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UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW JERSEY AND NEW
JERSEY CIVIL SERVICE
COMMISSION,

Defendants.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

VICINAGE OF NEWARK

Civil Action No.
2:10-cv-00091-KSH-MAS

Hon. Katharine S. Hayden

**JOINT MOTION FOR PROVISIONAL ENTRY OF CONSENT DECREE
AND SCHEDULING OF INITIAL FAIRNESS HEARING**

Pursuant to the Court's May 20, 2011 Order (Dkt. No. 35), Plaintiff United States of America ("United States") and Defendants State of New Jersey and New Jersey Civil Service Commission (collectively, the "State") request that this Court provisionally enter the proposed

Consent Decree (the “Decree”) and schedule an Initial Fairness Hearing to be held at least ninety days after the Court enters an order scheduling the hearing. Plaintiff United States also attaches an unopposed Memorandum in Support of this Motion and proposed Order.

Under the Decree, the parties will move for final approval and entry of the Decree following an Initial Fairness Hearing. The Decree provides that the Court will give the parties at least ninety days’ notice of the date and time set for an Initial Fairness Hearing. This period is necessary to give individuals whose interests may be affected by the Decree notice of and an opportunity to object to the terms of the Decree. In addition, prior to the Initial Fairness Hearing, the parties will address each of the objections timely received.

At this Initial Fairness Hearing, the Court will have the opportunity to consider and resolve any objections to the terms of the Decree. Assuming the Court concludes at the end of the Initial Fairness Hearing that the Decree is lawful, fair, reasonable, adequate, and consistent with the public interest, the parties will move for final approval and entry of the Decree.

I. SUMMARY OF MAJOR ELEMENTS OF THE DECREE

In order to assist the Court, below is an overview of the major elements of the Decree.¹

A. General Injunctive Relief

- The State, in consultation with the United States, will develop and administer a new lawful procedure for selecting candidates for promotion to the position of police sergeant in local jurisdictions. (Decree, ¶ 15.)

¹ This is intended only as a summary of the major elements and does not set forth every detail of the Decree.

- The State will cease using current eligible lists to appoint police sergeants in local jurisdictions in which continued use of such lists may create an additional shortfall of African-American and/or Hispanic candidates. (Decree, ¶ 16.)

B. Individual Relief

- The State will provide, where appropriate, individual relief in the form of back pay and/or priority promotions with retroactive seniority to persons defined as Claimants in the Decree in 43 specified local jurisdictions who, because of the employment practices challenged by the United States in this action, were denied promotion to the rank of police sergeant. (Decree, ¶¶ 31, 60, 76.)
- The State shall certify 68 Claimants eligible for priority promotions in 13 specified local jurisdictions. (Decree, ¶ 61.) The 68 priority promotions shall be made to 48 African-American candidates and 20 Hispanic candidates.
- Before any eligible Claimant receives a priority promotion, s/he must first must pass the new, lawful selection procedure developed by the State under the Decree. (Decree, ¶ 62.)

C. Fairness Hearings, Objections, and Individual Relief Claims Process

- Prior to the Initial Fairness Hearing, individuals whose interests may be affected by the Decree will receive notice of the terms of the Decree, the date for the initial fairness hearing and an opportunity to file objections with the Court. (Decree, ¶¶ 20-23.) At the Initial Fairness Hearing, the Court will consider any objections received, as well as the parties' responses to those objections. (Decree, ¶¶ 19-20, 27.) If the Court concludes at the end of the

Initial Fairness Hearing that the Decree is lawful, fair, reasonable, adequate, and consistent with the public interest, the parties will move for final approval and entry of the Decree. (Decree, ¶ 27.)

- The Decree sets forth a process, which would occur after provisional entry of the Decree, for persons who believe that they are entitled to individual relief to submit Interest in Relief forms to the United States. (Decree, ¶ 34.) The United States will make individual relief determinations for all Claimants after considering any timely raised objections by the State. (Decree, ¶¶ 37-41.)
- Under the Decree, a second fairness hearing, the Fairness Hearing on Individual Relief, would take place after the individual claims process. (Decree, ¶ 43.) At the Fairness Hearing on Individual Relief, the Court would approve or modify the individual relief determinations made by the United States and consider any timely made objections. (Decree, ¶ 49.) The Court will then approve a Final Relief Awards List. (Decree, ¶¶ 49-51.)

II. TIMELINE OF ACTIONS RELATED TO FAIRNESS HEARINGS UNDER THE DECREE

In order to assist the Court, below is a timeline of actions related to the Initial Fairness Hearing and the Fairness Hearing on Individual Relief.

A. Initial Fairness Hearing

- **Provisional Entry of Decree and Scheduling of Initial Fairness Hearing:** At least **90 days** after the Court provisionally enters the Decree.

- **75 days** before Initial Fairness Hearing: State to mail and publish notice of the Initial Fairness Hearing and forms for objections (Decree, ¶¶ 21-23).
- **45 days** before Initial Fairness Hearing: Deadline for mailing objections to the United States (Decree, ¶ 24(c)).
- **30 days** before Initial Fairness Hearing: Deadline for United States to provide objections to the State (Decree, ¶ 25).
- **10 days** before Initial Fairness Hearing: Deadline for United States to file all objections with the Court and for parties to file with Court their responses to objections (Decree, ¶ 26).
- **[Date to be determined by the Court]:** Date of the Initial Fairness Hearing, which will be held at __:____ a.m./p.m. at Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Courtroom PO 05, Newark, New Jersey 07101 (Decree, ¶¶ 19-20, 27).
- During or after the Initial Fairness Hearing, the parties will move the Court for final approval and entry of the Decree (Decree, ¶ 27).

B. Fairness Hearing on Individual Relief

- **30 days** after final approval and entry of the Decree: Deadline for State to deposit one million dollars (US \$1,000,000.00) into the settlement fund accounts and to mail notice of entry of Decree and the interest in relief forms (Decree, ¶¶ 28, 33).
- **120 days** after entry of the Decree: Deadline for the United States to provide preliminary Relief Awards List to the State (Decree, ¶ 35).
- **150 days** after entry of the Decree: Deadline for the State to provide to United States any objections to preliminary Relief Awards List (Decree, ¶ 36).
- **180 days** after entry of the Decree: Deadline for the United States to file the Relief Awards List with the Court and to move for a Fairness Hearing on Individual Relief (Decree, ¶¶ 40-43). Subsequently, the Court may schedule a Fairness Hearing on Individual Relief (Decree, ¶ 43).
- **80 days** before the Fairness Hearing on Individual Relief: Deadline for United States to provide notice of Fairness Hearing on Individual Relief and objection forms to Claimants (Decree, ¶ 44).
- **70 days** before the Fairness Hearing on Individual Relief: Deadline for State to file its objections to Relief Awards List with the Court (Decree, ¶ 45).
- **30 days** before the Fairness Hearing on Individual Relief: Deadline for United States to provide the State with copies of objections it has received (Decree, ¶ 47).
- **10 days** before the Fairness Hearing on Individual Relief: Deadline for United States to file objections with the Court and for parties to file responses to objections (Decree, ¶ 49)

- **[Date to be determined by the Court]:** Date of the Fairness Hearing on Individual Relief, which will be held at __:____ a.m./p.m. at Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Courtroom PO 05, Newark, New Jersey 07101 (Decree, ¶ 49). Subsequently, the Court may approve the final Relief Awards List (Decree, ¶¶ 49-51).

III. CONCLUSION

For the reasons above, the parties respectfully request that the Court enter the accompanying proposed Order, which provisionally enters the Decree and sets the time, date, and location of an Initial Fairness Hearing.

Date: August 1, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2011, I electronically filed the Joint Motion for Provisional Entry of Consent Decree and Scheduling of Initial Fairness Hearing (“Motion”), the United States’ Memorandum in Support of the Joint Motion with Exhibits, and a Proposed Order with the Clerk of the Court using the CM/ECF system, which will then send a notification of electronic filing to the following:

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**PLAINTIFF UNITED STATES' MEMORANDUM OF LAW IN SUPPORT OF THE
PARTIES' JOINT MOTION FOR PROVISIONAL ENTRY OF CONSENT DECREE
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**PLAINTIFF UNITED STATES' MEMORANDUM OF LAW IN SUPPORT OF THE
PARTIES' JOINT MOTION FOR PROVISIONAL ENTRY OF CONSENT DECREE
AND SCHEDULING OF FAIRNESS HEARING**

I. INTRODUCTION

Plaintiff United States of America ("United States") submits this memorandum in support of the parties' joint Motion for Provisional Entry of Consent Decree and Scheduling of Fairness Hearing ("Motion"). The parties' joint Motion requests the Court to provisionally enter a proposed settlement agreement as a Consent Decree (the "Decree"), which is attached as Exhibit 1, and schedule an initial fairness hearing. The initial fairness hearing will allow the Court to consider any objections to the terms of the Decree prior to final approval and entry.¹

As set forth below, the Court should provisionally enter the Decree because its terms are lawful, fair, reasonable, adequate, and consistent with the public interest. These terms include: (1) ensuring that the employment practices used by New Jersey to promote candidates to the position of police sergeant do not violate Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. § 2000e *et seq.*, on the basis of race and/or national origin; (2) establishing a new, lawful selection procedure that ensures promotions to police sergeant are based upon merit and do not unnecessarily exclude qualified African-American and Hispanic candidates; and (3) providing appropriate individual relief in the form of back pay and/or priority promotions to qualified persons who were denied promotion to police sergeant because of the employment practices challenged by the United States in this case.

¹ After all objections are received as to the terms of the Decree, the parties will file another brief addressing those objections and requesting final approval and entry of the Decree.

II. PROCEDURAL BACKGROUND

On January 7, 2010, pursuant to Section 707 of Title VII, 42 U.S.C. § 2000e-6, the United States commenced this action against New Jersey to enforce Title VII. The United States' complaint alleges that the State has engaged in a pattern or practice of race and/or national origin discrimination based upon its use of a written exam for promotion to police sergeant. Specifically, the United States alleges that, since 2000, the State's (1) pass/fail use of the police sergeant written exam and (2) certification of police sergeant candidates in descending rank-order based on a combination of candidates' written exam scores and seniority credits have resulted in an unlawful disparate impact upon African-American and Hispanic candidates for promotion to the rank of police sergeant in local jurisdictions participating in New Jersey's civil service system.²

The United States and New Jersey (collectively, the "parties") have engaged in a significant amount of discovery. In addition to information provided by the State during the United States' two-year pre-suit investigation,³ the State produced voluminous information relating to the issues of disparate impact, job-relatedness, and validity during discovery. The parties exchanged reports from their respective experts on disparate impact; the State produced its expert report on job-relatedness and validity; the United States engaged an expert in industrial

² The United States' complaint in this action does not include any allegation of intentional discrimination under Title VII and is not based upon any individual charges or complaints of discrimination.

³ By letter dated May 22, 2008, the United States notified the State that it would be investigating whether the State had engaged in a pattern or practice of discrimination against African-American and Hispanics based on its use of a written exam for promotion to police sergeant. The United States then conducted a two-year investigation involving document review, data analysis, and consultation with experts.

organizational psychology to analyze job-relatedness and validity; and the parties conducted depositions related to disparate impact, job-relatedness, and validity.

As a result of extensive settlement discussions, the United States and the State have negotiated and executed the attached Decree, which is the subject of this memorandum. *See* Exhibit 1.

III. FACTUAL BACKGROUND

For purposes of seeking provisional and final entry of the Decree, the United States makes the following factual assertions.

A. Disparate Impact

Since at least 2000, the process used by New Jersey to screen and select candidates for promotion to police sergeant in local jurisdictions that participate in the civil service system has included a written exam. *See* Declaration of Dr. Bernard R. Siskin, Ph.D. (“Siskin Decl.”), attached as Exhibit 2, at ¶ 2. From 2000 to 2009 inclusive, at least 182 counties and municipalities in the State participated in the civil service system with respect to screening and selecting candidates for the position of police sergeant. *Id.* Candidates who meet the minimum qualifications set by the State, and who achieve a passing score on the exam, are placed in descending rank order on eligible lists based on final scores. *Id.* Final scores are a combination of written exam scores, which are weighted 80 percent, and seniority credits, which are weighted 20 percent. *Id.*

Between 2000 and 2009 inclusive, the State administered the exam on a yearly basis to approximately 6,392 white candidates, 1,343 African-American candidates, and 1,363 Hispanic candidates. *Id.* According to the United States’ expert, Dr. Bernard R. Siskin, Ph.D., from 2000 through 2009 inclusive, African-American and Hispanic candidates passed the police sergeant

exam at a statistically significant lower rate than white candidates. *Id.* ¶¶ 5-6. Dr. Siskin concluded that the disparity in pass rates between African-American and white candidates from 2000 to 2009 equates to 17.33 units of standard deviation. *Id.* ¶ 5. Dr. Siskin also concluded that the disparity in pass rates between Hispanic and white candidates from 2000 to 2009 equates to 12.88 units of standard deviation. *Id.* ¶ 6.

According to Dr. Siskin, from 2000 to 2008 inclusive, the State's determination and use of final scores to certify candidates in descending rank order has resulted in a statistically significant disparate impact upon African Americans and Hispanics. *Id.* ¶¶ 7-8. Dr. Siskin concluded that from 2000 to 2008, African Americans and Hispanics who passed the police sergeant exam received statistically significant lower ranks on eligible lists than whites. *Id.* The likelihood that an African-American candidate would be ranked high enough to be considered for appointment, as compared to a white candidate, equates to 7.77 units of standard deviation, and the likelihood that a Hispanic candidate would be ranked high enough to be considered for appointment, as compared to a white candidate, equates to 4.66 units of standard deviation. *Id.*

Based upon Dr. Siskin's analysis, absent the disparate impact resulting from the pass/fail and rank-order use of the police sergeant written exam, an estimated 75 African Americans and 30 Hispanics would have been promoted to the rank of police sergeant in 43 jurisdictions throughout New Jersey. *Id.* ¶ 10.

B. Job-Relatedness

According to the United States' expert, Dr. David P. Jones, Ph.D., the State's use of the police sergeant written exam on a pass/fail basis and the State's determination and use of final scores to certify candidates from eligible lists in descending rank order have not been demonstrated, using professionally accepted validation standards, to be job-related or consistent

with business necessity. *See* Declaration of Dr. David P. Jones, Ph.D. (“Jones Decl.”), attached as Exhibit 3, at ¶¶ 6-11. First, Dr. Jones found that the police sergeant written exam is not based upon a job analysis that meets professionally accepted standards. *Id.* ¶ 6. In its 1996 job analysis for police sergeant, upon which New Jersey relied when developing the written exams challenged here, the State did not conduct any review of data it received from questionnaires completed by incumbents regarding the content of the police sergeant position. *Id.* ¶ 6(a)-(b). Nor did the analysis evaluate whether the incumbents who completed the job analysis questionnaires used to develop the police sergeant written exam were actually representative of the then-incumbent police sergeants in local jurisdictions. *Id.* ¶ 6(b). The job analysis also did not include any reliability measurement or analysis regarding the degree of agreement among incumbents’ ratings as to which knowledges, skills, and abilities (“KSAs”) were required in order to perform each task effectively. *Id.* ¶ 6(c). In addition, many of KSAs identified in the job analysis could not be tested, as they were either too general or too vague. *Id.* ¶ 6(d). Other KSAs were simply duplicative. *Id.*

Second, Dr. Jones concluded that the State is unable to establish that it used reasonable competence in developing the police sergeant written exam. *Id.* ¶ 7. The decision of the State to pursue a written exam resulted in the elimination of important KSAs because they were considered “not testable.” *Id.* ¶ 7(b). The State, therefore, limited the coverage of the police sergeant written exam to those KSAs that could be tested by such an exam. *Id.* Furthermore, the State did not develop adequate test plans, which would have indicated exactly which KSAs and tasks were to be tested and how many questions would test each KSA or task. *Id.* ¶ 7(c). Failure to devise such a test plan means that the State did not demonstrate that the written exam is representative of the full range of tasks and KSAs that incumbents deemed important. *Id.*

Third and fourth, Dr. Jones concluded that the State cannot demonstrate that the content of the police sergeant written exam is either related to or representative of the content of the police sergeant position. *Id.* ¶ 8. On the issue of relatedness, the State has proffered no evidence indicating that the exam questions measure what they were purportedly intended to measure. *Id.* ¶ 8(c). The State engaged subject matter experts (“SMEs”) to link exam questions with the tasks and KSAs that the questions intended to test. *Id.* ¶ 8(a)-(b). The State did not, however, collect empirical data about the extent to which various SMEs linked each exam question to a specific duty of entry-level police sergeants or to any KSA that entry-level police sergeants must possess to perform their jobs. *Id.* ¶ 8(b). On the issue of representativeness, the State cannot establish that the content of the police sergeant written exam is representative of the job, and indeed, materials the State has provided demonstrate the contrary. *Id.* For example, of the 66 critical abilities identified through the State’s 1996 job analysis, more than half are abilities that cannot be effectively measured on a written exam. *Id.* ¶ 8(f). Furthermore, in only one year did the State identify the specific work component and the particular KSA or task each question was intended to measure. *Id.* ¶ 8(e). As an example of the test content not being representative of the job, the State failed to include questions measuring 14 of the 27 tasks related to the “supervise patrol” component that, according to the job analysis, the exam was supposed to test. *Id.*

Finally, according to Dr. Jones, the State’s pass/fail use and rank-order use do not distinguish meaningfully among those candidates who can better perform the job of police sergeant. *Id.* ¶ 9. There are several professionally recognized methods for selecting an appropriate cutoff score in the context of promotion exams. *Id.* ¶ 9(a). These methods assist in distinguishing among candidates who can better perform the job at issue. *Id.* The State did not, however, use any of these methods. *Id.* Instead, the State selected the cutoff score based on

whether the results of the police sergeant written exam could avoid group-based disparate impact as defined by the 80% Rule.⁴ See Hill 30(b)(6) Dep., p. 241:15-21, attached as Exhibit 4.

Nonetheless, as detailed above, the State did not eliminate the *statistically significant* disparate impact of the exam. In addition, Dr. Jones concluded that the State has provided no evidence to support rank-order use of the police sergeant written exam. Jones Decl., at ¶ 9(d). The ratings from incumbents in the 1996 job analysis questionnaire on whether possessing differing levels of KSAs correspond to differing levels of performance on the job are insufficient to support rank-order use.⁵ *Id.*

IV. OVERVIEW OF THE CONSENT DECREE

A. Injunctive Relief

Under the Decree's terms, the State, in consultation with the United States, will develop and administer a new lawful procedure for selecting qualified candidates for promotion to the position of police sergeant in local jurisdictions. Decree, at ¶¶ 15, 77. The State will also cease using current eligible lists as part of its police sergeant selection procedure in ten local jurisdictions, where continued use of such lists may create an additional "shortfall" of African Americans or Hispanics who would have been promoted but for the disparate impact of the challenged exam. *Id.* ¶ 16.⁶

⁴ The 80% Rule is a guideline for assessing the practical impact of an employment practice alleged to have a statistically significant disparate impact on a protected group.

⁵ The United States also contends that alternative selection devices exist to select candidates for supervisory, public safety positions that would have served the State's legitimate needs and that have been demonstrated to have less adverse impact. Since the parties are proceeding under the theory that the challenged employment practices are not job related and consistent with business necessity, it is unnecessary to set forth these alternatives.

⁶ Dr. Siskin concluded that continued use of eligible lists in the ten local jurisdictions identified in Attachment D to the Decree will likely result in the creation of an additional appointment

B. Individual Relief

The State will also provide, where appropriate, individual relief in the form of back pay and/or priority promotions to qualified persons who, because of the employment practices at issue, were denied promotion to the rank of police sergeant. *Id.* ¶¶ 31, 60, 76.⁷ Relief will be granted only to those individuals determined to be actual victims of practices challenged by the United States.

1. Individuals Potentially Eligible For Relief

An individual may be eligible for relief under the Decree if he or she is African-American or Hispanic, sought promotion in one of the 43 local jurisdictions identified in Attachment A to the Decree, was never promoted, and either (i) between 2000 and 2009, failed a police sergeant written exam given by the State that resulted in an eligible list from which appointments were made or (ii) passed the exam between 2000 and 2008 given by the State but ranked below the lowest ranking candidate appointed from any eligible list.⁸ *Id.* ¶ 3. The Decree defines those eligible for relief as “Claimants.” *Id.*

shortfalls. Siskin Decl., at ¶¶ 11-13. The appointment shortfall is the expected number of African Americans or Hispanics who would have been promoted to police sergeant but for the State’s uses of the challenged exam. *Id.* In all remaining jurisdictions with active eligible lists, Dr. Siskin concluded that continued use was unlikely to create additional shortfalls. *Id.*

⁷ The amount of back pay (\$1,000,000.00) and the number of priority promotions (68) negotiated by the parties do not exceed what would be make-whole relief to victims of discrimination. Siskin Decl., at ¶¶ 10, 14-19, 25.

⁸ The 43 local jurisdictions from where individuals may be eligible for relief were selected because the United States’ expert concluded that one or more promotions of African-Americans and/or Hispanics would have been made in those jurisdictions in the absence of the disparate impact resulting from New Jersey’s pass/fail and rank-order use of the police sergeant written exam. Siskin Decl., at ¶ 10.

2. Back Pay

Under the terms of the Decree, the State will pay \$1,000,000.00 in back pay, which will be divided into two settlement funds. Decree, at ¶ 28. The first settlement fund will be used to make back pay awards to African-American Claimants, and the second settlement fund will be used to make back pay awards to Hispanic Claimants. *Id.* ¶ 29. Claimants who are eligible for back pay will receive awards that do not exceed the amount of money they would have received had they been promoted based upon the challenged exam that they took. *See* Siskin Decl., at ¶ 23.

3. Priority Promotions

The Decree obligates New Jersey to ensure that 68 priority promotions are made to 48 African-American and 20 Hispanics Claimants from 13 local jurisdictions identified in Attachment K to the Decree. Decree, at ¶ 61.⁹ Importantly, the Decree does not require the State to appoint anyone who is not qualified to be a police sergeant. All Claimants who receive priority promotions must first pass the new, lawful selection procedure developed by the State under the Decree. *Id.* ¶ 62. Upon passing the exam, any Claimant who earns a priority promotion will be entitled to limited retroactive seniority as of his/her “presumptive appointment

⁹ The selection of the 13 jurisdictions to which the State will certify Claimants for priority promotions, and the number of priority promotions in those jurisdictions, was based upon Dr. Siskin’s conclusion that three or more promotions of African-Americans and/or Hispanics would have been made in each of those 13 jurisdictions absent the disparate impact resulting from New Jersey’s pass/fail and rank-order use of the police sergeant written exam. Siskin Decl., at ¶ 10.

date” for purposes of receiving seniority credits for future promotional opportunities, if applicable.¹⁰ *Id.* ¶ 76.

C. Fairness Hearings, Objections, And Individual Relief Claims Process

1. Initial Fairness Hearing

Pursuant to the terms of the Decree, the United States moves the Court to schedule two fairness hearings. *Id.* ¶¶ 19, 43. At the first hearing (the “Initial Fairness Hearing”), the Court will determine whether the terms of the Decree are lawful, fair, reasonable, adequate, and consistent with the public interest. *Id.* ¶ 19. Prior to the Initial Fairness Hearing, individuals whose interests may be affected by the Decree (including all known potential Claimants, the appointing authority in each local jurisdiction participating in New Jersey’s civil service system, each union or association recognized as being authorized to represent police sergeants in each such local jurisdiction, and police sergeants in the local jurisdictions that participate in the State’s civil service system) will be given notice of the Decree and an opportunity to file objections. Decree, at ¶¶ 21-23. At the Initial Fairness Hearing, the Court will consider and resolve any objections received. Assuming the Court concludes at the end of the Initial Fairness Hearing that the Decree is lawful, fair, reasonable, adequate, and consistent with the public interest, the parties will ask the Court to enter the Decree as a final Order. *Id.* ¶ 27.

2. Individual Relief Claims Process And Fairness Hearing On Individual Relief

Contained in the Decree is a process, to occur after the Court has finally entered the Decree, for persons who believe that they are entitled to individual relief to submit interest in relief forms to the United States. *Id.* ¶ 34. The United States will make individual relief

¹⁰ The “presumptive appointment date” is the estimated date when the Claimant would have been promoted but for the challenged exam that adversely affected the Claimant. *Id.* ¶ 9.

determinations for all Claimants after considering any timely raised objections by New Jersey. *Id.* ¶¶ 37-41. Furthermore, the Decree provides for a second fairness hearing (the “Fairness Hearing on Individual Relief”) for the Court to approve or modify the individual relief determinations made by the United States, as well to review any timely made objections. *Id.* ¶ 49.

D. Continuing Jurisdiction And Duration Of The Decree

Per the terms of the Decree, the Court will retain jurisdiction over this matter for the duration of the Decree. Decree, at ¶ 93. The Decree will expire, and the case will be dismissed without further order of the Court, on the latest of the following occurrences: (i) three years from the date the Decree is entered; (ii) complete fulfillment of the parties’ obligations regarding the individual relief to be awarded under the Decree; or (iii) the State’s administration of the second police sergeant exam, as contemplated by the Decree, and after the expiration of time allotted by the Decree for either the United States to make recommendations regarding the content or manner of use of the police sergeant exam or for a hearing on any objections. *Id.* ¶ 89.

V. ARGUMENT

A. Standard Of Review

“Courts have long recognized that cooperation and voluntary compliance are the preferred means of achieving Title VII’s goals of ensuring equal employment opportunities and eliminating discriminatory practices.” *United States v. New Jersey*, Nos. CIV 88-5087 WGB, CIV 88-4080(MTB), CIV. 87-2331(HAA), 1995 WL 1943013, at *10 (D.N.J. March 14, 1995) (“*U.S. v. NJ*”) (citations omitted); *see also Carson v. Am. Brands, Inc.*, 450 U.S. 79, 88 n.14 (1981) (“In enacting Title VII, Congress expressed a strong preference for encouraging voluntary settlement of employment discrimination claims.”); *Alexander v. Gardner-Denver Co.*, 415 U.S.

36, 44 (1974) (identifying Title VII's conciliation provisions as evidence that Congress wanted Title VII compliance to be voluntary). Congress placed an "extremely high premium...on voluntary settlements of Title VII suits." *United States v. City of Miami*, 614 F.2d 1322, 1331 (5th Cir. 1980), *modified per curiam*, 664 F.2d 435 (5th Cir. 1981). "Accordingly, a district court should have a deferential attitude towards agreements reached by consent in Title VII suits." *U.S. v. NJ*, 1995 WL 1943013, at *10 (citation omitted).

A court may properly enter a consent decree if "the settlement is fair, adequate and reasonable." *Id.* (citation omitted). Moreover, in a Title VII action, a consent decree that has been negotiated by the parties to the suit is presumptively valid. *Id.* at *11. Significantly, the presumption of validity can be "overcome only if the decree contains provisions which are unreasonable, illegal, unconstitutional, or against public policy." *Id.* (citations omitted).

When assessing whether a proposed consent decree is fair, adequate, and reasonable, the Third Circuit considers many factors, the relative importance and applicability of which depend upon the nature of the claims at issue, type of relief sought, and particular facts involved. *Id.* at *11-12 (citation omitted). Those factors may include:

- (1) the complexity, expense and likely duration of the litigation...;
- (2) the reaction of the class to the settlement...;
- (3) the stage of the proceedings and the amount of discovery completed...;
- (4) the risks of establishing liability...;
- (5) the risks of establishing damages...;
- (6) the risks of maintaining the class action through the trial...;
- (7) the ability of the defendants to withstand a greater judgment;
- (8) the range of reasonableness of the settlement fund in light of the best possible recovery...; [and]
- (9) the range of reasonableness of the settlement fund to a possible recovery in light of all the attendant risks of litigation[.]

U.S. v. NJ, 1995 WL 1943013, at *11 (citing *Girsh v. Jepsen*, 521 F.2d 153, 157 (3d Cir. 1975)).

The above-enumerated factors may be properly distilled to one point, "the strength of plaintiff's case on the merits balanced against the settlement offer." *U.S. v. NJ*, 1995 WL

1943013, at *12. Indeed, that “is generally regarded as the most important factor.” *Id.* When determining the strength of the plaintiff’s case, “the Court need only evaluate the probable outcome of the litigation and is not required to weigh and decide each contention; further, the probable result at trial must be balanced against the probable costs, in both time and money, of continued litigation.” *Id.* (citing *Bryan v. Pittsburgh Plate Glass Co.*, 494 F.2d 799, 801 (3d Cir. 1974)).¹¹

B. The Consent Decree Is Lawful, Fair, Reasonable, Adequate, And Consistent With The Public Interest

As noted above, when deciding whether to enter a consent decree, a court must consider the strength of the plaintiff’s case balanced against the settlement offer. *U.S. v. NJ*, 1995 WL 1943013, at *12. This balancing test is necessary before a court can conclude that the decree is fair, reasonable, and adequate. *See id.* Here, the United States is well-positioned to prevail on the merits and, if victorious, could obtain the relief afforded by the Decree and more.

1. The United States Is Likely To Prevail At Trial

The United States filed suit pursuant to Section 707 of Title VII, 42 U.S.C. § 2000e-6, which authorizes the Attorney General to bring an action against a state or local government employer that has engaged in a pattern or practice of Title VII-proscribed discrimination. At issue here are the State’s practices from 2000 to 2009 inclusive of: (1) using a pass/fail police sergeant written exam and (2) certifying police sergeant candidates in descending rank-order based on a combination of candidates’ written exam scores and seniority credits. In its

¹¹ In addition to balancing the factors set forth above, courts also consider whether there has been collusion in reaching the agreement, competent counsel’s opinion regarding the decree, and the governmental status of the parties. *U.S. v. NJ*, 1995 WL 1943013, at *1. Here, because the United States is the plaintiff, these considerations all weight in favor of entry of the Decree.

Complaint, the United States alleges that New Jersey's use of the challenged practices has had an unlawful disparate impact upon African-American and Hispanic candidates.

The disparate impact theory requires the removal of "employment procedures or testing mechanisms that operate as „built-in headwinds“ for [protected] groups and are unrelated to measuring job capability." *Griggs v. Duke Power Co.*, 401 U.S. 424, 432 (1971).¹² Employers may use written exams as a promotion selection tool without violating Title VII. *See id.* at 436 ("Nothing in the Act precludes the use of testing or measuring procedures; obviously they are useful."). However, if such a tool yields a disparate impact based on the race and/or national origin of promotional candidates, then Title VII prohibits its use, unless the employer proves that the test is "job-related for the position in question and consistent with business necessity." 42 U.S.C. § 2000e-2(k)(1)(A)(i); *see also Griggs*, 401 U.S. at 436. Furthermore, even if an employer can demonstrate validity, Title VII will not permit the employer to use the offending exam if there is an alternative employment practice with less disparate impact that will meet the employer's needs. *See* 42 U.S.C. § 2000e-2(k)(1)(A)(ii).

a. The Employment Practices Challenged By The United States
Resulted In A Disparate Impact Upon African-American And
Hispanic Candidates

To establish a *prima facie* case of disparate impact under Title VII, the plaintiff must identify a specific employment practice and prove by a preponderance of the evidence that the practice has had a disparate impact upon a protected group. 42 U.S.C. § 2000e-2(k)(1)(A)(i); *see Bazemore v. Friday*, 478 U.S. 385, 400-01 (1986); *see also Newark Branch, NAACP v. City of Bayonne*, 134 F.3d 113, 121 (3d Cir. 1998). Generally, plaintiffs rely on statistical evidence to

¹² This theory was first articulated in *Griggs*, 401 U.S. at 432, by the United States Supreme Court. Congress later codified the disparate impact theory of discrimination in the 1991 Civil Rights Act, which amended Title VII.

show disparate impact. *See Newark Branch, NAACP v. Town of Harrison*, 940 F.2d 792, 798 (3d Cir. 1991). Therefore, a plaintiff can demonstrate disparate impact by establishing that relevant statistical analysis reveals a significant disparity. *Id.* (citing *Dothard v. Rawlinson*, 433 U.S. 321, 329 (1977)). Typically, statisticians, testing experts, and social scientists consider a disparity to be “statistically significant” if the probability of the disparity occurring randomly is 5% or less, which is equivalent to a difference of approximately 1.96 units of standard deviation. *See Stagi v. Nat’l R.R. Passenger Corp.*, 391 Fed. App’x 133, 137-38 (3d Cir. 2010) (stating general rule that difference greater than two or three units of standard deviation is sufficient to rule out the possibility that the disparity occurred at random).¹³ As a result, courts typically accept, as sufficient to establish a *prima facie* case of disparate impact, disparities equivalent to more than two units of standard deviation. *See Hazelwood Sch. Dist. v. United States*, 433 U.S. 299, 308 n.14 (1977).

