

# EXHIBIT

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## **FRONT LINE SUPERVISOR STIPEND**

### NYSCOPBA Proposal

- Effective 4/1/09 - \$1,500
- Effective 4/1/10 - \$1,750

### State Response

No funding is available for this benefit.

## CORRECTION SERGEANT

Most Recent New York State Civil Service Examinations

Exam Number	Date Given	Highest Score Zones			Candidates Taking Exam	Total Passing Candidates	Total Candidates Reached From Exam
		95-100	90-95	85-90			
34-264	Oct. 2001	82	631	1,649	1,975	6,848	681
34-872	Nov. 2005	177	676	1,239	1,351	5,178	854
36-122	Oct. 2009	207	365	625	692	3,727	list is active

**SOURCE:** NYS DEPARTMENT OF CIVIL SERVICE ELIGIBLE LISTS

**DATA ANALYSIS:** DAVE VIDDIVO, NYSCOPBA SERGEANT LIAISON

## CORRECTION SERGEANT

### Factors Indicating Decline in Number of Best-Qualified Candidates

- Decrease in number of passing candidates from 6,086 (in 2001) to 2,816 (in 2009).
- For the 2001 and 2005 exams, the lowest hiring score was 90%; for the 2009 exam the lowest hiring score will be in the 85% zone.
- For candidates with 10 years seniority or less, the number scoring 90 or above declined from 208 in 2005 to 100 in 2009.
- For candidates with 15 years seniority or more, the number scoring 90 or above declined from 483 in 2005 to 98 in 2009.
- The 6% pay increase upon making sergeant (per Article 11.4 of the collective bargaining agreement) has not changed in over 30 years.
- Average of three to four years for sergeant to reach base pay (job rate) following promotion.
- High cost of housing, fuel, food and "second household" expenses in downstate areas.
- With recent consolidations and closures, sergeants are away from their home facilities more than in the past.
- Of 187 sergeants hired since January 2010, two-thirds are still stationed in lower Hudson Valley or New York City facilities; the other one-third have gotten closer to home but one-half of them are still not home.

**COMPILED BY: DAVE VIDDIVO, NYSCOPBA SERGEANT LIAISON**

**MOST COMMON RESPONSES TO INFORMAL SURVEY  
OF CORRECTION OFFICERS**

1. You can't pay me enough to take that job.
2. The sergeants have more and more on their plate and it's not worth it.
3. I can't afford to be on the road for years.
4. I don't want to have to give up my seniority and start over.
5. I don't want to give up my bid, shift and squad.

**SOURCE:** Informal survey of approximately 500-700 Correction Officers conducted by Dave Viddivo, NYSCOPBA Sergeant Liaison, during the period from January, 2010 to March, 2011, based on facility tours, e-mails and telephone conversations.

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

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In the Matter of the Interest Arbitration

NYSCOPBA,

Petitioner/Employee Organization,

and

STATE OF NEW YORK,

Respondent/Public Employer.

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Volume 5 Case No. IA2010-010 / M2010-032

Held on Thursday, March 17, 2011

At the Desmond Hotel

Albany, NY

BEFORE:

JEFFREY M. SELCHICK, ESQ.  
Arbitrator  
Post Office Box 11-280  
Albany, New York 12211-0280

PANEL MEMBERS:

NATALIE A. CARRAWAY, ESQ.  
For the Employee Organization, NYSCOPBA

JOHN V. CURRIER, ESQ.  
Governor's Office of Employee Relations  
For the State

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APPEARANCES:

SHEEHAN, GREENE, CARRAWAY, GOLDBERMAN  
& JACQUES, LLP.

Suite 1001  
54 State Street  
Albany, New York 12207

BY: WILLIAM F. SHEEHAN, ESQ.

and

EDWARD J. GREENE, JR. ESQ.

Appearing for the Association

CLAY LODOVICE, ESQ.

Assistant Counsel

Governor's Office of Employee Relations

Agency Building 2, 13th Floor

Two Empire State Plaza

Albany, New York 12223-1250

Appearing for the State

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ARBITRATOR SELCHICK: On the record.  
Good morning on this fine Saint  
Patrick's Day.

This is hearing number five in the  
above cited interest arbitration dispute. The  
Union is continuing with its direct case.

Mr. Sheehan.

MR. SHEEHAN: Good morning.

The Union at this point calls, as its  
next witness, David Viddivo.

ARBITRATOR SELCHICK: Good morning,  
sir.

Please state your name for the record  
and spell your last name.

THE WITNESS: Good morning.

David Viddivo. V-i-d-d-i-v-o.

DAVID VIDDIVO,

a witness for NYSCOPBA, having been  
first duly sworn, was examined and testified as  
follows:

ARBITRATOR SELCHICK: Be seated.

Counselor.

