

In The Matter Of:

Caniglia vs

Strom, et al

Colonel Michael Winkvist

June 20, 2018



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1 in law enforcement?

2 A. East Providence Police Department.

3 Q. And when did he retire?

4 A. Probably close to 20 years ago.

5 Q. Is he still alive?

6 A. Yes, he is.

7 Q. Have you spoken to him about this case?

8 A. No, I have not.

9 Q. According to your Answers to Interrogatories, you
10 have a Bachelor of Science Degree in
11 Administration of Justice from Roger Williams?

12 A. Yes.

13 Q. When did you get that?

14 A. I don't recall the exact date.

15 Q. Approximately when?

16 A. Probably, it's got to be -- first got on the
17 State Police -- around '92 or so, I believe.

18 Q. When did you graduate from high school?

19 A. '87.

20 Q. Okay. What high school did you graduate from?

21 A. Providence Country Day School.

22 Q. Okay. Did you go directly to Roger Williams, or
23 were you out of school for a period of time?

24 A. No, I went to Providence College from 1987 to
25 1990, and left to join the Rhode Island State

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1 Police in June of 1990.

2 Q. So you did not receive a degree from Providence
3 College?

4 A. I did not.

5 Q. What did you study at Providence College?

6 A. Business.

7 Q. Okay. Why did you leave PC to go into the State
8 Police?

9 A. I've always been interested in law
10 enforcement, and the opportunity arose, they were
11 hiring at that time, so --

12 Q. Okay. Did you attend Roger Williams full time or
13 part time?

14 A. Part time.

15 Q. Do you recall when you started studying at Roger
16 Williams?

17 A. I don't know exact date, but it was shortly
18 after becoming a member of the Rhode Island State
19 Police in 1990.

20 Q. Your Answers to Interrogatories also say you have
21 a Master's in Administration of Justice from Anna
22 Maria University?

23 A. Yes.

24 Q. When did you receive that?

25 A. I don't know the exact date.

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1 A. Yes.

2 Q. When was that?

3 A. That was in 2012.

4 Q. What did you study at the FBI academy?

5 A. A wide range of law enforcement topics,
6 managing death investigations, ethics, just
7 general criminal justice, leadership-type courses,
8 leadership and management, several courses. It's
9 an 11-week program.

10 Q. So from 1990 until, was it roughly 2011 that you
11 were with the State Police?

12 A. I was with the State Police until 2014.

13 Q. 2014, okay. My recollection is at some point you
14 were, I don't know how to put it, detailed to
15 assist the Cranston Police Department following
16 what --

17 A. I was not. That was Captain Barry at the
18 time, who was Lieutenant Colonel Barry and Captain
19 Moynahan was lieutenant at that time. I was not
20 detailed there.

21 Q. You were with the State Police until 2014?

22 A. Yes.

23 Q. And then you were hired to be the Colonel of the
24 Cranston police?

25 A. Yes. October 1st, 2014 is when I was sworn

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1 person, and it was a promotion. I did have
2 involvement, even as the chief of field operations
3 in overseeing some of the Detective Division, the
4 larger investigations at the assignment of the
5 colonel at the time.

6 Q. The State Police, when you were with them, were
7 they accredited?

8 A. Yes.

9 Q. Was it by an organization known by the acronym
10 CALEA?

11 A. Yes.

12 Q. Were you involved in the accreditation process?

13 A. In some capacity. I didn't lead the process,
14 but I would have certain roles in that process; in
15 other words, certain documentation, reports that I
16 would have to do to give to our CALEA manager to
17 make sure we maintained our accreditation status.

18 Q. Okay. We'll probably get into that a little more
19 later on.

20 A. Okay.

21 Q. At the State Police Training Academy, do you
22 recall if you had courses in Constitutional
23 rights?

24 A. I know we had courses in criminal law. I'm
25 confident we had courses in Constitutional law as

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1 A. Not at that time, no.

2 Q. Okay. Do you recall if you received any
3 instruction at the State Police Academy about
4 whether you could require someone to submit to a
5 psychiatric evaluation or some other kind of
6 medical examination without a court order or a
7 warrant?

8 A. Not in the academy, no.

9 Q. Okay. Have you had training on that, or
10 instruction on that since you left the academy?

11 THE WITNESS: On mental health, or
12 specific to those areas?

13 MR. LYONS: Yes.

14 A. Yes.

15 Q. Okay. Did you have that with the State Police, or
16 with the Cranston police, or both?

17 A. With the State Police.

18 Q. Okay. What training did you receive with the
19 State Police about requiring someone to submit to
20 a psychiatric or mental evaluation without a court
21 order?

22 A. We were taught if somebody was in imminent
23 danger of harming themselves or somebody else,
24 then we could take them either voluntarily or
25 involuntarily to the local emergency room at a

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1 hospital for the purpose of a mental health
2 evaluation.

3 Q. Do you recall when you learned that?

4 A. As a rookie trooper through my superiors at
5 the State Police.

6 Q. Okay. When you say through your superiors, do you
7 mean that there was some sort of formal
8 classroom-type training, or do you mean this was
9 something that you learned on the job from another
10 State Police officer, like on patrol?

11 A. I learned from my senior field training
12 officers, as well as on the job through my
13 superiors, what they expected in those situations.

14 Q. Okay. Do you recall -- well, I'm going to back up
15 and sort of break it down. Do you recall whether
16 any of this that you learned at the State Police
17 occurred in a classroom type setting?

18 A. No.

19 Q. So this was all in, like, conversation that you
20 had with a senior police officer?

21 A. Yes, several people that were training me.
22 Obviously, the State Police was a formalized
23 setting. It was a 16-week academy, so you can
24 only cover so much. So a lot of the details of
25 situations were covered by going out with a senior

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1 trooper, this is what you do in these situations.
2 But it wasn't just one particular trooper. This
3 is how we do this particular -- handle these
4 situations.

5 Q. Do you recall if any of those senior troopers who
6 said that there was authority to require someone
7 to submit to a psychiatric evaluation if there was
8 imminent danger of harm to themselves or others,
9 told you what the authority was for that?

10 A. If I can recall, I know they said we have a
11 responsibility to be community caretakers, and
12 that our role is to make sure that if somebody is
13 in imminent danger, you can take a person to get
14 evaluated, and you can seize property, such as
15 firearms, to protect the public.

16 Q. And did you ever see any written document that
17 authorized the State Police to either require a
18 psychiatric evaluation or to seize property?

19 A. Not that I recall.

20 Q. Okay. The State Police had written policies and
21 procedures; is that correct?

22 A. Believe it not, when I first got there, they
23 were just starting to. There was a new colonel
24 that came in, Colonel Stone was there, and he was
25 leaving, so Colonel Culhane came from the New York

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1 State Police, and at that point they began quickly
2 drafting a large volume of policies. So when I
3 first started, a lot of policies didn't even
4 exist.

5 Q. Were those initial policies -- let me back up. Do
6 you recall when the State Police was first
7 accredited by CALEA?

8 A. I don't.

9 Q. Were the initial policies and procedures the State
10 Police were adopting when Colonel Culhane came in
11 based on CALEA standards, do you know?

12 A. I don't believe so because, if I recall,
13 CALEA was much later -- it was awhile before we
14 even pursued CALEA accreditation.

15 Q. Okay. Did the initial policies and procedures
16 that were adopted under Colonel Culhane set forth,
17 for example, police policies and procedures with
18 respect to criminal investigations?

19 A. Yes.

20 Q. Did the policies and procedures adopted under
21 Colonel Culhane set forth police authority to act
22 in a noncriminal situation?

23 A. I don't recall. I don't recall if we had any
24 detail as specific as that.

25 Q. Okay. Do you recall whether you were told that

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1 the community caretaking function was embodied in
2 any written document at all?

3 A. No, I do not.

4 Q. Okay. Do you recall if you were told what the
5 legal authority was for the community caretaking
6 function?

7 A. No, I do not.

8 Q. Okay. So Colonel Culhane came in roughly around
9 1990; is that your recollection?

10 A. Yes, he was the Colonel when I actually --
11 when I was hired, I was hired under Colonel Stone.
12 I graduated, and Colonel Culhane was already
13 installed at that point.

