

CITY OF NEW HAVEN  
CIVIL SERVICE BOARD

**MINUTES OF MEETING**

July 14, 2009

**Present**

- Commissioner James Segaloff, Chair
- Commissioner Frank LaDore
- Commissioner Anne Massaro
- Noelia Marcano, Civil Service Secretary

**Also Present**

- Attorney Victor Bolden, Corporation Counsel
- Attorney Kathleen Foster, Corporation Counsel
- Emmet Hibson, Director Organizational Development
- Scott Nabel, Public Safety Human Resources Manager

**Absent**

All Commissioners present.

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Noelia Marcano opened the meeting at 12:30pm.

**Item #1 Eligibility List for Police Sergeant**

Noelia Marcano, Civil Service Secretary, presented this item. She read into the record a summary report she prepared that informed of each step in the process used to arrange for an exam process, conduct, score and arrive at a final result for the position of police sergeant. The summary report is attached to the minutes of this meeting and becomes part of the permanent record.

Ms. Marcano then presented the Eligibility List #09-06 Police Sergeant to the Board.

Commissioner Segaloff asked how many people underwent the exam process.

Ms. Marcano answered that 71 people took the written test, and 64 people took the oral test.

Commissioner Segaloff asked what percent of the final results were from the oral test and what percent were from the written test. Ms. Marcano answered that the result of each test comprised 50 percent of the final score.

Commissioner Segaloff asked a few more questions which were answered satisfactorily by Ms. Marcano.

Commissioner Massaro asked to go into executive session because she wanted to discuss that no Hispanics passed the process. Ms. Marcano summarized the demographics of those who passed and failed the exam in open session.

Commissioner Segaloff expressed his concern that this exam resulted in no Hispanic's passing. Commissioner Massaro expressed that she was uncomfortable with the fact that no Hispanics passed the exam.

Attorney Victor Bolden, Corporation Counsel for the City of New Haven proceeded to discuss several points from Ms. Marcano's presented summary, in particular the results of the validation

report; how the report confirms that the test administered was a job-related test and the conclusions that could be drawn from the pass/fail rates. Regarding adverse impact, Attorney Bolden explained there was insufficient evidence, according to the validation report, to strongly conclude that there was a problem from that standpoint.

Commissioner Massaro restated her concern for the Hispanic failure rate and concerns for future testing. Commissioner LaDore referenced the recent Supreme Court decision on the Ricci case, and asked how they, as a Board move forward on these issues.

Attorney Bolden stated that the fundamental operating principles remain the same especially if disparate impact is clear. However based on the study performed on this exam process, there was insufficient evidence of disparate impact because of the small sample size in this case. He further discussed the group ratios and the validation report's indication that the exam is job related.

Commissioner James Segaloff asked for any additional testimony or discussion on this matter. There was none. Commissioner LaDore motioned to certify Eligibility List #09-06 Police Sergeant. Commissioner Massaro seconded the motion. All yeas; no opposed; no abstentions. List is approved.

A separate motion was then taken to determine the expiration date of the list. Emmet Hibson, Director Organizational Development recommended a one-year expiration date, and added that it could be extended if needed.

Commissioner Massaro motioned to set a one year expiration date for this list. Commissioner LaDore seconded the motion. All yeas; no opposed; no abstentions.

### **Item #2 Removal of Eligibles**

Scott Nabel, Public Safety Human Resources Manager presented this item. Fifteen candidates were on the recommended list of removals forwarded by the Board of Police Commissioners. These are the candidates that failed to meet a condition of the employment offer. He further explained how the candidates were notified by mail of the recommendation for removal and each were given the opportunity to meet with Captain Peterson to review their files. He also added that these candidates were notified of this meeting.

Commissioner Segaloff asked a few questions which were answered satisfactorily by Mr. Nabel. Commissioner LaDore motioned to approve the removals from List #08-23 Police Officer. Commissioner Segaloff seconded the motion. All yeas; no opposed; no abstentions. Removals approved.