MR. SHEEHAN: Before we begin, I

1           talked with counsel before hand, and what we  
2           would like to do is to allow Sergeant Viddivo,  
3           because we are going to be going over some  
4           charts and some information that he has  
5           developed, we have prepared a couple of pages  
6           that he would be able to refer to during the  
7           course of his testimony. And I believe that is  
8           with the consent of counsel.

9                           If we could distribute those now?

10                          ARBITRATOR SELCHICK: Alright.

11                          MR. SHEEHAN: I'm not going to ask  
12           that it be marked separately. I actually  
13           included it in a book that we are going to  
14           distribute later, so I don't think it needs to  
15           be independently marked at this point.

16                          ARBITRATOR SELCHICK: Alright.

17           EXAMINATION MR. SHEEHAN:

18                          Q           Dave, good morning. Can I ask you,  
19           first of all, to state your title for the  
20           record, please.

21                          A           Corrections sergeant.

22                          Q           Where are you employed?

23                          A           The New York State Department of  
24           Corrections.

1 Q Just very briefly, I know you testified  
2 in the previous arbitration, which is still on  
3 the record, but just briefly can you go over  
4 your employment history with the department?

5 A Approximately twenty-two years of state  
6 service. I have spent a little over six of  
7 that as a correction sergeant. I was a  
8 correction officer at Sing Sing, Fishkill,  
9 Greene. And then as a corrections sergeant at  
10 Sing Sing, Downstate and Greene.

11 ARBITRATOR SELCHICK: Where are you  
12 now.

13 THE WITNESS: Greene Correctional.

14 BY MR. SHEEHAN:

15 Q Do you also hold a position with  
16 NYSCOPBA?

17 A Yes, I do.

18 Q What is that position?

19 A Sergeant liaison.

20 Q How long have you been sergeant liaison?

21 A I'm finishing up a three year term  
22 currently.

23 Q How are you selected for that position?

24 A It is a state wide elected office. All

1 of the correction sergeants and law enforcement  
2 supervisors vote on that position.

3 Q How would you describe your duties as a  
4 sergeants liaison?

5 A Basically I assist in all union matters  
6 related to correction sergeants and law  
7 enforcement supervisors within NYSCOPBA.

8 Q You are released from your sergeant's  
9 responsibilities at Greene to work full-time as  
10 liaison?

11 A Yes, that's correct.

12 Q And you testified in the prior interest  
13 arbitration proceeding regarding the increased  
14 duties and responsibilities of correction  
15 sergeants; is that right?

16 A Yes, I did.

17 Q You are here today to testify concerning  
18 the proposed front line supervisors stipend?

19 A Yes.

20 Q Are you familiar with the process by  
21 which correction officers in DOCS are promoted  
22 to the position of corrections sergeant?

23 A Yes. Correction officers have the  
24 ability to take promotional exams for the

1 position of corrections sergeant with a three  
2 year requirement to take the examination. That  
3 is through the Department of Civil Service.  
4 And they take the exam. They are scored and  
5 ranked accordingly based on their seniority  
6 within the score zone that they scored in.

7 Q Have you, in connection with this  
8 proceeding, taken a look at the results of the  
9 Civil Service examinations for corrections  
10 sergeants over time to see what they might  
11 reveal about the current ability of DOCS to  
12 identify and appoint qualified candidates to  
13 the position of correction sergeant?

14 A Yes, I have.

15 Q Specifically, can you tell us what you  
16 did?

17 A I looked at a ten year range, with the  
18 first examination going back to October of  
19 2001. There have been two since. I compiled  
20 the numbers for those three Civil Service  
21 examinations, which you have in front of you.

22 Basically that is showing the date of the  
23 test, the score zones, and the amount of  
24 candidates that received that score, the number

1 of candidates taking the exam, passing  
2 candidates, and the number that was reached on  
3 the prior examinations as far as how far they  
4 went into the score zone of that specific test.

5 Q You drew these numbers from the lists  
6 themselves?

7 A Yes, I did.

8 Q And where or how did you obtain the  
9 eligible lists?

10 A The lists are on file with the New York  
11 State Department of Civil Service. But I have  
12 copies of those lists in my office that I refer  
13 to.

14 Q Based upon the results of the lists, and  
15 actually before I get into that question, let  
16 me just ask you, the dates given for the exam  
17 of October 2001, November 2005 and October  
18 2009; are those selected exams, or are those  
19 the most recent exams?

20 A Those are the most recent exams going  
21 back ten years. Those are the three exams that  
22 have been given in the last ten years.

23 Q And the score zones that are listed, can  
24 you explain how a zone works and what it means?

1           A       The applicant files for the test and  
2           takes the exam and it is determined how you  
3           score on the exam. Say someone scores a 94,  
4           they would be placed in a 95 score zone. All  
5           candidates in that score zone are then lined up  
6           based on seniority and placed on the list.

7           Q       So a candidate with a 93 would be in the  
8           same zone with a candidate that got a 91 and  
9           their ranking would be based on seniority?

