

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	77 Civ. 1881 (FXA)
	)	
NASSAU COUNTY, et al.,	)	
	)	
Defendants.	)	

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NOTICE OF MOTION

TO: JAMES M. CATTERSON, JR.  
314 Main Street  
Port Jefferson, New York 11777

WILLIAM H. PAULEY, III  
Orenstein, Snitow & Pauley, P.C.  
750 Third Avenue  
New York, New York 10017

EDWARD G. McCABE  
County Attorney, Nassau County  
1 West Street  
Mineola, New York 11530

PLEASE TAKE NOTICE that plaintiff United States by and through its undersigned attorneys, will bring on for hearing the Motion of Plaintiff United States For An Order Compelling the Nassau County Defendants to: Answer the June 21, 1984 Interrogatories of the United States; Provide those Documents Required by the United States In Its June 21, 1984 Request for the Pro-

duction of Documents; and Comply with the Documents And Information Production Provisions of Paragraph Seventy-seven of the April 21, 1982 Consent Decree, before the Honorable Francis X. Altimari, United States District Judge for the Eastern District of New York, United States Courthouse, Uniondale Avenue at Hempstead Turnpike, Uniondale, New York, as soon as counsel may be heard.

Respectfully submitted,



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JOHN M. GADZICHOWSKI  
Senior Trial Attorney  
MELISSA P. MARSHALL  
ROGER A. COLAIZZI  
Trial Attorneys  
Department of Justice  
Civil Rights Division  
Washington, D.C. 20530  
(202) 633-2188

Counsel for Plaintiff United  
States

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	77 Civ. 1881 (FXA)
	)	
NASSAU COUNTY, et al.,	)	
	)	
Defendants.	)	
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MOTION OF PLAINTIFF UNITED STATES FOR AN ORDER  
COMPELLING THE NASSAU COUNTY DEFENDANTS TO: ANSWER  
THE JUNE 21, 1984 INTERROGATORIES OF THE UNITED  
STATES; PROVIDE THOSE DOCUMENTS REQUESTED BY THE  
UNITED STATES IN ITS JUNE 21, 1984 REQUEST FOR THE  
PRODUCTION OF DOCUMENTS; AND COMPLY WITH THE DOCUMENTS  
AND INFORMATION PRODUCTION PROVISIONS OF PARAGRAPH  
SEVENTY-SEVEN OF THE APRIL 21, 1982 CONSENT DECREE

Plaintiff United States, pursuant to Rule 37(a), F.R.Civ.P.,  
and Paragraph 77 of the April 21, Consent Decree, hereby moves  
this Court for an Order:

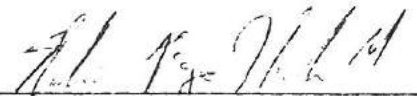
1. Compelling the Nassau County defendants to provide the  
United States, within five (5) days from the date of entry there-  
of, with complete and fully responsive answers to the Inter-  
rogatories of the United States, served upon the Nassau County  
defendants on June 21, 1984;

2. Compelling the Nassau County defendants to provide the  
United States, within five (5) days from the date of entry there-  
of, with those documents requested by the United States in its  
Request for the Production of Documents, served upon the Nassau  
County defendants on June 21, 1984; and

3. Compelling the Nassau County defendants to comply with Paragraph 77 of the April 21, 1982 Consent Decree, and to provide the United States with all of the information and documentation requested by the United States in its June 21, 1984 letter to Nassau County.

A memorandum in support of this Motion is attached hereto.

Respectfully submitted,

  
\_\_\_\_\_  
JOHN M. GADZICHOWSKI  
Senior Trial Attorney  
MELISSA P. MARSHALL  
ROGER A. COLAIZZI  
Trial Attorneys  
Civil Rights Division  
Department of Justice  
Washington, D.C. 20530  
(202) 633-2188



APPENDIX A

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 77 C 1881
	)	GCP
	)	
NASSAU COUNTY, et al.,	)	
	)	
Defendants.	)	
	)	
	)	

CONSENT DECREE

The United States filed this action on September 21, 1977 against Nassau County, the Commissioner of Police and the Nassau County Civil Service Commissioners (hereinafter collectively referred to variously as the "Nassau County defendants," "Nassau County" or the "County"), alleging, inter alia, that Nassau County was engaged in a pattern or practice of employment discrimination against blacks, Hispanics, and females with respect to job opportunities in the Nassau County Police Department, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sec. 2000e, et seq. ("Title VII"), the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. Sec. 1221, et seq. (the "Revenue Sharing Act"), the Omnibus Crime Control and Safe Streets Act of 1968, as amended 42 U.S.C. Sec. 3766(c)(3) (the "Safe Streets Act"), and the Fourteenth Amendment to the Constitution of the United States.

Nassau County expressly denies that it is presently, or has ever been, engaged in a pattern or practice of discrimination against blacks, Hispanics or females as alleged by the United States. However, the County realizes that certain of its selection criteria for hire into and promotion within the Nassau County Police Department (hereinafter referred to as the "NCPD"),

certain of its personnel practices within the NCPD, and the existence of a substantial disproportion between the percentages of blacks, Hispanics and females in the NCPD as compared to the percentages of blacks, Hispanics and females within the relevant labor market, may give rise to an inference that discrimination has occurred.

The United States, Nassau County, defendant Patrolman's Benevolent Association of Nassau County, Inc., and defendant-intervenor Superior Officers Association of Nassau County, Inc. - desirous of avoiding the burden, expense and uncertainty of further contested litigation and desirous of eliminating any disadvantage to blacks, Hispanics and females that may have resulted from any past practice with respect to job opportunities in the NCPD - hereby agree and consent to the entry of this Decree.

The parties signatory hereto, by agreeing and consenting to the entry of this Decree, stipulate to the jurisdiction of the Court over this action, and waive a hearing and the entry of findings of fact and conclusions of law on all issues involved herein. However, this Decree shall constitute neither an admission by the County nor an adjudication by the Court on the merits of the allegations of the United States.

Lastly, this Decree is final and binding between the parties signatory hereto and their successors as to the issues resolved herein, as well as upon all persons who consent to and accept the relief provided herein.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

I  
GENERAL

1. The major purpose of this Decree is two-fold: to ensure that blacks, Hispanics and females are considered for employment by Nassau County in the NCPD on an equal basis with white males, and that the present effects of the County's alleged prior discriminatory employment practices against blacks, Hispanics and females be corrected. In particular, Nassau County adopts, and shall seek in good faith to achieve, the objective of employing blacks, Hispanics and females in all sworn ranks and non-sworn positions within the NCPD in numbers which roughly approximate

Police Officer in the NCPD. Nassau County is of the view, although it has no validity study so showing, that the achievement of some college education, a qualification which has been in effect since 1972, enhances the performance of Police Officers in the NCPD. The United States is of the view that such an educational requirement has not been validated or otherwise shown to be job-related. However, the parties agree that the use of such a requirement is lawful if that use does not have an adverse impact on blacks, Hispanics and females in recruitment or in selection. Accordingly, the parties agree that where the recruitment efforts of Nassau County, for a specific announced examination, achieve the recruitment objective set forth in Paragraph 15, infra, as measured by qualified applicants having at least one year (32 credits) of college education relevant to performance as a Police Officer, or its equivalent, the use of such a college educational requirement will not be regarded as inconsistent with the requirements of this Decree. In no event, however, shall such an educational requirement be a prerequisite to taking an examination for selection as a Police Officer for the NCPD; and when any college educational requirement is used for appointment, persons who do not meet the requirement but otherwise are eligible shall remain on the eligible list, and will become eligible for appointment to the next NCPD recruit class after they have obtained the necessary college credits.

8. In order to meet its needs for Police Sergeants, Police Lieutenants and Police Captains, Nassau County may make up to forty-five (45) appointments from the eligible list for Exam No. 72-368 for Police Sergeant administered by the County on May 2, 1981, up to thirty-three (33) appointments from the eligible list for Exam No. 70-256 for Police Lieutenant administered by the County on May 10, 1980, and up to six (6) appointments from the eligible list for Exam No. 70-116 for Police Captain administered by the County on May 10, 1980, provided that:

a. Any such interim appointments shall be made without adverse impact upon blacks, Hispanics and females who took those written examinations, and be consistent with the principles set forth in the Court's Order of February 17, 1982;

b. The County shall discontinue use of any eligible lists generated from Exam Nos. 72-368, 70-256 and 70-116, within two (2) years from the date of entry of this Decree or after the appointments described in this Paragraph, whichever occurs first;

c. The County thereafter shall not use written examinations like or similar to Exam Nos. 72-368, 70-256 or 70-116, unless the County and the United States agree, or absent such agreement the County demonstrates to the Court upon hearing after at least ninety (90) days notice to the United States, that such examination either does not have an adverse impact upon blacks, Hispanics and females, or has been validated in accordance with Title VII, and with the Uniform Guidelines or successor guidelines; and

d. Within ten (10) days from the date of entry of this Decree, the County promote to the rank of Police Sergeant, and provide all of the emoluments of that rank (including, but not limited to, retroactive seniority in that rank for all purposes as of January 1, 1976) to, Police Officers Donna Alden, June Ewald and Artie French, three (3) incumbent Police Officers in the NCPD who passed Exam Nos. 5438/5439 for Police Sergeant/Policewoman Sergeant administered by the County on June 16, 1973, who were placed on the combined eligible list resulting therefrom (each with a score of 89.35), but who the United States and the White plaintiffs have contended were not appointed to the rank of Police Sergeant from that combined eligible list because of the County's discrimination against females on the basis of sex. In this regard, the promotions of Police Officers Alden and Ewald under this Decree shall in no way prejudice either one's right to seek relief in addition to that provided herein in the context of White, et al. v. Nassau County Police Department, et al., Civil Action No. 76-C-1869 (E.D. N.Y.), or pursuant to Part XI of this Decree, for the County's alleged unlawful failure to have appointed either of them; nor shall the County's promotion of them under this Decree in any way prejudice the County's right to assert that either or both of them are not entitled to such additional relief.



To the extent not prohibited above in this Paragraph, the County may continue to use its current qualifications and selection criteria for assignment, transfer and promotion within the sworn force of the NCPD, as well as for the filling of all non-sworn positions within the NCPD.

Lastly, Nassau County may, by regulation, require any person who is selected as a Police Officer pursuant to Paragraphs 7 and 12-16 of this Decree to obtain the equivalent of one additional year (32 credits) of college courses relevant to police work, or its equivalent, above the educational level achieved at the time of entry as a prerequisite for promotion to the rank of Police Sergeant. A copy of any proposed regulation shall be furnished to counsel for the United States at least forty-five (45) days prior to its effective date.

9. In the event that Nassau County changes its current qualifications or selection criteria for hire, assignment, transfer or promotion within the sworn force of the NCPD, the County shall provide the United States with at least ninety (90) days notice prior to the implementation of such change.

10. Nassau County shall immediately discontinue using for the purpose of selecting applicants for appointment in the rank of Police Officer in the NCPD the eligible list which resulted from the written examination (No. 66-676) for that rank which was administered by the County on February 16, 1974.

11. In addition to the appointment of one hundred and fifty (150) police officers as permitted by the Court's Order of February 17, 1982, and in order to meet its needs for Police Officers, Nassau County may make up to two hundred (200) appointments from amongst those persons who took the written examination (No. 66-681) administered by the County on October 17, 1977, it being understood that any such interim appointments shall be without adverse impact upon blacks, Hispanics and female applicants, as defined in the Court's Order of February 17, 1982. Nassau County shall discontinue use of any eligible list generated from Exam

No. 66-681, within two (2) years from the date of entry of this Decree or after the two hundred (200) appointments described in this Paragraph, whichever occurs first.

III  
RECRUITMENT AND APPOINTMENT FOR THE  
RANK OF POLICE OFFICER IN THE NCPD

12. Nassau County shall immediately adopt and implement an active and continuing recruitment program directed toward increasing substantially the numbers of qualified black, Hispanic and female applicants for the rank of Police Officer in the NCPD in accordance with the purpose and objective of this Decree, as set forth in Paragraph 1, supra.

13. Such recruitment program shall be on an active and continuing basis and shall include, but need not be limited to:

a. The placement through television, radio stations and newspapers, including radio stations and newspapers which primarily serve or are directed toward the black and Hispanic communities, of advertisements which:

- (1) Emphasize that the NCPD is an Equal Employment Opportunity employer;
- (2) Emphasize the County's active and continuing recruitment program on behalf of blacks, Hispanics and females for the rank of Police Officer in the NCPD;
- (3) Summarize the qualifications required for that rank;
- (4) Provide information as to the method by which application for that rank must be made, as well as the dates during which application must be made; and
- (5) Invite blacks, Hispanics and females to apply for that rank, and state the name, address and telephone number of the unit of the NCPD to which inquiries and requests for applications may be made;

b. The preparation, the prominent placement in all Nassau County buildings and the distribution (especially within predominantly black and/or Hispanic communities) to colleges, high schools, technical schools, churches, community groups and places of business, of brochures and posters which:

- (1) Emphasize that the NCPD is an Equal Employment Opportunity employer;
- (2) Emphasize the County's active and continuing recruitment program on behalf of blacks, Hispanics and females for the rank of Police Officer in the NCPD;
- (3) Summarize the qualifications required for that rank;
- (4) Provide information as to the method by which application for that rank must be made, as well as the dates during which application must be made; and
- (5) Invite blacks, Hispanics and females to apply for that rank, and state the name, address and telephone number of the unit of the NCPD to which inquiries and requests for applications may be made;

c. The recruitment for the rank of Police Officer in the NCPD of blacks, Hispanics and females enrolled at colleges (especially those having criminal justice and related course curricula), high schools and technical schools with predominantly black, Hispanic and/or female enrollments;

d. Contacts with and visits to local offices of groups and associations which specifically serve (or promote the employment opportunities of) blacks, Hispanics or females (e.g., the NAACP, the Urban League, the National Organization for Women and the Nassau County Guardians), to inform them of the County's active and continuing recruitment program on behalf of blacks, Hispanics and females for the rank of Police Officer in the NCPD; and

e. The wide distribution of application forms to those schools, churches, and groups and associations referred to in Paragraphs 13b and d, supra; the timely forwarding of application forms to all blacks, Hispanics and females who request them; and follow-up efforts (personally and/or by mail) with all blacks, Hispanics and females to whom applications have been provided by the NCPD.

14. Such active and continuing recruitment program, as well as the minimum components thereof as set forth in Paragraph 13, supra, shall be conducted by Nassau County toward blacks, His-

panics and females in the counties of Nassau, Suffolk and Westchester and in the City of New York, the geographical labor market from which the County historically has drawn applicants for appointment in the NCPD.

15. Nassau County hereafter shall undertake all reasonable affirmative efforts to conduct sufficient recruitment so that the respective proportions of blacks, Hispanics and females of all qualified applicants for the rank of Police Officer in the NCPD are at least as high as their respective proportions in the relevant labor market as set forth in Paragraphs 3 and 4 of the Fifth Request of Plaintiff United States for the Admission of Matters and the Nassau County Defendants' Response thereto.

16. Nassau County hereafter shall fill Police Officer appointments in the NCPD by fair and nondiscriminatory selection from amongst qualified candidates. It is the expectation of the parties that such nondiscriminatory selection should result in the appointment of blacks, Hispanics and females as Police Officers in the NCPD at levels which approximate their proportions in the pool of qualified applicants.