14 Q. At any time that you were with the Rhode Island
15 State Police, did you ever see any written policy
16 or procedure that set forth the police's
17 authority, or the extent of its authority under
18 the community caretaking function?

19 A. No.

20 Q. Did you ever see any specific written policy or
21 procedure that set forth the police authority to
22 require someone to submit to a psychiatric
23 evaluation?

24 A. No, not that I recall.

25 Q. Did you ever see any written policy or procedure

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1 with the State Police that set forth its authority
2 to seize property pursuant to the community
3 caretaking function?

4 A. No, not that I recall.

5 Q. When the State Police began adopting CALEA
6 standards, do you recall if any of them ever dealt
7 with the community caretaking function?

8 A. Not that I recall.

9 Q. Did any of them deal with the authority to require
10 someone to submit to psychiatric evaluation?

11 A. Not that I recall.

12 Q. Did any of them deal with the authority to seize
13 property, including firearms, without a court
14 order?

15 A. Not that I recall.

16 Q. I understand you're the highest ranking officer in
17 the Cranston Police Department?

18 A. Yes.

19 Q. And that would be confirmed by the number 1?

20 A. People always ask what that means. Yes.

21 Q. You have a separate number that's your badge
22 number?

23 A. Not in the Cranston Police Department.

24 Q. In the Cranston Police Department your badge is
25 also 1?

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1 A. I never served in the department. I came in
2 as chief.

3 Q. So if there's a document for the Cranston Police
4 Department that refers to people's badge numbers,
5 your badge number would always have been 1?

6 A. Yes.

7 Q. Are you the person who establishes or approves
8 policy for the Cranston Police Department?

9 A. Yes.

10 Q. Do you report to anyone who establishes policies
11 or procedures for the Cranston Police Department?

12 A. No. The Mayor, obviously, is ultimately my
13 boss. If it was a policy that was, I don't say
14 far-reaching, but something outside the norm, I
15 may let him know about it, but, ultimately, I'm
16 the person that sets the policies.

17 Q. Okay. Are you involved with the Rhode Island
18 Police Chiefs Association?

19 A. Yes.

20 Q. Okay. So they have a website?

21 A. Yes. I've been -- they've been working on it
22 for a while.

23 Q. According to the website, and I can show you a
24 printout of what I'm referring to if you need to,
25 but according to the website you were the co-chair

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1 A. That's my understanding, yes.

2 Q. Okay. And what was the reason that the Red Flag
3 law was passed this year?

4 MS. MURPHY: Objection as to the
5 form. You may answer.

6 Q. What's your understanding of why the Red Flag law
7 was passed this year?

8 A. My understanding was, obviously there has
9 been a lot of gun violence in the United States,
10 and situations where there was no formalized law
11 or mechanism that allowed police officers to
12 remove firearms from people that are exhibiting
13 signs of being a danger to themselves or somebody
14 else.

15 Q. So the purpose of the Red Flag law was to provide
16 that authority to police?

17 A. To clarify: I believe, my opinion, we had
18 the authority prior to that, but now it's codified
19 in law, and that's what we were hoping would
20 happen.

21 Q. Was there any statute that provided that authority
22 prior to the passage of the Red Flag law this
23 year?

24 A. I believe the community caretaking function
25 allowed us to seize a firearm in certain

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1 circumstances.

2 Q. Was the community caretaking function embodied in
3 any state or federal statute?

4 A. No.

5 Q. With respect to the authority that was passed last
6 year by which the police could require someone to
7 go for a psychiatric evaluation, your
8 understanding was there was no statutory authority
9 for that prior to last year?

10 A. There was no specific law that allowed that.

11 Q. Your understanding is the authority for that arose
12 under the community caretaking function?

13 A. That's correct.

14 Q. Are you aware of any court decision which says
15 that police had the authority to require someone
16 to go for a psychiatric evaluation pursuant to the
17 community caretaking function?

18 A. No, not specifically.

19 Q. Are you aware of any court decision that said
20 police had the authority to seize firearms from a
21 person's house pursuant to the community
22 caretaking function?

23 A. Not specifically.

24 Q. We have received in this case, through what's
25 called the discovery process, a number of general

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1 pursuant to CALEA accreditation?

2 A. Not that I'm aware of.

3 Q. I'm going to show you what was previously marked
4 during Officer Henry's deposition as Exhibit 15.
5 And just so you know, at least what I'm trying to
6 do in the case is use one exhibit number for a
7 particular document.

8 A. Okay.

9 Q. Just for the record, this is a document which is
10 entitled 2014 Policy and Procedure Manual,
11 Cranston Police Department, and my understanding
12 is, although we have marked the entire document
13 that was produced to us, that this is simply the
14 table of contents for the police department?

15 A. Yes.

16 Q. Okay. Is this table of contents a complete list
17 of the police department's policies and
18 procedures?

19 A. I won't be able to tell by looking at it.
20 I'm looking at the date, it's four years old, so
21 it might have changed to its present format.

22 Q. In fact, we subsequently learned that at least one
23 general order has changed, and we'll talk about
24 that --

25 A. Okay.

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1 first page, it says digitally signed by Sergeant
2 Matthew J. Kite, it looks like it says LP.D.; do
3 you see that?

4 A. Yes.

5 Q. Do you know who Sergeant Kite is?

6 A. He's now a lieutenant, yes.

7 Q. Do you know who Lieutenant Kite is?

8 A. Yes, I do.

9 Q. Who is he?

10 A. He's a member of the Cranston Police
11 Department.

12 Q. Does he have responsibility for the policy and
13 procedure manual?

14 A. Not anymore, no. He is the IT -- in charge
15 of our IT division.

16 Q. Oh, okay. What does LP.D. stand for, do you know?

17 A. I know he has a Ph.D. That's some type of
18 educational abbreviation. I'm not sure what LP.D.
19 is.

20 Q. Let me show you what was marked as Exhibit 16
21 during Officer Henry's deposition, which is
22 Cranston Police Department General Order 000.01
23 entitled Introduction, which if you look at the
24 Exhibit 15, it appears to be the very first policy
25 listed in the table of contents?

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1 A. Okay.

2 Q. Subpart B says, "This manual is a complete catalog
3 of department issued general orders, policies,
4 procedures, rules and regulations. Revisions have
5 been completed as needed." Do you see that?

6 A. Yes.

7 Q. Okay. Would you agree with that, that it's a
8 complete catalog of the department issued general
9 orders, policies and procedures?

10 A. I don't know. I'm looking at one section of
11 the -- I don't like saying this document is a
12 complete -- I can't tell by looking at that unless
13 I saw an updated list.

14 Q. Okay. Well, I guess here's my question: Even if
15 there's an updated list, which would now be on the
16 Power DMS, is that what you said?

17 A. Yes.

18 Q. Would that list be a complete catalog of the
19 Cranston Police Department's general orders,
20 policies and procedures?

21 A. Yes. Yes, it would.

22 Q. Just to be clear, the Cranston Police Department
23 doesn't keep policies and procedures in any other
24 separate location?

25 MS. MURPHY: Objection as to form.

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1 You may answer.

2 THE WITNESS: Are you talking about
3 Power DMS?

4 Q. This is called the policy and procedure manual,
5 which is now kept in electronic format on Power
6 DMS?

7 A. Yes.

8 Q. Apart from this policy and procedure manual,
9 whether it's in hard copy, or electronic, or
10 whatever, does the Cranston Police Department keep
11 policies and procedures in any other document?

12 A. No.

13 Q. Okay. Maybe I should have asked it that way
14 first. Let me show you what was previously marked
15 during Officer Mastrati's deposition as Exhibit 4.
16 This is Cranston Police Department General Order
17 100.10 which is entitled Limits of Authority?

18 A. Yes.

19 Q. Okay. This says its purpose is to define limits
20 of police enforcement authority during the
21 execution of criminal process; do you see that?

22 A. Yes.

23 Q. Do you know -- well, first of all, let me back up,
24 did the situation involving Mr. Caniglia, to the
25 best of your knowledge, involve criminal process?