Based on information gathered and generated during both its pre-suit investigation and discovery, including the parties’ respective expert reports, the United States can demonstrate that the challenged employment practices at issue here – the use of a pass/fail exam as a barrier to promotion and the certification of police sergeant candidates in descending rank-order– have had a disparate impact upon African-American and Hispanic candidates for promotion to police sergeant.

First, African-American and Hispanic candidates were significantly less likely to pass the written exam at the cutoff scores used by the State. Analysis of test administration data from

¹³ *See also Waisome v. Port Auth.*, 948 F.2d 1370, 1376 (2d Cir. 1991) (“Social scientists consider a finding of two standard deviations significant, meaning there is about one chance in 20 that the explanation for a deviation could be random and the deviation must be accounted for by some factor other than chance.”) (citing *Ottaviani v. State Univ. of N.Y.*, 875 F.2d 365, 371 (2d Cir. 1989)).

2000 to 2009 inclusive indicates that the disparity between the respective pass rates of African-Americans and whites equates to 17.33 units of standard deviation, *see supra* Sec. III.A, which far exceeds the threshold of two to three units of standard deviation that courts usually deem sufficient to establish a *prima facie* case of disparate impact. Similarly, the differences between the respective written exam pass rates of Hispanics and whites during the 2000-2009 time period are statistically significant, with the disparity between the Hispanic pass rate and the white pass rate equal to 12.88 units of standard deviation.¹⁴ *See supra* Sec. III.A.

Second, because African Americans and Hispanics, on average, scored lower on the police sergeant written exam than white candidates, those African Americans and Hispanics who passed the exam tended to receive lower final scores, which caused them to be ranked lower on eligible lists, which in turn made them less likely than whites to be certified and promoted. *Id.* Analysis of test administration data from 2000 to 2008 inclusive shows that African Americans were statistically significantly less likely to be ranked high enough to be considered for promotion than their white counterparts, equivalent to 7.77 units of standard deviation. *Id.* Similarly, for Hispanics, analysis of test administration data from 2000 to 2008 inclusive shows that Hispanics were statistically significantly less likely to be promoted than white candidates, equivalent to 4.66 units of standard deviation. *Id.*¹⁵

¹⁴ Analysis of test administration data by each year separately also indicates statistically significant disparities between the pass rates of African-American and white candidates from 2000 to 2009 and between the pass rates of Hispanic and white candidates from 2001 to 2009, that are sufficient to establish a *prima facie* case. Siskin Decl., at ¶¶ 5-6.

¹⁵ Analysis of appointment data controlled by year also indicates statistically significant disparities in rank between African-American and white candidates from 2000 to 2009 and between Hispanic and white candidates from 2001 to 2008 inclusive, that are sufficient to establish a *prima facie* case. Siskin Decl., at ¶¶ 7-8.

In terms of real-world effects of these disparities, absent the State's pass/fail and rank order use of the police sergeant written exam, an estimated 75 African Americans and 30 Hispanics would have been promoted to police sergeant in 43 jurisdictions throughout New Jersey. *See supra* Sec. III.A. In sum, the United States would be able to satisfy its burden of establishing a *prima facie* case of disparate impact.

b. There Is Insufficient Evidence That The Challenged Practices Are Job-Related And Consistent With Business Necessity

Once the United States establishes a *prima facie* case, the State will be liable for violating Title VII unless it proves that the challenged practices are "job-related for the position in question and consistent with business necessity." 42 U.S.C. § 2000e-2(k)(1)(A)(i); *see Vulcan Pioneers, Inc. v. N.J. Dep't of Civil Serv.*, 625 F. Supp. 527, 545 (D.N.J. 1985) ("*Vulcan I*"); *see also Albemarle Paper Co. v. Moody*, 422 U.S. 405, 431 (1975) ("[D]iscriminatory tests are impermissible unless shown, by professionally acceptable methods, to be predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job.") (quoting EEOC's *Uniform Guidelines on Employee Selection Procedures* ("*Uniform Guidelines*"), 29 C.F.R. § 1607.4(C)); *El v. Se. Pa. Trans. Auth.*, 479 F.3d 232, 239 (3d Cir. 2007) ("[A] discriminatory employment test[] must bear a demonstrable relationship to successful performance of the jobs for which it was used.") (citing *Griggs*, 401 U.S. at 431). Importantly, it is the State's burden to prove validity; the United States does not carry the burden of demonstrating that the challenged employment practices lack validity. As discussed below, the materials the State produced to the United States during its pre-suit investigation and in connection with discovery, including a report from the State's expert on job-relatedness, indicate that the State is unable to show that the police sergeant written exam is job-related (in other words, "valid") or consistent with business necessity.

Of the three types of validity an employer may rely upon to satisfy its burden regarding the job-relatedness of a written promotional exam, New Jersey has asserted just one – content validity. *See generally Uniform Guidelines* 29 C.F.R. § 1607.14 (identifying three types of validation). “An examination has content validity if the content of the examination matches the content of the job.” *Vulcan Soc’y of New York City Fire Dep’t v. Civil Serv. Comm’n*, 360 F. Supp. 1265, 1274 (S.D.N.Y. 1973), *aff’d* 490 F.2d 387 (2d Cir. 1973); *see also Vulcan I*, 625 F. Supp. at 545-46 (content validity is established by demonstrating that the content of a test closely approximates the tasks performed on the job). To establish that an exam is content valid, an employer must prove, *inter alia*, that:

- (1) the test-makers must have conducted a suitable job analysis, ...
- (2) they must have used reasonable competence in constructing the test itself[,] (3) [] the content of the test must be related to the content of the job..., (4) the content of the test must be representative of the content of the job[,]... and the test must be used with (5) a scoring system that usefully selects from among the applicants those who can better perform the job.

Id. at 546 (citing *Guardians Ass’n of New York City Police Dep’t v. Civil Serv. Comm’n*, 630 F.2d 79, 91 (2d Cir. 1980)).

Based upon the above-enumerated factors, and as explained by the United States’ validity expert Dr. David P. Jones, Ph.D., the State cannot demonstrate that the police sergeant written exam is content valid. First, the State cannot show that its job analysis meets professionally accepted standards. *See supra* Sec. III.B. Second, the State is unable to establish that it used reasonable competence in developing the police sergeant written exam. *Id.* Third and fourth, the State cannot demonstrate that the content of the police sergeant written exam is either related to or representative of the content of the police sergeant position. *Id.* Finally, the State is unable to show that its two methods of use of the police sergeant written exam, the pass/fail use and rank-

order use, distinguish meaningfully among those candidates who can better perform the job of police sergeant.

Regarding the last point, an employer must establish, for instance, that the cutoff score used to make pass/fail decisions corresponds to “the minimum qualifications necessary for successful performance of the job in question.” *El*, 479 F.3d at 242. Pass scores should not be arbitrary; they should reflect the minimum performance necessary to successfully perform the job. *See id.*; *see also NAACP v. N. Hudson Reg’l Fire & Rescue*, 742 F. Supp. 2d 501, 522 (D.N.J. 2010) (stating that the job requirement must not be “an artificial, arbitrary, or unnecessary barrier”) (citing *Connecticut v. Teal*, 457 U.S. 440, 451 (1982)). There are several professionally recognized methods available for selecting an appropriate cutoff score in order to identify the more qualified candidates in a pool. The State did not use any of these methods. In fact, the State’s only criterion for selecting cutoff scores was its desire to avoid results that produced ethnic group-based disparate impact as defined by the 80% Rule. Thus, the State cannot contend that the cutoff score for the written exam bears any relationship to a candidate’s qualifications to perform the job of police sergeant.

Additionally, where, as here, the rank-order processing of candidates based on their exam scores results in disparate impact, to prove job-relatedness and business necessity, an employer must show that a candidate with a higher score would likely perform the job better than a candidate with a lower score. *See El*, 479 F.3d at 239 (stating that “test results must predict or correlate with important elements of work behavior”) (citing *Albemarle*, 422 U.S. at 431); *see also Ensley Branch of NAACP v. Seibels*, 616 F.2d 812, 822 (5th Cir. 1980); *Guardians*, 630 F.2d at 103; *Bradley v. City of Lynn*, 443 F. Supp. 2d 145, 171-72 (D. Mass. 2006). *See generally Uniform Guidelines*, 29 C.F.R. § 1607.5(G). The State has provided no evidence to

support the proposition that its rank-order use of the police sergeant written exam has that effect. The ratings from incumbents in the 1996 job analysis questionnaire on whether possessing differing levels of KSAs correspond to differing levels of performance on the job are insufficient to support rank-order use. *See supra* Sec. III.B. Thus, it is unknown to what extent increased possession of critical KSAs might result in better performance in the position of police sergeant.

2. The Relief Sought Is Appropriate

District courts have “not merely the power but the duty to render a decree that will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future.” *Albemarle*, 422 U.S. at 418 (citation omitted).¹⁶ Here, the relief provided in the Consent Decree is lawful, fair, adequate, and reasonable because: (i) the prospective injunctive relief ensures that the State will use a police sergeant selection procedure that complies with Title VII and does not unnecessarily exclude qualified African Americans and Hispanics from the position of police sergeant; (ii) it provides individual relief to African Americans and Hispanics who have actually been harmed by the challenged employment practices; and (iii) individuals whose interests may be affected by implementation of the Decree are afforded an opportunity to object and to have their objections resolved by this Court.

a. The Prospective Injunctive Relief Should Be Awarded

When an employer has engaged in a pattern or practice of discrimination in violation of Title VII, an award of prospective injunctive relief is justified without any further showing. *See Int’l Bhd. of Teamsters v. United States*, 431 U.S. 324, 361 (1977). Courts also have routinely

¹⁶ *See Mardell v. Harlesville Life Ins. Co.*, 65 F.3d 1072, 1074 (3d Cir. 1995) (“One purpose of Title VII is „to make persons whole for injuries suffered on account of unlawful employment discrimination.””) (citing *Albemarle*, 422 U.S. at 418); *United States v. New Jersey*, 658 F. Supp. 9, 12 (D.N.J. 1986), *aff’d sub nom. Vulcan Pioneers, Inc. v. N.J. Dep’t of Civil Serv.*, 832 F.2d 811 (3d Cir. 1987) (“*Vulcan II*”); *see also U.S. v. NJ*, 1995 WL 1943013, at *15.

entered consent decrees that afford prospective injunctive relief. *See, e.g., Vulcan II*, 832 F.2d at 816. Appropriate prospective injunctive relief may include a bar against future discrimination, an order to maintain records and generate compliance reports, or any other directive that is “necessary to ensure the full enjoyment of the rights” Title VII protects. *See Teamsters*, 431 U.S. at 361. Such relief may also include prohibiting the use of an unlawful exam or other invalid selection criteria, restricting the ability to promote from eligible lists shaped by unlawful selection practices, and ordering the adoption of new, lawful selection procedures. *See, e.g., Vulcan II*, 832 F.2d at 816 (affirming, in matter involving enforcement of consent decree, district court’s prohibitions on using discriminatory exams and making promotions from lists generated by unlawful exams).

Consistent with these parameters, the Decree in this case requires the State to develop a new, lawful procedure for screening and selecting candidates for promotion to the rank of police sergeant. *See supra* Sec. IV. The Decree also enjoins the State from using existing eligible lists for certifying candidates to the position of police sergeant – but only in ten jurisdictions where continued use of such lists may result in additional African-American and Hispanic victims. *Id.* Thus, the injunctive provisions of the Decree are lawful, fair, reasonable, and consistent with the public interest.

b. The Individual Relief Should Be Awarded

One of the central purposes of Title VII is to make whole persons who have been harmed by employment practices that violate the statute. In enacting Title VII, “Congress took care to arm the courts with full equitable powers” so that the courts may fashion relief for identifiable individuals harmed by unlawful employment practices. *Albemarle*, 422 U.S. at 418. To exercise those equitable powers, a court may “order such affirmative action as may be appropriate, which

may include, but is not limited to, reinstatement or hiring of employees, with or without backpay . . . or any other equitable relief as the court deems appropriate.” *Franks v. Bowman Transp. Co.*, 424 U.S. 747, 763 (1976) (quoting Section 706(g) of Title VII, 42 U.S.C. § 2000e-5(g)); *see also Booker v. Taylor Milk Co.*, 64 F.3d 860, 864 (3d Cir. 1995) (indicating that Title VII authorizes back pay); *U.S. v. NJ*, 1995 WL 1943013, at *20-22 (noting that circuit courts have repeatedly upheld lower court decisions granting seniority relief as a remedy in Title VII cases and that Title VII authorizes the creation of priority eligibility lists from which priority promotions will be made). In Title VII pattern or practice cases, “[t]he injured party is to be placed, as near as may be, in the situation he would have occupied if the wrong had not been committed.” *Albemarle*, 422 U.S. at 418-19 (citation omitted).

Given the above, courts have routinely entered consent decrees that confer the kinds of individual relief included here. *See, e.g., U.S. v. NJ*, 1995 WL 1943013, at *20-22 (finding as lawful consent decree that affords retroactive seniority and priority promotion relief). Under the Decree, the individual remedial relief provided – back pay, priority promotions, and retroactive seniority in the form of seniority credits for future promotions to those receiving priority promotions – is appropriate in light of the broad power afforded the courts to grant relief to individuals harmed by employment practices that violate Title VII. Importantly, individual remedial relief under the Decree is only available to those who were adversely affected by the practices the United States challenged – namely, African Americans and Hispanics who were never appointed as police sergeants and who (i) took and failed the police sergeant written exam or (ii) passed the exam but ranked too low to be selected for promotion. *See supra* Sec. IV.A.

In terms of back pay, the settlement fund of one million dollars (\$1,000,000.00) does not exceed the back pay amount the United States’ expert calculated would be due to victims should the United States prevail on its claims. *See supra* Sec. IV n.4 and IV.B.2.

The Decree also is narrowly tailored with respect to priority promotions. Indeed, the number of priority promotions required by the Decree (68 in 13 jurisdictions) is lower than the estimated promotions that would have been made absent the unlawful impact of the challenged employment practices (105 in 43 jurisdictions). *Compare supra* Sec.III.A with Sec. IV.A.3. Further, making priority promotions in 13 jurisdictions will have no effect on the other approximately 169 local jurisdictions that participate in the State’s civil service system. Finally, only Claimants who demonstrate that they are presently qualified for the position of police sergeant will be eligible for priority promotions. *See supra* Sec.IV.B.3.

The Decree also provides retroactive seniority credits for purposes of future promotional opportunities to Claimants who receive priority promotions.¹⁷ *Id.* Awarding retroactive seniority is necessary to attempt, to the extent possible, to put qualified individuals – who, but for the challenged practices, would have been promoted earlier – in the positions they would have occupied in the absence of the alleged discrimination. Such retroactive seniority relief ordinarily is necessary to achieve Title VII’s “make whole” objective. *See Franks*, 424 U.S. at 764-65; *U.S. v. NJ*, 1995 WL 1943013, at *19. In fact, courts have found that there is a presumption in favor of affording such seniority relief when the parties reach a voluntary settlement. *See Franks*, 424 U.S. at 780, n.41; *see also Moore v. City of San Jose*, 615 F.2d 1265, 1272 (9th Cir. 1980); *Bockman v. Lucky Stores, Inc.*, No. CIV S 83-039 RAR, 1986 WL 10821, at *4 (E.D.Cal. Aug. 11, 1986), *aff’d*, 826 F.2d 1069 (9th Cir. 1987).

¹⁷ The retroactive seniority awarded under the Decree is limited to seniority points and does not satisfy any time-in-grade requirements.

c. To Avoid Future Challenges To The Relief Awarded By The Court, The Decree Provides For Fairness Hearings Prior To Entry Of A Final Relief Order

To safeguard against later challenges, the Decree provides for two fairness hearings – an Initial Fairness Hearing and a Fairness Hearing on Individual Relief. Before the Initial Fairness Hearing, written notice of the Decree and the date of the Initial Fairness Hearing, as well as instructions for submitting objections, will be provided to persons whose interests may be affected, including labor organizations that represent police officers in New Jersey, incumbent police officers, and incumbent police sergeants. *See supra* Sec.IV.C.1. Notice will be made in several ways including (i) by mail; (ii) by way of conspicuous postings on the State’s websites; and (iii) in various newspapers that are readily accessible to potential claimants and other interested parties. At the Initial Fairness Hearing, the Court will determine, after considering timely filed objections, whether the terms of the Decree are lawful, fair, reasonable, and adequate.

Assuming the Decree is finally entered by the Court, a claims process will follow, after which Claimants will be given a second opportunity to object, this time to their awards of individual relief. During the second fairness hearing, the Court can evaluate whether the awards of individual relief are fair and equitable given the Claimant population and the total amount of relief available under the Decree. The Decree contemplates that the Court will, after considering timely filed objections, enter an order approving or modifying the proposed individual relief, as appropriate.

Importantly, the fairness hearings set forth in the Decree comport with 42 U.S.C. § 2000e-2(n)(1), which states, in relevant part that:

(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that

implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws--

(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had--

(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

(II) a reasonable opportunity to present objections to such judgment or order; or

(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

42 U.S.C. § 2000e-2(n)(1). Thus, the hearings will protect the Decree from collateral attack, including by alleviating any due process concerns, because interested parties will have notice of the Decree and an opportunity to object. *See generally Edwards v. City of Houston*, 78 F.3d 983, 991 (5th Cir. 1996) (“Section 2000e-2(n) protects consent judgments from certain subsequent collateral challenges by persons who, although not parties to the litigation that produced it, may have interests adversely affected by the judgment.”); *U.S. v. NJ*, 1995 WL 1943013, at *23 (concluding that fairness hearing process consistent with 42 U.S.C. § 2000e-2(n)(1)(A) protected the procedural due process rights of all individuals potentially affected by the consent decree).

C. The *Ricci v. DeStefano* Standard Is Easily Satisfied

Although *Ricci v. DeStefano*, 557 U.S. ___, 129 S. Ct. 2658 (2009) is not directly applicable to situations where an employer and the United States enter into a consent decree, the *Ricci* standard is easily satisfied here. In *Ricci*, the Supreme Court held that “race-based” action taken to avoid Title VII disparate impact liability may violate Title VII’s prohibition against disparate treatment. *Ricci*, 129 S. Ct. at 2664. To avoid such an outcome, an employer must possess a “strong basis in evidence” to conclude that absent taking the race-based action, it would be liable for a Title VII disparate impact violation. *Id.*

In this case, the United States’ extensive pre-suit investigation and the discovery that occurred (which involved the parties exchanging various expert reports and taking several depositions), along with the declarations of the United States’ experts offered in support of this memorandum, demonstrate *a strong basis in evidence* to conclude: (1) there is a *prima facie* case of disparate impact discrimination, *see supra* Sec. III.A; and (2) the challenged exams and their use by the State are not job-related and consistent with business necessity, *see supra* Sec. III.B.¹⁸ Thus, the *Ricci* standard is easily met here.¹⁹

VI. CONCLUSION

For the above reasons, the United States respectfully requests that the Court enter the accompanying proposed Order, which provisionally approves and enters the proposed Consent Decree and sets the time, date, and location of an initial fairness hearing.

¹⁸ There is also a *strong basis in evidence* to find that alternative selection devices exist to select candidates for supervisory, public safety positions that would have served the State’s legitimate needs and that have been demonstrated to have less adverse impact. It is unnecessary to set forth this evidence, however, since the challenged exam lacks validity.

¹⁹ There is also a *strong basis in evidence* to find both that recipients of individual relief are actual discrimination victims, *see supra* Sec.III, and that the Decree does not provide more than make-whole relief, *i.e.*, it is limited to the relief necessary to remedy the alleged discrimination, *See supra* Sec. IV.

Date: August 1, 2011

Respectfully submitted,

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EXHIBIT

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE

UNITED STATES OF AMERICA,

Plaintiff,

V.

STATE OF NEW JERSEY AND
NEW JERSEY CIVIL SERVICE
COMMISSION,

Defendants.

Civil Action No.

2:10- cv-00091-KSH-MAS

Hon. Katharine S. Hayden

CONSENT DECREE

This action was brought by the United States against the State of New Jersey and the New Jersey Civil Service Commission (the “State”) to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended (“Title VII”). This Court has jurisdiction of this action under 42 U.S.C. § 2000e-6 and 28 U.S.C. §§ 1343(a)(3) and 1345.

In its Complaint, the United States alleges that the State has pursued policies and practices that discriminate against and deprive or tend to deprive African Americans and Hispanics of employment opportunities because of their race and/or national origin, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Specifically, the United States alleges that since 2000, the State's (i) pass/fail use of a police sergeant written exam; and (ii) certification of police sergeant candidates in descending rank order based on a combination of candidates' written exam scores and seniority credits have resulted in a disparate impact upon

African-American and Hispanic candidates for promotion to police sergeant in local jurisdictions participating in New Jersey's civil service system. The United States further alleges that the State's uses of the written exam have not been shown to be job related for the position of police sergeant and consistent with business necessity.¹

The State denies that it has violated Title VII. Nevertheless, the United States and the State desire that this action be settled by an appropriate Consent Decree ("Decree") without the burden of protracted litigation, and agree to the jurisdiction of this Court over the Parties and the subject matter of this action. The United States and the State further agree to the entry of this Decree as final and binding between themselves as to the issues raised in the United States' Complaint in this action. Subject to the Court's approval of this Decree, the Parties waive hearings and findings of fact and conclusions of law on all issues, except as to the following, which the United States contends, the Court finds, and for purposes of this Consent Decree only and without admitting liability, the State does not dispute for purposes of these proceedings only:²

- a. Since at least 2000, the selection process used by the State in the screening and selection of candidates for promotion into the position of police sergeant in local jurisdictions throughout New Jersey that participate in the New Jersey civil service system has included the administration of a written exam ("police sergeant written exam"). Candidates cannot be considered for promotion to police sergeant unless they take and pass the police sergeant written exam.
- b. Candidates who meet the minimum qualifications set by the State and who achieve a passing score on the police sergeant written exam are placed on eligible lists for each

¹ This action alleges disparate impact discrimination. The United States does not allege in its Complaint that the State has intentionally discriminated against any person or group of persons under Title VII.

² The facts are based on the Declarations of Dr. Bernard Siskin, Ph.D., and Dr. David P. Jones, Ph.D., attached to the Parties' joint memorandum in support of entry of this Decree.

local jurisdiction in descending rank order based on their final scores. Final scores are a combination of police sergeant exam scores, weighted 80 percent, and seniority credits, weighted 20 percent.

- c. From 2000 to 2009, African-American and Hispanic candidates passed the police sergeant written exam at a lower rate than white candidates, and the disparity in pass rates is statistically significant.
- d. From 2000 to 2008, African-American and Hispanic candidates ranked lower on eligible lists than white candidates, and the disparity in ranks is statistically significant.
- e. The State's use of the police sergeant written exam as a pass/fail screening device from 2000 to 2009 resulted in a disparate impact upon African-American and Hispanic candidates for promotion to police sergeant sufficient to establish a *prima facie* case under Title VII.
- f. The State's determination and use of final scores to certify candidates from eligible lists in descending rank order from 2000 to 2008 resulted in a disparate impact upon African-American and Hispanic candidates sufficient to establish a *prima facie* case under Title VII.
- g. At least 48 additional African Americans would have been promoted to the position of police sergeant in local jurisdictions throughout New Jersey from 2000 to 2009 absent the disparate impact resulting from the State's pass/fail use of the police sergeant written exam and from the State's determination and use of final scores to certify candidates in descending rank order.
- h. At least 20 additional Hispanics would have been promoted to the position of police sergeant in local jurisdictions throughout New Jersey from 2000 to 2009 absent the disparate impact resulting from the State's pass/fail use of the police sergeant written exam and from the State's determination and use of final scores to certify candidates in descending rank order.
- i. The State's use of the police sergeant written exam as a pass/fail screening device and the State's determination and use of final scores to certify candidates from eligible lists in descending rank order are not job related or consistent with business necessity under professionally acceptable standards for validity.³

³ The United States also contends that alternative selection devices exist to select candidates for supervisory, public safety positions that would have served the State's legitimate needs and that have been demonstrated to have less adverse impact. Since the parties are proceeding under the theory that the challenged employment practices are not job related and consistent with business necessity, it is unnecessary to set forth these alternatives.

- j. The retroactive seniority awarded to Claimants under this Decree does not exceed the seniority lost by African-American and Hispanic candidates from 2000 to 2009 as a result of the State's pass/fail use of the police sergeant written exam and from the State's determination and use of final scores to certify candidates in descending rank order.
- k. The relief provided by this Decree does not exceed make-whole relief to individuals who would be considered victims of the practices challenged by the United States, and the procedures set forth in this Decree for identifying Claimants and allocating relief among them is fair, reasonable, equitable and otherwise consistent with federal law.
- l. Priority promotions and awards of retroactive seniority under this Decree are remedial relief for identified individuals based on their status as victims of the practices challenged by the United States and do not constitute race-conscious "affirmative action."

In resolution of this action, with the consent of the Parties, IT IS THEREFORE

ORDERED, ADJUDGED AND DECREED as follows:

I. DEFINITIONS AND PARTIES

- 1. The "Parties" to this Decree are the United States, by the Department of Justice, ("United States") and the State of New Jersey and the New Jersey Civil Service Commission (collectively, the "State").
- 2. "Back pay" refers to a monetary award that represents the value of some or all of the wages that a Claimant would have received if he or she had been promoted to the position of police sergeant on the Claimant's presumptive appointment date as defined in Paragraph 9.
- 3. "Claimant" refers to any African-American or Hispanic person from those jurisdictions identified in Attachment A who has not been promoted to police sergeant and who:
 - a. between 2000 and 2009, failed any one of the police sergeant written exams given by the State that resulted in an eligible list from which appointments were made; or

- b. passed any one of the police sergeant written exams given by the State between 2000 and 2008 but ranked below the lowest-ranking candidate appointed from any expired eligible list resulting from that administration of the written exam.

Attachment A sets forth the type of individual relief for which Claimants in specified jurisdictions are eligible. The names of those Claimants who are eligible for back pay are listed in Attachment B of this Decree. The names of those Claimants who are eligible for both back pay and priority promotion are listed in Attachment C of this Decree.

4. "Days" refers to calendar days unless business days are clearly specified in the context of a specific provision of this Decree. If any deadline referenced in this Decree should fall on a weekend or federal holiday, the deadline shall be moved to the next business day.

5. "Entry" of the Decree refers to the date that the Court orders entry of the Decree following the Initial Fairness Hearing described in Section IV of this Decree.

6. "Individual relief" refers to a monetary award in the form of back pay and/or an offer of priority promotion, including retroactive seniority that a Claimant may receive pursuant to the terms of this Decree.

7. "Local jurisdiction" refers to a municipality or county participating in the State of New Jersey's civil service system.

8. "Police sergeant" refers to a person promoted to a police sergeant position in a local jurisdiction participating in the State of New Jersey's civil service system, regardless of whether the person has completed any applicable probationary or working test period.

9. "Presumptive appointment date," with respect to a Claimant, refers to the start date that would have been available to the Claimant after he or she first:

- a. between 2000 and 2009, took and failed the police sergeant written exam given by the State that resulted in an eligible list from which appointments were made; or
- b. passed any one of the police sergeant written exams given by the State between 2000 and 2008 but ranked below the lowest-ranking candidate appointed from any expired eligible list resulting from that administration of the written exam.

The presumptive appointment date for each Claimant is based upon the median appointment date for candidates on the eligible list that would have included the Claimant or from which the Claimant would have been appointed. The presumptive appointment date for each Claimant eligible for both back pay and priority promotion is listed in Attachment C of this Decree.

10. "Retroactive seniority" refers to the seniority that the State will ensure Claimants who are awarded a priority promotion will receive. The amount of retroactive seniority will be based upon the presumptive appointment date of the Claimant, as defined in the preceding Paragraph. A Claimant's retroactive seniority date shall apply only to the calculation of seniority points for purposes of promotion. A Claimant's retroactive seniority shall not be used to satisfy any applicable probationary/working test period or time-in-grade requirement for eligibility for promotion.

11. "Selection device" refers to any exam, test, requirement or criterion used to evaluate a person's qualifications for appointment to the position of police sergeant (*e.g.*, application, written exam, oral interview, physical exam, and background investigation).

II. PURPOSES OF CONSENT DECREE

12. The purposes of this Decree are to ensure that:

- a. The State does not violate Title VII by using policies or practices for promotion to the position of police sergeant that violate Title VII on the basis of race and/or national origin;

- b. The State utilizes a new, lawful selection procedure that will serve the purposes of ensuring that promotions to police sergeant are based on merit and that the State's selection procedure does not unnecessarily exclude qualified African-American and Hispanic candidates; and
- c. The State provides, as appropriate, back pay and/or priority promotions with retroactive seniority to qualified persons who were denied a promotion to police sergeant due to the employment practices challenged by the United States in this case.

III. GENERAL INJUNCTIVE RELIEF

13. The State, its officials, agents, employees and successors, and all persons acting on behalf of or in active concert or participation with the State, are enjoined from using any selection device for the position of police sergeant that has a disparate impact upon African-American or Hispanic candidates on the basis of race or national origin and is not job related for that position and consistent with business necessity, or otherwise does not meet the requirements of Title VII.

14. The State, its officials, agents, employees and successors, and all persons acting on behalf of or in active concert or participation with the State, are enjoined from engaging in any act of retaliation or act which in any respect adversely affects a person on account of that person's participation in or cooperation with the initiation, investigation, litigation or administration of this case or this Decree or on account of that person receiving any relief pursuant to this Decree.

15. The State shall cease administering the existing police sergeant written exam challenged by the United States in this case to screen, select and appoint candidates for promotion to police sergeant. As set forth in Section VII of this Decree, a new and lawful selection device will be developed for purposes of screening, selecting or appointing persons to police sergeant positions.

16. The State shall cease using current eligible lists as part of its selection procedure for police sergeant in the local jurisdictions set forth in Attachment D, where continued use of such lists may result in a disparate impact upon African Americans or Hispanics and create an additional “shortfall” of African Americans or Hispanics who would have been promoted but for the State’s uses of the challenged exam.⁴

17. Notwithstanding the foregoing, the State may use existing eligible lists in all other local jurisdictions where continued use of such lists is not likely to result in a disparate impact upon African Americans or Hispanics and/or create an additional “shortfall” of African Americans or Hispanics who would have been promoted but for the State’s uses of the challenged exam. The use of these existing eligible lists will be an interim measure to fill police sergeant vacancies until an alternative selection device is approved and adopted in accordance with the terms of this Decree, as set forth in Section VII. The State shall not extend any existing eligible lists without the approval of the United States.

18. The State shall designate a person who shall be responsible for enforcing the provisions of this Decree. This person’s responsibilities shall include, but not be limited to, ensuring that the State fully implements and complies with all paragraphs of this Decree, and receiving complaints of discrimination on the basis of race and/or national origin in the screening, selection and appointment of police sergeants.

⁴ The methodology for determining the shortfall number is set forth in Paragraphs 11-13 of Dr. Siskin’s Declaration.

IV. NOTICE OF CONSENT DECREE AND INITIAL FAIRNESS HEARING

19. Upon execution of this Decree, the United States shall file an unopposed motion for the provisional approval and entry of the Decree by the Court and shall request an Initial Fairness Hearing on the terms of the Decree (“Initial Fairness Hearing”) so that the Court may determine whether the terms of the Decree are fair, reasonable, equitable and otherwise consistent with federal law. The Court shall provide the Parties with at least ninety (90) days notice of the date and time set for this Initial Fairness Hearing.

