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PUBLIC HEARING

before

ASSEMBLY VETERANS AND MILITARY AFFAIRS COMMITTEE

"New Jersey Public Employees and Veterans' Preference"

July 11, 1991
10:20 a.m.
State House Annex
Room 373
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Fred Scerni, Chairman
Assemblyman John E. Casey, Vice-Chairman
Assemblyman D. Bennett Mazur
Assemblyman Joseph D. Patero
Assemblyman John V. Kelly

ALSO PRESENT:

Frank J. Parisi
Office of Legislative Services
Aide, Assembly Veterans and
Military Affairs Committee

* * * * *

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CHAIRMAN

JOHN E. CASEY
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D. BENNETT MAZUR
JOSEPH D. PATERO
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JOHN V. KELLY

New Jersey State Legislature

ASSEMBLY VETERANS AND MILITARY AFFAIRS COMMITTEE

STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 292-9106

NOTICE OF PUBLIC HEARING

The Assembly Veterans and Military Affairs Committee will hold a public hearing on the following topic:

New Jersey Public Employees and Veterans' Preference

The hearing will be held on **Thursday, July 11, 1991, beginning at 10:00 A.M. in Room 373, State House Annex, Trenton.**

The Committee will take testimony on the issue of veterans' preference in the hiring of personnel for positions with the New Jersey State government. The Committee is interested in ascertaining whether veterans' preference is being complied with by State departments and agencies or whether non-veterans are being hired for career service positions instead of veterans, contrary to the intent of the law.

Representatives of the New Jersey Department of Personnel, the State Department of Military and Veterans' Affairs and members of the New Jersey Legislature have been invited to attend this public hearing to give testimony. Members of the public are also invited to attend and testify.

The public may address comments and questions to Frank J. Parisi, Committee Aide, or make bill status or scheduling inquiries to Deborah Del Vecchio, Secretary, at (609) 292-9106. Those persons presenting testimony should provide 10 copies to the committee on the day of the meeting.

Issued 7/2/91

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ASSEMBLYMAN FRED SCERNI (Chairman): Okay. Let me call this meeting to order. I will indicate that the purpose of this morning's hearing is to review the operation of the Civil Service veterans' preference, and specifically, to look at how that is being used and in some cases possibly abused.

The issue came before this Committee some weeks back when we considered A-4199, sponsored by Assemblyman Gill. That particular legislation, which was released by this Committee, establishes a five-member Veterans' Hiring and Promotion Review Commission. During the course of the testimony and dialogue on that legislation certain concerns were raised. The flavor of those concerns were that certain procedures might be utilized to effectively undue the veterans' preference.

The types of complaints that we were receiving were of a nature where there was the potential of canceling a particular test if a veteran happened to apply. Or possibly, in some circumstances, where the veteran with the veterans' preference would be at the top of a list, then the job location might be relocated to an area where the veteran would not be able to accept the employment.

That was the type of concern -- the type of issues that were raised. This Committee, I think, unanimously expressed its concern on these types of practices and, as a result, we decided to convene today's hearing to take further testimony to see if there is any particular legislation or corrective action that may be required to address this situation.

Before we proceed further, do any members of the Committee wish to share any thoughts? Mr. Casey, anything you'd like to add at this point?

ASSEMBLYMAN CASEY: No, Mr. Chairman. I think you very well covered it. I think what brought it up was the last meeting when we talked about ways of getting around veterans'

preference. The Department of Personnel-- Maybe some of the powers they do have are not being used. I think this is good and I commend you on calling this meeting today.

ASSEMBLYMAN SCERNI: Assemblyman Mazur, anything?

ASSEMBLYMAN MAZUR: Yes. I'm very disturbed by these accounts that we've heard about veterans' preference being gotten around -- gotten away from. This is the law of the State, that they be given first preference in promotions as well as in hiring, and it's a law that we want to enforce.

Most of us in my generation are pretty well established business-wise or professionally-wise. But there are a lot of younger generation -- Vietnam veterans, and now Persian Gulf veterans -- and we want them to have the opportunities and the benefits that we've appreciated, for all that they have done and continue to do for us -- for our society. Thank you.

ASSEMBLYMAN SCERNI: Assemblyman Patero?

ASSEMBLYMAN PATERO: Yes, Mr. Chairman. Many of you don't know that I used to work for Johns Manville. I used to be the Personnel Director that did the hiring and so forth. And I made sure, even though we didn't have veterans' preference, that a veteran got preference on the job. I think it's very important. I commend Lou Gill for introducing that bill, because it just seems that the public out there is just giving these parades to the veterans and saying, "Well, we did our job now." But it goes a little further than that. I think that's very important.

I'm glad this Committee is having this hearing, and I hope the press would cover it, that, "Hey, it just doesn't stop with a parade." There's other things. A lot of these fellows-- I know the Persian Gulf was a year, but a lot of veterans from the Korean War, as myself, and Vietnam War gave up two or three years of their lives, being away from home, while the citizens that were home were making good money, and

I think that should be taken into consideration. I just hope that this Committee hearing gets the publicity that it desires and awakes the people, that, "Look, a parade doesn't solve all of the problems. We have to go further than that."

ASSEMBLYMAN SCERNI: Thank you. Assemblyman Kelly?

ASSEMBLYMAN KELLY: Amen. I want to hear these -- from the troops here.

ASSEMBLYMAN SCERNI: As I indicated, the issue was framed as we had a discussion on Assemblyman Gill's bill -- A-4199 -- so let's start with Assemblyman Gill. And I know Lou will share with us the concerns that brought this bill to this Committee.

A S S E M B L Y M A N L O U I S J. G I L L: Good morning, everyone.

ASSEMBLYMAN SCERNI: Good morning.

ASSEMBLYMAN GILL: Mr. Chairman and members of the Committee, I'd like to thank you publicly for calling this public hearing today, and I am very grateful that you have found the time to expedite this hearing as quickly as you did.

Recently, we watched with joy and gratitude as thousands of brave Americans returned home from war. These men and women join other generations of equally brave individuals, who in other wars have fought for our nation, and are veterans. Being a veteran is not given to you or taught; it is earned.

Mr. Chairman, this hearing is an important step forward in gratitude for their great service to our country. Statutes currently on the books offer veterans hiring and promotional privileges within the State's Civil Service system. The thousands of veterans who serve in Civil Service positions in this State need to be assured that all Civil Service preference provisions are being followed. That is why I filed Assembly Bill No. 4199, which was recently approved by

your Committee. And it was done so to make sure that this issue is thoroughly examined, and if any problems do arise, that they are properly rectified.

Mr. Chairman, A-4199 was proposed after I spoke with many veterans, two of whom are here today; two of whom I will introduce in a moment. The time is now for the Legislature to address this matter. As you know, Mr. Chairman, under this legislation a review of hiring and promotional procedures for veterans employed in the Civil Service will occur. We need to officially determine if, and to what extent, these privileges are being ignored before any concrete steps can be taken to rectify any problems that do exist.

A-4199 creates a five-member Veterans' Hiring and Promotion Review Commission. It's imperative that the Commission, when it becomes operational, review the hiring and promotional policies and practices of all State departments, bureaus, boards, commissions, and agencies.

Mr. Chairman, hopefully, if the Commission is formed, and after it files its final report, then we can pinpoint if a problem exists and what the proper administrative or legislative action should be to ensure that the rights of our veterans are being enforced.

Mr. Chairman and members of the Committee, I thank you and your Committee for their assistance and the help that you have given regarding this issue. At this time I would like to introduce a Vietnam War veteran, Mr. Fred Sochacki, who will be able to give you a firsthand insight as to the concerns of our Committee here. And I would like to bring up Mr. Walter Jankowski, also a veteran, who will follow him.

Mr. Sochacki -- Fred -- would you please come forward?

ASSEMBLYMAN SCERNI: Good morning, Mr. Sochacki.

F R E D S O C H A C K I: Good morning.

ASSEMBLYMAN SCERNI: For purposes of our record would you spell your last name for us, so we'll have that clear?

MR. SOCHACKI: Okay. The last name is S-O-C-H-A-C-K-I.

ASSEMBLYMAN SCERNI: Thank you, sir.

MR. SOCHACKI: I'd like to begin by thanking the Chairman and members of the Committee for allowing me to come here today to testify. I'd also like to thank Assemblyman Gill, who has been working with me for some time.

Let me give you a little background. I am a little nervous. I have 10 years of military experience. I have eight years in the Marine Corps, with a tour in Vietnam; almost two years with the Navy, and was discharged medically in 1978. I have a great deal of experience with veterans' preference. When I say veterans' preference-- I always thought veterans' preference was the five or 10 points added to your test. I never realized there was more to veterans' preference.

After my discharge I was hired by the post office under veterans' preference; the 10 points for being disabled. Okay, I worked with them for nearly 10 years and I resigned due to health and personal reasons. After my resignation, I attempted to find work in the private sector but the only qualifications I had is what I had been doing in the military -- military pay, travel, and teletype. And I was unable to find employment. So, naturally, I went to the Veterans' Administration seeking assistance, possibly training, job assistance.

After months of testing and talks, I was finally told that I would receive job assistance to find a suitable job. Okay, I met with my counselor approximately six months after I started this program, for 15 minutes. He saw me. It was a Friday. He was on his way out. He gave me three job possibilities. Okay, none of them panned out. Two were out of State, and one was not hiring. When I attempted to reach him a few weeks later, I was told he had retired, and my case had been closed, and that I would have to start the whole process over.

It was at this point I decided to contact my Congressman -- Congressman Roe. I explained the situation and in the meantime I had been researching the so-called veterans' preference. I found out that besides the five and 10 points there were programs that would benefit myself, such as the VRA program -- Veterans' Readjustment Appointments -- which was nothing more than an OJT job; you go into the position, you're trained, and you have a two-year period to qualify for the position -- or the program for disabled vets, 30% or higher.

But when I applied for these programs, with the State or Federal government, I was put up against the block. I was told, "There are freezes; they're not hiring under this policy; it exists but we don't have to use it." These were some of the reasons that were given to me.

Okay, in the meantime I applied for three State jobs: One, which was listed in the newspaper, was for a payroll clerk position at Bergen Pines. I went there, said I was a disabled vet, and gave all of the paperwork. A few weeks later I heard there was a freeze; they weren't hiring.

Months passed and the job was again put in the State "Job Directory" that comes out monthly. The same job was open again. I submitted the application this time to Newark, along with my 214 and all of the required documentation. I never heard anything from that.

Okay, a second job came up with HUD, in Paterson. I again submitted the same paperwork. I never heard anything about that again. Okay, when I contacted Newark I was told that I would be notified; my name was on the list, I would be notified if there was an opening.

Okay, a year passes and -- just recently -- I submitted another application, this time for Communications Officer in the City of Clifton. I submitted the same paperwork, but for the first time I received a notification from the State that I was declared a disabled veteran. They were declaring me a disabled veteran.

Okay, while all of this is going on I'm still fighting with the VA. I'm asking for training. I'm asking for assistance. I've been working with the Passaic Unemployment Office, the veterans' counselor there. We met for the first time on the 3rd of April, 1990. At that time I told him I wanted Federal employment because I have 19 years of creditable service, and I'd like to get back into it. He did everything possible. There's not very much he could do except refer me to civilian -- private sector type work. At this time I made him aware of the VRA program. And still--

I've discussed it with Assemblyman Gill. I was telling him what I was going through, and he was advising me. Finally, Congressman Roe, again, contacted the State Department of Labor and the State Department of Veterans' Affairs in Trenton. Now both of these people--

I'm 18 months without work. Every time I apply for a job there is either a freeze, no one knows about the program, or they'll get back to me. Okay, after the 18 months, these gentlemen at these two agencies turned around and referred me back to the Unemployment Office where I had started on April 3, to the same person I dealt with. What it turned out to be was that the Congressman was annoying these gentlemen and they, in turn, put me back on Harvey Poole, who is my counselor.

I have to say that VRA appointments-- There are no listings. VRA appointments-- You have to go to every individual agency and request an appointment under that program. Like I said, again, just because it's a law -- Public Law 102-16 -- no Federal agency has to abide by it. I've made calls to Washington, D.C. I've spoken to the head of Location Rehab in D.C., a Dr. Wynant (phonetic spelling). He again referred me back to the VA in Newark.

Okay, my status as of right now, after 18 months of not being able to get any type of work, any type of training, or any type of assistance, except for Assemblyman Gill and

Congressman Roe-- I have been notified that they have an outside contract through a vocational rehabilitation specialist -- outside of the Veterans' Administration -- to teach me how to do a resumé. A number of times I've told them a resumé will do me no good if I don't have the experience to put on a resumé.

But what it turns out is that everyone is putting me around in a circle, telling me to cooperate with whoever they send me to, and nothing is being done. And at present I'm still unemployed. I'm trying to teach myself computer. I brought myself my own computer. I'm trying to teach myself operation. And I am presently working for -- giving time to -- Vetlink #1 which is the first veterans' electric bulletin board out of Pittsfield, Massachusetts. I'm also a section editor for Federal employment. So I've had a lot of time to research a lot of these programs.

I'm hoping by my testifying before you all now, that maybe something will come to light. Maybe someone will enforce these programs. They are on the books, but they are not being enforced. That's about all I have to say, except thank you for allowing me to share.

ASSEMBLYMAN SCERNI: We appreciate that. Let me ask you a specific question, because in your testimony something particularly struck me. You made an application in Clifton? Is that what I understand?

MR. SOCHACKI: I put the application-- The job was in Clifton. The application went to Newark. A State job.

ASSEMBLYMAN SCERNI: That's a State job?

MR. SOCHACKI: Right.

ASSEMBLYMAN SCERNI: As part of that application process they, in fact, recognized that you were a disabled veteran?

MR. SOCHACKI: This is the first time on the three tries.

ASSEMBLYMAN SCERNI: Was that job ever filled?

MR. SOCHACKI: The job closed the 15th of June. I haven't heard anything about it yet.

ASSEMBLYMAN SCERNI: Okay. The reason I'm asking is-- My reading of the New Jersey law is very specific. When we talk about a disabled veteran-- I mean, let me read it to you directly: "The names of disabled veterans who receive passing scores on open competitive examinations shall be placed at the top of the employment list in the order of their respective final scores." The way I read that, and with a designation of you being a disabled vet, you go to the top of the list. And the only other people you are competing with at the top of the list would be other disabled veterans.

I would really be curious to know as to what happened to that position, because it strikes me that you were at the top of that list.

MR. SOCHACKI: Right.

ASSEMBLYMAN SCERNI: Yes, go ahead, Ben.

ASSEMBLYMAN MAZUR: Did you take a test?

MR. SOCHACKI: No test was ever given. I submitted the application. I was never called again. And I was just given veterans' status -- disabled veterans' status.

ASSEMBLYMAN SCERNI: Go ahead, Joe.

ASSEMBLYMAN PATERO: What kind of discharge did you get?

MR. SOCHACKI: Medical, honorable.

ASSEMBLYMAN PATERO: Oh, you did get a medical discharge?

MR. SOCHACKI: Right. I was discharged at 10%, which was upgraded to 50%. So right now I'm 50% disabled.

ASSEMBLYMAN PATERO: Well, I'm as confused as the Chairman. I mean, the State specifically states that he should be on the top of the list along with other disabled veterans.

MR. SOCHACKI: That's right.

ASSEMBLYMAN MAZUR: But he has to take the test to get himself on the list, is why they didn't give the test.

ASSEMBLYMAN PATERO: I know something doesn't seem right here, which we have to follow up.

ASSEMBLYMAN SCERNI: Well, that's part of the problem. I mean, that may be part of the problem. If it appears that there is a qualified veteran who would be able to utilize the veterans' preference-- Is someone then canceling the test to avoid the hiring of that veteran who is entitled to the preference? Is that going on?

Yes, Joe?

ASSEMBLYMAN PATERO: The reason I brought that question-- I thought that you received a honorable discharge, and maybe whoever said you were disabled, maybe didn't fall into the disabled category. But since he received the medical discharge--

MR. SOCHACKI: Honorable, medical.

ASSEMBLYMAN PATERO: Yeah, I know that. I know that. But if it was just an honorable discharge he would not come under the medical program. But since he received a medical discharge he's a disabled veteran.

ASSEMBLYMAN MAZUR: Even if he weren't disabled he still would be a veteran. He still would be entitled to a second category.

ASSEMBLYMAN SCERNI: That would then be the second echelon of preference. Go ahead, John.

ASSEMBLYMAN KELLY: What was the job?

MR. SOCHACKI: Communication Officer, Clifton.

ASSEMBLYMAN KELLY: In Clifton?

MR. SOCHACKI: Right.

ASSEMBLYMAN KELLY: This was with the Police Department or Safety Department?

MR. SOCHACKI: It didn't specify a department. It just said, "Communications Officer."

ASSEMBLYMAN KELLY: And that's your field of endeavor?

MR. SOCHACKI: I was in communications in the Navy. I was a radioman.

ASSEMBLYMAN KELLY: I'd like to know, specifically, the job, and then find out who got the job or why the job hasn't been--

ASSEMBLYMAN MAZUR: What they may have done is, they may have hired a provisional, "pending the giving of the examination." And then they just forgot to give the examination, you know?

ASSEMBLYMAN KELLY: That's only for a year. Can you be provisional for just a year?

ASSEMBLYMAN MAZUR: For one year-- The way Dr. Villane's reconstruction of the Civil Service Commission, done three years ago, is that if they're provisional and no test is called, at the end of a year they're dismissed.

ASSEMBLYMAN KELLY: Right.

ASSEMBLYMAN MAZUR: Then they're out.

ASSEMBLYMAN KELLY: Then you have to start again.

ASSEMBLYMAN MAZUR: You have to start all over again.

ASSEMBLYMAN CASEY: Can't they also take a title change and keep this person over and over; see if there's ways of getting around that?

ASSEMBLYMAN MAZUR: Yes.

ASSEMBLYMAN KELLY: That's why I want to be specific. Let's find out where it is, what they're doing, and break some grommets.

ASSEMBLYMAN MAZUR: Get some more information on this.

ASSEMBLYMAN GILL: But you applied for three jobs, not one?

MR. SOCHACKI: This was the first time I was ever even acknowledged as a disabled veteran, by the State. I have the card with me here. But the first two applications, one for payroll clerk -- something I had done for eight years -- and

the second one for housing officer-- The VA told me I was qualified because it was administrative type work, and I've handled administrative duties. Neither one of those applications-- I didn't even get the notice saying that I was a disabled veteran. There was no acknowledgement.

ASSEMBLYMAN SCERNI: On those two jobs, were they Federal jobs or State jobs?

MR. SOCHACKI: State.

ASSEMBLYMAN SCERNI: They are also State jobs?

MR. SOCHACKI: State. Bergen Pines was the payroll position, and the other one was with HUD in Paterson. See, there was no type of acknowledgement whatsoever, like saying, "Well, you were qualified, but you weren't hired." Nothing was said at all. But this was the first time that I actually got a card saying, "Well, we consider you a disabled veteran. From now on just check disabled veteran, and don't send copies of your medical." This was the first time. So I questioned what happened to the other two applications?

ASSEMBLYMAN SCERNI: Good question. Any other members of the Committee?

ASSEMBLYMAN CASEY: Well, I think Mr.-- You'll be around later if some more questions come up?

MR. SOCHACKI: Yes, I sure will.

ASSEMBLYMAN CASEY: Thank you.

ASSEMBLYMAN KELLY: See if you can get the specifics of the job at Bergen Pines, because I'd like to find out who got the job.

ASSEMBLYMAN MAZUR: I think that we ought to get copies of whatever documentation he has, Mr. Chairman, and pursue that with the agencies involved.

MR. SOCHACKI: I have everything here.

ASSEMBLYMAN GILL: We have that documentation with us. Mr. Sochacki--

MR. SOCHACKI: Various correspondence I've had with different agencies -- the Department of Labor referring me back to Unemployment, the Veterans' Administration-- I have all types of--

ASSEMBLYMAN CASEY: Well, we can certainly talk to Bergen Pines and to Mr. Lewis, and find out what the story is for that.

ASSEMBLYMAN GILL: It may not be a bad idea if you submitted some of that for copy purposes, and maybe we can make copies of it and distribute it out to the Committee.

ASSEMBLYMAN SCERNI: Yes, we can have staff copy it and go from there. Mr. Sochacki, one other question before you step down: In regard to those three jobs that you've described -- the Clifton job, the Bergen Pines job, and the HUD Housing Officer position -- when you did not receive responses, did you ever take a complaint to the Department of Personnel?

MR. SOCHACKI: I went to Newark to ask about it. All I was told, by the girl at the desk, was, "You'll be notified. You're put on a waiting list." If you ever go into that office you'll find that it's hard to be taken care of to begin with, and they're in a hurry to get you out. If you have any questions about a job, they hand you a paper or the actual job description, and that's as much as you're going to go-- That's as far as you're going to go. Everybody tells me, "You're on a list, and you'll be notified."

ASSEMBLYMAN SCERNI: Yeah, Joe?

ASSEMBLYMAN PATERO: Now, the Newark office is Federal?

MR. SOCHACKI: State. You've got the State office there.

ASSEMBLYMAN PATERO: The State office is in Newark?

MR. SOCHACKI: That's where your applications for the State jobs go, to Newark. Or is it Trenton?

ASSEMBLYMAN MAZUR: I would think that was in Trenton. The Veterans' Administration-- The Federal government is in Newark.

UNIDENTIFIED SPEAKER: The State has 1100 Raymond Boulevard. It might be up there.

MR. SOCHACKI: Right. That's where I'm thinking of. That's where I went.

ASSEMBLYMAN SCERNI: Anyone else? (no response)
Assemblyman Gill, you had another person with you.

ASSEMBLYMAN GILL: Thank you, Mr. Sochacki.

MR. SOCHACKI: Thank you.

ASSEMBLYMAN GILL: I also have with me Mr. Walter Jankowski, who would like to present some testimony.

ASSEMBLYMAN KELLY: This sounds like Polish day.

ASSEMBLYMAN GILL: Yes, he is.

W A L T E R J A N K O W S K I: Good morning, Mr. Chairman.

ASSEMBLYMAN SCERNI: Good morning.

MR. JANKOWSKI: I want to thank you for inviting me and giving me the honor to speak to you and your Committee. I did bring some papers with me, but I didn't have enough--

ASSEMBLYMAN SCERNI: Mr. Jankowski, could you, just again, for purposes of our record, spell your last name for us?

MR. JANKOWSKI: J-A-N-K-O-W-S-K-I.

ASSEMBLYMAN SCERNI: Thank you, sir.

MR. JANKOWSKI: I didn't have time to run a set for everybody, but I'd like one, I guess, for the Democratic side and the Republican side. Mr. Kelly, you're--

UNIDENTIFIED SPEAKER FROM COMMITTEE: You don't want him, do you? (laughter)

ASSEMBLYMAN KELLY: I'm a Republicrat, watch out.

ASSEMBLYMAN SCERNI: Mr. Kelly's actually one of ours, and we don't tell anybody.

MR. JANKOWSKI: I won't go through all of this. Just follow the letters from "A" and I'll try to pick out the pertinent information. What I'd like to begin with-- To refresh everyone's memory, I want to start out with the "Quote of the Month" in the "American Legion" magazine, I believe that opened up in about 1988. And it stated:

"Veterans have been obligated to drop their own affairs and take up the burdens of the nation, subjecting themselves to the mental and physical hazards as well as the economic and family detriments which are peculiar to military service and which do not exist in normal civil life.

"Our country has a long-standing policy compensating veterans for their past contributions by providing them with numerous advantages. This policy has always been deemed to be legitimate," Supreme Court Justice William H. Rehnquist, in a decision reaffirming the special rights of veterans, May 23, 1983.

So to begin with I would like to-- I'm sure everyone is aware that veterans' preference is a law. It's the most abused law in the country and, I guess, in our State. And the reason I feel that Assemblyman Gill has introduced this bill is because it's becoming more and more obvious that many, many veterans are being denied jobs.

Now, I'm a Korean vet. I spent seven years in the Air Force, 1948-1955. In my group of veterans, which I'll introduce-- There were only two Korean veterans; the rest are Vietnam veterans. I think that's where the problem is right now, with these Vietnam veterans. It's not enough to wave a flag. We've all served. But I think what it is-- The basic crux of the matter is jobs. And with a recession, I think, we're all looking for jobs.

Now, in item "B," this was a Field Representative title that I took at Motor Vehicles. Now, the thing here under education was, "A bachelor's degree from an accredited college." Now, I went to Fairleigh Dickinson University under the GI Bill. It took me six years, 12 months a year, to get my degree -- four days a week -- and I'm very proud of it. Of the Jankowskis, I'm the only one that got past high school and the only one that came out of college. All of the rest had to work during the depression.

So I find what happened to us-- As I go along with this, I find that very insulting, what the Division of Motor Vehicles did to us, and the Department of Personnel.

Now, item "C" is a list of eligible veterans. Now, when we applied for this job, you'll notice, up popped 24 veterans. Now, my understanding is that about 200 people took this test. When Motor Vehicles got this listing they became paranoid, because a Field Rep was a political job appointed by Republican cronies at the time. They controlled the State. They had it there, and we had to bump them.

What they did to us-- First of all, they canceled the job. They canceled the test. Now you have item "D." The Department of Civil Service, right there on the first line, "Cancellation of the Impending Certification." Now, what Motor Vehicles did-- I didn't have enough time to copy it. The memo that was passing between the DOP and Motor Vehicles' managers-- They didn't want us on board. I can get my hands on a copy of that. I didn't have enough time to do that.

What happened was, we were denied the job for 10 months. Now, a friend of mine on this list -- Danny Kearns -- happened to get a copy of the list, and what Fred's problem is-- Fred's an individual veteran and he would never get any kind of a comment or any help from the DOP. See, they just overlook veterans. They just consider them a nonentity and all that, see. But when you hit them with a group like we did, they went berserk.

Item "E" is a copy of our brief. It's only the first page. And what I'd like to read to you is the plaintiffs: "Edward C. Moon, John Saccenti, Thomas Miserendino, Louis Gentilello, Louis Emanuel, Daniel Kearns, William Wagner, Walter Jankowski, Urban Giardino, Robert Cox, Stephen Boehm, Paul Kurzen."

The defendants in this case were: "The State of New Jersey, Governor Thomas Kean, Attorney General W. Cary Edwards,

Division of Motor Vehicles; Director Glenn Paulsen, the Department of Personnel; Commissioner Eugene McCaffrey, Sr. The John Doe happened to be Don Giberson. The Jane Doe was Christine Cox. And the Strategic Planning Committee of Bill Bennett, George Chunning, and Katie Watson--" They're the ones that denied us a job for 10 months.

Now, when this brief appeared in Burlington County, you'll notice February 9, 1987-- We were on board April 13. We had the jobs. Now, we tried to maintain our lawsuit. We were all concerned-- I believe it was 12 of us. They called us the "Dirty Dozen." We were concerned that they were going to target us. So they kicked the matter back to the Merit Board.

The Merit Board-- We had a dozen items from our brief. The Merit Board finally came up with an answer. Mr. Chairman, if you'd look, just now, to the second page, under "Order." "It is, therefore, ordered that the appellants be granted a retroactive date of permanent appointment of June 25, 1986 as Field Representative, Motor Vehicles, for seniority and record purposes only."

Now, this was kind of strange, and we questioned it. I'm from Passaic County, and all of my friends in Passaic are all union members. They all work in union shops. And you know, when you win a grievance, you win everything. And this was very strange, that the DOP gave us nothing. And they don't even recognize this June 25, 1986 date, because my seniority in State service is still carried as '87. And my pension did not roll back. Nothing rolled back except what they put here, in this piece of paper.

The last thing I want to bring up is that it's signed by Eugene J. McCaffrey, Sr., Commissioner of the Department of Personnel.

Now, item "G" is a letter to the Honorable Joseph Bubba -- he happens to be my Senator representative in the 34th

District -- and it was signed by Glenn Paulsen. I won't read the whole letter, but I'd like to just read:

"I want to assure you that I have directed all appropriate personnel to dispose of this certification properly, according to all established Department of Personnel regulations.

"I will be closely monitoring the situation to ensure that all on the certification list are treated fairly and equally." That's about all that happened. And since Commissioner -- or, Director Paulsen-- He was one of the chief opponents of us getting ahead. As of now, it's five years in State service and not one of my veterans have received a promotion. We've been demoted, abused, and degraded. Whatever you want to throw in, that's what we've been.

To make my point I'd like to bring out item "H" and "I." If you look at "H" -- just to give you an example of Motor Vehicles -- before we came on board people got a promotion. They went to Site Manager, Assistant Bureau Chief, Coordinator, Systems Analyst, Audit Manager, and Facilities Manager. See. That's starting from a Field Representative.

When we were, what I call, demoted to a Field Monitor, our only avenue of promotion was a Supervisor II, Supervisor I, and the Supervisor of the Agencies, which I considered a demotion.

Now on item "J" -- if you look -- we filed a grievance with the Department of Personnel. A Mr. Peter Calderone, Director, and his -- some kind of an Assistant Director over there-- What we challenged was the reorganization. And it was our understanding that the reorganization was to be only to let entry-level people into Civil Service, and anyone above that had to test for the position. I believe that's still the law.

But what they did with this reorganization is, they promoted people-- Let me give you an example: My group of veterans, we were Civil Service level 20s. In this

reorganization they took provisional 19. Excuse me. We were Supervisors of the Agencies. We were above the Supervisors. So what they did in the reorganization is, they took these Supervisors and they made them 25s -- Civil Service, no test, and they bypassed us.

