

1 A I believe that should be a "K".
2 Narcotics Investigation Kit I believe is what
3 that is.

4 MR. SIMPSON: That's all.

5 Thank you.

6 ARBITRATOR SELCHICK: Thank you. The
7 witness is excused.

8 We are going to take a thirty minute
9 lunch break and we are going to reconvene
10 promptly at 12:45 to have our next witness.

11 Thank you. Off the record.

12 (A break in the proceedings was
13 taken.)

14 ARBITRATOR SELCHICK: On the record.
15 We are ready for our next witness.

16 MR. SHEEHAN: NYSCOPBA calls
17 Sergeant Dave Viddivo.

18 ARBITRATOR SELCHICK: State your name
19 for the record, please.

20 THE WITNESS: Dave Viddivo,
21 V-i-d-d-i-v-o.

22 DAVE VIDDIVO,
23 a witness for NYSCOPBA, having been
24 first duly sworn, was examined and testified as

1 follows:

2 ARBITRATOR SELCHICK: Mr. Sheehan,
3 please.

4 EXAMINATION BY MR. SHEEHAN:

5 Q Sergeant Viddivo, can you tell us first
6 where you are employed?

7 A New York State Department of Corrections.

8 Q How long have you been a member of the
9 Department of Corrections?

10 A Approximately twenty years.

11 Q Can you just briefly take us down through
12 the various positions you have held and the
13 facilities you have worked at during that time?

14 A Correction officer for approximately 16
15 years. Sing Sing Correctional Facility,
16 Fishkill Correctional Facility, Downstate
17 Correctional Facility and Greene Correctional
18 Facility.

19 I was promoted to sergeant approximately
20 four years ago. Sing Sing Correctional
21 Facility once again, Downstate Correctional
22 Facility and Greene Correctional facility.

23 ARBITRATOR SELCHICK: So you are
24 currently at Greene?

1 THE WITNESS: Yes, sir.

2 BY MR. SHEEHAN:

3 Q How long have you been at Greene?

4 A Since 1989.

5 Q How long as a sergeant?

6 A Since 2004.

7 Q Do you also hold a position, an elected
8 position, with NYSCOPBA?

9 A Yes, I do. I am the state wide elected
10 sergeant liaison.

11 Q When did you win that position?

12 A I started my term in July 2008.

13 Q And other than the present duties as a
14 sergeants liaison, do you have any other prior
15 experience with regard to union representation?

16 A Yes, I do. Prior to becoming a sergeant
17 liaison for the state I was the chief sector
18 steward at Greene for four years. Prior to
19 that I held various titles as a facility
20 steward for ten years prior to becoming chief
21 at Greene, with NYSCOPBA as well Council 82.

22 Q We will get to the duties and the
23 responsibilities of a sergeant in a second, but
24 first let me ask you, upon becoming appointed

1 to the position of correction sergeant is there
2 some training that typically takes place where
3 a sergeant receives a certain bit of training?

4 A Upon promotion from correction officer to
5 correction sergeant, and I think Chris Hickey
6 touched on this earlier, a sergeant is usually
7 reassigned, typically to the southern tier of
8 the state.

9 At that time, at the facility where he
10 starts his probationary assignment or temporary
11 assignment, he receives an orientation process
12 at the facility along with some on the job
13 training, usually five days in length. At that
14 point he would work with the senior sergeant to
15 establish his position and learn the role and
16 await his position or his chance to go to the
17 sergeant training school in Albany, which is an
18 intense two week training program.

19 Q Did you go through that program yourself?

20 A Yes, I did.

21 Q Can you just tell us generally what are
22 the subjects that are taught at that school and
23 their nature?

24 A First off, there is interview and

1 interrogation training, which deals
2 specifically with interviews and
3 interrogations, primarily dealing with
4 investigation techniques, a multitude of
5 investigations that sergeants perform on a
6 daily work detail. Collaborating with crime
7 scene investigation training, which
8 specifically deals with aggravated harassment.

9 They also deal with counseling techniques
10 for subordinates, evaluation techniques. We do
11 evaluations on correction officers annually and
12 for probationary officers on a monthly basis.