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1 A. No.

2 Q. Do you know whether or not there's a Cranston
3 Police Department general order that sets forth
4 the limits of the department's authority in
5 situations such as those involving Mr. Caniglia?

6 A. Not to my knowledge.

7 Q. Let me show you what was marked as Exhibit 17
8 during Officer Henry's deposition, which is
9 Cranston Police Department General Order 320.80
10 which is entitled Civil Procedures.

11 A. Right.

12 Q. All right. And this says, the purpose is to
13 provide guidelines for the Cranston Police
14 Department while executing the police role in
15 civil situations. Was the situation involving
16 Mr. Caniglia a civil situation?

17 A. Not in my opinion, no.

18 Q. What is a civil situation?

19 A. Civil, as it says, tenant/landlord dispute,
20 eviction, repossession, domestic dispute
21 resolution, post-arrest assistance, and any
22 situation deemed appropriate by the officer in
23 charge.

24 Q. So, you were referring to the procedures
25 subparagraph C?

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1 A. That's correct, under Roman Numeral IV, yes.

2 Q. And it refers to keep the peace functions?

3 A. Right.

4 Q. Okay. You would not consider the situation
5 involving Mr. Caniglia to be a keep the peace
6 function?

7 A. No, I would not.

8 Q. Why not?

9 A. Because there was no active dispute going on
10 at the time. It was for us to check the
11 well-being of a subject, not necessarily keep the
12 peace. There's -- none of these particular
13 situations apply.

14 Q. So, it was not a domestic dispute?

15 A. Not according to this policy. That says
16 post-arrest assistance. There was no arrest
17 there. It was an argument, but the argument was
18 not ongoing when we were called. So I wouldn't
19 say it was keep the peace at that time. It was
20 more check on the well-being of Mr. Caniglia.

21 Q. In what other situations are deemed appropriate as
22 keep the peace functions?

23 A. That's really up to the officer in charge.
24 There is a whole gamut of things we get involved
25 in. Most of them are listed in the policy, the

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1 most common ones, I should say.

2 Q. Underneath that, under subpart D, it says, "Once
3 dispatched to a," quote, "'keep the peace call,'"
4 end quote, "the officer must terminate the process
5 if there's any resistance, except when the process
6 is served by the county sheriff constable in
7 possession of a Writ of Execution. In that event,
8 the officer may assist the sheriff by maintaining
9 peace." Do you see that?

10 A. Yes.

11 Q. So, are there other -- in other keep the peace
12 situations, if there is resistance, is the officer
13 to terminate the action that they're taking?

14 MS. MURPHY: Objection as to form.

15 Q. Is that what that -- let me withdraw the question.
16 What's your understanding of what Paragraph 4D
17 means?

18 A. Essentially, if we're trying to serve a civil
19 order and that happens -- I should say if a
20 sheriff is trying to serve a civil order or a
21 constable and there's resistance, whether it be
22 eviction or whatever, we will terminate at that
23 time.

24 Q. What do you mean by resistance?

25 A. Well, if there is potential of physical

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1 altercation.

2 Q. In other words, if the civilian objects to the
3 civil process proceeding?

4 A. Yes. If we feel that it's escalating to a
5 situation where there might be a physical
6 altercation, then we will terminate that situation
7 at that time.

8 Q. Okay. What do you mean by terminate?

9 A. We will not be part of it. We will not be
10 part of the situation.

11 Q. And why is that?

12 A. Because it's a civil matter at that time.

13 Q. And it would be fair to say that the police do not
14 believe they have authority to act when there is
15 resistance in that situation?

16 A. In these situations, yes.

17 Q. Okay. Why does the Cranston police not have
18 authority to act in those situations, but it has
19 authority to act under the community caretaking
20 function?

21 A. Because it's our job as police officers to
22 protect the public, and when they're in imminent
23 danger, we believe there is harm that could be
24 caused, it's our responsibility as police
25 officers, it's part of our oath that we take.

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1 Q. Okay. If a civilian is resisting service of
2 process of some sort, or other keep the peace
3 functions here, isn't there also a danger of harm?

4 MS. MURPHY: Objection as to form.
5 You may answer.

6 A. Not necessarily. I mean, we're talking about
7 an imminent threat to somebody's life or safety.
8 In these situations here I don't believe -- unless
9 they escalated way beyond a certain situation, I
10 would say no.

11 Q. Well, the Cranston police does refer to them as
12 keep the peace functions, right?

13 A. Yes, that's the terminology they use. Keep
14 the peace versus check the welfare of an
15 individual that is in imminent danger.

16 Q. Who decides whether there's imminent danger?

17 A. That's an assessment that is done by the
18 police officer on scene, and he may consult a
19 supervisor as well.

20 Q. And what standards does the police officer or his
21 supervisor make to determine whether there is
22 imminent danger?

23 A. There is a wide range of things. We are
24 trained in learning the symptoms of somebody
25 that's in mental health crisis at the time, and

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1 some of the signs we look for, and in
2 Mr. Caniglia's case, he allegedly made a statement
3 he wanted to harm himself. So that was clear to
4 us in that situation he was potentially in
5 imminent danger.

6 Q. What statement did he make he wanted to harm
7 himself?

8 A. Well, I'm basing it on the police report. I
9 wasn't there, I'm going to tell you that. Officer
10 Mastrati stated that Mr. Caniglia told him that he
11 made a statement that he was potentially thinking
12 about harming himself with a firearm. He verified
13 the account that was given by Mrs. Caniglia.

14 Q. Okay. Is your knowledge of the incident involving
15 Mr. Caniglia based on the incident report?

16 A. Solely based on the incident report, yes.

17 Q. Have you separately discussed it with Officer
18 Mastrati?

19 A. I have not.

20 Q. Have you discussed it with any of the officers who
21 responded to the scene?

22 A. I have not.

23 Q. We'll talk about the incident report, not right
24 now, but we will.

25 A. Okay.

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1 Q. Let me show you what was marked as Exhibit 5
2 during Officer Mastrati's deposition, which is a
3 Cranston Police Department General Order 350.20
4 Bureau of Criminal Identification.

5 A. Yes.

6 Q. I believe you identified this as one of the
7 general orders that you reviewed in preparation
8 for this deposition?

9 A. Yes. That's correct.

10 Q. Okay. Was there any particular part of it that
11 you reviewed, or did you review the whole thing?

12 A. I reviewed specifically the section on the
13 storage and release of firearms.

14 Q. Which section is that?

15 A. Section 6, I believe -- I'm sorry, Section
16 I -- Roman number IV under Section I.

17 Q. That starts on Page 10?

18 A. Page 10 of 15, yes.

19 Q. Okay. And what part of this section is relevant
20 to the matter, the incident involving
21 Mr. Caniglia?

22 A. It would be Section 3 under Roman Numeral
23 number VI.

24 Q. Okay. So Section 3 is on Page 11?

25 A. Page 11, and it's titled Firearms Seized for

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1 Safekeeping.

2 Q. Does this section set forth the standards under
3 which the police can seize firearms for
4 safekeeping?

5 A. No, not the standards, it's the requirement
6 necessary for the release of firearms, not the
7 standard to seize them.

8 Q. Subpart A, under that says, "If it is believed
9 that the owner meets the criteria set forth in
10 Rhode Island General Law, mental incompetents,
11 drug addicts and drunkards prohibited from
12 possession, the owner will be notified that they
13 will need an order from a competent court
14 instructing the department to return the
15 firearms." Do you see that?

16 A. Yes, I do.

17 Q. Do you know what general law that refers to?

18 A. Not specifically, no.

19 Q. Are you familiar with the Rhode Island Firearms
20 Act?

21 A. Not specifically.

22 Q. Okay. Was Mr. Caniglia a mental incompetent?

23 A. Not to my knowledge, no.

24 Q. Was he a drug addict?

25 A. I don't believe so.

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1 Q. Was he a drunkard?