10          A       No. The 93 would be in the 95 score  
11          zone and they would be ranked based on  
12          seniority for all candidates in the 95 score  
13          zone.

14                   MR. LODOVICE: I'm not sure I  
15          understand. I do not know if I heard that  
16          right. A 93 is in what zone?

17                   THE WITNESS: A 93 would be in the 95  
18          score zone and a 91 would be in the 90 score  
19          zone.

20                   MR. LODOVICE: Alright.

21          BY MR. SHEEHAN:

22           Q       And so, the number of candidates that  
23          took the exam, let's just take the October 2001  
24          exam with 6800. Total passing candidates,

1 would it be the case that there are candidates  
2 who passed the exam that scored in lower zones  
3 below 80 to 85?

4 A Yes. Passing for the exam is a seventy.  
5 I didn't include seventies. I went down as far  
6 as the 80 to 85 score zone for reasons I will  
7 discuss later on.

8 Q And based upon the chart that you  
9 prepared and the data that you developed from  
10 the examination list, did you prepare some  
11 observations and come to some conclusions about  
12 the current process of selecting sergeants  
13 within the Department of Correctional Services?

14 A Yes, I did.

15 Q And are those conclusions and  
16 observations contained on page two of this  
17 document?

18 A Yes, they are.

19 Q I would just ask you to turn to page  
20 two, and with respect to each bullet that is  
21 listed, just indicate what you found and how  
22 you came to that conclusion?

23 A Some of these are obviously self  
24 explanatory, off the charts, and I will not go

1           into great detail. For example, the first one,  
2           decrease in number of passing candidates. That  
3           dropped from 6,086 in 2001 down to the current  
4           exam that we are hiring off of to 2,816. Do  
5           you want me to just run down the list?

6           Q           Keep going, sure?

7           A           For the 2001 and 2005 exam, the lowest  
8           hiring score off of those exams was the 90  
9           percentile. The current exam that we are  
10          hiring off now, which basically started in  
11          March of 2010, I am making the prediction,  
12          based on the hiring of the previous exams, that  
13          this current test will certainly go into the 85  
14          score zone.

15                    Currently you are up to 203 on the  
16          current exam. And if you were to forecast that  
17          out over the next three years left on the exam  
18          you would be in the 800 range. And the 85  
19          score zone starts approximately around 587 on  
20          the current test.

21                    I looked at the prior exam, 2005, and  
22          compared that to the 2009 exam for the next two  
23          bullets on that sheet here. And a couple of  
24          things jumped out at me. Across all zones, the

1 amount of candidates, or the amount of  
2 applicants taking the exam and the amount of  
3 qualified candidates has decreased. But  
4 specifically I looked at ten years of seniority  
5 or less scoring in the 90 zone in 2005, and in  
6 2008. And in the current exam it dropped to  
7 100.

8 And just based on my history and my  
9 experience from when I started in the  
10 department, when you took the correction  
11 officer test and became a correction officer  
12 you had the mind set of, being that we are a  
13 paramilitary organization, you thought about  
14 climbing the ranks and going up the ladder.  
15 That was the thought process when I started in  
16 this department. And based on these numbers I  
17 think what we can take away from just that one  
18 bullet is that is no longer the case. Less and  
19 less of the junior guys are thinking about  
20 climbing the career ladder for reasons I will  
21 continue to discuss here.

22 The next bullet is candidates with  
23 fifteen years seniority or more scoring 90 or  
24 above. This one to me is a frightening

1            statistic as far as qualified, experienced  
2            correction officers looking to take the  
3            sergeants exam and once again climbing that  
4            promotional ladder. That dropped from 483 in  
5            2005 to 98 on the current exam.

6            The next one, six percent. When you take  
7            the promotion for correction sergeant per  
8            Article XI (4) of the CBA, you receive a six  
9            percent pay increase when you take the  
10           promotion. That has not increased in over  
11           thirty years of negotiations and or  
12           arbitrations.

13           To reach base pay job rate for  
14           corrections sergeants averages three to four  
15           years, sometimes more depending on your  
16           seniority. That is pretty much the average.

17           The next one, as most of us know in this  
18           room, to take a promotion the correction  
19           officer has to travel usually to the southern  
20           tier of the state, lower Hudson Valley or  
21           southern tier of the state. And in doing so,  
22           housing, fuel, food, second household, all  
23           those things become something that has to be  
24           taken care of while you are on the road. And

1           those costs are exorbitant. They become to the  
2           point where the amount of the promotion, the  
3           six percent on top of your base, doesn't even  
4           cover the cost of this additional expense you  
5           have to incur while you are on the road.

6                         ARBITRATOR SELCHICK: Do we know what  
7           percentage of new sergeants have to travel to  
8           the new post?

9                         THE WITNESS: The last bullet on this  
10          sheet, I will go over that and kind of answer  
11          that question for you.