13 They deal with emergency procedure
14 training, SHU training, with special training
15 as far as suicide prevention.

16 They deal in EAP training, which is the
17 employee assistance program to be able to speak
18 to the officers in regards to situations that
19 occur outside of work that they may need
20 assistance with.

21 We deal with ACA, which Chris touched on,
22 is the American Correctional Association
23 accreditation program and the supervisors role
24 in dealing with ACA.

1 We also deal with a heavy does of
2 staffing, being staffing grids, staffing
3 charts, dealing with codes, implementation of
4 hiring, overtime hiring, the computer work that
5 goes along with that and several other training
6 courses.

7 Q In preparation for today's hearing I
8 asked you to be prepared to describe the
9 typical duties and responsibilities of a
10 correction sergeant; did I not?

11 A Yes.

12 Q Did you assist in the preparation of an
13 outline of those duties and responsibilities?

14 A Yes, I did.

15 Q Is that outline what is reflected on the
16 board here?

17 A Yes, it is?

18 Q What I am going to ask you to do is just
19 take us down through the various duties and
20 responsibilities as you have outlined them
21 here, starting with item one which is,
22 Investigations, and the sub heading there is
23 Types of investigations?

24 A As I stated earlier, we get training in

1 investigations. There are a multitude of
2 investigations that the correctional sergeant
3 is responsible for.

4 To start with the types; inmate
5 complaints, grievances and claims. Directly
6 there is an inmate claim that can be submitted
7 where there is a loss of property by an inmate.
8 It is financial in aspect and is for any type
9 of a loss of property, whether it be stolen,
10 lost or a loss in the package room or the mail
11 room. Inmates can submit claims to be
12 reimbursed for those property losses.

13 Other losses are in the mail room,
14 property that comes through the mail room,
15 packages that come through the mail room.

16 Another type of investigation that is
17 dealing with packages and mail and property
18 also is correspondence issues. We do
19 investigations when inmates are dealing with
20 illegal correspondence, which is also given to
21 the sergeant's responsibility.

22 Q What would be a kind of a illegal
23 correspondence?

24 A An illegal correspondence would be an.

1 inmate sending something to an outside entity
2 where they would transfer that to someone else
3 and they would feed it back through the
4 facility as another correspondence to get to
5 another inmate, which is illegal.

6 Also certain people are not eligible to
7 send packages or mail to a specific inmate,
8 which is also a correspondence issue. That
9 would be an investigation that the sergeant is
10 responsible for.

11 I will go back to touch a little more on
12 the inmate complaints and grievances.
13 Complaints can be sent up to anywhere from the
14 Governor to the AG's office to a
15 superintendent, basically focusing on any types
16 of different situations that inmates come
17 across in the facility, but specifically staff
18 misconduct is a large inmate complaint that
19 would go to a superintendent or to the
20 commissioner. And that investigation would be
21 covered by the sergeants, unless the sergeant
22 was specifically named in the complaint.

23 And just to touch base on all of these
24 investigation types, I would say probably 95

1 percent of the investigations in a facility are
2 done by the correctional sergeant. And that
3 has increased ten fold over the last several
4 years for a lot of different reasons.

5 The inmate grievance is a more formal
6 procedure and complaint system that the inmates
7 can use where they submit grievances to a
8 grievance clerk in the facility that deals with
9 the IGRC programs. And those grievances touch
10 base more on rules, regulations, guidelines, and
11 policies set forth by the department and are
12 legal in nature.

13 Housing and mess haul condition
14 grievances are typical. Those are more
15 basically standards of living for the inmates;
16 complaints about heating and meals, what have
17 you. Those are coming in pretty steadily and
18 are dealt with through the IGRC Committee.

19 The main focus of investigations that the
20 correctional sergeants deal with is number
21 five, Unusual Incidents. Unusual incidents is
22 any occurrence in a correctional facility that
23 is serious in nature. And there are specific
24 categories from accidents in the facility, use

1 of force in the facility, weapons, drugs,
2 escapes, arson, sexual misconduct, sexual
3 harassment, aggravated harassment and a whole
4 list of others that are categorized under
5 unusual incidents.