Now I ask you-- We are veterans. We had the job. We were qualified. We were excluded from the reorganization. That was my grievance. I got as far as the Attorney General's Office; and over there it just came to a sudden halt and they mishmashed it around -- it belongs to the DOP -- and I never got to the DOP.

Now, the last three letters are three letters that describe what went on in our case over the past four years. What I'd like to bring to your attention is "M." Let's just start with numbers 12 and 13. I won't read the whole letter for you, but you'll get the drift of the idea:

"However, the most subtle form of retaliation was meted out during the Division's 'reorganization' finalized at the end of August 1988. For a year prior to the finalization of the reorganization, the Division had been running a pilot project in its Motor Vehicles agencies throughout the State. The agencies, a few years back, had all been run by private agents appointed by the Governor. Currently, a little less than half of the State's 55 agencies are run by the State, with the remainder run by private agencies.

"Pilot projects started July 1, 1987 to June 1988. It was designed to make the personnel running the State-operated agencies permanent Civil Service employees without having them take the usual competitive examinations. The Field Representatives had been over the Supervisors, in the old agency setup. However, the restructuring changed the title of the Field Reps to Field Monitor I, lowered the qualifications of the job, removed the supervisory requirement from the

position, and gave the title a boost in pay. It was a demotion by promotion. Most of those affected were the veterans."

Number 13: "It was later learned that Field Representatives were originally scheduled to be placed over the agency Supervisors, but that when the veterans won the right to the jobs, the plan was changed. This came from a former manager of the Central Region, the man who was told to revise the original plan." His name was Eddie Gyarfas.

Lastly, I have been demoted. Presently, right now, I have been demoted to a Monitor II. There's no real loss in pay, but it threw me up to the highest step level. There's no more money but a cost of living. I still had four steps to go. So, I could have-- If the money was there I would have gotten a little extra money.

However, in my appeal-- I would like to read you my appeal. It's only a page, and then I'll be finished:

"I wish to base my appeal on my being denied my veterans' and civil rights from the first day of employment. In good faith, concerning my demotion, I believe proper layoff procedures were not followed. It should have been:

"1) All part-timers must go first.

"2) All unclassifieds must go first.

"3) All SES -- that's Senior Executive Service -- must go, and

"4) All provisionals must go.

"I further believe I and my group of veterans were targeted for demotion and eventual layoff when the time arose.

"To prove my point, I would like to bring specific notice to the reorganization, which I felt to be illegal. I grieved this action both at the DOP and the DMV. To condense and simplify both grievances one need ask:

"How can a provisional level 19 be promoted to Civil Service status level 25, bypassing a group of Civil Service level 20, without being asked or considered? Besides, most of

these level 20s were veterans who at the time were Supervisors of these same provisionals. This is in pure violation of my civil and veterans' rights." And by the way, in the veterans, I believe, there's two disabled vets.

"As to the specific case of my seniority, I believe the reorganization of 1988 was illegal by the exclusion or demotion of the veterans. By lumping my group of veterans in with longtime level 19 Monitors and level 17 Investigators, my group of veterans and myself will come out lower on the seniority list, which has happened." I have now been bumped down to a Monitor II. Let me just continue:

"Now, there are three veterans who did not take the Field Representative test heading the list, while I drop down and face a demotion.

"The DOP states that they have used the Field Rep test to determine standing among the veterans who happened to take the test.

"Assembly Bill No. 4324, paragraph 2, tried to address the inequity." That's a bill introduced by Assemblyman Gill, a good friend to the veterans, a good friend to Rosol-Dul. "This is another case of the provisional 19s passing certified level 20s, all veterans.

"The fairest solution is to return all to preorganization '88 and then follow Assembly Bill No. 4324, paragraph 2. Promote from a Civil Service list."

In summation, I always say that I'm one of the few people in Motor Vehicles that took a Civil Service test. It looks like everybody just gets promoted.

It was ruled with an iron hand by a man named Don Giberson, and he put all of his friends in place. It is in complete turmoil. Morale is shot. Nobody gets a promotion except his boys -- his clique. And when it comes time for a promotion -- there have been dozens: Ombudsman, Site Manager -- I've taken them all. I've had interviews with Paulsen.

"Jankowski, yeah, you've got a good resumé. You've got a good background of 35 years in supervision. You've got everything that's good. However, I have somebody more aptly qualified--," and usually it's one of their friends. You know how the game is played, see.

In closing, my concern-- I'm just about out of it. I'm 61 years old. I'm concerned about all of the guys behind me, who now face -- are definitely afraid of being laid off. They're going to be bumped because we are targeted, and there's nine of us sitting up there. They're going to get us.

I think this is the best thing that came down the line, and I only hope and pray, for their sake and guys like Freddie, that you people really get in there and enforce it, because it is being abused.

Thank you.

ASSEMBLYMAN SCERNI: Thank you, sir.

ASSEMBLYMAN KELLY: Who was your--

ASSEMBLYMAN SCERNI: Yeah. Let me just do this, and, Jack, I'll come right back to you. On item "C" you have a list of the veterans.

MR. JANKOWSKI: Yes.

ASSEMBLYMAN SCERNI: And then, am I then correct that the position that item "C" set the priority for is then eliminated by item "D"?

MR. JANKOWSKI: Yes.

ASSEMBLYMAN SCERNI: That's what happened?

MR. JANKOWSKI: Yes.

ASSEMBLYMAN SCERNI: And as a result of that elimination of that certification, you and other veterans who were on that list filed the litigation in item "E"?

MR. JANKOWSKI: Yes.

ASSEMBLYMAN SCERNI: Okay. And as a result of item "E" you were then bumped over to an administrative hearing that is in item "F"?

MR. JANKOWSKI: Yes.

ASSEMBLYMAN SCERNI: Okay. And that administrative hearing gave you retroactive seniority but nothing further?

MR. JANKOWSKI: Nothing else.

ASSEMBLYMAN SCERNI: And even though that gave you retroactive seniority, that apparently has never been put into your records because your seniority is still one year later than it would have been?

MR. JANKOWSKI: Right.

ASSEMBLYMAN SCERNI: Okay. And then the reorganization is another event, and because you lost that seniority, when the reorganization came you found yourself even lower on the totem pole?

MR. JANKOWSKI: At the bottom of the line.

ASSEMBLYMAN SCERNI: I just wanted to make sure I understood the process.

MR. JANKOWSKI: We have five years seniority.

ASSEMBLYMAN CASEY: Just one point: Number one, Mr. Jankowski, it's kind of hard to sit here with two people having all of this documentation. I would like to recommend that we all get a copy of this.

ASSEMBLYMAN SCERNI: Absolutely.

ASSEMBLYMAN CASEY: We ask any member in the audience, if you plan on coming up here with two copies to, let us know now so we can get copies for all of our members.

Again, Mr.-- You keep saying who targets your people. I guess my question is: What group are you saying targets veterans? And again, we're not using names.

MR. JANKOWSKI: No. I've-- No, no.

ASSEMBLYMAN CASEY: Well, I'm not here to--

MR. JANKOWSKI: I've been battling with them. I'll give you the name right now.

ASSEMBLYMAN CASEY: --because people aren't here to defend themselves. But, who is targeting the group of veterans? I guess that's my question.

MR. JANKOWSKI: The present management of Motor Vehicles, and I will give you the one name I've mentioned -- Don Giberson. We've spoken to him. And let me-- I want to-- One thing came to mind: Danny Kearns, who led this group -- who got the list for us -- and Lou Emanuel-- We met with Giberson, 21 months after we had the job -- a good year-and-a-half -- and we tried to negotiate this thing. There's bad blood. We're not accepted in Motor Vehicles.

Even today-- I wish I had everybody up here to tell you the comments that are made. They didn't want us in Trenton. I'm in Trenton now. They didn't want no part of us. So anyway, we sat with Don Giberson, and after trying to haggle this out, we said, "Look, give us a job scope; let us get promotions; and let us go our way." Nothing. He said, if it were up to him -- if it were up to him -- he would have never given us the job, and let us go to court. That's 21 months. I just sat there. I didn't say a word. That's the mentality of the man.

You're talking to veterans that have won their case. I'm a Civil Service employee. I'm a member of Civil Service. I'm treated like an outcast, like a leper. Now, I can handle it. I come from a rough neighborhood. I come from the Passaic Eastside; I can handle it. I can handle my dukes, but let me tell you one thing: I feel sorry for guys like Freddie, see. And I happened to know his mother and father very well. I think it's just, I won't say lawbreaking, but I think it's shameful when our State can't protect its veterans. We are not asking for any handouts, just what the law is.

ASSEMBLYMAN CASEY: Okay. To answer that one question, I don't disagree. I'm just here trying to get information by not having this documentation. You also mentioned the Department of Personnel. You mentioned them at least twice in your speech. So they, too, are not out to get the group. Do you think you're not getting input?

MR. JANKOWSKI: I spoke to Mr. Calderone. I called him up and I told him, "Look, it's against the law to promote provisionals to 25s." Now, that's a good paying job, see. We're at 20s. Now, they went out through the reorganization, and if I recall, what he told me was, "Walt, you've got to understand one thing. These are longtime employees and we want to make them Civil Service." I said, "Well, start off with Clerk Trainee. That's what you're supposed-- That was the intent of the reorganization."

You don't make a Civil Service employee. Have you heard of a Civil Service Manager coming off of the street? In Civil Service, no -- only in Motor Vehicles. And they let us go right by. We should have been 26s. The intent was there and from day one they've been after us.

Now, the memo that I don't have in my possession, but I will provide it for you, was from the Department of Personnel to Gyarfas -- I'm sorry, the other way around -- that we would be very disruptive to Motor Vehicles. We should not be hired. Now, they knew that we were veterans. We had a lawsuit going and they still opposed us. These are the people-- And they still have beautiful jobs.

ASSEMBLYMAN CASEY: Okay. Well, I guess what I'm getting at is, your Motor Vehicles could be any other area, but I think all of this centralizes around the Department of Personnel. And I think this is where I want to look. That's the area I want-- I appreciate your information.

MR. JANKOWSKI: I think the Department of Personnel just did the bidding of Motor Vehicles. Whatever Motor Vehicles spells out--

ASSEMBLYMAN CASEY: Well, they maybe should be controlling.

MR. JANKOWSKI: I think they kick it down that way.

ASSEMBLYMAN CASEY: Thank you.

ASSEMBLYMAN SCERNI: Mr. Kelly?

ASSEMBLYMAN KELLY: I'm not afraid to ask. Whose names? I want to know the names. I want them to sit right here and defend themselves.

MR. JANKOWSKI: Don Giberson, Glen Paulsen -- Glen Paulsen, Don Giberson.

ASSEMBLYMAN KELLY: How do you spell that?

MR. JANKOWSKI: G-I-B-E-R-S-O-N.

ASSEMBLYMAN KELLY: G-I-B-E-R-S-O-N?

MR. JANKOWSKI: Right. Cary Edwards.

ASSEMBLYMAN KELLY: But he's gone. These guys are still here.

MR. JANKOWSKI: Giberson.

ASSEMBLYMAN MAZUR: He's around.

ASSEMBLYMAN KELLY: Well, he's around but I want to get the individuals still working that are responsible for this nonsense.

MR. JANKOWSKI: Bill Bennett. He is the Manager of Personnel right now.

ASSEMBLYMAN KELLY: This is all in the Department of Personnel?

MR. JANKOWSKI: No, that's Motor Vehicles.

ASSEMBLYMAN KELLY: Okay.

MR. JANKOWSKI: Bill Bennett, George Chunning.

ASSEMBLYMAN KELLY: How do you spell that?

MR. JANKOWSKI: C-H-U-N-N-I-N-G. Katie Watson, and a Christine Cox. She moved over to some other department as an Assistant Director.

ASSEMBLYMAN KELLY: K-O-C-H?

MR. JANKOWSKI: Christine C-O-X -- Christine Cox.

ASSEMBLYMAN KELLY: Cox, okay. All right, thank you. This is all Motor Vehicles?

MR. JANKOWSKI: Most of them-- I don't know where she is at. The rest are Motor Vehicles.

ASSEMBLYMAN KELLY: Thank you.

ASSEMBLYMAN SCERNI: Anything else from members of the Committee?

ASSEMBLYMAN MAZUR: No.

ASSEMBLYMAN SCERNI: One question, if I may: From your testimony there obviously is a group of veterans in DMV who have shared the same concerns, the same litigation, and the same process. Beyond that group, do you observe discrimination in DMV against other veterans, other than the nine of you?

MR. JANKOWSKI: Definitely. Not of the veterans, nonveterans. You see that list I gave you? Just an example: If you're number one on the list, of the certification list-- Say you're number one on that list -- I've seen it happen dozens of times -- you want to be a Supervisor of the Agency. They discourage it. They want to bring up number nine, one of their friends.

Now, there's a veteran there -- Marty Casey -- who has been passed over nine times in the Secaucus station.

ASSEMBLYMAN CASEY: Marty who?

MR. JANKOWSKI: Marty Casey.

ASSEMBLYMAN CASEY: We ought to get him over here.

ASSEMBLYMAN MAZUR: Jack, it's probably your cousin:
(laughter)

MR. JANKOWSKI: He's a veteran. He's a Vietnam veteran. And they do it-- You know what it is, I think Freddie told you-- The key word, I think, is enforcement. Nobody really knows that this is a law, and you just have got to follow it and everything is made easy. Life isn't easy, that's what it is.

ASSEMBLYMAN CASEY: That's why I say that it has to be a central location, whether it's Motor Vehicles, DOP, or any other area it's got to come from. There's got to be leadership and rules coming out of there.

MR. JANKOWSKI: But I think the time is right, because many, many veterans are being--

ASSEMBLYMAN KELLY: Can I ask you a question? How do you go from number one to number nine? How do you get past the other eight? I don't follow that. How do they do it?

MR. JANKOWSKI: Number one, first of all, he's definitely afraid because he'll be blackballed.

ASSEMBLYMAN KELLY: He'll be blackballed?

MR. JANKOWSKI: Oh, I'll tell you. Believe me, I'm only five years in Motor Vehicles. I have never seen such politics as in Motor Vehicles, in any other place that I've worked in 35 years, and I've worked in cutthroat outfits: Revlon, Continental Can; big outfits. And this Motor Vehicles, believe me-- The best thing that you could do over there is, with a broom, a clean sweep. A clean sweep is the best thing you can do.

ASSEMBLYMAN MAZUR: As I understand it, if they're all in the same category and were all veterans, in whatever group, whether it's veterans or disabled veterans, if there's more than three, they can pick any one of the top three who doesn't have the highest score. There's some element of choice in there. However, this case with nine is entirely different -- ninth going to first. The third can go to first, but not ninth.

MR. JANKOWSKI: See, but, if you understand one thing, we were targeted: "Oh, you're dead. That's it." They just don't give you a job. Gentlemen?

ASSEMBLYMAN SCERNI: Thank you, sir. We think we understand the problem.

ASSEMBLYMAN GILL: Thank you, Mr. Chairman, and members of the Committee for inviting us.

ASSEMBLYMAN MAZUR: When did you-- What year did you come into the DMV?

MR. JANKOWSKI: In '87 -- April 13, I believe. April 12 or April 13.

ASSEMBLYMAN MAZUR: And these other nine fellows on this list?

MR. JANKOWSKI: About 12.

ASSEMBLYMAN MAZUR: Huh?

MR. JANKOWSKI: There were about 12 people on the list.

ASSEMBLYMAN MAZUR: Twelve?

MR. JANKOWSKI: Yeah. They called us the "Dirty Dozen."

ASSEMBLYMAN MAZUR: When did they come on?

MR. JANKOWSKI: With me.

ASSEMBLYMAN MAZUR: With you? They all came on in '87?

MR. JANKOWSKI: The same day.

ASSEMBLYMAN MAZUR: Okay.

MR. JANKOWSKI: And, Assemblyman Mazur, one other thing I'd like to bring to point that just came to my mind is, by delaying that list for 10 months-- See, that list was 24. When you get a copy-- I'm sorry I didn't have it. You'll see people already took another job. After 10 months, you look, you look, you look. Like Freddie, look, and look, and look. You try for that job. He's never going to hear from Clifton. He's never going to hear from Clifton. I live in Clifton. I know how they operate up there.

As a matter of fact, Clifton has the only bill they introduced to nepotism. They've introduced an antinepotism policy. Twenty-five percent of the people in Clifton are related. It's a very serious matter. And this here veterans' preference is destroyed, or being destroyed by nepotism. That's the whole key.

Thank you, gentlemen, for the opportunity.

ASSEMBLYMAN SCERNI: Thank you, sir. Thank you, Lou. Jack, do you want to take the next couple of witnesses? I'll be right back.

ASSEMBLYMAN CASEY: Chairman Scerni has a telephone call he has to answer, so we'll go down with the list. Is there anyone else in the room that wants to testify that has

not signed in? (no response) If not, I guess, Marshall Klein, Senior Vice Commander, State of New Jersey Jewish War Veterans. Are you by yourself, or do you have someone with you?
M A R S H A L L K L E I N: I have the Commander of the Jewish War Veterans -- Murray Nathanson.

ASSEMBLYMAN CASEY: Do you want to bring him up and introduce him or anything?

MR. KLEIN: I certainly would like to introduce him anyway--

ASSEMBLYMAN CASEY: We'd be more than happy--

M U R R A Y N A T H A N S O N: I have no comments at this time.

MR. KLEIN: --and of course my wife, who happens to be Junior Vice President of the Jewish War Veterans Auxiliary.

ASSEMBLYMAN CASEY: Welcome aboard. Go ahead, Marshall, I guess you're on.

MR. KLEIN: I don't think, after hearing what you just heard, that I have a long speech to make, other than to ask you to please stay the course on this thing. If there are the abuses, and if you have in your hands the ability to remedy it or at least begin the remedy through this Commission, then please expedite it immediately.

As in all cases, this is probably on the tip of the iceberg. But in any event, if it was the intent of the Legislature that the preference be enforced, and obviously we're having instances where it's being circumvented or abused, then I think that's your obligation to see that it doesn't happen.

Representing the veteran community, I'm also a Legionnaire. I'm past Commander of my American Legion Post. I'm a life member of the VFW. So I don't come here speaking as one. I come here speaking for all of the veterans, because it concerns all of us. And by the way, we do thank you for having this hearing, because it's only through this process that

maybe these abuses or circumventions can be overcome. We ask you, please do it. Get to it now. We'll support you. Thank you.

ASSEMBLYMAN CASEY: I guess, if there's any questions-- Number one, you have it right. There is a law. It's not the consent of this Committee. So we're going to abide by the law. What I think we can do today, if we hear something that's out of whack, we can possibly change the law or make them stronger. And that's an objective--

MR. KLEIN: I think, if I may-- I think if you have the presence of that Commission, and we of the veteran community can at least direct our fellow veterans that they do have, if you will, somebody who will speak for them, or get attention for them-- When I heard the first veteran here I was shocked and I was really angered, if you will, that a man would be put through such a rigmarole, such a wringer. It just seems so unjust. And I wonder, why wasn't there somebody there to help him and other veterans? And I guarantee you--

By the way, my own personal experience -- because of my involvement in veterans' affairs -- a lot of them come to me and ask if I can help them. I don't know that I had the vehicle that would have been, other than my personally going -- and I have gone -- to the VA or other places like that-- But if you have this Commission it might be an opportunity where others, whether-- It doesn't make any difference. All of us are organized, in the sense that we have a VFW and the DAV. All of us want to serve our veterans, but we don't even know where to go. That's the point.

Now, your Commission here may at least give us a clear track on how to get back to you so that you see that the laws that you enacted won't be abused and won't be circumvented. We want to help, and I'm sure you do, too.

ASSEMBLYMAN CASEY: Yes. It was Assemblyman Gill, who brought this forward a few months back, that really started

things moving. All of the Assemblymen sitting here today had a lot of questions, and I commend our Chairman for calling this meeting. Do any other members of this group have any questions? Go ahead, Joe.

ASSEMBLYMAN PATERO: You know, I belong to the Manville VFW Post, the largest post in New Jersey.

MR. KLEIN: It sure is.

ASSEMBLYMAN PATERO: I'm a Korean veteran. I'm starting to get upset with our government. I never thought I'd feel this way, but I am. It seems like a lot of these people who are World War II veterans-- They need these benefits -- these sick benefits and so forth -- and they're just not there anymore. And when I hear something like that, it upsets me. When I hear something like this, I know we have agencies that are supposed to be representing the veterans.

When I heard the story like Fred's -- I think his name is Fred -- of the runaround he's getting, something is wrong. And I think that we have to take a good strong look, as Assemblyman Kelly had said, and just see where the State goes wrong.

MR. KLEIN: Perhaps, and I don't know, this would be an extension of it, but I think you all know -- and I won't go through a whole litany -- that there are a lot of serious veteran concerns. And maybe -- although this is employment -- if you have in this Commission something where the veteran community feels that that is their channel into the Assembly, it would help a lot. I think we all know about the various nursing homes.

Thank God, we got some of the units put back on. But I'm sure it's only because someone got behind it. But in the case here, you're talking about a whole silent group you don't even know about, and I'm worried about that. They need a way of coming to you, and through you, to have some things rectified.

ASSEMBLYMAN SCERNI: I think that, in part, is the intention of Assemblyman Gill's bill, so that there will then be a mechanism on the ground, that on a ongoing basis we'll be studying this problem and we'll act as a line of communication. Right, Lou? Is that--

ASSEMBLYMAN GILL: That's correct.

MR. KLEIN: And the veteran community-- Excuse me, Mr. Chairman. And through that, the veteran community would know where to go.

ASSEMBLYMAN MAZUR: Unfortunately, this bill-- This Commission would expire upon the submission of its report.

MR. KLEIN: Oh, I think that would be a terrible mistake, Assemblyman Mazur.

ASSEMBLYMAN MAZUR: Or is it, the Commission will hold public hearings and will be required to submit a written report to the Governor, and then it's going to expire? Is that your understanding?

ASSEMBLYMAN SCERNI: That's true.

ASSEMBLYMAN KELLY: Through our television, to be continued. Don't worry about it.

ASSEMBLYMAN MAZUR: I think that I'd like to put a bill in saying that in the Department of Military and Veterans' Affairs a position of Veterans' Advocate be designated to somebody who is already an employee, or a new one -- but we're kind of bad on new employees right now-- But somebody in the agency that would serve as a Veterans' Advocate for matters of employment to pursue the enforcement of -- to receive the complaints -- veterans' preference in hiring.

MR. KLEIN: Assemblyman Mazur, I think you put your finger on a very important thing. There is no reason why this has to die. Why couldn't the veteran community feel that they always have somebody? It's a voluntary group as it is. In other words, if you have such a Commission, why can't they stay and at least be available to be heard?

ASSEMBLYMAN MAZUR: I have no problem with that.

MR. KLEIN: I don't want the door shut.

ASSEMBLYMAN CASEY: Mr. Klein, I think the intention was good -- Assemblyman Gill -- with the objective that we're finding out through our hearings, because as you talk you learn things.

MR. KLEIN: Right.

ASSEMBLYMAN CASEY: I don't think Assemblyman Gill had any objectives. I think the starter was good. We must follow it up by asking the Commission to stay on it.

MR. KLEIN: Right. I think that as long as we know it, let's just include that--

ASSEMBLYMAN CASEY: That's a good point. But I'm just saying--

MR. KLEIN: --because who wants to close the door after "one statement"?

ASSEMBLYMAN CASEY: What we can do is talk to the sponsor, have another bill, but at least it's a start to move things going.

MR. KLEIN: Obviously, I'm thankful to you for the opportunity to speak for some of the veterans.

ASSEMBLYMAN CASEY: Very good. I appreciate it.

ASSEMBLYMAN SCERNI: Thank you, Commander. John Dorrity, Vietnam Veterans of America? Is he out in the hallway?

UNIDENTIFIED SPEAKER FROM THE AUDIENCE: Yes.

J O H N D O R R I T Y: I'm from VVA, Chapter 200. I've been here at least once or twice before. I want to thank you for giving us the opportunity to talk. I want to thank Mr. Paterno for saying it right. Parades and stones in the ground don't mean anything, if you don't have the programs. If the programs are in place and they don't work, it don't count. You're not doing nothing. We're not doing nothing.

I appeared here about six months ago with Andy Marotta and someone else -- I can't remember right now. We spoke

briefly of veterans' preference. I'll tell you, quite frankly, it's a pretty hollow phrase to myself and to a lot of other unemployed veterans.

This is turning into a horror story. I have here cases that I deal with. I am the Chairman of Veteran Affairs, in my Chapter. One of my duties is to try to secure employment for unemployed and underemployed veterans, of which we have 63, I believe, as of last count, out of 149 members.

I have one veteran who is a 10 point disabled veteran who applied for a job in Lakewood -- Civil Service. He lost the job to a political appointee. He should have come out first on the list. It's no surprise to me that he lost a Federal job at Lakehurst Naval Air Station for making known the fact that five 55-gallon drums of dioxin were going on the auction block. Now, this was in 1986.

I have another disabled vet -- 10 point -- who was denied a job on the Garden State Parkway as a driver. This gentleman has extensive background in driving. He can drive anything in the State, that is on the State's roads. I have three veterans within the last six days who have contacted me: One is a World War II vet, one is a Korea vet, and one is a Vietnam vet. They're facing foreclosure.

Right now, I'll tell you, with the way veterans' preference is implemented in this State, and in the Federal government, and in our county, and in every municipality, the best advice I can give him is one behind the ear. It'll probably help you. Your problems are over then.

Ocean County-- I've lived there for 16 years -- 17 years. It's either the first or the second in the State in foreclosures. Fifteen percent of those -- I don't have the exact statistics, but a safe conservative estimate would be 10% to 15% of them -- are probably veterans. I foresee dire consequences in the future because a lot of these people, including myself, are not going to go easy. We're not going to go easy at all.

I'm extremely proud. The last time I was here, you gentlemen asked me to write something up, because I had proposed that we make any agency, and any municipality that deals with public funds, adhere to veterans' preference. I wrote something. I wrote something, and Andy helped me refine it -- my language, a little bit. Another veteran and myself wrote it, and Andy edited us a little bit and took out the four letter words and everything. I sent it to the Office of Legislative Services. I got back a pile of papers -- and I don't have them with me -- and I don't think the people were understanding what I was trying to say.

What I was trying to say -- and I said it the last time I was here -- is, if someone accepts public funds, you should practice veterans' preference -- meaningful veterans' preference. We're not looking for no-show jobs, or do-nothing jobs. You've got a wealth of services out there. You've got a ton of people unemployed, and, quite frankly, the State, the county, and the municipalities are not utilizing those services.

The one thing I am kind of proud of is my own Township. Dover Township, at my insistence -- I serve as the Cochair of the Veterans' Commission in Dover Township -- has accepted veterans' preference, which was part of my fight.

When I got my information back from the Office of Legislative Services, Andy and I discussed it. And we felt that it was better to attack it at the local level than to bring it back up here before the State, because we really didn't feel that the State could do anything.

Right now we're in the process of trying to get every municipality in Ocean County to accept veterans' preference. If we do that, maybe it will be a model for the rest of the counties in the State, the other 20 counties. Like I said, I can go on and on with horror stories.

The Department of Personnel seems to be a big stumbling block in the State for a few people. In my own case,

I've submitted -- in the last 14 months -- probably around 17 to 18 applications. One of the applications happened to be for a job in Paterson that was my background. I have an environmental background for the last 20 years. I was kind of taken back when they wrote me a letter back deeming me ineligible, and telling me I didn't have enough background.

As a matter of principle, because Paterson is a hell of a distance from Toms River, I deemed it necessary to fight this. I did. I had the Department of Personnel reverse themselves on the issue, and to this date I haven't heard a word from them. I'm still working my little end, and I'm going to find out what happened. Like Mr. Kelly said, "I'm going to find out if somebody got the job." And if they did, the law has been violated. And if the law has been violated, my civil rights have been violated.

Entitlements is something that veterans gave a part of their life up for, and I don't think that any of us really gave it up looking down the road for a freebie. It's a standard that the State says we have. We should live by it. And you know, I'm held up to my word, and I keep my word. I think the State should. I think the State should enforce these laws, and I think that the Department of Personnel is due for a serious, serious overview -- and the Merit Review Board for that matter also. That's all I have.

ASSEMBLYMAN SCERNI: Joe?

ASSEMBLYMAN PATERO: I think to help you to get that information that you're looking for in the Department of Personnel, I think you should contact your legislator. He'll probably have an easier time getting that information than you trying to get it.

MR. DORRITY: Yeah. I think you're right, Mr. Patero, but I'll tell you something -- and this is just a personal observation: If you stick your finger in somebody's eye,

personally, it gets them thinking. And I have no qualms with sticking my fingers in anybody's eye. I've seen the best results by-- Was it squeaky wheel?

ASSEMBLYMAN PATERO: Yes.

MR. DORRITY: Okay. Squeaky wheel. And that's it.

ASSEMBLYMAN PATERO: But I think you should contact your legislators too, just to get them -- for your satisfaction.

MR. DORRITY: Thank you. I do appreciate your advice.

ASSEMBLYMAN CASEY: John, just one more question, before you leave?

MR. DORRITY: Sure.

ASSEMBLYMAN CASEY: You said that Dover-- What did you do different in Dover that might be an example? Just give us the background.