17. In seeking to meet the recruitment objective for blacks and Hispanics in Paragraph 15, supra, Nassau County shall seek to ensure that the percentage of qualified blacks vis-a-vis Hispanics who apply for appointment is roughly proportionate to their respective percentages in the labor market.

18. For the purposes of this Decree, the recruitment and appointment objectives set forth in Paragraphs 15 and 16, supra, are not and shall not be treated as quotas. Rather, such recruitment and appointment objectives shall serve as useful guidelines for measuring Nassau County's progress toward the purpose and objective of this Decree as set forth in Paragraph 1, supra. Accordingly, the adoption and implementation of the appointment objectives of this Decree do not obligate Nassau County to appoint any person who does not meet valid qualification standards, or to grant a preference in appointment to a less-qualified person over a more-qualified person, where qualifications are



measured by selection procedures and criteria which have been validated in accordance with the Uniform Guidelines or which do not have adverse impact.

IV  
TRANSFER RELIEF FOR INCUMBENT BLACK,  
HISPANIC AND FEMALE POLICE OFFICERS

19. Subject to the availability of incumbent black, Hispanic and female Police Officers who are interested in and qualified for transfer, Nassau County shall fill Police Officer vacancies which hereafter occur in the precincts (eg., First Precinct, Second Precinct, etc.), and in the special commands (eg., Homicide Squad, Fourth Squad, Highway Patrol Bureau, Emergency Services Bureau, Records Bureau, etc.) of the NCPD in a manner which ensures that black, Hispanic and female Police Officers are fully integrated throughout such precincts and special commands within twelve (12) months from the date of entry of this Decree, and remain so integrated throughout the life of this Decree.

20. In order to facilitate the transfer relief provided in Paragraph 19, supra, Nassau County shall notify each incumbent Police Officer in the NCPD that:

a. He or she may request transfer to any other precinct or special command of the NCPD;

b. He or she may submit to the Police Commissioner, within thirty (30) days from the date of receipt of such notification, requests to transfer to not more than four (4) precincts or special commands of the NCPD; and

c. He or she will be considered for transfer to the precinct(s) or special command(s) requested, subject to the availability of positions in such precinct(s) or special command(s) and provided he or she is qualified for transfer to such precinct(s) or special command(s).

21. The notice to be given by the County to incumbent Police Officers pursuant to Paragraph 20, supra, shall be in writing and shall be accompanied by a form upon which each Police Officer may designate the precinct(s) or special command(s) to which he or she requests transfer. The written notice and accompanying form shall be mailed to each incumbent police officer by

U.S. mail, first class and postage prepaid, within thirty (30) days from the date of entry of this Decree, and shall be approved as to both substance and form by the United States prior to mailing.

22. Nothing contained in Paragraphs 19 and 20, supra, shall in any way extinguish or impair the right of any incumbent Police Officer to request transfer through existing procedures, and to be considered for transfer to any other precinct or special command of the NCPD.

V  
RECRUITMENT AND HIRING FOR  
NON-SWORN POSITIONS IN THE NCPD

23. Nassau County shall immediately adopt and implement an active and continuing recruitment program of the type described in Paragraphs 13 and 14, supra, directed toward increasing substantially the numbers of qualified black and Hispanic applicants for non-sworn entry-level positions in the NCPD in accordance with the purpose and objective of this Decree, as set forth in Paragraph 1, supra.

24. Nassau County hereafter shall undertake all reasonable affirmative efforts to conduct sufficient recruitment so that the respective proportions of blacks and Hispanics of all qualified applicants for all non-sworn entry-level positions in the NCPD are at least as high as their respective proportions in the relevant labor market as set forth in Paragraph 5 of the Fifth Request of Plaintiff United States for the Admission of Matters and the Nassau County Defendants' Response thereto.

25. Nassau County hereafter shall fill all non-sworn entry-level positions in the NCPD with qualified blacks and Hispanics, by engaging in an active and continuing recruitment program in accordance with Paragraphs 23 and 24, supra, and by selecting and hiring qualified blacks and Hispanics in all non-sworn entry-level positions in the NCPD at levels which approximate their interest in and ability to qualify for those positions under non-discriminatory selection procedures and criteria.

26. Nassau County shall immediately adopt and implement an active and continuing recruitment program, of the type described

in Paragraphs 13 and 14, supra, directed toward increasing substantially the numbers of qualified blacks, Hispanics and female applicants for the non-sworn positions of Ambulance Driver and Ambulance Medical Technician in the NCPD in accordance with the purpose and objective of this Decree, as set forth in Paragraph 1, supra.

27. Nassau County hereafter shall undertake all reasonable affirmative efforts to conduct sufficient recruitment so that the respective proportions of blacks, Hispanics and females of all qualified applicants for each of the non-sworn positions of Ambulance Driver and Ambulance Medical Technician in the NCPD are at least as high as their respective proportions in the relevant labor market as set forth in Paragraph 6 of the Fifth Request of Plaintiff United States for the Admission of Matters and the Nassau County Defendants' Response thereto.

28. Nassau County hereafter shall fill Ambulance Driver and Ambulance Medical Technician positions with qualified blacks, Hispanics and females, by engaging in an active and continuing recruitment program in accordance with Paragraphs 26 and 27, supra, and by fair and nondiscriminatory selection from amongst qualified candidates. It is the expectation of the parties that such nondiscriminatory selection should result in the appointment of blacks, Hispanics and females as Ambulance Drivers and Ambulance Medical Technicians in the NCPD at levels which approximate their proportions in the pool of qualified applicants.

29. For the purpose of this Decree, the recruitment and hiring objectives set forth in Paragraphs 23-28, supra, are subject to the same understandings set forth in Paragraph 18, supra, with respect to the recruitment and appointment objectives for the rank of Police Officer in the NCPD.

VI  
REMEDIAL RELIEF FOR INDIVIDUAL  
BLACKS, HISPANICS AND FEMALES

30. In settlement of all of the claims of the United States for remedial relief on behalf of individual blacks, Hispanics and females alleged to have been the victims of a pattern or practice

of discrimination against blacks, Hispanics and females with respect to job opportunities in the NCPD, as well as all of the claims of individual blacks, Hispanics and females who consent to and/or accept the relief provided under Part VI of this Decree, Nassau County agrees, and it is hereby ordered, that:

a. The County shall reserve a fund of \$975,000.00 to be used to satisfy the back pay awards to be paid to individuals under Part VI of this Decree. In the event that such fund is insufficient to satisfy the aggregate back pay awards to which such individuals are entitled under Part VI, then the County shall be required to increase such fund to meet such back pay awards. In no event, however, shall the County be required to increase such fund of \$975,000.00 by more than one-third in order to satisfy any such back pay awards.

b. The County shall pay all employer contributions to the Social Security fund due on the back pay awards to be paid to individuals under Part VI of this Order (The monies due the Social Security fund as employer contributions shall not be funded from that amount set forth in Paragraph 30a, supra.); and

c. The County shall provide that non-monetary relief as set forth in Part VI of this Decree.

Relief For Those Females Whose Scores On Either Exam No. 4718 For Policewoman (3/18/72) Or Exam No. 4719 For Police Cadette (3/18/72) Were Higher Than The Lowest General Average Score Of Any Male Who, Post-Act, Was Appointed From The Eligible List For Exam No. 4716 For Police Patrolman (3/18/72); And Relief For Those Females Whose Scores On Exam No. 4719 For Police Cadette Were Higher Than The Lowest General Average Score Of Any Male Who, Post-Act, Was Hired From The Eligible List For Exam No. 4717 For Police Cadet (3/18/72)

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31. On March 18, 1972, the Nassau County Civil Service Commission (hereinafter the "NCCSC") administered the same written examination, prepared and scored by the NCCSC, to male applicants for Police Patrolman (Exam No. 4717), to female applicants for Policewoman (Exam No. 4718), to male applicants for Police Cadet (Exam No. 4717) and to female applicants for Police Cadette (Exam No. 4719).



32. The NCCSC established an eligible list for Exam No. 4716 for Police Patrolman on January 15, 1973, and the NCPD thereafter appointed a total of 329 males as Police Patrolmen from that list, on the dates and in the numbers indicated below:

<u>Date</u>	<u>Number of Appointments</u>
February 9, 1973	46
June 15, 1973	244
October 5, 1973	37
July 12, 1974	2

33. The lowest general average score (exam score plus veteran's points, where applicable) of any male appointed from the eligible list for Exam No. 4716 for Police Patrolman was 74.747.

34. One-hundred sixteen (116) females who took Exam No. 4718 for Policewoman passed it; and one-hundred one (101) of those females who passed Exam No. 4718 for Policewoman achieved examination scores which were higher than the lowest general average score (74.747) of any male appointed from the eligible list for Exam No. 4716 for Police Patrolman.

35. The NCCSC never established an eligible list for Exam No. 4718 for Policewoman, and the NCPD never appointed any Policewoman as a result of Exam No. 4718.

36. The NCCSC established an eligible list for Exam No. 4717 for Police Cadet on June 13, 1974. Although that eligible list originally was to have expired on June 13, 1975, the NCCSC on June 2, 1975 extended the life of that list to December 30, 1975.

37. The NCPD hired a total of 27 males as Police Cadets from the eligible list for Exam No. 4717 for Police Cadet, on the dates and in the numbers indicated below:

<u>Date</u>	<u>Number of Appointments</u>
July 12, 1974	26
March 10, 1977	1

38. The lowest general average score (exam score plus veteran's points, where applicable) of any male appointed on July 12, 1974 from the eligible list for Exam No. 4717 for Police Cadet was 82.138.

39. Forty (40) females who took Exam No. 4719 for Police Cadette passed it; and twenty-one (21) of the females who passed Exam No. 4719 for Police Cadette achieved examination scores which were higher than the lowest general average score (82.138) of any male who was hired on July 12, 1974 from the eligible list for Exam No. 4717 for Police Cadet.

40. In addition, nineteen (19) of the females who passed Exam No. 4719 for Police Cadette achieved examination scores which were higher than the lowest general average score (74.747) of any male appointed from the eligible list which resulted from Exam No. 4716 for Police Patrolman.

41. The NCCSC never established an eligible list for Exam No. 4719 for Police Cadette, and the NCPD never hired any Police Cadettes as a result of Exam No. 4719.

42. The United States has contended that Nassau County's administration of the sex-segregated Exam No. 4716 for Police Patrolman, Exam No. 4718 for Policewoman, Exam No. 4717 for Police Cadet and Exam No. 4719 for Police Cadette, together with the County's post-Act appointment of males from the eligible list for Exam No. 4716 for Police Patrolman and its post-Act hire of males from the eligible list for Exam No. 4717 for Police Cadet, constituted unlawful discrimination against females on the basis of sex.

43. Without admitting to the contentions of the United States as set forth in Paragraph 42, supra, Nassau County agrees, and it is hereby ordered, that each of those females who meet the following criteria is entitled to the relief provided under Paragraph 46, infra, to make her whole for the County's alleged unlawful failure to appoint her as a Police Patrolman:

a. She achieved a score on Exam No. 4718 for Policewoman or Exam No. 4719 for Police Cadette which was higher than the lowest general average score of any male who, post-Act, was appointed from the eligible list for Exam No. 4716 for Police Patrolman;

b. She applied, or sought to apply, to take Exam No. 4716 for Police Patrolman, but was rejected or otherwise dissuaded from applying; or she was interested in being appointed as a Police Patrolman and would have applied to take Exam No. 4716 for Police Patrolman but for the facts that:

(1) She knew or reasonably believed that the rank of Police Patrolman was open only to males; or

(2) She was under the stated 5'8"/140 lb. minimum height/weight requirement for Police Patrolman; she knew of the County's minimum height/weight requirement for that rank; and, therefore, she reasonably believed it would have been futile to have applied; and

c. She had a high school diploma or its G.E.D. equivalent; she met the minimum and maximum age requirements to take Exam No. 4716 for Police Patrolman and to be appointed from the eligible list which resulted therefrom; she was not physically disabled to the extent that she clearly would not have been able to have performed as a Police Patrolman; and her background was not of the type which clearly would have disqualified her.

44. Additionally, without admitting to the contentions of the United States as set forth in Paragraph 42, supra, Nassau County agrees, and it is hereby ordered, that each of those females who meet the following criteria are entitled to the relief provided under Paragraph 46, infra, to make her whole for the County's alleged unlawful failure to hire her as a Police Cadet:

a. She achieved a score on Exam No. 4719 for Police Cadette which was higher than the lowest general average score of any male who on July 12, 1974 was hired from the eligible list for Exam No. 4717 for Police Cadet;

b. She applied, or sought to apply, to take Exam No. 4717 for Police Cadet, but was rejected or otherwise dissuaded from applying; or she was interested in being hired as a Police Cadet and would have applied to take Exam No. 4716 for Police Cadet but for the facts that:

a. The County shall provide each of those females with a notification which summarizes the relief to which she is entitled pursuant to this Decree and which requests that she advise the County as to whether she desires to be considered for appointment as a Police Officer in the NCPD.

b. The County's notification to each of these females shall be made in writing, approved as to both substance and form by the United States, accompanied by a copy of this Decree and forwarded by U.S. mail, first class and postage prepaid, not more than twenty (20) days after agreement is reached between the parties, or decision is rendered by the Court, as to the entitlement of each of these females to relief, pursuant to Paragraph 45, supra.

c. Each of these females shall have thirty (30) days from receipt of the County's notification to advise the County as to whether she desires to be considered for appointment as a Police Officer in the NCPD. If she advises the County within thirty (30) days of receipt of the County's notification of her desire to be considered for appointment, the County shall consider her for appointment in accordance with Paragraphs 46d and e, infra. If, however, she either advises the County that she does not desire to be considered for appointment or, and absent good cause, does not advise the County within thirty (30) days of receipt of the County's notification as to whether she desires to be considered for appointment, the County is released from its obligations to her under Paragraphs 46d and e, infra.

d. The County shall immediately process for appointment each of those females who, pursuant to Paragraph 46c, supra, timely advises the County of her desire to be considered for appointment as a Police Officer in the NCPD, and the County shall:

- (1) Appoint, in descending order of examination scores received on Exam Nos. 4718 and 4719, not less than thirty (30) of those females in the first recruit class; and



- (2) Appoint those remaining females, in descending order of examination scores received on Exam Nos. 4718 and 4719, with not less than thirty (30) of those remaining females in each succeeding recruit class

thereafter commenced by the NCPD at its Training Academy, provided that there are at least that number who pass a physical examination and a background investigation administered to the other candidates for appointment at that time, and who accept the County's offer of appointment. In no event, however, shall the County be required to appoint as Police Officers in the NCPD more than sixty-five (65) of such females. The County shall not require any of those females to meet its maximum age requirement as a condition of appointment. In addition, notwithstanding the requirement that each applicant pass a physical examination, the County shall not disqualify any female because of a condition now in existence which was not in existence at the time of that female's initial application unless the County can clearly establish that incumbent Police Officers who develop the same condition are thereby dismissed from the NCPD.

e. Further, the County shall provide each of those females who is appointed pursuant to Paragraph 46d, supra and who successfully completes all phases of instruction at the Training Academy with all of the emoluments of the rank of Police Officer, including retroactive seniority, for all purposes (except pension and time-in-grade for eligibility for promotion), in that rank:

- (1) As of the date that any male was appointed a Police Patrolman whose general average score on Exam No. 4716 for Police Patrolman was the same as or lower than the score she achieved on either Exam No. 4718 for Policewoman or Exam No. 4719 for Police Cadette, if she meets those criteria set forth in Paragraph 43, supra; or
- (2) As of July 12, 1975, the date by which she reasonably would have been appointed a Police Patrolman had she been hired as a Police Cadet on July 12, 1974, if she meets those criteria set forth in Paragraph 44, supra.

f. Lastly, the County shall provide each of these females with a back pay award to compensate her for the monetary loss she has incurred as a result of the County's alleged unlawful refusal to consider her for appointment as a Police Patrolman or for hire as a Police Cadet because of her sex. The amount of the back pay award to each of these females shall be determined by the United States, but in no event shall the amount of the back pay award exceed \$17,600.00 to any female who meets those criteria set forth in Paragraph 43, supra, and \$13,200.00 to any female who meets those criteria set forth in Paragraph 44, supra. None of these females is required to indicate a present interest in or to accept an offer of appointment as a condition of her receipt of the back pay award to which she is entitled under this Paragraph 46f.