12                        These things that I mentioned, the  
13          fuel and the food and the housing, you can put  
14          a price on those and cost that out and figure  
15          the cost of it. But that does not take into  
16          account the fact that you have to leave your  
17          wife or leave you husband or leave your kids  
18          and your community. And you are on the road  
19          for an extended period of time, which is  
20          becoming even longer and longer, which is the  
21          next bullet, due to many different factors.

22                        Timing is, of course, everything. We  
23          have had closures and we have had  
24          consolidations. We have senior sergeants that

1 are staying on in certain hubs in the state  
2 that normally would have retired that is  
3 causing this more time on the road as current  
4 sergeants taking the promotion. So you are  
5 extending these stays.

6 And I will give some examples. These  
7 are not exact numbers, but these are estimates.  
8 A correction officer taking a promotion and is  
9 going to the southern tier from the Watertown  
10 hub, for instance, they are literally on the  
11 road to get home for probably on average seven  
12 years to get back to their home facility.  
13 That is that area.

14 The central region of state; Oneida,  
15 Marcy, Mid State hub, probably looking at five  
16 years on the road. And some of those numbers  
17 are just to get back into the hub, not even to  
18 mention to get to your home facility, where  
19 your community is, where your family is, where  
20 you lay your head to sleep at night.

21 So to answer your question, Mr.  
22 Chairman, 187 sergeants since January of 2010  
23 have been promoted to correction sergeants.  
24 Two-thirds of them are still to this date in

1 the southern tier; in Sing Sing, the city  
2 jails, the Green Haven, all of the southern  
3 tier, lower Hudson Valley.

4 Q Dave, let me just interrupt you quickly  
5 to clarify. When you say "southern tier" you  
6 don't mean the Binghamton Elmira area, you are  
7 referring to New York City?

8 A It actually takes time to get to those  
9 areas. I am talking about New York City; Sing  
10 Sing, Ossining, the city jails, Green Haven,  
11 Fishkill, those facilities.

12 The other one third have gotten closer to  
13 home but they are still just in the hub. They  
14 are not actually home. And some of those  
15 numbers in that 187 are actually sergeants that  
16 live in the southern tier, so they do benefit  
17 from living in that vicinity.

18 So as you can see, that is current as of  
19 February twenty-second. So many of these  
20 sergeants are still on the road, and will be  
21 for quite sometime after this arbitration is  
22 done.

23 Q And Dave, upon reaching these  
24 conclusions and finding these facts, did you do

1 anything to try to determine what the reasons  
2 were for some of the trends you have identified  
3 here?

4 A To take you back a little bit, as you  
5 stated, I testified in the last arbitration and  
6 I went over all of the responsibilities and  
7 duties and what I felt was the ever increasing  
8 work load for the corrections sergeants.

9 And I looked at these exams going back,  
10 and many months ago I realized and noticed  
11 there was a decline in the interest to take the  
12 examination. And then when the current exam  
13 came out, that just jumped right out at me that  
14 this is a continuing trend. Guys don't want to  
15 go on the road. They don't want to take the  
16 promotion.

17 So over the course of last year, since  
18 the beginning of this process, the negotiations  
19 and arbitration, I spoke to a lot of officers  
20 and asked them, Why didn't you take the exam?  
21 If they did not, in fact, take the exam I put  
22 down and I listed on the third page of your  
23 sheets there, I put some of the responses.  
24 These are some of the actual responses that I

1 was given. And I just wanted to go over some  
2 of these.

3 Overall, probably eighty percent based it  
4 solely on financial . They can not afford to  
5 take the promotion because of the situations I  
6 just talked about. Some things they said I  
7 could not put in print. But, things like, You  
8 can not pay me enough to take the job.  
9 Sergeants have more and more on their plates.  
10 And it is not worth it. I can't afford to be  
11 on the road for years. I don't want to have to  
12 give up my seniority and start over. And I  
13 don't want to have to give up my bid, shift and  
14 squad.

15 There were a few others in there. But as  
16 a whole it came down to compensation and the  
17 ability take the promotion. To me there is no  
18 doubt about the fact that you would actually  
19 lose money for the first several years when you  
20 take this promotion. Just the cost of putting  
21 gas in the car from Watertown down to New York  
22 City, even if it was at a low estimate of  
23 \$75.00 a week, that is your raise right there.  
24 That is more than your raise.

1                   That continues year after year until you  
2                   finally make it home.

3           Q           Let me ask you for the record, and I  
4           know it indicates it at the bottom of this  
5           page, but just give us an idea of how many  
6           correction officers you talked to and under  
7           what circumstances or on what occasions did you  
8           talk to them?

9           A           I pretty much started talking to them  
10          --- I knew the number of test takers back prior  
11          to the certification of the list. I was in  
12          contact with the Department of Civil Service.  
13          And the number stated on the front of the list,  
14          "Candidates taking exam", 3727, that does not  
15          include the DQs and officers that decided at  
16          that point that they did not want to take the  
17          exam. There was another 800 of them.