MR. DORRITY: I threatened to quit, because I won't connect my name to a bogus commission that does nothing. These people are more interested in parades and monuments. Well, that's great, guys. It's the 4th of July, here's a parade. Have a bologna sandwich if you're hungry, but I can't help you any other way. I threatened to quit. And July 3rd, we just happened to get this resolution passed, and here we are.

It's late for me, because nepotism took my job over a year ago, the one I applied for that I think I was probably qualified for -- I'm sure I was qualified for. That's the only different thing I did. And that's what I mean when I say, "sticking it in their eye." Legislators work. We're in touch with our legislators. They're very sympathetic. You gentlemen are very sympathetic. Everyone out here is sympathetic, but nothing happens. Everybody seems to forget that this is just paper, and marks on paper. This is flesh and blood. That's flesh and blood back there. They need more than just words. We all need more than just words.

The foreclosure rate, like I said, is something for you gu's to watch. If veterans' preference doesn't do

something positive, because it hasn't done anything positive for me in 14 months -- and it's not just me, I'm not just talking about myself--

I have a hard time pushing buttons for myself. If somebody else comes to me with a problem, we'll get it straight. But it's not doing what it's designed to do for a lot of people. And they're not looking for freebies. They're not looking for lay-back, no-show, do-nothing jobs. Most of them are pretty energetic people that want purpose, that have a goal. It's just a little clouded when you don't have work. When you have got to worry about the three meals and miss the mortgage, it's tough. And I'm not telling you something you don't know.

ASSEMBLYMAN CASEY: Thank you.

MR. DORRITY: Thank you.

ASSEMBLYMAN SCERNI: Thank you, sir. Andy Marotta?

A N D Y M A R O T T A: Good morning, Mr. Chairman, and members of the Committee. Thank you. I'll keep my remarks very brief, since John and I are from the same Chapter and represent the same organization.

What I've heard here this morning is a horror show. My only question to this Committee, and to Assemblyman Gill, and to the proposed piece of legislation that you have in front of you is, are you going to put any teeth in this? Are you going to make this Commission, if it is approved and set up, a working Commission, one that will have the authority, and have the ability to correct the problems that we've heard here today?

You'll receive a lot of testimony about individual problems. You'll receive testimony where Federal, State, county, and municipal organizations cross over. Gentlemen, damn it, when they handed me that M-16 and sent me over there, they didn't tell me, "Well, you're going for your town, your county, your State, and your government." "You're going for the United States government," that's what they told me. They told me, "When you come back, we'll take care of you."

Okay, fine. I went with a clear conscience. I did my duty, as did every other veteran in this room, regardless of the time, or service, or period that he went through. It is appropriate to know that the gentleman that sat here said he was a Korean War veteran, and felt concerned for the Vietnam veterans. And we, as Vietnam veterans, feel concern for those that will come behind us, too. Every inch that we fight for, every finger -- as John said -- that we poke in somebody's eye, will make it a little bit easier for the guy that comes behind us.

My only concern is, on this bill -- being the Legislative Chairman of our Chapter -- to make sure that the bill and the Committee that comes out of it -- the Commission that's established -- has the power and the authority to correct the horror shows that we're hearing today. We shouldn't have these horror shows. It is the intent of men like you, who sit in the Legislature, to provide the proper legislation to eliminate things. The very fact that we need a Commission says we screwed up somewhere; that somebody's not paying attention to the law. And we're all not perfect. I notice that we still get pencils with erasers on them. Fine.

If this is the corrective action that has to be taken, let it be taken properly. Let it be taken with enough enforcement power inside that Commission so that when a guy like Fred does encounter a problem, he can go to that Commission. The Commission can act on it, and is not going to be restricted in any way, shape, or form to find a solution to it.

I thank you for your time, gentlemen.

ASSEMBLYMAN SCERNI: Gary Walls?

R O B E R T M A R A S: Mr. Chairman, and Committee members, I'd like to thank you. My name is not Gary Walls. My name is Bob Maras. I'm just here to add a little bit more of a horror story for you guys to listen to about veterans. Hopefully, if the Commission comes, they'll be added protection for veterans.

My horror story begins: I joined the Lakewood Police Department in 1974. In 1975, I was decorated and received worldwide recognition for subjecting myself to sodium Pentothal to do an investigation on a hit-and-run death of a person, in the town that I was working for.

In 1985, my then wife applied for a job at Lakewood Police Department, and she had passed a written exam. She went down to Trenton to take the physical portion of the test. She went out on the floor. When she entered the floor, it's my knowledge and belief that no one was allowed on that floor except the applicants taking the exam. Shortly after she began the obstacle course, two members of the Lakewood Police Department walked in and went over to the man scoring the test. Her test score was changed to show that she had failed the test, because there are no women on the Lakewood Police Department.

In 1986, I had my fill of political favors being done. If you step on the wrong toes-- They don't care if you're a veteran. They don't care if you're a disabled veteran. To them it's like, "We'll do what we want to do. We're in our own little world. We can do what we want."

I moved my family to Arizona and was coming back to vest my pension. I had enough time on the Department at that time to vest my pension. I came back and received a ten-day suspension for not calling in sick the day before I started vacation. I produced a letter showing that a phone call had been made, and produced a phone bill.

During the ten-day suspension, which ended on June 10, 1986, I received a phone call from a friend of mine saying that they were there with additional papers to try and terminate me for two years prior, having worked as a juvenile officer in Toms River, at the Juvenile Shelter, four days during the course of that two years, having worked there days and then called in sick at night for the Police Department job. I had

heard of that, and having been suspended for the 10 days, I had gone to the Department's psychologist and was under his direct care, and was told not to return to work.

When June 10 came, I called in and told them I was out. I'd be out on Workmens Compensation. "If you have any problems, you contact my lawyer." June 11, 1986, again, I called in and told them I was out with a job-related problem. "If you have any problems you contact my attorney from this point on."

June 19, after being, supposedly, tried to be terminated on June 10, June 19 comes, again, they terminate me a second time -- which is like putting someone in the death chair twice. We went through all of the departmental hearings. The departmental hearings consisted of the Chief, who had charged me with the charges; the Lieutenant, who wrote the charges on me; and a handpicked Lieutenant at the Hearing Board. From the departmental hearings it went to Civil Service.

My attorney at that time, who is now a Superior Court Judge, got word back that we're going nowhere because of political favors that have been done, and it looked like they'd have enough power to get political favors done through the Civil Service Commission. It didn't matter that I was a disabled veteran. Tough noogies, you're out of a job, pal.

So, for the past five years I've been unemployed, and harassment still continues. I have a compensation case pending. The township, who has an attorney representing them, requested release of my medical forms from the Veterans' Administration, records released from the Social Security Administration, and from the Marine Corps. I refused to sign those forms for him. I said, "You're not getting release of any information." Lo and behold, about a year ago I get a letter back from the Social Security Administration saying that my medical records had been released to this attorney, as per my request.

I hold in my possession the original form, stapled with a request form from that attorney. And I said, "No, you will not get them," but yet he signed my name -- or someone forged my name to documents -- to get documentation about everything that they wanted to get. Now, if this is what veterans have to put up with, I feel sorry.

I'd like to see something done so that better protections are there for the veterans that you can't, because of your political affiliations or because you step on the wrong toes -- that you're allowed to be just tossed out like a used rag. As my predecessor said, "I went and served my country. I served my country well," and I would do it again. If a war broke out I would go again tomorrow. I'd go the next day and the next day, because I love my country. I loved my job of being a police officer.

I'd like to sum up by saying, one has got to step back from the forest and overlook the whole forest to see where the problem is. You can't see it if you're just around. You have to look at the whole picture. I didn't bring enough copies, but for anybody who'd like to see it, here is a complete documentation of all of the stuff that went on with the hearings and transcripts of everything that went on with that hearing.

ASSEMBLYMAN SCERNI: Maybe we could make copies of that available?

MR. MARAS: You're welcome to it.

ASSEMBLYMAN SCERNI: Okay. I have a feeling that this will not end here today.

ASSEMBLYMAN PATERO: Mr. Chairman?

ASSEMBLYMAN SCERNI: Yes, sir?

ASSEMBLYMAN PATERO: It seems that we've already heard from the State -- this is in regards to you -- there's problems on the local level, too. I think that maybe you, as Chairman, should meet with the Chairman of the State Committee and the

local and municipalities. Something has to be done. I think this is-- I knew there were problems. I didn't think the problem was this great as we're hearing today.

ASSEMBLYMAN SCERNI: No. This is eye-opening, to say the least. I'm going to do a few more witnesses from some of the veteran organizations, and then I want to go to the Department of Personnel. Maybe we can try to structure some questions and see what mechanisms are available and where we have to go. Let's do a few more witnesses from the veterans' side. Mildred DiFante?

M I L D R E D D i F A N T E: Gentlemen.

ASSEMBLYMAN SCERNI: Good morning. It still is morning.

MS. DiFANTE: I was very surprised to get a notice that we were going to talk about veterans' preference, especially when the State of New Jersey doesn't recognize most veterans as veterans. And I want to thank this Committee for getting it out of Committee and getting the 1423 bill passed; that maybe someday we'll get the eligibility dates to conform to that of Federal government, and more veterans will be able to avail themselves to the benefits that are due them.

The absolute veterans' preference, as you know, is part of our New Jersey Constitution -- Section 2, Article 2 of the Constitution. It was back in 1940 that this was put in, mainly, to assist veterans coming home from World War II to obtain jobs. And of course, the American Legion and most veterans' organizations are obligated to preserve the benefits that we derive from all of our work right after World War II.

One of the problems that the veterans-- Most people don't understand veterans' preference. Veterans' preference is only there to help them get a job. Now, once they get a job, the Department of Civil Service could care less what happens to them, as far as promotional procedures or layoff procedures, and this is something that we should look into there.

Any good personnel manager can circumvent veterans' preference, and there's nothing so blatant as what happens in Camden County. There's all kinds of veterans' abuses in Camden County, right on up to the Department of Personnel itself. I could send to you, gentlemen-- I have stacks of complaints that are documented, of the abuses of that Department.

One of the ways they get around certifications-- Well, number one, to start with, if there's no job opportunities out there for veterans, veterans' preference doesn't mean a thing, and this is one of the problems we have with the New Jersey Department of Personnel. They are constantly downgrading jobs, reclassifying jobs.

Now, your memo said, "career." Just for instance, in the Civil Service structure there's competitive and noncompetitive jobs. Mostly, the noncompetitive jobs are in the laboring division. Now, just last year -- April 30, 1990 to be exact -- they took these positions out of the competitive division: data processing, programmer trainee, systems programmer, data processing technician, and systems analyst.

When I filed a complaint that we have veterans with those kind of skills, why are you making these noncompetitive-- We all know why they're being made noncompetitive. The answer from the New Jersey Department of Personnel was, "We're having a hard time filling that kind of a job." These are like \$30,000 jobs and up. These are career jobs in the computer field. Now, would you know how many data processing technicians we've all of a sudden found because they're not competitive? And being noncompetitive allows the politicians to hire their own candidate.

The certifications for positions are circumvented so much by the heads of the various counties and municipalities. And how they do that is this-- We had two classic cases, which I will document for you, in Camden County: We had a list for mechanic, two or three weeks ago. Number one man is a

veteran. Number two man is a veteran. Number three man is a nonveteran. And the number four man was a nonresident. The number one man, the veteran resident, was sent on an interview -- the Highway Department -- for a job as a mechanic.

He was interviewed. He was accepted and ready to get hired. The number two man was never interviewed. The number three man, the nonveteran, wasn't interested. And the number four man, a nonresident, was interviewed for a mechanic job in the Parks Department. Now, when the number one veteran was ready to be employed, the appointing authority in Camden County said, "You know we're having a layoff. Now, you can have this job if you want it, but as soon as you're on the job you're going to get served with a 45-day notice of a layoff -- an impending layoff." So the poor veteran said, "Gee, I'm working now. I can't afford to take this job and in 45 days I'm going to get laid off." So they wrote down, "Not interested in this position."

Now, the number four man, who is a nonveteran, and a nonresident, went to the Parks Department and got hired. Nobody said anything to him about a layoff. And I filed a complaint with the Department of Personnel, because the number one veteran should have had an opportunity to interview for that job in the Parks Department. That is one case.

A man was hired as a Principal Planner. There's an existing list -- existing eligibility list -- with a veteran on it. The Department of Personnel disapproved this nonveteran being hired. So the appointing authority put a variance on this title, called it "Principal Planner/Community Development," sent it back to the Department of Personnel, and they approved him, because he put a variance on it.

Another way they circumvent the certifications, when they don't want to hire a veteran: They will have a certification for a position, say, paying \$20,000, eight hours a day. Now the man comes in. He's interviewed for the job,

and they say, "Well, this job pays \$17,000." The man says, "How come? Here's the hourly rate that was announced in the bulletin." "Oh, yeah. You're going to get the same hourly rate, but you're only going to work six hours a day, so the annual goes down."

Now the man says he has no recourse. I complained to the Department of Personnel and they said, "The appointing authority has the right to set their own hours for the jobs." The Department of Personnel has nothing to do with the hours, or salaries. And so, even though the veteran passes the test, they can circumvent the list by establishing the hours. And if they don't want you, they'll say, "Well, it's a six-hour job, not an eight hours a day job." And so, of course, the annual salary goes down and down.

One of the problems-- The big problems that we have are, the job opportunities are dwindling in the State of New Jersey, because the Department of Personnel creates more, or allows more and more unclassified positions. For instance: You're allowed to have 20 unclassified department heads, and those 20 unclassified department heads are allowed to have 20 confidential assistants. The Freeholders are allowed to have secretaries unclassified, and confidential aides unclassified, and it goes on and on and on.

The other problem that we have in the State of New Jersey -- and it's prevalent all over, more so, I guess, in the State -- is the funding of the Department of Personnel. They are truly understaffed. Therefore, they don't have the help that they need to look into some of these abuses. If a person is hired and somebody wants to file a complaint that this man is not performing the duties of the job title that he has, the Department of Personnel should come over and audit that job and see exactly what is that person doing. But now they don't have the staff to do that. And so, this creates more abuse upon more abuse.

If they want to hire-- If a political person wants to hire another -- one of their constituents and there's an existing list, what they'll do is, they'll come up with some cockamamy title. Now, they know that this title is not a valid Civil Service title. So therefore, it has to go to a department to find out if it is valid. And if it is valid, then it has to be sent to the Examination Department. An examination has to be written, and it has to be announced. Now, all of this takes about, maybe, two years. In the meantime, this political person has been working. And now, if they get to all of that point that there is going to be an examination, well then, that person's title gets changed to something else and the whole process starts over.

Gentlemen, what I'm saying to you is that veterans-- You know, we hear of so many proposals to deny veterans their benefits. We all know what's going on in the State of New Jersey, with the empty bids and the outreach programs being canceled. This is the time when veterans really need assistance. I appreciate the fact that you've allowed me to speak today, and I'm very appreciative of your interest in the problem. The main problem is the job opportunities for veterans. Without job opportunities, veterans' preference doesn't mean anything. Thank you.

ASSEMBLYMAN SCERNI: Thank you. Mr. Fuller?

D O N A L D F U L L E R: Chairman Scerni and members of the Assembly Veterans and Military Affairs Committee: First, I'd like to introduce my Senior Vice Commander, Al Fanslau, and Eddie Bradford, our Second Junior Vice Commander.

May I speak a minute? Al, first?

A L B E R T F A N S L A U: I'd just like to say that we don't want no handout. We just want an equal chance. Thank you.

MR. FULLER: Thanks, Al.

The 35,000 members of the Disabled American Veterans Department of New Jersey are deeply committed to veterans' preference in the hiring of personnel for positions with the New Jersey State government.

Veterans have served all over the world to defend our country. This has resulted in disruption of family life, and multiple other problems.

In the case of the Disabled American Veterans, it has also resulted in members incurring service-connected disabilities that affect them throughout their whole life. The least the State can do is allow the veterans' preference and make sure the policy is carried out. We do support the Committee's effort to improve the procedures.

In talking with State Veterans Service Officers, I have been informed that only 10 out of the 18 officers are staffed by veterans. Two out of three supervisory positions are held by nonveterans. There are cases where a nonvet with minimum experience is hired at a grade level higher than a vet who has years of prior experience as a Veterans Service Officer.

Due to the hiring freezes, some Veterans Service Officers are covering two different county offices, which causes one county office to be shut down two to three days per week.

We appreciate the opportunity to testify, and assure you that our 35,000 members will work with you to see that veterans' preference is continued and adhered to. Thank you.

ASSEMBLYMAN SCERNI: Thank you. Before you get away, you said, "Ten of 18 people are nonveterans." What position was that?

MR. FULLER: The Veteran Service -- for the State, VSO -- Officers; the Department of Military Affairs Veteran Service Officers. There's one in most of the counties. Each county-- Well, there's 18, and there's 21 counties. Newton is one where there is nobody there. The man resigned, and due to hiring

freezes they didn't replace him. So the gentleman in Bergen County has to go to Newton two days a week.

ASSEMBLYMAN SCERNI: And of those 18 Service Officers for veterans, 10 of them are nonveterans?

MR. FULLER: Ten are veterans, and eight are nonveterans.

ASSEMBLYMAN SCERNI: Eight are nonveterans?

MR. FULLER: Right.

ASSEMBLYMAN MAZUR: Jesus Christ, how ridiculous. They're political appointees at the county level.

ASSEMBLYMAN PATERO: Mr. Chairman?

ASSEMBLYMAN SCERNI: Yeah, Joe?

ASSEMBLYMAN PATERO: I think you hit the nail on the head. As I said, if you've been here before you've probably heard me say that, I get upset when our National Commander, VFW, and American Legion Commander goes to Washington and puts his hands around the politicians and tell them how great things are going, when they're not going. But I think, as you said, the important thing is that you're going to be behind whatever we're going to do. That's the message that has to get out to the veteran groups.

I know a lot of veteran groups that just don't want to get involved with any type of politics, and I think that's wrong because everybody else -- the environmentalist groups or labor groups-- They have a nucleus out there and they really bug us. And I think that's what the veterans have to start learning to do. A lot of us are very patriotic, and they say they're going to do the right thing to us and it's not working that way. I think that we have to get the message and that's why this public hearing is good.

Like I said, I hope the press here writes everything down. Is that-- We have to get them stirred up and just say, "Hey, we'll do whatever is necessary to get this program going, but we also need some help from you people." So when it goes

to the other legislators, we can say, "Here, look what our mail is saying here." The process, the way it goes is, "I haven't received any mail so it can't be that important." But this is a very serious problem. I think that the message has to get out, and I'm very happy to see that your group is willing to support this program.

MR. FULLER: I was here previously, in the last six months for, maybe, six or seven months working with the Committee on the Desert Storm, and attending all of the sessions of the Assembly during that period of time. Due to that effort, I was appointed Chairman of the State Legislative Committee, and I assure you that my intention is to be visible.

I will be here. I will assist all I can. I will be to the hearings and anything that I hear that comes up-- As I said before, the DAV will be very anxious to assist you in any way we can. Thank you.

ASSEMBLYMAN CASEY: Thank you. Have a good day. I might point out that Don Fuller is a member of my Chapter. How about Ray Zawackie, I think, the American Legion World War -- I mean War Memorial Building?

R A Y M O N D L. Z A W A C K I E: Thank you, Mr. Casey.

ASSEMBLYMAN CASEY: Ray, thank you for coming.

MR. ZAWACKIE: First, let me say, on behalf of the State Commander for the American Legion, that he regrets that he's unable to be here this morning with you, because he did want to share some of his personal experiences on this subject. However, he's taking a well earned few days off and he's down in Virginia enjoying some golf and good weather -- real hot weather. So, he sends his regrets and his greetings.

First, I'd like to introduce our Legislative Chairman for our Legislative Committee for the American Legion in New Jersey -- Ted Steltman.

T H E O D O R E S T E L T M A N: Good morning.

MR. ZAWACKIE: Basically, my message is going to be very brief. We agree with Assemblyman Patero, in his statement, that the organizations have to become more vociferous on various issues, and I think the American Legion has done that for the last two or three years. We intend to continue to do that.

I know some of you -- most of you -- should have received our little questionnaire, that was simple but yet very effective, some months back. We got all kinds of calls; most good, some bad. Some very mad legislators called us and wanted to know what the hell we were doing? But when they heard, they understood. They were very sympathetic. And this Committee has lent a sympathetic ear, and assisted us in various problems that affect veterans, since we've been associated with it. And I commend you on that. But we will continue to be supportive of veterans' issues, and to work with this Committee, and the Assembly, and Senate, in anything -- any legislation which affects veterans.

As part of the American Legion's structure in New Jersey, we operate a service office up in the Veterans' Administration Regional Office in Newark. You have a staff of four up there, two of whom are accredited representatives. I served in such a position for over 21 years. Our job was to assist veterans with obtaining various Federal benefits that are available to them, appealing adverse decisions, and a whole gamut of things.

One of the things that frustrated me most was having to deal with veterans who would, not infrequently, visit our office expressing dissatisfaction or a particular problem with the New Jersey Civil Service preference regulations and laws. We had many, many cases on many occasions where veterans would come in and explain the whole thing to us. And it was frustrating to us, because no accredited representative that we employ has sufficient expertise to be able to go to bat for

this particular individual, to seek some kind of relief for him, although when they explained their cases, we very often agreed with them that it was probably some injustice done to them. But not being very familiar with the entire Civil Service system-- When you read some of the correspondence that they present, you can understand why anybody would be confused by this system. So you're talking about a fellow, predominantly, who has been denied employment. On occasion they're advised of their appellate rights, and what appeal avenues are available to them. After they're done reading that, they're very often discouraged to the point where they just refuse to follow those avenues of appeal.

He gets discouraged-- Most of them don't have the good sense, or knowledge, to contact their Assemblyman or their Senator, such as the constituents for Mr. Gill did. And it's a great thing that those fellows had the knowledge to do that; otherwise, we wouldn't be here today, I'm sure. So it's kind of sad, when you deal with that kind of situation and that type of case. You see these things go on. There's no central location, or central group, or body, or commission where you can go to and say: "Hey, look, we think this guy was slighted. What do we do about it?"

We believe that the establishment of the Commission that's in Mr. Gill's bill will serve that purpose. So I'd briefly just like to say, the American Legion supports the establishment of that Commission. We would also agree with Mr. Klein, who spoke previously, that it should not be a temporary Commission. We were very concerned with that. We think it should be a permanent type of Commission.

I can appreciate Mr. Mazur's recommendation that they hire, sort of an ombudsman over at DMVA. But if he has to take a Civil Service test, we might have a problem filling the job with a veteran. I think it would serve a better purpose to have this Commission established as called for in 4199, but on a permanent basis.

ASSEMBLYMAN CASEY: Well, Ray, I think the answer, while we're sitting here-- I think Assemblyman Mazur and I think Mr. Gill is going to -- about putting this Commission on a full-time basis.

ASSEMBLYMAN MAZUR: Yeah. I already spoke to him about that.

ASSEMBLYMAN CASEY: So, that was a good point by Mr. Klein. And again, when you mention the American Legion, I think Assemblyman Patero said that you also could be a plus, or be a-- Even with this Committee or Commission being an essential post, I agree with it. But I think you are talking to your legionnaires about the State, it would be a plus to any member of the VFW, like somebody said, to contact your legislator -- I don't care what district you're in -- because it seems to me if you've got a title behind your name, like it or not--

You know, we're not here to play games, but I think we're here to help. I think it would be a plus for any legislator -- because I know my office gets them and I'm sure I'm speaking for every Assemblyman here -- that you step up. You have full-time employees. So again, we could help each other while you're talking to your State people, if you could pass it on there.

MR. ZAWACKIE: Well, we will do that. As a matter of fact, Mr. Steltman will take care of that through his Committee, who has a representative from each county--

ASSEMBLYMAN CASEY: Okay. Good.

MR. ZAWACKIE: --and get in touch with those individuals.

ASSEMBLYMAN CASEY: Any other questions?

ASSEMBLYMAN PATERO: Yes. Coming from a small town, like I said, I know most of the people. A lot of them have come to my office and-- I've been on the phone and I've seen

the runaround that I get, and I'm a legislator. I can imagine the runaround that the veteran is getting that has no contact. I think what Assemblyman Casey said is true.

MR. ZAWACKIE: You can imagine as a reaction to the whole deal. You know, you just give up.

ASSEMBLYMAN PATERO: Yeah. I think that's what the game is, to make you give up.

ASSEMBLYMAN CASEY: But I'll tell you, we have full-time employees. We don't give up. So if we can settle some of this stuff by one or two complaints, maybe things will start getting together.

MR. ZAWACKIE: Very good.

ASSEMBLYMAN CASEY: Anybody else?

MR. ZAWACKIE: Thank you, John.

ASSEMBLYMAN CASEY: Thank you. I think the next one is Richard-- Is it Ventola? VVA-- Is that the State Council? Is that what it is, the VVA?

R I C H A R D V E N T O L A: Yes.

ASSEMBLYMAN CASEY: Okay.

MR. VENTOLA: Good afternoon. I'm Richard Ventola, from the Vietnam Veterans of America, New Jersey State Council. I've appeared here before, and I think most of you know me.

We in the VVA are very proud that New Jersey has a veterans' preference system for career civil servants. Unfortunately, there are certain abuses that seem to occur within the State, the counties, the cities, and the towns. I thank this Committee for having this hearing to recognize the problem -- in an effort to resolve these particular problems.

I would hope one day that we would have veterans' preference in all types of public sector jobs within the State -- within the whole State of New Jersey. It exists within the State on paper. It exists within most of the counties. It exists within some of the cities and towns. I think one of the

gentlemen earlier spoke about when public funds are dispensed to various governing bodies you can legislate what they're going to do with those funds, just as the Federal government does.

When they give money to the State there are certain strings attached to this. And when the State gives money to certain municipalities, there are certain strings attached. I think one could legislate this in some way to the various towns. Some of these little towns run personal fiefdoms, you know. They run their own employment agency, but that's not to be discussed here.

The abuses that we see seem to occur as the salary scale goes up. The abuses don't seem to occur on a \$15,000 a year job, but when you start getting to jobs \$30,000 and above, I think this is where the abuses occur. I think there was a lady that spoke about the computer jobs, because the income is kind of high there.

I have personal knowledge of a current civil servant, within the State of New Jersey, that I have known since 1984. This individual has veterans' preference status, and is grossly underemployed by the State of New Jersey. He left an exemplary career with the General Electric Company in a layoff/plant shutdown -- it was an involuntary leave -- after approximately 20 years of very good management experience. In his last position he reported to a Vice President in General Electric, and within companies of a manufacturing stature, vice president means something, although in many companies it doesn't mean anything. In the General Electric Company, that's a fairly big job. He earned in the high five figures, which is a pretty good income.

He's applied for over 350 classified titles. He has taken approximately 200 Civil Service examinations since 1986. He usually ranks in the top 10% of the raw score on the examination. This is the actual arithmetic addition before any

kind of preference is given. He usually ranks first, second, or third on the promulgated list for the classified title, which means after the veterans' preference is administered.

His experience is a real horror story of the worst characteristics of Civil Service gamesmanship. The first game occurred when both the human resource manager and the hiring manager attempted to dissuade the veteran by misrepresenting the job currently held by a protected provisional incumbent. I think what I'm mimicking here-- All of this has been said before. This makes the job unattractive to the candidate. If this effort fails to convince the candidate not to take the job, three other games may be played in an attempt to discourage the candidate from voluntarily releasing his claim for the job.

At the other end of the spectrum, if all else fails to discourage the veteran to exercise his right to the job, the title will be vacated and the job reclassified, thereby giving the protected provisional incumbent an automatic one-year tenure in this position. Again, this is nothing new. I think it's been mentioned throughout the entire day here.

The documentation supporting this history on this individual is available upon request, provided the individual's identity will be withheld. The gentleman who was here earlier, I think, is a very brave civil servant. I think he's few and far between in the civil servant sector. Many are afraid to come forward with these things unless their name is withheld.

Under certain conditions, this individual would also appear here before this Committee in a closed session, which I understand may be a problem, but this is what he told me. He can personally recount these difficulties that he has had. This individual has an outstanding graduate record in graduate school, an outstanding military, and civilian -- you know -- life. I'm not trying to say that he should be promoted. I'm trying to say that this is not someone who doesn't know anything.

I think this is very typical of what happens within the Civil Service system, especially when someone comes from the outside. Many people get discouraged. I think so many people have mentioned that. There are recourses they have through the Department of Personnel. Now, the recourses are very bureaucratic, and very time-consuming. If a person's looking for a job, it's only the person that has the drive, and also the education, to put words on paper, that will eventually persevere.

As you can see, this guy has taken a whole bunch of tests, filled out a whole bunch of applications, and eventually got the job. Even moving within the State itself, there are problems, too. People like this sometimes are reluctant to come forward because, unfortunately, a whistle-blower does not get any brownie points within the system.

Thank you very much, gentlemen.

ASSEMBLYMAN SCERNI: Thank you. Any questions or comments? (no response) Thank you, Richard.

ASSEMBLYMAN KELLY: I'd like this individual to come to us. What are they going to do to him?

MR. VENTOLA: Well, I don't know.

ASSEMBLYMAN KELLY: If all of us know his job, they're not going to do a damned thing to him. At least I don't think they can.

UNIDENTIFIED SPEAKER: Don't bet on it.