Relief For Those Females Whose Scores On Exam No. 66-676 For Police Officer (2/16/74) Were Higher Than The Lowest General Average Score Of Any Male Appointed From The Eligible List For That Exam, And Who Were Rejected For Appointment Because They: Failed To Meet Nassau County's 5'8"/140 Lb. Minimum Height/Weight Requirement; Failed To Meet Nassau County's Five-Part Physical Agility Test; Failed To Meet The MPTC's Physical Fitness Screening Test; Or Failed To Pursue Their Applications Because They Did Not Meet Nassau County's 5'8"/140 lb. Minimum Height/Weight Requirement

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47. On February 16, 1974, the NCCSC administered a written examination, prepared by the New York State Department of Civil Service (hereinafter the "NYSDCS"), to applicants for Police Officer (Exam No. 66-676).

48. The announcement for Exam No. 66-676 for Police Officer stated that, in order to be eligible for appointment, applicants had to meet a minimum height/weight requirement of 5'8"/140 lbs. and pass Nassau County's Five-Part Physical Agility Test.

49. During 1975, the NCCSC administered medical examinations to 26 female and 517 male candidates who had passed Exam No. 66-676 for Police Officer. Twenty (20) of the 26 female and 218 of the 517 male candidates administered medical examinations failed them. Fifteen (15) (or 75.0%) of the 20 female, but only 45 (or 20.6%) of the 218 male, candidates who failed the medical examinations failed only because they did not meet the 5'8"/140 lb. minimum height/weight requirement.

50. By Memorandum and Order entered January 11, 1977 in White, et al. v. Nassau County Police Department et al., this Court preliminarily enjoined Nassau County from requiring that candidates for Police Officer meet a 5'8"/140 lb. minimum height/weight requirement.

51. The 5'8"/140 lb. minimum height/weight requirement imposed by Nassau County upon applicants for Police Officer (and, formerly, Police Patrolman) prior to January 11, 1977 had a disproportionately adverse impact upon females as compared to males, and was not necessary for successful performance in that rank.

52. During 1975, the NCCSC administered its Five-Part Physical Agility Test to the 6 female and 287 male candidates who had passed Exam No. 66-676 and the medical examination referred to in Paragraph 48, supra. None of the 6 female, but 249 (or 87.7%) of the 287 male, candidates passed the County's Five-Part Physical Agility Test.

53. Nassau County's Five-Part Physical Agility Test administered during 1975 to male and female candidates for the rank of Police Officer had a disproportionately adverse impact upon females as compared to males, and was not necessary for successful performance in the rank of Police Officer.

54. During January and September 1977, the NCCSC administered the MPTC's Physical Fitness Screening Test to 25 female and 324 male candidates who had passed Exam No. 66-676 for Police Officer. 304 (or 93.8%) of the 324 male, but only 19 (or 76.0%) of the 25 female candidates administered the MPTC's Physical Fitness Test passed it.

55. The MPTC's Physical Fitness Screening Test administered by the NCCSC in January and September 1977 to male and female candidates for the rank of Police Officer had a disproportionately adverse impact upon females as compared to males, and was not necessary for successful performance in that rank.

56. The United States has contended that Nassau County's use of a 5'8"/140 lb. minimum height/weight requirement, the County's use of its Five-Part Physical Agility Test and the

County's use of the MPTC's Physical Fitness Screening Test each constituted unlawful discrimination against females on the basis of sex; and, further, that the County's stated 5'8"/140 lb. minimum height/weight requirement unlawfully deterred females who had passed Exam No. 66-676 for Police Officer from pursuing their applications.

57. Without admitting to the contentions of the United States as set forth in Paragraph 56, supra, Nassau County agrees, and it is hereby ordered, that each female whose general average score on Exam No. 66-676 for Police Officer was higher than the lowest general average score of any person who was appointed from the eligible list for that Exam is entitled to the relief provided under Paragraph 57, infra, to make her whole for the County's alleged unlawful failure to appoint her as a Police Officer, provided that:

a. She was rejected or otherwise not considered for appointment because:

- (1) During the 1975 processing of candidates, she failed either to meet the County's 5'8"/140 lb. minimum height/weight requirement, or to pass the County's Five-Part Physical Agility Test;
- (2) During the 1975 processing of candidates, she failed to appear for the medical examination because: she was under the stated 5'8"/140 lb. minimum height/weight requirement for Police Officer; she knew of the County's minimum height/weight requirement for that rank; and, therefore, she reasonably believed it would have been futile to have pursued her application; or
- (3) During the January or September 1977 processings of candidates, she failed to pass the MPTC's Physical Fitness Screening Test; and

b. She had a minimum of two (2) years (64 credits) of college; she met the minimum and maximum age requirements to take Exam No. 66-676 for Police Officer and to be appointed from the eligible list which resulted therefrom; she was not physically disabled to the extent that she clearly would not have been able



to have performed as a Police Officer; and her background was not of the type which clearly would have disqualified her.

58. The United States shall, within ninety (90) days from the date of entry of this Decree, provide Nassau County with a list of each of those females who it believes meets those criteria set forth in Paragraph 57, supra, and thus is entitled to the relief provided under Paragraph 59, infra. Thereafter, the United States and Nassau County shall have ninety (90) days within which to seek to agree as to whether each female named by the United States meets those criteria set forth in Paragraph 57, supra. If after such ninety (90) day period the United States and Nassau County are unable to reach agreement as to whether each female named by the United States meets those criteria set forth in Paragraph 57, supra, then as to any disputed females the Court, after an evidentiary hearing, shall decide. Nassau County shall have the burden of demonstrating to the Court, by clear and convincing evidence, that any disputed female fails to meet those criteria set forth in Paragraph 57, supra.

59. Nassau County shall provide the following relief to each of those females who, pursuant to Paragraph 58, supra, the parties agree, or absent agreement the Court decides, meets those criteria set forth in Paragraph 57, supra.:

a. The County shall provide each of those females with a notification which summarizes the relief to which she is entitled pursuant to this Decree and which requests that she advise the County as to whether she desires to be considered for appointment as a Police Officer in the NCPD.

b. The County's notification to each of these females shall be made in writing, approved as to both substance and form by the United States, accompanied by a copy of this Decree and forwarded by U.S. mail, first class and postage prepaid, not more than twenty (20) days after agreement is reached between the parties, or decision is rendered by the Court, as to the entitlement of each of these females to relief, pursuant to Paragraph 58, supra.

c. Each of these females shall have thirty (30) days from receipt of the County's notification to advise the County as to whether she desires to be considered for appointment as a Police Officer in the NCPD. If she advises the County within thirty (30) days of receipt of the County's notification of her desire to be considered for appointment, the County shall consider her for appointment in accordance with Paragraphs 59d and e, infra. If, however, she either advises the County that she does not desire to be considered for appointment or, and absent good cause, does not advise the County within thirty (30) days of receipt of the County's notification as to whether she desires to be considered for appointment, the County is released from its obligations to her under Paragraphs 59d and e, infra.

d. The County shall immediately process for appointment each of those females who, pursuant to Paragraph 59c, supra, timely advises the County of her desire to be considered for appointment as a Police Officer in the NCPD, and the County shall appoint each of them in the first recruit class thereafter commenced by the NCPD at its Training Academy, provided that she passes a physical examination and a background investigation administered to the other candidates for appointment at that time, and she accepts the County's offer of appointment. The County shall not require any of those females to meet its maximum age requirement as a condition of appointment. In addition, notwithstanding the requirement that each applicant pass a physical examination, the County shall not disqualify any female because of a condition now in existence which was not in existence at the time of that female's initial application unless the County can clearly establish that incumbent Police Officers who develop the same condition are thereby dismissed from the NCPD.

e. Further, the County shall provide each of these females who successfully completes all phases of instruction at the Training Academy with all of the emoluments of the rank of Police Officer, including retroactive seniority, for all purposes (except pension and time-in-grade for eligibility for promotion),

in that rank, as of the date that any person was appointed a Police Officer whose general average score on Exam No. 66-676 for Police Officer was the same as or lower than the general average score on that Exam.

f. Lastly, the County shall provide each of these females with a back pay award to compensate her for the monetary loss she has incurred as a result of the County's alleged unlawful refusal to appoint her as a Police Officer. The amount of the back pay award to each of these females shall be determined by the United States, but in no event shall the amount of the back pay award exceed \$8,800.00 to any female who meets those criteria set forth in Paragraph 57a(1) or (2), supra, and \$6,600.00 to any female who meets those criteria set forth in Paragraph 57a(3), supra.

Relief For Those Blacks And Hispanics Who Took Exam No. 66-676 For Police Officer (2/16/74) But Who Were Not Considered For Appointment Because Either They Failed To Achieve Scores On That Exam Which Were High Enough For Appointment Or They Failed To Meet Nassau County's Two-Year (64 Credit) College Education Requirement

60. As previously noted (see Paragraph 47, supra), the NCCSC administered a written examination, prepared by the NYSDCS, to applicants for Police Officer (Exam No. 66-676) on February 16, 1974.

61. The NCCSC established an eligible list for Exam No. 66-676 for Police Officer on July 29, 1976, and the NCPD thereafter appointed total of 149 persons as Police Officers from that list, one (or 0.67%) of whom was black and none of whom was Hispanic, on the dates and in the numbers indicated below:

<u>Date</u>	<u>Number of Appointments</u>		
	<u>Total</u>	<u>Black</u>	<u>Hispanic</u>
February 23, 1977	91	0	0
January 19, 1979	24	1	0
July 13, 1979	34	0	0

62. The lowest exam score of any person appointed from the eligible list for Exam No. 66-676 for Police Officer was 82.0.

63. The results of Exam No. 66-676 for Police Officer, by race, for those persons whose race is known, is as follows:

a. Of the 3,654 persons who took Exam No. 66-676, 3,411 (or 93.35%) were white and 232 (or 6.35%) were black;

b. Of the 2,230 persons who passed Exam No. 66-676, 2,179 were white and 49 were black;

c. The pass rate for whites on Exam No. 66-676 was 63.88%, whereas the pass rate for blacks on this Exam was 21.12%;

d. The pass rate (of 63.88%) for whites on Exam No. 66-676 was more than three times as great as the pass rate (of 21.12%) for blacks on this Exam;

e. Twenty-six (26) persons achieved scores on Exam No. 66-676 of at least 95.0, all of whom were white; 105 persons achieved scores of at least 93.0, 104 (or 99.05%) of whom were white and 1 (or 0.95%) of whom was black; 242 persons achieved scores of at least 90.0, 238 (or 98.35%) of whom were white and 4 (or 1.65%) of whom were black; and 606 persons achieved scores of at least 86.0, 600 (or 99.1%) of whom were white and 6 (or 0.99%) of whom were black; and

f. 30.02% of all whites, but only 5.17% of all blacks, who took Exam No. 66-676 achieved scores of at least 82.0 (the lowest exam score of any person appointed from the eligible list for that Exam); and 46.99% of all whites, but only 24.49% of all blacks, who passed Exam No. 66-676 achieved scores of at least 82.0.

64. Exam No. 66-676 for Police Officer had a disproportionately adverse impact upon blacks as compared to whites.

65. Nassau County neither validated nor attempted to validate Exam No. 66-676.

66. In addition to obtaining a high enough score on Exam No. 66-676 for Police Officer, candidates also had to have had a minimum of two (2) years (64 credits) of college education in order to be considered for appointment as a Police Officer in the NCPD.

67. Nassau County's minimum two (2) year (64 credit) college education requirement for appointment to the rank of Police Officer has had a disproportionately adverse impact upon blacks and Hispanics as compared to whites, and Nassau County neither validated nor attempted to validate this requirement.



68. The United States has contended that Exam No. 66-676 for Police Officer, as well as Nassau County's minimum two (2) year (64 credit) college education requirement, unlawfully discriminated against blacks and Hispanics on the basis of their race/national origin.

69. Without admitting to the contentions of the United States as set forth in Paragraph 68, supra, Nassau County agrees, and it is hereby ordered that each of the seventy-seven (77) highest-scoring blacks and Hispanics on Exam No. 66-676 for Police Officer is entitled to the relief provided under Paragraph 71, infra, to make him (for the purposes of this Parts VI and VII, the pronouns "he," "his" or "him" also refer to females) whole for the County's alleged unlawful failure to consider him for appointment as a Police Officer, provided that:

a. He was rejected or otherwise not considered for appointment because:

- (1) The score he achieved on Exam No. 66-676 for Police Officer was not high enough for appointment; or
- (2) He did not meet the County's two (2) year (64 credit) college education requirement; and

b. He had a high school diploma or its G.E.D. equivalent; he met the minimum and maximum age requirements to take Exam No. 66-676 for Police Officer and to be hired from the eligibility list which resulted therefrom; he was not physically disabled to the extent that he clearly would not have been able to have performed as a Police Officer; and his background was not of the type of which clearly would have disqualified him.

70. The United States shall, within ninety (90) days from the date of entry of this Decree, provide Nassau County with a list of each of those blacks or Hispanics who it believes meets those criteria set forth in Paragraph 69, supra, and thus is entitled to the relief provided under Paragraph 71, infra. Thereafter, the United States and Nassau County shall have ninety (90) days within which to seek to agree as to whether each black or Hispanic named by the United States meets those criteria set forth in Paragraph 69, supra. If after such ninety (90) day

period the United States and Nassau County are unable to reach agreement as to whether each black or Hispanic named by the United States meets those criteria set forth in Paragraph 69, supra, then as to any disputed black or Hispanic the Court, after an evidentiary hearing, shall decide. Nassau County shall have the burden of demonstrating to the Court, by clear and convincing evidence, that any disputed black or Hispanic fails to meet those criteria set forth in Paragraph 69, supra.