### **Item #3 Litigation Update**

Attorney Foster asked if the Board should enter executive session to address this item. Commissioner Segaloff motioned to enter executive session. Commissioner LaDore seconded the motion. Meeting closed to the public at 1:26pm.

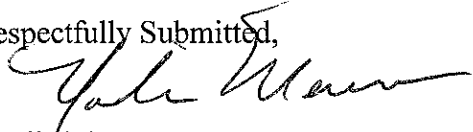
Commissioner Segaloff motioned to re-open the meeting. Commissioner LaDore seconded the motion. Meeting re-opened at 1:50pm.

Ms. Marcano announced that the next meeting date of July 28, 2009.

There being no further items to discuss, Commissioner LaDore motioned to adjourn and Commissioner Segaloff seconded the motion.

The meeting adjourned at 1:55pm.

Respectfully Submitted,



Noelia Marcano  
Civil Service Secretary

**NOTE:** For the purpose of compliance with the Freedom of Information Act, these minutes are made available for review subject to later review, revision and approval by the Civil Service Board.

Civil Service Board Approval Date: 9/29/09

In July 2008, advertisement was issued by the City Purchasing Office for bids to conduct the police sergeant promotional process. The bid process closed on or about August 4, 2008.

The selected vendor was Resource Management Associates from Tinley Park, IL; referred to as RMA in this summary.

Based on RMA's references, their years of experience, cost proposed and the City's desire to increase its vendor pool, RMA was contracted with to provide the current promotional exam process for sergeant.

Charles Hale, president of RMA has served in this capacity since 1981. He has served as a consultant in law enforcement for over 200 municipalities throughout the US since 1973. He served as a police officer and police sergeant in El Segundo, CA. He has authored several publications on police management and assessment of police personnel and has administered more than 300 examination processes of the type provided in our current police sergeant exam.

Five references calls were placed to agencies included on the reference list supplied in RMA's proposal. These references included police departments in Norwalk, CT; Bensalem, PA; Bridgeport, CT and 2 calls to Annapolis, MD; (one to their PD and one to their City's Personnel Director). All reference calls revealed satisfactory or better than satisfactory service provided by RMA, with ratings of 4 – 5 based on a scale of 1-5; 1 being poor and 5 being excellent.

The City of New Haven's sergeant exam process commenced in Spring 2009 when Mr. Hale visited New Haven, to meet about procedural issues, meet with top officials of the NHPD in which examination planning was discussed, and to

interview several members of the Police Department, including riding along with a patrol sergeant on an afternoon shift.

The exam plan for the current process, in terms of its content and for selection of relevant source materials, was determined by the information Mr. Hale collected during his visit and through his review of the comprehensive job analysis and validation report from the 2006 police sergeant exam. After reviewing the job analysis Mr. Hale judged that the duties analyzed in the 2006 study were typical of duties performed by a police sergeant in most of the several hundred police agencies in which he has worked. The content of the current process was based on the study and validation of the 2006 exam.

Interested applicants were informed of this promotional opportunity through the job announcement which solicited applications starting January 26, 2009 through February 6, 2009. 118 applications were received in total. Each applicant received a special packet which included the study list and information on where to obtain study materials.

Multiple orientation sessions to prepare for both the written and oral tests were conducted by RMA on February 12, 2009 (written = 72 attended) and on March 24, 2009 (oral = 49 attended). These training sessions provided candidates information on what to expect on both exams. Study guides and practice tests were distributed at the training for the written exam, and a listing of the criteria on which candidates would be rated in the oral exam was distributed to those who attend the training for the oral test. Shortly after each orientation was conducted, the HR department mailed out all hand-outs distributed at both training sessions to candidates who were unable to attend the orientation sessions.

The written examination was administered on Saturday, April 4, 2009 and 71 candidates presented for testing. Answer sheets for all 71 persons completing the written examination were electronically scored by RMA. Item analyses were conducted by RMA and as a result of this item analysis, one question (#36) was identified in which 67 out of 71 persons answered the question the same way (option A), which was not the keyed answer. Mr. Hale examined this question and compared it with the source document from which the test item was created and determined that the wording of the question was such that a person might likely choose option A rather than the keyed answer. As a result, the answer key was modified to allow credit for all answers for question #36. There were no problems detected with any other questions on the written examination.