ASSEMBLYMAN KELLY: What do you mean, "Don't bet on it?" I don't believe they could pull tricks when the public is aware of it. Well you can't-- In other words, a man-- You've got to have courage. You have to stand and be counted. I think you should stand and be counted.

MR. VENTOLA: I think that gentleman was very courageous that came here from the Department of Motor Vehicles.

ASSEMBLYMAN KELLY: He is.

MR. VENTOLA: I don't think most people are, especially with the downsizing of the State. You know, they're looking for an excuse to put someone off. Bureaucrats within the State have learned, over the years, how to work around the system, and I think they can probably nail anyone they want, if they really want to, Mr. Kelly.

ASSEMBLYMAN MAZUR: You mean they're better at it than the Army?

MR. VENTOLA: Yes. (laughter) Well, I think bureaucrats in all forms of government learn to survive. That's the only way they can survive, and they do their job. They have to find ways around things; otherwise, everything stops.

ASSEMBLYMAN SCERNI: Joe, do you--

ASSEMBLYMAN PATERO: No.

ASSEMBLYMAN SCERNI: Thank you, Richard.

MR. VENTOLA: Thank you.

ASSEMBLYMAN SCERNI: Let's, if we can, take a few with the Department of Personnel. Linda, do you want to--

D E P U T Y C O M M . L I N D A M . K A S S E K E R T:
Thank you. This has been a very enlightening and educational session. My name is Linda Kassekert. I'm Deputy Commissioner, from the New Jersey Department of Personnel. With me is Dick Comisky. He heads up our Certification Unit. And Beth Blair is our Legislative Liaison.

In the interest of providing the Committee with some information, we've provided each of you with a copy of the brochure which explains the current veterans' preference. Rather than go through the entire system and talk about what rights veterans have, I'm sure the Committee's much more interested in having specified concerns addressed, and I'd be happy to do that.

I'd also like to say, too, that I've talked to a number of the veterans in the back of the room. We've taken

their names down and some of their concerns, and I will be most happy to respond to their concerns and look into these situations, and provide that information to the Committee as well, if that's appropriate.

ASSEMBLYMAN SCERNI: That would be appreciated. I assume then that you want to just field some questions and get some things on the table?

DEPUTY COMMISSIONER KASSEKERT: That would be fine. Probably-- Maybe I should first start by talking a little bit about the Civil Service Reform Act, and the powers of enforcement that we have, currently. Ms. DiFante was correct when she said, "The Department of Personnel does not have the authority to set salaries." We do not. If there is a violation of veterans' preference we have an appeals process, and it appears today that that appeals process is very cumbersome. Unfortunately, that's contained in our regulations and our law, which we can always address at some other point.

Currently, the Department of Personnel has a few ways in which we can, sort of, supersede what's going on out in the counties. If, for an example, an individual is appointed to a position and veterans' preference is superseded, we can disapprove salary request. We also have the ability to go into court, if possible. But of course, that's very difficult under shrinking budgets. But beyond that, if a veteran is dissuaded from taking a position, we have no authority to go in there, and usually we don't even know when that occurs.

Normally what we get back is a list of certified people, and they'll check, "Not interested." So, that's another way in which veterans' preference is obviously being superseded, just by some of the information we've learned today. Unfortunately, the Department doesn't have the authority to go in and instruct counties and municipalities. We hope that they understand the law, and they know that if a veteran ranks first, or if a disabled veteran ranks first, that that individual should be appointed.

I'd be happy to take any questions you might have.

ASSEMBLYMAN CASEY: Excuse me?

ASSEMBLYMAN SCERNI: Yeah, go ahead, Jack.

ASSEMBLYMAN CASEY: I just want to follow-up on that county.

DEPUTY COMMISSIONER KASSEKERT: Sure.

ASSEMBLYMAN CASEY: Now you're State?

DEPUTY COMMISSIONER KASSEKERT: Right.

ASSEMBLYMAN CASEY: You're telling me here, as an Assemblyman, if you-- I live in Burlington County, using that as an example. If you find out it's all being bypassed, you have no authority to go into that county?

DEPUTY COMMISSIONER KASSEKERT: Right. Usually, we don't-- First of all, we usually don't even know.

ASSEMBLYMAN CASEY: Well, if you did know. Let's just say you did know.

DEPUTY COMMISSIONER KASSEKERT: If we did know, the only thing we could do is, if a veteran was not appointed to a position and they appointed another nonincumbent, we could disapprove the salary. Now that doesn't stop the appointing authority from going in and changing the title of the individual and reclassifying the position.

As Ms. DiFante also indicated, we can go in and audit. That's very difficult, unfortunately, under these budget constraints, but we have done that in the past. We've gone in and audited titles, when it's brought to our attention.

ASSEMBLYMAN CASEY: Excuse me, and not to be a little sarcastic--

DEPUTY COMMISSIONER KASSEKERT: Sure.

ASSEMBLYMAN CASEY: --twice I heard budget constraints, but you do have people. So it's no excuse why we can't go into at least one or two counties.

DEPUTY COMMISSIONER KASSEKERT: Absolutely.

ASSEMBLYMAN CASEY: And not just keep using budget restraining as the problem.

MS. KASSEKERT: And we do do that, but probably not as much as we'd like to.

ASSEMBLYMAN CASEY: Okay. Say, if you were just going to do an audit, and if you were satisfied, the only thing you could hold up is a salary?

MS. KASSEKERT: Yes.

ASSEMBLYMAN CASEY: There are no recommendation follow-ups?

MS. KASSEKERT: Well, if we went in and did an audit, and we found that this individual had merely been switched over to another title, we could say: "You've classified this individual wrong. They should be classified in this title. There is a list pending; there's a veteran at the top of the list. That person must be let go, and the veteran must be hired." So, we can do that, and we can do that through the salary disapproval process as well. But once the individual is classified back into the position, we can disapprove salary.

ASSEMBLYMAN CASEY: So the answer to my question is, you do have a little power with the--

MS. KASSEKERT: A little, yes; not a lot.

ASSEMBLYMAN CASEY: So, maybe there should be higher, or more--

MS. KASSEKERT: And really, I think probably the biggest difficulties are not knowing when these situations occur, and that's why meetings such as this are very helpful in terms of letting us know.

ASSEMBLYMAN CASEY: Okay. Thank you.

ASSEMBLYMAN SCERNI: Do you have any other enforcement powers? For example, is there any penalty associated with willful noncompliance with the veterans' preference?

MS. KASSEKERT: Yes. Basically, for any kind of violation in the Civil Service Reform Act -- any violation of

any part of the statute-- That is set by statute as a crime of the fourth degree. Normally what happens is that citizens can complain and we can investigate their complaints, and we also have the power to go into court.

ASSEMBLYMAN SCERNI: In anyone's memory--

MS. KASSEKERT: Never.

ASSEMBLYMAN SCERNI: --can anybody remember anybody ever being indicted for doing this?

MS. KASSEKERT: I don't remember, no. I haven't been there that long, though.

ASSEMBLYMAN SCERNI: It's like the penalties are there, but no one ever violated it.

ASSEMBLYMAN MAZUR: It's never been exercised.

ASSEMBLYMAN CASEY: Well, Linda, not to try to carry and embarrass the--

MS. KASSEKERT: Sure.

ASSEMBLYMAN CASEY: Let's keep it-- We have people from both sides here, but the point is, to answer my question-- So the point is-- What I guess I'm led to believe is, really, counties almost have full control. If you don't know of a problem-- In other words, if you receive some paperwork, counties have full control in the State of New Jersey?

MS. KASSEKERT: That's right.

ASSEMBLYMAN CASEY: And if they play politics, or whatever it be, then there is really no-- So, I think that's really one thing we'd better look at very-- And then again, like I said, to go back, forget budgetary purposes, and go towards this--

If you do get, as an auditor-- If you receive complaints, there are some forces--

MS. KASSEKERT: There is a mechanism. We try to investigate to the best of our ability. Yes, correct.

ASSEMBLYMAN KELLY: Mr. Chairman, you're an attorney. What is a crime of the fourth degree? What does that mean?

ASSEMBLYMAN SCERNI: Up to 18 months, and a fine of up to \$7500. It is the least of the indictable crimes. When you leave municipal court and go to indictable crimes, they are ranked from the most severe to the least severe, from the first degree down to the fourth degree. So, it is the least severe of the indictable crimes.

ASSEMBLYMAN MAZUR: But a disorderly persons stays in the municipal court?

ASSEMBLYMAN SCERNI: Disorderly persons is a six-month county jail, and that is dealt with in municipal court.

ASSEMBLYMAN PATERO: Do we have an awareness program? In other words, you know, we had the poster with Uncle Sam, "I Want You." Do we have posters in these municipal buildings, county buildings, or public offices, saying, "As a veteran, you have a right to so and so"?

MS. KASSEKERT: I don't believe so. The Department of Personnel is only supposed to enforce veterans' preference. I would think that might be something the Department of Military and Veterans' Affairs might want to do, in terms of advertising for veterans.

The one thing that we do do, contained in the bulletin -- in every bulletin -- is a veterans' preference form. The gentleman who spoke first indicated that you fill out the form and you send in your form DD-214 -- which is copies of your discharge papers -- and once we get that information, we do computerize it. I am going to look into the situation; you know, what occurred before that? I understand now that he does have a veterans' claim, but I'm going to check into that situation to see what the problem was before.

ASSEMBLYMAN PATERO: Mr. Chairman, maybe we should get the Veterans'-- Somebody should call the Veterans' Committee and say, "Is there a program?" You know, a lot of people probably aren't aware. The only thing they are aware of is they get five points.

ASSEMBLYMAN SCERNI: Call the Veterans' Department?

ASSEMBLYMAN PATERO: Yes.

ASSEMBLYMAN SCERNI: When I was out of the room I called the General. That's where I was. So, I spoke to General Morgano about 15 minutes ago. Colonel Lowe is also with us here, if we have specific questions.

My understanding is that these potential problems are dealt with through the Veterans' Services Field Offices, and when they get a complaint that way, then it comes back through the Department and it is basically referred to Personnel. Is that correct, Colonel?

L T. C O L O N E L W I L L I A M C. L O W E: (speaking from audience) Yes, sir.

ASSEMBLYMAN SCERNI: So, in terms of a centralized authority within the Department of Veterans' and Military Affairs, that does not exist. It is only as individual complaints come through the system, and then are looped back around to Personnel. Within the Department itself, the General maintains a sensitivity to these problems for the people who he is hiring in his Department, but he does not have overall jurisdiction across State government for this kind of problem. That comes back to Personnel.

ASSEMBLYMAN PATERO: Yeah, but like I said, Mr. Chairman, maybe we should have an awareness program of having these posters posted. I mean, if you go to county offices and so forth, they have everything else posted. I think this is of importance, and maybe it is something to be looked into.

ASSEMBLYMAN SCERNI: Linda, I think we probably have a dozen questions we could ask you here, right now, and I'm not sure where those questions or that dialogue is going to go. Obviously, any member of the Committee who wants to ask those questions, please feel free, but let me give you a couple of thoughts that I have after sitting here.

As I read the statute, as it exists right now, it is a good statute on paper. Mr. Dorrity pointed out, though, that's words on paper, and it doesn't convert to the needs of real people, and he is absolutely correct.

I think we have to look at what we can do to make those words work for the real people. I would like to know from you, because you are the folks who are handling this, what it is that the Department can recommend that would give you the necessary powers to do what needs to be done to correct the abuses that we have heard about today.

I'm specifically talking about potential legislation that could be crafted in a way so that hours of employment, location of employment, reduced wages, and things of that nature, could not be used to disqualify a veteran. I'm not sure, precisely, after today's hearing, how that legislation could be structured, but it strikes me that your Department are the people on the ground who are seeing this. I guess I'm asking you for a suggested solution that this Committee could then structure into a piece of legislation that will take the good words that are on the paper, and add to them the enforcement power that will help Mr. Dorrity and Fred. That is what I think we have to do.

I hope everybody realizes the level of seriousness that this Committee brings to this issue. I certainly thank Assemblyman Gill for having flagged the issue for us with his current legislation. That is absolutely a step in the right direction.

I think we are going to take that step, but this Committee is going to go further, and we are going to try to address this problem. We need your help, by you telling us what you need to effectuate what it is that we want to see. I think that when that happens, this Committee is going to be ready to do that. I would hope that your comments and input could be gotten back to us in the next 15 to 30 days, so that

by the time we reconvene in September, we can have the legislation in. I don't know if in an election year we can hammer that kind of legislation through between September and December, but in terms of this Committee's involvement, I can tell you that we will do it here.

ASSEMBLYMAN MAZUR: Maybe 15 days would be more appropriate, since we will be back around August 1.

ASSEMBLYMAN SCERNI: Okay. Can we work on that, 15?

MS. KASSEKERT: Yes.

ASSEMBLYMAN CASEY: Fifteen days, okay. Then I have, again-- With a background as an auditor who does a lot of investigations, I agree with Chairman Scerni on your idea, but also as a novice on this kind of-- I'd like to see the input of counties, because I'm still-- What I'm gathering here, and this-- Like Chairman Scerni said, we changed some laws. We have full control to see if we can't even strengthen some of the county misabuse, if there is some.

So again, to the Chairman, if there is a representative of a county you pick, or one or two counties, that can come in and explain it to me, because I want to see at that time where we're helping you, if maybe we can strengthen what maybe is being done wrong in the counties. There might be a lot of misabuse that way, and maybe Dick could help us, or maybe somebody else.

MS. KASSEKERT: I would also suggest maybe Ms. DeFante. She has worked in Personnel in Camden County for as long as I can remember.

ASSEMBLYMAN CASEY: Again, that's where I'm mixed up. I have you from the State.

MS. KASSEKERT: Yes.

ASSEMBLYMAN CASEY: Are there county representatives from veterans? There are, correct?

MS. KASSEKERT: Normally. Each county has a veterans' office.

ASSEMBLYMAN CASEY: I know. I'm saying to bring these people in--

MS. DiFANTE: (speaking from audience) (beginning of sentence indiscernible) I think the only veterans' service offices, but one of the problems that we have, if the person has a grievance-- We are now so unionized in the State of New Jersey, and Civil Service doesn't get involved in unions.

MS. KASSEKERT: That's what I would mention. I know--

MS. DiFANTE: They want to file grievances.

MS. KASSEKERT: I know that there were comments about layoff rules, and currently, and as per most of the union contracts in the State, layoff rules are based on seniority. There is no preference given to veterans or to minorities or to women. That's basically mandated not only by the current regulations and statute, but also by the union contracts.

So, there are some difficulties.

ASSEMBLYMAN MAZUR: You mean that the contracts are negotiated, and they override veterans' preference?

MS. KASSEKERT: They don't override--

ASSEMBLYMAN CASEY: I don't think--

MS. KASSEKERT: They don't override veterans' preference in selection -- seniority, in terms of layoffs.

ASSEMBLYMAN PATERO: Certain things--

ASSEMBLYMAN CASEY: That's all, but I'm still a little outstanding on--

ASSEMBLYMAN SCERNI: So, just so that we have an understanding, we're asking you for input as to what powers you need to eliminate the abuses that we are seeing, and we'd like that back within 15 days.

If, in fact, we can get it back in that time frame, that would be roughly July 26 or July 27. Staff may even be able to go ahead and draft up some potential legislation that we can at least discuss informally, because we will not be meeting on the first, and then potentially have it prepared for

introduction on August 5, when we are back here in a full session. Then we can bang it out in September. But at least we'll know, and we'll get off the dime with it.

MS. KASSEKERT: I'd be happy to do that. In addition, if there are any particular complaints that any of the participants have, I'd be happy to--

ASSEMBLYMAN SCERNI: As you do that review, I would appreciate it if your Department would consult with Colonel Lowe or General Morgano, because they-- While the jurisdiction for this is not in the Department of Military Affairs, I have no question in my mind that they have a sensitivity to it, and if they can add anything that would make this better, I'd like to have that input in, going in.

Now, is there anything else for Linda -- for the Department?

ASSEMBLYMAN PATERO: I think you covered everything, Mr. Chairman.

ASSEMBLYMAN SCERNI: I will tell the public, generally, I do not have any other requests to testify. If there is anyone else who would like to address us today on these issues, I will be glad to hear you. (no response) If not -- I don't see anybody jumping up -- we will adjourn this hearing. We appreciate the input of all of you who came and testified. We appreciate the input of those who came and just showed their support by being here, and I thank my members for showing up on a hot July day to do this.

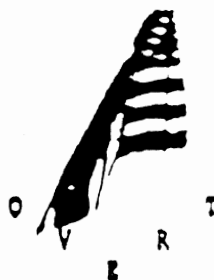
Thank you.

(HEARING CONCLUDED)

APPENDIX

FOLLOW RED
LETTERS

A



AUGUST 2, 1969

To save your world you asked
this man to die? Would this
man, could he see you now, ask
why?

"Epitaph for the Unknown Soldier"

Distribution: American Legion, Disabled American Veterans, VFW

Quote Of The Month

"Veterans have been obligated to drop their own affairs and take up the burdens of the nation, subjecting themselves to the mental and physical hazards as well as the economic and family detriments which are peculiar to military service and which do not exist in normal civilian life."

"Our country has a long-standing policy of compensating veterans for their past contributions by providing them with numerous advantages. This policy has always been deemed to be legitimate."

Supreme Court Justice William H. Rehnquist
in a decision reaffirming the special
rights of veterans, May 23, 1963

NEW JERSEY CIVIL SERVICE
PROMOTIONAL ANNOUNCEMENT
STATE SERVICE

B

GENERAL INFORMATION

1. Employees must have served permanently in the competitive division for the period indicated in a title to which the examination is open and must currently be assigned to the organization shown under "Unit Scope" below.
2. A description of the duties of the position is contained in the job specification which is available from your Personnel Officer.
3. N.J.A.C. (Civil Service) 4:1-8.5 permits, at the discretion of the president, waiver of competitive examination and promotion of permanent employees who: 1) have been tested in the relevant basic skill; 2) have not failed an examination for the title within 3 years (or, having failed, subsequently passed); 3) are provisionally filling the vacancies; 4) are among not more than 3 eligibles who have filed; and 5) do not infringe on veterans preference.

● **TITLE** FIELD REPRESENTATIVE, MOTOR VEHICLES ● **SYMBOL:** PS6644P(A)
● **DEPARTMENT:** LAW AND PUBLIC SAFETY ● **SALARY** \$19565.33-
● **RANGE:** \$27396.05-
P-20
● **OPENING DATE:** September 1, 1985 ● **CLOSING DATE FOR FILING APPLICATIONS:** September 21, 1985
● **APPLICATIONS MAY BE OBTAINED FROM:** LISA DEBLASIO, TECHNICAL ASSISTANT, BUREAU OF PERSONNEL,
DIVISION OF MOTOR VEHICLES, 25 SOUTH MONTGOMERY STREET, TRENTON, NJ 08666
● **RETURN COMPLETED APPLICATIONS TO:**
SAME AS ABOVE

UNIT SCOPE:

DRIVER AND OWNER SERVICES P540

LOCATION OF CURRENT VACANCY:

BUREAU OF AGENCIES

(However, this list will be used for other vacancies as they occur.)

TITLE SCOPE: Open to employees in the competitive division who are within the unit scope as shown above, who have served continuously in a permanent capacity for a period of at least one year immediately preceding the announced closing date, and who meet the requirements listed below:

REQUIREMENTS:

EDUCATION: A Bachelor's degree from an accredited college or university. You must indicate either possession of a degree or total number of college credits completed to date in block #13 on your application. Failure to do so will result in rejection from the examination process.

EXPERIENCE: Two years of experience as the representative of a government agency or private establishment in work involving the review and analysis of the work of others from the point of view of accuracy, propriety and compliance with established regulations with emphasis upon fiscal matters.

NOTE: Applicants who do not have the required college degree, additional experience as stated above may be substituted on a year for year basis up to four years.

OFFICE OF
PUBLIC SAFETY
GENERAL

SEP 12 10:43

2X

New Jersey Department of Civil Service • Eligible/Failure Roster

FILE: FIELD REP MOTOR VEHICLES

SYMBOL: 136755

Written Date: 05/01/86
Oral C

JURISDICTION: STATE

RANGE & TITLE CODE:

Applications	Admitted	Examined	Passed	Failed	Failed to Appear	Salary Range	Notice Date	Promul
253	194	141	81	60	53	\$19,565--\$27,396	06/04/86	06/1

ANK	VET. PREF.	NAME AND ADDRESS	FINAL AVERAGE	Contact	Telephone Numbers	Want Job	Sue
						Yes	No
14	V	LYNCH THOMAS EASTAMPTON GONS APTS APT L-1 MT HOLLY N J 08060	73.335	1-14-87	.. RESIDENT .. Requested to be bypassed will cooperate. Part interest in job. 609-261-8826	X	X
15	X V	JANKOWSKI WALTER J 852 GROVE ST CLIFTON N J 07013	72.001	Letter 1-15-87 1-20-87	201-778-3683	X	X
16	V	GRYHN WILLIAM G 91 RIVERVIEW AVE LITTLE SILVER NJ 07739	71.334	1-14-87 1-17-87	No longer interested. 201-842-7743	X	X
17	V	TINCALL ALFRED R 6 STANWORTH LA ALLENTOWN N J 08501	71.334	1-14-87	Took other Certification. No longer interested. 609-259-3543	X	X
18	V	GIARDINO URBAN 131 BUFFALO AVE PATERSON N J 07503	71.334	Letter 1-15-87 1-20-87	Capt. PATERSON, R.D., North Jersey Asst. Co-ordinator. 201-742-8243/6234	X	X
19	V	COX ROBERT L 1201 GASTON DR EORNE HILLS N J 08731 1905 So. Oak Ave. South Beach Haven, N.J.	71.334	Letter 1-15-87	609-492-3660 609-977-4400	X	X
20	V	EMERY PAUL PO BOX 6-0 NEW EGYPT N J 08533	70.667	Letter 1-15-87			
21	V	BOEHM STEPHEN P 615 BARKLEY DR BROWNS HILLS N J 08015	70.667	1-15-87	South Jersey Asst. Co-ordinator. 609-295-2170	X	X
22	V	O'CONNELL DANIEL F 290 SO PLEASANT AVE RIDGEWOOD N J 07450	70.667	1-14-87	No longer interested. 201-447-3479	X	X
23	X V	KURZEN PAUL W PO BOX 161 203 LEON AVE DELANCO N J 08075	70.000	Letter 1-15-87 1-16-87	609-461-7198	X	X
24	V	LEALE VINCENT S 414 RIDGEWOOD RD WASHINGTON TWP 07675	70.000	1-14-87	Verbal support, does not want job. 201-664-7734	X	X
25	N	SABINO JOSEPH P 148 PAINE ST RIVERSIDE N J 08075	84.007	NON-VETS FOLLOW			
26	N	FISCHER RICHARD J 2107 HARBOUR DR BALMYRA N J 08005	82.673				

New Jersey Department of Civil Service • Eligible/Failure Roster

TITLE: FIELD MOTOR VEHICLE

SYMBOL: 7673

Written Date: 03/01/88

JURISDICTION: STATE

RANGE & TITLE CODE

Applications	Admitted	Examined	Passed	Failed	Failed to Appear	Salary Range	Notice Date	Prom
251	174	181	21	40	53	\$19,560--\$27,396	06/04/86	321

RANK	VET. PREF.	NAME AND ADDRESS	FINAL AVERAGE	Contact	Telephone Numbers	Wants Job	Yes	No	Yes	No
1	X	MUDN EDWARD C 674 AMBOY AVE. EDISON N.J. 08817	79.328	Letter 1-15-87 1-17-87	RESIDENT 201-738-7023	X			X	
1		KESLER JR ELMER A RD 1 BOX 33 FLEMINGTON N.J. 08822	70.700	1-14-87 1-17-87	Wife, declined position, very ill. 201-782-2416		X			X
2	V	SACCENTI JOHN C 17 RICHFORD RD KENDALL PK N.J. 08824	88.676	1-14-87	201-297-5573	X			X	
3	V	MUDN EDWARD C 674 AMBOY AVE EDISON N.J. 08817	79.328	1-15-87 1-17-87 1-26-87	Letter to DU - Rank A1 Frustrated 6/13					
4	V	HILL RICHARD L 3 SC LOCUST AVE EDISON N.J. 08817	79.333	1-14-87 1-15-87 1-17-87 1-26-87	Wife, declined position 201-237-8753		X			X
5	X	MISERENDINO THOMAS C 1047 SEAMAN AVE BEACHWOOD N.J. 08722	73.671	1-14-87 1-15-87	201-244-3721	X			X	
6	V	RAPAGNA FRED C 922 MAGNOLIA ST BEVERLY N.J. 08010	79.671	1-15-87 1-17-87 1-18-87	Father, In Delaware. 609-386-4981					
7	V	FINN BRO LAWRENCE W 1013 JULIA ST ELIZABETH N.J. 07201	73.671	1-15-87	Attorney 201-527-9383	X			X	
8	V	WEST DANIEL W 134 OAK PINES BLVD PENNBERTON N.J. 08063	78.004	1-14-87	No longer interested. 609-894-2086		X			X
9	X	GENTILELLLO LOUIS 100 CARROLL AVE TUCKERTON N.J. 08037	77.337	1-15-87 1-18-87	609-296-1684	X			X	
10	V	FREYER HENRY 49 W MAIN ST CLINTON N.J. 08909	75.336	1-14-83	works for DMV, 3yrs to retirement, fears retaliation. 201-735-8092	X				X
11	X	EMANUEL LOUIS O 10 SWIDER CR APT E-1 PARLIN N.J. 08859	74.660	Ans. Mach 1-14-87 1-15-87	Ex-DMV Press Agent 201-721-1182	X			X	
12	X	KEAPNS DANIEL W 3 LOBELIA AVE BROWNS MILLS N.J. 08015	73.335	1-14-87	Police Officer, Co-ordinator. 609-893-4907	X			X	
13	X	WAGNER WILLIAM J 309 BROAD ST MT HOLLY N.J. 08060	73.335	1-15-87	609-261-3820	X			X	

REVISOR 2/81

4X



State of New Jersey

DEPARTMENT OF CIVIL SERVICE

EAST STATE & MONTGOMERY STREETS
CN 314

TRENTON, NJ 08625

July 30, 1986

EUGENE J. McCAFFREY, SR.
PRESIDENT

ROBERT J. HARTMAN
DEPUTY COMMISSIONER

Walter J. Jankowski
862 Grove Street
Clifton, New Jersey 07013

Dear Mr. Jankowski:

RE: Field Representative Motor Vehicles (S3675G)
Certification dated 6/20/86

This is to advise you that the above certification has been cancelled pending the final determination of the Task Force which has been reviewing the organization and staffing of the Motor Vehicle field agencies. The objective of this Task Force is to improve the efficiency and service delivery of these agencies.

Unfortunately, the examination for Field Representative Motor Vehicles (S3675G) was scheduled and held while this process was still in progress.

I regret any inconvenience caused by this action.

Sincerely,

Robert J. Hartman
Deputy Commissioner
Department of Civil Service

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New Jersey State Library

E : *100 C*
Filed February 9, 1987
[Signature]
VICTOR FRIEDMAN, J.S.C.

DANIEL M. KEARNS
P.O. Box 242
New Lisbon, N.J. 08064
Plaintiffs appearing pro se

EDWARD C. MOON,
JOHN C. SACCENTI,
THOMAS D. MISERENDINO,

: SUPERIOR COURT OF NEW
JERSEY
: CHANCERY DIVISION
BURLINGTON COUNTY
: DOCKET NO.

LOUIS GENTILELLO,
LOUIS D. EMANUEL,
DANIEL M. KEARNS,
WILLIAM J. WAGNER,
WALTER J. JANKOWSKI,
URBAN GIARDINO,
ROBERT L. COX,
STEPHEN P. BOEHM,
PAUL W. KURZEN,

: Civil Action

Plaintiffs,

: COMPLAINT

vs.

STATE OF NEW JERSEY;
GOVERNOR THOMAS KEAN;
DEPARTMENT OF LAW AND PUBLIC
SAFETY;
ATTORNEY GENERAL W. CARY EDWARDS;
DIVISION OF MOTOR VEHICLES,
DIRECTOR GLEN PAULSEN;
DEPARTMENT OF PERSONNEL,
COMMISSIONER EUGENE T.
MC CAFFREY, SR.;
JOHN DOE;
JANE DOE;

Defendants.

Plaintiffs, by way of complaint, say:

1. On June 20, 1986 plaintiffs were certified by the
Department of Civil Service for positions as Field
Representative Motor Vehicles Symbol S3675G with the New Jersey
Division of Motor Vehicles.

F



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In The Matter of
Edward Moon, et al., Field
Representative, Motor
Vehicles (S3675G)

STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL

FINAL ADMINISTRATIVE ACTION
OF THE
MERIT SYSTEM BOARD

Administrative Appeal

ISSUED: October 15, 1987 (EN)

Edward Moon, et al., represented by Ernest DeStefano, Esq., request a retroactive date of appointment to the position of Field Representative, Motor Vehicles.

An eligible list for Field Representative, Motor Vehicles (MV) S3675G) promulgated June 12, 1986 and is due to expire June 11, 1989. There were 83 eligibles on the list including two disabled veterans and twenty-two veterans. The list was certified on June 20, 1986 to the Division of Motor Vehicles (DMV) against nine provisionals with the names of persons interested in a position in Trenton. A corrected list was certified on June 25, 1986 with the names of eligibles interested in a Statewide assignment but Trenton based. In disposing of the certification the DMV requested that the certification be cancelled and that the list be held in abeyance until such time as the Department of Personnel's task force made recommendations on its organizational structure, determined whether the position should be in the classified or unclassified service and determined whether the title of Field Representative was representative of the actual duties being performed. It stated that it had serious concerns about making appointments to the title of Field Representative until such time as those questions were answered.