71. Nassau County shall provide the following relief to each of these blacks or Hispanics, who, pursuant to Paragraph 70, supra, the parties agree, or absent agreement the Court decides, meets those criteria set forth in Paragraph 69, supra:

a. The County shall provide each of these blacks or Hispanics with a notification which summarizes the relief to which he is entitled pursuant to this Decree and requests that he advise the County as to whether he desires to be considered for appointment as a Police Officer in the NCPD.

b. The County's notification to each of these blacks or Hispanics shall be made in writing, approved as to both substance and form by the United States, accompanied by a copy of this Decree and forwarded by U.S. mail, first class and postage prepaid, not more than twenty (20) days after agreement is reached between the parties, or decision is rendered by the Court, as to the entitlement of each of these blacks or Hispanics to relief, pursuant to Paragraph 70, supra.

c. Each of these blacks or Hispanics shall have thirty (30) days from receipt of the County's notification to advise the County as to whether he desires to be considered for appointment as a Police Officer in the NCPD. If he advises the County within thirty (30) days of receipt of the County's notification of his desire to be considered for appointment, the County shall consider him for appointment in accordance with Paragraphs 71d and e, infra. If, however, he either advises the County that he does not desire to be considered for appointment or, and absent good cause, does not advise the County within thirty (30) days of his receipt of the County's notification as to whether he desires to

be considered for appointment, the County is released from its obligations to him under Paragraphs 7ld and e, infra.

d. The County shall immediately process for appointment each of those blacks or Hispanics, who, pursuant to Paragraph 7lc, supra, timely advises the County of his desire to be considered for appointment as a Police Officer in the NCPD, and the County shall appoint each of those blacks or Hispanics in the first recruit class, provided that he passes a physical examination and a background investigation administered to the other candidates for appointment at that time, and he accepts the County's offer of appointment. In no event, however, shall the County be required to appoint as Police Officers in the NCPD more than twenty-nine (29) of such blacks and Hispanics. The County shall not require any of these blacks or Hispanics to meet its maximum age requirement as a condition of appointment. In addition, notwithstanding the requirement that each applicant pass a physical examination, the county shall not disqualify any black or Hispanic because of a condition now in existence which was not in existence at the time of that black's or Hispanic's initial application unless the County can clearly establish that incumbent Police Officers who develop the same condition are thereby dismissed from the NCPD.

e. Further, the County shall provide each of those blacks or Hispanics who are appointed in the first recruit class thereafter commenced and who successfully completes all phases of instruction at the Training Academy with all of the emoluments of the rank of Police Officer, including retroactive seniority, for all purposes (except pension and time-in-grade for eligibility for promotion), in that rank, as of July 13, 1979, the date by which they reasonably would have been appointed as Police Officers absent the County's alleged unlawful failure to have appointed them.

f. Lastly, the County shall provide each of these blacks or Hispanics with a back pay award to compensate him for the monetary loss he has incurred as a result of the County's alleged

unlawful failure to have appointed him as a Police Officer. The amount of the back pay award to each of these blacks or Hispanics shall be determined by the United States, but in no event shall the amount of the back pay award to any of them exceed \$8,800.00. None of these blacks or Hispanics is required to indicate a present interest in or to accept an offer of appointment as a condition of his receipt of the back pay award to which he is entitled under this Paragraph 71f.

VII  
IMPLEMENTATION OF INDIVIDUAL RELIEF

72. Any individual entitled to relief under Part VI of this Decree, in order to obtain such relief, must sign a release which will be provided him by Nassau County in accordance with Paragraph 73, infra, and return such notarized release to the County within thirty (30) days of his receipt thereof. Any individual entitled to relief under Part VI, supra, who either does not sign such a release or, alternatively, and absent good cause, does not return a signed release to the County within thirty (30) days of his receipt thereof shall be deemed to have waived his entitlement to such relief. Such release shall provide that he accepts that relief to which he is entitled under Part VI, supra, in full and final settlement of any and all claims against Nassau County, its officials, officers or employees, based upon discrimination with respect to job opportunities in the NCPD in violation of any Federal, state or local equal employment opportunity laws, statutes, regulations or ordinances, occurring prior to the date such release is signed. Such release shall be in a form upon which the United States and the County agree.

73. Nassau County shall notify each of those individuals entitled to relief under Part VI of this Decree as to the specific relief to which either the United States and the County have agreed, or absent such agreement the Court has determined, he is entitled, within twenty (20) days of such agreement or determination as the case may be.

74. The notification referred to in Paragraph 73, supra, shall be in writing, be made by U.S. mail, first class and postage prepaid, be approved as to both substance and form by the



United States prior to mailing and be accompanied by a copy of this Decree as well as a release form as described in Paragraph 72, supra. In addition to advising each recipient as to the specific relief to which he is entitled under Part VI, supra, such notification shall clearly advise him as to the requirements of Paragraph 72, supra, which must be met in order to obtain such relief. Such notification also shall state that if the recipient has any questions, he may contact either of the following counsel for the United States or the County:

Teresa D. Johnson  
Trial Attorney  
Federal Enforcement Section  
Civil Rights Division  
Department of Justice  
Washington, D.C. 20530

Edward G. McCabe  
County Attorney, Nassau County  
1 West Street  
Mineola, New York 11530

75. Nassau County shall provide each individual with the relief to which he is entitled under Part VI, supra, immediately upon its receipt of his signed release in accordance with Paragraph 72, supra.

#### VIII REPORTING AND RECORDKEEPING

76. Nassau County shall submit to the United States, within twenty (20) days after every four-month period of time following the entry of this Decree, a report which contains:

a. A computer printout or other listing which sets forth the total number of personnel (sworn and non-sworn, full and part-time) employed by the NCPD as of the end of that four-month period, with a numerical breakdown by rank (if sworn), job (if non-sworn), race, national origin and sex;

b. A computer printout or other listing which sets forth by command the full name, race, national origin, sex, rank (if sworn), job (if non-sworn), date of appointment (if sworn) and date of hire (if non-sworn) of each person employed by the NCPD as of the end of that four-month period, with a designation for each person as to whether employed full or part-time;

c. The total number of persons who applied for the position of police officer during that four-month period, with a numerical breakdown by race, national origin and sex; the total

number of persons who passed and who failed, respectively, any selection qualification or criterion for the position of police officer used by the County during that four-month period with a numerical breakdown by race, national origin and sex for each selection qualification or criterion;

d. The full name, race, national origin, sex and date of hire of each person hired as a police officer recruit in the NCPD's Training Academy during that four-month period;

e. The full name, race, national origin, sex and date of appointment of each person who graduated from the NCPD's Training Academy and was appointed a police officer during that four-month period;

f. The full name, race, national origin and sex of each person who either voluntarily left or was discharged from the NCPD's Training Academy during that four-month period, including the date such person either voluntarily left or was discharged from the Academy, the precise reason or reasons why such person left or was discharged, and all documents, records and other memoranda with respect thereto;

g. The full name, race, national origin, sex and rank of each officer who during that four-month period was transferred from one precinct to another precinct, from one precinct to a special command, from one special command to another special command, from plainclothes to uniform, and/or from uniform to plainclothes; the date of such transfer; whether the transfer was voluntary or involuntary; the precinct or command from which such officer transferred; and the precinct or command to which such officer transferred;

h. The full name, race, national origin and sex of each officer who was promoted during that four-month period, as well as such officer's former and new rank, former and new precinct or command, and date of promotion;

i. The full name, race, national origin and sex of each person who was hired into or promoted to a non-sworn job within the NCPD during that four-month period, indicating for each person the job into which hired or to which promoted and the date of such hire or promotion; and

j. The full name, race, national origin and sex of each employee who, during that four-month period, was involuntarily terminated from either a sworn rank or a non-sworn job within the NCPD during his or her probationary period, the rank or job from which terminated, the date of termination and the precise reason(s) therefor.

77. Nassau County shall retain during the life of this Decree, and shall make available to the United States for inspection and copying upon written request, all documents, records or other memoranda pertaining to the recruitment, selection, hire, assignment, transfer, promotion, demotion, discipline and termination of all personnel in the NCPD. In addition, Nassau County shall furnish reports and information to the United States pertaining to the County's compliance with this Decree or needed by the United States in effectuating the provisions of Part VI of this Decree.

IX  
COMPLIANCE WITH THIS DECREE

78. Within ten (10) days from the date of entry of this Decree, Nassau County shall designate one official (hereinafter referred to as the County's "Compliance Officer") who shall be responsible for coordinating and overseeing the County's compliance with this Decree; and, within such time period, the County shall provide the United States with the name, title, mailing address and business telephone of such Compliance Officer. If the County subsequently changes its Compliance Officer, it shall promptly notify the United States as to the name, title, mailing address and business telephone number of that Officer's successor.

79. The United States hereby designates the following individual as its Compliance Officer for the administration and enforcement of this Decree:

John M. Gadzichowski  
Senior Trial Attorney  
Federal Enforcement Section  
Civil Rights Division  
Department of Justice  
Main Justice Building, Room 4511  
Washington, D.C. 20530

If the United States subsequently changes its Compliance Officer, it shall promptly notify the County as to the name, title, mailing address and business telephone of that Officer's successor.

X  
COSTS

80. Within ten (10) days from the date of entry of this Decree, Nassau County shall pay the United States the sum of \$62,000.00 in settlement of the costs incurred by the United States in this action.

XI  
RESERVATION OF ISSUES

81. The United States and Nassau County hereby agree and stipulate that the United States maintains the right to seek relief on behalf of that class of females as defined in the Court's Order of May 16, 1977 entered in White, et al. v. Nassau County Police Department, et al., if, within ninety (90) days from the date of entry of this Decree, either the parties in the White action fail to agree as to the relief to be provided the members of such class or the Court does not enter an Order effectuating such relief agreed upon by those parties.

XII  
RETENTION OF JURISDICTION

82. This Court shall retain jurisdiction of this action for the purpose of entering all orders, judgments and decrees which may be necessary to implement that relief provided herein and to effectuate Nassau County's full and complete compliance with Title VII, the Revenue Sharing Act and the Safe Streets Act. Any time after seven (7) years after the date of entry of this Decree, Nassau County may move the Court, upon ninety (90) days notice to the United States, for a dissolution hereof. Nassau County shall be entitled to such dissolution of this Decree, if it has complied with this Decree in all material respects.

ENTERED this 21 day of April 1982, in Uniondale, New York.


  
UNITED STATES DISTRICT JUDGE




AGREED AND CONSENTED TO:


ON BEHALF OF PLAINTIFF UNITED STATES OF AMERICA,

By:

  
DAVID L. ROSE  
Chief, Federal Enforcement Section

  
JOHN M. GADZICHOWSKI  
Senior Trial Attorney

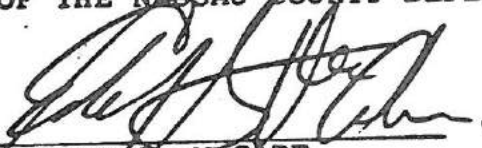
  
TERESA D. JOHNSON  
Trial Attorney


  
NEVIN A. WEINER  
Trial Attorney


Civil Rights Division  
Department of Justice  
Washington, D.C. 20530


ON BEHALF OF THE NASSAU COUNTY DEFENDANTS,

By:

  
EDWARD G. MCCABE  
County Attorney, Nassau County  
1 West Street  
Mineola, New York 11530

  
JAMES M. CATTERSON JR.  
Catterson and Nolan  
314 Main Street  
Port Jefferson, New York 11777

  
PATRICK J. BREEN  
Breen and Gluszk  
1001 Franklin Avenue  
Garden City, New York 11530

  
WILLIAM H. PAULEY, III  
Orenstein, Smitow, Sutak and Pollack, P.C.  
750 Third Avenue  
New York, New York 10017

# APPENDIX B

ORENSTEIN SNITOW & PAULEY, P. C.

750 THIRD AVENUE  
NEW YORK, NEW YORK 10017

(212) 687-1166

TELEX (WU) 971258-OSSP NYK

S. EDWARD ORENSTEIN  
FRANKLYN H. SNITOW  
WILLIAM H. PAULEY, III

MONROE H. FREEDMAN  
MARTIN J. OPPENHEIMER  
COUNSEL

WASHINGTON OFFICE  
1901 L STREET, N. W.  
WASHINGTON, D. C. 20036  
(202) 861-0890

STEVEN A. SILBERBERG  
RESIDENT COUNSEL

VIA FEDERAL EXPRESS

June 4, 1984

John M. Gadzichowski, Esq.  
Senior Trial Attorney  
Civil Rights Division  
U.S. Department of Justice  
Washington, D.C. 20530

RE: United States v. Nassau County  
Examination Results

Dear John:

This letter is to advise you that Nassau County intends to use the results of the Police Officer examination administered in December 1983 as a qualification and selection criterion for the hiring of Police Officers in the Nassau County Police Department. In that connection, I have been instructed by Nassau County to advise you that it wishes to appoint police officers from an Eligible List to be established as a result of that examination as soon as practicable. It is Nassau County's intention to appoint persons from that Eligible List in rank order.

In light of the apparent adverse impact that the examination had on minorities and females, Nassau County is prepared to demonstrate that the examination has been validated in accord with Title VII and the Uniform Guidelines. Accordingly, this letter constitutes notice to the United States under Paragraph 5 of the Consent Decree that Nassau County will make an application to the Court ninety (90) days from June 5, 1984 to use the results of the 1983 Police Officer examination.

Nassau County is prepared to submit documentation to the Justice Department supporting its contention that the examination is job related and validated. In the event that this matter proceeds to further litigation, I suggest that you put your requests to Nassau County in the form provided for by the Federal Rules of Civil Procedure. We await your discovery requests so that Nassau County can supply the materials that you require. We believe that such discovery will provide common grounds for agreement without resort to the Court.

Very truly yours,

JAMES M. CATTERSON, JR. and  
ORENSTEIN SNITOW & PAULEY, P.C.

*William H. Pauley III*  
By: William H. Pauley, III

WHP:if

c/c Mrs. Adele Leonard  
Samuel J. Rozzi  
Edward G. McCabe  
James M. Catterson, Jr.

APPENDIX C

ORENSTEIN SNITOW & PAULEY, P. C.

750 THIRD AVENUE  
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STEVEN A. SILBERBERG  
RESIDENT COUNSEL

VIA FEDERAL EXPRESS

June 4, 1984

John M. Gadzichowski, Esq.  
Senior Trial Attorney  
Civil Rights Division  
U.S. Department of Justice  
Washington, D.C. 20530

RE: UNITED STATES v. NASSAU COUNTY  
Examination Results

Dear John:

As you already know, Nassau County has received the results of the examination for Police Officer administered in December 1983.

In accord with my earlier conversations with you, here is a copy of an 8-page computer print-out that places every person who took the examination in a grid of raw scores by sex and race.

Very truly yours,

JAMES M. CATTERSON, JR. and  
ORENSTEIN SNITOW & PAULEY, P.C.



By: William H. Pauley, III

WHP:if  
Enc.

c/c Edward G. McCabe, Esq.  
James M. Catterson, Jr., Esq.