2 A. Not to my knowledge.

3 Q. So it would be fair to say that subsection A does
4 not apply to Mr. Caniglia?

5 A. That's correct.

6 Q. Okay. If you go down to B it says, "If the
7 firearm was confiscated due to the owner's
8 temporary state of mind, posing a threat to
9 him/herself or others, and the case has been
10 adjudicated, no court orders are in effect, and no
11 other circumstances exist that would prevent the
12 owner from legally possessing a firearm, then
13 notification will be made in writing." And then
14 it talks about the notification to the owner of
15 the firearm, and one of the things it says is that
16 the owner may retrieve the firearm at
17 headquarters; do you see that?

18 A. Yes.

19 Q. Was Mr. Caniglia's -- or do you believe
20 Mr. Caniglia's firearm was confiscated due to his
21 temporary state of mind?

22 A. Yes.

23 Q. Okay. So this section does apply to him?

24 A. It does.

25 Q. Okay. Did the Cranston Police Department follow

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1 this section?

2 THE WITNESS: This specific section,
3 Section B?

4 MR. LYONS: Yes.

5 A. Yes. At some point his firearm was returned
6 to him.

7 Q. Right. As he -- did the Cranston Police
8 Department notify him that -- in writing, that he
9 could retrieve the firearm at headquarters?

10 A. I do not know if he received notification.

11 Q. Okay. Do you know under what circumstances
12 Mr. Caniglia received his firearms back from the
13 Cranston Police Department?

14 A. Yes. His attorney had contacted the Cranston
15 Police Department.

16 Q. Which attorney are you referring to?

17 A. I don't recall his name. I know he sent a
18 letter.

19 Q. Nicholas Lambros?

20 A. If you had a copy of the letter, I would be
21 able to verify that, but I didn't even review
22 that.

23 EXHIBIT 28 (PLAINTIFF'S EXHIBIT 28
24 MARKED FOR IDENTIFICATION)

25 Q. Let me show you what's been marked as Exhibit 28,

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1 which is a letter dated October 1st, 2015 from
2 Attorney Nicholas A. Lambros to the Cranston
3 Police Department. Is this the letter to which
4 you are referring?

5 A. Yes.

6 Q. It's your understanding that the Cranston Police
7 Department returned Mr. Caniglia's firearms after
8 the receipt of this letter?

9 A. Yes.

10 Q. Did you see this letter?

11 A. Yes.

12 Q. Okay. Did you instruct the Cranston Police
13 Department upon receipt of this letter to return
14 Mr. Caniglia's firearms?

15 A. At the time I received this letter I handed
16 it to Major Quirk, and I asked him to look into it
17 further, and to be honest with you, I scanned the
18 letter, I did not read the entire letter. I just
19 saw that somebody was trying to get their weapons
20 back, and I believe I might have told Major Quirk,
21 have the individual get a court order.

22 Q. Why did you tell Major Quirk to have the
23 individual get a court order?

24 A. Because I scanned the letter quickly and
25 wasn't -- believed the circumstances might have

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1 fallen, maybe a domestic assault, which is pretty
2 common, and I told him look into it further.

3 Q. Okay. In fact, was there a domestic assault in
4 Mr. Caniglia's situation?

5 A. No.

6 Q. Okay. So you were mistaken in that regard?

7 A. Yes.

8 Q. Okay. Did Major Quirk look into the
9 circumstances?

10 A. He did.

11 Q. And did he report back to you?

12 A. He did.

13 Q. What did he tell you?

14 A. He told me that, he explained further about
15 the incident, he said he looked into it further,
16 and once he explained it to me, I said, okay,
17 that's fine, he can get his firearms back; make
18 arrangements to do so.

19 Q. And do you recall when Mr. Caniglia received his
20 firearms back?

21 A. It was in December of 2015. I don't have the
22 exact date. Beginning of December, I believe.

23 Q. Do you recall whether in fact Mr. Caniglia filed
24 suit before he received his firearms back?

25 A. That I don't recall what came first, if he

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1 ahold of Mr. Caniglia. So I don't know what the
2 time frame was. I only know that he got the
3 weapon back in the beginning of December.

4 Q. Okay. Did Officer Quirk tell you he in fact had
5 spoken to Attorney Lambros to tell Mr. Caniglia he
6 could get his firearms back?

7 A. He told me he spoke to him. Initially, he
8 told him to get a court order, then his attorney
9 further explained the details, he looked up the
10 report. He came back to me, we discussed it. He
11 said, no, this is the situation, it wasn't a
12 domestic. I said, okay, that's fine, tell his
13 attorney he can make arrangements to have the
14 firearms returned to him.

15 Q. And did Major Quirk subsequently tell you he had
16 that second communication with Attorney Lambros?

17 A. I don't believe so. I just assumed he took
18 care of it.

19 Q. All right. Do you know what the usual procedure
20 is for how soon the police, Cranston Police
21 Department, sends the notification in writing to a
22 person whose firearm has been seized due to their
23 temporary state of mind?

24 A. No. I don't think there's any specific time
25 frame. When they get an opportunity to draft a

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1 letter and send it out, they do.

2 Q. How soon would you expect it to go out?

3 A. I don't know. Depends on what's going on at
4 the particular time.

5 Q. Are we talking about a matter of days, or weeks,
6 or months?

7 A. It could be a few weeks.

8 Q. And why would the police department hold on to a
9 firearm for a few weeks based on someone's
10 temporary state of mind?

11 A. It's not a matter of holding it because of
12 somebody's temporary state of mind, it's a matter
13 of administratively getting to that procedure.
14 They do a lot of other stuff in that particular
15 unit. When they get to it -- they try to get to
16 it in a timely fashion, but there may be a delay.

17 Q. Okay. Do you know how often the Cranston Police
18 Department sends out a letter like that?

19 A. No, I don't.

20 Q. Okay. Can you even estimate how often it happens?

21 A. I don't want to speculate, because I don't
22 have any involvement in that. That's completely
23 handled by the BCI unit and in communication with
24 the captain and detectives.

25 Q. Which captain?

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1 A. Guilbeault, Karen Guilbeault she's, the
2 detective commander.

3 Q. Do you know how often the Cranston Police
4 Department seizes firearms based on the owner's
5 temporary state of mind?

6 A. I do not.

7 Q. Can you estimate how often that happens?

8 A. I can't, because there is no way I would
9 know.

10 Q. Does the Cranston Police Department keep
11 statistics as to how often it seizes a firearm
12 based on the owner's temporary state of mind?

13 A. Not to my knowledge.

14 Q. There are -- I'm going to show you two different
15 general orders, both of which are number 320.70
16 entitled Public Mental Health --

17 A. Okay.

18 Q. -- one was marked as Exhibit 6 during Officer
19 Mastrati's deposition, and the other one was
20 marked as Exhibit 18 in Captain Henry's
21 deposition. My understanding is that the one that
22 is Exhibit 18 is an amended version of Exhibit 6?

23 A. That's correct.

24 Q. Do you know what prompted the amendment to Exhibit
25 6 that resulted in Exhibit 18?

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1 A. I didn't have -- actually, I did have a copy
2 of this one. Attorney Murphy did provide me a
3 copy, so I did look at both.

4 Q. Okay. I'm going to ask you to go to Page 2.
5 Toward the bottom of Page 2 in the Section C,
6 "Response to people with perceived mental
7 illness," there's Roman Numeral IV, I'm going to
8 direct your attention to that. It talks about
9 options that a police officer has when selecting
10 an appropriate disposition when responding to
11 people with perceived mental illness; do you see
12 that?

13 A. Yes.

14 Q. And it lists several sections there. 5 says,
15 "Assist in regarding voluntary admission to a
16 mental facility if requested"?

17 A. Yes.

18 Q. And 6 says, "Transport for involuntary emergency
19 psychiatric evaluation if the person's behavior
20 meets the criteria for this action"; do you see
21 that?

22 A. Yes.

23 Q. Does one of those two apply to the situation
24 involving Mr. Caniglia?

25 A. Actually they both do, but number 5 was

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1 exercised in this situation.

2 Q. And why would you say number 5 was the one that
3 was exercised?

4 A. Based on the reading of the police report,
5 Mr. Caniglia voluntarily went with the rescue to
6 be evaluated at the hospital.