20. The purpose of the Initial Fairness Hearing and the related notification provisions of this Decree is to provide to all persons who may be affected by the terms of the Decree notice and an opportunity to present objections prior to final entry of the Decree, in accordance with Section 703(n) of Title VII, 42 U.S.C. § 2000e-2(n).

21. No later than seventy-five (75) days prior to the Initial Fairness Hearing, the State or its designee shall provide copies of a Notice of Settlement and Fairness Hearing, Instructions for Filing an Objection Prior to the Fairness Hearing, and a blank Objection to the Entry of the Consent Decree, in the formats set forth in Attachment E:

- a. via certified U.S. mail to the last known address of each African-American or Hispanic person identified in Attachments B and C, along with a cover letter in the format set forth in Attachment F to this Decree;
- b. to each police sergeant, as defined above, via hand delivery at the place of the person’s employment or as an attachment to or enclosure with each such person’s regularly distributed paycheck or notice of electronic deposit, along with a cover letter in the format set forth in Attachment G to this Decree; and
- c. via certified U.S. mail to the appointing authority in each local jurisdiction participating in the State of New Jersey’s civil service system, to each union or association recognized as being authorized to represent police sergeants in each such local jurisdiction and to police officers in the local jurisdictions identified in Attachments D and K.

At or before the time notices are provided pursuant to preceding subparagraphs (a)-(c), the State shall provide to the United States a list stating the name and last known address of each person or entity to whom such notice is being sent.

22. No later than seventy-five (75) days prior to the Initial Fairness Hearing, the State shall post the Notice of Settlement and Fairness Hearing, Instructions for Filing an Objection Prior to the Fairness Hearing, and a blank Objection to the Entry of the Consent Decree in the formats set forth in Attachment E on the State's and/or Civil Service Commission's website in a conspicuous location.

23. No later than seventy-five (75) days prior to the Initial Fairness Hearing, the State shall publish a Notice of Settlement and Fairness Hearing, in a form substantially the same as contained in Attachment E to this Decree, in newspapers or other widely-disseminated media. The published notice shall appear with a headline in bold typeface, surrounded by a dark border, shall be no smaller than 6 inches by 10 inches in size, shall be placed in the local news section or other prominent location agreed to by the Parties and shall be published for fourteen (14) days.

24. Persons who wish to object to the terms of the Decree may file objections, in accordance with the requirements set forth in Attachment E, as follows:

- a. Objections shall state the objector's name, address and telephone number; set forth a description of the objector's basis for objecting; include copies of any documentation supporting the objections; state the name and address of the objector's counsel, if any; and state whether the objector wishes the opportunity to be heard in Court at the Initial Fairness Hearing.
- b. Objections shall be mailed to the United States Department of Justice at the following address:

State of New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice

Civil Rights Division
PHB, Room 4710
950 Pennsylvania Avenue, NW
Washington, DC 20530

- c. Objections must be mailed and postmarked to the United States no later than forty-five (45) days prior to the date set for the Initial Fairness Hearing. Any person who fails to do so shall be deemed to have waived any right to object to the terms of this Decree, except for good cause as determined by the United States.

25. The United States shall serve upon the State copies of the objections it has received no later than thirty (30) days prior to the date set for the Initial Fairness Hearing.

26. No later than ten (10) days prior to the Initial Fairness Hearing, the United States shall file with the Court copies of all timely objections received by the United States. If the United States receives any objection(s) timely sent but received after the deadline set forth in Paragraph 24(c), the United States will supplement promptly its filing with the Court and its mailing to the State. In addition, no later than ten (10) days prior to the Initial Fairness Hearing, the Parties shall file their responses, if any, to all objections timely sent to the United States.

V. ENTRY OF THE CONSENT DECREE

27. If the Court determines that the terms of this Decree are fair, reasonable, equitable and otherwise consistent with federal law, the Court shall enter the Decree at or following the Initial Fairness Hearing.

VI. INDIVIDUAL RELIEF

A. Deposit of the Settlement Fund

28. Within thirty (30) days after the date of entry of this Consent Decree by the Court, the State shall deposit the sum of one million dollars (\$1,000,000.00) into two interest-bearing accounts ("Settlement Fund I" and "Settlement Fund II"), in a federally-insured financial

institution agreed to by the Parties. The total of one million dollars (\$1,000,000.00) shall be allocated as follows: the State shall deposit \$710,000 into Settlement Fund I and \$290,000 into Settlement Fund II.

29. Settlement Fund I, including any interest accrued on the amount deposited by the State into Settlement Fund I pursuant to the preceding Paragraph, shall be used by the State to make back pay awards to eligible African-American Claimants. Settlement Fund II, including any interest accrued on the amount deposited by the State into Settlement Fund II pursuant to the preceding Paragraph, shall be used by the State to make back pay awards to eligible Hispanic Claimants. The Settlement Fund from which a back pay award is drawn for any Claimant who identifies himself/herself as both African American and Hispanic shall be determined at the sole discretion of the United States. Any Claimant who the United States determines shall be paid from Settlement Fund I shall be considered an African-American Claimant for purposes of the priority appointment requirements of the Decree, and any Claimant who the United States determines shall be paid from Settlement Fund II shall be considered a Hispanic Claimant for purposes of the priority appointment requirements of the Decree.

30. No later than seven (7) days from the date of entry of this Decree, the State shall propose in writing to the United States a federally-insured financial institution for deposit of Settlement Funds I and II. The United States shall provide a written response to the State's proposal no later than seven (7) days after receipt of the State's proposal, either consenting to the proposed financial institution or objecting and proposing an alternative financial institution. If the Parties cannot agree on a federally-insured financial institution, either party may submit the dispute to the Court for resolution upon providing the other party with seven (7) days written notice of its intent.

B. Back Pay Awards from the Settlement Funds

31. Back pay awarded under this Decree will be paid by the State directly to Claimants upon approval by the Court of the Final Relief Awards List and in accordance with the process set forth in Section J of this Decree. The State shall withhold from each Claimant's back pay award all appropriate federal and state income taxes and the employee's Medicare and FICA tax.

C. Notice to Individuals Potentially Eligible for Relief

32. Individuals potentially eligible for relief under this Decree shall include all Claimants as that term is defined in this Decree.

33. Within thirty (30) days after entry of the Decree, the State shall send a copy of the Notice of Entry of Consent Decree and Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form set forth in Attachment H to this Decree, by certified U.S. mail, return receipt requested, to the last known address of each Claimant. The State shall keep records of all notices required by this Paragraph that are returned as undeliverable. Within twenty-one (21) days of the mailing of the notices, the State shall provide to the United States a list of all delivered and undelivered notices and a copy of all notices, envelopes and mail receipts for all persons to whom a notice was sent. If the United States provides the State with an alternative address for any person whose notice was returned as undeliverable, the State shall re-mail promptly the notice to the alternative address for that individual by certified U.S. mail, return receipt requested. If requested, the State shall provide to the United States information available to the State that may allow the United States to locate an alternative address for any person whose notice was returned as undeliverable.

D. Claimants to Submit Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form

34. In order to be eligible for relief under this Decree, a Claimant must return the completed Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form (Attachment H) to the United States no later than sixty (60) days from the date of entry of this Decree. Any Claimant who fails to do so shall be deemed to have waived any right to be considered for an award of individual relief under this Decree, except for good cause as determined by the United States. The date the Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form was mailed or otherwise delivered to the United States shall be deemed the date of return of the Claimant's form. In the event that an Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form is returned by U.S. mail but no date of mailing is indicated by a postmark of the United States Postal Service, the date of return of the Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form shall be deemed to be five (5) days prior to the date the form was received by the United States.

E. Initial Determination of Claimants' Preliminary Eligibility for Individual Relief

35. Within one hundred twenty (120) days after entry of this Decree, the United States shall provide to the State a Preliminary Relief Awards List that identifies all Claimants who have submitted an Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form to the United States and are preliminarily eligible for back pay and/or priority promotions. The list required by this Paragraph shall indicate the type(s) of relief, if any, for which the United States has determined each such Claimant is preliminarily eligible, and each such Claimant's presumptive appointment date for those preliminarily eligible for priority promotions, as defined in this Decree. If the United States determines that any Claimant is not

preliminarily eligible for a type of relief sought by the Claimant, the Preliminary Relief Awards List will include the reason(s) for that determination.

36. No later than one hundred fifty (150) days after entry of the Decree, the State shall provide to the United States in writing all of its objections, if any, to the eligibility of any Claimant(s) to compete for priority promotions as preliminarily determined by the United States. The State may object to the eligibility of any Claimant only on the basis that the Claimant was not qualified for the position of police sergeant using the lawful, objective appointment criteria in use by the State at that time. Each such objection shall state all grounds for the objection, identify all witnesses with knowledge of facts supporting the objection and include a copy of all documents supporting each objection.

F. Parties to Attempt to Resolve Any Disputes over Priority Promotions

37. The Parties shall make good faith efforts to resolve any disagreements, or objections submitted to the United States, regarding any Claimant's eligibility to compete for a priority promotion for which the Claimant has been deemed preliminarily eligible.

38. Upon the United States' request, the State shall make available within ten (10) days, for interview or deposition (at the United States' option), all available officials, agents and employees of the State with knowledge of facts supporting the State's objections made pursuant to Paragraph 36.

39. If the Parties are unable to resolve a dispute, the United States or the State may request that the Court resolve the dispute at the Fairness Hearing on Individual Relief pursuant to Paragraph 43. The State shall bear the burden of proving by a preponderance of the evidence that the Claimant is not eligible for a priority promotion.

G. Filing of Relief Awards List

40. No later than one hundred eighty (180) days after entry of the Decree, the United States shall file with the Court a Relief Awards List stating, for each Claimant who returned an Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form, the type(s) of relief sought by the Claimant, the type(s) of relief for which the United States deems the Claimant eligible, the amount of back pay (if any) for each Claimant and, for those eligible to compete for priority promotions, the Claimant's presumptive appointment date. In addition, for each Claimant the United States deems eligible for back pay, the Relief Awards List shall state the share of Settlement Fund I or II that the United States has determined should be awarded to the Claimant. The United States shall simultaneously serve a copy of the Relief Awards List upon the State.

41. The United States shall determine each Claimant's share of Settlement Fund I or II in a manner that is reasonable and equitable based upon a determination of the shortfall, the salary differentials in each local jurisdiction and the total amount of the appropriate Settlement Fund, and that is otherwise consistent with the provisions of this Decree.

42. In order to be eligible for back pay under this Decree, a Claimant need not express an interest in, or be eligible for, a priority promotion or accept an offer of appointment with a local jurisdiction.

H. Fairness Hearing on Individual Relief

43. Upon filing the Relief Awards List described in Paragraph 40 of this Decree, the United States shall move the Court to hold a Fairness Hearing on Individual Relief to allow the Court to determine whether the Relief Awards List filed by the United States should be approved

or amended. The Court shall provide the Parties with at least ninety (90) days notice of the date and time set for the Fairness Hearing on Individual Relief.

44. No later than eighty days (80) days before the date set for the Fairness Hearing on Individual Relief, the United States shall send, by certified U.S. mail, return receipt requested, to each Claimant, addressed to the last known or corrected/updated address of such Claimant, a Letter to Claimants, Instructions for Filing an Objection to Individual Relief and an Objection form, in the formats attached as Attachment I to this Decree, notifying the Claimant of (i) the United States' determinations regarding the Claimant's eligibility for relief under the Decree; (ii) the reasons for any determination that the Claimant is ineligible for any particular form of relief; (iii) whether the Claimant's eligibility to compete for a priority promotion has been disputed by the State and, if so, the reason(s) why; (iv) the Claimant's proposed share of back pay as stated on the Relief Awards List, if any; and (v) notice of the Fairness Hearing on Individual Relief and the procedure for filing an objection.

45. For each Claimant the United States has determined is eligible to compete for priority promotion, as indicated in the Relief Awards List, no later than seventy (70) days before the date set for the Fairness Hearing on Individual Relief, the State shall provide to the United States and file with the Court notice of any objection(s) the State has to the United States' determination. The State may not object to any Claimant's eligibility to compete for a priority promotion unless, pursuant to Paragraph 36 of this Decree, the State objected to a preliminary determination by the United States that the Claimant was eligible to compete for a priority promotion, and may not object on any grounds or support its objections with any documents or testimony not timely disclosed to the United States pursuant to Paragraph 36 of this Decree. The

State may not object to the United States' determinations regarding back pay reflected in the Relief Awards List filed by the United States.

46. Claimants who wish to object to the United States' relief determinations may file in accordance with Attachment I as follows:

- a. Objections shall state the Claimant's name, address and telephone number; set forth a description of the Claimant's basis for disputing the United States' relief determination; include copies of any documentation supporting the objections; state the name and address of the Claimant's counsel, if any; and state whether the Claimant wishes the opportunity to be heard in court at the Fairness Hearing on Individual Relief.
- b. Objections shall be submitted by mailing a copy of the Objection form to the United States Department of Justice at the following address:

New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
PHB, Room 4710
950 Pennsylvania Avenue, NW
Washington, DC 20530
- c. Objections must be mailed and postmarked to the above address no later than sixty (60) days prior to the date set for the Fairness Hearing on Individual Relief.

47. The United States shall serve upon the State copies of the objections it has received no later than thirty (30) days prior to the date set for the Fairness Hearing on Individual Relief.

48. No later than ten (10) days prior to the Fairness Hearing on Individual Relief, the United States shall file with the Court copies of all timely objections received by the United States. If the United States receives any objection(s) timely sent but received after the deadlines set forth in Paragraph 46(c), the United States will supplement promptly its filing with the Court and its mailing to the State. In addition, no later than ten (10) days prior to the Fairness Hearing

on Individual Relief, the Parties shall file their responses, if any, to all objections timely sent to the United States.

I. Approval of Final Relief Awards List

49. At or following the Fairness Hearing on Individual Relief, the Court shall determine which, if any, objections to the United States' Relief Awards List filed pursuant to Paragraph 48 are well founded. The Court shall then approve the Relief Awards List as submitted or, if the Court finds that any objection(s) with respect to a Claimant are well founded, shall amend the list to adjust the amount and nature of the relief to be awarded to the Claimant consistent with such finding, while maintaining, to the extent possible, the proportionate shares of back pay awarded to all other Claimants. The list approved by the Court will be the Final Relief Awards List.

50. The Court shall find that any objection by a Claimant, including an objection to the amount of back pay to be awarded to a Claimant or to the United States' determination that a Claimant is not eligible to compete for a priority promotion (as reflected on the Relief Awards List filed pursuant to Paragraph 40), is well founded only if the Court finds that the United States' determination was not reasonable, equitable or consistent with the provisions of this Decree or federal law.

51. The Court shall find that any objection by the State to the United States' determination that a Claimant is eligible for a priority promotion is well founded only if the State proves by a preponderance of the evidence that at the time of the Claimant's presumptive appointment date, the Claimant was not qualified for the position of police sergeant using the lawful, objective minimal qualifications in use by the State at that time.

J. Notice of Relief Award and Acceptance and Release

52. No later than thirty (30) days after the Court determines, at or following the Fairness Hearing on Individual Relief, each Claimant's eligibility for relief under this Decree, the United States shall mail by certified U.S. mail, return receipt requested, a Notice of Award of Individual Relief as set forth in Attachment J to all Claimants determined by the Court to be entitled to individual relief, as stated in the Final Relief Awards List, at their current or last known address. In accordance with Attachment J, notice shall include:

- a. A statement of the amount of the back pay award for that Claimant as stated on the Final Relief Awards List;
- b. An explanation of the time limit for acceptance of the back pay offer;
- c. If the Claimant has been determined by the Court to be eligible for consideration for an offer of a priority promotion, a statement of the Claimant's eligibility for such consideration, and the retroactive seniority date the Claimant will receive if the Claimant ultimately passes the police sergeant exam developed under the terms of this Decree and is certified by the State and appointed by the local jurisdiction;
- d. An Acceptance of Back Pay and Release of Claims or Acceptance of Back Pay and/or Consideration for Priority Promotion and Release of Claims form as described in the following Paragraph of this Decree; and
- e. Any withholding forms that are necessary for the State to comply with its withholding obligations under law and Paragraph 31 of this Decree.

53. No later than sixty (60) days after the Court approves the Final Relief Awards List, Claimants otherwise entitled to relief as indicated in the Final Relief Awards List must mail to the United States an executed copy of the Acceptance of Back Pay and Release of Claims or Acceptance of Back Pay and/or Consideration for Priority Promotion and Release of Claims form set forth in Attachment J of this Decree as a condition for the receipt of a back pay award and/or priority promotion, along with any withholding forms if the Claimant is eligible for back

pay. The Acceptance of Back Pay and Release of Claims or Acceptance of Back Pay and/or Consideration for Priority Promotion and Release of Claims form and any withholding forms must be postmarked no later than sixty (60) days after the Court approves the Final Relief Awards List in order to be considered timely. In the event that the United States receives an Acceptance of Back Pay and Release of Claims or Acceptance of Back Pay and/or Consideration for Priority Promotion and Release of Claims form where the postmark does not indicate a date of mailing, the United States will deem the date of mailing to be five (5) days prior to the date the form was received by the Department of Justice. A Claimant's failure to return an executed Acceptance of Back Pay and Release of Claims or Acceptance of Back Pay and/or Consideration for Priority Promotion and Release of Claims form within the time allowed shall constitute a rejection of the offer of relief and shall release the Parties from any further obligation under this Decree to make an award of relief to that Claimant.

54. No later than seventy-five (75) days after the Court approves the Final Relief Awards List, the United States shall forward to the State copies of all executed Acceptance of Back Pay and Release of Claims or Acceptance of Back Pay and/or Consideration for Priority Promotion and Release of Claims forms and withholding forms it received from Claimants listed in the Final Relief Awards List.

55. If any Claimant listed on the Final Relief Awards List rejects an offer of back pay, the United States shall reallocate the amount of back pay allocated to that Claimant to those other Claimants who timely returned all forms in a manner designed to allocate the total amount of back pay available in the Settlement Fund while preserving the relative proportions of the Claimants' shares of the Settlement Fund as stated on the Final Relief Awards List. No later than ninety (90) days after the Court approves the Final Relief Awards List, the United States

shall either amend the Final Relief Awards List to reflect any such reallocation of back pay and to reflect any rejections of priority promotions and provide a copy of the Amended Final Relief Awards List to the State, or notify the State that no amendments are required.

56. No later than thirty (30) days after the United States provides to the State the Amended Final Relief Awards List (or notifies the State that no amendments were required), the State or its designee shall mail via certified U.S. mail (return receipt requested) a back pay award check to each Claimant eligible for back pay, as listed on the Amended Final Relief Awards List (or the Final Relief Awards List if no amendments were required), in the amount stated for the Claimant on the relevant list, less all appropriate taxes and other amounts required to be withheld by law in accordance with Paragraph 31.

57. No later than forty-five (45) days after the United States provides to the State the Amended Final Relief Awards List (or notifies the State that no amendments were required), the State shall provide to the United States a copy of each back pay award check mailed to a Claimant pursuant to the preceding Paragraph, along with a statement indicating the amounts withheld from each such check and the purpose of each withholding.

58. No later than ninety (90) days after the United States provides to the State the Amended Final Relief Awards List (or notifies the State that no amendments were required), the State shall provide to the United States a list of all checks that have been returned to the State as undeliverable, as well as a statement of the amount of funds remaining in Settlement Funds I and II. For all undelivered checks, if attempts to locate the Claimant prove unsuccessful, any amount remaining in Settlement Fund I or II after such attempts will be redistributed as directed by the United States, in its sole discretion, in a manner consistent with the purposes of this Decree.

59. No later than one hundred twenty (120) days after the United States provides to the State the Amended Final Relief Awards List (or notifies the State that no amendments were required), the State shall provide to the United States a list of all checks that appear to have been delivered (no returned check), but which have not been cashed. The State shall mail a letter to such Claimants with uncashed checks to notify such Claimants that the award will be redistributed to other Claimants if the check is not cashed within sixty (60) days from the date of this letter. The letter shall further state that no further warnings regarding such redistribution will be given. If upon the expiration of the sixty (60) days there remain uncashed checks, the State will provide to the United States a list of all such outstanding checks as well as a statement of the amount of funds remaining in Settlement Funds I and II. Any amount remaining in the Settlement Funds after such time will be redistributed as directed by the United States, in its sole discretion, in a manner consistent with the purposes of this Decree.

K. Priority Appointment Relief with Retroactive Seniority

60. The State shall certify Claimants eligible for priority promotion over all other eligible candidates until a minimum of, and no more than, 68 offers of priority promotions have been made to eligible Claimants who pass the new selection procedure for police sergeant as developed under this Decree.

61. The 68 priority promotions shall be made to 48 African-American candidates and 20 Hispanic candidates, allocated to local jurisdictions as set forth in Attachment K to this Decree. If the number of eligible Claimants who pass the new selection procedure exceeds the number of priority promotions allocated to a particular local jurisdiction, eligible Claimants will be selected for priority promotions in accordance with the new selection procedure as developed under this Decree. All priority promotions shall be made in accordance with the provisions of,

and all Claimants seeking a priority promotion shall be subject to, N.J.A.C. 4A:4-4.1 through N.J.A.C. 4A:6-6.6; provided, however, that if a provision of the Decree conflicts with, or is otherwise inconsistent with, any provision of N.J.A.C. 4A:4-4.1 through N.J.A.C. 4A:6-6.6, the provisions of the Decree shall govern. All Claimants seeking a priority promotion will be subject to the requirements of N.J.S.A. 4A:4-4 to 6.6. No Claimant shall be eligible for promotion unless that Claimant has passed the police sergeant exam developed pursuant to this Decree. The State may include in any test cycle any or all of the local jurisdictions listed in Attachment K, regardless of whether any promotion list for any such local jurisdiction has expired or remains in effect.

62. In order for a Claimant to count as a priority promotion under this Decree, the Claimant must be eligible for a priority promotion as listed on the Final Relief Awards List (or the Amended Final Relief Awards List), must pass the police sergeant exam as developed under the provisions of this Decree and must be certified to a local jurisdiction by the State. The State is considered to have satisfied a priority promotion obligation under this Decree only when the Claimant begins his/her first day of paid employment as a police sergeant in a local jurisdiction. If a Claimant was offered and declined a priority promotion or is determined to be ineligible for a priority promotion as set forth in Paragraph 51, the priority promotion slot shall be offered to another eligible Claimant.

63. Nothing in this Decree shall preclude any Claimant from applying for promotion or being promoted into the position of police sergeant in a local jurisdiction under the State's regular promotion process. However, promotion of a Claimant under the State's regular promotion process shall not be counted toward fulfillment of the State's priority promotion obligations under this Decree nor shall it affect a Claimant's eligibility for back pay under this

Decree. The State also may not refuse to select a Claimant under its regular promotion process on the basis that the Claimant is eligible for a priority promotion or back pay under this Decree.

64. The group of African-American or Hispanic Claimants eligible for priority promotions, as indicated on the Final Relief Awards List (or Amended Relief Awards List), shall be deemed exhausted only when each such Claimant:

- a. Has been appointed as a police sergeant in a local jurisdiction as a priority promotion;
- b. In writing, has rejected an offer of a priority promotion made by the State pursuant to this Decree;
- c. Has accepted a priority promotion offer but, without good cause, failed to appear for his/her first day of employment as a police sergeant in a local jurisdiction;
- d. Has failed the police sergeant exam developed pursuant to this Decree; or
- e. Has been agreed by the Parties or determined by the Court to be currently unqualified for the position of police sergeant, using the lawful, objective appointment criteria (other than a residency or written exam requirement) in use by the State at that time.

65. The State or its designee shall notify a Claimant of an offer of a priority promotion by certified U.S. mail (return receipt requested) with a written offer for the police sergeant position, prominently indicating:

- a. That the offer is an offer of a priority promotion being made pursuant to this Decree;
- b. That, at the completion of the Claimant's probationary or working test period, the Claimant will be entitled to retroactive seniority as of the Claimant's presumptive appointment date as that term is defined in Paragraph 9 of this Decree;
- c. The beginning salary the Claimant will receive if the offer is accepted, as well as the salary the Claimant will receive after completion of the probationary or working test period;

- d. The telephone numbers at which the Claimant may contact the United States and the State with any questions regarding the offer of a priority promotion;
- e. That the Claimant has at least forty-five (45) days from the date on which the written offer of appointment was sent to notify the State that the Claimant accepts the offer;
- f. That the Claimant must provide written notice to both the State and local jurisdiction of the acceptance of an appointment. The written notice either must be received by both the State and the local jurisdiction no later than forty-five (45) days after the written offer was sent to the Claimant or, if the written notice is sent by mail, must be postmarked no later than fifty (50) days after the written notice was sent to the Claimant; and
- g. That the designation as a priority promotion pursuant to this Decree will remain confidential and will not be disclosed by the State or a local jurisdiction, provided, however, that the State may provide to a local jurisdiction any information reasonably necessary for such local jurisdiction to effectuate a priority promotion made in accordance with the terms of this Decree.

On the date on which such an offer of priority promotion is sent to a Claimant, the State shall send a copy of the offer to the United States.

66. Upon completion of the new testing process and following all steps identified in Paragraphs 64 and 65 of this Decree, the State will issue a priority promotion list for each of the local jurisdictions identified in Attachment K. The State shall certify Claimants on the priority promotion lists over all other eligible candidates for each local jurisdiction identified in Attachment K for the next police sergeant positions until:

- a. The allocation of the priority promotions for such local jurisdiction as set forth in Attachment K has been satisfied; or
- b. The group of Claimants eligible for priority promotions for the police sergeant position, as indicated on the Final Relief Awards List (or the Amended Final Relief Awards List) is exhausted for such local jurisdiction pursuant to Paragraph 64 (*i.e.*, all have either been appointed, rejected an offer of priority promotion or are not currently qualified as agreed by the Parties or determined by the Court).

67. At such time as a local jurisdiction has made all of the priority promotions allocated to that jurisdiction in Attachment K, or the group of eligible Claimants for that jurisdiction has been exhausted, the State and local jurisdictions may discontinue the use of the priority promotion list. For local jurisdictions identified in Attachment K with existing special reemployment lists, the State shall certify Claimants eligible for priority promotions on at least a one to one ratio with candidates on existing special reemployment lists for the next police sergeant positions. Certifications made from special reemployment lists pursuant to this Paragraph do not alter the State's priority promotion obligations set forth in preceding subparagraphs (a) and (b) or elsewhere in this Decree.

68. At least sixty (60) days before any administration of the new police sergeant selection procedure developed under the Decree in a local jurisdiction containing any Claimants eligible to compete for a priority promotion under this Decree, the State shall notify the United States, in writing, indicating the name of each Claimant and for each such Claimant, the date of the exam administration and whether the Claimant has applied to take the written exam.

69. Within fourteen (14) days after the State determines that a Claimant eligible to compete for a priority promotion has failed any aspect of the new selection procedure for police sergeant developed under the Decree, the State shall notify the United States in writing and at the same time, provide to the United States a copy of all documents and information that the State considered in determining that the Claimant has failed.

70. Within fourteen (14) days after the State has made an offer of a priority promotion, the State shall notify the United States of the identity of the Claimant to whom an offer has been made.

71. Within fourteen (14) days after the State receives from a Claimant a written rejection of an offer of a priority promotion made pursuant to this Decree, the State shall provide a copy of such written rejection to the United States.

72. Within fourteen (14) days after a Claimant fails to appear for his/her first day of paid employment, or the State determines that any Claimant is not currently qualified for the position of police sergeant using the lawful, objective appointment criteria in use by the State or local jurisdiction at that time, the State shall:

- a. so notify the United States in writing;
- b. if applicable, provide a written statement of all reason(s) the State or local jurisdiction believes the Claimant is not qualified currently; and
- c. if applicable, provide all information and documents (*e.g.*, criminal history records, exam scores) upon which the State or local jurisdiction based its determination.

73. If the United States notifies the State that the United States wishes to interview or depose any official, agent or employee of the State involved in evaluating the qualifications of a Claimant determined by the State to be not currently qualified, the State shall make such person available for interview or deposition (at the United States' option) within fourteen (14) days.

74. If the United States does not agree with the State's determination that a Claimant is not currently qualified for the position of police sergeant, the United States shall so notify the State within sixty (60) days after the date on which it receives the State's determination.

75. If the Parties cannot resolve a dispute regarding whether a Claimant is currently qualified, either party may request that the Court resolve the dispute no later than thirty (30) days after the United States notifies the State of its disagreement pursuant to the preceding Paragraph. This Court shall retain jurisdiction of all disputes regarding any Claimant's current qualifications

for purposes of the State's priority promotion obligations under this Decree. In any proceedings regarding such a dispute, the State shall bear the burden of proving by a preponderance of the evidence that the Claimant is not currently qualified based upon the minimum qualifications applied by the State to all candidates for promotion to police sergeant.

76. On the date on which a Claimant who was appointed as a priority promotion under this Decree completes the probationary or working test period, the State shall credit the Claimant with retroactive seniority that corresponds to the Claimant's presumptive appointment date as a police sergeant and as provided by this Decree.

VII. NEW EXAM DEVELOPMENT AND COMPLIANCE MONITORING

77. In consultation with the United States, the State will develop and administer a new lawful selection procedure to select qualified candidates for promotion to the position of police sergeant in local jurisdictions.

78. The exam described in the "Police Sergeant Test Validation Report 2011" (the "2011 Validation Report") will serve as the basis for the new police sergeant exam (the "police sergeant exam").

79. For the first administration of the police sergeant exam immediately following execution of the Decree by the Parties:

- a. The State will provide to the United States and the United States' expert(s) access to State personnel and to the State's expert(s) for the purposes of evaluating the police sergeant exam.
- b. The State will provide to the United States all evidence of job relatedness or validity of the police sergeant exam, including job analysis and test plans, as well as data underlying such analysis and test plans. The State will also provide the proposed announcement for the police sergeant exam, any proposed police sergeant orientation manual or study guide that contains information about the police sergeant exam, a proposed process for item development and review, and a proposal for the scoring and

weighting of all components of the exam, the standardization of exam scores and the manner of use in the creation of eligible lists.

- c. Recognizing that the job-relatedness and validity of an exam can be evaluated fully only after an exam has been administered, the United States shall review the materials provided by the State and make recommendations aimed at reducing impact while maintaining validity or at increasing the likelihood of validity no later than sixty (60) days after the United States receives all of the materials described in Paragraph 79(b). If the United States does not submit any recommendations within sixty (60) days, the State may announce and subsequently administer the police sergeant exam without changes. The Parties may agree to an extension of this timeline.
- d. If the United States makes recommendations within the timeline set in Paragraph 79(c) or within a timeline otherwise agreed to by the Parties, the State will implement the recommendations, except the State may object to any recommendation that it believes is unnecessary.
- e. If the State and the United States are unable to resolve a dispute regarding the United States' recommendations, either party may move the Court for resolution. The Parties acknowledge, however, that a determination of the validity of the testing process under Title VII must include an evaluation of additional factors such as scoring, weighting and particular use of the test. The United States reserve its right to raise objections regarding the manner of use pursuant to subsection (j) of this Paragraph.
- f. Upon implementation of modifications to the police sergeant exam or its manner of use pursuant to Paragraphs 79(c) and (d) or upon order of the Court pursuant to Paragraph 79(e), the State may administer the police sergeant exam.
- g. After administration of the police sergeant exam, the State will provide to the United States and the United States' expert(s) the gender, race, national origin, answer keys, exam forms, exam scores and access to item-level data (*e.g.*, test question responses for each candidate). The State will also provide to the United States a proposal that the State believes complies with Title VII regarding the scoring of all non-multiple choice components.
- h. The United States shall review the post-administration exam data and the States' proposed scoring of non-multiple choice components and make recommendations no later than thirty (30) days after the United States receives the materials described in Paragraph 79(g). If the United States does not submit any recommendations within thirty (30) days, the State

may score and use the police sergeant exam in accordance with its proposal. The Parties may agree to an extension of this timeline.