EC760

POLICE EXAM ANALYSIS

SEX-RACE BY SOURCE (CONTINUED)

	MALE CAUCAS	FEMALE CAUCAS	MALE BLACK	FEMALE BLACK	MALE HISPAN	FEMALE HISPAN	SUB
FATHERS TO APPEAR							
010301	3781	1169	1645	979	1303	3481	91821 RAM
012721	1	1	21	1	1	1	31 RAM
013941	21	1	1	1	1	1	21 RAM
014541	21	1	1	1	1	1	21 RAM
015751	1	1	1	1	1	1	11 RAM
016361	21	1	1	1	1	1	31 RAM
016971	3	1	1	1	1	1	41 RAM
017571	61	1	21	1	1	1	81 RAM
018181	21	1	1	1	1	1	31 RAM
018781	3	1	1	1	1	1	51 RAM
019391	1	1	1	1	1	1	11 RAM
020001	21	1	1	1	1	1	21 RAM
020601	1	1	1	1	1	1	11 RAM
021211	1	1	1	1	1	1	11 RAM
021821	1	1	1	1	1	1	21 RAM
022421	1	1	1	1	1	1	11 RAM
023631	1	1	1	1	1	1	11 RAM
024851	1	1	1	1	1	1	11 RAM
025451	1	1	1	1	1	1	11 RAM
027881	21	1	1	1	1	1	31 RAM
028481	1	1	1	1	1	1	11 RAM
029091	21	1	1	1	1	1	31 RAM
029691	1	1	1	1	1	1	11 RAM
030911	1	1	1	1	1	1	31 RAM



BC700

POLICE DATA ANALYSIS

24 MAY 1984 PAGE 2

## SEX-RACE BY SOURCE

	MALE CAUCAS	FEMALE CAUCAS	MALE BLACK	FEMALE BLACK	MALE HISPAN	FEMALE HISPAN	SUM
031511	21	1	21	1	1	1	41 RAW
032121	1	1	1	1	1	1	11 RAW
032721	1	1	21	1	1	1	41 RAW
033331	31	1	1	1	1	1	41 RAW
033941	11	1	11	31	1	1	51 RAW
034541	31	1	11	1	1	1	41 RAW
035151	11	1	31	1	1	1	41 RAW
035761	41	1	31	11	1	1	81 RAW
036361	21	11	21	31	21	1	101 RAW
036971	51	21	31	11	41	1	151 RAW
037571	31	1	31	41	21	1	121 RAW
038181	51	1	21	21	31	1	121 RAW
038791	21	1	51	21	21	1	111 RAW
039391	91	11	91	51	21	1	261 RAW
040001	81	11	41	31	51	11	221 RAW
040601	41	21	101	21	51	11	241 RAW
041211	101	1	71	41	51	1	261 RAW
041821	91	21	111	51	71	1	341 RAW
042421	111	11	71	71	81	11	351 RAW
043031	131	21	181	31	81	21	461 RAW
043631	121	1	201	61	81	11	471 RAW
044241	221	31	211	111	51	31	651 RAW
044851	171	71	251	121	111	11	731 RAW
045451	141	31	201	61	121	31	581 RAW
046061	131	41	171	91	61	31	521 RAW



EC700

POLICE RANK ANALYSIS

24 MAY 1984 PAGE 3

## SEX-RACE BY SCORE

	MALE		FEMALE		MALE		FEMALE		MALE		FEMALE		SUM
	CAUCAS	BLACK	CAUCAS	BLACK	CAUCAS	BLACK	CAUCAS	BLACK	HISPAN	HISPAN	HISPAN	HISPAN	
046671	22	4	26	10	16	1	79	1					79
047271	20	5	15	9	11	1	61	1					61
047881	27	8	19	15	12	3	84	1					84
048481	25	7	26	18	14	1	91	1					91
049091	24	6	16	14	13	3	76	1					76
049701	30	7	25	13	22	4	101	1					101
050301	27	9	38	19	17	2	112	1					112
050911	45	11	40	15	28	2	141	1					141
051511	51	12	41	22	20	9	155	1					155
052121	47	12	46	20	25	5	155	1					155
052731	56	10	32	22	11	9	140	1					140
053331	61	13	41	19	25	4	163	1					163
053941	43	12	39	21	41	10	166	1					166
054541	55	22	38	23	29	11	178	1					178
055151	53	11	43	20	33	6	166	1					166
055761	63	25	53	23	37	6	207	1					207
056361	76	19	42	26	30	10	203	1					203
056971	80	19	57	31	32	7	226	1					226
057581	67	26	50	20	36	6	203	1					203
058181	85	22	53	31	32	6	229	1					229
058791	114	29	53	27	30	10	263	1					263
059391	94	34	64	40	37	13	282	1					282
060001	101	23	58	30	29	14	255	1					255
060611	115	31	62	28	46	7	289	1					289
061211	109	27	51	23	39	13	262	1					262

BC700

POLICE EXAM ANALYSIS

## SEX-RACE BY SCORE

	MALE CAUCAS	FEMALE CAUCAS	MALE BLACK	FEMALE BLACK	MALE HISPAN	FEMALE HISPAN	SUM
061621	1051	361	631	311	481	71	2901 RAM
062421	1171	321	381	201	411	71	2551 RAM
063031	1301	371	491	231	491	71	2951 RAM
063641	1241	401	571	191	421	101	2921 RAM
064241	1291	381	461	381	411	101	3021 RAM
064851	1281	441	591	331	441	151	3231 RAM
065451	1411	561	511	231	541	91	3341 RAM
066061	1371	471	621	181	501	131	3271 RAM
066671	1321	541	531	251	281	91	3011 RAM
067271	1161	441	651	221	471	71	3611 RAM
067881	1691	571	531	161	531	71	3551 RAM
068481	1441	581	421	241	391	61	3131 RAM
069091	1611	591	601	211	331	81	3421 RAM
069701	1781	601	551	151	331	141	3551 RAM
070301	1471	641	471	161	391	71	3201 RAM
070911	1681	651	491	221	371	91	3741 RAM
071521	1921	611	471	141	371	71	3581 RAM
072121	1761	671	421	171	351	61	3431 RAM
072731	1711	761	531	141	411	31	3581 RAM
073331	2041	701	391	141	421	91	3781 RAM
073941	1941	631	421	161	281	91	3521 RAM
074551	1981	741	211	151	331	71	3481 RAM
075151	1751	711	381	171	411	131	3551 RAM
075301	111	111	111	111	111	111	311 RAM
075761	1851	891	301	151	341	41	3571 RAM

BC760

POLICE EXAM ANALYSIS

SEX-RACE BY SCORE

	MALE CAUCAS	FEMALE CAUCAS	MALE BLACK	FEMALE BLACK	MALE HISPAN	FEMALE HISPAN	SUM
075911	21	1	1	1	21	1	51 RAW
076361	1861	561	311	61	301	61	3151 RAW
076521	11	1	1	1	11	1	31 RAW
076971	1801	741	191	41	271	121	3211 RAW
077121	1	1	1	1	1	1	21 RAW
077581	2231	701	181	41	241	51	3491 RAW
077731	21	1	1	1	1	1	31 RAW
078181	2001	751	231	131	321	51	3481 RAW
078331	41	1	1	1	31	1	81 RAW
078791	2201	171	111	91	221	101	3491 RAW
078941	21	1	1	1	1	1	31 RAW
079391	2151	641	171	21	291	41	3311 RAW
079551	51	1	21	1	21	1	81 RAW
080001	2341	641	231	111	311	71	3701 RAW
080151	41	1	1	1	11	1	51 RAW
080301	1	1	1	1	1	1	11 RAW
080611	2191	641	161	61	211	21	3281 RAW
080761	11	1	1	1	1	1	31 RAW
081211	1931	171	191	51	191	11	3141 RAW
081361	11	1	21	1	31	1	61 RAW
081521	1	1	1	1	1	1	11 RAW
081821	1751	571	261	71	221	31	2901 RAW
081971	21	1	1	1	21	1	61 RAW
082431	1911	641	181	51	281	31	3091 RAW
082581	21	1	21	1	1	1	41 RAW



BU700

POLICE EXAM ANALYSIS

24 MAY 1984 PAGE 6

## SEX-RACE BY SCORE

	MALE CAUCAS	FEMALE CAUCAS	MALE BLACK	FEMALE BLACK	MALE HISPAN	FEMALE HISPAN	SUM
083031	165	56	14	21	26	8	271 RAM
083161	31	1	1	1	1	1	37 RAM
083641	181	57	8	31	71	4	260 RAM
083791	1	1	1	1	1	1	3 RAM
084241	194	43	15	1	21	8	282 RAM
084391	1	1	1	1	1	1	2 RAM
084651	160	42	9	3	13	2	235 RAM
085001	4	1	1	1	1	1	5 RAM
085461	172	43	13	1	12	1	241 RAM
085611	3	1	1	1	2	1	7 RAM
086061	170	45	10	1	16	3	244 RAM
086211	3	1	1	1	1	1	3 RAM
086671	134	43	7	2	9	1	196 RAM
086821	3	1	1	1	1	1	3 RAM
087271	142	40	1	1	11	2	197 RAM
087431	1	1	1	1	1	1	1 RAM
087881	113	22	2	1	7	3	148 RAM
088031	6	1	1	1	3	1	10 RAM
088491	107	35	3	1	4	1	150 RAM
088641	5	1	1	1	1	1	5 RAM
089091	112	24	3	2	10	1	151 RAM
089241	1	1	1	1	1	1	2 RAM
089391	1	1	1	1	1	1	1 RAM
089701	99	19	1	2	4	1	125 RAM
089851	3	1	1	1	1	1	3 RAM

EC709

POLICE LAAM ANALYSIS

24 MAY 1984 PAGE 7

## SI-M-RACE BY SCORE

	MALE CAUCAS	FEMALE CAUCAS	MALE BLACK	FEMALE BLACK	MALE HISPAN	FEMALE HISPAN	SUM
090301	591	181			61	11	871 RAM
090461	31	11					41 RAM
090611	11						11 RAM
090911	471	91			11		571 RAM
091061	11						11 RAM
091521	341	111					661 RAM
091671	31				11		51 RAM
092121	351	61			21		571 RAM
092271	21						21 RAM
092731	281	81			11		391 RAM
092881	11						11 RAM
093331	261	101			11		371 RAM
093641	11						11 RAM
093941	221	21					241 RAM
094091	21						21 RAM
094551	91				11		101 RAM
094701	11						11 RAM
095151	121	21					141 RAM
095761	71						81 RAM
095911	11						11 RAM
096371	31						31 RAM
096971	31						31 RAM
097581	11						11 RAM
098331	11						11 RAM
098791	11						11 RAM



BC700

PULICE EXAM ANALYSIS

## SEX-RACE BY SCORE

	MALE CAUCAS	FEMALE CAUCAS	MALE BLACK	FEMALE BLACK	MALE HISPAN	FEMALE HISPAN	SUM
058941	11	1	1	1	1	1	11
SUM	136141	42571	43691	22011	35021	8241	287671 RAD

# APPENDIX D

## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 77-C-1881
	)	FXA
NASSAU COUNTY, et al.,	)	
	)	
Defendants.	)	
_____	)	

### INTERROGATORIES OF PLAINTIFF UNITED STATES TO THE NASSAU COUNTY DEFENDANTS

Pursuant to Rule 33, F.R.Civ.P., plaintiff United States requests defendants Nassau County, Samuel Rozzi, Commissioner, Nassau County Police Department, Gabriel S. Kohn, Edward S. Witanowski and Edward A. Simmons, Commissioners, and the Nassau County Civil Service Commission (hereinafter collectively referred to variously as the "Nassau County defendants," "Nassau County" or the "County") to answer the following interrogatories within thirty (30) days after the date upon which they are served.

These interrogatories shall be deemed to be continuing and any information secured by any of the Nassau County defendants subsequent to the filing of its answers hereto, which would have been included in its answers had such information been known, should be provided to the United States by supplemental answer.

It is requested that the Nassau County defendants restate each interrogatory in full before the answer to it. If the answer to any interrogatory incorporates or refers to the answer to any other interrogatory, the pertinent information incorporated or referred to should be clearly specified.

#### DEFINITIONS

Unless a contrary meaning clearly appears in the context, the following definitions shall apply to these interrogatories:

a. "Document" as used herein shall include:

- (1) Any paper or writing of any kind, including but not limited to: a report; study; analysis; memorandum; letter; telegram; calendar or diary; minutes; pamphlet; notes; chart; tabulation; press release; published book, article, treatise or paper; photograph; accounting entry; accountant's work paper; receipt; voucher; agreement; contract; financial statement; recording of minutes, conferences, and telephone or other communications;
- (2) Any draft of any document as defined in Paragraph a(1), supra;
- (3) Any alterations, notes, comments or other material not included in the original of any document as defined in Paragraph a(1), supra; and

- (4) The data base and all output, either in printed or machine-readable form, of any computerized data recording, storage, analyzation and retrieval system (e.g., tapes, punch cards, microfilm, printouts), as well as the written information necessary to understand and use such data base or output.

b. "Identify" or "identity" when used with respect to a person means to state that person's:

- (1) Full name, sex, race (e.g., white, black) and national origin (e.g., Hispanic);
- (2) Present complete home address or, if not known, last known complete home address;
- (3) Present employer, complete business address and telephone number, job title (or rank, if a sworn officer) in which employed, and duties and responsibilities in that job; or, if present employer not known, last known employer, complete business address and telephone number, job title or rank in which employed, and duties and responsibilities in that job or rank; and
- (4) Business, profession and/or occupation if that person is self-employed, as well as that person complete business address and telephone number and the name of that person's company, firm or business.

c. "Identify" or "identity" when used with respect to a document means to state:

- (1) The type of document (e.g., report, study, analysis, memorandum, letter, minutes, microfilm, punch card, recording used in data processing, tape recording in machine-readable form, etc.);
- (2) Its date and place of origin, identities of author(s) and addressee(s), date of communication or delivery, its present location of custody, and full name and complete address of its custodian; and
- (3) If such document, record or other memorandum has been published, its title, author, date and place of publication, name of publisher and Library of Congress number.

INTERROGATORY NUMBER 1

Set forth the precise date in December 1983 upon which Nassau County administered or caused to have been administered the Police Officer written examination (the "1983 Police Officer Exam" or the "Exam") to which William H. Pauley, III, Esquire, makes reference in his June 4, 1984 letter to John M. Gadzichowski, Esquire.

INTERROGATORY NUMBER 2

Identify the person who had overall responsibility for the administration of the 1983 Police Officer Exam.



INTERROGATORY NUMBER 3

Set forth the total number of locations at which the 198 Police Officer Exam was administered; provide the name, address county (e.g., Nassau, Suffolk, etc.) or borough (e.g., Queens Bronx, etc.) and a brief description of each such location; and identify, by location, each person who participated in the administration of the Exam.

INTERROGATORY NUMBER 4

With respect to the 1983 Police Officer Exam administered b Nassau County, set forth:

a. A complete description of the Exam itself; as well a any informational, instructional or study manuals, booklets o other materials which were distributed among or used to instruct tutor or prepare candidates for the Exam prior to the admin istration of the Exam;

b. A complete description as to the purpose, planning design, formulation, construction, administration and grading c the Exam, as well as to the methodology followed in the planning design, formulation, construction, administration and grading c the Exam;

c. The identity of each person who participated in th planning, design, formulation, construction and grading of th Exam; and for each person so identified:

- (1) A complete description as to the precise role that person played in the planning, design, formulation, construction and grading of the Exam; and the precise dates and duties and responsibilities of that person in that role; and
- (2) A complete description as to that person's educational, professional and work background;

d. The cut-off (i.e., passing) score (set forth both as a raw score and as a percentage) of the Exam; as well as:

- (1) A complete description as to how such cut-off score was formulated;
- (2) The precise bases for that cut-off score as opposed to either a higher or a lower cut-off score; and
- (3) The identity of each person who participated in the formulation and establishment of that cut-off score; and a complete description as to the precise role that person played in such formulation and establishment; and

e. The number (e.g., 1, 2, 8, 116, etc.) of each test item which was dropped when scoring the Exam; the precise reason(s) for dropping that test item; the identity of each person who participated in the determination to drop that test item; and a complete description as to the precise role that person played in such determination.

