

Colonel Michael Winquist - June 20, 2018

7

1 A. Within the last few weeks, whenever --

2 Q. Ms. Murphy --

3 A. -- Ms. Murphy or somebody from DeSisto Law
4 contacted me and tried to make arrangements to set
5 it up, but there was interrogatories, so I
6 anticipated that this would take place at some
7 point in time.

8 Q. Okay. Between when you learned this deposition
9 would take place and today, what did you do to
10 prepare?

11 A. I did meet with Attorney Murphy, and I did
12 review the police report and some of our
13 department policies.

14 Q. Did the review of the police report and department
15 policies occur when you met with Ms. Murphy?

16 A. Yes.

17 Q. Aside from the meeting with Ms. Murphy where you
18 looked at those documents, did you do any other
19 preparation?

20 A. No.

21 Q. When you say the police report, are you referring
22 to the incident report?

23 A. Yes, that's correct.

24 Q. Okay. And the department policies, do you recall
25 which ones you looked at?

Colonel Michael Winquist - June 20, 2018

8

1 A. Mental health policy, and a BCI policy.

2 Q. Were there any other policies you looked at?

3 A. I believe a domestic violence policy as well.

4 Q. Did you speak with any other Cranston police
5 officers about this case?

6 A. I have not.

7 Q. Okay. Are you aware that other Cranston police
8 officers have had their deposition taken?

9 A. No -- I don't know who, but I know this case
10 is ongoing. So I am aware that some officers have
11 been deposed, but I'm not even sure who has been
12 deposed as of now. I was away on vacation, out of
13 state, for the last two weeks, so...

14 MR. LYONS: Hopefully someplace nice and
15 relaxing.

16 THE WITNESS: Florida.

17 Q. Have you seen the transcripts of any depositions?

18 A. I have not.

19 Q. Does the Cranston Police Department have any
20 photographs or videos respecting the incident with
21 Mr. Caniglia?

22 A. I do not believe so.

23 Q. Okay. What is your date of birth?

24 A. 3-9-69.

25 Q. And where were you born?

Colonel Michael Winquist - June 20, 2018

16

1 well, but 28 years go by quick. I know that was
2 like a foundation of what we were taught.

3 Q. Okay. Do you recall if you had any courses on
4 when it was appropriate to seize property of some
5 kind without a warrant or a court order?

6 A. Yes.

7 Q. And what do you recall about that?

8 A. Can you be specific? We could probably go on
9 all day about search and seizure. We went through
10 the Fourth Amendment, how to apply for search
11 warrants, things of that nature. Even though I
12 was a road trooper, you generally don't do that,
13 but you do that as a detective; frequently we'd
14 apply for search warrants.

15 Q. Right. I'm setting aside the circumstances where
16 you applied for a search warrant or you have some
17 other court order.

18 A. Okay.

19 Q. Do you recall what they told you about, the
20 circumstances under which it is appropriate for a
21 police officer to seize property without a warrant
22 or a court order?

23 A. Yes.

24 Q. Okay. What do you recall about that?

25 A. Well, there is a number of exceptions to the

Colonel Michael Winquist - June 20, 2018

17

1 Fourth Amendment to have to apply for a warrant.
2 So, you know, there is obviously automobile
3 exceptions, exigent circumstances. There is a
4 whole list of different exceptions to the Fourth
5 Amendment Search and Seizure law.

6 Q. What do you recall about the automobile exception?

7 A. Because a vehicle is movable, that if there
8 is probable cause, you can search the vehicle at
9 that time because of the fact that the evidence
10 could leave quickly, and so on and so forth. So
11 if something is in plain view, Plain View
12 Doctrine, several things that apply in those
13 situations.

14 Q. How about exigent circumstances, what do you
15 recall about that?

16 A. Pretty much if somebody's safety is in
17 imminent risk of safety to a person, that you can,
18 you know, make entry or search and seize property
19 at that time, at least secure it, and especially
20 with automobiles, obviously, because they're
21 movable objects.

22 Q. Okay. Do you recall if you received any
23 instruction that you could seize, for example, a
24 firearm in a residence without a warrant or a
25 court order?

Colonel Michael Winquist - June 20, 2018

18

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

Colonel Michael Winquist - June 20, 2018

19

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

Colonel Michael Winquist - June 20, 2018

20

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

Colonel Michael Winquist - June 20, 2018

21

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

Colonel Michael Winquist - June 20, 2018

22

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

Colonel Michael Winquist - June 20, 2018

23

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?

Colonel Michael Winquist - June 20, 2018

31

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

Colonel Michael Winguist - June 20, 2018

28

1 the Rhode Island State Police Academy. I would
2 think they're very similar. Some of the
3 instructors are actually instructors at both
4 academies; I'm aware of that.

5 Q. Does the municipal police training academy provide
6 training or education now with respect to the
7 community caretaking function?

8 A. I am not aware if they do or not.

9 Q. Does the civil rights committee address anything
10 so far besides the Comprehensive Community Police
11 Relations Act?

12 A. No.

13 Q. How about the legislative committee, what does it
14 do?

15 A. The legislative committee reviews legislation
16 at the State House that's being presented, and in
17 some position we take a stance on some of the
18 legislation, and then also keep our fellow chiefs
19 apprised of what type of legislation is being
20 presented at the State House and any changes that
21 are actually -- new laws that are passed.

22 Q. All right. It has come up during the course of
23 this case that last year, meaning 2017, there was
24 an amendment to the mental health statute with
25 respect to police requiring people to go for a

Colonel Michael Winquist - June 20, 2018

29

1 psychiatric evaluation?

2 A. Yes, I'm aware of that.

3 Q. Were you involved in that legislation last year?

4 A. I was not.

5 Q. Oh, okay. What's your understanding of why that
6 legislation came into being?

7 A. Well, Chief Pizzari (phonetic), who I know
8 personally, had mentioned that in the particular
9 mental health statute -- it might be the mental
10 health statute, but in a particular statute, I
11 don't recall which one, there was no mention of
12 specific ability for a law enforcement officer to
13 take somebody against their will to a mental
14 health facility. So my understanding is that law
15 has been changed to allow for that, or specify
16 that.

17 Q. Has the Police Chiefs Association had any internal
18 communications or discussion about the authority
19 of police to seize firearms for safekeeping?

20 A. Yes.

21 Q. Okay. What kind of discussions have they had
22 about that?

23 A. The Red Flag law is a law that the
24 association supported and actually helped draft.

25 Q. And my understanding is that was passed this year?

Colonel Michael Winquist - June 20, 2018

30

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

Colonel Michael Winquist - June 20, 2018

31

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.

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16 to go for a psychiatric evaluation pursuant to the
17 community caretaking function?

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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

Colonel Michael Winquist - June 20, 2018

57

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

Colonel Michael Winquist - June 20, 2018

58

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.

Colonel Michael Winguist - June 20, 2018

59

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?

Colonel Michael Winquist - June 20, 2018

78

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

Colonel Michael Winkvist - June 20, 2018

113

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?

Colonel Michael Winkuist - June 20, 2018

114

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?

Colonel Michael Winquist - June 20, 2018

116

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.

Colonel Michael Winkuist - June 20, 2018

126

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