- i. If the United States recommends changes to the police sergeant exam as to the scoring of non-multiple choice components of the exam within the timeline set in Paragraph 79(h) or within a timeline otherwise agreed to by the Parties, the State will implement the changes, except the State may object to any change that it believes is unnecessary.
- j. If the State and the United States are unable to resolve a dispute regarding a change to the police sergeant exam as to its scoring of the non-multiple choice components, either party may move the Court for resolution. Upon a motion by either party, the Court shall hold a hearing regarding the lawfulness of the proposed manner of use of the police sergeant exam. The Parties agree that the burdens of proof set forth in 42 U.S.C. § 2000e-2(k) shall apply to this hearing. If the Court determines, following a hearing, that the proposed manner of use does not comply with Title VII, the State shall not use the police sergeant exam in that manner. Following submissions by the Parties, the Court will then decide upon an alternative use of the exam, if any, that complies with Title VII.
- k. Upon completion of all scoring of the exam, as to both multiple choice and non-multiple choice components, the State will provide to the United States and the United States' expert(s) gender, race, national origin, exam scores on the multiple choice and non-multiple choice components of the exam, combined scores, seniority scores and final scores and ranks, and a proposal as to the passing score for the exam.
- l. The United States shall review the State's proposed passing score and make recommendations no later than 20 days after the United States receives the proposal as to the passing score for the exam.
- m. If the United States recommends changes to the passing score within the time set in Paragraph 79(l), the State will implement the changes, except the State may object to any change that it believes is unnecessary.
- n. If the State and the United States are unable to resolve a dispute regarding the United States' recommendation as to the passing score, either party may move the Court for resolution.
- o. Upon implementation of the recommendations pursuant to Paragraph 79(l) or upon order of the Court pursuant to Paragraph 79(n), the State may implement the passing score and use the police sergeant exam results in the creation of eligible lists.

80. Prior to announcing the second administration of the police sergeant exam following execution of the Decree:
- a. The State will provide to the United States and the United States' expert(s) access to State personnel and to the State's expert(s) for the purposes of evaluating the police sergeant exam.
 - b. The State will provide the United States the proposed announcement for the police sergeant exam, and a proposal for the scoring and weighting of all components of the exam, the standardization of exam scores, the manner of use in the creation of eligible lists, including any proposed modifications to the exam, along with all evidence of job relatedness and validity to support such modifications.
 - c. No later than sixty (60) days after the State provides the notice, any proposed modifications and supporting materials described in Paragraph 80(b), the United States shall review any materials provided by the State, as well as the data and information from the prior exam administration, and make recommendations to the State aimed at alternative employment practices (*i.e.*, lessening the disparate impact caused by the exam, if any, while meeting the State's legitimate business needs). If the United States does not submit any recommendations within sixty (60) days, the State may announce and subsequently administer the police sergeant exam without changes. The Parties may agree to an extension of this timeline.
 - d. If the United States makes recommendations within the timeline set in Paragraph 80(c) or within a timeline otherwise agreed to by the Parties, the State will implement the recommendations, except the State may object to any recommendation that it believes is unnecessary.
 - e. If the State and the United States are unable to resolve a dispute regarding the United States' recommendations, either party may move the Court for resolution.
 - f. Upon implementation of modifications to the police sergeant exam or its manner of use pursuant to Paragraph 80(c) and (d) or upon order of the Court pursuant to Paragraph 80(e), the State may administer the police sergeant exam.
 - g. After administration of the police sergeant exam, the State will provide to the United States and the United States' expert(s) the gender, race, national origin, answer keys, exam forms, exam scores, and access to item-level data (*e.g.*, test question responses). The State will also provide to the United States a proposal that the State believes complies with Title

VII regarding the scoring of the non-multiple choice components of the exam.

- h. The United States shall review the post-administration exam data and the States' proposed scoring, weighting, and manner of non-multiple choice component of the exam and make recommendations as to the scoring of the non-multiple choice component of the exam no later than thirty (30) days after the United States receives the materials described in Paragraph 80(g). If the United States does not submit any recommendations within thirty (30) days, the State may score and use the police sergeant exam in accordance with its proposal. The Parties may agree to an extension of this timeline.
- i. If the United States makes recommendations as to the scoring of the non-multiple choice component of the exam, the State will implement the changes, except the State may object to any change that it believes is unnecessary.
- j. If the State and the United States are unable to resolve a dispute regarding a change to the scoring of the non-multiple choice component of the exam, either party may move the Court for resolution. The Parties agree that the burdens of proof set forth in 42 U.S.C. § 2000e-2(k) shall apply to this hearing. If the Court determines, following a hearing, that the proposed manner of use does not comply with Title VII, the State shall not use the police sergeant exam in that manner. Following submissions by the Parties, the Court will then decide upon an alternative use of the exam, if any, that complies with Title VII.
- k. Upon completion of all scoring of the exam, the State will provide to the United States and the United States' expert(s) gender, race, national origin, exam scores on the multiple choice and non-multiple choice components of the exam, combined scores, seniority scores and final scores and ranks, and a proposal as to the passing score for the exam.
- l. The United States shall review the State's proposed passing score and make recommendations no later than twenty (20) days after the United States receives the proposal as to the passing score for the exam.
- m. If the United States recommends changes to the passing score within the time set in Paragraph 80(l), the State will implement the changes, except the State may object to any change that it believes is unnecessary.
- n. If the State and the United States are unable to resolve a dispute regarding the United States' recommendation as to the passing score, either party may move the Court for resolution.

- o. Upon implementation of the recommendations pursuant to Paragraph 80(m) or upon order of the Court pursuant to Paragraph 80(n), the State may implement the passing score and use the police sergeant exam results to issue promotion lists.

81. Due to the importance of test security, along with concerns about the proprietary nature of test development materials, all correspondence and communications between and among the Parties and their test developers, consultants and/or experts in connection with the performance of the obligations set forth in Paragraphs 77 through 80 shall be held confidential and shall not be disclosed to any third party in the absence of a court order compelling such disclosure.

82. Following the first two administrations of the police sergeant exam, for subsequent administrations, the State will have no obligation to provide to the United States evidence of job relatedness or validity of the police sergeant exam, including job analysis, test plans, and test content, or data underlying such analysis, test plans and content. The State will also have no obligation to provide the United States and the United States' expert(s) access to State personnel and to the State's expert for the purposes of exploring possible changes to the police sergeant exam. For the third and fourth subsequent administrations of the police sergeant exam after entry of the consent decree, however, the State will provide to the United States the gender, race, national origin, exam scores, seniority scores and rank of each candidate and the eligible lists resulting from the administration of the police sergeant exam within fourteen days of creation of the eligible lists, and any certification data within fourteen days of creation of the certification.

83. The State may in its discretion continue to provide data and information requested by the United States for additional administrations of the exam.

84. After the first two administrations of the police sergeant exam, the State may administer the police sergeant exam without awaiting agreement from the United States.

VIII. RECORD KEEPING REQUIREMENTS

85. While this Decree remains in effect, the State shall maintain all of the following records (including those created or maintained in electronic form):

- a. all applications for police sergeant positions;
- b. all documents relating to the screening, evaluation or selection of candidates for the position of police sergeant;
- c. all documents relating to written or verbal complaints made by any person or organization regarding discrimination on the basis of race and/or national origin in the appointment of police sergeants;
- d. all documents relating to the evaluation or selection of Claimants to be offered priority appointment and/or to the employment of Claimants appointed as priority appointments under this Decree; and
- e. all other documents relating to the State's compliance with the requirements of this Decree, including but not limited to documents relating to the payment or award of individual relief to any Claimant under this Decree.

86. Except as otherwise provided in this Decree, the State will make available to the United States, no later than thirty (30) days after the United States so requests in writing, any records maintained in accordance with the preceding Paragraph of this Decree and any additional documents relating to any dispute arising under the Decree.

87. When possible, all records furnished to the United States shall be provided in a computer-readable format to be agreed upon by the Parties prior to production.

88. Within thirty (30) days after the United States so requests in writing, the State shall make available for interview or deposition (at the United States' option) any agent, employee or official of the State who the United States reasonably believes has knowledge of

information necessary to verify the State's compliance with the terms of this Decree or to resolve a dispute arising under this Decree.

VII. DURATION OF CONSENT DECREE

89. Unless otherwise ordered by this Court, and absent the pendency of any motion related to this Decree, this Decree shall expire without further order of the Court on the latest of the following dates:

- a. Three years from the date of the entry of the Decree;
- b. Upon fulfillment of the Parties' obligations regarding the individual relief to be awarded under this Decree; or
- c. Upon the State's administration of the second police sergeant exam contemplated by Section VII or Paragraph 80(n) of this Decree and after the time for the United States to make recommendations regarding the content or manner of use of the police sergeant exam in accordance with Paragraph 80(m) or after the time for a hearing contemplated by Paragraph 80(n) has expired.

90. Either party may move the Court to extend the duration of the Decree only upon a showing of good cause.

IX. COSTS AND FEES

91. Each party shall bear its own costs and expenses incurred as a result of obligations imposed by this Decree, including the cost of all notification and publication procedures.

92. Each party shall bear its own costs, expenses, and attorneys' fees incurred in this litigation.

X. MISCELLANEOUS

93. The Court shall retain jurisdiction over this Decree for the purpose of resolving any disputes or entering any orders that may be appropriate to implement the Decree, including joining any parties whose joinder is necessary to accord complete relief under this Decree.

94. By mutual agreement, the Parties may change the terms of this Decree, provided that such mutual agreement is memorialized in writing, signed by the Parties and approved by the Court.

95. This Decree constitutes the entire agreement of the Parties, and supersedes all prior agreements, representations, negotiations and undertakings not set forth or incorporated herein.

96. Except as otherwise provided in this Decree, all written information and documents required to be delivered under this Decree to the United States by the State shall be sent via overnight delivery to the following address:

New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
PHB, Room 4710
601 D Street NW
Washington, DC 20004

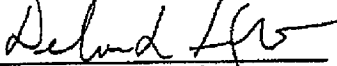
97. Any documents required to be delivered under this Decree by the United States to the State shall be sent to:

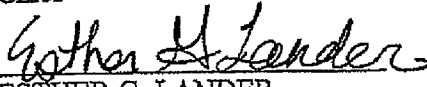
Department of Law and Public Safety,
Division of Law
Richard J. Hughes Justice Complex
Post Office Box 112
Trenton, New Jersey 08625-0112

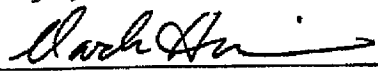
It is so **ORDERED**, this _____ day of _____, 2011

UNITED STATES DISTRICT JUDGE

THOMAS E. PEREZ
Assistant Attorney General
LORETTA KING
Deputy Assistant Attorney General

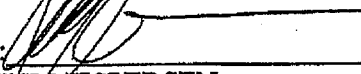
By: 
DELORA KENNEBREW
Chief


ESTHER G. LANDER
Deputy Chief


VARDA HUSSAIN
VALERIE L. MEYER
HILARY J. FUNK
ELIZABETH B. BANASZAK
TREVOR S. BLAKE II
Trial Attorneys
United States Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Telephone: (202) 305-4267

Counsel for Plaintiff United States

KEVIN JESPERSEN
Assistant Attorney General
LISA D. RUCH
Deputy Attorney General

By: 
KEVIN JESPERSEN
Department of Law and Public Safety,
Division of Law
Richard J. Hughes Justice Complex
Post Office Box 112
Trenton, New Jersey 08625-0112
Telephone: (609) 292-8866

Counsel for Defendants State of New Jersey
and New Jersey Civil Service Commission

ATTACHMENT

A

ATTACHMENT A

JURISDICTIONS IN WHICH CLAIMANTS ARE
ELIGIBLE FOR INDIVIDUAL RELIEF

	Jurisdiction	Type of Individual Relief for Which Claimants Are Eligible	
		Back Pay	Priority Promotion
1	Asbury Park	x	
2	Atlantic City	x	x
3	Bayonne	x	
4	Bridgeton	x	x
5	Burlington	x	
6	Camden	x	x
7	Deptford	x	
8	Dover	x	
9	East Orange	x	x
10	Elizabeth	x	x
11	Ewing	x	
12	Garfield	x	
13	Hackensack	x	
14	Hamilton	x	
15	Hillside	x	
16	Hoboken	x	x
17	Irvington	x	
18	Jersey City	x	x
19	Kearny	x	
20	Lawrence	x	
21	Magnolia	x	
22	Morristown	x	
23	New Brunswick	x	x
24	Newark	x	x
25	North Brunswick	x	
26	Orange	x	
27	Passaic	x	x
28	Paterson	x	x
29	Pennsauken	x	
30	Perth Amboy	x	
31	Plainfield	x	
32	Pleasantville	x	
33	Roselle	x	
34	Scotch Plains	x	
35	Somerdale	x	

36	Teaneck	x	x
37	Trenton	x	x
38	Vineland	x	
39	Wallington	x	
40	Weehawken	x	
41	West New York	x	
42	Willingboro	x	
43	Woodridge	x	

ATTACHMENT

B

ATTACHMENT B**CLAIMANTS ELIGIBLE FOR BACK PAY**

	Jurisdiction	Name
1	Asbury Park	Christie Carl W
2	Asbury Park	Vick Donald
3	Asbury Park	Smith Lisa D
4	Asbury Park	Lyons Jr Alfred M
5	Asbury Park	Davis Darrius R
6	Asbury Park	Pickett David E
7	Asbury Park	Ramseur Steven M
8	Asbury Park	Pettway Lorenzo M
9	Asbury Park	Montgomery Phillip J
10	Asbury Park	Washington Johnny
11	Asbury Park	Nove Stephen
12	Asbury Park	Butler Anthony C
13	Bayonne	Gordon Howard T
14	Bayonne	Gordon Lawrence R
15	Bayonne	Booker Loyad
16	Bayonne	Rhodes Steven M
17	Burlington	Hymes Michael
18	Burlington	Dickerson Robert L
19	Burlington	Tiggett Jr Charles L
20	Burlington	Davenport Conrad
21	Burlington	Simmons William M
22	Burlington	Gittens Arthur A Iii
23	Burlington	Richardson Charles E
24	Burlington	Hazzard Floyd M
25	Deptford	Singleton William H
26	Deptford	Jones Howard A
27	Deptford	Graves Todd C
28	Deptford	Myers Jr Odess H
29	Deptford	Martin Matthew L
30	Dover	Negron Joaquin
31	Dover	Ruiz Harry
32	Ewing	Copeland Timothy
33	Ewing	Murphy William T
34	Ewing	Davis Gerald E
35	Ewing	Custis Bob
36	Garfield	Carrafiello Dominick J
37	Garfield	Sanchez Francisco P
38	Hackensack	Martin Kenneth J
39	Hackensack	Prise Jr James W

40	Hamilton	Hendryx Sr Quincy L
41	Hamilton	Ialacci Joseph A
42	Hamilton	Mc Donald Keith A
43	Hamilton	Davis Brian C
44	Hamilton	Walters James L
45	Hillside	Young Sean G
46	Hillside	Combs Larkin D
47	Hillside	Clerk Terence R
48	Hillside	Wilson Brian K
49	Hillside	Ragin Lorne G
50	Hillside	Holmes James K
51	Hillside	Mclucas Pamela S
52	Hillside	Avent Treniece S
53	Hillside	Brown Morgan Qiana M
54	Irvington	Brown Miles
55	Irvington	Boykins Kevin R
56	Irvington	Beaumont Winchester J
57	Irvington	Lacoste Heine
58	Irvington	Wilson Eric T
59	Irvington	Polk Douglas A
60	Irvington	Clark Desmond
61	Irvington	Davis Sanford E
62	Irvington	Horton Akilah S
63	Irvington	Abney Pamila D
64	Irvington	Hutcheson Kenneth
65	Irvington	Clyburn James W
66	Irvington	Eatman Jesse T
67	Irvington	Brown Robin M
68	Irvington	Wilson Glenise
69	Irvington	White Jr John H
70	Irvington	Reynolds Jr Lawrence W
71	Irvington	Mays Pamela
72	Irvington	Alston Jerry
73	Irvington	Alston Wayne
74	Irvington	Farmer Anthony M
75	Irvington	Wilkins Richard
76	Irvington	Taylor Maurice K
77	Irvington	Goines Bobby
78	Irvington	Lewis Jr Lavel
79	Irvington	Way Ardwin L
80	Irvington	Green Mark E
81	Irvington	Rucker Phillip J
82	Irvington	Holmes Darryl

83	Irvington	Hinton Daphine A
84	Irvington	Noel Jeffrey
85	Irvington	Maxwell Claude L
86	Irvington	Otto Eugene I
87	Irvington	Diogene Wilman
88	Irvington	Gattison Maurice
89	Irvington	Rice Brian M
90	Irvington	Exil Ernest
91	Irvington	Hutcheson Charles W
92	Irvington	Turley Jr Leonard N
93	Irvington	Dundas David J
94	Irvington	Woodard Steven
95	Irvington	Woods Kimiiko L
96	Irvington	Burrell Christopher B
97	Irvington	Whiting Crawford
98	Irvington	Thomas Twanda
99	Irvington	Young Dennie C
100	Irvington	Clarke Mario H
101	Irvington	Jean Simon Albern E
102	Irvington	Capers Charles L Jr
103	Irvington	Gatling William B Jr
104	Irvington	Hooper Ira H
105	Irvington	Myers Michael A
106	Irvington	Hughes Kevin L
107	Irvington	Coates Darius D
108	Irvington	Diogene Gary J
109	Irvington	Jenkins Christopher S
110	Irvington	Davis Harriet L
111	Irvington	Jackson Taj M
112	Kearny	Torrado James A
113	Kearny	Plaugic John A
114	Kearny	Lopez Ramon
115	Kearny	Hernandez Theamaris J
116	Kearny	Canela Jose L
117	Kearny	Negron Cesar L
118	Kearny	Gonzalez Michael
119	Kearny	Rakowski David
120	Kearny	Norat Francisco J
121	Lawrence	Chester William C
122	Lawrence	Smith Michael L
123	Lawrence	Glenn John F
124	Magnolia	Jones Jr Paul
125	Morristown	Downey Beverly J

126	Morristown	Cousin Carl S
127	North Brunswick	Carmen Vernon L
128	North Brunswick	Marshall Tawana
129	North Brunswick	Campbell Michael A
130	North Brunswick	Cox Myron O
131	North Brunswick	Nicholson Nathaniel
132	Orange	Lane Joseph
133	Orange	Cherry Robert W
134	Orange	Holmes Anthony C
135	Orange	Grundy Tyrone B
136	Orange	Garey Christopher J
137	Orange	Coley Kerry Sr J
138	Orange	Moore Fayette
139	Orange	Worthen Litasha B
140	Orange	Jenkins Jr Albert A
141	Orange	Dickens Lia Y
142	Orange	Booker Tyrrik R
143	Orange	Brown Renee E
144	Orange	Toomer Julian S
145	Orange	Brown Tangela M
146	Orange	Deberry Troy L
147	Orange	Davis Erik S
148	Orange	Martin Joseph H
149	Orange	Polhill Robert L
150	Orange	Tisdale Dickson Karyn
151	Orange	Hunter Sr Fidel C
152	Orange	Shields Kieran T
153	Orange	Hill Betty R
154	Orange	Lewis Rontesia S
155	Pennsauken	Graham James W
156	Pennsauken	Gilbert Raymond L
157	Pennsauken	Graham Walter
158	Pennsauken	Sampson Shaun I
159	Pennsauken	Coward Jr George J
160	Pennsauken	Long Aerika R
161	Perth Amboy	Sandomierski Judith
162	Perth Amboy	Sanabria Orlando
163	Perth Amboy	Lagomarsini Armando
164	Perth Amboy	Petrosino Stephen
165	Perth Amboy	Banfield Stephen
166	Perth Amboy	Rodgers Henry H
167	Perth Amboy	Harris Michael
168	Perth Amboy	Swindell Dale B

169	Perth Amboy	Lopez William
170	Perth Amboy	Rivera Jr Arcadio
171	Perth Amboy	Martinez Jesus
172	Perth Amboy	Harris Rene D
173	Perth Amboy	Rivera Sandra
174	Perth Amboy	Vargas Jim
175	Perth Amboy	Pineiro Jr Rafael A
176	Perth Amboy	Strait Lisa D
177	Perth Amboy	Melendez Jr Carmelo
178	Plainfield	Sanders Rodney D
179	Plainfield	Calvin Jean R
180	Plainfield	Slaughter Wayne E
181	Plainfield	Burrugws Linda F
182	Plainfield	Hudson Jr Leslie H
183	Plainfield	Robinson Benita R
184	Plainfield	Jones Ii Lonnie C
185	Plainfield	Crawford Andre A
186	Plainfield	Hunter Barry T
187	Plainfield	Lucky Michael G
188	Plainfield	Moffatt Kevin
189	Plainfield	Christmas Eugene J
190	Plainfield	Carden Lonnie J
191	Plainfield	Goldston Eugene L
192	Plainfield	Williams Stanton A
193	Plainfield	Staten Daniel W
194	Plainfield	Taylor Eric W
195	Plainfield	Howell Roger C
196	Plainfield	Brown Jr Richard D
197	Plainfield	Belle Dave F
198	Plainfield	Abdel Samad A
199	Plainfield	Hunter Jr Darnell
200	Plainfield	Carmen Harold B
201	Plainfield	Johnson Kenneth L
202	Plainfield	Alexander Sr Robert
203	Plainfield	Cooper Toney
204	Plainfield	Bennette Francess C
205	Plainfield	Key Woodrow Jr
206	Plainfield	Henderson Johnny
207	Plainfield	Walker Alana S
208	Plainfield	Lawson Tamiko E
209	Plainfield	Harrison Mylis B
210	Plainfield	Lewis Rakeen A
211	Plainfield	Nash Brown Inesha

212	Plainfield	Johnson Reginald C
213	Plainfield	Alston Troy L
214	Plainfield	Mcneill Jesse A
215	Plainfield	Montgomery Craig S
216	Pleasantville	Valentin Angel L
217	Pleasantville	Toro Stanley
218	Roselle	Bullock Marlin D
219	Roselle	Barnes Brian K
220	Roselle	Hutchins Jr Roger K
221	Roselle	Houston James F
222	Roselle	Lespinasse Woodygens G
223	Roselle	Williams Stacey L
224	Scotch Plains	Johnson Shawn
225	Somerdale	Hawkins Jr William E
226	Vineland	Mendez Josephine M
227	Vineland	Alvarez Orlando
228	Vineland	Minguela Angel L
229	Vineland	Ramos Antonio Jr
230	Vineland	Vargas Albert
231	Vineland	Cruz Gamaliel
232	Vineland	Negron Luis A
233	Vineland	Martinez Phillip M
234	Vineland	Velez Beny
235	Vineland	Ramos Edwin
236	Vineland	Rodriguez Joseph M
237	Vineland	Quiles Louis A
238	Vineland	Rodriguez Mayte
239	Vineland	Latorre Danny
240	Vineland	Rodriguez Christopher
241	Vineland	Gonzalez Nelson E
242	Wallington	Norris David L
243	Weehawken	Roa Rene E
244	Weehawken	Martinez Joseph
245	Weehawken	Mejia Juan D
246	Weehawken	Same Augusto A
247	Weehawken	Saldarriaga Rene
248	Weehawken	Berenguer Carlos L
249	Weehawken	Hammer Eric J
250	Weehawken	Mera Julian B
251	West New York	Ramos Jorge L
252	West New York	Vializ John
253	West New York	Chemas Hilenne P
254	West New York	Moreno Erwin S

255	West New York	Martinez Joaquin A
256	West New York	Villegas Jose N
257	West New York	Hernandez Leonardo
258	West New York	Sanchez Hugo S
259	West New York	Rivera Luis A
260	West New York	Alvarez John J
261	West New York	Lara Johnny A
262	West New York	Diaz Reynaldo J
263	West New York	Rivera Matthew M
264	West New York	Nunez Juan C
265	West New York	Fontanez Bievenido
266	West New York	Batres Max A
267	West New York	Molina Armando
268	West New York	Laffont Juan C
269	West New York	Macias Guillermo
270	West New York	Rodriguez Francisco J
271	West New York	Martinez Elio N
272	West New York	Alvarez Jose R
273	West New York	Barrera Marco A
274	West New York	Ycaza Gabriel
275	West New York	Hernandez Ray J
276	West New York	Garciga Eric
277	West New York	Garciga Marcos J
278	West New York	Martinez Victor O
279	West New York	Montano Victor S
280	West New York	Alvarez Elvis
281	West New York	Pardo Carlos
282	West New York	Rana Andres
283	West New York	Reynoso Cesar
284	West New York	Batista Janette
285	West New York	Rivera Edward J
286	West New York	Moreno Carlos A
287	West New York	Codina Henry
288	West New York	Acosta Denny
289	West New York	Munoz Elvin R
290	West New York	Mateos Carlos E
291	West New York	Montano Victor
292	Willingboro	Moore Roger F
293	Willingboro	Ellington Courtney T
294	Willingboro	White Anthony L
295	Willingboro	Gist James A
296	Willingboro	Palmore Jonathan P
297	Willingboro	Harvey Walter B

298	Willingboro	Boone Valenskie Y
299	Willingboro	Langford Jr Bennie V
300	Willingboro	Lomon Kinano A
301	Willingboro	Manson James C
302	Wood-Ridge	Biamonte Joseph .E. Jr.

ATTACHMENT

C

ATTACHMENT C

LIST OF CLAIMANTS ELIGIBLE FOR BACK PAY AND PRIORITY PROMOTION
(WITH PRESUMPTIVE APPOINTMENT DATES)

	Jurisdiction	Name	Presumptive
1	Atlantic City	Gaines Jr Roderick D	1/5/06
2	Atlantic City	Herrerias William	1/5/06
3	Atlantic City	Arroyo Michael J	1/5/06
4	Atlantic City	Munoz Dennis C	1/5/06
5	Atlantic City	Francisco Michael D	1/5/06
6	Atlantic City	Davis Henry A	1/5/06
7	Atlantic City	Minor Shivers Adria	1/5/06
8	Atlantic City	Lampson Marta D	1/5/06
9	Atlantic City	Lathan Sr Jerrell M	1/5/06
10	Atlantic City	Rodriguez Jimmy	1/5/06
11	Atlantic City	Graham Michael C	1/5/06
12	Atlantic City	Knights James M	1/5/06
13	Atlantic City	Ward Anthony C	1/5/06
14	Atlantic City	Sims Lisa R	1/5/06
15	Atlantic City	Rodriguez Joseph	1/5/06
16	Atlantic City	Davis James M	1/5/06
17	Atlantic City	Curtis William L	1/5/06
18	Atlantic City	Mason Sr Michael J	1/5/06
19	Atlantic City	Graham Michelle Y	1/5/06
20	Atlantic City	Kelly Joseph A	1/5/06
21	Atlantic City	Barefield Madeline	1/5/06
22	Atlantic City	La Torre Joseph F	1/5/06
23	Atlantic City	Davis Raymond G	1/5/06
24	Atlantic City	Dabney Daryl N	1/5/06
25	Atlantic City	Miller John A	1/5/06
26	Atlantic City	Jackson William H	1/5/06
27	Atlantic City	Hadley David A	1/5/06
28	Atlantic City	Farmer Gregory L	1/5/06
29	Atlantic City	Mozelle Char-Lynn	1/5/06
30	Atlantic City	Redd Sr Forrest B	1/5/06
31	Atlantic City	Lathan Jr Harold J	1/5/06
32	Atlantic City	Jones Jr Lonell	1/5/06
33	Atlantic City	Ingram Gregory L	1/5/06
34	Atlantic City	Fauntleroy Jeffree N	1/5/06
35	Atlantic City	Adams George A	1/5/06
36	Atlantic City	Ellis Ray R	1/5/06
37	Atlantic City	Rivera Sr Michael L	1/5/06
38	Atlantic City	Thomas Jr Samuel L	1/5/06

39	Atlantic City	Taylor Larry L	1/5/06
40	Atlantic City	Brown George E	11/21/07
41	Atlantic City	Harris Kiyia M	11/21/07
42	Atlantic City	Holmes Jr Gary R	11/21/07
43	Atlantic City	Aristizabal Paul	11/21/07
44	Atlantic City	Hood Richard T	11/21/07
45	Atlantic City	Green Donna M	11/21/07
46	Atlantic City	Moore Ronnell	11/21/07
47	Atlantic City	Mayfield Torres W	11/21/07
48	Atlantic City	Anderson Iyata M	11/21/07
49	Atlantic City	Francis Kevin	11/21/07
50	Atlantic City	Donnell Annese K	11/21/07
51	Atlantic City	Holland Donnell A	11/21/07
52	Atlantic City	Smith Alexis Z	11/21/07
53	Bridgeton	Watford Ronnie D	3/16/02
54	Bridgeton	Campbell Marvin S	3/16/02
55	Bridgeton	Watkins Harold B	3/16/02
56	Bridgeton	Santos Arnaldo A	3/16/02
57	Bridgeton	Brown Michael I	5/6/05
58	Bridgeton	Santiago Luis A	12/21/07
59	Bridgeton	Santiago Angel L	12/21/07
60	Bridgeton	Thompson Joshua	12/21/07
61	Camden	Reillo Angel R	8/9/04
62	Camden	Figueroa Melvin R	8/9/04
63	Camden	Brodie Joan K	8/9/04
64	Camden	Belfort Jayson E	8/9/04
65	Camden	Ortiz Victor M	8/9/04
66	Camden	Santiago Rolando	8/9/04
67	Camden	Welch Harry W	8/9/04
68	Camden	Pease Gregory M	8/9/04
69	Camden	Maldonado William	8/9/04
70	Camden	Ingram Iii George R	8/9/04
71	Camden	Saunders Vincent J	8/9/04
72	Camden	Reyes Isidoro	8/9/04
73	Camden	Olmo Gabriel A	8/9/04
74	Camden	McLeod Henry L	8/9/04
75	Camden	Williamson John D	8/9/04
76	Camden	Heath Jerome R	8/9/04
77	Camden	Harris Richard B	8/9/04
78	Camden	Ruiz Carmen M	8/9/04
79	Camden	Walls Jr Benjamin	8/9/04
80	Camden	Rigney Pamela R	8/9/04
81	Camden	Lofland Darryl	8/9/04

82	Camden	Martinez Rafael	8/9/04
83	Camden	James Keith A	8/9/04
84	Camden	Tunstall Kevin D	8/9/04
85	Camden	Collins Mitzi A	8/9/04
86	Camden	Morgan Marshall D	8/9/04
87	Camden	Boyd Jerome P	8/9/04
88	Camden	Agron Elizer	8/9/04
89	Camden	Perez Robin	8/9/04
90	Camden	Barnes Danyel R	8/9/04
91	Camden	Martinez Jr Miguel A	8/9/04
92	Camden	Rivera Joseph D	8/9/04
93	Camden	Bagby Tracy L	8/9/04
94	Camden	Coley Vivian A	8/9/04
95	Camden	Mcnair Yvonne	8/9/04
96	Camden	Castaner Harry	8/9/04
97	Camden	Carter Rolan E	8/9/04
98	Camden	Beltran Raul Jr	8/9/04
99	Camden	Smith Jr Marvin L	8/9/04
100	Camden	Moore Mark C	8/9/04
101	Camden	Pineiro Edward	8/9/04
102	Camden	Rivera Ramonita	8/9/04
103	Camden	Morgan Dianne L	8/9/04
104	Camden	Thomas Rhoda	8/9/04
105	Camden	Moore Sr Isaac A	8/9/04
106	Camden	Ruiz Miguel A	8/9/04
107	Camden	Berry Ava D	8/9/04
108	Camden	Hearne Kenneth L	8/9/04
109	Camden	Young Mark A	8/9/04
110	Camden	Walker Lisa J	8/9/04
111	Camden	Whitney Changa S	8/9/04
112	Camden	Edwards John V	8/9/04
113	Camden	Henderson Darrell G	8/9/04
114	Camden	Reid Bey Sekou T	8/9/04
115	Camden	Reed Leon	8/9/04
116	Camden	Rodriguez Juan J	8/9/04
117	Camden	Thornton Raphael A	8/9/04
118	Camden	Villegas Romelia	8/9/04
119	Camden	Villegas Carmelo	8/9/04
120	Camden	Chambers Madrid M	8/9/04
121	Camden	Mack Freddie A	8/9/04
122	Camden	Pearson Durwin C	8/9/04
123	Camden	Acetti Luis	8/9/04
124	Camden	Thorpe Charles E	8/9/04