6 MR. SHEEHAN: Before I go on, with
7 the permission of the Chairman, I am going to
8 just give him a copy of the outline, which I
9 didn't do before.

10 ARBITRATOR SELCHICK: That's fine.

11 BY MR. SHEEHAN:

12 Q I know your eyes are good, Dave, but
13 just in case.

14 That described the types of
15 investigations. Next is the procedure I take
16 it that a sergeant would follow with respect to
17 these investigations. If you would take us down
18 through those procedures?

19 A The procedure is basically standard for
20 all of the investigation types that I just
21 mentioned, some more extreme than others by the
22 seriousness of the incident or significance of
23 the incident. But the basic procedure stands
24 true to all of the types that I did mention.

1 Interviewing witnesses and recording
2 statements. Gathering the facts by verbal
3 ascertainment of what transpired and documenting
4 the statements. Photographs of all incidents
5 that take place in the facility level is
6 paramount with 35 millimeter digital photos.

7 Obviously the initial incident area has
8 to be inspected for any type of evidence or
9 contraband that must be taken from the scene.
10 Necessary documentation involved with this
11 procedure is, like I just said, interview
12 witnesses, statements of the medical staff as
13 far as the medical injuries sustained, medical
14 reports, accident report, misbehavior reports
15 written based on the incident during the
16 investigation.

17 Chain of custody of evidence is
18 paramount. Obviously when anyone takes
19 evidence from a crime scene or an incident
20 scene that has to be well documented and
21 transferred to the next individual and
22 documented for storage of the evidence.

23 The entire report, speaking directly on
24 unusual incidents, the entire report and the

1 collection of all of the materials has to be
2 categorized into a packet, a UI packet, that is
3 moved up the chain of command to the watch
4 commander. And specifically when dealing with
5 a crime scene investigation, an additional
6 packet has to be put together to be delivered
7 to New York State Police.

8 Just to touch base a little further on
9 the crime scene investigation specifically and
10 an aggravated harassment incident, the area
11 supervisor must immediately ascertain whether
12 or not it is a crime scene. Usually you error
13 on the side of caution and determine whether
14 the area is a crime scene that must be sealed
15 off. It is the supervisor's responsibility to
16 keep preservation of evidence while it would be
17 initiated to list anything, anyone in and out
18 of the crime scene, the evidence that is taken
19 from the crime scene, the digital photos. Once
20 again the witness statements. And just like
21 the unusual incident, this must be all reduced
22 to a report and delivered to the watch
23 commander and to the state police.

24 Q Now, in connection with crime scene

1 investigations specifically, do those lead or
2 do they ever lead to criminal charges being
3 brought against someone?

4 A Yes. Crime scene investigations, not
5 that they routinely lead to, but they do have
6 the possibility of leading to testimony in a
7 criminal procedure.

8 Q Have you ever had occasions, as a
9 sergeant, to have to testify in a criminal case
10 arising out of some investigation you have
11 done?

12 A Yes. Several crime scene investigations
13 that I have performed I have had to testify in
14 a court the law for those investigations. And
15 primarily the packet that I submitted was the
16 evidence utilized for the prosecution of the
17 case.

18 Q What types of cases?

19 A I have dealt with assaults on staff, with
20 weapons charges and with drug charges.

21 Q Let's move to the second set of
22 responsibilities which is titled here,
23 Managerial Responsibilities. And I would just
24 ask you to, again, take us down through that,

1 starting with supervision?

2 A Obviously one of the main
3 responsibilities of a correction sergeant is
4 the supervision of his assigned areas, which
5 can be a multitude of officers and inmates
6 within an area or region of the facility. His
7 responsibility is to make sure that the
8 officers are following the rules and
9 regulations, FOMs and procedures outlined by
10 the department and the facility.

11 Routinely he has to make rounds of the
12 area. He has to read log books to make sure
13 that proper notations are made in log books for
14 specific things that take place on a daily
15 basis.

16 He makes visual inspections of the areas
17 to make sure that the inmates are complying
18 with inmate standards as far as their cubes or
19 their cells; that the living conditions are
20 kept neat and so forth.