INTERROGATORY NUMBER 5

Set forth all tabulations, estimates, samplings and analyses of any type undertaken by or at the direction of Nassau County, or of which the County has knowledge, with respect to:

a. The distribution of scores achieved by all persons who took the 1983 Police Officer Exam, by race, sex, national origin and any other demographic characteristic (e.g., level of education, place of residence, age, etc.);

b. The impact of the Exam, and each test item thereof (as the term "impact" is used in Paragraph 5 of the April 21, 1982 Consent Decree) by race, sex, national origin, and any other demographic characteristic; and

c. The name, sex, race (e.g. white, black), national origin (e.g., Hispanic), rank, date of appointment, name of command, method of selection, date of administration and score achieved by each incumbent Nassau County Police Department (the "NCPD") sworn officer who was administered the 1983 Police Officer Exam or one like or similar to it.

INTERROGATORY NUMBER 6

State whether Nassau County concedes that the 1983 Police Officer Exam had an adverse impact (as the term "adverse impact" is used in Paragraph 5 of the April 21, 1982 Consent Decree):

a. In terms of pass/fail, upon:

(1) Blacks;

(2) Hispanics; or

- (3) Women; and/or
- b. In terms of rank-ordering of scores; upon:
  - (1) Blacks;
  - (2) Hispanics; or
  - (3) Women.

INTERROGATORY NUMBER 7

If Nassau County's answer to any subsection (e.g., a.(1), b.(2), etc.) of Interrogatory Number 6, supra, is in the negative:

- a. Set forth each and every reason upon which the County bases it's negative answer; and
- b. Identify each document upon which the County relies, in whole or in part, to support its negative answer.

INTERROGATORY NUMBER 8

Set forth all information and identify each document, whether in the possession of Nassau County or of which the County had knowledge prior to the administration of the 1983 Police Officer Exam, which reflected, predicted, cautioned or discussed the possibility that the 1983 Police Officer Exam, or an examination like or similar thereto, would have an adverse impact upon blacks, Hispanics or women.

INTERROGATORY NUMBER 9

Describe in detail all efforts, if any, undertaken by, or at the direction or with the knowledge of, Nassau County to lessen

the adverse impact of the 1983 Police Officer Exam upon blacks, Hispanics or women.

INTERROGATORY NUMBER 10

Describe in detail all efforts, if any, undertaken by, or at the direction or with the knowledge, of Nassau County since January 1, 1980 in considering, evaluating or determining the suitabilities of various criteria or devices for the selection of applicants for police officer in the NCPD; describe in detail each such criterion or device, the suitability of which was considered, evaluated or determined; set forth each and every reason why such criterion or device, if other than the 1983 Police Officer Exam, was not used; and set forth each and every reason why the 1983 Police Officer Exam was used instead of one or more of the other criteria or devices.

INTERROGATORY NUMBER 11

State whether Nassau County intends to use the results of the 1983 Police Officer Exam in the selection of applicants for appointment to Police Officer in the NCPD; and, if so, state whether the County intends to use the results of the Exam;

- a. On a pass/fail basis; or
- b. On a rank-ordering of scores basis.

INTERROGATORY NUMBER 12

State approximately how many police officers Nassau County estimates it will appoint from the eligibility list for the 1983



Police Officer Exam, as well as the date by which the County estimates it will commence making such appointments.

INTERROGATORY NUMBER 13

State whether it is Nassau County's position that the 1983 Police Officer Exam is validated in accordance with Title VII and with the Uniform Guidelines on Employee Selection Procedures (the "Uniform Guidelines"), as required by the April 21, 1982 Consent Decree.

INTERROGATORY NUMBER 14

If Nassau County's answer to Interrogatory Number 13, supra, is in the affirmative, set forth:

a. Each and every basis for the County's position that the 1983 Police Officer Exam is valid in accordance with Title VII and with the Uniform Guidelines;

b. The identity of each and every document upon which the County relies, in whole or in part, to support its position that the Exam is valid in accordance with Title VII and with the Uniform Guidelines;

c. Whether it is the County's position that the 1983 Police Officer Exam has been validated according to:

- (1) A content validity strategy;
- (2) A concurrent criterion-related validity strategy;
- (3) A predictive criterion-related validity strategy;
- and/or
- (4) The principles of construct validity.

d. If the County's answer to either subparagraph c(2) or subparagraph c(3) of this Interrogatory is in the negative, state whether the County is of the position that the validity strategy set forth in each of those subparagraphs, respectively, would or would not have been technically feasible to have undertaken and, if not, precisely why not;

e. The identity of each and every person upon whose opinion the County relies, in whole or in part, to support its position that the Exam is validated in accordance with Title VII and with the Uniform Guidelines, as well as:

- (1) A detailed description of that person's opinions as to the validity of the Exam (or any portion thereof), as well as the bases for such opinions;
- (2) The identity of each document which requests, solicits, sets forth, reflects, describes, analyzes, criticizes, discusses or in any way comments either upon that person's opinions as to the validity of the Exam (or any portion thereof) or upon the bases for such opinions;
- (3) If that person is performing and/or has performed work directly or indirectly for Nassau County (regardless of whether as an employee, an independent contractor, a consultant or an employee of a consultant), a complete description as to the terms and conditions governing the performance of such work;

- (4) That person's educational, professional and work background;
- (5) The title, subject matter, name and address of publisher, date of publication and Library of Congress number of each writing of that person which has been published;
- (6) The title, subject matter and date of completion of each writing of that person which has not been published;
- (7) The caption, number and location of filing of each case in which that person has testified as to any matter pertaining to the construction, use and/or validity of written examinations or other selection criteria, regardless of whether by affidavit, deposition or in open court; the dates of such testimony; the name and business address of the party on whose behalf such testimony was given; a description as to the substance of such testimony; and the identity of each attorney of record in that case; and
- (8) The name and business address of each government, governmental agency, legislative or judicial entity, corporation, company, partnership, business, union or association for whom that person has performed work (regardless of whether as an

employee, a consultant or an employee of a consultant) pertaining to the construction, use and/or validity of written examinations or other selection criteria, as well as:

- (a) The approximate dates during which such work was performed; and
  - (b) A description as to the nature of the work performed; and
- (9) A detailed description of each written examination and each validation study or report either authored by that person or to which that person contributed;

f. The identity of each document, either in the possession of Nassau County or of which it has knowledge, which:

- (1) Suggests, infers or concludes either that the 1983 Police Officer Exam or an examination like or similar to that Exam is not valid in accordance with Title VII and with the Uniform Guidelines; or
- (2) In any way questions whether the 1983 Police Officer Exam or an examination like or similar to that Exam is valid in accordance with Title VII and with the Uniform Guidelines;

g. The identity of each person known to Nassau County:

- (1) Who is and/or was of the opinion that the 1983 Police Officer Exam or an examination like or

- similar to that Exam is not valid in accordance with Title VII and with the Uniform Guidelines; or
- (2) Who in any way questions or questioned whether the 1983 Police Officer Exam or an examination like or similar to that Exam is valid in accordance with Title VII and with the Uniform Guidelines; and

h. A complete description of all efforts undertaken by, or at the direction or with the knowledge of, Nassau County to validate the 1983 Police Officer Exam in accordance with Title VII and with the Uniform Guidelines, including but not limited to:

- (1) The dates during which such efforts were undertaken;
- (2) The results of such efforts;
- (3) The planning, design and methodology followed, and analyses, findings, recommendations, criticisms, suggestions and comments made and all conclusions reached (whether partial or complete and whether preliminary or final) either as a result, or during the course, of such efforts to validate the Exam; as well as the precise bases for following such plan, design or methodology and for such analyses, findings, recommendations, criticisms, suggestions, comments and conclusions;
- (4) The identity of each document, and the identity of the custodian and exact location thereof, gene-



rated during the course of, or as a result of, such efforts to validate the Exam, including but not limited to: each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

- (a) The planning, design and methodology followed;
  - (b) All analyses, findings, recommendations, criticisms, suggestions and comments made;
  - (c) All conclusions reached (whether partial or complete and whether preliminary or final);
  - (d) The precise bases for such planning, design, methodology, analyses, findings, recommendations, criticisms, suggestions, comments and conclusions; and
  - (e) The relationship, if any, between level of performance on the Exam, or on any test item thereof, and level of job performance as measured by various criteria; and
- (5) The identity of each person who participated in such efforts to validate the Exam, as well as:
- (a) The precise role that person played in such efforts; the duties and responsibilities of that person in that role; and all analyses,

- findings, recommendations, criticisms, suggestions and comments made and all conclusions reached by that person in that role;
- (b) A description as to the business nature of that person's participation (e.g., as an employee of the County, as a consultant, as an employee of a consultant, etc.), as well as a description as to the terms and conditions of that person's participation; and
  - (c) That person's educational, professional and work background.

INTERROGATORY NUMBER 15

Set forth the name and business address of each government or governmental department, commission or agency other than Nassau County which has administered a written examination like or similar to the 1983 Police Officer Exam; and, for each government or governmental department or agency so identified, set forth:

- a. Each date the examination was administered;
- b. The distribution of scores by all persons who took the examination each time it was administered, by race, sex, national origin and any other demographic characteristic (e.g., level of education, place of residence, age, etc.);
- c. The impact of the exam, and each test item thereof (as the term "impact" is used in Paragraph 5 of the April 21, 1982

Consent Decree) by race, sex, national origin, and any other demographic characteristic;

d. The cut-off (i.e., passing) score (set forth both as a raw score and as a percentage) of the exam; and

e. Whether the exam was used:

(1) On a pass/fail basis; or

(2) On a rank-ordering of scores basis;


f. A complete description of all efforts undertaken by, or at the direction or with the knowledge of the government or governmental department, commission or agency which administered the exam, to validate the exam in accordance with Title VII and with the Uniform Guidelines including, but not limited to, the planning, design and methodology followed, all analyses, findings, recommendations, criticisms, suggestions and comments made and all conclusions reached (whether partial or complete and whether preliminary or final) either as a result of or during the course of such efforts to validate the exam; and

g. The identity of each person who conducted such efforts to validate the exam.

INTERROGATORY NUMBER 16

Identify each person who supplied any information for, or who participated in any way in the preparation of, the Nassau County defendants' answers to any of the interrogatories set forth above.

Respectfully submitted,



JOHN M. GADZICHOWSKI

MELISSA P. MARSHALL

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Civil Rights Division

Department of Justice

Washington, D.C. 20530

202/633-2188

Counsel for plaintiff United  
States

# APPENDIX D

## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 77-C-1881
	)	FXA
NASSAU COUNTY, et al.,	)	
	)	
Defendants.	)	
_____	)	

### INTERROGATORIES OF PLAINTIFF UNITED STATES TO THE NASSAU COUNTY DEFENDANTS

Pursuant to Rule 33, F.R.Civ.P., plaintiff United States requests defendants Nassau County, Samuel Rozzi, Commissioner, Nassau County Police Department, Gabriel S. Kohn, Edward S. Witanowski and Edward A. Simmons, Commissioners, and the Nassau County Civil Service Commission (hereinafter collectively referred to variously as the "Nassau County defendants," "Nassau County" or the "County") to answer the following interrogatories within thirty (30) days after the date upon which they are served.

These interrogatories shall be deemed to be continuing and any information secured by any of the Nassau County defendants subsequent to the filing of its answers hereto, which would have been included in its answers had such information been known, should be provided to the United States by supplemental answer.



It is requested that the Nassau County defendants restate each interrogatory in full before the answer to it. If the answer to any interrogatory incorporates or refers to the answer to any other interrogatory, the pertinent information incorporated or referred to should be clearly specified.

#### DEFINITIONS

Unless a contrary meaning clearly appears in the context, the following definitions shall apply to these interrogatories:

a. "Document" as used herein shall include:

- (1) Any paper or writing of any kind, including but not limited to: a report; study; analysis; memorandum; letter; telegram; calendar or diary; minutes; pamphlet; notes; chart; tabulation; press release; published book, article, treatise or paper; photograph; accounting entry; accountant's work paper; receipt; voucher; agreement; contract; financial statement; recording of minutes, conferences, and telephone or other communications;
- (2) Any draft of any document as defined in Paragraph a(1), supra;
- (3) Any alterations, notes, comments or other material not included in the original of any document as defined in Paragraph a(1), supra; and

- (4) The data base and all output, either in printed or machine-readable form, of any computerized data recording, storage, analyzation and retrieval system (e.g., tapes, punch cards, microfilm, printouts), as well as the written information necessary to understand and use such data base or output.

b. "Identify" or "identity" when used with respect to a person means to state that person's:

- (1) Full name, sex, race (e.g., white, black) and national origin (e.g., Hispanic);
- (2) Present complete home address or, if not known, last known complete home address;
- (3) Present employer, complete business address and telephone number, job title (or rank, if a sworn officer) in which employed, and duties and responsibilities in that job; or, if present employer not known, last known employer, complete business address and telephone number, job title or rank in which employed, and duties and responsibilities in that job or rank; and
- (4) Business, profession and/or occupation if that person is self-employed, as well as that person complete business address and telephone number and the name of that person's company, firm or business.

c. "Identify" or "identity" when used with respect to a document means to state:

- (1) The type of document (e.g., report, study, analysis, memorandum, letter, minutes, microfilm, punch card, recording used in data processing, tape recording in machine-readable form, etc.);
- (2) Its date and place of origin, identities of author(s) and addressee(s), date of communication or delivery, its present location of custody, and full name and complete address of its custodian; and
- (3) If such document, record or other memorandum has been published, its title, author, date and place of publication, name of publisher and Library of Congress number.

INTERROGATORY NUMBER 1

Set forth the precise date in December 1983 upon which Nassau County administered or caused to have been administered the Police Officer written examination (the "1983 Police Officer Exam" or the "Exam") to which William H. Pauley, III, Esquire, makes reference in his June 4, 1984 letter to John M. Gadzichowski, Esquire.

INTERROGATORY NUMBER 2

Identify the person who had overall responsibility for the administration of the 1983 Police Officer Exam.

INTERROGATORY NUMBER 3

Set forth the total number of locations at which the 198 Police Officer Exam was administered; provide the name, address county (e.g., Nassau, Suffolk, etc.) or borough (e.g., Queens Bronx, etc.) and a brief description of each such location; and identify, by location, each person who participated in the administration of the Exam.

INTERROGATORY NUMBER 4

With respect to the 1983 Police Officer Exam administered by Nassau County, set forth:

a. A complete description of the Exam itself; as well as any informational, instructional or study manuals, booklets or other materials which were distributed among or used to instruct tutor or prepare candidates for the Exam prior to the administration of the Exam;

b. A complete description as to the purpose, planning design, formulation, construction, administration and grading of the Exam, as well as to the methodology followed in the planning design, formulation, construction, administration and grading of the Exam;

c. The identity of each person who participated in the planning, design, formulation, construction and grading of the Exam; and for each person so identified:

- (1) A complete description as to the precise role that person played in the planning, design, formulation, construction and grading of the Exam; and the precise dates and duties and responsibilities of that person in that role; and
- (2) A complete description as to that person's educational, professional and work background;

d. The cut-off (i.e., passing) score (set forth both as a raw score and as a percentage) of the Exam; as well as:

- (1) A complete description as to how such cut-off score was formulated;
- (2) The precise bases for that cut-off score as opposed to either a higher or a lower cut-off score; and
- (3) The identity of each person who participated in the formulation and establishment of that cut-off score; and a complete description as to the precise role that person played in such formulation and establishment; and

e. The number (e.g., 1, 2, 8, 116, etc.) of each test item which was dropped when scoring the Exam; the precise reason(s) for dropping that test item; the identity of each person who participated in the determination to drop that test item; and a complete description as to the precise role that person played in such determination.