7 Q. If Mr. Caniglia was told that his firearms were
8 going to be seized, but that if he went to the
9 hospital and was cleared, he could get them back,
10 would you consider -- and he agreed to do that
11 under those circumstances, would you say that was
12 voluntary or involuntary?

13 A. I would say it's still voluntary.

14 Q. Why would you say it's still voluntary?

15 A. I wasn't there, so I don't want to speculate,
16 but I didn't see that in the police report. So I
17 don't think I can even answer that because that
18 wasn't my understanding of the situation.

19 Q. If that was the situation, if a person was told
20 we're going to seize your firearms unless you
21 agree to go to the hospital and get cleared, would
22 you consider his statement that he would then go
23 to the hospital to be voluntary or involuntary?

24 A. Well, I'm assuming he had the option to say
25 no. So I would say it's still voluntary.

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1 Q. When does a person's behavior meet the criteria
2 for an involuntary emergency psychiatric
3 evaluation?

4 A. If the officer believes that person is in
5 imminent harm of their safety or another person.

6 Q. Do you know whether any officer made a
7 determination that Mr. Caniglia was in imminent
8 danger of harm?

9 A. I believe Officer Mastrati made that
10 assessment, along with his supervisors.

11 Q. All right. And you base that on the incident
12 report?

13 A. Yes.

14 Q. If you go to the next page of the general order,
15 it says Custody; do you see that?

16 A. Yes.

17 Q. Was Mr. Caniglia taken into custody?

18 A. No, he was not.

19 Q. Under that it says -- voluntary admission is part
20 F, and then involuntary admission is part G. Do
21 you believe that Mr. Caniglia's situation involved
22 a voluntary admission or involuntary admission?

23 A. Voluntary admission.

24 Q. Okay. Would Mr. Caniglia's situation have met the
25 criteria for an involuntary admission?

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1 A. I believe so, based on my reading of the
2 police report.

3 Q. Okay. And again, do you believe that his
4 situation met the criteria for an involuntary
5 admission?

6 A. Based on my reading of the police report and
7 his admission that he wanted to take his life and
8 had a firearm.

9 Q. Okay. Well, if you go down, it lists three
10 scenarios where -- for an involuntary admission;
11 do you see that?

12 A. Yes.

13 Q. One says, "The person is imminently dangerous to
14 himself or others"?

15 A. Yes.

16 Q. Is that the situation that applied to
17 Mr. Caniglia?

18 A. Yes.

19 Q. Okay. The next one is, "The person is unable to
20 care for him or herself," did that situation apply
21 to Mr. Caniglia?

22 A. I don't believe so.

23 Q. The next one says, "The person is suffering
24 substantial physical deterioration and shows
25 inability to function if not treated immediately,"

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1 did that apply to Mr. Caniglia?

2 A. I do not believe so.

3 Q. Okay. So it was only the situation that he was
4 imminently dangerous to himself or others?

5 A. Yes.

6 Q. Was he imminently dangerous to others?

7 A. I can't answer that because I read the police
8 report, but a lot of times there's other
9 conversations that take place that might not be
10 contained in that report. Obviously, Mrs.
11 Caniglia must have been in fear at some point
12 because she did contact us, for his safety as
13 well.

14 Q. Do you know whether Mrs. Caniglia ever said she
15 feared for her own safety?

16 A. I believe she said in the report that she did
17 not fear for her safety. But that doesn't
18 necessarily mean that there wasn't a threat to her
19 safety because she didn't believe there was.

20 Q. Are you aware of any threat to Mrs. Caniglia's
21 safety?

22 A. Again, I wasn't there, so the officers may
23 have perceived there was a danger to her. I base
24 that on experience.

25 Q. What do you mean by that?

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1 A. I've been to many situations where there's
2 been suicides by firearms, and situations when
3 there has been murder suicides, and most of the
4 time the victims are likely unaware that the
5 person was not only a danger to themselves but
6 other people around them.

7 Q. Have you ever seized a person's firearm for
8 safekeeping?

9 A. Yes.

10 Q. How many times?

11 A. I don't have an exact number. It's been a
12 long time.

13 Q. Can you estimate the number of times?

14 A. Probably ten or more.

15 Q. Okay. And were all of those occasions when you
16 did when you were a member of the State Police?

17 A. Yes.

18 Q. What were the criteria you used to determine
19 whether you could seize a firearm for safekeeping?

20 A. It was an assessment made on the scene by
21 myself and other troopers.

22 Q. Do you have any -- do you have a degree or any
23 formal training in psychology or psychiatry?

24 A. Not to diagnose somebody. We are trained to
25 be aware of symptoms of somebody that's in

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1 emotional crisis.

2 Q. Okay. What are the symptoms that you would look
3 for when you made a determination to seize
4 someone's firearms for safekeeping?

5 A. Well, the most obvious is somebody making an
6 outward statement that they want to kill
7 themselves.

8 Q. Any other symptoms that you look for?

9 A. Somebody is despondent, heavy use of alcohol,
10 narcotics, combination of many different factors
11 most often.

12 Q. Any other symptoms?

13 A. Not that I can think of offhand.

14 Q. Do you recall where you learned those symptoms?

15 A. Formalized training, both at the Rhode Island
16 State Police, and I know the Cranston police have
17 conducted some training on mental health, first
18 aid is what they call it, that allows us basically
19 to be aware of symptoms to look for when people
20 are in emotional crisis.

21 Q. So, the Cranston Police Department's -- the
22 knowledge of an officer on the Cranston Police
23 Department would come from its mental health
24 training that it has provided?

25 MS. MURPHY: Objection to form. You

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1 may answer.

2 A. That's one area, but training and experience,
3 we respond to many of these calls. The more you
4 respond to these calls, you learn more about what
5 to look for. And unfortunately, we do respond to
6 a lot of people that actually follow through and
7 take their lives, and we do the investigation of
8 what led up to that.

9 Q. Okay. Well, what else would a Cranston police
10 officer look for besides those symptoms that he or
11 she learns in a course of mental health training
12 from the department?

13 A. There is so many circumstances, I can't even
14 begin to -- every incident can be different.
15 Usually it's people that are close to that person
16 are the ones to give us information that the
17 person is considering committing suicide. And
18 then, obviously, some of the other signs I
19 mentioned that someone is in crisis.

20 Q. Did anybody say that Mr. Caniglia was considering
21 suicide?

22 A. Yes.

23 Q. Who said that?

24 A. Mrs. Caniglia.

25 Q. And your knowledge of that comes from the

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1 language that's in it now.

2 Q. How did you hear about the case involving
3 Middletown police?

4 A. The chief of the department notified the
5 other chiefs at one of our meetings about the
6 change.

7 Q. What do you mean the change?

8 A. The amendment to the law.

9 Q. So, you learned about it after it had been passed?

10 A. Yes.

11 Q. Has the Cranston Police Department changed its
12 policies or procedures as a result of the passage
13 of this statute, Section 40.1-5-7.1?

14 A. No.

15 Q. With respect to the so-called Red Flag law that
16 was passed this year, has that changed the policy
17 or procedures of the Cranston Police Department?

18 A. Not as of yet. We will be changing our
19 policies shortly, once we have guidance from the
20 Attorney General's office, they usually give us
21 some -- there will be training and other things we
22 have to go through.

23 Q. So just so we're clear, you were not familiar with
24 Exhibit 20, which is statute 40.1-5-7?

25 A. No. That's true.

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1 Q. Okay. Are you aware of Section 40.1-5-8 of the
2 mental health law?

3 A. No, I'm not.

4 Q. Okay. I forgot if I asked you, have you seen
5 Exhibit 19 before?

6 A. I have not.

7 Q. Do you know who Michelle Lyn Branch or Kate Noveau
8 are?

9 A. I do not.

10 Q. Let me show you what was previously marked as
11 Exhibit 9 during Officer Mastrati's deposition
12 which appears to be a printout of a PowerPoint
13 entitled Mental Health 101 with a handwritten date
14 on it of 2011. Do you see that next to the
15 exhibit sticker?