18                   But I started asking these questions back  
19                   early in 2010. I actually asked some more  
20                   officers because I was in Gowanda yesterday and  
21                   asked them. And quite frankly got the same  
22                   answers that are on this page today. It  
23                   basically comes down to the money.

24                   You can put a price tag on that. The

1 other things you can put a price tag on. But  
2 what you can not, it is the sacrifice. And  
3 they want to know, if I am making this  
4 sacrifice it needs to be worth making the  
5 sacrifice for. There is a lot of things to  
6 lose. And they don't see the value in it.

7 They don't see the ladder any longer.  
8 They see staying where they are, getting their  
9 seniority established and getting their bid  
10 jobs, being home. And putting the promotion to  
11 promote themselves just is not in the picture  
12 any more.

13 And this front line supervisor stipend is  
14 to reward sergeants for that sacrifice. But  
15 when you look at this list, it is an incentive  
16 for the officers to get them to think about  
17 moving up that ladder again.

18 It needs a shot in the arm. This is only  
19 going to get worse. And that is pretty much  
20 it.

21 MR. SHEEHAN: Thank you. Nothing  
22 further.

23 ARBITRATOR SELCHICK: Do you need a  
24 moment, Clay?

1 MR. LODOVICE: If I may, yes.

2 ARBITRATOR SELCHICK: We will take  
3 five.

4 Off the record.

5 (A break in the proceedings was  
6 taken.)

7 ARBITRATOR SELCHICK: On the record.

8 Cross examination, counselor.

9 MR. LODOVICE: Thank you.

10 EXAMINATION BY MR. LODOVICE:

11 Q Good morning Mr. Viddivo. I just have a  
12 few questions for you. The first point, I just  
13 want to jump to your chart, the second and  
14 third page, so I am clear for the record, this  
15 information, except for the statistics number  
16 you are referring to from the first page, these  
17 are your observations based on your experience  
18 as the sergeant liaison?

19 A Yes.

20 Q At the bottom of the second page you  
21 make reference to there have been 187 sergeants  
22 hired since January of 2010. And approximately  
23 two-thirds of them are still stationed in the  
24 lower Hudson Valley. Are you presenting that

1 all of those two-thirds, the approximately 120  
2 people, want to be reassigned out of the Hudson  
3 Valley?

4 A Are they looking to transfer to other  
5 locations other than the Hudson Valley you  
6 mean?

7 Q Yes?

8 A Probably predominantly. I would say  
9 most of them, yes.

10 Q Do you know how many of that two-thirds are  
11 actually on the reassignment list?

12 A I do not know exactly how many are on  
13 the reassignment list. But I would assume that  
14 probably all of them are. Or at least most of  
15 them are on the reassignment list. Unless it  
16 is their home location in the southern tier,  
17 they are on the reassignment list to go to  
18 other parts of the state. And that would be  
19 the majority.

20 Q There is a possibility that there are  
21 some people there that actually wanted to live  
22 there?

23 A Yes, there is.

24 Q I just want to clarify, when you are

1 talking about the southern tier, you are not  
2 talking about Binghamton. You are talking  
3 about the lower Hudson Valley, New York City  
4 area?

5 A Lower Hudson Valley, yes. Southport and  
6 Elmira it takes a while to get there.  
7 Predominantly New York City and those areas.

8 Q I grew up near Binghamton, so that is  
9 what I think of when we are talking about  
10 southern tier.

11 ARBITRATOR SELCHICK: I agree. I do  
12 also. I would say we are talking about the  
13 lower Hudson Valley, Westchester area.

14 THE WITNESS: And as far up as Green  
15 Haven and Fishkill.

16 BY MR. LODOVICE:

17 Q Now, in terms of the people, the  
18 sergeants that are initially assigned, you  
19 would agree there is a negotiated reassignment  
20 procedure of how someone can go from their  
21 initially assigned facility to a different  
22 facility?

23 A Yes, there is a negotiated reassignment.

24 Q Can you just explain the procedure of

1           how that works to the panel?

2           A           As far as when they make a promotion?

3           Q           If I become, if I'm promoted to sergeant  
4           and I am assigned to Sing Sing, how would I get  
5           back to where I want to go?

6           A           You go to your personnel office and you  
7           fill out a reassignment list preference to try  
8           to get to your location. Simple as that.

9           Q           In terms of that reassignment, how is it  
10          determined who gets to go from Sing Sing to say  
11          Clinton or another ---

12          A           It is determined by seniority.

13          Q           Now, in terms of Sing Sing to Clinton,  
14          can you go just from Sing Sing to Clinton or  
15          can you ---

16          A           What you are referring to, I think, is  
17          trying to get at puddle jumping we call it. I  
18          may be assigned to Sing Sing and I may have my  
19          home facility at Clinton. I may try to get to  
20          Coxsackie or Greene to try to get a little  
21          closer to home. And I mentioned that in the  
22          last paragraph. I mention the fact that  
23          one-third have gotten closer to home, but they  
24          actually have not gotten home. You can get

1 closer to home out west and still have a two  
2 hour drive to work. I think that is what you  
3 are asking me, as far as trying to get closer  
4 to home.