INTERROGATORY NUMBER 5

Set forth all tabulations, estimates, samplings and analyses of any type undertaken by or at the direction of Nassau County, or of which the County has knowledge, with respect to:

a. The distribution of scores achieved by all persons who took the 1983 Police Officer Exam, by race, sex, national origin and any other demographic characteristic (e.g., level of education, place of residence, age, etc.);

b. The impact of the Exam, and each test item thereof (as the term "impact" is used in Paragraph 5 of the April 21, 1982 Consent Decree) by race, sex, national origin, and any other demographic characteristic; and

c. The name, sex, race (e.g. white, black), national origin (e.g., Hispanic), rank, date of appointment, name of command, method of selection, date of administration and score achieved by each incumbent Nassau County Police Department (the "NCPD") sworn officer who was administered the 1983 Police Officer Exam or one like or similar to it.

INTERROGATORY NUMBER 6

State whether Nassau County concedes that the 1983 Police Officer Exam had an adverse impact (as the term "adverse impact" is used in Paragraph 5 of the April 21, 1982 Consent Decree):

a. In terms of pass/fail, upon:

- (1) Blacks;
- (2) Hispanics; or

- (3) Women; and/or
- b. In terms of rank-ordering of scores; upon:
  - (1) Blacks;
  - (2) Hispanics; or
  - (3) Women.

INTERROGATORY NUMBER 7

If Nassau County's answer to any subsection (e.g., a.(1), b.(2), etc.) of Interrogatory Number 6, supra, is in the negative:

- a. Set forth each and every reason upon which the County bases it's negative answer; and
- b. Identify each document upon which the County relies, in whole or in part, to support its negative answer.

INTERROGATORY NUMBER 8

Set forth all information and identify each document, whether in the possession of Nassau County or of which the County had knowledge prior to the administration of the 1983 Police Officer Exam, which reflected, predicted, cautioned or discussed the possibility that the 1983 Police Officer Exam, or an examination like or similar thereto, would have an adverse impact upon blacks, Hispanics or women.

INTERROGATORY NUMBER 9

Describe in detail all efforts, if any, undertaken by, or at the direction or with the knowledge of, Nassau County to lessen

the adverse impact of the 1983 Police Officer Exam upon blacks, Hispanics or women.

INTERROGATORY NUMBER 10

Describe in detail all efforts, if any, undertaken by, or at the direction or with the knowledge, of Nassau County since January 1, 1980 in considering, evaluating or determining the suitabilities of various criteria or devices for the selection of applicants for police officer in the NCPD; describe in detail each such criterion or device, the suitability of which was considered, evaluated or determined; set forth each and every reason why such criterion or device, if other than the 1983 Police Officer Exam, was not used; and set forth each and every reason why the 1983 Police Officer Exam was used instead of one or more of the other criteria or devices.

INTERROGATORY NUMBER 11

State whether Nassau County intends to use the results of the 1983 Police Officer Exam in the selection of applicants for appointment to Police Officer in the NCPD; and, if so, state whether the County intends to use the results of the Exam;

- a. On a pass/fail basis; or
- b. On a rank-ordering of scores basis.

INTERROGATORY NUMBER 12

State approximately how many police officers Nassau County estimates it will appoint from the eligibility list for the 1983

Police Officer Exam, as well as the date by which the County estimates it will commence making such appointments.

INTERROGATORY NUMBER 13

State whether it is Nassau County's position that the 1983 Police Officer Exam is validated in accordance with Title VII and with the Uniform Guidelines on Employee Selection Procedures (the "Uniform Guidelines"), as required by the April 21, 1982 Consent Decree.

INTERROGATORY NUMBER 14

If Nassau County's answer to Interrogatory Number 13, supra, is in the affirmative, set forth:

a. Each and every basis for the County's position that the 1983 Police Officer Exam is valid in accordance with Title VII and with the Uniform Guidelines;

b. The identity of each and every document upon which the County relies, in whole or in part, to support its position that the Exam is valid in accordance with Title VII and with the Uniform Guidelines;

c. Whether it is the County's position that the 1983 Police Officer Exam has been validated according to:

- (1) A content validity strategy;
- (2) A concurrent criterion-related validity strategy;
- (3) A predictive criterion-related validity strategy;
- and/or
- (4) The principles of construct validity.

d. If the County's answer to either subparagraph c(2) or subparagraph c(3) of this Interrogatory is in the negative, state whether the County is of the position that the validity strategy set forth in each of those subparagraphs, respectively, would or would not have been technically feasible to have undertaken and, if not, precisely why not;

e. The identity of each and every person upon whose opinion the County relies, in whole or in part, to support its position that the Exam is validated in accordance with Title VII and with the Uniform Guidelines, as well as:

- (1) A detailed description of that person's opinions as to the validity of the Exam (or any portion thereof), as well as the bases for such opinions;
- (2) The identity of each document which requests, solicits, sets forth, reflects, describes, analyzes, criticizes, discusses or in any way comments either upon that person's opinions as to the validity of the Exam (or any portion thereof) or upon the bases for such opinions;
- (3) If that person is performing and/or has performed work directly or indirectly for Nassau County (regardless of whether as an employee, an independent contractor, a consultant or an employee of a consultant), a complete description as to the terms and conditions governing the performance of such work;



- (4) That person's educational, professional and work background;
- (5) The title, subject matter, name and address of publisher, date of publication and Library of Congress number of each writing of that person which has been published;
- (6) The title, subject matter and date of completion of each writing of that person which has not been published;
- (7) The caption, number and location of filing of each case in which that person has testified as to any matter pertaining to the construction, use and/or validity of written examinations or other selection criteria, regardless of whether by affidavit, deposition or in open court; the dates of such testimony; the name and business address of the party on whose behalf such testimony was given; a description as to the substance of such testimony; and the identity of each attorney of record in that case; and
- (8) The name and business address of each government, governmental agency, legislative or judicial entity, corporation, company, partnership, business, union or association for whom that person has performed work (regardless of whether as an

employee, a consultant or an employee of a consultant) pertaining to the construction, use and/or validity of written examinations or other selection criteria, as well as:

- (a) The approximate dates during which such work was performed; and
  - (b) A description as to the nature of the work performed; and
- (9) A detailed description of each written examination and each validation study or report either authored by that person or to which that person contributed;

f. The identity of each document, either in the possession of Nassau County or of which it has knowledge, which:

- (1) Suggests, infers or concludes either that the 1983 Police Officer Exam or an examination like or similar to that Exam is not valid in accordance with Title VII and with the Uniform Guidelines; or
- (2) In any way questions whether the 1983 Police Officer Exam or an examination like or similar to that Exam is valid in accordance with Title VII and with the Uniform Guidelines;

g. The identity of each person known to Nassau County:

- (1) Who is and/or was of the opinion that the 1983 Police Officer Exam or an examination like or

- similar to that Exam is not valid in accordance with Title VII and with the Uniform Guidelines; or
- (2) Who in any way questions or questioned whether the 1983 Police Officer Exam or an examination like or similar to that Exam is valid in accordance with Title VII and with the Uniform Guidelines; and

h. A complete description of all efforts undertaken by, or at the direction or with the knowledge of, Nassau County to validate the 1983 Police Officer Exam in accordance with Title VII and with the Uniform Guidelines, including but not limited to:

- (1) The dates during which such efforts were undertaken;
- (2) The results of such efforts;
- (3) The planning, design and methodology followed, and analyses, findings, recommendations, criticisms, suggestions and comments made and all conclusions reached (whether partial or complete and whether preliminary or final) either as a result, or during the course, of such efforts to validate the Exam; as well as the precise bases for following such plan, design or methodology and for such analyses, findings, recommendations, criticisms, suggestions, comments and conclusions;
- (4) The identity of each document, and the identity of the custodian and exact location thereof, gene-

rated during the course of, or as a result of, such efforts to validate the Exam, including but not limited to: each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

- (a) The planning, design and methodology followed;
  - (b) All analyses, findings, recommendations, criticisms, suggestions and comments made;
  - (c) All conclusions reached (whether partial or complete and whether preliminary or final);
  - (d) The precise bases for such planning, design, methodology, analyses, findings, recommendations, criticisms, suggestions, comments and conclusions; and
  - (e) The relationship, if any, between level of performance on the Exam, or on any test item thereof, and level of job performance as measured by various criteria; and
- (5) The identity of each person who participated in such efforts to validate the Exam, as well as:
- (a) The precise role that person played in such efforts; the duties and responsibilities of that person in that role; and all analyses,

- findings, recommendations, criticisms, suggestions and comments made and all conclusions reached by that person in that role;
- (b) A description as to the business nature of that person's participation (e.g., as an employee of the County, as a consultant, as an employee of a consultant, etc.), as well as a description as to the terms and conditions of that person's participation; and
  - (c) That person's educational, professional and work background.

INTERROGATORY NUMBER 15

Set forth the name and business address of each government or governmental department, commission or agency other than Nassau County which has administered a written examination like or similar to the 1983 Police Officer Exam; and, for each government or governmental department or agency so identified, set forth:

- a. Each date the examination was administered;
- b. The distribution of scores by all persons who took the examination each time it was administered, by race, sex, national origin and any other demographic characteristic (e.g., level of education, place of residence, age, etc.);
- c. The impact of the exam, and each test item thereof (as the term "impact" is used in Paragraph 5 of the April 21, 1982



Consent Decree) by race, sex, national origin, and any other demographic characteristic;

d. The cut-off (i.e., passing) score (set forth both as a raw score and as a percentage) of the exam; and

e. Whether the exam was used:

(1) On a pass/fail basis; or

(2) On a rank-ordering of scores basis;


f. A complete description of all efforts undertaken by, or at the direction or with the knowledge of the government or governmental department, commission or agency which administered the exam, to validate the exam in accordance with Title VII and with the Uniform Guidelines including, but not limited to, the planning, design and methodology followed, all analyses, findings, recommendations, criticisms, suggestions and comments made and all conclusions reached (whether partial or complete and whether preliminary or final) either as a result of or during the course of such efforts to validate the exam; and

g. The identity of each person who conducted such efforts to validate the exam.

INTERROGATORY NUMBER 16

Identify each person who supplied any information for, or who participated in any way in the preparation of, the Nassau County defendants' answers to any of the interrogatories set forth above.

Respectfully submitted,



JOHN M. GADZICHOWSKI

MELISSA P. MARSHALL

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Attorneys

Civil Rights Division

Department of Justice

Washington, D.C. 20530

202/633-2188

Counsel for plaintiff United  
States

## APPENDIX E

### IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 77-C-1881
	)	FXA
NASSAU COUNTY, et al.,	)	
	)	
Defendants.	)	

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#### REQUEST OF PLAINTIFF UNITED STATES FOR THE PRODUCTION OF DOCUMENTS BY THE NASSAU COUNTY DEFENDANTS

Pursuant to Rule 34, F.R.Civ.P., plaintiff United States requests defendants Nassau County, Samuel Rozzi, Commissioner, Nassau County Police Department, Gabriel S. Kohn, Edward S. Witanowski and Edward A. Simmons, Commissioners, and the Nassau County Civil Service Commission (hereinafter collectively referred to variously as the "Nassau County defendants," "Nassau County" or the "County") to produce the following documents within thirty (30) days after the date upon which this Request is served.

It is requested that each of the documents produced by the Nassau County defendants in response hereto be organized and labeled to correspond to the particular Request and subsection thereof requesting its production.

#### DEFINITIONS

Unless a contrary meaning clearly appears in the context, the following definitions shall apply to this Request:

a. "Document" as used herein shall include:

- (1) Any paper or writing of any kind, including but not limited to: a report; study; analysis; memorandum; letter; telegram; calendar or diary; minutes; pamphlet; notes; chart; tabulation; press release; published book, article, treatise or paper; photograph; accounting entry; accountant's work paper; receipt; voucher; agreement; contract; financial statement; recording of minutes, conferences, and telephone or other communications;
- (2) Any draft of any document as defined in Paragraph a(1), supra;
- (3) Any alterations, notes, comments or other material not included in the original of any document as defined in Paragraph a(1), supra; and
- (4) The data base and all output, either in printed or machine-readable form, of any computerized data recording, storage, analyzation and retrieval system (e.g., tapes, punch cards, microfilm, printouts), as well as the written information necessary to understand and use such data base or output.

b. "Identify" or "identity" when used with respect to a person means that person's:

- (1) Full name, sex, race (e.g., white, black) and national origin (eg., Hispanic);
- (2) Present complete home address or, if not known, last known complete home address;
- (3) Present employer, complete business address and telephone number, job title (or rank, if a sworn officer) in which employed, and duties and responsibilities in that job; or, if present employer not known, last known employer, complete business address and telephone number, job title or rank in which employed, and duties and responsibilities in that job or rank; and
- (4) Business, profession and/or occupation if that person is self-employed, as well as that person's complete business address and telephone number and the name of that person's company, firm or business.

c. "Identify" or "identity" when used with respect to a document means:

- (1) The type of document (e.g., report, study, analysis, memorandum, letter, minutes, microfilm, punch card, recording used in data processing, tape recording in machine-readable form, etc.);
- (2) Its date and place of origin, identities of author(s) and addressee(s), date of communication or delivery, its present location of custody, and



full name and complete address of its custodian;  
and

- (3) If such document has been published, its title, author, date and place of publication, name of publisher and Library of Congress number.

REQUEST NUMBER 1

A copy of the Police Officer examination which Nassau County administered or caused to have been administered in December 1983 (the "1983 Police Officer Exam" or the "Exam"); a copy of each draft thereof; and a copy of each tentative, as well as the final, scoring key for the Exam.

REQUEST NUMBER 2

A copy of each document, including but not limited to informational, instructional or study manuals, booklets or other materials, which were distributed among or used to instruct, tutor or prepare candidates for the 1983 Police Officer Exam prior to the administration of the Exam.

REQUEST NUMBER 3

Each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to the purpose, planning, design, formulation, construction, administration or grading of the 1983 Police Officer Exam.

REQUEST NUMBER 4

Each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

a. The precise role played by each person who participated in the planning, design, formulation, construction administration or grading of the 1983 Police Officer Exam; or

b. Such person's educational, professional or work background.

REQUEST NUMBER 5

Each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

a. How the cut-off (or passing) score for the 1983 Police Officer Exam was formulated;

b. The precise bases for that cut-off score as opposed to either a higher or a lower cut-off score;

c. The precise role played by each person who participated in the formulation and establishment of that cut-off score;

d. The precise bases for dropping each test item which was dropped when scoring the Exam; or

e. The precise role played by each person who participated in the determination to drop each test item which was dropped when scoring the Exam.