16 A. Yes, I do.

17 Q. Have you seen this before?

18 A. I have not.

19 Q. Let me back up and ask you to go back to Exhibit
20 6, the first page --

21 THE WITNESS: First page?

22 MR. LYONS: First page, correct.

23 Q. -- where it says Procedures, the first one says,
24 Recognizing Mental Illness?

25 A. Yes.

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1 Q. It says, "Officers are not in a position to
2 diagnose mental illness, but must be alert to
3 common symptoms." Do you see that?

4 A. Yes.

5 Q. Do you agree with that?

6 A. Yes.

7 Q. Okay. And with respect to being alert to common
8 symptoms of mental illness, do they become alert
9 to that through training they receive on the
10 police department?

11 A. On-the-job training, I think they do. I'm
12 not sure -- well, my understanding is even looking
13 at it, with this PowerPoint in front of me, they
14 do receive that, yes.

15 Q. All right. Well, from on-the-job training how
16 would they know what a symptom is of mental
17 illness?

18 A. Just from dealing with it, responding to
19 numerous calls, interacting with people that are
20 in situations, you can tell they're experiencing
21 mental health. It's pretty frequent.

22 Q. If they don't have training in mental health
23 issues, how will they know to be alert to symptoms
24 of mental health?

25 MS. MURPHY: Objection as to form.

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1 sometimes we go to suicides that were complete and
2 we conduct an investigation. So we usually speak
3 to people around the person, this is what he was
4 doing, I should have known in the last few days he
5 hasn't slept, or he hasn't eaten. He's made
6 comments he wants to kill himself. He's been
7 obsessed with it. He made comments on Facebook.
8 A lot of times the more you go to those, the more
9 experienced you become. It's a combination of
10 formalized training and investigations that we
11 conduct.

12 Q. Well, would you say it's fair to say that not
13 everybody who doesn't sleep is suicidal?

14 A. No. It's usually a combination of factors.

15 Q. Okay. Again, not everyone who doesn't eat is
16 suicidal?

17 A. No. It's a combination.

18 Q. It's fair to say people who make comments about
19 wanting to kill themselves are not necessarily
20 really suicidal?

21 MS. MURPHY: Objection as to form.
22 You may answer.

23 A. Some of -- that's part of the training we
24 have is if somebody actually comes out and says
25 they're going to kill themselves, we should take

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1 that seriously, and that is a strong likelihood
2 that somebody -- people that do kill themselves
3 often do talk about it to other people.

4 Q. Right. You would agree that somebody may say, for
5 example, I could just shoot myself, but that
6 doesn't necessarily mean they're actually
7 suicidal?

8 A. Not in every situation.

9 Q. Right. I mean, you've heard people say that, and
10 you knew they weren't actually suicidal?

11 A. Depends in what context they say it, how they
12 said it. And again, there might be other factors.

13 Q. Would the Cranston Police Department have a policy
14 of seizing somebody's firearms or requiring them
15 to go to a psychiatric evaluation every time they
16 said something like, I could just shoot myself?

17 A. No. We leave it up to the officers on scene,
18 their training, their experience and their
19 discretion. They weigh all the facts they have in
20 front of them and make a reasonable decision
21 whether they should transport that person or not.

22 Q. Besides the factors that may be set forth in any
23 of the written materials that we've been provided,
24 are there any other criteria that a Cranston
25 police officer would consider in making that

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1 determination?

2 THE WITNESS: What materials are you
3 referring to? Trainings or policies?

4 Q. Well, we have, for example, what was marked as
5 Exhibit 19, we have what was marked as Exhibit 9.
6 I'm about to show you what has previously been
7 marked as Exhibit 10, which it's my understanding
8 that these are a kind of training that has been
9 provided to Cranston police officers at least
10 prior to the incident involving Mr. Caniglia.

11 A. Okay.

12 Q. Besides whatever symptoms, factors, or criteria
13 that are set forth in these exhibits, PowerPoint
14 exhibits, are there any other factors that a
15 Cranston police officer should consider?

16 MS. MURPHY: I'd like to just state
17 he hasn't had the opportunity to review all the
18 documents -- about what is contained in these
19 documents.

20 MR. LYONS: I'm perfectly happy if he
21 wants to take a look at them, but I'm not asking a
22 specific question.

23 MS. MURPHY: Oh, okay.

24 Q. Let me put it this way: Are there factors, to
25 your knowledge, that a Cranston police officer

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1 should consider in determining whether or not
2 someone is suicidal --

3 A. Yes.

4 Q. -- beyond what is set forth in the training
5 materials that have been marked as exhibits?

6 A. I haven't, as she mentioned, I haven't gone
7 through these, so I don't know what in these
8 documents. There are so many different factors.
9 There is no way to predict, if you will, or assume
10 every factor. There are so many different
11 factors. We make judgment decisions every day
12 based on our instinct, our training. So I don't
13 know without looking at all the factors that are
14 listed in here.

15 Q. Is there a reason why those factors or those
16 criteria that the Cranston police would consider
17 are not set forth in one comprehensive document?

18 A. I think it would be impossible to anticipate
19 every single circumstance that you may come
20 across.

21 Q. Do you know -- we'll get to that a little later.
22 Have you looked at any of the Cranston Police
23 Department training materials on mental health to
24 see whether any of the criteria set forth in them
25 applied to Mr. Caniglia?

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1 Q. Okay. And who has provided that training?

2 A. My understanding is the Rhode Island Attorney
3 General's office, they came to our facility and
4 did some training in that area as well as Power
5 DMS. We have put out trainings through electronic
6 format, a review of some of the search and seizure
7 laws that are out there.

8 Q. Let me show you what was previously marked as
9 Exhibit 8 during Officer Mastrati's deposition,
10 which, again, appears to be a printout of a
11 PowerPoint presentation. This one appears to be
12 dated January 2016, and it appears it was
13 presented by Stephen A. Regine, Assistant Attorney
14 General of Rhode Island Department of Attorney
15 General?

16 A. Yes.

17 Q. Do you recall Mr. Regine giving a presentation on
18 Rhode Island search and seizure law?

19 A. I recall that he did come to the department
20 at my request, but I did not attend the training.

21 Q. All right. Why did you request that Mr. Regine
22 come and do a presentation?

23 A. I think it's always good to brush up on
24 criminal law, Constitutional law, and we try to
25 keep our officers up to date with the latest case

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1 law that is out there.

2 Q. Okay. And was there any particular event that
3 prompted this?

4 A. No.

5 Q. Okay. Had Mr. Regine, or any other member of the
6 Attorney General's office, done any prior
7 presentations to the Cranston Police Department on
8 search and seizure law?

9 A. Not that I recall.

10 Q. Okay. You referred to material that's in Power
11 DMS?

12 A. Yes.

13 Q. Is Exhibit 8 in Power DMS?

14 A. It may be. I'm not sure if after he came and
15 did the presentation, if this went out
16 departmentwide or not.

17 Q. Do you know if there's any other material on
18 search and seizure law in Power DMS?

19 A. I believe there is, but I don't know
20 specifically. I recall, you know, reading
21 different cases that decided, that come out. We
22 do legal updates every so often.

23 Q. Okay. When you say we do legal updates, what do
24 you mean?

25 A. Our training division sends out legal updates

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1 to all our officers.

2 Q. So, do they actually receive a piece of paper or
3 do they receive electronic notice, how do they get
4 legal updates?

5 A. They are notified in their e-mail that they
6 have a training, mandatory training they need to
7 conduct through Power DMS, and then they sign off
8 that they completed that training.

9 Q. Okay. I have seen also records of what were
10 referred to as in-service training, it looked like
11 a group of officers came to a session on
12 something?

13 A. Yes.

14 Q. Has there been that kind of in-service training
15 where a group of officers came and received
16 training on search and seizure law, for example,
17 Mr. Regine's presentation?

18 A. Mr. Regine's presentation, to my knowledge
19 wasn't departmentwide, I do not believe. I don't
20 know if we did it as in-service training, or if we
21 did it where he came and officers put in to attend
22 this particular training. So I'm not sure if this
23 was done at an in-service training or not. But we
24 have done that in the past. I just don't recall
25 exactly when.