5 Q My question would be, in terms of  
6 someone in Sing Sing that wants to go to  
7 Clinton, but somebody is at Coxsackie that  
8 wants to go to Clinton, in terms of that being  
9 assigned, it is seniority?

10 A It is all based on seniority.

11 Q So whoever the more senior person is,  
12 they get the preference.

13 A Yes.

14 Q And that seniority helps your members,  
15 the longer they are sergeants the greater  
16 choice they have?

17 A Seniority helps all of our members, yes.

18 Q You make reference to, in your chart on  
19 the sixth bullet down on the second page, there  
20 is a reference to the six percent pay increase  
21 from becoming a correction officer to a  
22 sergeant. In terms of that percentage from  
23 being the rank and file going up to the first  
24 level supervisory position, that six percent

1 would be something that would be true kind of  
2 across the board throughout the state,  
3 throughout collective bargaining units in terms  
4 of that step of promotion?

5 A As far as taking a promotion from  
6 officer to sergeant it is six percent. In  
7 other negotiating units I believe that to be  
8 the case but I do not know that for a fact.

9 Q In terms of a sergeant to a lieutenant,  
10 that is also approximately a six percent  
11 increase?

12 A No. It is three percent.

13 ARBITRATOR SELCHICK: How much?

14 THE WITNESS: Three percent.

15 BY MR. LODOVICE:

16 Q So it is a greater bump from correction  
17 officer to sergeant than sergeant to  
18 lieutenant?

19 A No. I'm sorry. From sergeant to  
20 lieutenant would be six percent. I'm sorry.

21 Q Alright. Just so I am clear, you  
22 focused on one of the issues in terms of  
23 limiting the ability of individuals to go from  
24 say the Hudson Valley region to their desired

1 home location, and that is that the sergeants  
2 are not retiring? People are staying in the  
3 position longer therefore staying?

4 A I have noticed that recently, that some  
5 guys are sticking it out. I presume it is  
6 economic reasons, just like the economic  
7 reasons of going down south. It is very  
8 expensive to take the promotion to go down  
9 south. The same holds true for the twenty-five  
10 year guys maybe sticking around a little bit  
11 longer. It is not a drastic increase, but it  
12 only takes ten, fifteen sergeants in the  
13 desired areas to slow things down.

14 Q In terms of the last round of interest  
15 arbitration, the twenty-five year longevity  
16 step was increased. And it is my understanding  
17 that a proposal currently is that we create a  
18 thirty year longevity step. Based on your  
19 position and your statement that retirement is  
20 an issue that prevents people from moving  
21 quickly to their home areas, from your position  
22 how would you interpret that a further  
23 longevity step would affect the desire of those  
24 long term sergeants to retire, thereby allowing

1 younger people to go back to their homes?

2 A I think any compensation that can be  
3 given to senior officers, sergeants or  
4 whatever, the thirty year longevity or a  
5 compensation for a sergeant that is stationed  
6 down in the southern tier for years away from  
7 his family, is a benefit.

8 Q In terms of if people stay longer for  
9 that thirty year longevity step, it would mean  
10 that ---

11 A It is all speculation. They could stay  
12 longer and next week we can have forty guys  
13 retire. It is all speculation.

14 Q So it is speculation whether or not the  
15 thirty year longevity step would have sergeants  
16 stay longer?

17 A Sure.

18 Q When individuals are assigned to the  
19 Hudson Valley area, there is housing available  
20 through the Department of Corrections that  
21 individuals can take advantage of; correct?

22 A There is some housing available for a  
23 fee, yes.

24 Q You would agree that fee is a greatly

1           discounted rate from what would be the open  
2           market of housing in those areas?

3           A           If you are eligible to get in and there  
4           is room for you, it is a reasonable fee. That  
5           is, if it is okay to charge your employees to  
6           stay somewhere to get promoted.

7                        ARBITRATOR SELCHICK: Tell me about  
8           that arrangement. What is made available?

9                        THE WITNESS: There is some housing  
10          available at the Air Force Base.

11                      ARBITRATOR SELCHICK: This is down  
12          near Sing Sing?

13                      THE WITNESS: The Air Force Base is  
14          in Newburgh. They are in the Fishkill,  
15          Downstate area. I do not know the exact cost.  
16          But I believe it is approximately one fifty a  
17          month to stay in a room.