21 And he also has to look at other search
22 log books and metal detector log books, fire
23 and safety log books, to make sure everything
24 is filled out properly and that any maintenance

1 work requests are put in, if anything is not up
2 to standards.

3 Evaluation. While he is performing his
4 rounds and performing his duties as a
5 supervisor of the officers, he makes mental
6 notes of the officers in his areas to evaluate
7 them accordingly, which is done on an annual
8 basis. It is reduced to writing on an annual
9 basis. And each officer is given an annual
10 evaluation to talk about their performance in
11 respect to their carrying out of their duties;
12 report writing skills, appearance and demeanor,
13 their cooperation and work with other officers
14 and also their time and attendance.

15 Counseling basically can be done on a
16 daily basis if need be; speaking to the officer
17 to discuss things that they need to improve on.
18 Usually it is done very discretely and
19 professionally, away from others to listen to.
20 This can also be brought a step further and
21 formal counseling can be put into writing,
22 which is not a form of discipline but is a
23 corrective action that can be utilized to let
24 the officer know of his performance and if any.

1 improvements need to be made.

2 Q Thank you for that. Let's move on to
3 item three, which is the assistant watch
4 commander slash chart sergeant?

5 A The assistant watch commander job goes
6 back to the staffing training that I mentioned
7 earlier. The assistant watch commander does
8 the daily assignments of the correctional
9 officers in the facility. He gives out job
10 duties. He utilizes his resources on a daily
11 basis and deploys officers within the facility,
12 outside the facility, based on need as far as
13 any type of emergencies, any type of facility
14 searches, possible road patrols for escapes.

15 He sends officers to outside hospitals.
16 He utilizes staff inside for trips that would
17 be unassigned or trips that come up in
18 emergency situations for medical responses.

19 He approves or disapproves time off for
20 correction officers. He also has to have the
21 ability to interact with the public. There are
22 two main jobs other than --- I'm sorry, I have
23 to go back.

24 As far as interacting with the public,

1 the assistant watch commander utilizes the
2 phone system, which is basically the
3 communication hub for the facility. Most phone
4 calls, even though there are operators on duty,
5 these phone calls are all channeled to the
6 assistant watch commander and he channels the
7 phone calls appropriately, as needed, to
8 whatever part of the facility are awaiting
9 these phone calls.

10 He also takes phone calls from officers
11 that are calling in and taking off time for
12 sick leave, officers updating their sick leave
13 when they are out, updating when they are out
14 for Workers' Comp. He takes phone calls from
15 inmate family members who ask questions about
16 visitations. He takes phone calls from family
17 members as far as complaints that family
18 members would like to make on behalf of the
19 inmates. So it is a very busy communications
20 job all the way around.

21 Just quickly to touch on "F", also the
22 assistant watch commander is responsible for
23 supervision of the package room; all packages
24 in and out of the facility.

1 He also oversees the administration
2 building, which is where the superintendent of
3 security and other depts are located, along with
4 some civilian staff, utilizing inmate
5 administrative quarters for cleaning and
6 shoveling for all of the necessary
7 applications of the admin building.

8 He is responsible for the arsenal, which
9 obviously holds the keys and weapons and
10 chemical agents and has the security cameras,
11 responsible for the perimeters to oversee the
12 cameras and make sure that the perimeter
13 patrols are being utilized efficiently.

14 Q Dave, is the position of assistant watch
15 commander, is that a distinct and discreet job
16 of a sergeant?

17 A Yes, it is distinct job. It is a bid job
18 that you would take.

19 And if I could touch base a little
20 further, the assistant watch commander at any
21 given time must perform and can perform the
22 duties of the watch commander. In some
23 facilities it is the case that the assistant
24 watch commander does perform the job of watch

1 commander.