125	Camden	Ruiz Luis A	8/9/04
126	Camden	Sampson Shay J	8/9/04
127	Camden	Williams Sr Craig S	8/9/04
128	Camden	Richardson Cheryl F	8/9/04
129	Camden	Jefferson Fred L	8/9/04
130	Camden	Wright Phillip D	8/9/04
131	Camden	Diaz Daniel	8/9/04
132	Camden	Mccant Eric L	8/9/04
133	Camden	Williams Joseph L	8/9/04
134	Camden	Williams Alfred	8/9/04
135	Camden	Melendez Linda	8/9/04
136	Camden	Chew Jr Robert S	8/9/04
137	Camden	Cooley Cashtea	8/9/04
138	Camden	Bayard Christopher C	8/9/04
139	Camden	Robinson Vincent E	8/9/04
140	Camden	Rusi Raymond	8/9/04
141	Camden	Carter Dallas L	8/9/04
142	Camden	Brown Marlo	8/9/04
143	Camden	Hamwright Ii David J	8/9/04
144	Camden	Alicea Damian	8/9/04
145	Camden	Concepcion Carlos	8/9/04
146	Camden	Malave Julio L	8/9/04
147	Camden	Medina Jorge L	8/9/04
148	Camden	Young Gregory A	8/9/04
149	Camden	Hamilton Bryant K	8/9/04
150	Camden	Moreland Kevin J	8/9/04
151	Camden	Perez Pedro	8/9/04
152	Camden	Redd Troy D	8/9/04
153	Camden	Morales Jose M	8/9/04
154	Camden	Roberts Ella L	8/9/04
155	Camden	Watkins Terrell D	8/9/04
156	Camden	Perez Sr Orlando	8/9/04
157	Camden	Perez Lydia E	8/9/04
158	Camden	Lebron Richard	8/9/04
159	Camden	Norman Lawrence E	8/9/04
160	Camden	Gibson Maurice S	8/9/04
161	Camden	Alicea Ruben	8/9/04
162	Camden	Benson Anthony D	8/9/04
163	Camden	Kelly Kenyatta L	8/9/04
164	Camden	Torres Eliud	8/9/04
165	Camden	Gracia Penny E	8/9/04
166	Camden	Perez Rogelio	8/9/04
167	Camden	Wilson Dannelle R	8/9/04

168	Camden	Matthews Wayne A	8/9/04
169	Camden	Tatem Rahsan R	8/9/04
170	Camden	Benjamin William R	8/9/04
171	Camden	Perez Rafael	8/9/04
172	Camden	Barber Helen	8/9/04
173	Camden	Goodwater Patricia A	8/9/04
174	Camden	Miller Dexter W	8/9/04
175	Camden	Ramirez Hector A	8/9/04
176	Camden	Ruiz Miguel I	8/9/04
177	Camden	White Eric L	8/9/04
178	Camden	Armstrong William F	8/9/04
179	Camden	Gonzalez Jose A	8/9/04
180	Camden	Reed William	8/9/04
181	Camden	Connors Terence E	8/9/04
182	Camden	Torres Jose A	8/9/04
183	Camden	Prado Patricia A	8/9/04
184	Camden	Feliciano Edgar J	8/9/04
185	Camden	Rios Julio A	8/9/04
186	Camden	Berrios Ruth M	8/9/04
187	Camden	Badillo Fernando	8/9/04
188	Camden	Cruz Church Xemaril	8/9/04
189	Camden	Thomas Dwayne E	5/26/08
190	Camden	Wikinson Terry L	5/26/08
191	Camden	Colon Janell I	5/26/08
192	Camden	Hearne Michael A	5/26/08
193	Camden	Mays Tawand L	5/26/08
194	Camden	Irizarry Pascual A	5/26/08
195	Camden	Campbell Cheryl N	5/26/08
196	Camden	Mcguire Richard C	5/26/08
197	Camden	Sanchez Migdalia	5/26/08
198	Camden	Martinez John A	5/26/08
199	Camden	Zeigler Jr Charles J	5/26/08
200	Camden	Torres Daniel	5/26/08
201	Camden	Goodwater Aaron M	5/26/08
202	Camden	Mixon Anthony R	5/26/08
203	Camden	Vilches Eusebio	5/26/08
204	Camden	Velazquez Jose R	5/26/08
205	Camden	Ramos Alexis	5/26/08
206	Camden	Mateo Gabriel	5/26/08
207	East Orange	Hudson Reginald M	12/23/04
208	East Orange	Kearse Fred	12/23/04
209	East Orange	Hayden Eric W	12/23/04
210	East Orange	Mondesir Benjamin	12/23/04

211	East Orange	Edmond Hilliard	12/23/04
212	East Orange	Wilson Rose M	12/23/04
213	East Orange	Valentin Arcadio	12/23/04
214	East Orange	Adams Wayne	12/23/04
215	East Orange	Reid Locksley C	12/23/04
216	East Orange	Frizzelle Tonya	12/23/04
217	East Orange	Fredericks Lloyd N	12/23/04
218	East Orange	Garvin William A	12/23/04
219	East Orange	Johnson Michael E	12/23/04
220	East Orange	Shirden William L	12/23/04
221	East Orange	Townes Freddie C	12/23/04
222	East Orange	Concepcion Maria	12/23/04
223	East Orange	Denson Frank X	12/23/04
224	East Orange	Hamilton Jason D	12/23/04
225	East Orange	Clark Trent T	12/23/04
226	East Orange	Davis Quincy R	12/23/04
227	East Orange	Congleton Robert L	12/23/04
228	East Orange	Keene Karl	12/23/04
229	East Orange	Coleman Kevin M	12/23/04
230	East Orange	Johnson Kim S	12/23/04
231	East Orange	Ottley Edith M	12/23/04
232	East Orange	Hinton Charles E	12/23/04
233	East Orange	Kearse Lashawn V	12/23/04
234	East Orange	Crawley Tyrone A	12/23/04
235	East Orange	Barclay Heron A	12/23/04
236	East Orange	Natson Gregory	12/23/04
237	East Orange	Giles Edward	12/23/04
238	East Orange	Concepcion Angel	12/23/04
239	East Orange	Faulk Randy	12/23/04
240	East Orange	Cox Anthony N	12/23/04
241	East Orange	Baugh Jr Rolando R	12/23/04
242	East Orange	Green Kevin M	12/23/04
243	East Orange	Porch Raymond	12/23/04
244	East Orange	Settle Elaine	12/23/04
245	East Orange	Craig Jr Leon	12/23/04
246	East Orange	Mendez Epifanio	12/23/04
247	East Orange	Mcclary Nina B	12/23/04
248	East Orange	Lewis Eric	12/23/04
249	East Orange	Moore Herbert J	12/23/04
250	East Orange	Wright Tommy L	12/23/04
251	East Orange	Cook Valerie D	12/23/04
252	East Orange	Burwell Altwain L	12/23/04
253	East Orange	Bryant Rufus L	12/23/04

254	East Orange	Person Michael M	12/23/04
255	East Orange	Summers James D	12/23/04
256	East Orange	Harris Dwayne S	12/23/04
257	East Orange	Evans Aaron F	12/23/04
258	East Orange	Peters Anthony G	12/23/04
259	East Orange	Blackmon Milton C	12/23/04
260	East Orange	Wilson Andre D	12/23/04
261	East Orange	Rowe Willie C	12/23/04
262	East Orange	Flood William A	12/23/04
263	East Orange	Jackson Barry	12/23/04
264	East Orange	Jackson Isaiah Jr	12/23/04
265	East Orange	Jackson Gregory S	12/23/04
266	East Orange	Doughty Joseph	12/23/04
267	East Orange	Sims Steven L	12/23/04
268	East Orange	Martin Daniel O N	12/23/04
269	East Orange	Clemonts Eugene	12/23/04
270	East Orange	Gregory Darryl M	12/23/04
271	East Orange	Pulyano Tanya	12/23/04
272	East Orange	Jones Hurley T	12/23/04
273	East Orange	Johnson Ronson B	12/23/04
274	East Orange	Destin Sr Georges L	12/23/04
275	East Orange	Marina Alfonza	12/23/04
276	East Orange	Epps Craig M	12/23/04
277	East Orange	Santos Mercedes A	12/23/04
278	East Orange	Lister Dexter B	9/30/08
279	East Orange	Williams Iii Warren	9/30/08
280	East Orange	Rodriguez Faustina	9/30/08
281	East Orange	Berrouet Marilyn	9/30/08
282	East Orange	Boyd Maurice	9/30/08
283	East Orange	Carter Edward H	9/30/08
284	East Orange	Patrick Mark L	9/30/08
285	East Orange	Ragland Monica E	9/30/08
286	East Orange	Bell Richard	9/30/08
287	East Orange	Harper Roberta L	9/30/08
288	East Orange	Jones Robert	9/30/08
289	East Orange	Wilson Sherise J	9/30/08
290	East Orange	Armstrong Leroy S	9/30/08
291	East Orange	Higgs Devin L	9/30/08
292	East Orange	Mckelvin Dexter D	9/30/08
293	East Orange	Rodriguez Eric	9/30/08
294	East Orange	Miles Terry G	9/30/08
295	East Orange	Thigpen Sanford L	9/30/08
296	East Orange	Hairston Telina R	9/30/08

297	East Orange	Dickey Nunn Tahmesha N	9/30/08
298	East Orange	Corbett Gloria T	9/30/08
299	East Orange	Flanagan Lawrence T	9/30/08
300	East Orange	Rodriguez Philip D	9/30/08
301	East Orange	Bryan Jr Nathan	9/30/08
302	East Orange	Borrero Luis J	9/30/08
303	East Orange	Williams Michael	9/30/08
304	East Orange	Green Jimmy A	9/30/08
305	East Orange	Rodriguez Rodney	9/30/08
306	East Orange	Rodriguez Ramon D	9/30/08
307	East Orange	Shirden William L	1/7/11
308	East Orange	La Guerre Patrick J	1/7/11
309	East Orange	Ferguson Omar A	1/7/11
310	East Orange	Mcpherson Marc A	1/7/11
311	East Orange	Angomas Aldo F	1/7/11
312	East Orange	Rochester Stephen M	1/7/11
313	East Orange	Caldwell Lashelle R	1/7/11
314	East Orange	Hale Lakia M	1/7/11
315	East Orange	Ricks Anthony D	1/7/11
316	East Orange	Adkins Hewlett S	1/7/11
317	East Orange	Greenwood Sharieff K	1/7/11
318	East Orange	Wilkins Jermaine E	1/7/11
319	East Orange	Hudson Althea	1/7/11
320	East Orange	Jeffers Frederick A	1/7/11
321	East Orange	Grant Schamika	1/7/11
322	East Orange	Waller Amena R	1/7/11
323	East Orange	Dwyer Tamieka N	1/7/11
324	East Orange	Massenburg Rajheher F	1/7/11
325	East Orange	Napier Jathiya H	1/7/11
326	East Orange	Alston Jr Albert L	1/7/11
327	East Orange	Ortiz Daniel	1/7/11
328	East Orange	Thom Shundel A	1/7/11
329	East Orange	Fletcher Ronald F	1/7/11
330	East Orange	Velasquez Nick A	1/7/11
331	East Orange	Harris Robert S	1/7/11
332	East Orange	Gordon Calvin B	1/7/11
333	East Orange	Robinson Tinca S	1/7/11
334	East Orange	Rogers Jr Anthony J	1/7/11
335	East Orange	Ritchie Keisha A	1/7/11
336	East Orange	Hunt Zulay S	1/7/11
337	East Orange	Ferrell Kimberly D	1/7/11
338	East Orange	Esteen Sanchia O	1/7/11
339	East Orange	Johnson Rashad A	1/7/11

340	East Orange	Thomas Muhammad	1/7/11
341	East Orange	Johnson Rahsaan L	1/7/11
342	East Orange	Wynter Anthony H	1/7/11
343	East Orange	Awuah Bridget B	1/7/11
344	East Orange	Concepcion Angela C	1/7/11
345	East Orange	Barnes Howard Ibn Shah	1/7/11
346	East Orange	Thomas Latashia J	1/7/11
347	East Orange	Ebanks Ernest J	1/7/11
348	East Orange	Mcclean Macheo E	1/7/11
349	East Orange	Hamlett Kendrick C	1/7/11
350	East Orange	Walker Quantina S	1/7/11
351	East Orange	Lawson Dashawn M	1/7/11
352	East Orange	Hervey Cherilien	1/7/11
353	East Orange	Britt Yasmine	1/7/11
354	East Orange	Hutchinson Darren	1/7/11
355	East Orange	Ledesma Angel	1/7/11
356	East Orange	Zaimah Hughes Kwabena	1/7/11
357	East Orange	Washington Jamal F	1/7/11
358	East Orange	Bryant Tyshon	1/7/11
359	East Orange	Thorne Shonee M	1/7/11
360	East Orange	Booker Dedra	1/7/11
361	East Orange	Simpson Algenoria A	1/7/11
362	East Orange	Blakney Gary A	1/7/11
363	East Orange	Hamlett Fisher Cheryl	1/7/11
364	Elizabeth	De Cabo Harry	2/21/05
365	Elizabeth	Rey Nereida	2/21/05
366	Elizabeth	Alago Catalino	2/21/05
367	Elizabeth	Anaya Edgard	2/21/05
368	Elizabeth	Valladares Guillermo	2/21/05
369	Elizabeth	Perez Jr Manuel	2/21/05
370	Elizabeth	Finch Tracy O	2/21/05
371	Elizabeth	Guzman Jr Juan	2/21/05
372	Elizabeth	Alvarez Humberto J	2/21/05
373	Elizabeth	Olivero Ismael	2/21/05
374	Elizabeth	Mollinea Lazaro J	2/21/05
375	Elizabeth	Lavin Alexandria M	2/21/05
376	Elizabeth	Marrero Richard R	2/21/05
377	Elizabeth	Heymann William G	2/21/05
378	Elizabeth	Gomez David E	2/21/05
379	Elizabeth	Calas Dwight	2/21/05
380	Elizabeth	Cheatham Derrick L	2/21/05
381	Elizabeth	Arena Victor R	2/21/05
382	Elizabeth	Torres Jose O	2/21/05

383	Elizabeth	Gonzalez Jr Reinaldo	2/21/05
384	Elizabeth	Banks Lateef	2/21/05
385	Elizabeth	Cannon Romina	2/21/05
386	Elizabeth	Colon Alfonso E	2/21/05
387	Elizabeth	Manresa Arnaldo	2/21/05
388	Elizabeth	Taylor Jeanine S	2/21/05
389	Elizabeth	Della Prida Raul	2/21/05
390	Elizabeth	Graham Gunther M	2/21/05
391	Elizabeth	Hernandez Richard A	2/21/05
392	Elizabeth	Negrin Alexander	2/21/05
393	Elizabeth	Whetstone John A	2/21/05
394	Elizabeth	Brown Sr Michael W	2/21/05
395	Elizabeth	Colon Egberto	2/21/05
396	Elizabeth	Vines Rudy	2/21/05
397	Elizabeth	Posso John P	5/8/06
398	Elizabeth	Kiniery Yohara M	5/8/06
399	Elizabeth	Sosa Andres H	5/8/06
400	Elizabeth	Williamson Darin K	5/8/06
401	Elizabeth	Rosales Ovidio R	5/8/06
402	Elizabeth	Alvarez Bernard J	5/8/06
403	Elizabeth	Colon Amilcar	5/8/06
404	Elizabeth	Bohorquez Walter T	5/8/06
405	Elizabeth	Hidalgo Jorge L	5/8/06
406	Elizabeth	Cifuentes Hector E	5/8/06
407	Elizabeth	Kellem James C	5/8/06
408	Elizabeth	Rodriguez Abner	5/8/06
409	Elizabeth	Quelopana Guido M	9/15/10
410	Elizabeth	Diaz Marcos A	9/15/10
411	Elizabeth	Fernandez Mario	9/15/10
412	Elizabeth	Dorilus Rodney J	9/15/10
413	Elizabeth	Idrovo Franklin M	9/15/10
414	Hoboken	Rentas Antonio D	6/12/03
415	Hoboken	Montanez William	6/12/03
416	Hoboken	Vera William	6/12/03
417	Hoboken	Burgos Jerry	6/12/03
418	Hoboken	Aguiar John	6/12/03
419	Hoboken	Rivera Ferdinand	6/12/03
420	Hoboken	Orlando Moctezuma	6/12/03
421	Hoboken	Olavarria Cesar	6/12/03
422	Hoboken	Fonseca George L	6/12/03
423	Hoboken	Perez James	6/12/03
424	Hoboken	Alvarez John A	6/12/03
425	Hoboken	Madera Juan M	6/12/03

426	Hoboken	Valez Juan	6/12/03
427	Hoboken	Velez Angel	6/12/03
428	Hoboken	Cruz Dennis C	6/12/03
429	Hoboken	Montanez David E	6/12/03
430	Hoboken	Truppner William	6/12/03
431	Hoboken	Rivera Jose A	6/12/03
432	Hoboken	Munoz Bernardo J	5/25/06
433	Hoboken	Garcia Glorybi	5/25/06
434	Hoboken	Oquendo William	5/25/06
435	Hoboken	Soto Frank	5/25/06
436	Hoboken	Caraballo Armando	5/25/06
437	Jersey City	Bonet Juan	11/30/05
438	Jersey City	Tavarez Angel M	11/30/05
439	Jersey City	Luna Julio D	11/30/05
440	Jersey City	Clavero Pedro L	11/30/05
441	Jersey City	Wilson Jr Benjamin J	11/30/05
442	Jersey City	Garcia Kevin J	11/30/05
443	Jersey City	Reynolds Doris R	11/30/05
444	Jersey City	Lee Debra A	11/30/05
445	Jersey City	Steward Willie J	11/30/05
446	Jersey City	Rivera Hector L	11/30/05
447	Jersey City	Soto Jesse J	11/30/05
448	Jersey City	Scott Susan E	11/30/05
449	Jersey City	Atwater Jerome K	11/30/05
450	Jersey City	Rodriguez Edwin	11/30/05
451	Jersey City	Lopez Alfredo	11/30/05
452	Jersey City	Monila Frank T	11/30/05
453	Jersey City	Brown Keith R	11/30/05
454	Jersey City	Bell Anthony F	11/30/05
455	Jersey City	Allen John P	11/30/05
456	Jersey City	Ortiz Edwin	11/30/05
457	Jersey City	Ortmann David M	11/30/05
458	Jersey City	Watson Gary L	11/30/05
459	Jersey City	Taveras Charles	11/30/05
460	Jersey City	Carter Elaina M	11/30/05
461	Jersey City	Matos Paul	11/30/05
462	Jersey City	Jackson William M	11/30/05
463	Jersey City	Rave Gustavo M	11/30/05
464	Jersey City	Rodgers Eric M	11/30/05
465	Jersey City	Clavell Hector L	11/30/05
466	Jersey City	Velez Ralph	11/30/05
467	Jersey City	Parrilla Edwin	11/30/05
468	Jersey City	Maisonet Franklin	11/30/05

469	Jersey City	Carson Shawn M	11/30/05
470	Jersey City	Nazario Edwin O	11/30/05
471	Jersey City	Gonzalez Angel L	11/30/05
472	Jersey City	Santana Samuel	11/30/05
473	Jersey City	Santana Jorge	11/30/05
474	Jersey City	Heger Christopher M	11/30/05
475	Jersey City	Martin Larry L	11/30/05
476	Jersey City	Jackson Philip W	11/30/05
477	Jersey City	Caldwell Kevin A	11/30/05
478	Jersey City	Hart Calvin E	11/30/05
479	Jersey City	Corley James D	11/30/05
480	Jersey City	Vega Gilberto	11/30/05
481	Jersey City	Gonzalez Brenda I	11/30/05
482	Jersey City	Pastrana Ancel L	11/30/05
483	Jersey City	Cumberbatch Roosevelt	11/30/05
484	Jersey City	Crecco James P	11/30/05
485	Jersey City	Cherry Victor D	11/30/05
486	Jersey City	Vizcaino Oscar A	11/30/05
487	Jersey City	Regalado Ramon E	11/30/05
488	Jersey City	Mesa Peter	11/30/05
489	Jersey City	Vega Louis	11/30/05
490	Jersey City	Fayton Kelvin A	11/30/05
491	Jersey City	Velazquez Elaine	11/30/05
492	Jersey City	Johnson Titos J	11/30/05
493	Jersey City	Jordan Anthony J	11/30/05
494	Jersey City	Moore George F	11/30/05
495	Jersey City	Myers Jr Edward	11/30/05
496	Jersey City	Rivera Francisco J	11/30/05
497	Jersey City	Romaniello Juan	11/30/05
498	Jersey City	Rivera Nelson	11/30/05
499	Jersey City	Medal Mark	11/30/05
500	Jersey City	Mcghee Donnie	11/30/05
501	Jersey City	Miller Karen D	11/30/05
502	Jersey City	Jones Kevin K	11/30/05
503	Jersey City	Tosado Lorenzo Jr	11/30/05
504	Jersey City	Waiters James N	11/30/05
505	Jersey City	Ludlow Deborah M	11/30/05
506	Jersey City	Tucker Jr Leon	11/30/05
507	Jersey City	Hernandez Carlos M	11/30/05
508	Jersey City	Armstrong Keith	11/30/05
509	Jersey City	Broady Desiree N	11/30/05
510	Jersey City	Nieves Eddie	11/30/05
511	Jersey City	Sandifer Randy T	11/30/05

512	Jersey City	Bermudez Alexander	11/30/05
513	Jersey City	Alsina Victor I	11/30/05
514	Jersey City	Reyes Nixon	11/30/05
515	Jersey City	Rivera Alexandr M	11/30/05
516	Jersey City	Levine Charles J	11/30/05
517	Jersey City	Orellana Richard J	11/30/05
518	Jersey City	Murrell Gertha M	11/30/05
519	Jersey City	Marrero Hector L	11/30/05
520	Jersey City	Alvarez Jose O	11/30/05
521	Jersey City	Gonzalez Michael	1/10/07
522	Jersey City	Williams Donald	1/10/07
523	Jersey City	Infantes Erik M	1/10/07
524	Jersey City	Galindo German	1/10/07
525	Jersey City	Famularo Carolyn	1/10/07
526	Jersey City	Rodriguez Frank	1/10/07
527	Jersey City	Snelling Rhudell A	1/10/07
528	Jersey City	Cahill Brian F	1/10/07
529	Jersey City	Nunez Adriana	1/10/07
530	Jersey City	Jordan Marjorie E	1/10/07
531	Jersey City	Vadelamar Luna Pablo	1/10/07
532	Jersey City	Braker William C	1/10/07
533	Jersey City	Figueroa William	1/10/07
534	Jersey City	Santiago Joseph D	1/10/07
535	Jersey City	Hilliard Clarence E	1/10/07
536	Jersey City	Smith Victor L	1/10/07
537	Jersey City	Mcghee Jacqueline J	1/10/07
538	Jersey City	Phillips Marey E	1/10/07
539	New Brunswick	Sutton Mike C	8/26/02
540	New Brunswick	Lugo Hector	8/26/02
541	New Brunswick	Finney Maurice L	8/26/02
542	New Brunswick	James Don	8/26/02
543	New Brunswick	Knighton Alvin B	8/26/02
544	New Brunswick	Gallardo Danilo A	8/26/02
545	New Brunswick	Ingram Tony A	8/26/02
546	New Brunswick	Otero Jose L	8/26/02
547	New Brunswick	Sanchez Sandra I	8/26/02
548	New Brunswick	Acevedo Marc A	3/22/05
549	New Brunswick	Knight James O	3/22/05
550	New Brunswick	Brown Eric J	3/22/05
551	New Brunswick	Bobadilla James P	3/22/05
552	New Brunswick	Middleton Derrick T	3/22/05
553	New Brunswick	Blount Rodney J	3/22/05
554	New Brunswick	Gayden Tracy T	3/22/05

555	New Brunswick	Ramirez Adan D	3/22/05
556	New Brunswick	Matias Sergio S	1/28/09
557	New Brunswick	Martinez Ronoldy	1/28/09
558	New Brunswick	Contreras William A	1/28/09
559	New Brunswick	Yurkovic John G Jr	1/28/09
560	New Brunswick	Bobadilla Edward T	1/28/09
561	New Brunswick	Anderson Arthur A	1/28/09
562	Newark	Shiggs Renay	5/6/02
563	Newark	Mcmorrin Talbert N	5/6/02
564	Newark	Ruffin Robert T	5/6/02
565	Newark	Golpe William O	5/6/02
566	Newark	Robinson Robin R	5/6/02
567	Newark	Breaux Leonard	5/6/02
568	Newark	Wright Aloma K	5/6/02
569	Newark	Morales Daniel	5/6/02
570	Newark	Halstead Darryll P	5/6/02
571	Newark	Vargas Edgardo	5/6/02
572	Newark	Corchado Hector M	5/6/02
573	Newark	Rodriguez Steven	5/6/02
574	Newark	Diaz Reynaldo	5/6/02
575	Newark	Furlow Lawrence D	5/6/02
576	Newark	Barnes Darryl	5/6/02
577	Newark	Rivera Jose C	5/6/02
578	Newark	Dent Paulette	5/6/02
579	Newark	Jones Keith	5/6/02
580	Newark	Watson Iii Joseph	5/6/02
581	Newark	Brown Tony M	5/6/02
582	Newark	Wilkins Dwayne L	5/6/02
583	Newark	Mccluney Reginald D	5/6/02
584	Newark	Lorenzo Horacio H	5/6/02
585	Newark	Torres George	5/6/02
586	Newark	Leverett Bonnie A	5/6/02
587	Newark	Davila Edwardo	5/6/02
588	Newark	Webb Najee A	5/6/02
589	Newark	Roberts Anthony W	5/6/02
590	Newark	Isaac Keith	5/6/02
591	Newark	Mccoy Jimmy L	5/6/02
592	Newark	Maldonado Anthony	5/6/02
593	Newark	Morton Tyrone A	5/6/02
594	Newark	Singletary Tyrone L	5/6/02
595	Newark	Golden Derrick A	5/6/02
596	Newark	Peppers Rasheen M	5/6/02
597	Newark	Robinson Janell A	5/6/02

598	Newark	Feliciano Jr Vincent	5/6/02
599	Newark	Coley Daren	5/6/02
600	Newark	Bradley Angela	5/6/02
601	Newark	Santiago Janet	5/6/02
602	Newark	Cabezas Onofre H	5/6/02
603	Newark	Lamboy Michael	5/6/02
604	Newark	Lawz Derek K	5/6/02
605	Newark	Westry Derrick E	5/6/02
606	Newark	Abdullah Labeed M	5/6/02
607	Newark	Adams Colby T	5/6/02
608	Newark	Maldonado William	5/6/02
609	Newark	Walker Michael E	5/6/02
610	Newark	Vazquez Deborah	5/6/02
611	Newark	Simpkins Hal J	5/6/02
612	Newark	Williams Carol A	5/6/02
613	Newark	Zamora Devin	5/6/02
614	Newark	Hudson David O	5/6/02
615	Newark	Boyer Jr Robert	5/6/02
616	Newark	Velez Manuel J	5/6/02
617	Newark	Corchado Gonzalez L	5/6/02
618	Newark	Cooper Edwin D	5/6/02
619	Newark	Cole-Granger Debra	5/6/02
620	Newark	Hernandez Raul	5/6/02
621	Newark	Warren Ii Richard	5/6/02
622	Newark	Feliciano Ricardo Jr	5/6/02
623	Newark	Medina Louis M	5/6/02
624	Newark	Mcduffie Michael	5/6/02
625	Newark	Marchena Jr Dario H	5/6/02
626	Newark	Cortez Ariel	5/6/02
627	Newark	James Lydell A	5/6/02
628	Newark	Davis Anthony T	5/6/02
629	Newark	Jenkins Joequan S	5/6/02
630	Newark	Byrd James E	5/6/02
631	Newark	Arce Anthony	5/6/02
632	Newark	Walker Iii Anderson C	5/6/02
633	Newark	Sheppard Keith	5/6/02
634	Newark	Suarez Mario	5/6/02
635	Newark	Rivera Rafael	5/6/02
636	Newark	Chaparro David	5/6/02
637	Newark	Diaz Raul	5/6/02
638	Newark	Baker Garry	5/6/02
639	Newark	Baker Barry	5/6/02
640	Newark	Ramos Mark A	5/6/02

641	Newark	Watson Kareem J	5/6/02
642	Newark	Harden Hope R	5/6/02
643	Newark	Rayam John L	5/6/02
644	Newark	Wynn James E	5/6/02
645	Newark	Wilknis Alice O	5/6/02
646	Newark	Perez Reinaldo	5/6/02
647	Newark	Aquino Ilia E	5/6/02
648	Newark	Cordero Frank	5/6/02
649	Newark	Odom Mark W	5/6/02
650	Newark	Lassiter Kevin E	5/6/02
651	Newark	Domingues Mauricio A	5/6/02
652	Newark	Waddell Stephen	5/6/02
653	Newark	Perez Rolando	5/6/02
654	Newark	Wyche Diana	5/6/02
655	Newark	Loiacono Nelly R	5/6/02
656	Newark	Perez Jr Jesus	5/6/02
657	Newark	Negron Ramon	5/6/02
658	Newark	Whatley David L	5/6/02
659	Newark	Rivera Carmen E	5/6/02
660	Newark	Stephens Rodney A	5/6/02
661	Newark	Hill Richard L	5/6/02
662	Newark	Rivera Javier F	5/6/02
663	Newark	Salters Keith L	5/6/02
664	Newark	Dickerson Lisa	5/6/02
665	Newark	Clemons Derrick	5/6/02
666	Newark	Faulkner Johnny M	5/6/02
667	Newark	Morales Adam L	5/6/02
668	Newark	Daniels Myron K	5/6/02
669	Newark	Beasley Michael	5/6/02
670	Newark	Gibson Ronald L	5/6/02
671	Newark	Perez Edna M	5/6/02
672	Newark	Cancel Ii Manuel A	5/6/02
673	Newark	Kneipp Jr James C	5/6/02
674	Newark	Brewer Graves Julie M	5/6/02
675	Newark	Davis Oscar	5/6/02
676	Newark	Harris Chris A	5/6/02
677	Newark	Garcia Angel E	5/6/02
678	Newark	Johnson Danny R	5/6/02
679	Newark	Whitley Terrence L	5/6/02
680	Newark	Linton Melody F	5/6/02
681	Newark	Velez Raymond	5/6/02
682	Newark	Jewell John M	5/6/02
683	Newark	Rainey Youletta H	5/6/02

684	Newark	Burgos Juleesa	5/6/02
685	Newark	Walker Joseph L	5/6/02
686	Newark	Mozell Barry E	5/6/02
687	Newark	Mendez George L	5/6/02
688	Newark	Guthrie Jr Stanley W	5/6/02
689	Newark	Medina Moraima	5/6/02
690	Newark	Barron Rodney L	5/6/02
691	Newark	Rodriguez Hectro A	5/6/02
692	Newark	Gibson Anthony L	5/6/02
693	Newark	Williams Richard G	5/6/02
694	Newark	Daniels Dennis K	5/6/02
695	Newark	Oyola Luis A	5/6/02
696	Newark	Day Terrell B	5/6/02
697	Newark	Aviles Miguel	5/6/02
698	Newark	Velez Jose O	5/6/02
699	Newark	Price Dwayne I	5/6/02
700	Newark	Silva Michael J	5/6/02
701	Newark	Silva Sean T	5/6/02
702	Newark	Barroqueiro Brian C	5/6/02
703	Newark	Frazier Arthur	5/6/02
704	Newark	Ruiz Elmo	5/6/02
705	Newark	Varnado Derrick E	5/6/02
706	Newark	Stroud Willie J	5/6/02
707	Newark	Sanders Dennis	5/6/02
708	Newark	Cunha Eduardo H	5/6/02
709	Newark	Roman Jose	5/6/02
710	Newark	Dwight Robert E	5/6/02
711	Newark	Allen Richard L	5/6/02
712	Newark	Smith Mae S	5/6/02
713	Newark	Knight Alan	5/6/02
714	Newark	Santiago Mark	5/6/02
715	Newark	Phillips Harvey V	5/6/02
716	Newark	Torres Benito	5/6/02
717	Newark	Ramos Rafael	5/6/02
718	Newark	Knight Michael E	5/6/02
719	Newark	Rodriguez Alex	5/6/02
720	Newark	Rebelo Jose M	5/6/02
721	Newark	Scales Raishawn D	5/6/02
722	Newark	Colon Sandro	5/6/02
723	Newark	Torain Kent O	5/6/02
724	Newark	Terry Kenneth	5/6/02
725	Newark	Henry Darnell	5/6/02
726	Newark	Johnson John D	5/6/02