Subsequently, the Deputy Commissioner of the Department of Personnel cancelled the Field Representative, MV (S3675G) certification pending the final determination of a task force established by the DMV which had been reviewing the organization and staffing of the Motor Vehicle field agencies to improve the efficiency and delivery of these agencies. He stated that changes to the title series might occur as the result of the realignment of the various license agencies and that the examination for this title was scheduled and held while this process was still in progress. Notice of this cancellation was sent to all the eligibles.

3. The Deputy Commissioner of the Department of Personnel cancelled the certification pending the final determination of a task force established by the DMV which had been reviewing the organization and staffing of the Motor Vehicle field agencies.

4. The Deputy Commissioner released the hold on the certification on January 30, 1987 since it did not appear that the title structure would be affected.

5. On February 9, 1987 twelve veterans on the eligible list filed a complaint in Superior Court requesting that they be appointed as Field Representatives, MV effective June 20, 1986 with back pay.

6. The Field Representative, MV (S3675G) list was certified on February 24, 1987 and 10 of the 12 complainants were appointed effective April 13, 1987. The 11th and 12th ranked veterans were not interested in an appointment.

7. The Court dismissed their complaint but ordered that the issue of retroactive seniority be transferred to the Department of Personnel for review.

8. A sufficient basis exists to grant the appellants a retroactive date of permanent appointment as Field Representatives, MV effective June 25, 1986 for seniority and record purposes only.

CONCLUSION

The June 25, 1986 certification of the Field Representative, MV (S3675G) list was cancelled by the Department of Personnel on the basis of a request from the Division of Motor Vehicles which was awaiting the recommendations of a task force that was reviewing the organization and staffing of the Motor Vehicle field agencies. Since the position of Field Representative, MV was one of a number of titles associated with the field agencies it was part of the area under review by the task force. The hold on the certification was subsequently released after it was determined that the title structure would not be affected. The record presents sufficient justification for the hold on the certification. However, since there were provisionals serving, these appellants, all veterans, would have had a right to be considered for the positions were it not for the hold. It would be unfair to penalize them for this delay. Accordingly, a sufficient basis exists in the record to grant the appellants' request. However, their appointment date cannot be earlier than June 25, 1986, the date of the corrected certification.

ORDER

X It is, therefore, ordered that the appellants be granted a retroactive date of permanent appointment of June 25, 1986 as Field Representatives, MV for seniority and record purposes only.

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

DECISION RENDERED BY THE
MERIT SYSTEM BOARD ON
THE 6TH DAY OF OCTOBER 1987

Eugene J. McCaffrey, Sr.
Eugene J. McCaffrey, Sr. *DD J*
Commissioner
Department of Personnel

Inquiries Peter J. Calderone, Director
and Division of Appellate Practices
Correspondence and Labor Relations
 CN 312
 Trenton, New Jersey 08625

original sent to: Ernest DeStefano, Esq.
 DeMarco and DeStefano
 405 South White Horse Pike
 P.O. Box 227
 Hammonton, New Jersey 08037

c: Edward C. Moon
 John C. Saccanti
 Thomas D. Miserendino
 Louis Gentilello
 Louis O. Emanuel
 Daniel M. Kearns
 William J. Wagner
 Walter J. Jankowski
 Robert L. Cox
 Paul W. Kurzen
 A. Robert King, Jr.
 Robert Hartman
 Judy Winkler



Rec 4/2/87

1

State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF MOTOR VEHICLES

25 SOUTH MONTGOMERY STREET
TRENTON, NEW JERSEY 08666

W. CARY EDWARDS
ATTORNEY GENERAL

GLENN R. PAULSEN
DIRECTOR

March 27, 1987

COPY

The Honorable Joseph L. Bubba
Senate Minority Whip
10 Furler Street
Totowa, New Jersey 07512

Dear Senator Bubba:

The Department of Personnel's Commissioner McCaffrey has asked me to respond to your letter dated March 10, 1987, detailing your concern regarding the disposition of the certification list for the Division of Motor Vehicles' Field Representative positions.

I have read the newsletters from the Veteran's Group detailing their concerns that they were not treated fairly. Please be advised that the interviews were conducted prior to my assuming the role of Director of the Division of Motor Vehicles. I have since been made aware of the problem, and I am closely monitoring this situation.

I want to assure you that I have directed all appropriate personnel to dispose of this certification properly, according to all established Department of Personnel regulations.

I will be closely monitoring the situation to ensure that all on the certification list are treated fairly and equally.

I thank you for your concern in this matter, and I assure you that this problem will be resolved fairly.

If I can be of any future assistance to you, please do not hesitate to contact me.

Sincerely,

Glenn R. Paulsen
Director

c: The honorable W. Cary Edwards
The Honorable Eugene J. McCaffrey, Sr.

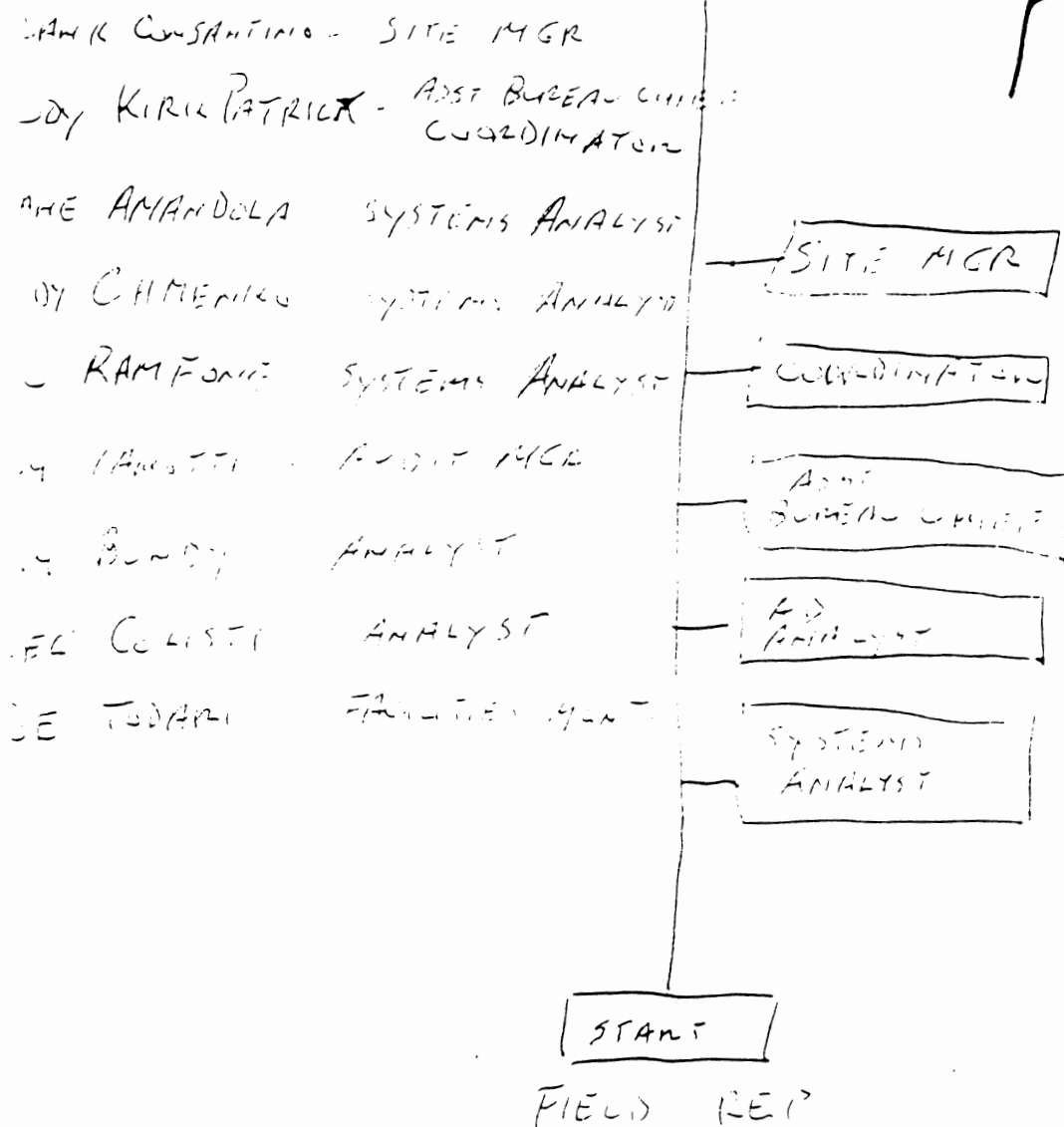
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10X

PRIOR TO THE VETERANS JOURNAL FOR THE
JOBS THE PROMOTIONAL PATH WAS AS FOLLOWS.

PLEASE BEAR IN MIND THAT MOST WERE POLITICAL
APPOINTEES WHO DID NOT TEST FOR THE JOB WHEN
THEY DID TEST AND FAILED THEY WENT THIS WAY:

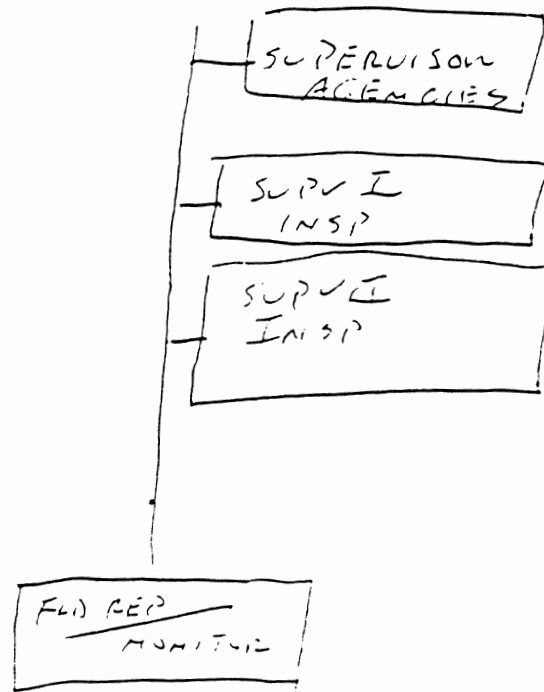
SAMPLES:



H @

~~TH~~ HAS BEEN DESCRIBED AS:

NO MONITOR TO DATE HAS RECEIVED A PROMOTION



⑦

T

THIS JOB SCOPE YOU TOLD ME ABOUT IS AN ORDINARY DEMOTION. NO COLLEGE GRAD IS GOING TO CONSIDER THIS A PROMOTION. REMEMBER THE POLITICAL APPOINTEES FAILED TESTS AND RECEIVED PROMOTIONS.

EVERY ~~JOB~~ WE INTERVIEWED FOR, ANALYST, COORDINATOR, CHAIRSMAN, MGR WE WERE NOT DIS-QUALIFIED BECAUSE OF JOB SCOPE. SOMEONE ELSE WAS CHOSEN. WE RECEIVED DOLENS OF INTERVIEWS

THE PAPERS ATTACHED WILL CLEARLY PROVE MY CASE. REMEMBER THE DUP & ACC RUBBEN STAMP DOES NOT MAKE IT RIGHT

3 Lobelia Avenue
Browns Mills, N.J.
08015

July 12, 1988

5

Mr. Peter J. Calderone, Director
Division of Appellate Practices
and Labor Relations
Department of Personnel
CN 312
Trenton, New Jersey 08625

Re: Department of Law & Public Safety, Division of Motor Vehicles, Appointment Of
Pilot Project Personnel To Customer Service Representative Titles Above CSR IV.

The appointment of "Pilot Project" personnel to positions above the CSR IV level are believed to be in violation of the Project's intent. CSR IV entry level appointments are offered to allow minimal time and cost considerations at the initial hiring stage only.

The authorization number obtained from the Department of Personnel is intended for CSR IV entry level positions only. Using the number for any other CSR title or the Supervisors title would be a fraudulent use of it's intent.

Appointment of Pilot Project personnel to CSR III, CSR II, CSR I, and Agency Supervisor positions, deny permanent employees promotional opportunities and violate 12-21.2 Non-discriminatory employment practices; 11A:3-3 Career Service; 11A:4-a, b, c, d, e, Examinations; 11A:4-3 Holding of Examinations; 11A:4-4 Eligible Lists and certifications, a, b, and c; 11A:4-5 Certification and Appointments; 11A:4-6 Use of Eligible Lists; 11A:4-7 Consideration of Veterans; 11A:5-1 Appointment of Veterans; 11A:5-14 Promotion; 11A:5-5 Veteran's Preference; 11A:6-1 Appointment of Veterans; 11A:6-26 Employee Career Development; 11A:7- Equal Employment Opportunity; 11A:7-3 EEO Program; 11A:7-3a EEO compliance; 11A:7-3b EEO Sanctions for non-compliance; 11A:7-3c EEO artificial barriers; 11A:10-1 Criminal violation of the title; 11A:10-2 Rights of current employees; therefore allowing any injured party to seek relief in Superior Court in compliance with 11A:10-3 Non-compliance; 11A:10-4 Action for enforcement; and 11A:10-5 resident actions.

Remedy Sought:

1. An existing Agency Supervisor Promotional List should be used to fill vacancies in State operated agencies, as eligibles on the stated list are in the classified service.
2. If the promotional list is exhausted, the Personnel Officer of DMV should identify other eligibles by using a promotional announcement.
3. All other vacancies should be filled through open competitive examinations.

The writer, believed injured by the appointment of persons not in the classified service to Supervisor position in DMV, seeks relief through appeal in the Department of personnel.

Sincerely,

Daniel M. Kearns
Daniel M. Kearns

13X



State of New Jersey
DEPARTMENT OF PERSONNEL
DIVISION OF APPELLATE
PRACTICES AND LABOR RELATIONS
CN 312
TRENTON, N.J. 08625

EUGENE J. McCAFFREY, SR.
COMMISSIONER

PETER J. CALDERONE
DIRECTOR

TELEPHONE

July 28, 1988

Mr. Walter J. Janowski
862 Grove Street
Clifton, NJ 07013

Dear Mr. Janowski:

As you may be aware, the Department of Law and Public Safety undertook a one-year Pilot Project on July 4, 1987. Most of the employees in the Pilot Project were originally hired in privately operated motor vehicle agencies which have since been taken over by the State. A cornerstone of the Pilot Project was the transition of qualified "temporary" employees to appropriate permanent assignments in the State motor vehicle agencies.

The New Jersey Merit System Board, at its meeting on June 21, 1988, approved the addition of a new title series, Customer Service Representative, for use in the Division of Motor Vehicle Services. The complete title series, ranging from Customer Service Representative 4 through Supervisor, Motor Vehicle Agency has been allocated to the non-competitive division of State Service on an interim basis effective July 4, 1988 through July 30, 1988. This action was taken by the Board due to unique and compelling circumstances surrounding conversion of the Pilot Project. The Merit System Board, in this unusual situation, exercised its authority delineated in N.J.S.A. 11A:2-6(c) and (d) to enforce Civil Service rules and to effectively implement a comprehensive personnel management system.

Many of the employees from formerly private agencies were experienced workers, some of whom had supervisory responsibilities. When those employees received temporary appointments in State service, they received no benefits or pension rights. To address the need to provide benefits and permanent status to those individuals and to improve customer service delivery in motor vehicle agencies, the Department of Law and Public Safety undertook the one year Pilot Project.

New Jersey State Personnel Department

Division of Appellate Practices and Labor Relations


14X

Mr. Walter J. Janowski
Page 2
July 28, 1988

It was determined that management objectives for attaining efficient Division operations would have been seriously hurt by the demotions or loss of employment of the nearly 300 former privately employed workers. Consequently, the approval of interim noncompetitive appointments for qualified employees has permitted the Department of Law and Public Safety to achieve an essential objective, to maintain the employment of qualified incumbents and so enhance the delivery of services to the public. This objective has been achieved without violating the spirit or intent of merit system principles contained in the Civil Service law. Upon the transition of these employees to the competitive division of State service on July 30, 1988, the normal promotional scopes and procedures will be reinstituted regarding any future movement.

I hope this information is responsive to your inquiry.

Sincerely,



Peter J. Calderone
Assistant Commissioner

Ernest DeStefano, Esq.
405 S. Whitehorse Pk.
Hammonton, New Jersey
08037

O.V.E.R.T.
08064-0242

January 17, 1988

3

Dear Ernie,

Concerning the civil action of E.C. Moon et al, items H and K of the original complaint (Docket #C161887) or as identified on the more recent complaint. It's evident to the plaintiffs in this case, avenues for promotional opportunities are being met with resistance, if not blocked.

Statements and documents stating "Not enough time with the Division of Motor Vehicles" are keeping us from securing meaningful promotions. Even though the Order of the Merit System Board of Oct. 15, 1987 awards a permanent appointment date of June 1986, which gives all members of the suit the required "One Year" service in a permanent capacity, the excellent educational and personal qualifications of the E.C. Moon suit members are being disregarded. Further, Director Paulsen must be unaware of the problem, as his letter of March 27, 1987 to the Honorable Joseph L. Bubba insures "Fair and Equal" treatment.

Several positions for Coordinator and Ombudsman are anticipated in the very near future. Without the intervention of an external force, it appears even the most qualified of the plaintiffs will be denied the promotions.

Upon the information contained in this letter and your files, you may want to make a request of the Court to appoint an independent Board of Review when plaintiffs in this case are competing in promotional opportunities within the Division of Motor Vehicles. The Board could evaluate and/or investigate the applicants to insure accuracy of credentials submitted and appointment of the most qualified. Then, item "H" (Free from harassment) and item "K" (Other relief) would be partially achieved.

It is the intention of the writer to make application for both of the above mentioned positions as they become available. Mr. Walter Jankowski, a highly qualified applicant for a Coordinators position, was advised he has too little time with DMV to be considered for the promotion. It's unlikely that many applicants exist in DMV with Mr. Jankowski's credentials and qualifications.

For your future consideration.

Sincerely,

Daniel M. Kearns

c: The Honorable Joseph L. Bubba
The Honorable Frank Lautenberg
The Honorable Gerald Cadino
The Honorable James Florio
Commissioner Eugene McCaffrey, Sr.
Director Glenn Paulsen

16X

O.V.E.R.T.
3 Lobelia Ave.
Browns Mills, NJ 08015

June 1, 1988

DEMARCO & DE STEFANO, P.A.
Ernest DeStefano, Esquire
405 S. White Horse Pike
P.O. Box 227
Hammononton, NJ 08037

Dear Mr. DeStefano,

In regards to our law suit, Moon, et al, vs. State of New Jersey, there are certain developments occurring within the Division of Motor Vehicles of which you should be made aware.

Currently the Division is undergoing a reorganization that will directly affect the veterans bringing the law suit and, in the area involving the veterans, could be designed to eventually eliminate them from state employment.

We have obtained information from reliable sources that indicates this might be the case. At the very least these sources indicate what the plan probably will be and that it does not look good for Field Representatives.

This plan, according to our sources, would give the Field Representatives a promotion without it actually being a promotion and would--when compared to other titles in relation to the Field Representative title--would actually be a demotion.

If this plan is put into effect, it would pose serious questions as to the violation of civil rights to the veterans and their rights under the present laws governing Civil Service employees.

Without wanting to appear patronizing nor preachy, let us carefully review the situation as it now stands..

Currently, Field Representatives are paid in the range 20 category with a 35-hour work week and are compensated with overtime when they work more than 40 hours a week. If they work the five hours between 35 and 40 hours a week, they receive compensatory time.

Motor Vehicle Agency Supervisors are paid in the Range 19 category--one range less than Field Representatives. These agency supervisors usually work an average of 10 hours a week overtime and get it when they exceed the 35-hour work week. This means that on an annual basis they make considerably more than Field Representatives if all things--steps in the pay ranges--are equal. Field Representatives seldom get paid overtime, usually they get it in special emergency situations.

Monitors are people who are attached to the Division and perform 'undercover' work among various other functions. They are paid in a range 19 category.

The reorganization plan, as we understand it, would lump Field Representatives, Monitors and a group of Division Investigators, who are currently in a Range 17 Category, under one title and put them all in a range 22 category. Attached to this title will be an NL. The NL basically means no overtime and no compensatory time for hours worked over the 35-hour and 40-hour work week.

As far as the Field Representatives are concerned the increase in pay, about \$2,500.00, would constitute compensation for increasing their work week from 35 to 40 hours a week, NL, under the reorganization plan.

The plan, according to our information, also would create six regions and three districts compared to the present three regions.

The original plan called for two Field Representatives to be attached to each region for a total of 12 Field Representatives Statewide. (We understand that since 2 Field Reps per region was proposed, consideration is now being given to 4 Field Reps per region for a total of 24.)

This alone poses a problem. There are currently about 18 Field Representatives, about 14 Monitors and 8 or 10 Investigators. This would mean about 40 people or more would be vying for 24 jobs.

Who would choose who goes where? What happens to the 16 people left over? More important will the veterans be left out? Is this the way management will "pay back" the veterans for suing to get their jobs? Will the people who are not among the 24 be out of jobs or will they be transferred to some other position?

At our level the only thing that we keep hearing from management is, "No one will be hurt" by the reorganization. The problem with this is that no one ever explains what that phrase means.

So far, under this type of plan, we are confronted with several possibilities:

1. The "promotion" is no promotion but a boost in pay to compensate Field Representatives for working five extra hours a week;
2. The "promotion" is a demotion when compared to Monitors, who will move from range 19 to a 22, and to Investigators who will move from a range 17 to a 22.
3. The promotion is also a demotion when compared to Motor Vehicle Agency Supervisors who, under the proposed plan, will be given permanent status, (they are now temporary employees under a one-year "Pilot Project" program), and will be promoted to a range 24 category, according to our information;
4. The "promotion" to a new title will create job insecurity if those thrown into the new title have to test for the new title; and
5. The "promotion" means unemployment if those who are not among the 12 or 24 selected to be what are now called Field Representatives lose their jobs.

The above items are just a few of the concerns and anxieties that are being felt by the Field Representatives, in general, and the veterans in particular. The main question that bothers us is this: If "no one is going to be hurt" by the reorganization why weren't the people it affects the most included in the development of the plan?

There are other aspects of this proposed plan that are equally disturbing. Additional titles, higher than a range 22, are to be created, according to our information. These new positions will either be in the range 25 or range 27 category and perhaps both ranges will be established. These positions will be supervisory over the Field Representatives or those in the new title.

The reason that this is alarming, in that the people who run things at the Division have a habit of placing people who are owed chips into these type positions. Our experience tells us that there are plenty of chips lying around and several people ready to cash them.

The usual procedure is to place a chip carrier into one of these positions on a provisional basis. Then somehow, despite rules and regulations about such things, they seem to linger there ad infinitum--maybe even longer. Thus every other eligible person is out of competing for the job.

Now, if this plan goes through as we have been told, it will also effectively by-pass the original required qualifications that were necessary to take the open competitive Civil Service examination that made it possible for the veterans to obtain the position of Field Representative.

We believe that what we have outlined in this letter presents a real possibility of what could happen. What we would like you to do at this point is to advise us of the possible legal steps we might consider if this action does occur. We would also like to know what areas of legal action we might pursue.

Please understand that we do not intend to play the role of obstructionists if an honest and fair plan is presented. But we do wish to be prepared if the Division in any way attempts to repeat the type of action that made it necessary for us to bring the suit to obtain our current positions.

Sincerely,

Edward C. Moon
John C. Saccenti
Thomas D. Miserendino
Louis Centilello
Louis D. Emanuel
Daniel M. Kearns
William J. Wagner
Walter J. Jankowski
Urban Giardino
Robert L. Cox
Stephen P. Boehm
Paul W. Kurzen
Victoria H. Makransky

CC: State of New Jersey,
Governor
Thomas H. Kean

State of New Jersey,
Attorney General
W. Cary Edwards

Division of Motor Vehicles,
Director
Glen Paulsen

Division of Motor Vehicles,
Senior Assistant Director
Donald Giberson

#13

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This letter is simply to reiterate and set in chronological order the events that took place-and are taking place-concerning the employment of a group of veterans by the New Jersey Division of Motor Vehicles and the treatment given these veterans by the Division.

The signees of this letter are members of this group of veterans which has supported Governor elect Florio financially and actively in their respective communities and among veterans groups. One member of the group, Walter Jankowsky, has spoken to you on several occasions regarding the job related problems that have beset this particular group of veterans.

The following is the sequence of events faced by these veterans:

1. In early 1986 the Civil Service Job Bulletin advertised the position of Field Representative with the Division of Motor Vehicles. About 200 people took the exam for the position.

2. At the time the test was given the Field Representative positions were filled mostly by 7 vocational appointees who had not tested for the position. Many of these people secured their positions through political connections.

3. About three months after the test was given the results were sent to the individuals who took the exam. It was not until much later that these individuals became aware of the list. According to law, the veterans were given preference. Twenty five of them headed the list, which was certified by the Department of Personnel.

4. Individual certification notices were sent to people on the list on June 20 and 25, 1986. The Division later said two certifications were sent because the first one contained a minor error.

5. About 30 days later, the Department of Personnel sent a letter to people who had passed the test canceling the certified list. (This was clearly in violation of Civil Service rules in effect at that time.) The letter was signed by Robert Hartman, a deputy commissioner with the Department of Personnel.

6. At the urging of Daniel Kerna, a signer of this letter, the veterans interested in securing the position of Field Representative-nine in all-mat to form an organization later named OVERT (Oppressed Veterans Emergency Response Tactics). The group brought suit against Governor Thomas Kean, Attorney General Cary Edwards, Motor Vehicle Director Glen Paulsen and Assistant Motor Vehicle Director Donald Giberson in Mid-February, 1987.

7. The very next day a news story that the suit had been brought appeared in The Trentonian. In the article the Director of the Chief of Personnel for the Department of Law and Public Safety, Thomas Barber, admitted that he had manipulated the situation so that there would be no one hired from the list because the Division had no set plans for the Field Representative title and the employees who were serving in that title.

8. Almost immediately the Division sent out letters to the veterans setting an interview date. The interviews were given and the veterans were hired and started work on April 13, 1987. Apparently the list was mysteriously reinstated by someone, somewhere without it ever being announced.

9. The veterans then decided to keep the suit in court rather than drop it for fear that they might be fired during the four-month trial period that accompanies each civil service position.

10. During this period the court sent the case back to the veterans with instructions to pursue all avenues of redress through the state's machinery before bringing the case back to court. The complaint then went before the Department of Personnel's Merit Board. The Board ignored most of the items in the complaint but did grant the veterans "Time in Grade." As of this writing no one has quite figured out what the phrase means, however, Board says it goes back to the June 15, 1986 certification date.

11. Retaliation for bringing the suit was brought in subtle forms such as being denied interviews for promotional jobs because of "a lack of qualifications." Also, the refusal of the Division to outline a clear cut career path which is a common practice for all civil service employees.

12. However, the most subtle form of retaliation was meted out during the Division's "reorganization" finalized at the end of August, 1988. For a year prior to the finalization of the reorganization, the Division had been running a pilot project in its Motor Vehicle Agencies throughout the state. The Agencies a few years back had all been run by private agents appointed by the governor. Currently a little less than half of the state's 55 agencies are run by the state with the remainder run by private agents. The pilot project started July 1, 1987 to June 30, 1988. It was designed to make the personnel running the state operated agencies permanent civil service employees without having them take the usual competitive examinations. The Field Representatives had been over the Supervisors in the old agency setup. However, the restructuring changed the title of the Field Representatives to Field Monitor I, lowered the qualifications for the job, removed the supervisory requirement from the position and gave the new title a boost in pay. It was a demotion by promotion. Most of those affected were the veterans.

13. It was later learned that the Field Representatives were originally scheduled to be placed over the agency supervisors, but that when the veterans won the right to the jobs the plan was changed. This comes from a former manager of the Central Region, the man who was told to revise the original plan.

14. Currently the veterans are standing by watching as provisional and political employees without permanent status are being slotted into recently created positions through so-called promotional exams without ever having qualified for their original positions; as specific positions are held for specific individuals and applications are turned back for lack of the exact qualifications.

With the change in administration, we are hopeful that the wrongs done the group of veterans and others serving in the same job title can be addressed. What we are asking is simply that the old title of Field Representative be restored and that it be raised to a pay range 26 as originally planned. If possible, we would like a meeting with the new Director.

Sincerely,


Walter Jankowsky

Walter Jankowsky

For Daniel Kerns G.P.C.
Daniel Kerns

P.S. Response can be sent to Walter Jankowsky, 862 Grove St., Clifton, N.J., 07013.

To date not one veteran has received a promotion.



862 Grove St.
Clifton, N.J. 07013

June 4, 1991

Gentlemen:

I wish to base my appeal on my being denied my Veterans and Civil Rights from the first day of employment. In good faith, concerning my demotion, I believe proper lay-off procedures were not followed:

1. All part-timers must go first.
2. All un-classifieds must go first.
3. All SES must go first.
4. All Provisionals must go first.

I further believe I and my group of Veterans were targeted for demotion and eventual lay-off when the time arose.

To prove my point, I would like to bring specific notice to the Re-Organization which I felt to be illegal. I grieved this action both at the D.O.P. (see attached) and the D.M.V. (see attached.)