2 Q What is the rank of a watch commander?

3 A Lieutenant.

4 Q And how many assistant watch commander
5 bid jobs would there be in a facility?

6 A There is one assistant watch commander
7 per shift. So there are three in a 24 hour
8 period of time.

9 Q Who would cover the position of assistant
10 watch commander during the pass days of the
11 regular shift officer?

12 A A relief assistant watch commander with
13 the title of sergeant.

14 Q Let's move then to committees?

15 A Can I just touch on two other things?

16 Q Yes, that's alright.

17 A There are two other outside jobs that
18 sergeants hold that are public safety. One
19 would be a transportation sergeant. I think
20 Chris touched base on the hub transportation
21 system where the statewide buses go throughout
22 the state. The front line supervisor on these
23 buses is a correction sergeant. He oversees
24 the transportation and he oversees the officers

1 and inmates and all of the records, weapons
2 issues, and basically is thoroughly versed on
3 all of the transportation directives.

4 Also another huge public safety and
5 interaction with the public as a whole would be
6 outside hospital routine where the correction
7 sergeant is responsible for the safety and
8 security of those areas as well. I just wanted
9 to touch on that.

10 Q Thank you. Do you want to tell us a
11 little bit about the committee
12 responsibilities?

13 A Some of these committees, correctional
14 sergeants are part of these committees.

15 The program committee is basically the
16 educational supervisor along with a counselor
17 along with the correction sergeant who sit down
18 and go over the program needs of the inmates.
19 And basically the correction sergeant's part in
20 this is to talk about the overall record of the
21 inmate while he is incarcerated as far as
22 disciplinary record and any type of
23 unauthorized activities as far as gang related
24 interests that the inmate might have. Along

1 with the other two members of the committee
2 they place inmates into their specific programs
3 that they do.

4 The inmate grievance resolution
5 committee, IGRC, is a five panel member
6 committee. There are two voting inmates on the
7 committee and two voting staff including
8 correction sergeant, and one civilian and a
9 civilian non voting member. They basically
10 take all of the inmate grievances that come in
11 and go over them and give a resolution to the
12 inmate as far as grievances within the
13 facility.

14 Time allowance committee is a committee
15 that is put together, usually by a panel of
16 three dictated by the superintendent. The
17 correction sergeants are involved with the TAC
18 committee. This is basically to go over an
19 inmate's record as far as his good time, which
20 would serve to dictate exactly when the inmate
21 would be released back into society. The
22 sergeant's aspect of this would be to review
23 the inmates prior disciplinary record as far as
24 losing good time if he or she were involved in

1 a disciplinary problem. They would take all
2 this information and make a recommendation to
3 the superintendent who would then forward it
4 ultimately to the commissioner for his
5 decision.

6 Q Do you want to tell us about the inmate
7 disciplinary hearing officer?

8 A The inmate disciplinary hearing officer
9 is basically the disciplinary system utilized
10 within the correctional facilities. It is a
11 three tier system, tier one being the least
12 negative on the inmate and tier three being the
13 most serious.

14 The inmate discipline hearing officers
15 are correction sergeants in the facility. They
16 basically hold a hearing with the inmate
17 involved. A misbehavior report is written on
18 the inmate for whatever behavior is not allowed
19 in the facility. He would speak to the officer
20 involved or the employee involved that wrote
21 the misbehavior report, review the body of the
22 ticket and then have the hearing with the
23 inmate. The inmate can make a statement as to
24 the incident that was reported, and whether he

1 felt that he was guilty or not guilty. And
2 then the hearing officer, being the sergeant,
3 would render a decision and hand out
4 disposition as needed.

5 Q And finally, the evaluation of an inmate
6 during the special housing unit intake process?

7 A For the special housing units in any
8 facility, when there is an admission to the SHU
9 the correction sergeant must be there during
10 the inmate intake process.

11 Another one of the responsibilities of
12 the correction sergeant now, which is something
13 fairly new, is that the sergeant must evaluate
14 the inmate for suicide prevention, ask specific
15 questions and determine if the inmate is
16 someone he feels is in immediate danger as far
17 as a suicide attempt or suicidal thoughts, and
18 the overall anxiety level of the inmate. And
19 if he feels there is an immediate threat or
20 immediate danger, he must make a referral to
21 the mental health unit.