RMA included a candidate feedback form in each of the written examination booklets to allow candidates the opportunity to evaluate the examination and to inform of any problems they had with the examination. Mr. Hale reviewed those comments and none of the comments affected the outcome of the written examination.

The oral examination was conducted on Saturday, April 18, 2009. For security purposes, candidates were assigned to either a morning group or an afternoon group. Candidates for the morning group were sequestered after they completed their examination until the afternoon group had checked in. Afternoon candidates were sequestered until it was their turn to test. A total of 64 candidates participated in the process.

A total of 24 evaluators served on eight different panels. Each panel administered the test questions and rated the candidate responses.

All evaluators attended a mandatory training covering all relevant facets of personnel evaluation along with a review and discussion of each of the questions to be used in the oral examination and the benchmarks and evaluation criteria that were to be used by the evaluators in scoring the candidates. This training was conducted by Mark Field, Chief of the Wheaton, IL Police Department. Chief Field also served as one of the evaluators. Chief Field teaches regularly for Northwestern University and other institutions on personnel selection and assessment centers and has worked as an evaluator and assessor for RMA on many occasions.

Assistant Police Chiefs Roy Brown and Peter Reichard from the NHPD attended a portion of the training session to provide an overview of the New Haven Police Department and the role of a sergeant in the NHPD and to answer any questions the evaluators had.

One of the techniques RMA used to ensure consistency in ratings among the panels was that of panel rotation, in which one member of each panel rotated to another panel periodically during the day, thus changing the composition of the panel after every other examination. RMA tracked the examination conducted by each panel to determine if there was any pattern of inconsistency, leniency, or bias among the scoring of candidates by any of the panels, and they found none.

A candidate feedback form was provided at the end of the oral examination to allow candidates the opportunity to evaluate the examination and to inform of any problems they had with the examination. Mr. Hale reviewed those comments and none of the comments affected the outcome of the oral examination. All oral examination questions were designed to closely parallel New Haven Police Department operating policies and procedures and were reviewed by New Haven Police Department command staff prior to the examination.

In early May, Noelia Marcano asked Mr. Hale when all the score tabulations, analyses and reporting would be completed. Mr. Hale responded that RMA was in the final stages of compiling and tabulating scores and thought they could submit scores the following week (week of May 11). Ms. Marcano specified for RMA the items she needed to see before sending the final results. These included score distribution of the written and oral scores – with no identifying info, mean and median scores for both tests, as well as analyses, reliability indices, correlations and inter-correlations for both the written and the oral tests. She further instructed that after she had a chance to review the requested items she would then ask that he send the final results-- all identified with corresponding ID numbers used in both tests, final weighted composites, an analysis of adverse impact, if any, and a statement certifying as to the accuracy of the results.

In mid-May, Mr. Hale informed Ms. Marcano that he would have Dr. Binning contact her to supply the statistical data she was requesting. Mr. Hale utilizes Dr. Binning to consult on all statistical measurement issues. Dr. Binning is an Industrial/Organizational psychologist, is currently a professor at Illinois State University and President and Chief Research Officer at The DeGarmo Group, Inc. out of Bloomington, Illinois. The DeGarmo Group provides human resources and management consulting services, including job analysis, personnel selection, training and coaching, research, and legal services. Dr. Binning has also authored numerous publications on multiple topics associated with personnel measurement and assessment.

Based on the statistical data Ms. Marcano was informed of, she requested a validation report of the current exam process and the concluding results. After several weeks, a report was produced that summarizes all the details of the



process, validates the job-relatedness of each test utilized and supports the job-relatedness and defensibility of the current exam.

The promotion examination in its entirety performed well, by a number of psychometric and professional standards according to the recent validation report. First and foremost, the process was designed to be job-related by basing each design feature on specific subject matter expert and/or job analysis information.

The written examination was developed from specific information sources that were to a great extent supported by the 2006 validation report and judged in totality by a number of professional subject matter experts to be job relevant. There is every indication that the written test's content in this exam process was related to job performance as a police sergeant in the City of New Haven. This supports the contention that higher scores on the written component would be associated with higher levels of on-the-job performance.