18                      ARBITRATOR SELCHICK: It is just like  
19          a dormitory?

20                      THE WITNESS: It is like a barracks.  
21          I believe there are two individuals in each  
22          room. No, I'm sorry, there are four in each  
23          room; two on each side. They put four  
24          officers, sergeants, and I imagine lieutenants

1           and captains can stay there if they would like.  
2           It is definitely a lower cost. But on top of  
3           that is food gas and everything else that has  
4           to be paid for, like I stated earlier in my  
5           testimony, you are losing money when you take  
6           the promotion.

7           BY MR. LODOVICE:

8           Q           With the housing, you reference the one  
9           at the Air Force Base. There is other low cost  
10          housing available throughout the state in other  
11          locations?

12          A           I do not know that to be true. I  
13          wouldn't say any housing is low cost in that  
14          area. Are you talking about state housing for  
15          officers and sergeants?

16          Q           Yes, for officers and sergeants there is  
17          other housing; is that correct?

18          A           It is very limited. Yes, there is some.

19          Q           There are other housing locations  
20          available throughout the state?

21          A           It is very, very limited. For instance,  
22          Sing Sing has a trailer you can stay in down by  
23          the Hudson River.

24          Q           My question is kind of a straight

1 question. There is housing in other places in  
2 the state in addition to the Air Force Base  
3 that we are talking about?

4 A Yes.

5 Q And that rate which is set by the  
6 Division of Budget, that is the rate that is  
7 also charged for other housing made available  
8 for other employees in other units throughout  
9 the state?

10 A I believe it is.

11 Q So essentially NYSCOPBA members would be  
12 charged the same rate as every other employee  
13 in the state?

14 A I believe they are.

15 Q On the third page of your chart you made  
16 reference that this was an informal survey?

17 A Yes.

18 Q Can you just explain how the survey  
19 happened? Was it sheets that people filled out  
20 or did you interview them?

21 A No. It was just an informal survey. I  
22 spoke to the officers. When I went through my  
23 book I did approximately forty tours in 2010.  
24 And I just came to some facilities and spoke to

1 several officers. And in some facilities I  
2 spoke to upward of twenty or twenty-five  
3 officers. That is where I came up with the  
4 number of five to seven hundred.

5 Q On the first page of your chart you  
6 make. Reference that approximately 3700  
7 candidates did take the exam?

8 A Yes.

9 Q Did you ask those candidates why they  
10 chose to take advantage of the promotion  
11 opportunity to become a sergeant?

12 A During this survey when I asked the  
13 officer if they had taken the exam, if they  
14 said, Yes. I said, Good luck. And I moved on  
15 to the next officer. I was looking for  
16 officers that did not take the exam to ask them  
17 why they didn't.

18 Q So you didn't ask the sergeants who took  
19 the exam why they chose to take the exam for  
20 the promotional opportunity?

21 A No, I did not.

22 Q I think one last question. The process  
23 that you talked about, the reassignment when  
24 you become promoted to sergeant, that kind of

1 relocation upon promotion would also affect  
2 lieutenants in the Department of Corrections?

3 A Sure.

4 Q And deputy superintendents also have the  
5 same issue in terms of reassignment with  
6 promotion?

7 A Yes. It is a little different with them  
8 because the deputy superintendents kind of go  
9 where they are told. The officers and  
10 sergeants and lieutenants have the reassignment  
11 lists that they work off. So it is a little  
12 different.

13 Q But a deputy superintendent would be  
14 placed in the location of where the position is  
15 needed?

16 A Yes, sure.

17 Q That would also be true for  
18 superintendents? They would be relocated to  
19 fit the needs of available staff?

20 A Absolutely.

21 MR. LODOVICE: One second.

22 ARBITRATOR SELCHICK: Sure.

23 (A break in the proceedings was  
24 taken.)

1 BY MR. LODOVICE:

2 Q Mr. Viddivo, one last question. With  
3 the numbers that we talked about in terms of  
4 how many people have taken the exams, and just  
5 to make it clear, the Department of Corrections  
6 is not having any problems filling sergeant  
7 positions? There are always available people  
8 to fill those positions; correct?

9 A The outline that I gave shows a decrease  
10 in candidates, eligible and qualified  
11 candidates, experienced candidates. So are  
12 there still people available off the list?  
13 Yes. But you are going into a scoring range  
14 that doesn't add up to the quality or the  
15 experience that you would necessarily look for  
16 off an exam to promote people from.

17 Q My question is, in terms of the  
18 correction officer pool, DOCS has plenty of  
19 ready, willing and available officers to fill  
20 the positions of sergeant?

21 A Sure. They have 2,816 right now.

22 Q Thank you?

23 A That have passed the exam.

24

1                   ARBITRATOR SELCHICK: How many  
2                   current sergeants do we have?

3                   THE WITNESS: We have 1255.

4                   ARBITRATOR SELCHICK: Do you know how  
5                   many vacancies there are?

6                   THE WITNESS: Actually, I can say  
7                   that Mr. Martucello has kept that pretty good  
8                   right now. We are pretty close to 1255.