To condense and simplify both grievances one need ask:

"How can a Provisional level nineteen be promoted to Civil Service status level twenty-five, by-passing a group of Civil Service level twenty, without being asked or considered. Besides most of these level twenties were Veterans who at the time were Supervisors of these same Provisionals. This is pure violation of my Civil and Veterans Rights.

As to the specific case of my seniority, I believe the Re-organization of 1988 was illegal by the exclusion and demotion of the Veterans. By lumping my group of Veterans in with long time level 19 Monitors and level 17 Investigators; my group of Veterans and myself will come out lower on the Seniority list, which has happened.

Now, there are three Veterans who did not take the Field Representative test heading the list, while I drop down and face a demotion.

The D.O.P. states that they have used the Field Rep test to determine standing among the Veterans who happened to take the test.

Bill A4324, paragraph 2, tried to address the inequity (see attached). This is another case of the Provisional 19's passing Certified level 20's all Veterans.

The fairest solution is to return all to Pre-organization 88 and then follow Bill A 4324 Paragraph 2. Promote from a Civil Service List.



STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL

In the Matter of
Robert Maras

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FINAL ADMINISTRATIVE ACTION
OF THE
MERIT SYSTEM BOARD

ISSUED: May 23, 1988

The appeal of Robert Maras, Patrolman, Police Department, Lakewood Township, removal effective June 10 and June 19, 1986, on charges, and resignation not in good standing effective June 19, 1986, was heard by Administrative Law Judge Joseph F. Fidler, who rendered his initial decision on April 5, 1988. Exceptions were filed on behalf of the appellant and on behalf of the appointing authority. Cross exceptions were filed on behalf of the appellant and on behalf of the appointing authority.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Merit System Board at its meeting on May 17, 1988, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

ORDER

The Merit System Board finds that the action of the appointing authority in removing appellant on June 10 and June 19, 1986 was not justified. The Board therefore modifies that action and Orders that appellant be suspended for twenty (20) days.

The Board further orders that the action of the appointing authority in resigning appellant not in good standing be modified to a resignation in good standing following the foregoing twenty (20) day suspension.

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

DECISION RENDERED BY THE
MERIT SYSTEM BOARD ON
MAY 17, 1988

Eugene J. McCaffrey, Sr.
Eugene J. McCaffrey, Sr.
Commissioner
Department of Personnel

Inquiries
and
Correspondence

Peter J. Calderone, Director
Division of Appellate Practices
and Labor Relations
CN 312
Trenton, New Jersey 08625

attachment



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 8937-86

AGENCY DKT. NO. —

ROBERT MARAS,

Appellant,

v.

LAKEWOOD TOWNSHIP,

Respondent.

Mathias E. Rodriguez, Esq., for appellant (Rodriguez and Cruz, attorneys)

Wendel E. Daniels, Esq., for respondent

Record Closed: December 2, 1987

Decided: April 5, 1988

BEFORE **JOSEPH F. FIDLER, ALJ:**

STATEMENT OF THE CASE

This matter concerns the appeal of Robert Maras, patrolman, Lakewood Township Police Department, from his removal on disciplinary charges, effective June 10, 1986. By a final Notice of Disciplinary Action dated November 20, 1986, the respondent appointing authority sustained the disciplinary charges brought against the appellant in one Preliminary Notice of Disciplinary Action dated June 10, 1986, and two Preliminary Notices of Disciplinary Action dated June 19, 1986.

In its Preliminary Notice of Disciplinary Action dated June 10, 1986, the appointing authority set forth four separate schedules of charges and specifications, as follows:

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SCHEDULE A

CHARGES

On or about the period between May 19, 1984 and January 26, 1985, you violated LPDM 3:1.4 Neglect of Duty, 8:2.4 Conduct Unbecoming an Officer, and 4:9.4b Feign Illness or Injury.

SPECIFICATIONS:

1. On or about May 19, 1984, while working an 8:00 am to 4:00 pm shift at the Ocean County Juvenile Detention Center, at approximately 1:00 pm, you called Lakewood Police Department and advised that you were ill and would be unable to report for your assigned duty which was scheduled to begin at 6:00 pm. You also reported that you would not be in work on May 20, 1984, due to illness, in violation of the aforementioned charges.
2. On May 20, 1984, while scheduled to work between the hours of 8:00 am to 4:00 pm, having called in sick for that time, you reported to work at Ocean County Juvenile Detention Center and worked there between the hours of 8:00 am to 4:00 pm., in violation of the aforementioned charges.
3. On August 25, 1984, at approximately 12:49 pm, while working an 8:00 am to 4:00 pm shift at Ocean County Juvenile Detention Center, you called Lakewood Police Department and advised that you were too sick to report for your assigned duty scheduled to begin at 6:00 pm, in violation of the aforementioned charges.
4. On October 5, 1984, at approximately 5:25 pm, after having worked an 8:00 am to 4:00 pm shift at Ocean County Juvenile Detention Center, you called Lakewood Police Department and advised that you were too sick to report for your assigned duty scheduled to begin at 6:00 pm, in violation of the aforementioned charges.
5. On November 12, 1984, being scheduled to work between the hours of 8:00 am to 4:00 pm, you called in sick at 6:35 am and subsequently reported to work at Ocean County Juvenile Detention Center at 8:00 am and worked there until 4:00 pm, in violation of the aforementioned charges.
6. On January 26, 1985, being scheduled to work between the hours of 9:00 am and 5:00 pm, you called in sick at 6:29 am and subsequently reported to work at Ocean County Juvenile Detention Center at 8:00 am and worked there until 4:00 pm, in violation of the aforementioned charges.

SCHEDULE B

CHARGES

On or about the period between July 12, 1985 to present, you violated LPDM 3:1.6 Obedience/Fraud, 8:2.4 Conduct Unbecoming an Officer, 3:1.4 Neglect of Duty, 3:1-21 Debts, 3:2.1 Prohibited Activities, and 3:1.15 Soliciting Prohibited.

SPECIFICATIONS

1. On or about July 12, 1985, you took advantage of your position while in uniform, by ordering 36 tee shirts from A & M Archery, 201 2nd Street, Lakewood, New Jersey, without leaving a deposit, fraudulently representing that the purchase was made on behalf of the Lakewood Police Department, in violation of the aforementioned charges.
2. On or about July 12, 1985, while in uniform and on duty you ordered the aforementioned tee shirts, in violation of the aforementioned charges.
3. On or about August 16, 1985, you accepted delivery of the aforementioned tee shirts and failed to pay for the same, in violation of the aforementioned charges.
4. Subsequent thereto, you sold 30 of the 36 tee shirts to various police officers and police personnel, and still did not pay the outstanding bill for said tee shirts, in violation of the aforementioned charges.

SCHEDULE C

CHARGES

You have consistently violated LPDM 3:1.4 Neglect of Duty, 3:1.5 Insubordination, and 3:2.15 Supplying Home Address and Phone Number.

1. As of May 9, 1986, you have failed, to provide the Lakewood Police Department with your bonafide home address and telephone number, in violation of the aforementioned charges.

SCHEDULE D

CHARGES

From the period between September 13, 1985 and September 30, 1985, you were in violation of LPDM 3:1.5 Insubordination 4:9.1 Reporting Sick or Injured, 4:9.2 Address of Confinement 4:9.4(a),(b),(c),(e) Unauthorized absence.

SPECIFICATIONS

1. On September 13, 1985, your wife called and reported that you had an accident and would not be reporting for your scheduled shift, failing to provide the Lakewood Police Department with the pertinent facts, in violation of the aforementioned charges.
2. On September 14, 1985, Mrs. Maras appeared at Lakewood Police Headquarters and advised that you would be out sick for the next seven (7) days, failing to provide pertinent facts which were requested and required, in violation of the aforementioned charges.
3. On September 17, 18, 19, 20 and 21, 1985, Mrs. Maras called and reported that you were ill and would not be in at your scheduled time, failing to provide the pertinent facts which were requested and required, in violation of the aforementioned charges.
4. On September 19, 1985, Sergeant Standowski, at the direction of his superiors, went to your home to deliver a formal notice to produce a Doctor's note, finding no one at home, in violation of the aforementioned charges.
5. On September 19, 1985, you were observed by Lt. Lynch and Deputy Chief Prisco in Small Claims Court in Toms River, New Jersey, showing no apparent signs of illness or injury, in violation of the aforementioned charges.
6. Between the period of September 20 and 24th, 1985, Dr. Lazinger treated you for a back injury which you claimed to have sustained while on vacation out of State, in violation of the aforementioned charges.
7. On September 30, 1985, when summoned to Deputy Chief Prisco's office, for the purpose of ascertaining your whereabouts for the period in question, you failed to explain your absence or whereabouts for said period of time, in violation of the aforementioned charges.

In the first of its two Preliminary Notices of Disciplinary Action dated June 19, 1986, the appointing authority set forth the following charges and specifications:

SCHEDULE A

CHARGES

On or about the period between June 12, 1986 and June 18, 1986, you violated LPDM 3:2.3 Absent Without Leave, 3:2.4 Roll Call, 4:9.2 Reporting Sick or Injury, 4:9.2 Address of Confinement, 4:9.4(a)(c)(e) Unauthorized Absence, and 4:8.3 Absence Without Leave: Five Continuous Days.

SPECIFICATIONS

1. On June 12, 1986, neither you, nor a relative, or any other responsible person notified your Commanding Officer that you were unable to report for duty because of sickness, injury or for any other good reason, and without just cause failed to report for your assignment duty in violation of the aforementioned charges.
2. On June 13, 1986, neither you, nor a relative, or any other responsible person notified your Commanding Officer that you were unable to report for duty because of sickness, injury or for any other good reason, and without just cause failed to report for your assigned duty in violation of the aforementioned charges.
3. On June 14, 1986, neither you, nor a relative, or any other responsible person notified your Commanding Officer that you were unable to report for duty because of sickness, injury or for any other good reason, and without just cause failed to report for your assigned duty in violation of the aforementioned charges.
4. On June 17, 1986, neither you, nor a relative, or any other responsible person notified your Commanding Officer that you were unable to report for duty because of sickness, injury or for any other good reason, and without just cause failed to report for your assigned duty in violation of the aforementioned charges.
5. On June 18, 1986, neither you, nor a relative, or any other responsible person notified your Commanding Officer that you were unable to report for duty because of sickness, injury or for any other good reason, and without just cause failed to report for your assigned duty in violation of the aforementioned charges, and without just cause was in fact absent from duty for a continuous five (5) days.
6. On all of the aforementioned days, you failed to report to roll call in violation of the aforementioned charges.

7. As of June 18, 1986, you have failed to provide Lakewood Police Department with your address of confinement, in violation of the aforementioned charges.

In its second Preliminary Notice of Disciplinary Action dated June 19, 1986, the appointing authority charged the appellant with having resigned not in good standing, effective June 19, 1986, pursuant to N.J.A.C. 4:1-16.14. Pursuant to this charge, the appointing authority alleged that the respondent had been absent from duty without notice and approval from his superior for five (5) consecutive business days (June 12, 13, 14, 17, and 18, 1986), and was thereby deemed to have resigned not in good standing as a result of his unauthorized absence.

PROCEDURAL HISTORY

The appellant's departmental level hearing was held on July 22 and 24, August 8, and October 17, 1986. The final Notice of Disciplinary Action was served upon the appellant on November 20, 1986, and the appellant entered his Notice of Appeal by letter dated December 4, 1986. On December 24, 1986, the Department of Personnel transmitted the matter to the Office of Administrative Law for determination as a contested case, pursuant to N.J.S.A. 52:14F-1 et seq.

The first hearing session in this matter was held on February 10, 1987. At that time, counsel for the parties jointly agreed to present the entire controversy upon prior transcribed testimony, documentary evidence, and written argument. Counsel were then advised that transcripts would be permitted in lieu of producing witnesses at the hearing, unless I determined that it was necessary to evaluate credibility, pursuant to N.J.A.C. 1:1-15.12. Upon review of the transcripts, it was my determination that the witnesses' testimony was taken under oath, the parties were present at the proceeding, and they were afforded a full opportunity to cross-exam the witnesses. Thus, the transcripts of witnesses could be offered in lieu of producing the witnesses at the hearing. However, I was unable to approve of the entire controversy being presented solely upon transcribed testimony, pursuant to N.J.A.C. 1:1-15.12(d), because some facts in the matter were disputed and the credibility of the appellant and other witnesses was in issue and required evaluation.

By letter dated June 8, 1987, the parties were informed of the foregoing determinations and the need to schedule an additional hearing session. By letter of June

26, 1987, counsel for the appellant advised that his client had been hospitalized with a nervous breakdown and that the appellant was unable to attend a hearing. By letter received August 3, 1987, counsel for the appellant stated that his client was able to participate in a hearing. Counsel for both parties were then consulted concerning their mutual availability and the hearing was then scheduled to continue on October 20, 1987.

The hearing session was conducted as scheduled on October 20, 1987, and the testimony of three witnesses, including the appellant, was presented at that time. By letter dated October 27, 1987, counsel for the appellant submitted letters from the Shore Mental Health Center, dated June 19 and August 26, 1986, and their admission into evidence was requested. The parties were then informed by letter dated November 4, 1987, that the two items would be admitted into evidence as Exhibits A-1 and A-2, in the absence of any objection from counsel for respondent. The parties were also informed that the record would remain open for a reasonably short period of time so that counsel would be able to offer any other items of evidence, subject to the objections of the opponent party. The parties were also informed that the designation of the matter was converted from a conference hearing to a plenary hearing, pursuant to N.J.A.C. 1:1-14.6(d). By letter dated December 14, 1987, the parties were informed that the record in this matter closed on December 2, 1987.

FINDINGS OF FACT

Most of the material facts in this matter are undisputed. The appellant joined the Lakewood Township Police Department as a police officer on January 1, 1974, at the age of 27. Some years before that date, the appellant had served in the United States Marine Corp for four years and had seen duty in the Republic of Vietnam.

The appellant experienced a prior break in service. This began when he was injured while on duty. According to the appellant, he hurt his back when he attempted to assist an accident victim. He was then unable to return to work for approximately four months. The appellant was thereafter removed from his employment by the appointing authority in February 1982. On appeal to the Civil Service Commission, the appellant was reinstated in March 1983.

Chronologically, the first matter which is the subject of this disciplinary proceeding concerns the appellant's part-time employment at the Ocean County Juvenile

Detention Center. At the departmental level hearing session conducted on July 22, 1986, Lieutenant Michael Lynch testified that he began an investigation of the appellant in February 1985. The purpose of this investigation was "to ascertain if there was any conflict as to his working at the Ocean County Juvenile Shelter and also his hours here at the police department." It is undisputed that officers of the appointing authority are permitted part-time employment as long as it does not interfere with their police department duties.

Lieutenant Lynch testified that he obtained employment records from detention center Director Robert Coughlin in March 1985. The parties do not dispute the contents of these records, which were admitted into evidence as Exhibits R-1 and R-2. Lieutenant Lynch compared the Ocean County Juvenile Detention Center records with the appointing authority's work schedule records, which were admitted into evidence as Exhibit R-3.

According to Lieutenant Lynch, the appellant was scheduled to work at the police department from 6:00 p.m. to 2:00 a.m. on May 19, 1984. However, the appellant called in sick at 1:06 p.m. and did not work that evening. Lieutenant Lynch learned that the appellant did work at the detention center that day, from 7:50 a.m. until 4:00 p.m.

Another date which was part of Lieutenant Lynch's investigation was August 25, 1984. On that day, the appellant was scheduled to work at the police department from 6:00 p.m. until 2:00 a.m. However, the appellant did not work that evening, having called in sick at 12:49 p.m. (Exhibit R-3). Lieutenant Lynch learned that the appellant did work at the detention center on August 25, 1984, on the 8:00 a.m. to 4:00 p.m. shift (Exhibit R-1). Similarly, the appellant was scheduled to work at the police department from 7:00 p.m. until 3:00 a.m. on October 5, 1984. However, the appellant did not work that evening, having called in sick at 5:25 p.m. Nevertheless, the appellant did work at the detention center on October 5, 1984, on the 8:00 a.m. to 4:00 p.m. shift (Exhibits R-1 and R-3).

Testifying on his own behalf at the hearing session on October 20, 1987, the appellant acknowledged his part-time employment at the juvenile detention center and he also stated that he could recall some times that he worked days at the detention center and then did not feel well enough to go to work at the police department on the evening shift. The appellant could not remember any of the specific dates that this might have

happened. However, he did not dispute that he had worked at the detention center during the day on May 19, August 25, and October 5, 1984, and then had called in sick for his scheduled shift later that evening at the police department. At the same hearing session, Lieutenant Lynch acknowledged that the appellant's hours at the detention center on these three dates did not conflict with his police department hours. Significantly, Lieutenant Lynch acknowledged that he did not know if the appellant was not actually sick on the three dates in question.

Lieutenant Lynch testified that his investigation also concerned the appellant's work schedule on November 12, 1984, and January 26, 1985. On the first of these dates, the appellant was scheduled to work at the police department from 8:00 a.m. until 4:00 p.m. However, he did not work that shift, having called in sick at 6:35 a.m. (Exhibit R-3). The parties are in dispute as to whether or not the appellant worked at the detention center on November 12, 1984. However, it is agreed that the center's sign in sheets show that he worked there from 8:00 a.m. to 4:00 p.m. on that date.

It is undisputed that the appellant was scheduled to work at the police department from 9:00 a.m. until 5:00 p.m. on January 26, 1985. However, the appellant did not work on that shift, having called in sick at 6:29 a.m. (Exhibit R-3). The parties are in dispute as to whether or not the appellant worked at the juvenile detention center on January 26, 1985. Nevertheless, it is agreed that the center's records indicate that the appellant did work there from 8:00 a.m. until 4:00 p.m. on that date (Exhibit R-1). The center's payroll records (Exhibit R-2) indicate that the appellant was paid for the hours which he allegedly worked at the center on each of the dates in question.

Lieutenant Lynch testified at the hearing that he had completed the foregoing investigation by April 1985. The investigation had been conducted at the request of then Deputy Chief Michael Prisco. According to Lieutenant Lynch, he was not advised if then Chief of Police Stephen Belitrand took any action against the appellant when the lieutenant's report concerning the investigation was received. To the best of the lieutenant's personal knowledge, he had no indication of disciplinary charges being filed against the appellant concerning his hours worked at the detention center until issuance of the Preliminary Notice of Disciplinary Action in this matter dated June 10, 1986.

The next incident which is the subject of the present disciplinary charges concerns the appellant's order of 36 tee shirts from A & M Archery, a business in

Lakewood, New Jersey. Detective William Addison testified at the hearing session on July 24, 1986, that he began an investigation of this matter on May 23, 1986. Marshall Fairbanks, Co-Proprietor of A & M Archery, also testified at the hearing session on July 24, 1986.

According to Mr. Fairbanks, the appellant ordered the tee shirts for a group of officers within the police department who would then wear the tee shirts off duty. The logo on the tee shirts referred to the "10% crew," which Mr. Fairbanks considered to be something like an "inside joke." Mr. Fairbanks definitely did not think that the group was affiliated with Lakewood Police Department.

Mr. Fairbanks testified that he allowed the appellant to take delivery of the tee shirts with the understanding that the appellant would pay for them after he had collected the money from his fellow officers who were buying the tee shirts. He did not require the appellant to leave a deposit. Documents relating to the appellant's order of the tee shirts and his subsequent acceptance of them in August 1985 were admitted into evidence as Exhibit R-4.

Detective Addison testified that he learned from Mr. Fairbanks in May 1986 that the appellant had not yet paid for the tee shirts. The detective then took written statements from every member of the police department to determine who had purchased a tee shirt and whether or not the individual had spoken to Mr. Fairbanks about the matter (Exhibit R-4). Detective Addison learned that a total of 18 employees of the police department had purchased 28 shirts from the appellant. The appellant was charging the buyers \$5.25 for each shirt, which was the amount being charged by A & M Archery. The total bill for the tee shirts which the appellant owed to the store was \$189.

In May 1986, Mr. Fairbanks signed a complaint charging the appellant with the disorderly persons offense of ordering the 26 custom made tee shirts, valued at \$189, with the purpose to deceive, and with then failing to pay for the shirts. Mr. Fairbanks testified that Detective Addison prepared this complaint and advised him to sign it. However, Mr. Fairbanks also acknowledged that he never sent a written communication to the appellant asking him to pay the outstanding bill. Rather, Mr. Fairbanks had spoken with other police officers and had asked them to convey a message to the appellant to have him contact Mr. Fairbanks about the matter.

Mr. Fairbanks' complaint was signed on May 27, 1986. On that same day, the Patrolmen's Benevolent Association paid the \$189 bill to A & M Archery with a check delivered personally by the PBA President, Patrolman Robert Koovits. Patrolman Koovits testified at the hearing session on July 24, 1986, that the PBA membership had voted to pay the bill after learning that some members of the department had purchased the tee shirts from the appellant, but the business had not yet been paid. The patrolman testified that the reason the membership voted to pay the bill, even though the appellant was no longer a member, was to maintain the standing of the PBA membership within the business community.

Mr. Fairbanks testified at the hearing session on July 24, 1986, that the appellant had come to his store the previous afternoon. The appellant presented a check to make payment for the shirts. However, Mr. Fairbanks told the appellant that the PBA had already paid for them. According to Mr. Fairbanks, the appellant then did not leave any money with him.

Testifying on his own behalf at the hearing session conducted on October 17, 1986, the appellant acknowledged ordering the tee shirts from A & M Archery in Lakewood in the summer of 1985. He corroborated the testimony of Mr. Fairbanks that the tee shirts were not being ordered on behalf of the Lakewood Police Department. The appellant acknowledged picking up the tee shirts from the store and being advised by Mr. Fairbanks that they could be paid for when he had collected all of the money from the other officers who were buying the shirts.

The appellant confirmed that he charged the buyers \$5.25 per shirt, which was the cost of ordering them. Thus, the appellant was not making any money from the shirts. The appellant acknowledged in his testimony that he had not collected the entire purchase price for the shirts and he had not paid A & M Archery for them. However, he also acknowledged that he had offered to pay for the shirts sometime during June or July of 1986, but by that time, they had been paid for by the PBA. According to the appellant, he then made arrangements to pay the PBA the full amount of the money and he gave his attorney a check to be turned over to the PBA on July 24, 1986. The appellant expressly denied that it had been his intention to not pay for the shirts and he asserted that it had been his intention to pay for them as soon as he had collected all of the money. According to the appellant, Mr. Fairbanks had never called him or sent him a written communication about the bill, prior to the time when Mr. Fairbanks signed the complaint against him.

Several officers and other employees of the police department testified at the hearing session on July 24, 1986, concerning their purchase of tee shirts from the appellant. These witnesses corroborated the purchase price for the shirts and they also indicated that some of the purchases took place in the radio room or the briefing room at police headquarters. The appellant was in uniform at the time. However, it was not established whether or not the appellant was actually on duty at the time. In fact, Patrolman Lawrence Doyle testified that he believed that he purchased three shirts from the appellant in the briefing room of the department approximately 15 minutes before their shift was to begin.

Dispatcher Donna Mercer testified that she purchased one shirt from the appellant in the radio room. He was in uniform at the time. Ms. Mercer acknowledged that it was not at all unusual for a group of officers to get together and make a purchase of a certain item. She characterized the practice as being quite common. An officer would take orders for an item, and then distribute them and collect the money from the other officers who had placed orders.

The next incident which is the subject of the present disciplinary charges concerns the appellant's absence from the department from September 13 to September 23, 1985. At the hearing session on July 22, 1986, Lieutenant Lewis Pintaro testified concerning police department rules and procedures in regard to sick calls, unauthorized absences, and related matters. According to the Lieutenant, a police officer who is requesting leave time is required to submit Form LPD 105 to his immediate supervisor for his approval. The form also requires the signature of the administrative lieutenant or the deputy chief. When an officer returns from sick leave, this form would also be submitted to his supervisor.

Lieutenant Pintaro testified that when an officer is ill and unable to report to duty, he is to call the dispatch center and notify the on duty dispatcher that he will be unable to report to duty. If the individual officer is not capable of making that phone call, a responsible member of his family may make the initial call. The dispatcher would then prepare an event trip card and would record the time and date of the sick call in a log book. The dispatcher would then notify the on duty lieutenant that an officer would not be in so that the supervisor for the next shift could arrange for someone to work overtime to avoid a staffing problem.

It was the testimony of Lieutenant Pintaro that if an employee were to be out for an extended period of time, which would be an absence in excess of two days, the deputy chief or the chief of police or Lieutenant Pintaro would have to be notified. In that event, an officer could be changed from one shift to another to provide coverage. Another procedure described by Lieutenant Pintaro was "address of confinement." According to the lieutenant, the police department maintains an ongoing list of all its members and their addresses and phone numbers. Every member is subject to recall in the event of an emergency or disaster, even if the member is out sick or on vacation. Therefore, the department maintains the list of updated addresses and telephone numbers. When this information changes, the officer is required to report the change to Lieutenant Pintaro or his secretary.

The facts concerning the appellant's absence from work from September 13 to September 23, 1985, are essentially undisputed. Lieutenant Pintaro testified that he conducted an investigation concerning this absence. On September 12, 1985, the lieutenant learned from Chief Belitrand that the appellant was scheduled to work the shift beginning at 11:30 p.m. on September 12, 1985, but had submitted an application for holiday leave. The appellant's supervisor, Lieutenant Glasson, had approved the application, and the chief said that he would approve it also. However, the chief told Lieutenant Pintaro that the appellant was overdrawn on holiday time and he directed the Lieutenant to send the appellant written notification of this circumstance.

Later on September 12, 1985, Sergeant John Standowski informed Lieutenant Pintaro that the appellant had submitted "mutual exchange slips" for changing shifts with other officers on September 13 and 14, 1985. Sergeant Standowski informed Lieutenant Pintaro that the slips had not been timely submitted and that he was going to disapprove them. Subsequently, Sergeant Standowski informed Lieutenant Pintaro that he had called the appellant's home and had spoken to the appellant's wife to advise her to let the appellant know that the two mutual exchange days had been disapproved.

On September 13, 1985, the appellant's wife called the police department and reported that the appellant would not be in to work that night at 11:30. It is undisputed that she indicated in some manner that the appellant had been injured in some sort of accident. On September 14, the appellant's wife appeared in person at police headquarters and advised the on duty watch commander, Sergeant Fred Capper, that the appellant would be out sick and unable to report to work for the next seven days.

Sergeant Capper testified that he asked Mrs. Maras for a telephone number where she could be reached and he told her to contact Lieutenant Pintaro or the administrative office of the police department on Monday morning (September 14, 1985 was a Saturday).

Sergeant Capper testified that he left a memo for the appellant's watch commander, Lieutenant Glasson, concerning the information he received from the appellant's wife. Sergeant Capper acknowledged that there was nothing unusual about having an officer's wife come into headquarters to report that her husband was ill and would not be reporting to work. He described it as a common practice. Sergeant Capper also acknowledged that he did not ask Mrs. Maras for a telephone number where her husband could be reached, but that he asked her for a phone number where she could be reached, which she then provided.

It is undisputed that the appellant's wife continued to call him out sick and unable to report to duty on September 17, 18, 19, 20 and 21, 1985. Lieutenant Pintaro testified at the hearing session on August 8, 1986, that he and Lieutenant Michael Lynch went to the appellant's home on Cypress Avenue and observed his van parked in the driveway. He rang the bell at the appellant's door and heard noise inside which sounded like children. There was no response to the doorbell. As the two Lieutenants were walking back to their car, Lieutenant Lynch told Lieutenant Pintaro that he had seen children in the window. Lieutenant Pintaro acknowledged in his testimony that he did not know why no one came to the door when he visited the appellant's home. He did not know whether or not the appellant was somewhere else at the time, and he could only acknowledge that no one came to the door when asked if it was possible that the appellant may have been confined to his bed and unable to get to the door.

Lieutenant Pintaro testified that he directed Sergeant Standowski on the 19th of September, 1985, to go to the appellant's home and advise him that he was not to report back to duty without a doctor's slip. According to Sergeant Standowski, Lieutenant Pintaro gave him a letter to be delivered to the appellant which stated that the appellant would not be permitted to return to duty without a doctor's slip which certified him fit for duty, pursuant to Township Ordinance 5-13.1E. Sergeant Standowski went to the appellant's home on Cypress Avenue and left the letter between the front door and the screen door, since no one was at home.

Later that day, Lieutenant Pintaro learned why the appellant was not home. Lieutenant Lynch and Deputy Chief Prisco returned to headquarters from Small Claims Court in Toms River, New Jersey. The appellant had filed an action in that court seeking payment of overtime wages which he believed he was owed by the Department. The lieutenant and the deputy chief had thus seen the appellant in court and had contact with him for approximately six hours on September 19, 1985. According to Lieutenant Pintaro, they told him that the appellant did not appear to them to be sick or injured. Curiously, the two officers told Lieutenant Pintaro that neither of them had any conversation with the appellant regarding his absences.

On September 23, 1985, Lieutenant Pintaro received a note from Dr. Lazinger, a chiropractic physician, which stated that he had treated the appellant that day, and that the appellant would be able to return to work in September 24, 1985. According to Lieutenant Pintaro, he called Dr. Lazinger's office to find out what he was treating the appellant for and what the appellant's condition was. When Dr. Lazinger returned the call, he told Lieutenant Pintaro that he had treated the appellant on September 20, 21, 22 and 24, for a back injury which the appellant had sustained while on vacation out-of-state. The doctor indicated that the appellant had gone to an out-of-state hospital as a result of the injury and had been x-rayed there on September 13, 1985. at 2:00 p.m.