The oral examination was developed – again – from the comprehensive job analysis conducted in 2006, and in several important ways was patterned after that promotion examination. It conformed to professionally accepted standards of interview, and assessment center design and operation (e.g., structured questioning, response scoring, interviewer training, simulation fidelity, panel composition, and rating dimension content). This supports the contention that higher scores on the oral component would be associated with higher levels of on-the-job performance

From an EEOC perspective, the examination provided promotion opportunities for a diverse group of candidates. The absolute numbers of black candidates who earned promotion eligibility exceeded those of other groups. The only group

whose promotion eligibility was consistently restricted by the examination was Hispanic candidates.

The validation report for this current round of police sergeant promotional testing cites research literature that is important in considering the performance differences for Hispanics. It points out that: the Equal Employment Opportunity Commission's 4/5ths rule has been used for over 20 years and that the rule signals that there is adverse impact when a protected group selection ratio is less than 80% of the highest scoring group's selection ratio.

The impact ratios show that disparate impact did not occur for white males, white females, black males and black females. They had pass rates of 70.6%, 67%, 67% and 60% respectively. By the four-fifths rule, there is evidence of disparate impact only for Hispanic men and women; none of whom had a passing score. It was then important to have the data examined more closely.

Scientific and professional advances have provided statistical procedures that inform the use of the EEOC's 4/5ths Rule. Generally speaking, these procedures involve using statistical theory to determine in specific situations whether a "violation" of the 4/5ths Rule can be considered a substantive occurrence, or rather, whether it should be considered the result of random fluctuations due to the error variability inherent in personnel testing. ALL measurement has some error associated with it. The error causes random and systematic fluctuations in scores that are not attributable to true candidate differences. In other words, these are results that can occur by chance. In any specific testing situation, it is important to try to determine if this unwanted variability causes "violations" of the 4/5ths Rule that would not otherwise exist, if the fluctuations were removed. This is especially important in situations where there are small numbers of candidates in specific demographic groups, because in these situations, the likelihood for

random fluctuations to distort the 4/5ths determination is much greater, than when the analyses are based on large numbers of applicants.

The research literature also points out that the 4/5ths rule can often result in false-positive readings of adverse impact even when there are no underlying (population) standardized group differences between subgroups. And, that when incorporating tests of statistical significance to the 4/5ths rule, many false-positive indications of adverse impact can be mitigated and/or eliminated, Roth, Bobko, and Switzer (2006).

This citation is especially relevant to the current situation, because the numbers of Hispanic candidates are so small (i.e., 8 Hispanic males and 2 Hispanic females). Given these small numbers of candidates, the determination of disparate impact must be done with broad consideration of all available evidence, not only for test validity and job-relevance, but also the likelihood that the score differences observed are statistically real, and not due to natural fluctuations, or in other words by chance.

According to the validation report for this exam, statistical analyses conducted to examine the likelihood that score differences are reliable, versus attributable to natural score fluctuations produced mixed results. Specifically, the most commonly used after the fact statistical analysis indicated that the Hispanic mean scores did not differ significantly from the others. In other words, the analysis indicated that the differences are not statistically reliable. Other analyses did suggest that the differences were sufficiently large to be considered statistically reliable. Taken together, however, the results of these analyses indicate that the differences in pass rates across demographic groups are not large enough to conclude with confidence that disparate impact has occurred.

This promotion examination is job-related in discernable ways, and it was designed and administered consistent with current professional standards. In addition, it is based on, and consistent with the validity evidence provided in the validation report from the 2006 cycle of police sergeant promotional testing. According to the validation report for the current exam, it is reasonable to conclude that scores on this examination reflect job-related competencies. And, that without evidence to the contrary, decisions based on the observed differences in candidates' performance can be considered defensible by any number of professional and technical guidelines.

On this basis, the eligibility list for Police Sergeant for the New Haven Police Department is presented for certification.

Resource Management Associates has certified in writing as to the accuracy of all test results.