, in Section 3, "Deciding Whether to Pursue,"

> Pursuit for motor vehicle offenses is not authorized under Paragraph 3.2 unless the violator's vehicle is being operated so as to pose an imminent threat to the safety of the public or other officers *and that threat is based on the violator's actions or operation of the vehicle prior to the initiation of the attempted motor vehicle stop.* There shall be a strong presumption against the initiation of vehicular pursuits based solely on motor vehicle violations. Both supervisors and officers shall ensure that only in rare cases will a vehicular pursuit be initiated or continued for motor vehicle violations. (emphasis added)

but not necessarily unlawful[;] 2. An officer may overcome this presumption and initiate action more formal than a curbside warning when: a. The officer has reason to believe that the juvenile is presently engaged in other, more serious unlawful conduct; or b. The juvenile continues to engage in the same unlawful conduct following the issuance of a prior curbside warning; or c. The juvenile has a pending formal complaint, demonstrating a continuing course of improper conduct, related or unrelated to the pending charge. Section II, "Stationhouse Adjustments," provides, in pertinent part, that there shall be a presumption in favor of performing a stationhouse adjustment -- rather than pursuing a delinquency complaint against a juvenile -- when: 1. The juvenile has no prior history of juvenile adjudications or stationhouse adjustments; 2. The juvenile's conduct constituted a petty disorderly persons offense, a disorderly persons offense, or a fourth-degree crime if committed by an adult; and 3. The juvenile's unlawful conduct did not constitute an act of bias, sexual misconduct, or violence, and did not involve controlled dangerous substances (CDS) or CDS paraphernalia. Initially, it is noted that question asks for a scenario in which an officer *may perform a stationhouse adjustment, rather than pursuing a delinquency complaint* against a juvenile. As such, Albanese's argument regarding a curbside warning is misplaced. Furthermore, as indicated in Section I above, the scenario presented in option b does not meet the criteria for a curbside warning. With respect to option c, since Jerimiah has a history of several stationhouse adjustments, he does not meet the criteria in Section II, *i.e.*, "The juvenile has no prior history of juvenile adjudications or stationhouse adjustments." Thus, option c is not the best response.

Question 71 indicates that at the request of the responding officer, you arrive as the on-scene supervisor at the residence of Officer Greene, of your department, who has been involved in a Domestic Violence incident. The question asks, "according to the specific wording of the N.J. Attorney General's Departmental Policy for Handling of Domestic Violence Incidents Involving Law Enforcement Officers, which is **not** listed as a responsibility of the on-scene supervisor?" The keyed response is option d, "Prepare and preserve documentation of the facts and circumstances of the call, including any relevant recorded call for service."[33] Albanese, Gonzalez and Librie argue that the keyed response is a responsibility of the on-scene supervisor. Specifically, Albanese contends that "the supervisor becomes the PRIMARY OFFICER conducting the investigation and completing the report so the supervisor now needs to do everything that the AG policy says the primary officer needs to do." Librie refers to Section VIII, "Department-Wide Response," which provides that "this Department will accept, document, and preserve all calls or reports, including those made anonymously, regarding domestic violence as on-the-record information." Librie asserts that "a supervisor is responsible for ensuring that all evidence is

[33] Section VIII, "Incident Response Protocols," of the above noted policy provides, in pertinent part, that "communications supervisors will prepare and preserve documentation of the facts and circumstances of the call, including any relevant recorded call for service . . ."

collected. This evidence may include all calls, including recordings of those calls." Gonzalez contends that "frontline supervisors are required to prepare and document certain criteria" and refers to the policy which provides, "Whenever a domestic violence call involving a law enforcement officer does not result in an arrest or a warrant is not sought, the on-scene supervisor will explain in a written report why these actions were not taken, and the report shall be forwarded to the Internal Affairs Unit." As indicated above, this question asks, "according to the **specific wording** of the N.J. Attorney General's Departmental Policy for Handling of Domestic Violence Incidents Involving Law Enforcement Officers."[34] With regard to Albanese's argument regarding the "primary officer," it is noted that this policy does not utilize this term and as such, his argument in this regard is misplaced. Moreover, neither Albanese nor Gonzalez nor Librie have demonstrated that the keyed response is a responsibility of the on-scene supervisor pursuant to the ***specific wording*** of the policy.

Question 72 indicates that you are working on an undercover operation used to gather evidence against a criminal narcotics dealer in your jurisdiction. Candidates were required to complete the following sentence, "According to the N.J. Attorney General's Body Worn Camera Policy,[35] officers engaged in undercover assignments . . ." The keyed response is option b, "are not required to be equipped with body worn cameras." Pariona,[36] who selected option c, "may be equipped with body worn cameras when the safety of the undercover officer may be compromised," presents that "heightened danger is always present in our career field. Precautions should be taken at every call for service officers are dispatched to and BWC serves as a tool for officers to utilize and capture events." Pariona argues that the provided answer choices "would confuse law enforcement on making [a] determination in the field. I believe this question should be removed from the exam because it does not allow future sergeants in implementing BWC recording during time that [it] is needed." As noted above, this question specifically refers to the provisions of the N.J. Attorney General's Body Worn Camera Policy (Body Worn Camera Policy). In this regard, Section 3.3 (Officers Not Required to Wear BWCs) provides, "Notwithstanding the provisions of 3.2, the following officers are *not required by this Policy* to be equipped with BWCs: (a) Officers engaged in undercover assignments . . ." (emphasis added). Accordingly, this question is correct as keyed.