It was the testimony of Lieutenant Pintaro that the appellant returned to work on September 24, 1985. On or about September 30, 1985, Lieutenant Pintaro summoned the appellant to Deputy Chief Prisco's office. With Lieutenant Lynch also in attendance, the deputy chief asked the appellant to explain his absence. The appellant told them that he had been injured at an airport in Arizona on the 13th of September. He had tripped over a curb and injured his back. The appellant said that he went to a hospital, but he could not remember its name, or the name of the doctor who had treated him. The appellant also indicated that he did not know which airline he had flown to Arizona on and he could not remember which day he left New Jersey, nor which day he had returned.

According to Lieutenant Pintaro, Deputy Chief Prisco advised the appellant to go to his home and see if he had any supporting documentation. Sergeant Standowski accompanied the appellant to his home. They returned 15 or 20 minutes later and the appellant presented a document from the Desert Samaritan and Health Center in Mesa, Arizona. This document indicated that the appellant had been treated in the emergency room by Dr. Kazan on September 13, 1985, at 2:00 p.m. This document indicated that x-

rays and an examination had been provided and that the appellant had been given the general instruction to apply ice intermittently to the injured area for 24 hours. Under the heading "specific instructions," the document stated, "you may not return to work for seven days." The appellant was also advised to see a doctor in New Jersey if his pain persisted.

Testifying on his own behalf at the hearing session on October 17, 1986, the appellant stated that his wife called him in Arizona on September 12, 1985, and informed him that his shift exchanges had not been approved and that he would have to return for his normal shift of duty late on the evening of September 13, 1985. According to the appellant, he packed up his belongings and headed to the airport to return home. However, he tripped over a curb at the airport and injured his back. The appellant confirmed that he was taken to the Desert Samaritan Hospital as a result of this injury. The doctor at the hospital in Arizona told the appellant not to work and to have bed rest or seven days. If his condition worsened, he was to continue treatment with his own doctor. The appellant confirmed that he provided the Arizona Hospital report at the request of Deputy Chief Prisco. The appellant also confirmed his treatment by Dr. Lazinger of Lakewood, New Jersey.

Lieutenant Pintaro testified that he concluded his investigation of this matter in October 1985. As a result of his investigation, he made recommendations that the appellant be charged with certain violations of the Lakewood Police manual regarding reporting sick, unauthorized absences, and related matters. These recommendations were forwarded to the deputy chief's office, although Lieutenant Pintaro acknowledged that he was not aware of either the deputy chief or the chief of police asking for his recommendations. Lieutenant Pintaro also acknowledged that no action was taken with respect to his recommendations until many months later, when all of the present charges were brought against the appellant in June 1986.

All of the foregoing charges were set forth in a Preliminary Notice of Disciplinary Action dated June 10, 1986. This notice indicated that the appellant was suspended without pay effective June 10, 1986, and that his removal would be sought. Lieutenant Pintaro testified that this notice and the preliminary notice of disciplinary action concerning the remaining charges in this matter were not served upon the appellant until June 19, 1986. On that date, the appellant was also served with a letter (Exhibit R-4) from the Township of Lakewood Department of Law, dated June 10, 1986. This letter

to the appellant, which was signed by township counsel and the chief of police, stated: "Please be advised that your authority as a Lakewood Township police officer is hereby revoked as of this date."

The final incident which is the subject of the present disciplinary charges concerns the appellant's absence from work from June 12 until June 18, 1986. The facts concerning this incident are essentially undisputed. On May 27, 1986, the appellant was suspended without pay for ten working days on charges relating to an absence from duty on May 10, 1986. The appellant served the suspension between May 27 and June 8, 1986. He was then scheduled to return to work on June 10, 1986.

The appellant did not return to work as scheduled. At 7:52 p.m. on June 10, Dispatcher Nancy Ivans received a telephone call from "an older woman," who said that the appellant would not be into work that evening because he was sick. According to Ms. Ivans, the caller did not indicate the nature of the illness or give any other information as to why the appellant was not coming into work. Ms. Ivans prepared a card to indicate that she had received the sick call (Exhibit R-4).

Lieutenant Pintaro testified that he came to police headquarters at approximately 9:30 on the evening of June 10, 1986, with the intention of serving papers on the appellant with reference to his termination. He went to the radio room and checked the log book sometime between 10:00 and 10:30 p.m., and discovered that the appellant had "booked out sick," and would not be reporting for duty at 11:30 that evening.

According to Lieutenant Pintaro, the following day he contacted Lieutenant Justin Price, supervisor of the 3:00 p.m. to 11:00 p.m. shift, and advised him that if the appellant or a family member called, Lieutenant Price was to obtain a "call back" phone number and an address. Lieutenant Pintaro later learned the appellant's mother had called at 9:56 p.m. on June 11, 1986, and had advised that the appellant would not be into work. Lieutenant Price informed Lieutenant Pintaro in a memo of the same date that he had spoken on the telephone with the appellant's mother and that she had indicated her address to be 432 New Brunswick Avenue in Fords, New Jersey. She also provided her phone number. Lieutenant Price also informed Lieutenant Pintaro in this memo that he had given the appellant's mother the message that the appellant was ordered to report to the chief of police at 9:00 the next morning, June 12, 1986.

Phone calls to the police department communications room are tape recorded. The tape recording of Lieutenant Price's conversation with the appellant's mother on the evening of June 11, 1986, was played and transcribed at the departmental hearing session on July 22, 1986. According to the transcription, when Lieutenant Price identified himself, the appellant's mother stated the following:

Hello. This is Mrs. Maras calling. I'm calling about Robert. He's not able to come in. He has a job-related problem. If there is any problem with that, you call his lawyer. His lawyer is Mr. Rodriguez and he's at 442-6112.

The transcription of the tape recorded telephone conversation confirms that Lieutenant Price asked the appellant's mother for her address and phone number and she provided this information. Lieutenant Price then told Mrs. Maras that he had a message which he had been instructed to pass to her to give to her son. Lieutenant Price then stated, "He's ordered to report to Lieutenant Pintaro or the chief of police at 9:00 a.m. tomorrow morning." Mrs. Maras then responded, "Well, like I said, if you have any questions, call his lawyer." After Lieutenant Price repeated that the appellant was ordered to see the chief, Mrs. Maras responded that she would tell him, and the conversation ended.

It is undisputed that the appellant did not report to police headquarters on the morning of June 12, 1986. That same day, Lieutenant Pintaro and Sergeant Standowski went to the New Brunswick Avenue address in Fords, New Jersey, which had been provided to Lieutenant Price by the appellant's mother. They were looking for the appellant. The address was an apartment located over a hardware store. When there was no response to the apartment doorbell, Lieutenant Pintaro went into the hardware store and spoke to the proprietor. The lieutenant wanted to find out if the appellant was living at the address or if he had been seen there.

According to the witness, he was told by the man in the hardware store that he had seen Officer Maras there on the prior Saturday and that was the only time that he had seen him. It should be noted that June 12, 1986, was a Thursday, and the prior Saturday was June 7.

Lieutenant Pintaro testified that he made an additional inquiry concerning the appellant's whereabouts on June 12. He went to the Ocean County Juvenile Detention

Center and spoke to Director Robert Coughlin. Since the appellant had also been working at the detention center, Lieutenant Pintaro wanted to know if Mr. Coughlin had a listing for the appellant's current address. Mr. Coughlin provided the lieutenant with the same address and telephone number which had been given to the Department by the appellant's mother the day before.

Lieutenant Andrew Glasson testified at the departmental hearing session on July 22, 1986, that he was familiar with Lakewood police department procedures with respect to absence without leave, roll calls, and reporting out sick or injured. The appellant was scheduled to report for work on the shift beginning at 11:30 p.m. on June 12, 1986. Although Lieutenant Glasson received no notice from any of the dispatchers on duty concerning a sick call being made by the appellant or by someone on his behalf, the appellant did not appear for roll call at the beginning of his scheduled shift. Since no sick call had been made, Lieutenant Glasson considered the appellant to be absent without leave.

The appellant was also scheduled to work on the shift beginning at 11:30 p.m. on June 13, 14, 17, and 18, 1986. According to Lieutenant Glasson, the appellant failed to appear for roll call at the beginning of his scheduled shift on each of these dates. The lieutenant received no notice that the appellant or someone on his behalf had called in sick for any of these dates. Thus, Lieutenant Glasson considered the appellant to be absent without leave for the five scheduled work days between June 12 and June 18, 1986. Lieutenant Glasson's testimony in part corroborated the testimony of Lieutenant Pintaro that no sick call had been made on behalf of the appellant between June 12 and June 18, 1986.

The appellant's mother, Evelyn Maras, testified on her son's behalf at the departmental level hearing session conducted on October 17, 1986. She confirmed that she had called the police department around June 11, 1986, to report that the appellant was sick. According to Mrs. Maras, this was her second call to the department in June. She had called a day or so earlier, and had informed the dispatcher that the appellant would be out sick. Mrs. Maras confirmed that she spoke to a lieutenant during her call on June 11 and gave him her address and phone number at his request.

It was the testimony of Mrs. Maras that her son had asked her to make the calls. On both occasions, he was at her house. Mrs. Maras acknowledged that the

lieutenant told her to inform her son that he was to report to the chief of police the next morning. Earlier that day, her son had told her that he had been to a psychiatrist who had told him that he was a "walking time bomb" and that he was not to go to work. The appellant told his mother that he was "very upset." According to Mrs. Maras, her son was in bed much of the time in June, but he was not confined to bed.

Testifying on his own behalf, the appellant confirmed that he had been on vacation prior to the commencement of his ten day suspension on May 27, 1986. He acknowledged that he had been scheduled to return to work in June, but he did not report back to work at the end of the suspension. According to the appellant, he was afraid that he was going to lose his job. He was depressed and his nerves were frayed, so he sought treatment at the Shore Mental Health Center. It was the appellant's testimony that he was afraid that he was going to injury somebody.

The appellant testified at the departmental level hearing session on October 17, 1986, that he had his mother call the Lakewood police department on two occasions in June with respect to his absence. He was unsure as to the specific dates, but he recalled instructing his mother to tell the police department as to where he was confined. The appellant stated that he went to the Shore Mental Health Center twice a week, where he was seen by Staff Psychologist Joseph Springer and Dr. Joseph Fontanella, the medical director. According to the appellant, the doctor told him that he had a lot of anxiety built up inside and nervous tension and that further pressure might just push the appellant over the edge. Serax was prescribed to calm the appellant's nerves.

In a letter dated June 19, 1986, Staff Psychologist Springer stated that he had consulted with Dr. Fontanella concerning the appellant's mental health and they had concurred that it would not be advisable for the appellant to return to work as a police officer at that time due to his stress related condition (Exhibit A-1). A more detailed letter was sent from Psychologist Springer to appellant's counsel on August 26, 1986 (Exhibit A-2). This letter indicated that the appellant had first been seen by the Shore Mental Health Center for an emergency intake on November 15, 1985, when he was brought in by two of his fellow policemen after he had made a suicide threat following an argument with his wife. The social work assessment at the time was that the appellant was not a suicide risk and it was recommended that the appellant receive follow-up counselling. According to the writer, the appellant was next seen on May 29, 1986, at which time he expressed his fear that he would lose control of his anger at the police

department and that he might do something which he would later regret. The appellant was introduced to progressive relaxation techniques as a form of anger management.

According to Psychologist Springer, he next saw the appellant on June 3, 1986, at which time the appellant still reported a fear of losing control of his anger. The appellant agreed to remove his guns from his house at that time. The appellant then had a psychiatric consult with Dr. Fontenalla on June 4. According to the letter of August 26, 1986 (Exhibit A-2), Dr. Fontenalla noted that the appellant was quite angry and somewhat depressed about his situation regarding the police department and Serax was prescribed to ameliorate the intensity of the appellant's anger. Psychologist Springer continued to see the appellant on a weekly basis for the next several weeks and he was also followed psychiatrically by Dr. Fontenalla. He appeared to show some improvement during this time, but he continued to have episodes of anger and agitation which were precipitated by his dealings with the police department. Psychologist Springer offered the following assessment (Exhibit A-2) of the appellant's situation:

Dr. Fontenalla and I conferred regarding Mr. Maras' question to us as to whether return to work at the police department would be advisable, and our opinion was that given the intensity of Mr. Maras' anger regarding his situation there, the potential risks inherent in his returning to work outweighed any potential benefits. I therefore advised Mr. Maras that our opinion was that his returning to work at the police department would be contraindicated.

All of the preceding evidence is essentially undisputed and believable, and is thus **FOUND AS FACT**.

The only material factual dispute in this matter concerns whether or not the appellant worked at the Ocean County Juvenile Detention Center on November 12, 1984 and January 26, 1985. It is agreed that the Center's sign-in sheets and payroll records indicate that the appellant did work at the Center on those dates from 8:00 a.m. until 4:00 p.m. It is also agreed that the appellant had been scheduled to work at the Lakewood Township Police Department from 8:00 a.m. until 4:00 p.m. on November 12, 1984 and from 9:00 a.m. until 5:00 p.m. on January 26, 1985. On the first of the two dates, the appellant called in sick to the police department at 6:35 a.m. On the second date, the appellant called in sick at 6:29 a.m.

Testifying at the hearing session on October 20, 1987, the appellant acknowledged his part-time work at the Ocean County Juvenile Detention Center. He could recall that on one or two occasions, he worked days at the detention center and then did not feel well enough to work his night shift at the police department. The appellant denied having ever worked at the detention center at a time when he should have been working at the police department. However, the appellant had no recollection of any of the dates in question.

In regard to his signature on the sign-in sheet for a shift at the detention center which conflicted with a shift the appellant was to have worked at the police department, the appellant stated that he would sign his name days in advance. Because of the conflict, he would switch shifts with co-employee Jack Devine, and Mr. Devine would work in the appellant's place. According to the appellant, he would do the same for Mr. Devine.

Detention Center Director Robert Coughlin testified at the hearing on October 20, 1987, that the daily sign-in sheets were kept at the front desk at the center. When an employee arrived for work, he would sign his name and the time next to his typewritten name. The employee would also write the time of his departure at the end of the shift. According to Mr. Coughlin, a supervisor would observe this process.

Director Coughlin stated that a new system was in place by January 26, 1985. At that time, the supervisor would record whether an employee was sick or absent. This was done rather than having the employee sign in. According to Director Coughlin, there was no indication that the appellant was not present for his scheduled shift on January 26, 1985.

Director Coughlin also testified concerning the approved procedure for having an employee change shifts. If an employee wanted to change his shift, a slip would have to be presented to the immediate supervisor for his approval, three days in advance. This information is kept in a log. Mr. Coughlin testified that he checked the log for shift changes and found that there was no record that the appellant had changed his shift.

Mr. Coughlin had no personal recollection concerning the appellant's attendance and his testimony was based only on the detention center's records. However, he stated that the sign-in system was applicable to part-time employees as well as full-

time employees. The witness stated that he would be surprised if part-time employees had their own informal system for switching shifts. Director Coughlin noted that the sign-in sheets have attached sheets for daily work assignments and he testified credibly that the supervisor wrote in the names of the employees who were actually present to perform the assigned duties. The sign-in sheet for November 12, 1984 (Exhibit R-1) not only shows the appellant's signature on the 8:00 a.m. to 4:00 p.m. shift; it also shows that the supervisor wrote in the appellant's name as being present to actually perform his assigned duties for that shift.

Resolution of this factual dispute depends upon the assessment of the believability of the evidence presented. While the appellant emphatically denied having worked at the detention center when he was also scheduled to have worked at the police department, he actually had no specific recollection of the dates in question. This is understandable since the most recent of the dates was in January 1985. Director Coughlin's testimony on the matter was more persuasive. He referred to the business records of the detention center and the center's operating procedures. While there was considerable evidence to indicate that the appellant had worked at the detention center during the times indicated by the center's records, the only evidence to the contrary was the appellant's denial.

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborn by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958). When fairly considered and weighed, the evidence on the disputed factual matter presented on behalf of the appointing authority produces the stronger impression, has the greater weight and is more convincing as to its truth than the evidence offered by the appellant. Consequently, I further **FIND AS FACT** that the appellant actually worked at the Ocean County Juvenile Detention Center on the 8:00 a.m. to 4:00 p.m. shift on November 12, 1984, and January 26, 1985.

DISCUSSION AND CONCLUSIONS OF LAW

The appointing authority must prove the disciplinary charges against the appellant by a preponderance of the relevant and credible evidence. In the Matter of the Revocation of the License of Polk, 90 N.J. 550 (1982). On an appeal from the determination of an appointing authority, both guilt and penalty must be redetermined.

Henry v. Rahway State Prison, 81 N.J. 571 (1980); West New York v. Bock, 38 N.J. 500 (1963). In this matter, several incidents occurring over a considerable period of time are the basis for a number of disciplinary charges which have resulted in the appellant's removal.

Chronologically, the oldest incident concerns the appellant's employment on a part-time basis at the Ocean County Juvenile Detention Center between May 19, 1984, and January 26, 1985. With respect to this employment, the appointing authority has charged the appellant with neglect of duty, conduct unbecoming an officer, and feigning illness or injury. The undisputed evidence in this matter establishes that the appellant worked an 8:00 a.m. to 4:00 p.m. shift at the detention center on May 19, August 25, and October 5, 1984, and called in sick to the Lakewood Township Police Department for his scheduled evening shift that same day. The shifts for the two employers on these dates did not overlap. Since the appointing authority produced no evidence whatsoever to establish that the appellant was not actually too ill to come to work at the police department following his shift at the detention center, I **CONCLUDE** that the appointing authority has failed to establish the aforementioned disciplinary charges as to May 19, August 25, and October 5, 1984. No evidence whatsoever was presented concerning the date of May 20, 1984, so I likewise **CONCLUDE** that the appointing authority has failed to establish the disciplinary charges concerning this date.

The proofs are different concerning the dates of November 12, 1984 and January 26, 1985. As to these dates, I have found that the appellant worked at the Ocean County Juvenile Detention Center from 8:00 a.m. until 4:00 p.m. On November 12, 1984, the appellant called in sick for the 8:00 a.m. to 4:00 p.m. shift at the Lakewood Township Police Department at 6:35 a.m. On January 26, 1985, the appellant called in sick for the 9:00 a.m. to 5:00 p.m. shift at the Lakewood Township Police Department at 6:29 a.m. Thus, while calling in sick for the day shift at the police department, the appellant actually then worked the day shift at the detention center. It is apparent that the appellant was not too ill to work on these dates and that he neglected his duty to report to the police department as scheduled. Accordingly, I **CONCLUDE** that the appointing authority has sustained its burden of establishing the disciplinary charges against the appellant of neglect of duty, conduct unbecoming an officer, and feigning illness or injury on November 12, 1984 and January 26, 1985.

The next incident for which disciplinary charges were brought concerns the appellant's order of 36 tee shirts from A & M Archery in the summer of 1985. With respect to this incident, the appellant has been charged with fraud, conduct unbecoming an officer, neglect of duty, debts, prohibited activity and soliciting. The appointing authority alleged in its specification of charges that the appellant had ordered the tee shirts without leaving a deposit, fraudulently representing that the purchase was made on behalf of the Lakewood Police Department.

It is undisputed that the appellant did not leave a deposit for the tee shirts when he accepted them from A & M Archery. It was agreed between him and the seller that the appellant would pay for the tee shirts when he had distributed them to various police officers and had collected payment for them. The proprietor of A & M Archery was well aware that the appellant had not ordered the tee shirts on behalf of the Lakewood Township Police Department. Rather, the order had been made on behalf of an informal social grouping of officers. The proprietor had not requested a deposit.

The appointing authority has alleged that the appellant sold the tee shirts to other officers while he was on duty. However, the credible evidence in the record only establishes that the appellant was in uniform and that he conducted the sales at police headquarters. The credible evidence also establishes that this sort of group purchase among police officers was a common occurrence. In addition, it is apparent that the appellant was charging his fellow officers only his cost for each of the tee shirts.

The appointing authority has established that the appellant did not pay for the tee shirts. Somewhat less than a year after the shirts were ordered, the Patrolmen's Benevolent Association paid the full amount owing to A & M Archery. Subsequently, the appellant offered to make payment to the proprietor, but the payment was not accepted. In no way has the appointing authority established that the appellant had any intent to defraud the proprietor of A & M Archery. What the appointing authority has established is that the appellant failed to offer to make payment to the proprietor for about one year after placing his order for the tee shirts. The failure to satisfy this debt reflects adversely upon the appellant's position as a patrolman with the Lakewood Township Police Department. Thus, I CONCLUDE that of the disciplinary charges brought concerning this incident, the appointing authority has established by a preponderance of the relevant and credible evidence the charges of conduct unbecoming an officer and failure to satisfy a debt.

The next incident which is the subject of the present disciplinary charges concerns the appellant's absence from the department from September 13 to September 23, 1985. The disciplinary charges are "insubordination, reporting sick or injured, address of confinement, and unauthorized absence." It is undisputed that the appellant's wife called the police department on September 13, 1985, and reported that the appellant would not be into work on that night. It is undisputed that she indicated in some manner that the appellant had been injured in some sort of accident. On September 14, the appellant's wife appeared in person at police headquarters and reported that the appellant would be out sick and unable to come to work for the next seven days. The appellant's wife also continued to call him out sick and unable to report to duty on September 17, 18, 19, 20 and 21, 1985.

By letter dated September 19, 1985, the appellant was informed that he was required to produce a doctor's note before reporting back to duty. The appellant produced a note from a chiropractic physician which stated that the appellant had been examined and that he was able to return to work on September 24, 1985. The appellant did return to work on that date. He was subsequently questioned by his superiors concerning the nature of his injury and the reason for his absence. At their request, the appellant produced a report from an Arizona hospital stating that he had been treated there for a back injury on September 13, 1985. This document indicated that he should not return to work for seven days.

It is undisputed that the appellant was not at home on September 19, 1985, when Sergeant Standowski visited his home to deliver the aforementioned notice concerning a doctor's slip. The reason the appellant was not at home is that he was in Small Claims Court in Toms River, New Jersey pursuant to an action he had filed seeking payment of overtime wages which he believed he was owed by the department. Lieutenant Lynch and Deputy Chief Prisco were present for the same court proceeding. Nevertheless, neither officer questioned the appellant concerning his absence from work.

The appointing authority has failed to demonstrate in what way the appellant had not adequately provided his address of confinement, and I so **CONCLUDE**. Similarly, the appointing authority has not established how the foregoing facts would demonstrate that the appellant was in any way insubordinate. The appointing authority established that the appellant's wife had been directed to contact Lieutenant Pintaro concerning the appellant's absence. Any failure by this civilian to comply with the instruction cannot be

attributed to the appellant. The appointing authority has not demonstrated how the appellant's manner of reporting his inability to come to work as a result of his back injury was inadequate. Likewise, the appointing authority has failed to establish in what way the absence was unauthorized, particularly since the appellant provided two sources of medical documentation concerning his injury. Therefore, based upon the foregoing discussion and findings of fact, I **CONCLUDE** that the appointing authority has failed to establish the disciplinary charges against the appellant concerning his absence from work from September 13 to September 23, 1985.

Among the disciplinary charges set forth in the Preliminary Notice of Disciplinary Action dated June 10, 1986, under "Schedule C" were neglect of duty, insubordination, and failure to supply home address and phone number. In specification of these charges the appointing authority alleged, "as of May 9, 1986, you have failed. to provide the Lakewood Police Department with your bona fide home address and telephone number, in violation of the aforementioned charges." The credible evidence in the record fails to establish in any way that the appellant had not provided this information to the appointing authority as of May 9, 1986. Thus, I **CONCLUDE** that the appointing authority has not sustained its burden of establishing the disciplinary charges against the appellant concerning this incident.

The final incident which is the subject of these disciplinary charges concerns the appellant's absence from work between June 12 and June 18, 1986. Two sets of charges resulted from this absence. In the first set, the appellant was charged with "absence without leave, roll call, reporting sick or injured, address of confinement, unauthorized absence, and absence without leave: five continuous days." In the second set of charges, the appellant was charged with a violation of N.J.A.C. 4:1-16.14, "resignation resulting from unauthorized absence."

Following a ten-day suspension, the appellant had been scheduled to return to work on June 10, 1986. He did not return to work as scheduled. At 7:52 p.m. on June 10, the appellant's mother telephoned the police department and informed the dispatcher that the appellant would not be into work that evening because he was sick. The nature of his illness was not stated. On the evening of June 11, 1986, the appellant's mother again called and informed Lieutenant Price that the appellant was not able to come into work that evening. She stated that the appellant had a "job-related problem." The appellant's mother further stated that if there was "any problem with that, you call his lawyer." The

lawyer's name and telephone number were provided. The appellant's mother also provided her address and telephone number at the request of Lieutenant Price. She did not state where the appellant could be found.

The appellant did not appear for work as scheduled between June 12 and June 18, 1986. He did not contact the department concerning his absence from work, nor did anyone contact the department on his behalf. Thus, the appellant failed to report to roll call on June 12, 13, 14, 17, and 18, 1986. Following notice of his termination, the appellant provided a letter from the Shore Mental Health Center, dated June 19, 1986, which indicated that the appellant was receiving psychological counseling and medication monitoring. This letter also stated that it was the opinion of the staff psychologist and the medical director of the mental health center that it was not advisable for the appellant to return to work as a police officer at that time due to his stress related condition.

It is apparent that the appointing authority was not adequately advised by the appellant concerning the nature of his inability to come to work between June 12 and June 18, 1986. The appellant's mother called in for him on June 10 and June 11. However, she did not advise the police department that the appellant would be out of work for a period of time. She mentioned no duration concerning his inability to come to work, and it was not stated in her phone calls that the appellant would not come to work as scheduled on June 12, 1986, or thereafter. The appellant's mother did not describe the appellant's condition. She simply stated that he has a "job-related problem." Based upon the undisputed facts and the foregoing discussion, I **CONCLUDE** that the appointing authority has sustained its disciplinary charges against the appellant of absence without leave, failure to report for roll call, failure to properly report sickness or injury, failure to provide address of confinement, unauthorized absence, and absence without leave for five continuous days.

As noted above, the respondent appointing authority also has charged the appellant with a resignation resulting from his unauthorized absence between June 12 and June 18, 1986, pursuant to N.J.A.C. 4:1-16.14. This rule and others were repealed by the Merit System Board on September 11, 1987, with an effective date of October 5, 1987. On this latter date, new rules concerning resignation and major disciplinary actions for general causes became effective. Now the rule concerning resignation resulting from unauthorized absence is N.J.A.C. 4A:2-6.2(b), which provides:

Any employee who is absent from duty for five or more consecutive business days without the approval of his or her superior shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing.

Under the prior involuntary resignation rule (N.J.A.C. 4:1-16.14), an employee would be presumed to have resigned if he was absent from duty for five consecutive business days without notice and approval of his superior of the reasons for such absence and the time he expected to return. The new rule, N.J.A.C. 4A:2-6.2(b), differs significantly in that the employee shall be considered to have abandoned his position merely if he is absent from duty for five or more consecutive business days without the approval of his superior. Thus, it would appear that absence of notice to the appointing authority as to the reasons for the employee not appearing for work is no longer an element which the appointing authority must establish. In any event, it is undisputed in this matter that the duration of the appellant's absence and the specific reason for the absence were not presented to the appellant's superiors in a timely manner. Thus, I **CONCLUDE** that the appointing authority has sustained its burden of establishing the appellant's resignation not in good standing, based upon his absence from duty for five or more consecutive business days without the approval of his superior, within the meaning of N.J.A.C. 4A:2-6.2(b).

Pursuant to N.J.A.C. 4A:2-6.2(f), a resignation not in good standing may be modified to an appropriate penalty if the circumstances warrant. In the present matter, I have found that the appellant has committed a number of disciplinary infractions, relating to several discrete incidents. The first of these incidents concerns the appellant having been found guilty of neglect of duty, conduct unbecoming an officer, and feigning illness, regarding his calling in sick at the police department on November 12, 1984 and January 26, 1985, when he was working at the Ocean County Juvenile Detention Center. Some indication of the relative seriousness of this offense can be derived from the appointing authority's inaction. This matter was investigated in 1985. However, no charges were brought against the appellant until June 1986, when the remainder of the disciplinary charges in this matter were brought.

The only disciplinary history which is apparent in the record is the appellant's ten-day suspension resulting from his absence from work on May 10, 1986. Obviously, this suspension occurred well after the conduct which is the subject of the aforementioned charges. Similarly, the appellant's unbecoming conduct and failure to satisfy his debt in

relation to his purchase of tee shirts in the summer of 1985 occurred well before his ten-day suspension resulting from his absence on May 10, 1986. In light of this subsequent disciplinary record, and based upon the nature of the appellant's conduct concerning these two disciplinary incidents which occurred in 1984 and 1985, I **CONCLUDE** that each of these two incidents for which disciplinary charges were sustained warrants a period of suspension of ten days.

All of the charges concerning the appellant's absence from the department between September 13 and September 23, 1985, were dismissed. Similarly, all of the charges concerning the appellant's alleged failure to provide a home address and telephone number as of May 9, 1986, were dismissed. The remaining charges concerning the appellant's absence from the department between June 12 and June 18, 1986, were sustained. The penalties imposed by the appointing authority for these infractions, which all arose from the same incident, are removal, effective June 19, 1986 and resignation not in good standing, effective on the same date.