727	Newark	Gonzalez Antonio A	5/6/02
728	Newark	Fernandes Thierry	5/6/02
729	Newark	Thompson Jeffrey	5/6/02
730	Newark	Massenburg Joseph	5/6/02
731	Newark	Brown Jr Laurence	5/6/02
732	Newark	Robinson Darione S	5/6/02
733	Newark	Powell Sonji D	5/6/02
734	Newark	Collins Larry	5/6/02
735	Newark	Danzey Timothy L	5/6/02
736	Newark	Padilla Edwin	5/6/02
737	Newark	Serrano Alexis	5/6/02
738	Newark	West Darren	5/6/02
739	Newark	Hamilton Gregory V	5/6/02
740	Newark	Irvin Kenneth R	5/6/02
741	Newark	Grimsley Kent	5/6/02
742	Newark	Cueto Joseph V	5/6/02
743	Newark	Treadwell Stephanie	5/6/02
744	Newark	Perez Benny	5/6/02
745	Newark	Batts Kevin A	5/6/02
746	Newark	Mendez Neftalis	5/6/02
747	Newark	Moore Muhammad Edith I	5/6/02
748	Newark	Vasquez George	5/6/02
749	Newark	Seguinot Luis A	5/6/02
750	Newark	Morales Rafael	5/6/02
751	Newark	Montanez Carlos R	5/6/02
752	Newark	Martinez Elizabeth	5/6/02
753	Newark	Greene Tanya L	5/6/02
754	Newark	Reynolds Lester A	5/6/02
755	Newark	Wheeler Weaver Roy J	5/6/02
756	Newark	Victor Tommy J	5/6/02
757	Newark	Rogers Craig	5/6/02
758	Newark	Cruz Pablo	5/6/02
759	Newark	Cruz Pedrito	5/6/02
760	Newark	Major Darrell M	5/6/02
761	Newark	Smith Darious C	5/6/02
762	Newark	Valentin Jr Lorenzo	5/6/02
763	Newark	Burwell Michael A	5/6/02
764	Newark	Edwards Annie D	5/6/02
765	Newark	Smith Jr Samuel D	5/6/02
766	Newark	Thomas Taibu K	5/6/02
767	Newark	Thomas Karama V	5/6/02
768	Newark	Rosa Alejandro	5/6/02
769	Newark	Sosa Vivian I	5/6/02

770	Newark	Carter Marquise A	5/6/02
771	Newark	Washington Rhonda S	5/6/02
772	Newark	Scott Altemise E	5/6/02
773	Newark	Lijo Alberto	5/6/02
774	Newark	De La Cruz Saul	5/6/02
775	Newark	Phillips September L	5/6/02
776	Newark	Cancel Luis A	5/6/02
777	Newark	Mcclendon David M	5/6/02
778	Newark	Jackson Eric A	5/6/02
779	Newark	Marshall Dwayne A	5/6/02
780	Newark	Thomas Russell K	5/6/02
781	Newark	Bradbury Vernon A	5/6/02
782	Newark	Hicks Tytriyanta T	5/6/02
783	Newark	Gonzalez Pablo	5/6/02
784	Newark	Medina Oscar	5/6/02
785	Newark	Alvarado Arlin	5/6/02
786	Newark	Gilbert Barbara J	5/6/02
787	Newark	Daye Michael E	5/6/02
788	Newark	Rodriguez Jr William	5/6/02
789	Newark	Sosa Jos I	5/6/02
790	Newark	Arroyo Vivian	5/6/02
791	Newark	Williams Kiva N	5/6/02
792	Newark	Arroyo James	5/6/02
793	Newark	Lebron John W	5/6/02
794	Newark	Perez Consuelo	5/6/02
795	Newark	Ramirez Jose	5/6/02
796	Newark	Reynolds Teasla L	5/6/02
797	Newark	Saramago Evandro L	5/6/02
798	Newark	Mcqueen Jeri E	5/6/02
799	Newark	Williams Mark L	5/6/02
800	Newark	Goncalves Manuel	5/6/02
801	Newark	Patela Victor M	5/6/02
802	Newark	Merritt Sr Reginald	5/6/02
803	Newark	Branham Justine	5/6/02
804	Newark	Etchison Gene E	5/6/02
805	Newark	Reynolds Wayne A	5/6/02
806	Newark	Soto Frances	5/6/02
807	Newark	Holmes Ii Levi A	5/6/02
808	Newark	Colon Jr Francisco	5/6/02
809	Newark	Vila Angel	5/6/02
810	Newark	Melendez George D	5/6/02
811	Newark	Luciano Eladio	5/6/02
812	Newark	Rodas Nieves Yessenia	5/6/02

813	Newark	Arbuckle Ronald L	5/6/02
814	Newark	Davis Sharon	5/6/02
815	Newark	Henderson Hubert	5/6/02
816	Newark	Tehlikian Paul	5/6/02
817	Newark	Roman Edward	5/6/02
818	Newark	Rodriguez Daniel	5/6/02
819	Newark	Foster Derrick K	5/6/02
820	Newark	Calderon Rene N	5/6/02
821	Newark	Jova Julian T	5/6/02
822	Newark	Sheppard Ras	5/6/02
823	Newark	Estrella Cesar I	5/6/02
824	Newark	Gonzalez Juan A	5/6/02
825	Newark	Reed Carrie E	5/6/02
826	Newark	Washington Cheryl	5/6/02
827	Newark	Ballester Heriberto	5/6/02
828	Newark	Washington Samad	5/6/02
829	Newark	Burgos David	5/6/02
830	Newark	Negron Jose A	5/6/02
831	Newark	Rivera Carmen	5/6/02
832	Newark	Wright Sr Kevin	5/6/02
833	Newark	Gonzalez Jr Eugenio	5/6/02
834	Newark	Hopkins Keith L	5/6/02
835	Newark	Porter Albert C	5/6/02
836	Newark	Montalvo Lillian	5/6/02
837	Newark	Collins Eugene	5/6/02
838	Newark	Diaz Felix	5/6/02
839	Newark	Montalvo Jose E	5/6/02
840	Newark	Garrett Shawn L	5/6/02
841	Newark	Magny Fritz	5/6/02
842	Newark	Singleton Glenn L	5/6/02
843	Newark	Lampley Darrell A	5/6/02
844	Newark	Ramos David	5/6/02
845	Newark	Grubbs Corey S	5/6/02
846	Newark	Medina Mayra I	5/6/02
847	Newark	Caldwell Jr Willie	5/6/02
848	Newark	Johnson Kevin F	5/6/02
849	Newark	Gary Che M	5/6/02
850	Newark	Boyce Ronald E	5/6/02
851	Newark	Rivera Mario R	5/6/02
852	Newark	Lovett Jerome J	5/6/02
853	Newark	Johnson Shaon	5/6/02
854	Newark	Torres Jr Pedro	5/6/02
855	Newark	Souto Jr Manuel	5/6/02

856	Newark	Green Glen D	5/6/02
857	Newark	Thompson Nathaniel	5/6/02
858	Newark	Ramos Angel L	5/6/02
859	Newark	Bradbury Valerie M	5/6/02
860	Newark	Turner Robert	5/6/02
861	Newark	Benavente Adelino	5/6/02
862	Newark	Thomas Willie J	5/6/02
863	Newark	Alvarado Antoinette	5/6/02
864	Newark	Bouie Jeffrey	5/6/02
865	Newark	Torres Martha	5/6/02
866	Newark	Beltran Jose A	5/6/02
867	Newark	Arocha Jr Reinaldo	5/6/02
868	Newark	Simmons Lucinda M	5/6/02
869	Newark	Johnson Landre M	5/6/02
870	Newark	Gilbert Kevin R	5/6/02
871	Newark	Benniem Sonnie J	5/6/02
872	Newark	Ferrer Rodriguez R S	5/6/02
873	Newark	Zamora Pedro A	5/6/02
874	Newark	Flounoy Richard A	5/6/02
875	Newark	Tellez Jr Eusnelys	5/6/02
876	Newark	Gonzalez Maritza	5/6/02
877	Newark	Figueroa Jose A	5/6/02
878	Newark	Braswell Paul J	5/6/02
879	Newark	Brown Eric	5/6/02
880	Newark	Ellis Navasha	5/6/02
881	Newark	Muhammad Murad	5/6/02
882	Newark	Darocha Joseph F	5/6/02
883	Newark	Rollack Eric M	5/6/02
884	Newark	Velazquez Orlando	5/6/02
885	Newark	Rodriguez Hector	5/6/02
886	Newark	Banks Johnny V	5/6/02
887	Newark	Cardoso Anthonio M	5/6/02
888	Newark	Dunson Altariq A	5/6/02
889	Newark	Ausby Mark D	5/6/02
890	Newark	Cuevas Francisco	5/6/02
891	Newark	Clark Shawn	5/6/02
892	Newark	King Larry	5/6/02
893	Newark	Rodriguez Maria	5/6/02
894	Newark	Thomas Hernandez T	5/6/02
895	Newark	Bowman Kyle P	5/6/02
896	Newark	Easter Jr Marvin	5/6/02
897	Newark	Davis Larry	5/6/02
898	Newark	Carpenter Lillian	5/6/02

899	Newark	Carrillo Miguel A	5/6/02
900	Newark	Hill Mark C	5/6/02
901	Newark	Logan Brian K	5/6/02
902	Newark	Mcqueen Bernice	5/6/02
903	Newark	Spellman Ercelle R	5/6/02
904	Newark	Baker Cynthia M	5/6/02
905	Newark	Castillo Gregory	5/6/02
906	Newark	Lopez Marilyn	5/6/02
907	Newark	Fabregas Jose E	5/6/02
908	Newark	Rayner Tracy S	5/6/02
909	Newark	Burrows Betty M	5/6/02
910	Newark	Murillo Janeth	5/6/02
911	Newark	Wyche Romus E	5/6/02
912	Newark	Shorter Steve G	5/6/02
913	Newark	Gonzalez Juan	5/6/02
914	Newark	Stokes Donald L	5/6/02
915	Newark	Gonzalez Edgardo	5/6/02
916	Newark	Mallory Alnesa M	5/6/02
917	Newark	Sanabria Jr Miguel A	5/6/02
918	Newark	Burchett Clifton B	5/6/02
919	Newark	Whitley Al Terique D	5/6/02
920	Newark	Johnson Jerome A	5/6/02
921	Newark	Spencer Derek	5/6/02
922	Newark	Griffith Warren A	5/6/02
923	Newark	De Loach Jr Elliott H	5/6/02
924	Newark	Benavente Jr Julio	5/6/02
925	Newark	Jimenez Randy	5/6/02
926	Newark	Torres Jose A	5/6/02
927	Newark	Solomon Marion R	5/6/02
928	Newark	Maddux Quinton E	5/6/02
929	Newark	Walker James V	5/6/02
930	Newark	Eatmon Iii Luther	5/6/02
931	Newark	Jonnsn Lavita E	5/6/02
932	Newark	Whitted Michelle	5/6/02
933	Newark	Boswell Joyce A	5/6/02
934	Newark	Winns Willie L	5/6/02
935	Newark	Leaks Jr Robert	5/6/02
936	Newark	Malave Sr Peter	5/6/02
937	Newark	Marin Gladys M	5/6/02
938	Newark	White Rickey V	5/6/02
939	Newark	Perez Wilfredo	5/6/02
940	Newark	Osbourne Oswald L	5/6/02
941	Newark	Armstead Mark A	5/6/02

942	Newark	Williams Anthony J	5/6/02
943	Newark	Harper Wendell B	5/6/02
944	Newark	Borges Richard	5/6/02
945	Newark	Rivas Rosa H	5/6/02
946	Newark	Soto Ronald	5/6/02
947	Newark	Deleon Jesus	5/6/02
948	Newark	Nieves Pedro G	5/6/02
949	Newark	Arroyo Michele	5/6/02
950	Newark	Oliveras Raul	5/6/02
951	Newark	Nieves Gerardo	5/6/02
952	Newark	Marquez Alex S	5/6/02
953	Newark	Arroyo Julio L	5/6/02
954	Newark	Barreto Juan L	5/6/02
955	Newark	Gonzalez Doris M	5/6/02
956	Newark	Rivera Julio I	5/6/02
957	Newark	Ocasio Jose A	5/6/02
958	Newark	Soto Doris	5/6/02
959	Newark	Soto Cynthia	5/6/02
960	Newark	Laurie Neil D	6/28/07
961	Newark	Olmeda Mark	6/28/07
962	Newark	Tirado Elyzabeth	6/28/07
963	Newark	Ortiz Francisco	6/28/07
964	Newark	Lee Iii Kenneth R	6/28/07
965	Newark	Poyotte Marcum Germain	6/28/07
966	Newark	Colon Rigoberto	6/28/07
967	Newark	Febus Damaris	6/28/07
968	Newark	Torres Juan D	6/28/07
969	Newark	Vega Luis A	6/28/07
970	Newark	Martinez Olga E	6/28/07
971	Newark	Caballero Nancy B	6/28/07
972	Newark	Zavala Jaime	6/28/07
973	Newark	Mcclendon Todd	6/28/07
974	Newark	Brown Karen M	6/28/07
975	Newark	Alvarado Carlos B	6/28/07
976	Newark	Garcia Manuel J	6/28/07
977	Newark	Thompson Randel V	6/28/07
978	Newark	Thompson Stacy A	6/28/07
979	Newark	Colon Dennis	6/28/07
980	Newark	Ruiz Edwin	6/28/07
981	Newark	Rosa Antonia	6/28/07
982	Newark	Hernandez John	6/28/07
983	Newark	Nazario Ruben	6/28/07
984	Newark	Best Terrence C	6/28/07

985	Newark	Cardona Virgilio	6/28/07
986	Newark	Ramirez Michael	6/28/07
987	Newark	Matos Anthony J	6/28/07
988	Newark	Lovejoy Brian E	6/28/07
989	Newark	Sanchez Norberto	6/28/07
990	Newark	Holmes Bernadette	6/28/07
991	Newark	Curtis Njeri K	6/28/07
992	Newark	Caraballo Roberto	6/28/07
993	Newark	Toldens Terrez	6/28/07
994	Newark	Miranda Jr Modesto	6/28/07
995	Newark	Perez Jose A	6/28/07
996	Newark	Johnson Vanessa A	6/28/07
997	Newark	Hines Felicia D	6/28/07
998	Newark	Cote Michelle A	6/28/07
999	Newark	Lespier Ismael	6/28/07
1000	Newark	Adrien Gaston	6/28/07
1001	Newark	Gonzalez Jr Jose L	6/28/07
1002	Newark	Rouse Kevin G	6/28/07
1003	Newark	Rodriguez Gerardo L	6/28/07
1004	Newark	Tehlikian Nuvar J	6/28/07
1005	Newark	Lopez Quiros Victor M	6/28/07
1006	Newark	Camacho Luis G	6/28/07
1007	Newark	Romero Luz M	6/28/07
1008	Newark	Velez Peter A	6/28/07
1009	Newark	Armand Antonio	6/28/07
1010	Newark	Graham Darnell J	6/28/07
1011	Newark	Leonard Robert L	6/28/07
1012	Newark	Parham Jammal S	6/28/07
1013	Newark	Carrillo Leonardo F	6/28/07
1014	Newark	James Abraham	6/28/07
1015	Newark	Burrell Jr Albert R	6/28/07
1016	Newark	Borrero Arnold L	6/28/07
1017	Newark	Moore Robert D	6/28/07
1018	Newark	Manderville Tanetta L	6/28/07
1019	Newark	Fletcher Alfredy	6/28/07
1020	Newark	Vinueza Celso A	6/28/07
1021	Newark	Evans Andre B	6/28/07
1022	Newark	Smith Philip W	6/28/07
1023	Newark	Plaza Vilma I	6/28/07
1024	Newark	Major Sr Tyrone	6/28/07
1025	Newark	Davis Michelle	6/28/07
1026	Newark	Rivera Gabriel	6/28/07
1027	Newark	Parker Vernon J	6/28/07

1028	Newark	Jewell Jerome P	6/28/07
1029	Newark	Rada Orlando	6/28/07
1030	Newark	Duran Santos J	6/28/07
1031	Newark	Nieves David	6/28/07
1032	Newark	Gonzalez Eddie	6/28/07
1033	Newark	Sabur Rashid W	6/28/07
1034	Newark	Marrero Virginia M	6/28/07
1035	Newark	Lopez Joann	6/28/07
1036	Newark	Perez Olga I	6/28/07
1037	Newark	Simmons Robert	6/28/07
1038	Newark	Miranda Emanuel	6/28/07
1039	Newark	Acevedo Jr Fernando A	6/28/07
1040	Newark	Castro Ricardo	6/28/07
1041	Newark	Murphy Valerie D	6/28/07
1042	Newark	Maduro Marvin A	6/28/07
1043	Newark	Allen Portia E	6/28/07
1044	Newark	Velez Roberto	6/28/07
1045	Newark	Bright Dexter J	6/28/07
1046	Newark	Nelson Andree P	6/28/07
1047	Newark	Molina Jacqueline	6/28/07
1048	Newark	Wallace Joseph H	6/28/07
1049	Newark	Wright Jermaine C	6/28/07
1050	Newark	Perez Jose L	6/28/07
1051	Newark	Smith Silas	6/28/07
1052	Newark	Isaac Jeffrey J	6/28/07
1053	Newark	Brooks Gregory	6/28/07
1054	Newark	Turner Michael	6/28/07
1055	Newark	Henderson Tracie R	6/28/07
1056	Newark	Cartagena Robert	6/28/07
1057	Newark	Noel Michael	6/28/07
1058	Newark	Cabrera Rafael	6/28/07
1059	Newark	Mcclain Euletia E	6/28/07
1060	Newark	Worrill David L	6/28/07
1061	Newark	Hernandez Freddie	6/28/07
1062	Newark	Gonzalez Mario J	6/28/07
1063	Newark	Duprey Edward	6/28/07
1064	Newark	Martinez Jose L	6/28/07
1065	Newark	Copeland Renee F	6/28/07
1066	Newark	Rosa Rafael	6/28/07
1067	Newark	Rivera Andy C	6/28/07
1068	Newark	Jones William H	6/28/07
1069	Newark	Freeman Gerard	6/28/07
1070	Newark	Barreto Francisco	6/28/07

1071	Newark	Manata Antonio J	6/28/07
1072	Newark	Fortenberry David J	6/28/07
1073	Newark	Hernandez Rolando	6/28/07
1074	Newark	Hernandez Jacob J	6/28/07
1075	Newark	Velazquez Willmorys	6/28/07
1076	Newark	Alvarado Arthur	6/28/07
1077	Newark	Mollett Thomas	6/28/07
1078	Newark	Johnson William C	6/28/07
1079	Newark	Sayles Lisa A	6/28/07
1080	Newark	Marsh Ryan W	6/28/07
1081	Newark	Bright Jennifer N	6/28/07
1082	Newark	Marquez Efrain	6/28/07
1083	Newark	Ortiz Jason	6/28/07
1084	Newark	Arocho Wilfredo	6/28/07
1085	Newark	Lopez George	6/28/07
1086	Newark	Perez Angel L	6/28/07
1087	Newark	Carpenter Marvin	6/28/07
1088	Newark	Rivera Iris A	6/28/07
1089	Newark	Ferrer Lisette E	4/14/09
1090	Newark	Rios Eddie J	4/14/09
1091	Newark	Castillo Monica A	4/14/09
1092	Newark	Holland Antoinette	4/14/09
1093	Newark	Mendez Alberto	4/14/09
1094	Newark	Correia Billy	4/14/09
1095	Newark	Adams Nicole S	4/14/09
1096	Newark	Walden Larry J	4/14/09
1097	Newark	Clegg Michael W	4/14/09
1098	Newark	Baskerville Antoine S	4/14/09
1099	Newark	Sanders Kevin	4/14/09
1100	Newark	Alicea Jose E Jr	4/14/09
1101	Newark	Robinson Samantha	4/14/09
1102	Newark	Velez Edgar P	4/14/09
1103	Newark	Malave Elizabeth	4/14/09
1104	Newark	Gonzalez Marisol	4/14/09
1105	Newark	Horn Shelly M	4/14/09
1106	Newark	Godwin Ronney	4/14/09
1107	Newark	Garrett Marc A	4/14/09
1108	Newark	Hagood Michael H	4/14/09
1109	Newark	Branon Michael J	4/14/09
1110	Newark	George Wimberly Ranene	4/14/09
1111	Newark	Polanco Elvin J	4/14/09
1112	Newark	Padilla Feliberto Jr	4/14/09
1113	Newark	Marshall Douglas A	4/14/09

1114	Newark	Rosado William Jr	4/14/09
1115	Newark	Lugardo Elvis A	4/14/09
1116	Newark	Dennard Ochieng L	4/14/09
1117	Newark	Williams Carla L	4/14/09
1118	Newark	Horton Rahmaun T	4/14/09
1119	Newark	Quiles Mariano Jr	4/14/09
1120	Newark	Schroeder Erich F	4/14/09
1121	Newark	Pugh Wayne S	4/14/09
1122	Newark	Rodriguez Martha M	4/14/09
1123	Newark	Rodriguez Lisa A	4/14/09
1124	Newark	Rivera Roxanne	4/14/09
1125	Newark	Bernard Ronald	4/14/09
1126	Newark	Aviles Javier	4/14/09
1127	Newark	Maloon Madrigal Noemi	4/14/09
1128	Newark	Rivers Steven L	4/14/09
1129	Newark	Miles Joyia M	4/14/09
1130	Newark	Freitas Rafael	4/14/09
1131	Newark	Wade Anthony H	4/14/09
1132	Newark	Ellis Jamillah N	4/14/09
1133	Newark	Paredes Julio C Iii	4/14/09
1134	Newark	Reyes Joel	4/14/09
1135	Newark	Davis Bernard E	4/14/09
1136	Newark	Dopazo Jose L	4/14/09
1137	Newark	Merritt Reginald Sr	4/14/09
1138	Newark	Merritt Latasha R	4/14/09
1139	Newark	Vendrell Manuel J	4/14/09
1140	Newark	Munoz Cesar T	4/14/09
1141	Newark	Torres Pedro A	4/14/09
1142	Newark	Martinez Francisco A	4/14/09
1143	Newark	Richardson William M	4/14/09
1144	Newark	Sanabria David	4/14/09
1145	Newark	Caballero Gloria M	4/14/09
1146	Newark	Christopher Tonya D	4/14/09
1147	Newark	Watson Henry A	4/14/09
1148	Newark	Romero Angel M	4/14/09
1149	Newark	Young Darvel L	4/14/09
1150	Newark	Rosa Jose L	4/14/09
1151	Newark	Cruz Diana	4/14/09
1152	Newark	Cheeks Kason S	4/14/09
1153	Newark	Deleon Jeanice J	4/14/09
1154	Newark	Ferguson Shukirra	4/14/09
1155	Newark	Taylor Johnathan R	4/14/09
1156	Newark	Ramos Juan C	4/14/09

1157	Newark	Jordan Laura A	4/14/09
1158	Newark	Sanders Rockean J	4/14/09
1159	Newark	Gonzalez Marilyn	4/14/09
1160	Newark	Mitchell Yolanda E	4/14/09
1161	Newark	Simpkins Rod L	4/14/09
1162	Newark	Young Darlene E	4/14/09
1163	Newark	Nieves Samuel	4/14/09
1164	Newark	Rivas Jesus	4/14/09
1165	Newark	Arocho Waldemar	4/14/09
1166	Newark	Vargas Wayne G	4/14/09
1167	Newark	Garcia Elias	4/14/09
1168	Newark	Bernal Joseph A	4/14/09
1169	Passaic	Wheeler Lawrence E	11/17/02
1170	Passaic	Gil Harry	11/17/02
1171	Passaic	Figuerola Eudaldo	11/17/02
1172	Passaic	Pagan Ruben	11/17/02
1173	Passaic	Jennings Wayne M	11/17/02
1174	Passaic	Clavijo Juan J	11/17/02
1175	Passaic	Rivera Jose	11/17/02
1176	Passaic	Febles Luis S	11/17/02
1177	Passaic	Green Corey M	11/17/02
1178	Passaic	Figuerola Milton	11/17/02
1179	Passaic	Bonilla Carlos F	11/17/02
1180	Passaic	Irizarry Jr Wilson	11/17/02
1181	Passaic	Cabrera Ramon E	11/17/02
1182	Passaic	Rutherford Darrin T	11/17/02
1183	Passaic	Cancel Pedro P	11/17/02
1184	Passaic	Cruz David	7/2/06
1185	Passaic	Cabrera Jose M	7/2/06
1186	Passaic	Deintinis Ana M	7/2/06
1187	Passaic	Nieves Juan J	7/2/06
1188	Passaic	Ragsdale Jr Thomas J	7/2/06
1189	Passaic	Chang Blanca I	7/2/06
1190	Passaic	Santana Roberto	7/2/06
1191	Passaic	Casiano Irvin	7/2/06
1192	Passaic	Lewis Jabo J	7/2/06
1193	Passaic	Ortiz Rafael	7/2/06
1194	Passaic	Purcell Lisa	7/2/06
1195	Passaic	Ramirez Kenobi H	9/5/08
1196	Passaic	Aguirre Claudia S	9/5/08
1197	Passaic	Irizarry Jose M	9/5/08
1198	Passaic	Rios Iii Joseph J	9/5/08
1199	Passaic	Hernandez Enrique	9/5/08

1200	Passaic	Morales Herwing	9/5/08
1201	Passaic	Candelaria Lucho A	9/5/08
1202	Passaic	Larsen Glisette	9/5/08
1203	Passaic	Castellon Alexander	9/5/08
1204	Passaic	Ramos Miguel	9/5/08
1205	Passaic	Ladson Rahkeem	9/5/08
1206	Passaic	Eugene Marvin P	9/5/08
1207	Passaic	Ocasio Jose M	9/5/08
1208	Passaic	Barbosa Virgilio	9/5/08
1209	Paterson	Montanez Mayra	5/11/03
1210	Paterson	Duran Wilfredo	5/11/03
1211	Paterson	Santiago Miguel A	5/11/03
1212	Paterson	Morales Henry	5/11/03
1213	Paterson	Lewis Ronald L	5/11/03
1214	Paterson	Cabrera Tatiana C	5/11/03
1215	Paterson	Sanchez Alfredo E	5/11/03
1216	Paterson	Rayfield Karen L	5/11/03
1217	Paterson	Washington Anthony D	5/11/03
1218	Paterson	Barnes Gregory A	5/11/03
1219	Paterson	Mcmillan Gloria	5/11/03
1220	Paterson	Farrar Ronald B	5/11/03
1221	Paterson	Sims Jeffrey A	5/11/03
1222	Paterson	Fermin Rafael A	5/11/03
1223	Paterson	Lugo Eddiel A	5/11/03
1224	Paterson	Robinson Claudy A	5/11/03
1225	Paterson	Gomez Luis A	5/11/03
1226	Paterson	Barbee Steven D	5/11/03
1227	Paterson	Oquendo Miguel A	5/11/03
1228	Paterson	Orsita Fred B	5/11/03
1229	Paterson	Gonzalez John D	5/11/03
1230	Paterson	Williams Ricky N	5/11/03
1231	Paterson	Diaz Erik M	5/11/03
1232	Paterson	Avila Manuel	5/11/03
1233	Paterson	Palmer Jr Willie L	5/11/03
1234	Paterson	Guzman Robert O	5/11/03
1235	Paterson	Gatewood Donald	5/11/03
1236	Paterson	Pleasant Robert	5/11/03
1237	Paterson	Robinson Orlando	5/11/03
1238	Paterson	Vazquez Carlos M	5/11/03
1239	Paterson	Del Valle William	5/11/03
1240	Paterson	Rivera Victor E	5/11/03
1241	Paterson	Howe Michael	5/11/03
1242	Paterson	Mejia Jaime	5/11/03

1243	Paterson	Conyers Thomas E	5/11/03
1244	Paterson	Billie Randy	5/11/03
1245	Paterson	Caraballo Priscilla	5/11/03
1246	Paterson	Daunno Frank	5/11/03
1247	Paterson	Belton Jr Roy	5/11/03
1248	Paterson	Santana Haydee	5/11/03
1249	Paterson	Gonzalez Evelyn	5/11/03
1250	Paterson	Kline Ii Howard J	5/11/03
1251	Paterson	Reid Anderson	5/11/03
1252	Paterson	Smith Wayne A	5/11/03
1253	Paterson	Santiago Pablo	5/11/03
1254	Paterson	Beltran Nilsa	5/11/03
1255	Paterson	Gonzalez Ralph	5/11/03
1256	Paterson	Giles Dewayn	5/11/03
1257	Paterson	Jones Janet	5/11/03
1258	Paterson	Colon Nicolas	5/11/03
1259	Paterson	Castro George L	5/11/03
1260	Paterson	Ramos Sr Fremein	5/11/03
1261	Paterson	Cruz Alex	5/11/03
1262	Paterson	Mcdowell Carl L	5/11/03
1263	Paterson	Garcia Juan S	5/11/03
1264	Paterson	Diaz Michael A	5/11/03
1265	Paterson	Fletcher Richard D	5/11/03
1266	Paterson	Parker Wilber	5/11/03
1267	Paterson	Belton Francis F	5/11/03
1268	Paterson	Cuadrado Humberto	5/11/03
1269	Paterson	Sanchez Arsenio	5/11/03
1270	Paterson	Garcia Jose A	5/11/03
1271	Paterson	Heyaime Cesar J	12/29/06
1272	Paterson	Watkins James P	12/29/06
1273	Paterson	Gilchrist Walter	12/29/06
1274	Paterson	Lugo Eladio	12/29/06
1275	Paterson	Valentin Jose L	12/29/06
1276	Paterson	Deary Edward A	12/29/06
1277	Paterson	Mcmillan Sonya	12/29/06
1278	Paterson	Palomino William J	12/29/06
1279	Paterson	Sykes Marvin L	12/29/06
1280	Paterson	Lusk Frank H	12/29/06
1281	Paterson	Charon Carlos A	12/29/06
1282	Paterson	Miyasato James	12/29/06
1283	Paterson	Melendez Sweeney	12/29/06
1284	Paterson	Cooley Audrey C	12/29/06
1285	Paterson	Guzman Agapito	12/29/06

1286	Paterson	Cruz Luis A	12/29/06
1287	Paterson	Medina Marcos	12/29/06
1288	Paterson	Maldonado Francisco	12/29/06
1289	Paterson	Maldonado Richard	12/29/06
1290	Paterson	Cary Kelly M	5/7/10
1291	Paterson	Cruz Miguel A	5/7/10
1292	Paterson	Mendez Osvaldo M	5/7/10
1293	Paterson	Torres Luis A	5/7/10
1294	Paterson	White Tamiko L	5/7/10
1295	Paterson	Santiago Jose A	5/7/10
1296	Paterson	Quinones Michael	5/7/10
1297	Paterson	Galvan Guillermo A	5/7/10
1298	Paterson	Patterson Vaughan I	5/7/10
1299	Paterson	Vidal Novar	5/7/10
1300	Paterson	Tanis David G	5/7/10
1301	Paterson	Galvan Jose M	5/7/10
1302	Paterson	Morillo Edwin D	5/7/10
1303	Paterson	Grandez Johnn W	5/7/10
1304	Paterson	Narvaez Antonio S	5/7/10
1305	Teaneck	Lievano Eddy	4/1/05
1306	Teaneck	Williams Jeanette L	4/1/05
1307	Teaneck	Lighty Jr John	4/1/05
1308	Teaneck	Nogueras John J	4/1/05
1309	Teaneck	Forrest Patrick W	4/1/05
1310	Teaneck	Johnson Kimberly N	4/1/05
1311	Teaneck	Ryland Rodney J	4/1/05
1312	Teaneck	Rucker Gregory M	4/1/05
1313	Teaneck	Martinez Lopez Zoraida	4/1/05
1314	Teaneck	Garcia Daniel M	10/30/07
1315	Teaneck	Rodriguez Angel S	10/30/07
1316	Teaneck	Clark Harold K	10/30/07
1317	Teaneck	Santiago Jr Saul	10/30/07
1318	Teaneck	Coley Glenn A	10/30/07
1319	Teaneck	Rodriguez Justin C	8/11/10
1320	Teaneck	Santiago Gabriel E	8/11/10
1321	Teaneck	West Percy A	8/11/10
1322	Teaneck	Moliere Michael V	8/11/10
1323	Trenton	Lopez Ronald B	5/13/04
1324	Trenton	Elsey Erwin T	5/13/04
1325	Trenton	Watts Gittens Robin E	5/13/04
1326	Trenton	Ja-Bree Faheem A	5/13/04
1327	Trenton	Moreland Douglas W	5/13/04
1328	Trenton	Mcmillan Jr James E	5/13/04

1329	Trenton	Jones Sr Timothy L	5/13/04
1330	Trenton	Hodges Tyrone	5/13/04
1331	Trenton	June Quinton O	5/13/04
1332	Trenton	Mathes Robert J	5/13/04
1333	Trenton	Law Iii Singleton S	5/13/04
1334	Trenton	Godbold David R	5/13/04
1335	Trenton	Watkins Jr Howard L	5/13/04
1336	Trenton	Robinson Gairy	5/13/04
1337	Trenton	Cadlett Alvin R	5/13/04
1338	Trenton	Wilson George L	5/18/06
1339	Trenton	Stokes Bethesda R	5/18/06
1340	Trenton	Johnson Jr Nathaniel M	5/18/06
1341	Trenton	Simpson Derek P	5/18/06
1342	Trenton	Oneal Flim Anita D	5/18/06
1343	Trenton	Taliaferro James A	5/18/06
1344	Trenton	Williams Richard E	4/3/09
1345	Trenton	Parrott Marlon T	4/3/09

ATTACHMENT

D

ATTACHMENT D

**JURISDICTIONS IN WHICH CONTINUED USE OF AN EXISTING ELIGIBLE
LIST FOR ITS CURRENT DURATION OR FOR AN ADDITIONAL YEAR (WHERE THE
LIST EXTENDS BEYOND ONE YEAR) MAY RESULT IN DISPARATE IMPACT
ON AFRICAN-AMERICAN AND/OR HISPANIC CANDIDATES**

1	Atlantic City
2	Camden
3	Irvington
4	Jersey City
5	Passaic
6	Paterson
7	Pleasantville
8	Salem City
9	Teaneck
10	Trenton

ATTACHMENT E

ATTACHMENT E

NOTICE OF SETTLEMENT AND FAIRNESS HEARING

On [insert date], the United States and the State of New Jersey and the New Jersey Civil Service Commission (the "State") executed a settlement of a lawsuit filed by the United States on January 9, 2010, in the United States District Court for the District of New Jersey. In its Complaint, the United States alleges that the State has pursued policies and practices that discriminate against and deprive or tend to deprive African Americans and Hispanics of employment opportunities because of their race and/or national origin, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Specifically, the United States alleges that since 2000, the State's (1) pass/fail use of a police sergeant written examination and (2) certification of police sergeant candidates in descending rank order based on a combination of candidates' written examination scores and seniority credits have resulted in a disparate impact upon African-American and Hispanic candidates for promotion to police sergeant in local jurisdictions participating in New Jersey's civil service system. The United States further alleges that the State's uses of the written examination have not been shown to be job related for the position of police sergeant and consistent with business necessity, as required by federal law.