REQUEST NUMBER 6

Each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

a. The distribution of scores achieved by all persons who took the 1983 Police Officer Exam, by race, sex, national origin and any other demographic characteristic (e.g., level of education, place of residence, age, etc.);

b. The impact of the Exam, and each test item thereof (as the term "impact" is used in Paragraph 5 of the April 21, 1982 Consent Decree) by race, sex, national origin, and any other demographic characteristic; or

c. The name, sex, race (e.g., white, black), national origin (e.g., Hispanic), rank, date of appointment, name of command, method of selection, date of administration and score achieved by each incumbent Nassau County Police Department ("NCPD") sworn officer who was administered the 1983 Police Officer Exam or one like or similar to it.

REQUEST NUMBER 7

For each subsection (e.g., a.(1), b.(2), etc.) of Interrogatory Number 6 of the accompanying Interrogatories of Plaintiff United States to the Nassau County Defendants which is answered in the negative by Nassau County, each document upon which the County relies, in whole or in part, as a basis for such answer.

REQUEST NUMBER 8

Each document, whether in the possession of Nassau County or of which the County had knowledge prior to the administration of the 1983 Police Officer Exam, which set forth, reflected, pre-

dicted, cautioned, discussed or in any way commented upon the possibility that the 1983 Police Officer Exam, or an examination like or similar thereto, would have an adverse impact upon blacks, Hispanics or women.

REQUEST NUMBER 9

Each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to the efforts, if any, undertaken by, or at the direction or with the knowledge of, Nassau County to lessen the adverse impact of the 1983 Police Officer Exam upon blacks, Hispanics or women.

REQUEST NUMBER 10

Each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

a. The efforts, if any, undertaken by, or at the direction or with the knowledge of, Nassau County since January 1, 1980 in considering, evaluating or determining the suitabilities of various criteria or devices for the selection of applicants for police officer in the NCPD;

b. Each such criterion or device, the suitability of which was considered, evaluated or determined;

c. Each and every reason why such criterion or device, if other than the 1983 Police Officer Exam, was not used; and

d. Each and every reason why the 1983 Police Officer Exam was used instead of one or more of the other criteria or devices.

REQUEST NUMBER 11

If it is Nassau County's position that the 1983 Police Officer Exam is validated in accordance with Title VII and with the Uniform Guidelines on Employee Selection Procedures (the "Uniform Guidelines"), each document upon which the County relies, in whole or in part, to support its position.

REQUEST NUMBER 12

With respect to each person upon whose opinion Nassau County relies, in whole or in part, to support its position that the 1983 Police Officer Exam is valid in accordance with Title VII and with the Uniform Guidelines:

a. Each document which requests, solicits, sets forth, reflects, analyses, criticizes, discusses or in any way comments upon:

- (1) Each opinion of such person as to the validity of the Exam, or any portion thereof; and
- (2) The basis or bases for each of such person's opinions;

b. A copy or a transcript of the testimony of such person in each case in which such person has testified as to any matter pertaining to the construction, use and/or validity of written examinations or other selection criteria, regardless of whether by affidavit, deposition or in open court; and

c. A copy of each written examination and each validation study or report either authored by such person or to which such person contributed.



REQUEST NUMBER 13

Each document, either in the possession of Nassau County or of which it has knowledge, which:

a. Suggests, infers or concludes either that the 1983 Police Officer Exam or an examination like or similar to that Exam is not valid in accordance with Title VII and with the Uniform Guidelines; or

b. In any way questions whether the 1983 Police Officer Exam or an examination like or similar to that Exam is valid in accordance with Title VII and with the Uniform Guidelines.

REQUEST NUMBER 14

Each document which sets forth, reflects, analyzes, criticizes, discusses or in any way comments upon the opinion of each person known to Nassau County that:

a. The 1983 Police Officer Exam or an examination like or similar to that Exam is not valid in accordance with Title VII and with the Uniform Guidelines; or

b. In any way questions whether the 1983 Police Officer Exam or an examination like or similar to that Exam is valid in accordance with Title VII and with the Uniform Guidelines.

REQUEST NUMBER 15

Each document generated during the course of or as a result of all efforts undertaken by, or at the direction or with the knowledge of, Nassau County to validate the 1983 Police Officer

Exam in accordance with Title VII and with the Uniform Guidelines, including but not limited to each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

- a. The dates during which such efforts were undertaken;
- b. The results of such efforts;
- c. The planning, design and methodology followed;
- d. All analyses, findings, recommendations, criticisms, suggestions and comments made;
- e. All conclusions reached (whether partial or complete and whether preliminary or final);
- f. The precise bases for such planning, design, methodology, analyses, findings, recommendations, criticisms, suggestions, comments and conclusions;
- g. The relationship, if any, between level of performance on the Exam, or on any test item thereof, and level of job performance as measured by various criteria; and
- h. The precise role that each person who participated in such efforts to validate the Exam played in such efforts; the duties and responsibilities of that person in that role; and all analyses, findings, recommendations, criticisms, suggestions and comments made and all conclusions reached by that person in that role; as well as:

- (1) The business nature of that person's participation (e.g., as an employee of the County, as a consultant, as an employee of a consultant, etc.), as well as the terms and conditions of that person's participation; and
- (2) That person's educational, professional and work background.

REQUEST NUMBER 16

A copy of each written examination like or similar to the 1983 Police Officer Exam which has been administered by or for any government or governmental department, commission or agency other than Nassau County; and for each such examination, each document which sets forth, reflects, describes, discusses, comments upon or in any way pertains to:

a. The distribution of scores by all persons who took the examination each time it was administered, by race, sex, national origin and any other demographic characteristic (e.g., level of education, place of residence, age, etc.);

b. The impact of the exam, and each test item thereof (as the term "impact" is used in Paragraph 5 of the April 21, 1982 Consent Decree) by race, sex, national origin, and any other demographic characteristic;

c. The cut-off (i.e., passing) score (set forth both as a raw score and as a percentage) of the exam;

d. Whether the exam was used:

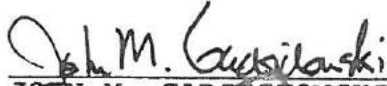
(1) On a pass/fail basis; or

(2) On a rank-ordering of scores basis;

e. All efforts undertaken by, or at the direction or with the knowledge of the government or governmental department, commission or agency which administered the exam, to validate the exam in accordance with Title VII and with the Uniform Guidelines including, but not limited to, the planning, design and methodology followed, all analyses, findings, recommendations, criticisms, suggestions and comments made and all conclusions reached (whether partial or complete and whether preliminary or final) either as a result of or during the course of such efforts to validate the exam; and

f. The identity of each person who conducted such efforts to validate the exam.

Respectfully submitted,

  
JOHN M. GADEICHOWSKI  
MELISSA P. MARSHALL  
ROGER A. COLAIZZI  
Attorneys  
Civil Rights Division  
Department of Justice  
Washington, D.C. 20530  
202/633-2188


Counsel for plaintiff United  
States

CERTIFICATE OF SERVICE

I, JOHN M. GADZICHOWSKI, hereby certify that copies of the foregoing Interrogatories of Plaintiff United States to the Nassau County Defendants, as well as Request of Plaintiff United States for the Production of Documents by the Nassau County Defendants, were served this 21st day of June 1984 by Federal Express upon the following counsel:

James M. Catterson, Jr., Esquire  
314 Main Street  
Port Jefferson, New York 11777

William H. Pauley III, Esquire  
Orenstein, Snitow & Pauley, P.C.  
750 Third Avenue  
New York, New York 10017

  
\_\_\_\_\_  
JOHN M. GADZICHOWSKI  
Senior Trial Attorney  
Civil Rights Division  
U.S. Department of Justice  
Washington, D.C. 20530  
202/633-2188

# APPENDIX F

WBR:JMG:mdw  
DJ 170-51-65

JUN 21 1984

VIA FEDERAL EXPRESS

James M. Catterson, Jr., Esquire  
314 Main Street  
Port Jefferson, New York 11777

William H. Pauley III, Esquire  
Orenstein, Snitow & Pauley, P.C.  
750 Third Avenue  
New York, New York 10017

United States v. Nassau County, et al.;  
Civil Action No. 77-C-1881 (E.D. N.Y.)

Gentlemen:

I acknowledge receipt of your June 4, 1984 letter to me, in which you state that, although the December 1983 Police Officer Exam had an apparent adverse impact upon minorities and women, Nassau County intends to use the results of the Exam in the selection of candidates for appointment as police officers. In this regard, you state that the County "is prepared to demonstrate that the examination has been validated in accord with Title VII and the Uniform Guidelines" and, further, that the County "is prepared to submit documentation to the Justice Department supporting its contention that the examination is job related and validated."

Pursuant to Paragraph 77 of the April 21, 1982 Consent Decree, and in view of the facts that Nassau County intends to use this Exam and already is prepared to submit documentation to the United States supporting the County's contention that the Exam has been properly validated, I request that, within ten (10) days from the date of this letter, Nassau County furnish the following information and documentation to the United States:

1. A copy of the 1983 Police Officer Exam; a copy of each draft thereof; a copy of the scoring key for the Exam and each draft thereof; and the cut-off (or passing) score for the Exam;

2. A complete distribution of scores achieved by all persons who took the Exam, by race, sex, national origin and



any other demographic characteristic captured (e.g., level of education, place of residence, age, etc.);

3. The name, sex, race (e.g., white, black), national origin (e.g., Hispanic), rank, date of appointment, command, method of selection and score achieved by each incumbent Nassau County Police Department sworn officer, if any, who was administered a written examination like or similar to the 1983 Police Officer Exam;

4. Copies of all documentation which Nassau County contends supports its position that the 1983 Police Officer Exam has been validated in accordance with Title VII and with the Uniform Guidelines including, but not limited to: all analyses, reports and studies undertaken by, or under the direction or with the knowledge of, Nassau County with respect to the validation of the Exam, and all drafts of, and modifications and supplementations to, such analyses, reports and studies; and

5. Copies of all documentation, including but not limited to the printed and/or machine-readable data base and/or output of any computerized data system, which sets forth, reflects, describes, analyzes, discusses, comments upon or in any way pertains to the relationship, if any, between level of performance on the Exam, or on any test item thereof, and level of job performance as measured by various criteria.

Additionally, I have attached hereto copies of Interrogatories and Requests for the Production of Documents pertaining to this issue, the originals of which this date were filed with the Clerk of the Court. To the extent that Nassau County provides the United States with the information and documentation requested by this letter, I would not expect the County to again provide such information and documentation in response to our formal discovery.

Should either of you have any questions with respect to the matters addressed herein, please do not hesitate to contact me at your earliest convenience.

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

By:

John M. Gadzichowski  
Senior Trial Attorney  
Employment Litigation Section

Attachments

cc: Clerk of Court,

ORENSTEIN SNITOW & PAULEY, P. C.

750 THIRD AVENUE  
NEW YORK, NEW YORK 10017

(212) 687-1166

TELEX (WU) 971258-OSSP NYK

S. EDWARD ORENSTEIN  
FRANKLYN H. SNITOW  
WILLIAM H. PAULEY, III

JAMES J. CRISONA  
MONROE H. FREEDMAN  
MARTIN J. OPPENHEIMER  
COUNSEL

WASHINGTON OFFICE  
1901 L STREET, N. W.  
WASHINGTON, D. C. 20036  
(202) 861-0890

STEVEN A. SILBERBERG  
RESIDENT COUNSEL

July 10, 1984

Via Federal Express

John M. Gadzichowski, Esq.  
Senior Trial Attorney  
Civil Rights Division  
United States Department of Justice  
Washington, D. C. 20530

Re: United States v. Nassau County

Dear John:

In partial response to your letter dated June 21, 1984, I enclose copies of the following documents:

1. Test booklet
2. Score Key
3. Chart showing conversion of raw scores to percentage scores.
4. Grid showing distribution of scores by race and sex.

As I have previously advised you, the passing score was 70%. I hope to forward additional material to you next week.

Very truly yours,

ORENSTEIN SNITOW & PAULEY, P.C.

*William H. Pauley, III*  
By: William H. Pauley, III

WHP:gs  
Enc.

c.c. James M. Catterson, Jr.



# Nassau County Police Department

1490 FRANKLIN AVENUE, MINEOLA, NEW YORK 11501

(516) 535-7000

Samuel J. Rozzi  
Commissioner of Police

July 11, 1984

John Gadzichowski  
U.S. Department of Justice  
Civil Rights Division  
Tenth & Constitution Avenues N.W.  
Washington, D.C. 20530

Re: United States v. Nassau County

Dear Mr. Gadzichowski:

At the request of the office of James M. Catterson Jr., Special Counsel to the County of Nassau in this matter, enclosed is a copy of the Pre-Examination Study Book used for the December 1983 Police Officer Examination.

Very truly yours,

Gordon F. Stevens  
Deputy Inspector

GFS:ces

## APPENDIX G

T. 7/31/84

WBR:DLR:JMG:es  
DJ 170-51-65

JUL 31 1984

### FEDERAL EXPRESS

James M. Catterson, Jr., Esquire  
314 Main Street  
Port Jefferson, New York 11777

William H. Pauley III, Esquire  
Orenstein, Snitow & Pauley, P.C.  
750 Third Avenue  
New York, New York 10017

Re: United States v. Nassau County, et al.;  
Civil Action No. 77-C-1881 (E.D. N.Y.)

Gentlemen:

On June 21, 1984, I served, by Federal Express, the Nassau County defendants with the United States' Interrogatories and Requests for the Production of Documents pertaining to the County's most recently administered Police Officer Exam. By my calculations, the County defendants' responses were due on or before July 24, 1984, one week ago; and, yet, I have received neither the defendants' responses nor any explanation from either of you concerning this delay.

It would be appreciated if one of you would immediately contact me concerning this matter.

Sincerely,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

Records  
Chrono  
Gadz 5515  
ELS ✓  
Shields 4718

By:

John M. Gadzichowski  
Senior Trial Attorney  
Employment Litigation Section

# APPENDIX H

## CONTENT VALIDITY

The structure of this portion of the report was designed to conform to the relevant paragraphs of the Uniform Guidelines on Employee Selection Procedures, Federal Register, Vol. 43, No. 166, August 25, 1978. The validity strategies employed in this study document the development of a selection procedure for entry-level police officers in Nassau County designed to meet the requirements for the demonstration of content validity (Sec. 15, par. C) and the further evaluation of the procedure by means of a concurrent, and a predictive criterion-related validity study (Sec. 15, par. B).

## REPORT OF CONTENT VALIDITY

The paragraph designations used in this section correspond to the paragraph and subparagraph headings of Section 15C of the Uniform Guidelines on Employee Selection Procedures (1978).

### (1) USERS, LOCATIONS AND DATES OF STUDY

- A. User. The Police Department, County of Nassau, New York.
- B. Location of Study. Data collection activities were conducted at both the Police Academy and Police Headquarters, County of Nassau, New York. Police officers and supervisors from all police districts in the County participated. Data analysis was conducted at Educational Testing Service.
- C. Dates of Study. 4/18/82 to 8/31/83.

### (2) PROBLEM AND SETTING

- A. Purpose of Study. The purpose of the project described in this report was to design, develop, and validate an objectively scored, written test to be used as one part of the selection procedure for entry-level police officers in Nassau County. The project was undertaken by Educational Testing Service at the request of the Police Department, County of Nassau, New York.
- B. Existing Procedures. The existing selection procedures, in part, consist of an objectively scored written test prepared by the New York State Civil Service Commission. An eligibility list was established using scores on this test, plus veterans' preference, to rank order candidates. In addition to the written test, medical and psychological examinations and background investigations were used to screen applicants.