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1 somebody actually did in fact take the training.
2 So they would be able to tell you -- tell us if
3 somebody actually took that course reviewed the
4 materials.

5 Q. Do you know if the Cranston Police Department
6 provided either in-service training or training
7 through Power DMS respecting search and seizure
8 law prior to Mr. Caniglia's incident in August of
9 2015?

10 A. That I do not know.

11 Q. There's handwriting in the bottom right-hand
12 corner of Exhibit 8.

13 A. Yes.

14 Q. Do you recognize that handwriting?

15 A. I don't.

16 Q. In January of 2016 who would have been in charge
17 of training?

18 A. Lieutenant Mark Freeborn.

19 Q. Does that look like Lieutenant Freeborn's
20 handwriting -- let me ask this: Would you
21 recognize Lieutenant Freeborn's handwriting?

22 A. Not offhand, but it looks like the initials
23 MF, if I'm correct. I'm not sure if that's his
24 badge number, I'd have to check. He has been the
25 training lieutenant since I've been the Chief of

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1 Police since 2014, so --

2 Q. Did I ask you if you've seen this before, this
3 exhibit, the search and seizure?

4 A. Is that the one I'm holding.

5 Q. Exhibit 8. Have you ever seen a document marked
6 as Exhibit 8 before?

7 A. I have not.

8 Q. Let me direct your attention to Page 10 of the
9 exhibit. There's a slide there labeled exceptions
10 to the search warrant requirement; do you see
11 that?

12 A. I do.

13 Q. And there are ten exceptions listed.

14 A. Yes.

15 Q. Is it your understanding that those are the legal
16 exceptions to the requirement of obtaining a
17 search warrant?

18 A. Yes.

19 Q. Number 10 says community care; do you see that?

20 A. I do.

21 Q. Is that the community caretaking function that you
22 were talking about beforehand?

23 A. I believe it is.

24 Q. Okay. Then if you go to Page 32, there is a slide
25 entitled Community Caretaking Function; do you see

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1 that?

2 A. Yes.

3 Q. Does that slide set forth your understanding of
4 the community caretaking function?

5 A. Not in its entirety. It's one example that's
6 presented here.

7 Q. When you say one example, do you mean the one
8 decision or -- well, let me back up. What do you
9 mean by there's one example here?

10 A. There is one particular case that is
11 referenced, and above that it mentions the
12 counselor, midwife, emissary, measurement taker -
13 tasks not involved with apprehension of alleged
14 criminals.

15 Q. What's your understanding of what that means?

16 A. I think that's an example of one caretaking
17 function, people involved in a caretaking
18 function.

19 Q. Okay. Then you mention one case. By that do you
20 mean the reference to the second bullet point
21 referencing State versus Roussell?

22 A. Yes.

23 Q. Are you aware of any other Rhode Island decisions
24 involving the community caretaking functions?

25 A. No, I'm not.

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1 Q. Are you aware of any decisions involving the
2 community caretaking function that do not involve
3 a motor vehicle?

4 A. No.

5 Q. So to put it the other way around, would it be
6 fair to say that all the community caretaking
7 function decisions, court decisions of which
8 you're aware, involve a motor vehicle?

9 A. Yes.

10 Q. Have you heard of the Rhode Island Police
11 Accreditation Commission?

12 A. Yes.

13 Q. What's your understanding of that?

14 A. We are a member of the Rhode Island Police
15 Accreditation Commission, and similar to CALEA,
16 they certify that local Rhode Island police
17 departments meet certain standards and procedures,
18 policies.

19 Q. Okay. Are you involved yourself with the
20 accreditation commission?

21 A. Not on the commission. We are an accredited
22 agency though, under RIPAC.

23 Q. All right. So, the Cranston Police Department is
24 accredited under both CALEA and RIPAC?

25 A. That's correct.

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1 A. No.

2 Q. In your experience did the Rhode Island State
3 Police ever seize a police officer's firearm
4 pursuant to the community caretaking function?

5 A. Not in my experience.

6 Q. Did the Cranston Police Department ever require a
7 police officer to go for a psychiatric evaluation
8 pursuant to the community caretaking function?

9 A. I'm trying to think -- I think the person
10 went voluntarily. So not since the time I've been
11 there since 2014.

12 Q. Has the Rhode Island State Police ever required a
13 police officer to go for a psychiatric evaluation
14 pursuant to the community caretaking function?

15 A. Not to my knowledge.

16 Q. We've heard the phrase that firearms were seized
17 for safekeeping?

18 A. Right.

19 Q. Okay. What's your understanding of what
20 safekeeping means?

21 A. Basically, separating firearm from a person
22 that's in a crisis or imminent threat to
23 themselves.

24 Q. Is that pursuant to the community caretaking
25 function, or some other authority?

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1 A. Community caretaking function.

2 Q. Okay. Do you know whether either the Cranston
3 Police Department or the Rhode Island State Police
4 have used any studies or data or reports to
5 determine when it is appropriate to seize firearms
6 pursuant to the community caretaking function?

7 A. Not to my knowledge.

8 Q. I think I asked you this, but just to be clear I'm
9 going to ask again, do you know how often the
10 Cranston Police Department seizes firearms
11 pursuant to the community caretaking function?

12 A. I do not know.

13 Q. Can you estimate?

14 A. It wouldn't be fair for me to estimate.

15 Q. Do you know how many times a year does the
16 Cranston Police Department respond to a residence
17 for a domestic incident?

18 A. Not specifically, no.

19 Q. Can you approximate?

20 A. I can just say it's frequent. I can't give
21 you a number.

22 Q. Would it be hundreds of times a year?

23 A. We handle 100,000 calls a year, and it would
24 be fair to say it's over 100, well over 100.

25 Q. Any idea what percentage of the hundreds of

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1 A. No, I wouldn't.

2 Q. If I expanded to ask for the United States would
3 you know?

4 A. No.

5 Q. Do you know if there are any studies, reports or
6 data that indicate that seizing firearms for
7 safekeeping has reduced suicides?

8 A. Not specifically, but I do know one of the
9 Number 1 causes of firearm deaths are a result of
10 suicides being reported.

11 Q. Do you know how many suicides -- let me ask -- I'm
12 going to run through the same series of questions.
13 How many suicides by firearm are there each year
14 in Cranston?

15 A. I don't have a number on that.

16 Q. Can you estimate?

17 A. I can't. I know it fluctuates as well.

18 Q. Do you know how many suicides by firearm there are
19 in Rhode Island each year?

20 A. No, I do not.

21 Q. Do you know how many suicides there are by firearm
22 in the United States each year?

23 A. I do not.

24 Q. Do you know either in Cranston, Rhode Island, or
25 the United States as a whole, what percentage of

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1 the homes with firearms have a suicide caused by
2 firearm?

3 A. I do not.

4 Q. Do you know if it's like one in 1,000, one in
5 100,000, one in a million?

6 A. I wouldn't venture a guess.

7 Q. Would that be relevant to the Cranston Police
8 Department's policy of seizing firearms for
9 safekeeping?

10 A. No.

11 Q. Why not?

12 A. Because it's a judgment decision made by that
13 officer based on what's in front of him. It's not
14 based on statistical analysis.

15 Q. Does the Cranston Police Department use written
16 forms to obtain consent to conduct searches?

17 A. Yes.

18 Q. Does it have a policy or procedure with respect to
19 obtaining written consents for searches?

20 A. I believe so.

21 Q. Okay. Do you know if the Cranston police obtained
22 a written consent to search Mr. Caniglia's home
23 for firearms?

24 A. I do not believe so.

25 Q. Why not?

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1 A. Let me back up. I actually -- I believe they
2 received verbal consent, not written consent. I
3 don't know if you specify in your question.