The United States alleges only disparate impact discrimination. The United States does not allege that the State has intentionally discriminated against any person or group of persons.

The State denies that it has violated Title VII. However, in the interest of resolving this matter and to promote the purposes of Title VII, the United States and the State have voluntarily entered into a Consent Decree ("Decree") settling the lawsuit.

The terms of the Decree include an agreement by the State that it will develop a new selection procedure for the screening and selection of candidates for promotion to police sergeant in local jurisdictions. The State also has agreed to provide \$1,000,000 in back pay to be distributed among African-American and Hispanic Claimants from specified jurisdictions who were determined to have been adversely affected by the State's uses of the written examination. Per the Decree, "Claimant" refers to any African-American or Hispanic person from specified jurisdictions who has not been promoted to police sergeant and who (1) failed any one of the police sergeant written examinations given by the State between 2000 and 2009 or (2) passed any one of the police sergeant written examinations given by the State between 2000 and 2008 but ranked below the lowest-ranking candidate appointed from any expired eligible list resulting from that administration of the written examination.

The State also has agreed to certify Claimants in specified jurisdictions for priority promotion over all other candidates except those on special reemployment lists until a minimum of, and no more than, 68 priority promotions have been made pursuant to the Decree. To be eligible for a priority promotion, a Claimant must pass the new selection procedure for police sergeant as developed under the Decree. If promoted, these individuals would be awarded retroactive seniority, only for purposes of calculating seniority points for future promotions if applicable, based upon the median appointment date for candidates on the eligible list that would have included the Claimant or from which the Claimant would have been appointed. The State

has also agreed to cease using current eligible lists in ten jurisdictions where such continued use will result in an additional adverse effects on African Americans and/or Hispanics from the challenged exam.

Attachments to the Decree set forth (1) a list of those individuals who meet the definition of "Claimant" and are eligible for back pay (Attachment B); (2) a list of those individuals who meet the definition of "Claimant" and are eligible for both back pay and priority promotion, including their presumptive appointment dates for purposes of retroactive seniority only for purposes of calculating seniority points for future promotions if applicable (Attachment C); (3) a list of those jurisdictions from which priority promotions will be made and the allocation of priority promotions among such jurisdictions (Attachment K); and (4) a list of those jurisdictions where the State will cease its use of existing eligible lists (Attachment D). The Decree is publicly available on the New Jersey Civil Service Commission website at [www._____](http://www.njcs.com). Copies of the Decree also are available from the Office of the Attorney General for the State of New Jersey, located at 25 Market Street, Trenton, New Jersey 08625.

The Decree has been entered by Order of the Court provisionally, and the parties now have requested that the Court hold a "Fairness Hearing" to determine whether the terms of the Decree are fair, reasonable, equitable and otherwise consistent with federal law. This Fairness Hearing will be held on [insert date] at [time], at the Martin Luther King Building and United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101. **You have the right to attend this Fairness Hearing.**

In addition, you have the right to submit a written objection to any of the terms of the Decree that you believe are unfair or unlawful. Instructions for filing an objection are enclosed with this notice. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from taking any action against this Decree in the future.**

INSTRUCTIONS FOR FILING AN OBJECTION
PRIOR TO THE FAIRNESS HEARING

1. If you believe the terms of the Consent Decree are unfair, unreasonable or unlawful, you may object to its final entry by the Court. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from taking any action against this Consent Decree in the future.** If you decide to object, you must follow the instructions set out on this page. If you choose to object, the judge will consider your objection before deciding whether to approve the terms of the Consent Decree.
2. **All objections must be returned by [insert date]. If your objection is not returned by this date, your objection may not be considered and you may be prohibited from objecting at a later time. The date of return of the objection will be the date of the postmark by United States Postal Service.**
3. **All objections must be made in writing.** Your objection should be made on the attached form, showing the caption of the case. You must fill out this page completely. You must include a description of the basis of your objection. If you have retained an attorney to assist you in this matter, indicate with your objection the name, address and phone number of your attorney. You may attach additional pages to the caption page/form if necessary.
4. You must submit one copy of your objection to the following address:

State of New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
PHB, Room ***
950 Pennsylvania Avenue, NW
Washington, DC 20530
5. The court will hold the Fairness Hearing on [insert date]. You may attend this hearing if you wish, but you need not attend to have the Court consider any written objections you submit.
6. If you have any questions concerning the procedure to submit an objection, you may consult with an attorney of your own choosing and at your own expense, or you may call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800- [insert number]. If you do call this number, please leave your name, social security number, telephone number and a time when you can be reached. Your call will be returned as soon as possible.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE

_____	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	2:10- cv-00091-KSH-MAS
STATE OF NEW JERSEY AND	)	
NEW JERSEY CIVIL SERVICE	)	Hon. Katharine S. Hayden
COMMISSION,	)	
	)	
Defendants.	)	
_____	)	

OBJECTION TO THE ENTRY OF THE CONSENT DECREE

I am objecting to the terms of settlement of this case included in the Consent Decree agreed to by the United States and the State of New Jersey and New Jersey Civil Service Commission.

Name: _____ Attorney's name (if any): _____

Address: _____ Attorney's address: _____

Telephone: _____ Attorney's Telephone: _____

Basis of my objection:

Are you requesting the opportunity for you (or your attorney if you have one) to state your objection in person at the Fairness Hearing?

[] Yes [] No

YOU MAY USE ADDITIONAL PAGES TO EXPLAIN THE BASIS OF YOUR OBJECTION IF NECESSARY. **YOU MUST SEND YOUR OBJECTION TO THE DEPARTMENT OF JUSTICE AT THE ADDRESS PROVIDED IN THE INSTRUCTIONS. YOUR OBJECTION MUST BE POSTMARKED BY [INSERT DATE].**

ATTACHMENT

F

ATTACHMENT F

LETTER TO CLAIMANTS

Re: United States v. State of New Jersey and the New Jersey Civil Service Commission, Civ. Action No. 2:10-cv-00091 (D.N.J.)

Dear _____:

Our records indicate that you have taken the written examination for promotion to police sergeant since January 1, 2000, in a local jurisdiction that participates in New Jersey's civil service system. This letter is to notify you of a settlement of a civil lawsuit between the United States and the State of New Jersey and the New Jersey Civil Service Commission that may affect you.

Enclosed please find a document entitled "**NOTICE OF SETTLEMENT AND FAIRNESS HEARING**." This document describes the basis of the lawsuit and a summary of the terms of the settlement. The settlement agreement itself, embodied in a Consent Decree, can be found at www._____. In addition, the document provides the time and place of a Fairness Hearing regarding the settlement and tells you how to make an objection to the terms of the settlement if you choose to do so. **Please read the document carefully as your rights may be affected.**

If the Court approves the settlement of this case after the Fairness Hearing, you will be contacted about how to submit a claim for such relief. You do not need to take any action at this time to be eligible for relief under the settlement.

Sincerely,

State of New Jersey

Enclosures

ATTACHMENT

G

ATTACHMENT G

LETTER TO NON CLAIMANTS

Re: United States v. State of New Jersey and the New Jersey Civil Service Commission, Civ.
Action No. 2:10-cv-00091 (D.N.J.)

Dear _____:

This letter is to notify you of a settlement of a civil lawsuit between the United States and the State of New Jersey and the New Jersey Civil Service Commission.

Enclosed please find a document entitled "**NOTICE OF SETTLEMENT AND FAIRNESS HEARING**." This document describes the basis of the lawsuit and a summary of the terms of the settlement. The settlement agreement itself, embodied in a Consent Decree, can be found at www._____. In addition, the document provides the time and place of a Fairness Hearing regarding the settlement and tells you how to make an objection to the terms of the settlement if you choose to do so. **Please read the document carefully as your rights and your entitlement to object to the settlement or participate in the Fairness Hearing may be affected.**

Sincerely,

State of New Jersey

Enclosures

ATTACHMENT

H

ATTACHMENT H

NOTICE OF ENTRY OF CONSENT DECREE

On [insert date], a Consent Decree resolving a lawsuit between the United States and the State of New Jersey and the New Jersey Civil Service Commission (the "State") was entered by the Court. **As a result, you may be eligible for back pay and/or a priority promotion as a police sergeant with a local jurisdiction that participates in New Jersey's civil service system, with retroactive seniority only for purposes of calculating seniority points for future promotions if applicable.**

The Consent Decree settles a lawsuit filed by the United States in the United States District Court for the District of New Jersey. In the lawsuit, the United States alleges that the State has pursued policies and practices that discriminate against and deprive or tend to deprive African Americans and Hispanics of employment opportunities because of their race and/or national origin, in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Specifically, the United States alleges that since 2000, the State's (1) pass/fail use of a police sergeant written examination and (2) certification of police sergeant candidates in descending rank order based on a combination of candidates' written examination scores and seniority credits have resulted in a disparate impact upon African-American and Hispanic candidates for promotion to police sergeant in local jurisdictions participating in New Jersey's civil service system. The United States further alleges that the State's uses of the written examination have not been shown to be job related for the position of police sergeant and consistent with business necessity, as required by federal law.

The United States alleges only disparate impact discrimination. The United States does not allege that the State has intentionally discriminated against any person or group of persons.

The State denies that it has violated Title VII. However, in the interest of resolving this matter and to promote the purposes of Title VII, the United States and the State have voluntarily entered into a Consent Decree ("Decree") settling the lawsuit.

The terms of the Decree include an agreement by the State that it will develop a new selection procedure for the screening and selection of candidates for promotion to police sergeant in local jurisdictions. The State also has agreed to provide \$1,000,000 in back pay to be distributed among African-American and Hispanic Claimants from specified jurisdictions who were determined to have been adversely affected by the State's uses of the written examination. Per the Decree, "Claimant" refers to any African-American or Hispanic person from specified jurisdictions who has not been promoted to police sergeant and who (1) failed any one of the police sergeant written examinations given by the State between 2000 and 2009 or (2) passed any one of the police sergeant written examinations given by the State between 2000 and 2008 but ranked below the lowest-ranking candidate appointed from any expired eligible list resulting from that administration of the written examination.

The State also has agreed to certify Claimants in specified jurisdictions for priority promotions over all other candidates except those on special reemployment lists until a minimum

of, and no more than, 68 priority promotions have been made pursuant to the Decree. To be eligible for a priority promotion, a Claimant must pass the new selection procedure for police sergeant as developed under the Decree. If promoted, these individuals would be awarded retroactive seniority, only for purposes of calculating seniority points for future promotions if applicable, based upon the median appointment date for candidates on the eligible list that would have included the Claimant or from which the Claimant would have been appointed. The State has also agreed to cease using current eligible lists in selected jurisdictions where such continued use will result in an unlawful impact.

You are being sent this Notice because you have been preliminarily deemed eligible for back pay and/or priority promotion.

If you believe you are entitled to relief and wish to request back pay, and consideration for priority promotion if indicated, you should fill out the Interest in Back Pay Form or Interest in Back Pay and/or Priority Promotion Form enclosed with this notice and return it by mail no later than [insert date] to:

State of New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
PHB, Room ***
950 Pennsylvania Avenue, NW
Washington, DC 20530

If you have any questions about how to submit a claim, or whether you may be eligible, you may consult with an attorney of your own choosing and at your own expense, or you may call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800- [insert number]. If you do call this number, please leave your name, social security number, address and telephone number and a time when you can be reached. Your call will be returned as soon as possible.

SUBMITTING THE CLAIM FORM BY [insert date], DOES NOT GUARANTEE THAT YOU ARE ENTITLED TO OR WILL RECEIVE ANY RELIEF. HOWEVER, IF YOU FAIL TO SUBMIT A CLAIM FORM BY [insert date] YOU MAY BE BARRED FROM OBTAINING RELIEF.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW JERSEY AND
NEW JERSEY CIVIL SERVICE
COMMISSION,

Defendants.

Civil Action No.
2:10-cv-00091-KSH-MAS

Hon. Katharine S. Hayden

INTEREST IN BACK PAY AND/OR PRIORITY PROMOTION FORM

I am interested in obtaining back pay under the Consent Decree agreed to by the United States and the State of New Jersey and New Jersey Civil Service Commission and entered by the Court in the above-captioned case. I also understand that, under the terms of the Consent Decree, I am eligible for priority promotion. By signing and returning this form, I certify that:

- (1) I am either ☐ African American or ☐ Hispanic (check which applies);
- (2) I either ☐ failed any one of the police sergeant written examinations given by the State between 2000 and 2009 or ☐ passed any one of the police sergeant written examinations given by the State between 2000 and 2008 but ranked below the lowest-ranking candidate appointed from any expired eligible list resulting from that administration of the written examination (check which applies); and
- (3) I have not been promoted to police sergeant.

Name: _____

Social Security Number: _____

Other name(s) used: _____

Address: _____

Telephone: _____

I wish to be considered for the following forms of relief:

☐ Back pay ☐ Priority promotion ☐ Both ☐ None

I understand that, if I have indicated above that I wish to be considered for back pay, information regarding my background may be requested, and I may be required to provide such information. I understand that, if I have indicated above that I wish to be considered for priority promotion, I am not guaranteed a position as a police sergeant. I understand that my eligibility for priority promotion is subject to the number of available positions for priority promotion in the local jurisdiction in which I serve; my final score on the new selection procedure for police sergeant as developed under the Decree; and my satisfying any other lawful, objective appointment criteria in use by the State at that time. I also understand that to obtain back pay and/or to remain eligible for a priority promotion, I will be asked to sign a release of any and all claims that I may have that are covered by the lawsuit in this case.

Dated: _____

Name: _____

ATTACHMENT

I

ATTACHMENT I

LETTER TO CLAIMANTS

Re: United States v. State of New Jersey and the New Jersey Civil Service Commission, Civ. Action No. 2:10-cv-00091 (D.N.J.)

Dear _____:

As described below, the United States has made certain determinations concerning your eligibility for relief under the terms of the Consent Decree entered by the Court in United States v. State of New Jersey and the New Jersey Civil Service Commission, Civ. Action No. 2:10-cv-00091 (D.N.J.). **Please read the following very carefully.**

1. The United States has made a preliminary determination that you [] are [] are not eligible for an award of back pay and that you should receive at least [insert amount], less withholdings.
2. The United States has made a preliminary determination that you [] are [] are not eligible for priority promotion. If the United States has preliminary determined that you are eligible for a priority promotion, this does not ensure that you will be promoted to police sergeant by the local jurisdiction for which you serve. However, if you are promoted pursuant to the Consent Decree and complete a probationary/working test period, you will be given a retroactive seniority date of [insert date], only for purposes of calculating seniority points for future promotions if applicable.
3. To the extent that the United States has determined that you are not eligible for an award of back pay or has determined that you are not eligible for priority promotion, the reason(s) for this determination are:

In addition to the determinations indicated above, the United States has made preliminary determinations regarding the nature and amount of relief that each of the other individuals who submitted an Interest in Back Pay Form or an Interest in Back Pay and/or Priority Promotion Form should receive under the Consent Decree. The United States will ask the Court to approve all of the United States' determinations at a **Fairness Hearing on Individual Relief** which will be held on [insert date], at the Martin Luther King Building and United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101. **You have the right to attend this Fairness Hearing.** At or after the Fairness Hearing on Individual Relief, the Court may approve the United States' determinations or may adjust them with respect to you and/or other Claimants under the procedures set forth in the Consent Decree.

If you wish to object to the United States' preliminary determinations in any respect, you must take action, as explained in the enclosed "**INSTRUCTIONS FOR FILING AN OBJECTION TO INDIVIDUAL RELIEF**." Making an objection is voluntary, but if you do not object at this time, you may be prohibited from objecting in the future. You may request an opportunity to be heard at the Fairness Hearing, but you do not need to appear at the Fairness Hearing for the Court to consider your objections.

Sincerely,

Employment Litigation Section
Civil Rights Division
United States Department of Justice

Enclosures

INSTRUCTIONS FOR FILING AN OBJECTION TO INDIVIDUAL RELIEF

1. If you wish to object in any respect to the United States' preliminary determinations regarding the relief to which you are entitled under the Consent Decree, you must do so in the manner described below. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from objecting in the future.** If you choose to make an objection, the judge will consider your objection before deciding whether to approve the types and amounts of relief to be provided to you and other individuals under the Consent Decree.
2. **All objections must be returned by [insert date] . If your objection is not returned by this date, your objection may not be considered and you may be prohibited from objecting at a later time. The date of return of the objection will be the date of the postmark by United States Postal Service.**
3. **All objections must be made in writing.** Your objection should be made on the attached form, showing the caption of the case. You must fill out this form completely. You must include a description of the nature and basis of your objection. If you have retained an attorney to assist you in this matter, please indicate with your objection the name, address and phone number of your attorney. You may attach additional pages to the form if necessary.
4. You must submit your objection to:

State of New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
PHB, Room ***
950 Pennsylvania Avenue, NW
Washington, DC 20530
5. The court will hold the Fairness Hearing on Individual Relief on [insert date] at the Martin Luther King Building and United States Courthouse, 50 Walnut Street, Newark, New Jersey 07101. You may attend this hearing if you wish, but need not attend the hearing to have the Court consider any written objections you submit.
6. If you have any questions concerning the procedure for submitting an objection, you may consult with an attorney of your own choosing and at your own expense, or you may call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800- [insert number] . If you do call this number, please leave your name, address, and telephone number and a time when you can be reached. Your call will be returned as soon as possible.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW JERSEY AND
NEW JERSEY CIVIL SERVICE
COMMISSION,

Defendants.

Civil Action No.
2:10-cv-00091-KSH-MAS

Hon. Katharine S. Hayden

**OBJECTION TO UNITED STATES' DETERMINATION REGARDING
INDIVIDUAL RELIEF TO BE AWARDED UNDER THE CONSENT DECREE**

I am objecting to the United States' determinations regarding the relief to which I am entitled under the Consent Decree.

Name: _____ Attorney's name (if any): _____

Address: _____ Attorney's address: _____

Telephone: _____ Attorney's Telephone: _____

Nature and basis of my objection:

**YOU MUST ATTACH A COPY OF ANY DOCUMENTATION
THAT YOU HAVE THAT SUPPORTS YOUR OBJECTIONS**

Are you requesting the opportunity for you (or your attorney if you have one) to state your objection in person at the Fairness Hearing on Individual Relief?

☐ Yes ☐ No

YOU MAY USE ADDITIONAL PAGES TO EXPLAIN THE BASIS OF YOUR OBJECTION IF NECESSARY. YOU MUST SEND YOUR OBJECTION TO THE DEPARTMENT OF JUSTICE AT THE ADDRESS PROVIDED IN THE INSTRUCTIONS. YOUR OBJECTION MUST BE POSTMARKED BY [INSERT DATE] .

ATTACHMENT

J

ATTACHMENT J

NOTICE OF AWARD OF INDIVIDUAL RELIEF
AS STATED IN THE FINAL RELIEF AWARDS LIST

On [insert date], the Court approved a Final Relief Awards List pursuant to the Consent Decree entered by the Court in United States v. State of New Jersey and the New Jersey Civil Service Commission, Civ. Action No. 2:10-cv-00091 (D.N.J.). **You are being sent this Notice because you have been deemed eligible for back pay. If indicated on the attached form, you are also eligible for a priority promotion.**

To receive this back pay, and consideration for priority promotion if applicable, you must properly and completely fill out the attached Acceptance of Back Pay and Release of Claims form (or Acceptance of Back Pay and Consideration for Priority Promotion and Release of Claims form), initial the first page of this form, sign the form and return it to the Department of Justice no later than [insert date] to:

State of New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
PHB, Room ***
950 Pennsylvania Avenue, NW
Washington, DC 20530

You also must **complete and return the enclosed federal and state tax forms** so that appropriate withholdings for taxes, FICA and Medicare may be made from the monetary award.

If you have any questions about how to submit your Acceptance of Back Pay and Release of Claims form (or Acceptance of Back Pay and Consideration for Priority Promotion and Release of Claims form), you may consult with an attorney of your own choosing and at your own expense, or you may call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800- [insert number]. If you do call this number, please leave your name, social security number, address and telephone number and a time when you can be reached. Your call will be returned as soon as possible.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
NEWARK VICINAGE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	2:10- cv-00091-KSH-MAS
STATE OF NEW JERSEY AND	)	
NEW JERSEY CIVIL SERVICE	)	Hon. Katharine S. Hayden
COMMISSION,	)	
	)	
Defendants.	)	

ACCEPTANCE OF BACK PAY AND RELEASE OF CLAIMS

I, [insert name], have received notice from the United States Department of Justice of the back pay award offered to me pursuant to the provisions of the Consent Decree entered by the Court on [insert date] in the above-named lawsuit.

The **BACK PAY AWARD** I am being offered consists of:

[insert amount] dollars (\$ _____), minus the appropriate withholdings for taxes, FICA and Medicare.

 I ACCEPT THIS AWARD.

INITIAL HERE: _____

In consideration for this award of the relief stated above, I release the State of New Jersey and the New Jersey Civil Service Commission and all prior and current elected and appointed officials thereof, and their employees, agents, attorneys, successors, and assigns from all or any legal claims based upon alleged discrimination on the basis of race and/or national origin with respect to the promotion of African-American and Hispanic candidates into the position of police sergeant in violation of any federal or state statutes, regulations or executive orders providing for or giving rise to claims or rights of action relating to equal employment, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., that were, or could have been, the subject of the above-described lawsuit, of which I am aware, or through the exercise of reasonable diligence could have been aware. I also understand that I am releasing my employing entity, which is not a party to this action, from any claims or rights of action that I may have arising out of, or relating to, the claims raised by the United States Department of Justice against

the State of New Jersey in this action. The above-named lawsuit was resolved by entry of the Consent Decree by the Court on [insert date] .

The release of claims contained herein is not conditioned on my receipt of any other relief under the Consent Decree.

I understand that **I must properly and completely fill out this Acceptance of Back Pay and Release of Claims form, initial the first page of this form, sign the form and return it to the Department of Justice no later than [insert date] in order to receive the relief award.**

I also understand that **I must complete and return the enclosed federal and state tax forms** so that appropriate withholdings for taxes, FICA and Medicare may be made from the monetary award.

I HAVE READ THIS ACCEPTANCE OF BACK PAY AND RELEASE OF CLAIMS FORM AND UNDERSTAND THE CONTENTS THEREOF. I SIGN THIS FORM OF MY OWN FREE ACT AND DEED.

Date Signed

Signature

(Street Address)

(City)

(State)

(Zip code)

() ____ - ____ (Home Telephone)

() ____ - ____ (Work Telephone)

____ - ____ - ____ (Social Security Number)

Return this form to:

State of New Jersey Settlement Team
Employment Litigation Section
U.S. Department of Justice
Civil Rights Division
PHB, Room ***
950 Pennsylvania Avenue, NW
Washington, DC 20530

In consideration for this award of the relief stated above, I release the State of New Jersey and the New Jersey Civil Service Commission and all prior and current elected and appointed officials thereof, and their employees, agents, attorneys, successors, and assigns from all or any legal claims based upon alleged discrimination on the basis of race and/or national origin with respect to the promotion of African-American and Hispanic candidates into the position of police sergeant in violation of any federal or state statutes, regulations or executive orders providing for or giving rise to claims or rights of action relating to equal employment, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., that were, or could have been, the subject of the above-described lawsuit, of which I am aware, or through the exercise of reasonable diligence could have been aware. I also understand that I am releasing my employing entity, which is not a party to this action, from any claims or rights of action that I may have arising out of, or relating to, the claims raised by the United States Department of Justice against the State of New Jersey in this action. The above-named lawsuit was resolved by entry of the Consent Decree by the Court on [insert date] .

The release of claims contained herein is not conditioned on my receipt of any other relief under the Consent Decree. Specifically, I understand that, although I may or may not be eligible for priority promotion relief with a retroactive seniority date, I am not assured that I will be offered a promotion to police sergeant under the Consent Decree even if I am eligible for such relief.

I understand that **I must properly and completely fill out this Acceptance of Back Pay and Consideration for Priority Promotion and Release of Claims form, initial the first page of this form, sign the form and return it to the Department of Justice no later than [insert date] in order to receive the relief award.**

I also understand that **I must complete and return the enclosed forms** so that appropriate withholdings for taxes, FICA and Medicare may be made from the monetary award.

I HAVE READ THIS ACCEPTANCE OF BACK PAY AND CONSIDERATION FOR PRIORITY PROMOTION AND RELEASE OF CLAIMS FORM AND UNDERSTAND THE CONTENTS THEREOF. I SIGN THIS FORM OF MY OWN FREE ACT AND DEED.

Date Signed

Signature

(Street Address)

(City)

(State)

(Zip code)

() ____ - ____ (Home Telephone)

() ____ - ____ (Work Telephone)

____ - ____ - ____ (Social Security Number)

Return this form to:

State of New Jersey Settlement Team
Employment Litigation Section

U.S. Department of Justice
Civil Rights Division
PHB, Room ***
950 Pennsylvania Avenue, NW
Washington, DC 20530

ATTACHMENT

K

ATTACHMENT K**ALLOCATION OF PRIORITY PROMOTION POSITIONS TO JURISDICTIONS**

	Jurisdiction	African American	Hispanic
1	Atlantic City	5	2
2	Bridgeton	2	1
3	Camden	3	1
4	East Orange	2	1
5	Elizabeth	3	3
6	Hoboken	0	3
7	Jersey City	6	3
8	New Brunswick	1	2
9	Newark	14	1
10	Passaic	2	1
11	Paterson	5	1
12	Teaneck	2	1
13	Trenton	3	0

EXHIBIT

2

THOMAS E. PEREZ
Assistant Attorney General
LORETTA KING
Deputy Assistant Attorney General
DELORA L. KENNEBREW
Chief
ESTHER G. LANDER
Deputy Chief
VARDA HUSSAIN
VALERIE L. MEYER
ELIZABETH B. BANASZAK
HILARY FUNK
TREVOR S. BLAKE II
Trial Attorneys
United States Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, N.W.
Patrick Henry Building, Room 4910
Washington, D.C. 20530
(202) 305-4267
Attorneys for Plaintiff United States

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW JERSEY AND NEW
JERSEY CIVIL SERVICE
COMMISSION,

Defendants.

UNITED STATES COURT FOR THE
DISTRICT OF NEW JERSEY

VICINAGE OF NEWARK

Civil Action No.
2:10-cv-00091-KSH-MAS

Hon. Katharine S. Hayden

DECLARATION OF BERNARD R. SISKIN, PH.D.

I, BERNARD R. SISKIN, declare the following:

1. I am the Director of BLDS, LLC, based in Philadelphia, Pennsylvania. I received my

Ph.D. in Statistics with a minor in Econometrics from the Wharton School of the University of Pennsylvania in 1970. I have authored four books on statistical methodology, three book chapters (including one in a book entitled *Employment Discrimination Litigation: Behavioral, Quantitative and Legal Perspectives*), four research monographs, and numerous papers, including articles on the role of statistics in the analysis of employment discrimination issues. Since receiving my Ph.D., I have specialized in the application of statistics to the analysis of employment practices. In this capacity, I have been retained by numerous governmental and private organizations, including, but not limited to, the Third Circuit Task Force on Race and Gender, the Equal Employment Opportunity Commission, the United States Department of Justice, the Office of Federal Contract Compliance Programs, the Federal Bureau of Investigation, and various states and municipalities as well as numerous Fortune 500 Companies and other private corporations. I have been retained by Plaintiff United States as an expert witness in the above-captioned action.

2. On a yearly basis, the State of New Jersey and the New Jersey Civil Service Commission (collectively, "New Jersey") administer the same written exam state wide to all police officers applying for promotion to the position of police sergeant in local jurisdictions participating in the promotional process that year. At least 182 counties and municipalities in New Jersey participated in the civil service system during the period of 2000 to 2009. Candidates for police sergeant who meet the minimum qualifications set by New Jersey, and who achieve a passing score on a written exam administered by New Jersey, are placed in descending rank order on eligible lists based on final scores. Final scores are a combination of written exam scores, which are weighted 80 percent, and seniority credits, which are weighted 20 percent. Between 2000 and 2009 inclusive, New Jersey administered the exam on a yearly basis to approximately 6,392

white candidates, 1,343 African-American candidates, and 1,363 Hispanic candidates.