As noted previously, a resignation not in good standing may be modified to an appropriate penalty if the circumstances warrant, pursuant to N.J.A.C. 4A:2-6.2(f). In the present case, it is undisputed and apparent from the testimony and exhibits presented that the appellant was advised by mental health professionals that he should not be working as a police officer at the time of his absence from work between June 12 and June 18, 1986. In light of this situation, I **CONCLUDE** that the appropriate disposition of the disciplinary charges concerning these dates of absence is to modify the resignation not in good standing and the removal imposed by the appointing authority to record the appellant as having resigned in good standing.

ORDER OF DISPOSITION

Accordingly, it is **ORDERED** that the action of the respondent appointing authority, Lakewood Township, in removing the appellant on disciplinary charges, effective June 10, 1986, be **MODIFIED**, and it is further **ORDERED** that the appellant be **SUSPENDED** for a period of twenty (20) days beginning June 12, 1986. It is further **ORDERED** that the actions of the respondent in removing the appellant effective June 19, 1986, and in recording the appellant as having resigned not in good standing, also effective on June 19, 1986, are **MODIFIED** and it is further **ORDERED** that the appellant shall be recorded as having resigned in good standing following the foregoing twenty (20) day suspension.

This recommended decision may be adopted, modified or rejected by the **MERIT SYSTEM BOARD**, which by law is empowered to make a final decision in this matter. However, if the Merit System Board does not so act in forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

I hereby **FILE** my Initial Decision with the **MERIT SYSTEM BOARD** for consideration.

April 5, 1988
DATE

Joseph F. Fidler
JOSEPH F. FIDLER, ALJ

Receipt Acknowledged:

4-6-88
DATE

Robert J. Calhoun
MERIT SYSTEM BOARD

Mailed to Parties:

APR 8 1988
DATE

Ronald J. P. [Signature]
OFFICE OF ADMINISTRATIVE LAW

bc

INVENTORY OF EXHIBITS

For the Appellant:

- A-1 Letter from the Shore Mental Health Center, dated June 19, 1986
- A-2 Letter from the Shore Mental Health Center, dated August 26, 1986

For the Respondent:

- R-1 Ocean County Detention Center Attendance and Work Assignment records
- R-2 Ocean County Detention Center Payroll Records
- R-3 Lakewood Township Police Department Work Schedule and Sick Call Records
- R-4 Tee Shirt Purchase Records; Request for doctor's slip dated September 19, 1985; Sick call memo dated June 11, 1986; Memo on September 1985 absences; Doctor's note and hospital report; Sick call memo date September 17, 1985; Notice Revoking Authority as a Police Officer dated June 10, 1986

WITNESSES AT THE DEPARTMENTAL LEVEL HEARINGS

For the Appellant:

Evelyn Maras
Robert Maras
Andrew Glasson

For the Respondent:

Lewis A. Pintaro
Nancy Ivans
Andrew Glasson
Michael Lynch
Robert Coughlin
John Standowski
Cheryl Collins
William Addison
Marshall Fairbanks
William Johnson
Paul Daly
Donna Mercer
Elizabeth Ohl
Thomas Holmes
Lawrence Doyle
Robert Koovits
Frederick Capper

WITNESSES AT THE OFFICE OF ADMINISTRATIVE LAW HEARING

For the Respondent:

Robert Coughlin
Michael Lynch

For the Appellant:

Robert Maras

Library References

Comments.

Civil service system, probationary appointment, see N.J.P. vol. 34, Part, § 246.

Forms.

Termination of employee's services, see N.J.P. vol. 35, Part, App. E.6.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

Acquisition of permanent status 3

Construction with other law 1

Return to former position 2

Termination 4

1. Construction with other law

The probationary appointment of police officers pursuant to the Police Training Act was separate from and supplementary to the probationary period used to evaluate the conduct of a police officer on the job before his permanent, civil service appointment become final, provided for in this section. Atty.Gen.F.O.1977, No. 25.

2. Return to former position

When permanent appointee as county correctional officer failed to successfully complete required police training course on appointment as sheriff's officer, the appointee reverted to her former position and should not have been discharged and employee, on retroactive reinstatement, was entitled to award of back pay from date of discharge.

11A:4-16. Transfer, reassignment and lateral title change

The rules of the board shall define and establish the procedures for transfer, reassignment and lateral title change. Employees shall be granted no less than 30 days' notice of transfer, except with employee consent or under emergent circumstances as established by rules of the board. The commissioner shall provide for relocation assistance for State employees who are transferred or reassigned to a new work location due to a phasedown or closing of a State operation, subject to available appropriations. Transfers, reassignments, or lateral title changes shall not be utilized as part of a disciplinary action, except following an opportunity for hearing. Nothing herein shall prohibit transfers, reassignments, or lateral title changes made in good faith. The burden of proof demonstrating lack of good faith shall be on the employee.

L.1986, c. 112, § 11A:4-16, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:11-3; 11:22-8; 11:28-1 to 11:28-3, amended by L.1968, c. 374, § 1; C. 11:26B-2 (L.1950, c. 235, p. 596, § 2).

Notes of Decisions

Temporary transfer 3

Transfers 1

Union contracts 2

Last additions in text indicated by underline; deletions by strikeouts

charge, subject to reduction for any interim earned income. Matter of Williams, 198 N.J.Super. 73, 486 A.2d 858 (A.D.1984).

3. Acquisition of permanent status

Where employee was working outside his title of Operator, Refrigeration Services, and did not perform those duties at any time during his employment with state, he had not acquired permanent status and neither fact that he was following directions of department of labor and industry nor fact that civil service was fully aware of his actions and took no action during his six-month work probation period estopped any subsequent challenge to validity of his appointment. Cipriano v. Department of Civil Service of State of N.J., 151 N.J.Super. 86, 376 A.2d 571 (A.D.1977).

4. Termination

Probationary appointment of police officer to municipal police force was proper and she was not entitled to the written complaint in hearing required in the case of a permanent appointee prior to her discharge even though municipality was not a civil service municipality, and no statute other than N.J.S.A. 11:22-6; repealed; see, now, this section dealing with civil service communities makes any provision for discharge of a probationary police officer, in that under § 52:17B-68 municipality had statutory authority to make probationary appointments, and it was most unlikely that legislature intended to require written complaints and hearings as a condition to discharge of a noncivil service probationary officer when such procedures were not necessary in case of a civil service probationary officer. Borger v. Borough of Stone Harbor, 178 N.J.Super. 296, 428 A.2d 958 (Ch.1981).

2. Union contracts

Paragraphs in contractual provision relating to transfer and reassignment rights in contract between state and union representing certain state employees which related to seniority were not preempted by § 11:6-2 (repealed 1982) or § 11:11-3 (repealed; see, now, this section) or regulations which did not specifically deal with accumulation of seniority. Local 195, IFPTE, AFL-CIO v. State, 176 N.J.Super. 85, 422 A.2d 424 (A.D.1980) affirmed in part, reversed in part, on other grounds 88 N.J. 393, 443 A.2d 187.

3. Temporary transfer

Absent authorization by civil service commission rule, a local service employer such as a

county, does not have power to effect an out-of-class temporary transfer; hence, county was without authority to temporarily transfer permanent employee, a bridge and highway construction inspector in the department of public works, to temporary courthouse cleaning detail, a different class, notwithstanding emergency created because of unexpected cancellation of courthouse cleaning contract by independent commercial firm. Matter of Lembo, 151 N.J.Super. 242, 376 A.2d 971 (A.D.1977).

CHAPTER 5. VETERANS' PREFERENCE

Section

- 11A:5-1. Definitions.
- 11A:5-2. Spouse of disabled veteran or deceased veteran.
- 11A:5-3. Parent and spouse of veteran who has died in service.
- 11A:5-4. Disabled veterans' preference.
- 11A:5-5. Veterans' preference.
- 11A:5-6. Appointment of veterans.
- 11A:5-7. Inapplicability of statutes to promotions.
- 11A:5-8. Preference in appointment in noncompetitive division.
- 11A:5-9. Preference to veteran in layoffs.
- 11A:5-10. Hearing on dismissal of veteran.
- 11A:5-11. Veterans not to be discriminated against because of physical defects.
- 11A:5-12. Employment or promotion of persons awarded Congressional Medal of Honor, Distinguished Service Cross, Air Force Cross or Navy Cross.
- 11A:5-13. World War soldiers in employment of a county, municipality or school district; promotion.
- 11A:5-14. Veteran police officer or fire fighter in city of first class; examination and promotion.
- 11A:5-15. Enforcement.

Library References

Comments.

Veterans' preference, see N.J.P. vol. 34, Part, § 252.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

11A:5-1. Definitions

As used in this chapter:

a. "Disabled veteran" means any veteran who is eligible to be compensated for a service-connected disability from war service by the United States Veterans Administration or who receives or is entitled to receive equivalent compensation for a service-connected disability which arises out of military or naval service as set forth in this chapter and who has submitted sufficient evidence of the record of disability incurred in the line of duty to the commissioner on or before the closing date for filing an application for an examination;

b. "Veteran" means any honorably discharged soldier, sailor, marine or nurse who served in any army or navy of the allies of the United States in World War I, between July 14, 1914 and November 11, 1918, or who served in any army or navy of the allies of the United States in World War II, between September 1, 1939 and September 2, 1945 and who was inducted into that service through voluntary enlistment, and was a citizen of the United States at the time of the enlistment, and who did not renounce or lose his or her United States citizenship; or any soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has been discharged or released

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under other than dishonorable conditions from that service in any of the following wars or conflicts and who has presented to the commissioner sufficient evidence of the record of service on or before the closing date for filing an application for an examination:

(1) World War I, between April 6, 1917 and November 11, 1918;

(2) World War II, after September 16, 1940, who shall have served at least 90 days beginning on or before September 2, 1945 in such active service, exclusive of any period assigned for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies; except that any person receiving an actual service-incurred injury or disability shall be classed a veteran, whether or not that person has completed the 90-day service;

(3) Korean conflict, after June 23, 1950, who shall have served at least 90 days beginning on or before July 27, 1953, in active service, exclusive of any period assigned for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies; except that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service;

(4) Vietnam conflict, after December 31, 1960, who shall have served at least 90 days beginning on or before August 1, 1974, in active service, exclusive of any period assigned for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or as a cadet or midshipman at one of the service academies, and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code,¹ or exclusive of any service performed pursuant to enlistment in the National Guard or the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; except that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as provided;

c. "War service" means service by a veteran in any war or conflict described in this chapter during the periods specified.

L.1986, c. 112, § 11A:5-1, eff. Sept. 25, 1986.

1 10 U.S.C.A. § 511(d).

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-1, amended by L.1942, c. 84, p. 327, § 1; L.1942, c. 137, p. 424, § 1; L.1946, c. 227, p. 834, § 1; L.1947, c. 63, p. 214, § 1; L.1951, c. 19, p. 51, § 1; L.1957, c. 21, p. 40, § 1; L.1963, c. 120, § 1; L.1967, c. 312, § 1; L.1971, c. 119, § 1; L.1972, c. 166, § 1.

Library References

Words and Phrases (Perm. Ed.)

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

United States Supreme Court

Residency requirement, armed forces service credits, equal protection, see Attorney General of New York v. Soto-Lopez, 1986, 106 S.Ct. 2317, 476 U.S. 898, 90 L.Ed.2d 899, appeal after remand 840 F.2d 162, on remand 713 F.Supp. 677.

Notes of Decisions

1. Reserve

Intent of legislature, whose purpose was to reward those whose military commitments were of such a nature and duration as to interfere substantially with an individual's civilian status, in establishing veterans' preference status in civil service employment, was to exclude category of service performed by petitioner, whose Army Reserve training was reason for his active service, and legislature intended that language, "pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve," found in N.J.S.A. 11:27-1; repealed; see, now, this section, containing exclusions to definition of a "veteran" was to be expanded so as to include commissioned service of category performed by petitioner. McHale v. State Civil Service Commission, 178 N.J.Super. 371, 429 A.2d 373 (A.D. 1981) certification denied 87 N.J. 402, 434 A.2d 1081.

Last additions in text indicated by underline; deletions by strikeouts

11A:5-2. Spouse of disabled veteran or deceased veteran

The spouse of any disabled veteran is eligible to receive disabled veteran's preference under this chapter, if that veteran is not in the service of the State or any political subdivision which operates under this title and the veteran officially waives, if able to do so, any right to preference for the duration of the spouse's employment.

The surviving spouse of any disabled veteran or veteran shall be entitled to receive the same preference under this chapter to which the disabled veteran or deceased veteran would have been entitled to if still living. The preference shall terminate upon the remarriage of the surviving spouse.

L.1986, c. 112, § 11A:5-2, eff. Sept. 25, 1986.

Historical and Statutory Notes

Prior Laws: C. 11:27-1.2 (L.1942, c. 137, p. 426, § 2).

Library References

Comments.

Veterans' preference, see N.J.P. vol. 34, Part, § 252.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

11A:5-3. Parent and spouse of veteran who has died in service

A parent and spouse of any veteran who died while in service and who would have qualified under this chapter as a veteran, shall be entitled to a disabled veteran's preference. Where both a parent and spouse survive, the exercise of the preference by one shall suspend the right of any other so long as the first individual who exercises preference remains in the employ of the State or any political subdivision operating under the provisions of this title.

L.1986, c. 112, § 11A:5-3, eff. Sept. 25, 1986.

Historical and Statutory Notes

Prior Laws: C. 11:27-1.3 (L.1952, c. 309, p. 1029, § 1).

Library References

Comments.

Veterans' preference, see N.J.P. vol. 34, Part, § 252.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

11A:5-4. Disabled veterans' preference

The names of disabled veterans who receive passing scores on open competitive examinations shall be placed at the top of the employment list in the order of their respective final scores.

L.1986, c. 112, § 11A:5-4, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-3, amended by L.1938, c. 381, p. 952, § 2; L.1946, c. 227, p. 837, § 3.

Library References

Comments.

Veterans' preference, see N.J.P. vol. 34, Part, § 252.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

1. Re-employment lists

Where city police officers were demoted from position of sergeant for reasons of economy, establishment of "re-employment list" for sergeant position with priority given to veterans was not authorized by veterans preference provisions of Civil Service Law. Scarillo v. Department of Civil Service, 146 N.J.Super. 127, 369 A.2d 26 (A.D. 1977).

Last additions in text indicated by underline; deletions by strikeouts

11A:5-5. Veterans' preference

The names of veterans who receive passing scores on open competitive examinations shall be placed on the employment list in order of their respective scores immediately after disabled veterans.

L.1986, c. 112, § 11A:5-5, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-5, amended by L.1938, c. 381, p. 952, § 4; L.1946, c. 227, p. 837, § 5.

Library References

Comments.

Veterans' preference, see N.J.P. vol. 34, Part, § 252.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

United States Supreme Court

Preferences for veterans of either sex do not deprive women of equal protection of laws, see

Personnel Adm'r of Massachusetts v. Feeney, 1979, 99 S.Ct. 2282, 442 U.S. 256, 60 L.Ed.2d 870.

11A:5-6. Appointment of veterans

Whenever a disabled veteran or veteran shall be certified to an appointing authority from an open competitive employment list under the provisions of N.J.S. 11A:4-8, the appointing authority shall appoint the disabled veteran or veteran in the order of ranking.

L.1986, c. 112, § 11A:5-6, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-4, amended by L.1938, c. 381, p. 952, § 3; L.1946, c. 227, p. 837, § 4; L.1952, c. 48, p. 368, § 2.

Library References

Comments.

Veterans' preference, see N.J.P. vol. 34, Part, § 252.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

United States Supreme Court

Preferences for veterans of either sex do not deprive women of equal protection of laws, see Personnel Adm'r of Massachusetts v. Feeney, 1979, 99 S.Ct. 2282, 442 U.S. 256, 60 L.Ed.2d 870.

Notes of Decisions

1. Validity

N.J.S.A. 11:27-4; repealed, see, now, this section, affording absolute preference to veterans certified by civil service commission as among the three candidates standing highest upon register for each position to be filled did not violate late Const. art. 7, § 1, par. 2 which required that civil service appointments be made according to merit, and which further provided that veterans' preference in appointments could be provided by law. Ballou v. State, Dept. of Civil Service, 75 N.J. 365, 382 A.2d 1118 (1978).

Veterans' preference system which was sex-neutral on its face did not violate federal equal protection merely because it disfavored women to substantially greater degree than other nonveterans. Ballou v. State, Dept. of Civil Service, 75 N.J. 365, 382 A.2d 1118 (1978).

11A:5-7. Inapplication of statutes to promotions

Nothing contained in N.J.S. 11A:5-4 through 11A:5-6 shall apply to promotions, but whenever a veteran ranks highest on a promotional certification, a nonveteran shall not be appointed unless the appointing authority shall show cause before the board why a veteran should not receive such promotion.

L.1986, c. 112, § 11A:5-7, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Last additions in text indicated by underline; deletions by strikeouts

Historical and Statutory Notes

Prior Laws: R.S. 11:27-5, amended by L.1938, c. 381, p. 952, § 4; L.1946, c. 227, p. 837, § 5.

Notes of Decisions

1. In general

Where police officers were demoted from position of sergeant for reasons of economy, in event

vacancies occurred in the position later, promotion of any of demoted officers could not be influenced by veteran status. Scarillo v. Department of Civil Service, 146 N.J. Super. 127, 369 A.2d 26 (A.D.1977).

11A:5-8. Preference in appointment in noncompetitive division

From among those eligible for appointment in the noncompetitive division, preference shall be given to a qualified veteran. Before an appointing authority shall select a nonveteran and not appoint a qualified veteran, the appointing authority shall show cause before the board why a veteran should not be appointed. In all cases, a disabled veteran shall have preference over all others.

L.1986, c. 112, § 11A:5-8, eff. Sept. 25, 1986.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-7, amended by L.1938, c. 381, p. 953, § 6.

11A:5-9. Preference to veterans in layoffs

When a layoff occurs, preference shall be given first to a disabled veteran and then to a veteran; but the preference shall apply only where the disabled veteran or veteran has seniority in title equal to that of a nonveteran also affected by the layoff.

L.1986, c. 112, § 11A:5-9, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-8, amended by L.1938, c. 381, p. 954, § 7.

11A:5-10. Hearing on dismissal of veteran

Before any department head shall dismiss any veteran, as provided in N.J.S. 11A:5-9, such department head shall show cause before the board why such veteran should not be retained, at which time such veteran or veterans may be privileged to attend. The board shall be the sole judge of the facts constituting such qualification.

L.1986, c. 112, § 11A:5-10, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-9, amended by L.1938, c. 381, p. 954, § 8.

11A:5-11. Veterans not to be discriminated against because of physical defects

Veterans suffering from any physical defect caused by wounds or injuries received in the line of duty in the military or naval forces of the United States during war service set forth in N.J.S. 11A:5-1 shall not be discriminated against in an examination, classification or appointment because of the defect, unless this defect, in the opinion of the board, would incapacitate the veteran from properly performing the duties of the office, position or employment for which applied.

L.1986, c. 112, § 11A:5-11, eff. Sept. 25, 1986.

Last additions in text indicated by underline; deletions by strikeouts

Historical and Statutory Notes

Prior Laws: R.S. 11:27-10, amended by L.1938, c. 381, p. 954, § 9; L.1951, c. 19, p. 54, § 2.

11A:5-12. Employment or promotion of persons awarded Congressional Medal of Honor, Distinguished Service Cross, Air Force Cross or Navy Cross

Any individual who has served in the Army, Air Force, Navy, or Marine Corps of the United States and who has been awarded the Congressional Medal of Honor, the Distinguished Service Cross, Air Force Cross or Navy Cross, while a resident of this State, shall be appointed or promoted without complying with the rules of the board. The appointing authority to whom the individual applies for appointment or promotion shall, at its discretion, appoint or promote that person. Upon promotion or appointment, that person shall become subject to the rules of the board. A person who qualifies under this section shall not be limited to only one appointment or promotion.

L.1986, c. 112, § 11A:5-12, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-11.1, amended by L.1938, c. 38, p. 113, § 1; L.1962, c. 170, § 1; L.1969, c. 125, § 1.

11A:5-13. World War soldiers in employment of a county, municipality or school district; promotion

A soldier who served in the Army of the United States during the war between the United States and Germany, who holds the French Medaille Militaire, the Croix de Guerre with Palm, Croix de Guerre with Silver Star, Croix de Guerre with Bronze Star and who was on March 26, 1926, employed by any county, municipality or school district operating under the provisions of this title shall be eligible for promotion without complying with any of the rules or regulations of the board. The head, or person in charge of the office in which the person is employed, may promote such employee for the good of the service as may in his judgment seem proper.

L.1986, c. 112, § 11A:5-13, eff. Sept. 25, 1986.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-11.

11A:5-14. Veteran police officer or fire fighter in city of first class; examination and promotion

A member of the police or fire department in a city of the first class who is a veteran shall be entitled to be admitted to the examination for promotion to a superior rank and upon successfully passing such examination shall be entitled to appointment in such superior rank, notwithstanding the fact that such person may not have held the position or rank held or occupied by him at the time of taking the examination for a period of two years, if the employee has or shall have held or occupied the same for a period of one year.

L.1986, c. 112, § 11A:5-14, eff. Sept. 25, 1986.

Annotations under Prior Laws, see Main Volume.

Historical and Statutory Notes

Prior Laws: R.S. 11:27-12, amended by L.1950, c. 305, p. 1040, § 1; L.1956, c. 202, p. 741, § 1; L.1970, c. 254, § 1.

Last additions in text indicated by underline; deletions by strikeouts

11A:5-15. Enforcement

The board may promulgate rules for the proper administration and enforcement of this chapter.

Nothing herein contained shall be construed to amend, modify or supersede N.J.S. 40A:14-25, N.J.S. 40A:14-115 or N.J.S. 40A:14-143.

L.1986, c. 112, § 11A:5-15, eff. Sept. 25, 1986.

Historical and Statutory Notes

Prior Laws: C. 11:27-13 (L.1938, c. 381, p. 955, § 10).

CHAPTER 6. LEAVES, HOURS OF WORK AND EMPLOYEE DEVELOPMENT

ARTICLE 1. LEAVES OF ABSENCE, SUPPLEMENTAL COMPENSATION AND HOURS OF WORK

Section

- 11A:6-1. Leaves.
- 11A:6-2. Vacation leave; full-time state employees.
- 11A:6-3. Vacation leave; full-time political subdivision employees.
- 11A:6-4. Death of employee having vacation credit.
- 11A:6-5. Sick leave.
- 11A:6-6. State administrative leave.
- 11A:6-7. Leaves for part-time employees.
- 11A:6-8. Sick leave injury in state service.
- 11A:6-9. Leaves of absence for police officers and fire fighters.
- 11A:6-10. Convention leave for police officers and fire fighters.
- 11A:6-11. Leave for athletic competition.
- 11A:6-12. Leaves of absence for elected and appointed union officials.
- 11A:6-13. Appointment by governor; leave of absence without pay.
- 11A:6-14. Elective office; leave of absence without pay; appointments to position; reemployment list.
- 11A:6-15. Eligibility for promotions during leave of absence.
- 11A:6-16. Supplemental compensation upon retirement in state employment.
- 11A:6-17. Supplemental compensation; employees of Rutgers, The State University, New Jersey Institute of Technology and the University of Medicine and Dentistry of New Jersey.
- 11A:6-18. Supplemental compensation; deferred retirement.
- 11A:6-19. Supplemental compensation; computation; limitation.
- 11A:6-20. Supplemental compensation; certification of accumulated sick leave.
- 11A:6-21. Supplemental compensation; break in service.
- 11A:6-22. Supplemental compensation; inapplicability to other pension retirement benefits.
- 11A:6-23. Supplemental compensation; rules.
- 11A:6-24. Hours of work, overtime and holiday pay.

ARTICLE 2. EMPLOYEE PROGRAMS

- 11A:6-25. State training programs.
- 11A:6-26. Employee career development.
- 11A:6-27. Political subdivisions.
- 11A:6-28. Employee performance evaluations.

ARTICLE 3. AWARDS

- 11A:6-29. Awards committee.
- 11A:6-30. Awards.
- 11A:6-31. Powers and duties of the committee.
- 11A:6-32. Payment of awards.

Last additions in text indicated by underline; deletions by strikeouts

July 10, 1991

Honorable Members of the Committee.

I received information, regarding the opportunity for the public to make comments concerning veterans preference, or lack of veterans preference by institutions, agencies and departments with the State of New Jersey.

I feel that the New Jersey State Department of Education does not follow the law requiring veterans preference. According to reasearch done by the N.J.E.A. legal office at my request, the State of New Jersey is a federal contractor since it receives funding under: The Elementary/Secondary Education Act, The Carl Perkins Act, The Education of All Children Act (P.L. 94-142), etc.

Under Chapter 38, section 2011 in the United States Congressional Code Book: The statement reads basically -if institutions or agencies receive federal funding in excess of \$10,000.00, they are required by law to hire and promote handicapped and Vietnam era veterans whenever possible.

This is all fine, however, when the State of New Jersey-Department of Education, funds the local school districts that receive the money, and monitor the schools to see if they are using the money to run programs and follow the requirements, they never check to see if the schools are following the veterans preference provision (since they are now federal contractors receiving funds in excess of \$10,000.) for career positions as required by law.

In the last 12 years I have applied for various teaching, supervisory, and administrative positions in public school districts that receive federal funding. I have been passed over for jobs and promotions by non veterans that were less experienced and less qualified with excuses such as: Not the right person, we have to hire a minority, its political, you don't have the seniority.

In several instances, I was older, had more job experience, and even hold a Master of Education degree, with honors, that was very specific for the job and didn't even get an interview for a position!

Just for the record, it would be interesting to see how many Vietnam Veterans hold supervisory or administrative jobs in school districts.

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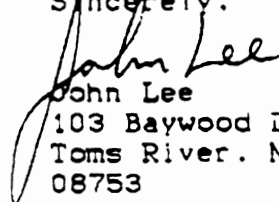
New Jersey State Library

My suggestion is. if the Department of Education funds projects. they should be responsible that ALL aspects of funding requirements are being applied. Not just program operation. but department monitors should also check to see that 38-2011 is being enforced.

Currently. a veteran that feels if he or she has had their rights violated. we can complain through the Dept. of Labor. via our county Veterans Affairs Officer. However. when I considered taking this approach. I was told "If you do this. your life will be made miserable" Basically. in this situation, I could win the battle and lose the war.

Veterans of New Jersey need help in enforcing the laws. We would appreciate your assistance and consideration of this particular matter.

Sincerely.


John Lee
103 Baywood Drive
Toms River. N.J.
08753

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ASSEMBLY, No. 4199

STATE OF NEW JERSEY

INTRODUCED DECEMBER 3, 1990

By Assemblyman GILL

1 AN ACT creating the "Veterans' Hiring and Promotion Review
2 Commission."

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. The Legislature finds and declares that recent public
7 revelations have brought to light the possibility of hiring and
8 promotion practices by State agencies regarding veterans which
9 may be in violation of State law. The Legislature further finds
10 and declares that these revelations concern the possible denial of
11 veterans' rights for individuals entitled to career advancement
12 and the promotion of individuals not entitled to such
13 advancement.

14 2. There is created the "Veterans' Hiring and Promotion
15 Review Commission." The commission shall consist of five public
16 members, not more than three from the same political party, to
17 be appointed by the Governor. Vacancies in the membership of
18 the commission shall be filled in the same manner as the original
19 appointments were made. The members of the commission shall
20 serve without compensation but shall, within the limits of funds
21 appropriated or otherwise made available to the commission, be
22 reimbursed for expenses actually incurred in the performance of
23 their duties.

24 3. The commission shall organize as soon as may be
25 practicable after the appointment of its members and shall select
26 a chairman and a vice chairman from among its members and a
27 secretary, who need not be a member of the commission.

28 4. It shall be the duty of the commission to review the policies
29 and practices of any State department, division, bureau, board,
30 commission or agency with regards to the hiring and promotion of
31 veterans.

32 5. The commission shall be entitled to call to its assistance
33 and avail itself of the services of the employees of any State,
34 county or municipal department, bureau, board, commission, or
35 agency as it may require and as may be available to it for this
36 purpose, and to employ stenographic and clerical assistants, or
37 consultants, and incur traveling and other miscellaneous expenses
38 as it may deem necessary in order to perform its duties and as
39 may be within the limits of funds appropriated or otherwise made
40 available to it for these purposes.

1 6. The commission may hold public hearings and shall, within
2 six months after its first meeting, submit a written report to the
3 Governor and the Legislature, together with any
4 recommendations for legislative or administrative action it
5 deems appropriate.

6 7. This act shall take effect immediately and shall expire upon
7 the submission by the commission of its report.
8
9

10 STATEMENT
11

12 This bill creates a five-member "Veterans' Hiring and
13 Promotion Review Commission" to be appointed by the
14 Governor. It shall be the duty of the commission to review the
15 policies and practices of any State department, bureau, board,
16 commission or agency with regards to the hiring and promotion of
17 veterans. The commission shall, within six months after its first
18 meeting, submit a written report to the Governor and the
19 Legislature, together with recommendations for legislative or
20 administrative action.

21 This act shall take effect immediately and shall expire upon
22 the submission by the commission of its report.
23
24

25 VETERANS
26

27 Creates the "Veterans' Hiring and Promotion Review
28 Commission."