Question 78 provides:[37]

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[34] *See* https://www.nj.gov/oag/dcj/agguide/DV-Model-Policy-Final-12-11-09.pdf.

[35] Attorney General Law Enforcement Directive No. 2022-1 (January 19, 2022).

[36] It is noted that Pariona misidentified this item as question 74.

[37] For questions 76 through 80, candidates were instructed that these items were designed to assess their ability to read and interpret rules and regulations. The test booklet provided candidates with a

> Tim submitted his application for the local permit approval to the zoning commission of the municipality in which his junk business will be located. According to the passage, the zoning commission of the municipality in which the junk business is proposed to be established or maintained, shall hold a public hearing upon the application not less than . . .

The keyed response is option c, "two weeks nor more than four weeks from the date of application."[38] Farnkopf asserts that option b, "three weeks nor more than five weeks from the date of application," is the best response. Specifically, Farnkopf argues that the wording in *N.J.S.A.* 39:11-6 (Public hearing)[39] is "much closer to the language of the question, which is why that answer choice was selected." In this regard, Farnkopf argues that "by providing a question that does not line up with the wording of the selected answer, you cannot expect officers to pick that answer . . . Additionally, from another perspective, the way the question is framed does not provide enough information to properly answer the question. The question asked when the public hearing would be held after giving the information that a person submitted an application. Importantly, it does not say whether or not the governing body or zoning commission requested a public hearing, which would allow the test taker to differentiate between the answer choices." Mura maintains that option b is equally correct. In this regard, Mura argues that "although the two to four week timeframe is correct, the three to five week timeframe is also correct, as it is an acceptable timeframe for a public hearing at the request of the governing body or zoning commission." With respect to Farnkopf's and Mura's argument that the question does not indicate whether the governing body or zoning commission requested a public hearing, the question clearly asks when the *zoning commission*

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passage that was taken directly from *N.J.S.A.* 39. Candidates were further instructed to "use only the information contained in the passage to answer the questions that follow. No prior knowledge of the subject matter is necessary."

[38] As indicated in the test booklet, *N.J.S.A.* 39:11-5 (Municipal hearing; fee) provides, in pertinent part:

> Upon receipt of an application for the local permit or certificate of approval, the governing body or zoning commission of the municipality in which the junk business or junk yard is proposed to be established or maintained, shall hold a public hearing upon the application, which hearing shall take place not less than two weeks nor more than four weeks from the date of the application.

[39] As indicated in the test booklet, *N.J.S.A.* 39:11-6 (Public hearing) provides, in pertinent part:

> Upon request of the governing body or zoning commission, as the case may be, of the municipality in which the yard or business is proposed to be located, the commission shall hold a public hearing within the municipality not less than three nor more than five weeks from the date of the application.

must hold a public hearing upon the application for Tim's local permit, *i.e.*, "According to the passage, ***the zoning commission*** of the municipality in which the junk business is proposed to be established or maintained, ***shall hold a public hearing*** upon the application not less than . . ." (emphasis added). Although Farnkopf claims that the wording in *N.J.S.A.* 39:11-6 is "much closer to the language of the question," it is noted that the question provides, as noted previously, that "the **zoning commission** . . . shall hold a public hearing **upon the application** not less than . . ." (emphasis added). In contrast, *N.J.S.A.* 39:11-6 provides that "**the commission**[40] shall hold a public hearing . . . not less than three nor more than five weeks **from the date of the application.**" Thus, the wording in the question does not closely match the wording in *N.J.S.A.* 39:11-6. Rather, the wording in the question closely matches the language in *N.J.S.A.* 39:11-5 which provides, in pertinent part, "upon receipt of an application . . . the **zoning commission** . . . shall hold a public hearing **upon the application** . . ." Moreover, *N.J.S.A.* 39:11-6 is not relevant as it does not address when the zoning commission must hold a public hearing. Accordingly, the question is correct as keyed.

CONCLUSION

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

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[40] It is noted that "the commission" indicated in *N.J.S.A.* 39:11-6 is not specified in the provided passage. (Pursuant to *N.J.S.A.* 39:1-1, "the commission" refers to the New Jersey Motor Vehicle Commission). Nevertheless, it is clear from the passage that "the commission" does not refer to "the zoning commission" of the municipality. In this regard, *N.J.S.A.* 39:11-6 indicates, in pertinent part, "Upon the conclusion of the hearing, *the commission* shall, within five days, recommend in writing *to the governing body or the zoning commission*, as the case may be, the granting or refusal of the local permit or certificate of approval, giving its reasons for the recommendation" (emphasis added).

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 26TH DAY OF NOVEMBER, 2025

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

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