9                   ARBITRATOR SELCHICK: Not too many  
10                  vacancies, and you have 2800 people waiting to  
11                  become sergeant?

12                  THE WITNESS: We are on 203 on the  
13                  current list. The passing candidate goes down  
14                  to the score zone of seventy. So yes, there  
15                  are still 2603 available off this current list.

16                  ARBITRATOR SELCHICK: And sergeants  
17                  serve a probationary term as a sergeant?

18                  THE WITNESS: One year.

19                  ARBITRATOR SELCHICK: How long does  
20                  it take most people to get back to their  
21                  general home area?

22                  THE WITNESS: It depends on the  
23                  location. But if I had to peg it at something  
24                  close, I would say on average throughout the

1 state easily four to five years on average.

2 Some locations, like we discussed in  
3 the southern tier, there is no wait. If you  
4 get promoted at Sing Sing, you are home and  
5 you're fine. If you get promoted from  
6 Watertown, I know there are sergeants who have  
7 been waiting to get to Watertown for upward of  
8 ten years, just to get to the Watertown hub I  
9 should say.

10 ARBITRATOR SELCHICK: Any redirect?

11 MR. SHEEHAN: Just one question.

12 EXAMINATION BY MR. SHEEHAN:

13 Q Dave, the state housing opportunities in  
14 the downstate area that you described, do you  
15 know if there are any limitations on the length  
16 of stay a sergeant would be permitted in those  
17 areas?

18 A I believe the new directive that was put  
19 out, I believe they have now limited it to six  
20 months.

21 Q Thank you?

22 MR. SHEEHAN: Nothing further.

23 ARBITRATOR SELCHICK: Any recross?

24 MR. LODOVICE: If I could just follow

1 up on that question.

2 EXAMINATION MR. LODOVICE:

3 Q The directive, and I hope I'm using the  
4 right term, about the Harlem Valley housing,  
5 Mid-Hudson Valley housing, for that location  
6 the directive came out for six months. But  
7 that six months is only to be applied if there  
8 is kind of an over flow of requests to be moved  
9 into that housing; is that correct?

10 A I do not know that to be factual. I  
11 don't know that.

12 Q Let me ask it this way. At that housing  
13 location, no one has been asked to leave  
14 because they have exceeded the six months?

15 A I can't say that either. I don't know  
16 the answer. I believe that the directive most  
17 recently changed three months ago. So that  
18 really has not come into play yet. It was only  
19 changed three or four months ago I believe.

20 Q Are you aware of anyone who has actually  
21 been asked to leave at the six month point?

22 A I have no knowledge of that, no.

23 MR. LODOVICE: Nothing further.

24 MR. SHEEHAN: Nothing further.

1 ARBITRATOR SELCHICK: Ms. Carraway?

2 ARBITRATOR CARRAWAY: Sergeant

3 Viddivo, you were asked about the state housing  
4 throughout the state. Is there any guarantee,  
5 that if you are transferred out to a facility  
6 that is away from your home, that you are going  
7 to have state housing available?

8 THE WITNESS: No. It is probably,  
9 other than the compensation, one of the most  
10 stressful parts of taking a promotion, not  
11 knowing where you are going to go to sleep at  
12 night. It is that stressful.

13 I have been through it myself. I  
14 personally, when I made sergeant, lived in what  
15 we call "The Swamp" at Sing Sing at the time.  
16 It was pretty disgusting, literally disgusting  
17 to have to stay there for any length of time.

18 ARBITRATOR CARRAWAY: The conditions  
19 in some of the places are less than ideal?

20 THE WITNESS: They are horrific. You  
21 think when you are promoted you are promoting  
22 yourself and trying to advance yourself. And  
23 when you step foot in the swamp at Sing Sing  
24 and have to scrape away mold from the shower

1 because you can't take a shower, it is just  
2 absolutely, I can't say enough about how bad  
3 the conditions can be.

4 ARBITRATOR CARRAWAY: Thank you.

5 ARBITRATOR SELCHICK: Anything  
6 further.

7 MR. SHEEHAN: No.

8 MR. LODOVICE: Nothing further.

9 ARBITRATOR SELCHICK: Thank you,  
10 Sergeant. We appreciate your testimony.

11 (Whereupon the witness was excused.)

12 MR. SHEEHAN: If we could move along,  
13 I would like to take maybe ten minutes or so to  
14 review a few highlights from Book "15", which  
15 we never got a chance to do, although the book  
16 was introduced a couple sessions ago.

17 So if I am alright here to do that?

18 ARBITRATOR SELCHICK: That is fine.

19 MR. SHEEHAN: I just want to make a  
20 couple points with the panel generally about  
21 some of the exhibits in this book.

22 I will start with Exhibit "A". And  
23 Exhibit "A", as you can see, most of these  
24 documents are reports that are generated by