4 Q. I'm specifying written consent.

5 A. Written consent, not to my knowledge. I
6 don't believe so.

7 Q. Just so we're clear, the Cranston police do use
8 written consent form for searches?

9 A. Yes. And we also accept verbal consents as
10 well.

11 Q. Did Mr. Caniglia give verbal consent to search for
12 his firearms?

13 A. I do not believe so.

14 Q. Okay. Did anyone give verbal consent to search
15 for firearms?

16 A. According to the report, Mrs. Caniglia gave
17 consent.

18 Q. Okay. Do you know whether or not Mrs. Caniglia
19 can legally give consent to search for
20 Mr. Caniglia's firearms?

21 A. Based on my knowledge of the fact that they
22 live together, I do believe that she has authority
23 to give consent.

24 Q. What do you base that on?

25 A. Constitutional law, Fourth Amendment. She

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1 it's clear that he wanted to end his life, and he
2 wanted her to do it.

3 Q. Why do you say it's clear?

4 A. Based on the statements that were given
5 Officer Mastrati there is a thing called assisted
6 suicide, that's what I would call that situation.

7 Q. Do you know whether officer -- excuse me, whether
8 Mr. Caniglia ever made a threat to use the gun on
9 himself?

10 THE WITNESS: A threat that he would
11 use the gun on himself?

12 MR. LYONS: On himself.

13 A. No, I'm not aware of that.

14 Q. Do you know whether or not Mr. Caniglia ever
15 threatened to use any weapon on himself?

16 A. Not that I'm aware of.

17 Q. If you look, you referred to the sentence at the
18 beginning of the third paragraph of the narrative,
19 can you go to the last sentence?

20 THE WITNESS: In the third
21 paragraph?

22 MR. LYONS: In the third paragraph.

23 A. Yes.

24 Q. Okay. It says, quote, "She," referring to Kim
25 Caniglia, "stated she was not scared for her own

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1 it's very serious for somebody to make that
2 statement and actually produce a firearm.

3 Q. Do you know whether Mr. Caniglia had ever made any
4 alleged prior threats of suicide?

5 A. I'm not aware.

6 Q. Other than the alleged statement of putting the
7 firearm and a magazine in front of his wife and
8 saying shoot me, are you aware of whether or not
9 Mr. Caniglia ever made any other statement that
10 would be considered suicidal?

11 A. I am not.

12 Q. Do you know who made the decision to seize
13 Mr. Caniglia's firearms?

14 A. Yes.

15 Q. Who?

16 A. Captain Henry.

17 Q. Is the Cranston Police Department aware of the
18 Second Amendment?

19 A. Yes.

20 Q. Is the Cranston Police Department aware of a
21 provision in the Rhode Island Constitution that
22 provides for a right to keep and bear arms?

23 A. Yes.

24 Q. Is the Cranston Police Department aware of the
25 Fourth Amendment?

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1 A. Yes.

2 Q. Is the Cranston Police Department aware of a
3 similar amendment in the Rhode Island
4 Constitution?

5 A. Yes.

6 Q. Is the Cranston Police Department aware of the due
7 process clause of the Fourteenth Amendment?

8 A. Yes, we were.

9 Q. Is it aware of the due process provision in the
10 Rhode Island Constitution?

11 A. Yes.

12 Q. I may have asked this already, but just in case,
13 I'm asking again, are you aware of the Rhode
14 Island Firearms Act?

15 A. No.

16 Q. Is the Cranston Police Department aware of the
17 Rhode Island Firearms Act?

18 A. Any members of our department that is aware?
19 I don't know.

20 Q. Okay. Are you aware that there is a Firearms Act?

21 A. Yes. I just don't know what chapter and what
22 specifically is underneath it.

23 Q. Are you aware whether the Rhode Island Firearms
24 Act provides any rights to people who own
25 firearms?

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1 A. No.

2 Q. Do you know whether it provides for the
3 circumstances under which a person can be deprived
4 of their firearms?

5 A. Yes.

6 Q. Okay. We've looked at certain provisions of the
7 mental health law?

8 A. Yes.

9 Q. In 2015 were you aware of the Rhode Island Mental
10 Health law?

11 A. Not specifically, but not the exact statute
12 but in general terms, yes.

13 Q. Okay. Was it also true of the Cranston Police
14 Department?

15 A. Yes.

16 Q. Do you know whether the Cranston Police Department
17 has ever previously been sued for seizing a
18 person's weapons?

19 A. I'm not aware if they have or not.

20 Q. Are you specifically aware, for example, whether
21 my office has previously sued the Cranston Police
22 Department for seizing someone's weapons?

23 A. No.

24 Q. Do you know if Mr. Caniglia made a threat to harm
25 anyone else?

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1 A. Not that I'm aware of.

2 Q. Other than the community caretaking function, are
3 you aware of any other authority that the Cranston
4 Police Department allegedly had in 2015 to seize
5 Mr. Caniglia's firearms?

6 A. No.

7 Q. Other than the community caretaking function, are
8 you aware of any other authority that the Cranston
9 Police Department allegedly had to transport him
10 for a psychiatric evaluation?

11 A. No.

12 Q. Let me show you what was previously marked as
13 Exhibit 25 during Captain Henry's deposition and
14 ask if you've seen this before?

15 A. No, I've never seen this before.

16 Q. Okay. This is entitled "Re: Caniglia return of
17 firearms." Apparently it was created by BCI
18 Detective Michael Caramante. At the bottom there
19 are two different lines, one of which says
20 captain's signature denying the return of weapons,
21 and there appears to be a signature and a date of
22 9-1-15; do you see that?

23 A. Yes.

24 Q. Do you recognize the signature?

25 A. I don't.

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1 Q. Okay. Do you know whether any captain on
2 September 1st, 2015 made a decision to deny the
3 return of Mr. Caniglia's firearms?

4 A. No.

5 Q. Do you know on what basis any such decision would
6 have been made?

7 A. I was just going to read this quickly if I
8 could.

9 MR. LYONS: Okay. Sure.

10 (PAUSE)

11 A. I don't -- I can tell you we generally don't
12 release property to anybody other than the
13 property owner.

14 Q. Do you know if Mrs. Caniglia was told that?

15 A. I don't.

16 Q. Okay. So just so I understand, it was the
17 Cranston Police Department's position that
18 Mrs. Caniglia had the authority to have her
19 husband's firearms seized, but did not have the
20 authority to take them back?

21 A. No. She had the authority to allow us to
22 consent to search the residence.

23 Q. So she consented to a search of the residence, she
24 did not consent to seizure of the firearms?

25 A. Correct.

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1 Q. Above that there's a line that says captain's
2 signature authorizing the release of firearms;
3 there's a signature there, do you see that?

4 A. Yes.

5 Q. Do you recognize that signature?

6 A. Yes.

7 Q. Is that Captain Quirk?

8 A. No, I believe that's Captain Karen
9 Guilbeault.

10 Q. Oh, okay. Do you know who it was that made the
11 decision -- I think you said you made the decision
12 to release his firearms?

13 A. That's correct. Yes.

14 Q. This is dated 12-22-15; do you see that?

15 A. Yes.

16 Q. As I understand it, you thought you made the
17 decision to release the firearms back in early
18 October of 2015?

19 A. Yes.

20 Q. Do you know why it would have taken until late
21 December to actually release them?

22 A. I do not know.

23 Q. Did you ever see Mr. Caniglia's records from Kent
24 Hospital?

25 A. No, I did not.

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1 scene. I don't want to say every single time,
2 because there is underlying circumstances and
3 people that are interviewed, that we assess the
4 credibility of that threat. Obviously, in this
5 situation, they had reason to believe that the
6 caller exaggerated. I don't know what led them to
7 determine that, but it's a different situation.

8 Q. When you say this situation, you mean -- Exhibit
9 26?

10 A. Yes.

11 Q. Is it the position of the Cranston Police
12 Department that the community caretaker function
13 gave it the authority to seize Mr. Caniglia's
14 firearms even if he objected?

15 A. Yes.

16 Q. Is it the position of the Cranston Police
17 Department that the community caretaker function
18 gave it the authority to require him to go for a
19 psychiatric evaluation even if he objected?

20 A. Yes.

21 Q. I've asked you a lot of questions. Is there
22 anything we have not discussed about
23 Mr. Caniglia's incident that you think is
24 important?

25 A. I don't believe so. I wasn't there, so I'm