22 Q Is there paperwork involved with that
23 process?

24 A Yes, there is paperwork involved. Every

1 inmate that comes in, paperwork is filled out
2 and that is submitted to the mental health unit
3 along with to the watch commander to be acted
4 on as needed.

5 Q Thank you, very much.

6 A Thank you.

7 ARBITRATOR SELCHICK: Mr. Simpson, do
8 you want to take a moment?

9 MR. SIMPSON: I don't think so. I
10 just have a couple questions.

11 EXAMINATION BY MR. SIMPSON:

12 Q With regard to the items that are in the
13 duties and responsibility of correction
14 sergeant, you stated that you have been a
15 correction sergeant since 2004; is that
16 correct?

17 A Yes.

18 Q That would be within the period of the
19 last collective bargaining agreement; is that
20 correct, between 2003 and 2007?

21 A Yes.

22 Q Have any of these duties and
23 responsibilities that have been itemized in
24 your list here, have those changed since 2003

1 to 2007?

2 A I believe the amount of --- is this an
3 opinion you are asking for?

4 Q No, I want to know the actual ---

5 ARBITRATOR SELCHICK: One at a time.
6 Finish your answer.

7 THE WITNESS: I don't have specific
8 statistics to definitely say that anything, to
9 answer your question, has specifically changed,
10 no. Only by my experience can I tell you that
11 things have changed. Specifically
12 investigations. Some investigations that used
13 to be done by lieutenants and higher have been
14 delegated all the way down to the front line
15 staff, which is correction sergeant now. And
16 we basically do, like I said earlier, about 95
17 percent of the investigations in a facility.

18 Why that has changed I am not really
19 sure, but I do know for a fact that it has.

20 BY MR. SIMPSON:

21 Q But that is anecdotal and is not
22 necessarily something that can be born out by
23 numbers?

24 A If you were to go ahead and look through

1 the numbers I think it would hold true that
2 that is a fact. But that is just my personally
3 stating that fact.

4 Q You said personally as you talked about
5 it, is that in your personal experience or is
6 that across facilities, all facilities?

7 A I would say it is across all facilities.

8 Q How do arrive at that conclusion? Have
9 you done a survey?

10 A By contact with sergeants throughout the
11 state and interactions with sergeants
12 throughout the state. And across the board it
13 has been told to me that investigations are
14 turning into a seven out of eight hours of work
15 load per day.

16 Q Is data collected on that, to your
17 knowledge?

18 A Only the data that is collected via
19 e-mails and telephone calls to me.

20 Q Can you provide that data?

21 A Only verbally to you right now.

22 Q Now, you talked about hospital trips to a
23 degree?

24 A Yes.

1 Q How are these trips generally scheduled?

2 A Emergency trips or daily trips?

3 Q Daily trips?

4 A They are scheduled through the assistant
5 watch commander.

6 Q Not who schedules them, but how are they
7 scheduled?

8 A How are they scheduled?

9 Q Yes?

10 A I imagine the hospitals schedule the
11 appointments and then they call the facilities
12 to arrange for transportation for the inmates
13 to go to those appointments.

14 Q And how far out would you say that is
15 generally done?

16 A Generally the trips are scheduled 24
17 hours prior to them leaving the facility.

18 Q Thank you. No further questions.

19 ARBITRATOR SELCHICK: Panel members,
20 Arbitrator Carraway?

21 ARBITRATOR CARRAWAY: I have no
22 questions.

23 ARBITRATOR SELCHICK: Arbitrator
24 Currier?

1 ARBITRATOR CURRIER: No, no

2 questions.

3 ARBITRATOR SELCHICK: Any redirect?

4 MR. SHEEHAN: No.

5 ARBITRATOR SELCHICK: This witness is
6 excused, thank you.

7 We are going to stop today and we are
8 going to pick up our next session, and for the
9 record lets make sure we are all in the same
10 place, our next session will be held on January
11 28, 2009, commencing at ten o'clock at this
12 location. And we are going to stand adjourned
13 until then.

14 Everyone have a happy holiday and a
15 safe trip home.

16 We're off the record.

17 (Whereupon the proceedings were
18 adjourned at approximately 1:30 p.m.)

19

20

21

* * *

22

23

24