Disparate Impact

3. With respect to disparate impact, I have been asked to provide my expert opinion as to (i) whether the use by New Jersey of a written exam for promotion to police sergeant on a pass/fail basis from 2000 to 2009 had a statistically significant disparate impact upon African-American or Hispanic candidates; (ii) whether New Jersey's determination and use of final scores to certify candidates from eligible lists in descending rank order from 2000 to 2009 for the position of police sergeant in local jurisdictions had a statistically significant disparate impact upon African-American or Hispanic candidates; and (iii) whether any statistically significant disparate impact also resulted in a practical effect upon the promotional opportunities of African-American or Hispanic candidates.

4. On a yearly basis, New Jersey administers the same written exam state wide to all police officers applying for promotion to the position of police sergeant in local jurisdictions participating in the promotional process that year. New Jersey sets the same pass score state wide each year for all of the local jurisdictions participating in the promotional process that year. Accordingly, it is my opinion that it is appropriate to aggregate data from all test takers across jurisdictions, controlling for factors such as year and jurisdiction when appropriate, in analyzing whether New Jersey's uses of the police sergeant written exam result in a statistically significant disparate impact upon African-American and Hispanic candidates.

5. New Jersey's pass/fail use of the written exam from 2000 to 2009 resulted in a statistically significant disparate impact upon African-American candidates for the position of police sergeant. Analysis of test administration data from 2000 to 2009 as a whole indicates that the written exam resulted in a statistically significant disparity between the pass rate of African-

American candidates and the pass rate of white candidates, equal to 17.33 units of standard deviation. Analysis of test administration data for each year separately from 2000 to 2009 indicates that the written exam resulted in a statistically significant disparity between the pass rate of African-American candidates and the pass rate of white candidates in each individual year, ranging from a low (but highly statistically significant) disparity of 4.09 units of standard deviation in 2003 to a high of 9.62 units of standard deviation in 2002.

6. New Jersey's pass/fail use of the written exam from 2000 to 2009 resulted in a statistically significant disparate impact upon Hispanic candidates for the position of police sergeant. Analysis of test administration data from 2000 to 2009 as a whole indicates that the written exam resulted in a statistically significant disparity between the pass rate of Hispanic candidates and the pass rate of white candidates, equal to 12.88 units of standard deviation. Analysis of test administration data for each year separately from 2000 to 2009 indicates that the written exam resulted in a statistically significant disparity between the pass rate of Hispanic candidates and the pass rate of white candidates in each individual year since 2001, ranging from a low (but highly statistically significant) disparity of 3.03 units of standard deviation in 2003 to a high of 9.24 units of standard deviation in 2002.

7. New Jersey's determination and use of final scores to certify candidates from eligible lists in descending rank order from 2000 to 2008 resulted in a statistically significant disparate impact upon African-American candidates. African Americans who passed the police sergeant written exam administered from 2000 to 2008 were ranked statistically significantly lower on eligible lists than whites. Analysis of all eligible lists from 2000 to 2008 as a whole indicates a statistically significant disparity in the likelihood that an African-American candidate would be ranked high enough to be considered for appointment, as compared to a white candidate, equal to

7.77 units of standard deviation. Analysis of appointment data controlled by year also indicates statistically significant disparities in rank between African Americans and white candidates from 2000 to 2008.¹

8. New Jersey's determination and use of final scores to certify candidates from eligible lists in descending rank order from 2000 to 2008 resulted in a statistically significant disparate impact upon Hispanic candidates. Hispanics who passed the police sergeant written exam administered from 2000 to 2008 were ranked statistically significantly lower on eligible lists than whites. Analysis of all eligible lists from 2000 to 2008 as a whole indicates a statistically significant disparity in the likelihood that a Hispanic candidate would be ranked high enough to be considered for appointment, as compared to a white candidate, equal to 4.66 units of standard deviation. Analysis of appointment data controlled by year also indicates statistically significant disparities in rank between Hispanic and white candidates from 2000 to 2008.

9. The disparate impact resulting from New Jersey's uses of its written exam for promotion to police sergeant from 2000 to 2009 resulted in a significant real-world effect on the promotional opportunities of African-American and Hispanic candidates.

10. Absent the disparate impact of New Jersey's police sergeant written exam from 2000 to 2009, at least one or more African Americans and/or Hispanics would have been promoted to the position of police sergeant in each of the 43 jurisdictions identified in Exhibit A, Table 1, with an estimated total of 75 African Americans and 30 Hispanics excluded from promotions state wide due to the disparate impact of the exam. If I limit my analysis to those jurisdictions where at least three or more African Americans and/or Hispanics were excluded from promotions in a particular jurisdiction due to the disparate impact of the exam from 2000 to 2009, a total of 48

¹ Controlling the data by year is to account for any differences that may occur when analyzing the data across years; it is not the same as analyzing the data for each year separately.

African Americans and 20 Hispanics would have been promoted to the position of police sergeant in those 13 jurisdictions identified in Exhibit A, Table 2.

Injunctive Relief

11. I have also been asked to provide my expert opinion on whether continued use of existing eligible lists would create an additional appointment "shortfall" of African Americans or Hispanics. The appointment shortfall is the expected number of African Americans or Hispanics who would have been promoted to police sergeant but for the State's uses of the challenged examination.

12. For each jurisdiction, I used the average appointment rate per year based on appointment data from 2000 until 2009 to estimate the number of expected new appointments in each jurisdiction that would occur for an additional one year cycle.² Then, considering the race and/or national origin and rank of those remaining on the eligible list, I estimated the additional number of promotions one would expect broken down by race and national origin. I then determined whether these expected appointments would result in an increase in the shortfall of African Americans or Hispanics.

13. Based on the above analysis, I concluded that continuing the use of the existing eligible lists for their current duration or for an additional year of appointments (where the list extends beyond one year) would result in a shortfall that would increase by at least one African-American or Hispanic candidate in those jurisdictions listed in Exhibit A, Table 3.

Individual Relief

14. With respect to individual relief, I have been asked to provide my expert opinion as to the back pay due to the 105 African-American and Hispanic candidates ("Candidates") in the 43

² I did not incorporate into my analysis any jurisdictions whose eligible list has expired. For those jurisdictions whose list is scheduled to expire before a year from now (i.e., those scheduled to expire in March 2012), I assume they would hire only 8/12th of their estimated one year cycle of hires.

jurisdictions listed in Exhibit A, Table 1 to this Declaration who were not promoted to police sergeant in specified years due to the disparate impact of the State's written exam from 2000 through 2009.

15. Using salary information reported by State agencies and publicly available through www.app.com, I estimated back pay due to the Candidates, based on the jurisdiction and year in which the Candidate would have been promoted but for the disparate impact of the exam.

16. In calculating back pay, I assumed that losses began accruing either when the Candidate failed the exam or in May 2006, whichever was later, and stopped accruing in April 2011.

17. In calculating back pay, I compared salary data for individuals who participated in the challenged police sergeant selection process in the 43 jurisdictions listed in Exhibit A, Table 1, but who were not promoted, with salary data for police sergeants serving in those jurisdictions.

18. For each of the Candidates, I calculated the salary differential between the salaries earned by individuals who participated in the challenged police sergeant selection process but who were not promoted, and police sergeants in the jurisdiction to which that Candidate was assigned, factoring in an annual salary increase of 5% for 2006, 2007, and 2008 and a 4% increase for both 2010 and 2011 (based on information provided by the State), plus interest.³ Back pay was calculated for each Candidate by year using these salary differentials and then summed to create a total back pay calculation for each Candidate and for each jurisdiction as well as a total back pay calculation for all 105 Candidates.

19. Based on my comparison of the salary differentials between individuals who participated in the challenged police sergeant selection process, but who were not promoted, with police sergeants in the 43 jurisdictions listed in Exhibit A, Table 1, I determined that back pay,

³ If salary data was not available for individuals who participated in the challenged police sergeant selection process but were not promoted and police sergeants for a specific jurisdiction and year, I used the average salaries for all other jurisdictions for that year to calculate the salary differential.

including interest, due to 105 African-American and Hispanic Candidates in those jurisdictions from May 2006 to April 2011 exceeded \$1,000,000.

20. I have also been asked to provide my expert opinion on how to distribute \$1,000,000 in back pay to any African-American or Hispanic person from those 43 jurisdictions identified in Exhibit A, Table 1 who has not been promoted to police sergeant and who has either (i) between 2000 and 2009, failed any one of the police sergeant written exams that resulted in an eligible list from which appointments were made; or (ii) passed any one of the police sergeant written exams between 2000 and 2008 that resulted in an eligible list from which appointments were made, but ranked below the lowest-ranking candidate appointed from any eligible list resulting from that administration of the written exam. I understand that these persons have been identified as "Claimants" in the Consent Decree that the parties executed in this case.

21. To distribute the \$1,000,000, I divided the total into separate funds for African-American Claimants (Settlement Fund I) and Hispanic Claimants (Settlement Fund II). I assigned \$710,000 to Settlement Fund I for the African-American Claimants and \$290,000 to Settlement Fund II for the Hispanic Claimants, because 71% of the shortfall (75 of 105) is African American and 29% of the shortfall (30 of 105) is Hispanic.

22. For each fund separately, I calculated the amount of damages to be paid to each Claimant for each year of back pay he or she is eligible to receive. To do so, I determined the total number of years in back pay that all Claimants are eligible to receive. I then divided the amount of money in each settlement fund by the total number of years in back pay to determine the monetary value of one year of back pay. Using this methodology, I determined that one year of back pay from Settlement Fund I is valued at \$104.59 and one year of back pay from Settlement Fund II is valued at \$50.29. I then multiplied that amount by the number of years of back pay

each Claimant is eligible to receive in order to determine the total amount of damages to be paid to each Claimant. For example, an African American Claimant who took the exam in 2000 is eligible for 10 years of back pay at \$104.59 per year, for a total amount of \$1,045.96 in back pay.

23. The back pay awarded to each Claimant does not exceed the pay that the Claimant would have received had he or she been promoted to police sergeant on his or her presumptive appointment date, which is based upon the median appointment date for individuals on the eligible list that would have included the Claimant or from which the Claimant would have been appointed.

24. The median appointment date for an eligible list is the date by which half of the candidates from the list were appointed. It is appropriate to use the median appointment date because absent discrimination, all of the appointments from an eligible list would have been spread out proportionately among all appointments from each respective list.

25. As stated above in paragraph 10, I determined that, absent the disparate impact of New Jersey's written exam from 2000 to 2009, an estimated additional 75 African Americans and 30 Hispanics would have been promoted to the position of police sergeant in 43 jurisdictions throughout New Jersey. I have reviewed the Consent Decree that the parties have executed in this case, and the 68 priority appointments allocated among 13 jurisdictions provided by the Decree do not exceed the shortfall in any of the 13 jurisdictions.

Executed this 29th day of July, 2011.

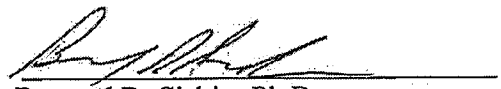

Bernard R. Siskin, Ph.D.

TABLE 1

JURISDICTIONS IN WHICH CLAIMANTS ARE
ELIGIBLE FOR INDIVIDUAL RELIEF

	Jurisdiction	Type of Individual Relief for Which Claimants Are Eligible	
		Back Pay	Priority Promotion
1	Asbury Park	x	
2	Atlantic City	x	x
3	Bayonne	x	
4	Bridgeton	x	x
5	Burlington	x	
6	Camden	x	x
7	Deptford	x	
8	Dover	x	
9	East Orange	x	x
10	Elizabeth	x	x
11	Ewing	x	
12	Garfield	x	
13	Hackensack	x	
14	Hamilton	x	
15	Hillside	x	
16	Hoboken	x	x
17	Irvington	x	
18	Jersey City	x	x
19	Kearny	x	
20	Lawrence	x	
21	Magnolia	x	
22	Morristown	x	
23	New Brunswick	x	x
24	Newark	x	x
25	North Brunswick	x	
26	Orange	x	
27	Passaic	x	x
28	Paterson	x	x
29	Pennsauken	x	
30	Perth Amboy	x	
31	Plainfield	x	
32	Pleasantville	x	
33	Roselle	x	
34	Scotch Plains	x	
35	Somerdale	x	

36	Teaneck	x	x
37	Trenton	x	x
38	Vineland	x	
39	Wallington	x	
40	Weehawken	x	
41	West New York	x	
42	Willingboro	x	
43	Woodridge	x	

TABLE 2

ALLOCATION OF PRIORITY PROMOTION POSITIONS TO JURISDICTIONS

	Jurisdiction	African American	Hispanic
1	Atlantic City	5	2
2	Bridgeton	2	1
3	Camden	3	1
4	East Orange	2	1
5	Elizabeth	3	3
6	Hoboken	0	3
7	Jersey City	6	3
8	New Brunswick	1	2
9	Newark	14	1
10	Passaic	2	1
11	Paterson	5	1
12	Teaneck	2	1
13	Trenton	3	0

TABLE 3

JURISDICTIONS IN WHICH CONTINUED USE OF AN EXISTING ELIGIBLE LIST FOR ITS CURRENT DURATION OR FOR AN ADDITIONAL YEAR (WHERE THE LIST EXTENDS BEYOND ONE YEAR) MAY RESULT IN DISPARATE IMPACT ON AFRICAN-AMERICAN AND/OR HISPANIC CANDIDATES

1	Atlantic City
2	Camden
3	Irvington
4	Jersey City
5	Passaic
6	Paterson
7	Pleasantville
8	Salem City
9	Teaneck
10	Trenton

EXHIBIT

3

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW JERSEY AND NEW
JERSEY CIVIL SERVICE
COMMISSION,

Defendants.

UNITED STATES COURT FOR THE
DISTRICT OF NEW JERSEY

VICINAGE OF NEWARK

Civil Action No.
2:10-cv-00091-KSH-MAS

Hon. Katharine S. Hayden

DECLARATION OF DAVID P. JONES, PH.D.

I, DAVID P. JONES, declare the following:

1. I currently serve as President and CEO of Growth Ventures, Inc., a human capital advisory firm. I hold a Ph.D. in Industrial/Organizational Psychology from Bowling Green

University, received in 1976. My experience includes hands-on involvement and supervision of the development of promotional examination procedures for first-level law enforcement supervisory positions typically referred to as the position of sergeant. I have been qualified by federal courts to serve as an expert witness in connection with lawsuits and other matters related to employment selection and promotion, and in matters involving both challenges to, and defenses of, employer practices. These assignments have called for my professional opinion regarding evidence of validity, or job-relatedness and business necessity. I have been retained by Plaintiff United States as an expert witness in the above-captioned matter.

2. I reviewed information provided to Plaintiff by the State of New Jersey (the "State") concerning the design, development, and implementation of the State's written promotional examination process for the position of police sergeant ("police sergeant written exam" or "written exam"), used by the State during the period 2000 through 2009. This declaration sets forth my professional opinion as to whether the written exam process meets currently accepted professional standards for establishing the validity, or job-relatedness and business necessity, of promotional procedures.

Standards for Evaluating a Promotional Procedure's Validity or Job-Relatedness

3. In reaching my opinions regarding the validity of the State's uses of its police sergeant written exam, I have drawn upon principles and standards by which my profession is guided, including the Principles for the Validation and Use of Personnel Selection Procedures ("Principles") (Society for Industrial and Organizational Psychology, 2003); Standards for Educational and Psychological Testing ("Standards") (American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, 1999); and Uniform Guidelines on Employee Selection Procedures ("Uniform

Guidelines”) (Equal Employment Opportunity Commission, Civil Service Commission, Department of Labor, and Department of Justice, 1978). These sources reference three general types of validity strategies acceptable for documenting a selection or promotional procedure’s validity: content validity, criterion-related validity, and construct validity.

4. Regardless of the strategy employed to demonstrate validity, whether a promotional procedure is job-related and consistent with business necessity (*i.e.*, valid) depends on the manner in which the procedure is used to make promotional decisions. Therefore, a proper showing of validity amounts to producing evidence that the procedure is valid for making the kinds of employment decisions the employer wishes to make, whether pass versus fail decisions, rank-ordering decisions, or other possible applications of information produced by the procedure.

5. My review of the provided materials reveals that the State claims the written exam and its manners of use are supported by evidence of content validity.¹ To demonstrate that its uses of the police sergeant written exam are content valid, the State must meet the following criteria:

- a. A suitable job analysis of police sergeant position has been conducted, providing information regarding the job’s important tasks, the tasks’ relative importance, and the knowledge, skills, and abilities required to perform the tasks;
- b. Reasonable competence has been shown in constructing the exam, including involvement of individuals qualified to undertake and participate in creating the exam;
- c. The content of the exam is both (i) related to the content of the job, a requirement focusing on the specific knowledge, skills, and abilities addressed, and their connection with information produced by the job analysis; and (ii) representative

¹ A list of materials I reviewed and relied upon in reaching my conclusions is set forth at the end of this Declaration.

of the content of the job, a requirement that the exam not leave unaddressed any major parts of the job's knowledge, skill, and ability requirements, and that it "weights" individual components in a way supported by job analysis information; and

- d. The exam uses a scoring system that usefully selects from among applicants who can better perform the job, including a showing of a sound justification for pass versus fail cut-off scores, and any rank-ordered use of candidate scores.

Findings Regarding Written Exam Content Validity

6. First, the police sergeant written exam is not based upon a job analysis that meets professional requirements because the State's job analysis efforts for the police sergeant position show several fundamental flaws. As noted above, promotional procedure design, development, and validation efforts commence with a systematic job analysis. There are many protocols for conducting such analyses. All focus on gaining a clear understanding of the job's entry-level requirements, and on deciding what types of candidate assessment procedures make sense in the employer's setting. Among the most significant shortcomings in the State's job analysis efforts are:

- a. In conducting its 1996 job analysis for the police sergeant position, the State created a questionnaire to identify the job's most important tasks, as well as its most important knowledge, skill, and ability (KSA) requirements. The questionnaire was distributed to 578 current police sergeants, selected from 147 police departments. Each police sergeant was asked to make approximately 750 individual ratings judgments. Among the judgments were ones collected on 120 job tasks to indicate the importance, frequency of performance, and need for

police sergeants to be capable of performing the task on “Day One” of the job. In addition, judgments regarding the importance, connection to performing the job, and necessity to be “brought to the job” were made for 134 KSAs. Such a complex ratings process demands a plan for evaluating the quality and meaningfulness of the data that result.

- b. The State’s job analysis study offers no review of the questionnaire data to explore whether the job analysis sample was truly representative of the targeted population, or whether different response rates for different groups of police sergeants affected the picture of the job that emerged. For example, only about 57 percent of rural police departments sampled actually returned a questionnaire, as compared to 84 percent of urban departments. The State did not produce information regarding the level of agreement in job analysis data produced by 116 different urban, suburban, and rural departments, northern, central, and southern geographic locations, or other groups of police sergeants, or how the job analysis results compared to those of previous studies. Therefore, it is unclear whether there is wide variance in the ratings of tasks and KSAs between groups of police sergeants. Likewise, information regarding the reliability of the job analysis data, which would indicate the relative agreement among job analysis participants in the KSAs they cited as most and least important to the job, was not provided by the State.
- c. For the 59 tasks and 85 KSAs that survived the job analysis questionnaire summarization process, 11 police sergeants (including one African-American sergeant) each were asked to make over 5,000 ratings judgments in less than eight

hours (more than ten ratings per minute) regarding the extent to which each KSA was required in order to perform each task effectively. Even given the complex nature of this “linkage process,” no review of the reliability, degree of agreement, or quality of these “linkage” judgments is offered in the State’s report.

- d. Some of the KSAs and tasks identified in the 1996 job analysis and subjected to ratings judgments were too general or vague to be tested properly or were duplicative. For example, “knowledge of US Constitution (Constitutional rights)” is too general to be tested properly, and “knowledge of principles of decision making” is so vague that the police sergeants making ratings judgments may have had vastly different understandings of that knowledge. With respect to abilities, the “ability to use firearms in a proficient manner,” includes both the “ability to qualify and use a revolver on a yearly basis,” and the “ability to qualify shooting a firearm.” Not only are these abilities are duplicative, all three were deemed critical.
- e. Each of the State’s job analyses used to develop the police sergeant written exam administered by the State from 2000 to the present suffer from many of the same shortcomings in the level of data quality review, statistical evaluation, and interpretation of the information collected from those participating in job analysis efforts.

7. Second, the development of the police sergeant written exam does not meet professional requirements because steps taken in designing the promotional procedure were not consistent with content validity guidance provided in the Uniform Guidelines and other professional standards. Among the most significant shortcomings are:

- a. The State's exam development documentation summarizes a content-oriented approach to promotional examination design. The result of this approach was development of a multiple-choice, written exam.
- b. The decision to pursue this type of exam format resulted in eliminating important KSAs from consideration, because they were considered "not testable," and limited the coverage of the written exam to "paper-and-pencil testable" concepts.
- c. The State did not develop adequate test plans, which should indicate exactly which tasks or KSAs are to be tested and how many questions will be written to test each one, so that exam questions are representative of the full range of tasks and KSAs that have been deemed important. Instead, during the 1996 job analysis, the State identified only four general work components to be measured, and the relative weight to be given to each work component.
- d. These shortcomings pertain to each of the police sergeant written exams developed and administered by the State from 2000 to the present.

8. Third, the police sergeant written exam fails to demonstrate job-relatedness, because (i) the State's job-relatedness information is unacceptable according to the Uniform Guidelines and other professional standards, that is, the State provides inadequate assurance that the written exam measures what it is intended to measure; and (ii) the written exam fails to meet standards of representativeness because it does not reflect the range of job requirements identified during the course of the job analysis process. Among the most significant shortcomings are:

- a. The State's documentation shows a process wherein incumbents at the rank of police sergeant or higher, known as Subject Matter Experts (SMEs), assisted in

producing, reviewing, and commenting upon questions that compose the written exam. The State's 1996 Validation Report summarizes such a process.

- b. The 1996 Validation Report, however, does not document the SMEs' input in the exam development process, instead describing a process where test questions were developed by consensus. As a result, no empirical data are provided regarding the extent to which various SMEs linked each exam question to a specific KSA, or evaluated it as relevant to the "Day One" requirements of the job. No structured process appears to have been followed to document either the question-level content validity or overall examination content validity.
- c. Further, no psychometric evidence is provided to support the premise that "the exam measures what it was intended to measure." In other words, the State did not produce data to indicate whether candidates' answers to the exam questions support the underlying measurement objectives.
- d. In addition, because of the large pool of job incumbents available, the State might have undertaken validity analyses for at least one of its police sergeant written exams wherein, after candidates had completed the exam, it was administered to a sample of current sergeants to determine whether those performing the job more effectively in the view of their command officers actually performed better on the exam. Such reviews are commonplace and, here, would lend validation support not only for the specific exam, but for the State's overall examination design process. No such efforts were undertaken.
- e. The police sergeant written exam is also not representative of the work components the State attempted to test. In only one year, 2004, did the State

identify the particular work component and the particular task or KSA each question was intended to measure. Of the 90 questions related to the “supervise patrol” work component, a full 30 percent were related to the same task (out of 27 tasks within that work component). 14 of the 27 tasks within the “supervise patrol” work component were not tested at all. Therefore, the exam was not representative of the full range of tasks and KSAs that were deemed critical.

- f. While the State’s test development plan claims to address certain of the job’s important KSAs, many of which are related to interpersonal interaction, evaluation, and communication (*e.g.*, the ability to comprehend oral directions and instructions, the ability to convey information via telephone and radio, the ability to interact with the public in a courteous and respectful manner, the ability to work effectively as a member of a team), it is difficult to comprehend how the format of a written exam allows for measurement of these attributes. Of the 66 critical abilities identified through the State’s 1996 job analysis, more than half are abilities that cannot be effectively measured in the State’s chosen exam format. The State offers no evidence that its exam measures these KSAs or that its exam offers any insight into such candidate qualifications. As a result, the exam takes on a knowledge-measurement profile.
- g. Many of these shortcomings pertain to each of the police sergeant written exams developed and administered by the State from 2000 to the present.

9. Finally, the State’s two methods of use of the promotional procedure, pass-fail qualification of candidates and rank-ordering of candidates in descending rank order based in large part on exam scores, do not usefully distinguish among candidates more and less qualified

to perform the job. The State's written exam fails to employ a passing standard that identifies candidates better able to perform the duties of police sergeant than those who fall short of the standard. Further, the State's use of the written exam on a rank-ordered basis is unsupported by evidence of the procedure's effectiveness in identifying better qualified candidates, resulting in my opinion that the exam fails to offer evidence of appropriate "method of use." Among the most significant shortcomings are:

- a. The State has provided no analysis or documentation to establish that the pass versus fail cut-off scores established for its written exam bears any relationship to identifying more versus less qualified candidates. There are a variety of professionally recognized techniques for establishing cut-off scores on selection and promotional exams, including strategies that deal with measures of job knowledge and draw upon SMEs to help determine a cut-off score that differentiates between acceptable and unacceptable performance. The State has used no such techniques, deferring to an approach that attempts to establish a cut-off score for each exam that meets the Uniform Guidelines' referenced "80 percent rule" for identifying disparate impact.
- b. While this approach attempts to identify a level of exam performance at which pass versus fail determinations will not produce ethnic group-based disparate impact, as defined by the "80 percent rule," it offers no linkage to a candidate's qualifications to perform in the position of police sergeant. Hence, the State offers no support for the resulting cut-off scores.
- c. In addition, candidates who pass the written exam are rank-ordered according to their exam score, coupled with consideration of their seniority in an "80 percent

exam score, 20 percent seniority” formula. Promotional decisions within individual police departments are then driven by the resulting rank-order position. Far more candidates are eligible for promotion than are ever promoted.

- d. The State has offered no evidence to support this rank-order use of the written exam, along with minor consideration of seniority. Ratings from incumbents in the 1996 job analysis questionnaire on whether possessing differing levels of KSAs correspond to differing levels of performance on the job are insufficient to support rank-order use. It is therefore unknown to what extent increased possession of the “critical” KSAs might result in better performance in the position of police sergeant. The State has produced no other evidence of efforts to determine whether a higher score on the exam is an accurate predictor of more successful job performance.
- e. Since commencement of the timeframe covered in this matter, hundreds of candidates have been promoted to the position of police sergeant. It would have been possible for the State to assemble information regarding the exam scores of these individuals, and to evaluate the relationship among their scores and indices of the same sergeants’ training success, job performance, retention, and other measures that might help support the validity and business necessity of the rank-ordering process. Such post-administration evaluation is common. However, no such work has been reported.
- f. These shortcomings pertain to each of the police sergeant written exams developed and administered by the State from 2000 to the present.

Findings Regarding Alternatives

10. Since 2000, alternative selection procedures have existed for first-line public safety supervisory positions that would have served the State's legitimate needs and had less disparate impact upon African Americans and Hispanics.

- a. The format of a multiple-choice written exam is among the most likely to introduce ethnic group-based disparate impact, as compared to other assessment formats (*e.g.*, oral board interviews, assessment center approaches, job simulation, etc.). Since promotions are determined largely by candidates' rank-order standing on the written exam among other local department candidates, creation of such an assessment format would be expected, from the outset, to introduce more disparate impact upon ethnic minorities than other alternatives.
- b. Selection procedures other than multiple-choice written exams – including, for instance, assessment centers, structured oral interviews, oral boards, and video-based scenarios – can be valid and result in less disparate impact on African-Americans and Hispanics. Several testing companies routinely market such devices to police departments and civil service boards.
- c. Many jurisdictions use these alternative selection procedures to fill police sergeant and other similar first-level supervisory positions. For example, the State uses oral boards, in lieu of a written exam, to evaluate candidates for various supervisory positions in its firefighter department.

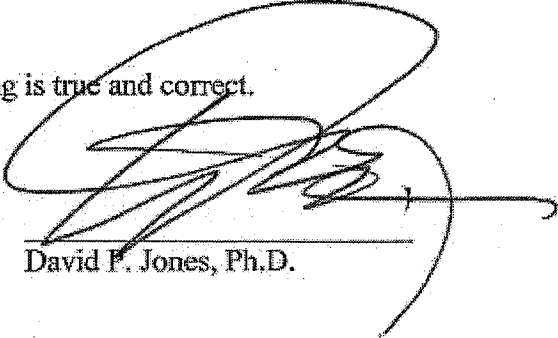
Summary

11. The State provides no professionally acceptable evidence of content validity and no support for the claims of job relatedness and business necessity with respect to its police sergeant written exam. Held to the five content validity standards referenced throughout this report, the

State's written exam does not meet professional requirements. In addition, alternative selection procedures have existed for the police sergeant position that would have served the State's legitimate needs and had less disparate impact upon African Americans and Hispanics.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 29 July 2011



David F. Jones, Ph.D.

List of Materials Reviewed

1. Validation Report for the State of New Jersey Municipal & County Police Sergeant, September, 1996 (US INV001389-1851).
2. Attachment 7A, Summary of 2008 Police Sergeant Job Analysis (US INV000050-INV000051).
3. Attachment 7B, Police Sergeant Job Analysis Narrative Report (US INV000051-INV000079).
4. Validation Report for the State of New Jersey Police Sergeant Applied Knowledge Multiple Choice Exam (Including Appendices), October 2009 (DEF008215-DEF008294.014).
5. Chapter 7, Setting Passing Points (DEF008525-DEF008543).
6. Job Analysis for Police Promotional Examinations for the State of New Jersey – Final Report, Assessment Alternatives, Inc., June 1989 (US INV002191-INV002432).
7. 2006 Police Sergeant Cut Point Rationale.
8. 2007 Police Sergeant Cut Point Rationale.
9. April 1, 2011 Report of Rick R. Jacobs, Ph.D., in *United States of America v. State of New Jersey and New Jersey Civil Service Commission*.
10. Deposition of James Golden (April 14, 2011).



CHRIS CHRISTIE
Governor

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Lt. Governor

ROBERT M. HANNA
Director

August 1, 2011

VIA ELECTRONIC FILING

Hon. Michael A. Shipp, U.S.M.J.
United States District Court
District of New Jersey
Martin Luther King, Jr., Fed. Bldg. & Courthouse
50 Walnut Street
Newark, New Jersey 07102

Re: United States v. State of New Jersey, et al.
Civil Action No. 2:10-cv-00091-KSH-MAS

Dear Magistrate Shipp:

We represent defendants State of New Jersey and New Jersey Civil Service Commission in this matter. We are writing to join in the motion being filed on this day by plaintiff United States for preliminary approval of the Consent Decree in this matter.

We appreciate Your Honor's attention to this matter.

Respectfully,

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By: _____

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UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW JERSEY AND NEW
JERSEY CIVIL SERVICE
COMMISSION,

Defendants.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

VICINAGE OF NEWARK

Civil Action No.
2:10-cv-00091-KSH-MAS

Hon. Katharine S. Hayden

**[PROPOSED] ORDER ON JOINT MOTION FOR PROVISIONAL ENTRY
OF CONSENT DECREE AND SCHEDULING OF FAIRNESS HEARING**

Upon consideration of Plaintiff United States of America's and Defendants State of New Jersey's and New Jersey Civil Service Commission's (collectively, the "State") Joint Motion for Provisional Entry of Consent Decree and Scheduling of Fairness Hearing ("Motion"), the

proposed Consent Decree (“Decree”), the United States’ Memorandum of Law in support of the Joint Motion, and all supporting attachments to the foregoing items,

It is hereby **ORDERED** that the Motion is **GRANTED**; and it is

FURTHER ORDERED that an Initial Fairness Hearing will be held at:

__:__ a.m./p.m. at Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Courtroom PO 05, Newark, New Jersey 07101; and it is

FURTHER ORDERED that in accordance with the schedule set forth in the Decree,

1. The State will mail and publish notice of the Initial Fairness Hearing and forms for objections in accordance with the terms of the Decree at least 75 days before the Initial Fairness Hearing on _____.
2. The deadline for mailing any objections to the United States regarding the terms of the Decree will be at least 45 days prior to the Initial Fairness Hearing on _____.
3. The deadline for the United States to provide all copies of objections timely received to the State will be at least 30 days prior to the Initial Fairness Hearing on _____.
4. The deadline for the United States to file all objections with the Court and for the parties to file with the Court their responses to the objections will be 10 days prior to the Initial Fairness Hearing on _____.

DATED: _____, 2011

KATHARINE S. HAYDEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY