

Exhibit “1”

***Deposition Transcript of
Colonel Michael Winkvist
June 20, 2018***

In The Matter Of:

*Caniglia vs
Strom, et al*

*Colonel Michael Winkvist
June 20, 2018*



Min-U-Script® with Word Index

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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 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 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 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 You may answer.

2 A. They're not there to diagnose somebody,
3 they're to recognize the symptoms and signs that
4 are indicative of somebody suffering from mental
5 health or a temporary crisis.

6 Q. Right. But does a police officer just know that
7 intuitively, or does he base that on the other
8 training which he has received, for example, these
9 PowerPoint presentations?

10 A. I think it's a combination of both. I mean,
11 it's formalized training, and there is actual
12 experience.

13 Q. Is that also true with attempting to diagnose --
14 let me withdraw the question. With respect to
15 determining whether or not somebody is or is not
16 suicidal, does that come from the mental health
17 training, such as the PowerPoints, or does it also
18 come from on-the-job experience?

19 A. Both. Yes.

20 Q. Okay. How would it come from on-the-job
21 experience?

22 A. We respond to attempted suicides. So, often
23 we interview those people, or we interview people
24 around them, and we are able to find out what led
25 to that particular incident or, unfortunately,

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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 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?

Exhibit “2”

***Deposition Transcript of
Captain Russell C. Henry, JR.
June 13, 2018***

In The Matter Of:

*Caniglia vs
Strom, et al*

*Cpt. Russell C. Henry, Jr.
June 13, 2018*



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1 working as a police officer, or was that before?

2 A. Before.

3 Q. Oh, okay. So how long was the mini school?

4 A. Six weeks, which I believe was the end of
5 1992. So, I think I stated I have done that while
6 I was a police officer; I misspoke. That was
7 right before I got hired. Based on the results of
8 the mini academy, I was hired in February '93.

9 Q. Okay. Do you recall what the topics were of
10 instruction during the mini academy?

11 A. I don't specifically. It was general law
12 enforcement topics.

13 Q. All right. Did it include constitutional law?

14 A. I don't recall specifically the topics.

15 Q. All right. Do you have any written materials from
16 when you went to the mini academy?

17 A. I don't believe that I do.

18 Q. How about when you went to the police training
19 academy, do you recall what the topics of
20 instruction were?

21 A. Not every topic, no. But again, general law
22 enforcement, defensive topics, report writing,
23 driving, firearms.

24 Q. Did you receive any instruction on when it is
25 appropriate to hold or detain a person without

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1 arresting them?

2 A. May have been, I don't specifically recall.

3 Q. Okay. Did you receive any instruction at the
4 police training academy about when it is
5 appropriate to seize property without a warrant or
6 a court order?

7 A. May have. Specifically I don't recall the
8 exact curriculum.

9 Q. Okay. As we go through this deposition, what's
10 going to happen is you may answer a question that
11 you don't remember, and then I may follow up with
12 a more specific question to see if that prods your
13 recollection, it may not, but that's what I'm
14 doing. I'm not asking the question just to be
15 annoying.

16 A. Again, there may very well have been, I just
17 don't know for sure 25 years later if that was the
18 case.

19 Q. That's fine. Some people have remarkable
20 memories --

21 A. I remember the bigger topics but, you know,
22 even today if you look at the police academy
23 curriculum, there is four-hour blocks, two-hour
24 blocks of different things. They cover many, many
25 topics in the 22 weeks it is now.

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1 Q. Okay. When you were at the police training
2 academy, did you have any instruction on when, if
3 ever, it is appropriate to seize weapons for
4 safekeeping?

5 A. May have been, I don't specifically recall.

6 Q. Okay. Did you have any training, any instruction
7 at the police training academy on the community
8 caretaking function?

9 A. May have been. I don't specifically recall.

10 Q. Okay. Did you have any training or education at
11 the police training academy on domestic violence
12 issues?

13 A. Yes.

14 Q. What do you recall about that?

15 A. I believe in 1993 the domestic violence laws
16 had just recently been enacted and the mandatory
17 arrest was part of that. So that was a new topic
18 for law enforcement across the state that would be
19 rolled out, I believe that was in 1992, if I
20 remember correctly.

21 Q. Do you recall anything else about the instruction
22 or education on domestic violence issues at the
23 training academy?

24 A. Specifically, no.

25 Q. Did you receive any instruction at the police

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1 community caretaking function?

2 MR. LYONS: Right.

3 A. My understanding would be as long as the
4 community caretaking function is not used to
5 collect evidence to prosecute a crime, that would
6 be the limit.

7 Q. Okay. Otherwise, whenever the police believe
8 they're acting to protect an individual or the
9 community, they're authorized to take whatever
10 steps they think are appropriate?

11 A. Whatever reasonable steps -- whatever we feel
12 is reasonable based on the facts and circumstances
13 that exist at the time.

14 Q. All right. How does the police determine what is
15 reasonable under the community caretaking
16 function?

17 A. I think it's in the eyes of the beholder, you
18 know, the person who is on scene collecting all
19 the facts, all information they can, make the most
20 reasonable decision to resolve the situation.

21 Q. Are there any sets, to your knowledge, of written
22 factors, criteria, protocols that are offered as
23 guidelines to a police officer who is on the scene
24 attempting to determine whether or not he or she
25 has the authority to act under the community

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1 caretaking function?

2 A. Maybe -- can I have her repeat that? I'm not
3 sure I understand the question.

4 (QUESTION READ)

5 A. No.

6 Q. Do you know what training is offered to members of
7 the Cranston Police Department as to the scope of
8 their authority to act under the community
9 caretaking function?

10 A. Training? There may have been specifically,
11 I don't recall. That would be a better question
12 for the training lieutenant.

13 Q. Okay. And who would that be?

14 A. Lieutenant Mark Freeborn. He's probably the
15 person that provided training records issued
16 earlier.

17 Q. You referred earlier respecting the Bureau of
18 Criminal Identification?

19 A. Yes, sir.

20 Q. Let's take a look at that now. Let me show you
21 what was previously marked as Exhibit 5 during
22 Officer Mastrati's deposition, and ask you if this
23 is the criminal order to which you referred?

24 A. This is the general order --

25 MR. LYONS: I'm sorry, yes, the

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1 A. Some time the day before, correct.

2 Q. So, was there anything, to your knowledge, that he
3 said the next morning when the police officers
4 spoke to him, besides what had occurred in the
5 prior evening that indicated that he was
6 imminently dangerous?

7 A. Not that I recall at this time.

8 Q. All right. So why do the prior evening events
9 make him imminently dangerous the next day?

10 A. Well, the behavior that took place the day
11 before with the firearm caused the wife to be
12 alarmed enough to leave the residence. Officers
13 took that into consideration, based on the actions
14 he took with the firearm, the statements he wanted
15 the wife to use it on him to end his life, the
16 fact that he still had the firearm available to
17 him, the officers thought it was reasonable to
18 have him brought to a medical facility and to be
19 evaluated. It's my understanding that the wife
20 turned the firearms over to the officers
21 voluntarily.

22 Q. Do you know whether the Cranston Police Department
23 consulted with any medical professional in
24 determining the circumstances under which a person
25 is imminently dangerous to himself or others?

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1 Q. Okay. And where do they derive the
2 reasonableness?

3 A. Based on training, experience, alternatives
4 to the decision that they're going to make,
5 potential consequences for not taking the action.

6 Q. Have the Cranston police received any training --

7 A. Can I add to that last answer? Potential
8 consequences that may result from not taking
9 action.

10 Q. Okay. Have the Cranston police received any
11 formal training in determining whether or not
12 someone is imminently dangerous?

13 A. No, not that I know of.

14 Q. And how, from their experience, would the Cranston
15 police determine whether or not somebody was
16 imminently dangerous?

17 MR. CUNNINGHAM: Objection.

18 A. I don't even know if there is an actual
19 definition of imminently dangerous. I think it's
20 a case-by-case basis based on the facts that a
21 reasonable person is presented with.

22 Q. So what I'm getting at is if you have two similar
23 situations and two different police officers, is
24 it possible for them to come to two different
25 conclusions as to whether or not the person

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1 of these conditions apply to him?

2 Q. I'm asking whether any of them were considered,
3 specifically considered. Let me withdraw the
4 question. Let me put it this way: You recall
5 having a discussion with an officer who was at
6 Mr. Caniglia's home at the time -- phone
7 conversation at the time of the alleged incident?

8 A. Right.

9 Q. Did you, in the course of that conversation,
10 discuss any of these factors or warning signs or
11 questions that are set forth in Pages 43, 44 or 45
12 of the exhibit?

13 A. Well, the sergeant told me that -- he asked
14 the wife to kill him, end his life. So although
15 he didn't threaten, which would fit this criteria
16 on Page 44, he did speak -- ask the wife to do it,
17 told her he wanted her to end his life. So to me
18 that's synonymous with suicide. He wanted the
19 wife to do it. Some people commit suicide by
20 police, because they don't want to do it
21 themselves. It was my impression he wanted his
22 life ended by the wife. That was one of the
23 factors.

24 Q. Okay. Do you know if the wife said that she
25 believed that Mr. Caniglia wanted her to kill him?

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1 In other words, did the wife believe that
2 Mr. Caniglia wanted his wife to kill him?

3 MR. CUNNINGHAM: Objection.

4 A. I don't know what the wife believes, other
5 than she believed she was in danger, and she left
6 the house for the night.

7 Q. Did the wife say that she was in danger, she
8 believed she was in danger?

9 A. My understanding is that is what was relayed
10 to the officers on scene.

11 Q. Okay. Again, that was from the phone conversation
12 you had with an officer who was at the scene?

13 A. Yes.

14 Q. Do you know if any of the other warning signs of
15 suicide were considered with respect to
16 Mr. Caniglia?

17 A. Talking about or writing about dying of
18 suicide -- the conversation he had with his wife
19 about dying meets that third criteria. I would
20 say agitation was one of them, because I believe
21 they said there was a trivial argument over a
22 coffee mug. As far as the questions to ask, I
23 don't know if they read any of those verbatim. I
24 doubt they had this available to them.

25 Q. Do you know if anything else was considered or

Cpt. Russell C. Henry, Jr. - June 13, 2018

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1 when you answered your interrogatories, and you
2 looked at it again yesterday?

3 A. Yesterday.

4 Q. And none of those times refreshed your
5 recollection as to what had happened?

6 A. No.

7 Q. When I say refreshed your recollection, I meant
8 brought about an independent recollection of the
9 events?

10 A. No. I hate to --

11 MR. CUNNINGHAM: Go ahead, I thought
12 you were going to say something we talked about.

13 A. It was just what I -- to the point where I
14 don't remember if it was a phone call I was
15 informed of this, or it was me actually driving by
16 the scene and the sergeant came out and told me.
17 So I don't even recall exactly what method the
18 conversation took place by. We checked the
19 dispatch log, it wasn't on it, so I'm assuming
20 it's a phone call. Can I explain?

21 MR. CUNNINGHAM: Sure.

22 A. Because the way the police department is
23 structured, I explained this to Ms. Murphy just as
24 background --

25 MR. CUNNINGHAM: Not anything you

Exhibit “3”

Deposition Transcript of

Officer John Mastrati

May 31, 2018

In The Matter Of:

*Caniglia vs
Strom, et al*

*Officer John Mastrati
May 31, 2018*



Min-U-Script® with Word Index

Officer John Mastrati - May 31, 2018

14

1 academy at night?

2 A. Yes. It was after our normal day.

3 Q. Oh, okay. So you had other kinds of training
4 during the day, and the class training was at
5 night?

6 A. Yes. They would have normal trainings of
7 whatever we were allotted for that specific
8 training during the day, and then the day usually
9 ends at 5:00, and they would extend it past that.
10 Usually 5:00 to 7:00 would be the law classes.

11 Q. Did you have any classes at the police training
12 academy when it is appropriate to take a person
13 into custody without arresting them?

14 A. Yes, it would be tied in with the law
15 classes.

16 Q. What do you understanding when it is appropriate
17 to take a person into custody without arresting
18 them?

19 A. It could be for interviews, witnesses.

20 Q. Any other circumstances?

21 A. Not that I can think of right now.

22 Q. Okay. Did you have classes on when it's
23 appropriate to seize any kind of property without
24 a warrant?

25 A. Yes.

Officer John Mastrati - May 31, 2018

18

1 told someone that they had to go for a psychiatric
2 evaluation?

3 A. Not usually. I request it. Regardless of
4 the answer, I'll have the rescue come down and
5 evaluate them.

6 Q. And if the person says I don't want to have a
7 psychiatric evaluation, what do you do then?

8 A. I still go call for the rescue to check that
9 person out depending -- I'm not a medical
10 professional, so I'll let them evaluate them, and
11 if they say they need to go, then they go.

12 Q. So, your understanding is that the rescue can
13 require someone to go for a psychiatric
14 evaluation?

15 A. Yes.

16 Q. Is the rescue that you call, is that the rescue
17 that is part of the Cranston Fire Department?

18 A. Yes.

19 Q. Okay. And your understanding is that's also part
20 of the City of Cranston?

21 MR. CUNNINGHAM: Objection.

22 THE WITNESS: The rescue?

23 MR. LYONS: Yes.

24 A. Yes.

25 Q. Do you have any of your written materials from the

Officer John Mastrati - May 31, 2018

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1 or procedure, whether written or unwritten, that
2 deals with the seizing of firearms for
3 safekeeping?

4 A. I don't think there is a policy specific for
5 that.

6 Q. I take it that means you've never seen a written
7 policy or procedure about seizing firearms for
8 safekeeping?

9 A. Yes.

10 Q. Yes, you've never seen a policy and procedure for
11 seizing firearms for safekeeping?

12 A. Specifically for safekeeping, yes.

13 Q. I just want to make sure when you say yes that
14 you're not saying yes, I have seen a policy.

15 A. I understand what you're saying.

16 Q. When a supervisor makes the decision to seize a
17 firearm for safekeeping, do you know, or does he
18 tell you on what basis he is making that decision?

19 MR. CUNNINGHAM: Objection.

20 A. I wouldn't know.

21 Q. Okay. In other words, the supervisor does not
22 explain to you why he's making a decision to seize
23 a firearm?

24 A. I mean, he could, he couldn't. If he tells
25 me to do something, it's an order.

Officer John Mastrati - May 31, 2018

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1 Q. All right. Who made the decision to seize the
2 firearms?

3 A. Captain Henry.

4 Q. Captain Henry was your supervisor?

5 A. He was the day shift commander, yes.

6 Q. Did Captain Henry come to the scene, or did you
7 talk to him on the phone?

8 A. I believe it was on the phone.

9 Q. Did you talk to -- when Mr. Caniglia had his
10 firearm and the magazine out, it's your
11 recollection that he had them in separate -- in
12 two separate hands, the magazine was in one hand,
13 and the gun was in the other?

14 A. Yeah, I believe that's what Kim told me.

15 Q. Okay. And Kim is his wife?

16 A. Yes.

17 Q. Okay. I just want to make sure we're clear about
18 that.

19 A. Yes. Yes.

20 Q. Did Mr. Caniglia, to your knowledge, make any
21 threat to use the firearm on himself?

22 A. I don't recall exactly. I believe he
23 asked -- I think he asked Kim to use it on him. I
24 would have to look at my report for what she said.

25 Q. And we will certainly do that, so I just want to

Officer John Mastrati - May 31, 2018

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1 Q. All right. Did you talk to Mr. Caniglia about his
2 firearms?

3 A. I don't recall.

4 Q. Okay. Did you ask Mr. Caniglia whether you could
5 take his firearms?

6 A. I don't recall.

7 Q. Did you ask Mrs. Caniglia whether you could take
8 Mr. Caniglia's firearms?

9 A. I believe that she suggested that we -- she
10 didn't want them in the house.

11 Q. Okay. Do you recall that specifically?

12 A. Yes, because there was a second firearm
13 involved that was, I believe, it was in the
14 garage, which we wouldn't have known of and she
15 pointed out. She's like there's also another one
16 in the garage that I would like to be taken.

17 Q. And did she say why she wanted them taken?

18 A. For the safety of Edward and herself.

19 Q. Did Mrs. Caniglia indicate she felt she was in
20 danger?

21 A. I think initially she was more concerned
22 about him. I think after the fact, just the
23 incident, she didn't want the firearms in the
24 house, just in case there was an incident that
25 happened after.

Officer John Mastrati - May 31, 2018

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1 Q. What was his demeanor?

2 A. I don't recall what his demeanor was. I know
3 he was cooperative with me. He wasn't abrasive or
4 aggressive.

5 Q. Was he calm?

6 A. I would say for the most part I was talking
7 to him. I imagine he was upset over the incident
8 that had taken place last night, because that's
9 generally what it stemmed from. Apparently, he
10 was going through a divorce, he told me.

11 Q. Your report says Edward stated he is not suicidal,
12 and he uses prayers to help him; do you see that?

13 A. I do.

14 Q. Do you recall him saying that?

15 A. I do. If I put it in my report, that's what
16 he told me. It's been three years but, yes, if
17 that's his statement then, yes, that's what he
18 told me.

19 Q. What I'm trying to do here is see by going through
20 the report and pointing out things if it actually
21 refreshes your recollection so you actually
22 remember now what happened, or if it's in your
23 report and you're saying I must have known it at
24 some point because I put it in the report, but I
25 don't remember it right now. Do you see the

Officer John Mastrati - May 31, 2018

81

1 distinction I'm making?

2 A. I do.

3 Q. So, what I'm going to try and find out is whether
4 or not in fact this does remind you, and you say,
5 oh, it comes back to me, so to speak, or you
6 simply say I don't remember it now, but that's
7 what I put in the report?

8 A. Okay.

9 Q. So, do you actually remember Edward saying he was
10 not suicidal?

11 A. I do.

12 Q. Okay. What was he like when he said that?

13 MR. CUNNINGHAM: Objection.

14 A. Again, he was calm, stating why -- I believe
15 I said why do you want to commit suicide, and
16 pretty much he was telling me that, convinced me
17 he's not suicidal.

18 Q. Did he convince you he was not suicidal?

19 A. No.

20 Q. Why not?

21 A. Just from his actions of taking out a weapon.
22 For me, I can't determine if someone is not
23 suicidal. To me, I felt that he was a risk to
24 himself.

25 Q. And you said based on the fact that he took out

Officer John Mastrati - May 31, 2018

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1 the handgun and the magazine and put them on the
2 counter?

3 A. Not a normal person would take out a gun and
4 ask his wife to end his life, to me. To me,
5 that's unusual behavior.

6 Q. Have you had any classes or courses which said
7 that that was suicidal behavior?

8 A. Yes. I mean, over my mental training,
9 they're indicators. Indicators would be not
10 wanting to live, taking out a weapon, asking
11 someone to end their life.

12 Q. Has someone ever said, or do you know if someone
13 has ever said I'm going to kill myself, but they
14 don't really mean they're going to kill
15 themselves?

16 MR. CUNNINGHAM: Objection.

17 A. They could. I mean, I don't know what that
18 person is thinking, so I act on what I see to
19 maybe prevent a situation from happening.

20 Q. Okay. And have you ever heard of somebody saying
21 Shoot me now --

22 MR. CUNNINGHAM: Objection.

23 Q. -- but they don't really mean shoot me now?

24 MR. CUNNINGHAM: Objection.

25 A. I heard it, but I don't know if they don't

Officer John Mastrati - May 31, 2018

83

1 mean it.

2 Q. Okay. If Mr. Caniglia had really meant for his
3 wife to shoot him, do you think he would have had
4 the magazine and handgun separate?

5 MR. CUNNINGHAM: Objection.

6 A. I don't know.

7 Q. Okay. Do you know if Mrs. Caniglia has ever used
8 the handgun?

9 A. I don't know.

10 Q. Do you know if she would know how to put the
11 magazine into the handgun?

12 A. I wouldn't know.

13 Q. Can you read to yourself the last sentence -- no,
14 let me withdraw the question. The next sentence
15 says, quote, "He stated that he had a friend who
16 committed suicide, and he would never do that to
17 family." Do you see that?

18 A. I do.

19 Q. Do you remember him saying that?

20 A. I do.

21 Q. Okay. How did he say that?

22 MR. CUNNINGHAM: Objection.

23 A. He told me pretty much in a calm way, the way
24 he was talking to me the whole time.

25 Q. Okay. Did he say it in a persuasive way?

Officer John Mastrati - May 31, 2018

85

1 Q. I believe you said earlier that you had the rescue
2 talk to Mr. Caniglia, and they said they were
3 going to take him to the hospital?

4 A. Yes.

5 Q. Okay. Does this -- does reading this sentence
6 change your recollection of what happened?

7 A. I think it's just the way it's worded. So, I
8 would call for rescue to speak with Edward. And
9 on part -- what their finding is, they -- it's
10 their decision if they're going to transport. So
11 I think when I probably spoke with them, I'd be
12 like would you be willing to talk to rescue and
13 maybe talk to somebody at the hospital, get
14 checked out. Just speaking to him in concern of
15 his well-being. And then rescue comes, they will
16 speak to him, and then that's their decision,
17 like, yes, we're going to talk to him or, no,
18 we're not going to take him.

19 Q. Do you have a specific recollection of hearing
20 Mr. Caniglia say that he was willing to go to the
21 hospital?

22 A. Yes. When I originally spoke with him.

23 Q. When you said he would go to the hospital, did you
24 say why you wanted him to go to the hospital?

25 A. No. I think it all stemmed off our

Officer John Mastrati - May 31, 2018

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1 A. Yes.

2 Q. Okay. It was your understanding the firearms
3 belonged to Mr. Caniglia?

4 A. According to Kim, yes.

5 Q. Okay. Did you ever ask Mr. Caniglia if you could
6 seize the firearms?

7 A. No.

8 Q. Do you know if any Cranston police officer asked
9 Mr. Caniglia if the Cranston police could seize
10 the firearms?

11 A. I don't know.

12 Q. You located one firearm under the bed?

13 A. Yes, that's where Kim pointed out that
14 firearm, that's where she told me it was where she
15 hid it initially when I spoke to her.

16 Q. She put it under the bed?

17 A. She stated, yes. After he took it out and
18 then she stated she didn't call 911, she left, and
19 then she hid it.

20 Q. Do you know where Mr. Caniglia usually kept that
21 firearm?

22 A. I do not.

23 Q. Do you know if he kept it under the bed?

24 A. I don't.

25 Q. Okay. In other words, you don't know if that was

Officer John Mastrati - May 31, 2018

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1 whether or not Kim indicated that she had any
2 concerns for her own safety?

3 MR. CUNNINGHAM: Objection.

4 A. Yes. Again, I didn't know -- all I knew,
5 there was one weapon there, one firearm. She
6 brought up the second firearm and she wanted it
7 removed from the household for his well-being, and
8 she also said she didn't want them because she
9 didn't know what he was going to do with him. For
10 me that's also for her well-being, that's why the
11 firearm was removed.

12 Q. All right. But did she say she wanted it removed
13 because of her own well-being?

14 A. No. Mostly for Edward's well-being.

15 Q. Are you aware of any occasion which Edward has
16 threatened to take his own life with a firearm?

17 MR. CUNNINGHAM: Objection.

18 A. No.

19 Q. Did Kim indicate that Edward had ever threatened
20 to take his own life with a firearm?

21 A. No.

22 MR. LYONS: Exhibit 3.

23 EXHIBIT 3 (PLAINTIFF'S EXHIBIT 3
24 MARKED FOR IDENTIFICATION)

25 Q. Officer Mastrati, let me show you what's been

Officer John Mastrati - May 31, 2018

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1 missing, that doesn't belong to somebody, that's
2 about it.

3 Q. Just so we're clear, you're not aware of any
4 general order that sets forth your authority to
5 seize property when there's not a criminal
6 process?

7 A. Yes.

8 Q. If you go to Page 5 of 6, there's a category which
9 is Roman Numeral IV entitled Search Incident to
10 Arrest; do you see that?

11 A. Yes.

12 Q. And what is your understanding of what is set
13 forth in this section?

14 A. So if you have somebody that's in custody,
15 you can search that person for any belongings,
16 contraband or weapons.

17 Q. Okay. So this section only applies to searches
18 you can do when there's a criminal process?

19 A. Yes.

20 Q. Has anyone ever told you that any of the
21 circumstances set forth here apply to a search
22 that can be done when there's not a criminal
23 process?

24 A. No.

25 (OFF THE RECORD)

Officer John Mastrati - May 31, 2018

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1 A. Yes.

2 Q. Is that what happened?

3 A. Yes.

4 Q. What are the criteria for involuntary emergency
5 psychiatric evaluation?

6 A. I'm sorry, not involuntary. I believe, yes,
7 it was involved, but I didn't have to force him to
8 have to go to the hospital. I requested it, which
9 he voluntarily did.

10 Q. So --

11 A. So the way -- I mean, these are guidelines,
12 I'm not going to escalate the situation by telling
13 somebody straight-out, you're going to the
14 hospital. So I talked to him, calmed him down, or
15 just made him feel comfortable, and then at that
16 point I said would you want to talk to someone due
17 to the situation and what's going on and all that,
18 which he voluntarily said okay. Which that would
19 have to do with the hospital, that had to do with
20 the rescue personnel. Whatever happened with the
21 rescue personnel, I don't know.

22 Q. Did you raise the idea of talking to someone at
23 the hospital, or did Mr. Caniglia?

24 A. Bringing it up? Yes, I asked him, would you
25 want to, to what the incident was. At that point

Officer John Mastrati - May 31, 2018

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1 I felt to help him, maybe suggest, instead of just
2 saying okay, see you later.

3 Q. I don't understand.

4 A. So, to what the incident was to what I felt I
5 needed to do, maybe see if he would want to get
6 help and talk. So instead of just clearing out
7 the call and just saying, okay, you don't want to
8 go, not offering him those services, I don't feel
9 I would have done enough for him on that call. So
10 I offered him, hey, listen, this is what you can
11 do, would you want to do it, and he stated yes,
12 which I had the rescue come, and then as far as
13 whatever happened as far as the transport to the
14 hospital, I don't know.

15 Q. What hospital did he go to?

16 A. I believe it was Kent.

17 Q. Is Kent a mental health facility?

18 A. I don't know. I don't know what they have to
19 offer there. That would be more in the hands of
20 the rescue personnel, because they deal with the
21 hospitals.

22 Q. Okay. You were not involved determining what
23 facility Mr. Caniglia went to?

24 A. No. I have no involvement with him going to
25 the hospital. My involvement was having him talk

Officer John Mastrati - May 31, 2018

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1 to the rescue personnel who is more trained with
2 the mental health issues and having them decide
3 from there. They have their own way of talking to
4 him and getting him help.

5 Q. So if the rescue had said he's fine, he doesn't
6 need to go anyplace, you would have been okay with
7 that?

8 A. Yes.

9 Q. If you go to the next page, Page 3, please,
10 there's a section entitled custody; do you see
11 that?

12 A. Yes.

13 Q. Was Mr. Caniglia taken into custody?

14 A. No.

15 Q. Then the two sections underneath there refer to
16 voluntary admission and involuntary admission; do
17 you see that?

18 A. Yes.

19 Q. And if I understand correctly, it's your
20 position -- well, I take it back. You don't know
21 what Mr. Caniglia and the rescue people discussed?

22 A. No.

23 Q. So, in terms of whether or not whatever decision
24 was made, you don't know whether or not at that
25 point Mr. Caniglia going to the hospital was

Officer John Mastrati - May 31, 2018

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1 A. I believe both.

2 Q. If you go to Page 8 -- actually, let me ask you a
3 question before that. Do you recall if you
4 attended this presentation in 2013?

5 A. I do.

6 Q. And did you attend this presentation in 2013?

7 A. I did.

8 Q. Okay. Now if you go to Page 8, there's a slide,
9 Number 23, it appears -- which is entitled Assess
10 for Risk of Suicide or Harm; do you see that?

11 A. I do.

12 Q. Okay. Do you recall seeing this slide in 2013?

13 A. I don't recall specifically.

14 Q. Okay. It says -- there are several bullet points
15 listed there, the first one says, "Individual may
16 be compliant, nod and say they understand, but may
17 not comprehend." Do you see that?

18 A. I do.

19 Q. Did Mr. Caniglia comprehend what you were saying
20 to him?

21 A. I believe he did.

22 Q. Okay. The next bullet point says, "People with
23 mental illness have seven times more contact with
24 the police officers during their lifetimes than
25 the person without a mental illness." Do you see

Officer John Mastrati - May 31, 2018

118

1 that?

2 A. I do.

3 Q. Are you aware of any other contact that
4 Mr. Caniglia had with police officers other than
5 the one incident in which you were involved?

6 A. No.

7 Q. The next bullet point says, "They may behave in
8 unusual ways that draw the attention of others
9 (posturing, laughing, staring)." Do you see that?

10 A. I do.

11 Q. Did Mr. Caniglia behave in any unusual ways that
12 drew the attention of others?

13 A. Just what I was told the way he acted, but as
14 I was talking to him, he seemed normal.

15 Q. When you refer to that, you're referring to the
16 argument he had with his wife the previous night?

17 A. Yes.

18 Q. The next bullet point says, "They may not readily
19 recognize or understand the badge, vehicle or
20 uniform"; do you see that?

21 A. Yes.

22 Q. Did Mr. Caniglia recognize and understand your
23 badge, vehicle and uniform?

24 A. I imagine he did, I spoke to him.

25 Q. Did he know you were a Cranston police officer?

Officer John Mastrati - May 31, 2018

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1 A. He did.

2 Q. The next bullet point says, "Allow yourself and
3 the individual an escape route, if appropriate,
4 appropriate for safety and to induce anxiety." Do
5 you see that?

6 A. I do.

7 Q. When you spoke with Mr. Caniglia, did you feel the
8 need to allow him an escape route?

9 A. No.

10 Q. Did you feel the need to allow yourself an escape
11 route?

12 A. No. The only thing I was worried about is
13 the firearm that he had, that's why I called him
14 outside. I wouldn't talk to him in his house.

15 Q. He did not bring the firearm out with him?

16 A. He was instructed to come out without a
17 firearm on the phone.

18 Q. Did he indicate he would have brought the firearm
19 out if you hadn't said so?

20 A. No.

21 Q. Did he say he even knew where the firearm was?

22 A. No.

23 Q. Did he say anything about the firearm when you
24 talked to him on the phone?

25 A. I can't remember if it was on the phone, he

Officer John Mastrati - May 31, 2018

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1 admitted to having the firearm and bringing the
2 firearm out. I'm just not sure if that was on the
3 phone or when I spoke to him in person, or both.

4 Q. When you said he admitted to bringing the
5 firearm --

6 A. Presenting the firearm during the argument.

7 Q. The previous night?

8 A. Yes.

9 Q. And then the last bullet point says, "Be prepared
10 to repeat questions and commands without showing
11 frustration." Do you see that?

12 A. I do.

13 Q. Did you have to repeat any questions or commands
14 to Mr. Caniglia?

15 A. No.

16 Q. Do you have any knowledge of any presentations on
17 mental illness that may have been given to the
18 Cranston police in 2008?

19 A. No.

20 Q. I believe I asked you earlier if you had any
21 knowledge of any state statutes dealing with
22 mental health?

23 A. You did.

24 Q. Your answer was no; is that correct?

25 A. Yes.

Exhibit “4”

***Deposition Transcript of
Officer Wayne Russell
July 20, 2018***

In The Matter Of:

*Caniglia vs
Strom, et al*

*Officer Wayne Russell
July 20, 2018*



Min-U-Script® with Word Index

Officer Wayne Russell - July 20, 2018

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1 apart from reviewing the incident report or --

2 A. Okay.

3 Q. -- stuff you heard from other officers?

4 A. That he was -- he was nice. He was very
5 polite.

6 Q. Okay.

7 A. He -- as far as I -- what I remember from
8 outside of the incident report, I believe I was
9 working overtime so I think I worked third before
10 that. He was very welcoming.

11 Q. Okay. When you say "he," you're talking about
12 Mr. Caniglia?

13 A. Yes, sir.

14 Q. Okay.

15 A. I didn't -- I don't believe I said anything to
16 him.

17 Q. Okay.

18 A. As far as I remember, I never went inside the
19 house.

20 Q. Okay.

21 A. I think myself and I think Officer Smith just
22 stood on the porch while Officer Mastrati and
23 Sergeant Barth spoke to him.

24 Q. Okay.

25 A. Besides that, I don't really --

Officer Wayne Russell - July 20, 2018

46

1 Q. Okay. Was Mr. Caniglia agitated or upset?

2 A. Not that I -- not that I can recall, no.

3 Q. Okay. When you were on the porch and you were
4 talking with him, did Mr. Caniglia ever indicate
5 that he wanted to harm himself?

6 MS. MURPHY: Objection. You may answer.

7 A. I was never speaking to him.

8 Q. (By Mr. Lyons) Okay. I'm asking what you may
9 have overheard.

10 A. Between Mastrati and --

11 Q. And Mr. Caniglia. Did Mr. Caniglia ever say
12 anything that indicated that he wanted to harm
13 himself?

14 A. I don't believe so. I think he might have
15 said between the argument with him and his wife,
16 "if you want me gone" or "you want to end this"
17 or something -- I don't remember the specifics,
18 though.

19 Q. Okay. Do you specifically recall whether Mr.
20 Caniglia described what happened in the argument?

21 THE WITNESS: Do you mind if I just take
22 a break for a second?

23 MR. LYONS: Oh, absolutely.

24 THE WITNESS: I'm just getting a little
25 airy. Can I get a drink of water?

Officer Wayne Russell - July 20, 2018

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1 Q. Okay. All right. I want to focus on what you
2 actually remember --

3 A. Okay.

4 Q. -- separate from the incident report, separate
5 from anything that another officer may have told
6 you.

7 A. Okay.

8 Q. Okay. All right. So you remember Mr. Caniglia
9 said the argument was about a coffee mug?

10 A. Yes.

11 Q. Okay. Do you remember if Mr. Caniglia said
12 anything about any firearms?

13 A. Yes. I believe he said that he presented his
14 wife with a firearm --

15 Q. Okay.

16 A. -- and said, "if you want me gone" -- I don't
17 remember specifically what he said, but I do
18 remember a firearm being involved.

19 Q. Okay. Do you remember if he said whether or not
20 the firearm was loaded?

21 A. No, I don't specifically remember that.

22 Q. Okay. Do you remember him saying anything about
23 a magazine for the firearm?

24 A. Without -- from my personal memory, no.

25 Q. Okay. Do you recall if he said where he got the

Exhibit “6”

Deposition Transcript of

Richard Greene

July 26, 2018

In The Matter Of:

*Caniglia vs
Strom, et al*

*Richard Greene
July 26, 2018*



Min-U-Script® with Word Index

Richard Greene - July 26, 2018

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1 protocols that you just listed, are the ones you
2 would consider when you're trying to determine
3 whether or not somebody was at risk for suicide;
4 is that correct?

5 A. You have to rephrase that question because I
6 have a feeling that the way you're asking the
7 question, and the way I'm thinking is two
8 different things.

9 Q. And that's exactly the kind of thing I want to
10 clear up.

11 A. Just because they have one of these, you're
12 asking me if I think they're going to commit
13 suicide or not?

14 Q. No, I'm not at that point yet. I'll get there.

15 A. The question is could I use one of these to
16 believe that they might commit suicide or are
17 suicidal, the answer is yes.

18 Q. So the factors that you identified that are on
19 this list, those are the factors you would
20 consider in deciding whether somebody was at risk
21 for suicide?

22 A. It could be one of the reasons, one of them.

23 Q. So, is there any particular way that you weigh
24 those different factors in concluding whether
25 somebody was at risk for suicide?

Richard Greene - July 26, 2018

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1 Q. Do you remember anything specific that the police
2 said to you?

3 A. Yes. They told me that they recovered the
4 weapon, which is a gun, and they told me that the
5 patient wanted his wife to shoot him with his own
6 gun.

7 Q. Do you remember anything else the police told you?

8 A. No.

9 Q. Did you talk to Mr. Caniglia?

10 A. Yes.

11 Q. All right. Do you remember what Mr. Caniglia
12 said?

13 A. I believe, per the report now, I asked the
14 patient what was going on, and he told me exactly
15 what the police officer told me. He did not deny
16 the allegations.

17 Q. Okay. Do you know if you asked or if you were
18 told whether the gun was loaded?

19 A. No.

20 Q. Did you -- would you normally have asked that
21 question?

22 A. No.

23 Q. Would it matter to you?

24 A. No.

25 Q. Why not?

Richard Greene - July 26, 2018

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1 dispute with his wife.

2 Q. Do you recall if you asked Mr. Caniglia about any
3 of the risk factors for suicide that you have
4 identified?

5 A. I don't recall.

6 Q. Do you know if the police made a determination
7 whether or not Mr. Caniglia was suicidal?

8 A. No idea.

9 Q. Apart from the fact that Mr. Caniglia had made
10 this statement about he wanted his wife to shoot
11 him, did you consider any other factors as to
12 whether he was a risk for suicide?

13 A. Other than him telling me he wanted his wife
14 to shoot him twice, from the night before and that
15 day.

16 Q. Is it your understanding that he had said that
17 twice?

18 A. Yes.

19 Q. And what is that based on?

20 A. From what the police told me, and what he
21 told me.

22 Q. So your recollection is Mr. Caniglia told you that
23 he had twice told his wife he wanted her to shoot
24 him?

25 A. The patient, or the police. He told me, I

Richard Greene - July 26, 2018

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1 believe from the report, I'm not sure if it was
2 the police or Mr. Caniglia, I think they both told
3 me the exact same story, pretty close. He
4 confirmed it.

5 Q. Do you recall Mr. Caniglia actually saying that he
6 had twice told his wife he wanted her to shoot
7 him?

8 A. I believe so, yes. The night before, and
9 that morning.

10 Q. No, no. I mean, as you're sitting here now, do
11 you remember those words coming out of
12 Mr. Caniglia's mouth?

13 A. If I wrote it in the report, yes.

14 Q. Do you know if Mr. Caniglia had a history of
15 depression or other mental disorders?

16 A. He did not tell me.

17 Q. Did you ask him?

18 A. I'm sure I did.

19 Q. Okay. Do you know what he said?

20 A. If I didn't write it in the report, I would
21 say no.

22 Q. Okay. Do you know if he made any prior suicidal
23 gestures or attempts?

24 A. No idea.

25 Q. Do you know if you asked him?

Richard Greene - July 26, 2018

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1 A. I do not recall.

2 Q. Do you know if he had feelings of hopelessness?

3 A. Well, when you say your wife is going to
4 leave you, I don't know how you want to -- I can't
5 tell you how the guy feels. All I know is he was
6 upset.

7 Q. Why do you say his wife was going to leave him?

8 A. Because he told me that; that's in my report.

9 Q. You have a specific recollection of Mr. Caniglia
10 saying that his wife was going to leave him?

11 A. I wrote it in my report, so, yes.

12 Q. Do you know if Mr. Caniglia had a history of
13 impulsive or aggressive behavior?

14 A. No, I didn't.

15 Q. Did you ask him?

16 A. I don't remember.

17 Q. Do you know if he had a recent loss of a loved
18 one, job, money or social loss?

19 A. No idea.

20 Q. Did you ask him?

21 A. I don't remember.

22 Q. Do you know if he had -- well, PTSD stands for
23 post-traumatic stress disorder, correct?

24 A. Correct.

25 Q. Do you know if Mr. Caniglia had PTSD?

Richard Greene - July 26, 2018

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1 A. No idea.

2 Q. Did you ask him?

3 A. I don't remember.

4 Q. Did he have a history of alcohol or drug abuse?

5 A. No idea.

6 Q. Did you ask him?

7 A. Don't remember.

8 Q. Had he given away any of his personal belongings
9 or cherished possessions?

10 A. No idea.

11 Q. Did you ask him?

12 A. I don't remember.

13 Q. Had he had major physical stress physically?

14 A. No idea.

15 Q. Did you ask him?

16 A. Don't remember.

17 MR. CUNNINGHAM: Can we take a
18 five-minute break?

19 MR. LYONS: Absolutely.

20 (RECESS)

21 Q. Did you hear any conversations between
22 Mr. Caniglia and any Cranston police officer?

23 A. No.

24 Q. Do you know who made the decision that
25 Mr. Caniglia was going to go to the hospital?

Richard Greene - July 26, 2018

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1 Q. Okay. Did Mr. Caniglia ever say I want to go to
2 the hospital for a psych evaluation?

3 A. Them words, no.

4 Q. You inferred from the fact that Mr. Caniglia did
5 not verbally object, that he was agreeing to go to
6 the hospital?

7 MR. CUNNINGHAM: Objection.

8 A. I told him, most likely I told him that we
9 were going to the hospital for a psych evaluation;
10 from what he said, I would have wrote it if he
11 denied to go. He went willingly.

12 Q. And on what basis do you say he went willingly?

13 A. Because he got in my truck, I didn't have
14 police with me, there was no restraints, it was
15 verbally, it was calm, and he admitted to
16 everything that happened. So in his mind he got
17 out of the situation by leaving the house. He
18 walked in my truck without any issue. We talked
19 and we drove to the hospital. There was no
20 unwillingness, there was no -- if there's anything
21 that would not want him to go, it would have been
22 written in the report.

23 Q. Okay. So there was no discussion with you about
24 why he was agreeing to go to the hospital, as you
25 understood it?

Exhibit “7”

***Deposition Transcript of
Sergeant Brandon Barth
July 19, 2018***

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EDWARD A. CANIGLIA,

vs.

C.A. No. 15-525

ROBERT F. STROM
as the Finance Director of
THE CITY OF CRANSTON, et al.,

DEPOSITION OF SERGEANT BRANDON BARTH,
a witness in the above-entitled cause, taken on
behalf of the Plaintiff, before Devin J. Baccari,
CSR, at the Law Office of Strauss, Factor, Laing &
Lyons, One Davol Square, Suite 305, Providence,
Rhode Island, on July 19, 2018, scheduled at 10:00
a.m.

PRESENT:

FOR THE PLAINTIFF:

STRAUSS, FACTOR, LAING & LYONS
BY: THOMAS W. LYONS, ESQUIRE
RHIANNON S. HUFFMAN, ESQUIRE

FOR THE DEFENDANTS:

DESISTO LAW LLC
BY: PATRICK K. CUNNINGHAM, ESQUIRE

Sergeant Brandon Barth - July 19, 2018

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1 say that that was from my experience as a police
2 officer. Again, I'm not a medical professional,
3 so I don't know whether a statement like that
4 rises to that level. But in my experience when
5 someone makes any type of statement to harm
6 themselves, whether it's through anger or
7 anything else, they're not in their right frame
8 of mind and they need to at least speak to a
9 medical professional in regards to that.

10 Q. Can you read your Interrogatory Number 7 and your
11 response.

12 (Witness complied.)

13 A. Okay.

14 Q. (By Mr. Lyons) All right. And there are eight
15 factors that you list in this response that I
16 understand constitute the totality of the
17 circumstances here; is that fair to say?

18 A. Yes.

19 Q. Okay. Number 1 is plaintiff and his wife were
20 involved in divorce proceedings. Do you see
21 that?

22 A. Yes.

23 Q. Did you hear Mrs. Caniglia say that?

24 A. I don't recall specifically if it was her or
25 another officer telling me at the time, but --

Sergeant Brandon Barth - July 19, 2018

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1 but depending on what he asks you, I may have
2 some follow-ups.

3 MR. CUNNINGHAM: I promise to be short
4 and speak slowly because I have a tendency to
5 ramble.

6 EXAMINATION BY MR. CUNNINGHAM

7 Q. Could you look at Exhibit 9 again. Mr. Lyons
8 asked you to look at page Bates stamped number
9 000243.

10 A. Okay.

11 Q. And I believe your testimony, Sergeant, was that
12 you considered Bullet Point 1 and Bullet Point 2
13 as a warning sign of suicide in this particular
14 case; is that correct?

15 A. Correct.

16 Q. Okay. If you look at the bottom of the page, it
17 also lists agitation. Did you consider the fact
18 that Mr. Caniglia was agitated as a result of the
19 argument he had with his wife?

20 MR. LYONS: Objection.

21 A. His demeanor at the time did show agitation
22 and it was kind of added to the totality of the
23 circumstances.

24 Q. (By Mr. Cunningham) Thank you. If you could
25 take a look at Exhibit 6, which is, sorry,

Sergeant Brandon Barth - July 19, 2018

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1 Q. Do you know whether or not any police officer
2 told Mr. Caniglia that unless he went for the
3 psychiatric evaluation his firearms would be
4 seized?

5 A. I don't recall that conversation.

6 Q. Okay. Would you deny that there was such a
7 statement made to Mr. Caniglia?

8 MR. CUNNINGHAM: Objection.

9 A. I only know the -- what -- from what I recall
10 that I was there. There were instances where I
11 wasn't with certain officers, so --

12 MR. LYONS: Okay. All right. I have no
13 other questions.

14 MR. CUNNINGHAM: I don't either.

15 THE REPORTER: Would you like a copy?

16 MR. CUNNINGHAM: Yes.

17 (Deposition adjourned at 1:13 p.m.)

18 * * * * *

Exhibit “8”

Deposition Transcript of

Officer Austin Smith

June 1, 2018

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

EDWARD A. CANIGLIA
Plaintiff

VS.

C.A. NO. 15-525

ROBERT F. STROM, as the Finance Director
of THE CITY OF CRANSTON, et al.
Defendants

DEPOSITION OF OFFICER AUSTIN SMITH, a Defendant
in the above-entitled case, taken on behalf of the
Plaintiff, before Linda L. Guglielmo, RPR-RMR, a
Notary Public in and for the State of Rhode
Island, at the offices of DeSisto Law, 60 Ship
Street, Providence, Rhode Island, on Friday, June
1, 2018 at 9:00 A.M.

APPEARANCES:

FOR THE PLAINTIFF.....STRAUSS, FACTOR, LAING & LYONS
BY: THOMAS W. LYONS, ESQ.

FOR THE DEFENDANTS.....DeSISTO LAW
BY: PATRICK K. CUNNINGHAM, ESQ.

Officer Austin Smith - June 1, 2018

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1 Q. Captain --

2 A. Henry. But I don't remember if he was on
3 scene, though.

4 Q. Sergeant Barth was on scene, though?

5 A. Yes.

6 Q. Do you know on what basis it was determined that
7 Mr. Caniglia was a threat to himself or others?

8 A. I don't understand that question.

9 Q. Okay. I think you said that the people involved
10 in making a determination that Mr. Caniglia was a
11 threat to himself or others were his wife,
12 himself, the supervisor and the Cranston Fire
13 Department?

14 A. Yes.

15 Q. Okay. Do you know on what basis they made that
16 determination?

17 A. Statements made by, I believe statements made
18 by his wife, and statements made by him.

19 Q. Do you know what those statements were that were
20 made by his wife?

21 A. I don't know the exact statements.

22 Q. Did you speak to Mr. Caniglia's wife?

23 A. I don't recall.

24 Q. Okay. Did you speak to Mr. Caniglia?

25 A. I don't believe so, but I don't exactly

Exhibit “9”

Deposition Transcript of

Kim Caniglia

June 27, 2018

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EDWARD A. CANIGLIA

VS

C.A. NO. 15-525-M-LDA

ROBERT F. STROM, as the Finance Director
of the CITY OF CRANSTON, et al

D-E-P-O-S-I-T-I-O-N

DEPOSITION of Kim Caniglia, taken in the above-entitled
cause on behalf of the Defendants, pursuant to notice,
before Brenda A. Scharver, Notary Public in and for the
State of Rhode Island, at the offices of DeSisto Law, 60
Ship Street, Providence, Rhode Island on June 27, 2018
scheduled for 10:00 a.m.

APPEARANCES:

FOR THE DEFENDANT:
DeSISTO LAW
BY: PATRICK K. CUNNINGHAM, ESQ.

FOR THE PLAINTIFF:
THOMAS W. LYONS, III, ESQ.

1 MR. LYONS: Objection.

2 A I put the gun back where it normally is. I hid the
3 magazine because I was worried about Ed.

4 Q When you say that, what were you worried about?

5 A His-- I was worried about his state of mind. I was
6 worried about what he had just said.

7 Q When you say you were worried about his state of mind,
8 with respect to what particularly?

9 MR. LYONS: Objection

10 A That he wasn't happy, that I didn't know how to make him
11 happy, the argument that we just had.

12 Q But why would you hide the magazine?

13 A It seemed a reasonable thing to do.

14 Q Why would it be reasonable?

15 A Because Ed was depressed.

16 Q Were you afraid he was going to do something with the gun
17 and the magazine?

18 A Yes.

19 Q It's okay. Again, I'm sorry that this leads to emotion.
20 I thought that was why, but again, we don't want to put
21 words in your mouth.

22 I believe you said during the incident you were going
23 to call 911?

24 A Yes.

1 nine lines down and go to the middle of the paragraph
2 where it states, "wife shared that her hope was that her
3 husband could get some help here in the ER"; do you see
4 that?

5 A Yes.

6 Q Do you remember sharing that concern or hope?

7 A It was taken out of context.

8 Q What was taken out of context?

9 A This statement.

10 Q Let me start with this: Did you make the statement that
11 you hoped that your husband could get some help in the ER
12 or something similar to that statement?

13 A Yes.

14 Q You just expressed to me that it was taken out of
15 context. Could you explain to me how it was taken out of
16 context, how you believe it was taken out of context?

17 A Because prior to that I had told her that he was not
18 happy, he was in a depression and I didn't know why and I
19 didn't know how to help him and I hoped that he could get
20 help in the ER.

21 Q So you were concerned about his depression?

22 A Yes. There was something wrong with my husband.

23 Q And you hoped that he could get some type of help for
24 that while he was in the hospital?

Exhibit “10”

Deposition Transcript of

Edward A. Caniglia

June 29, 2018

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EDWARD A. CANIGLIA,
Plaintiff

v.

C.A. NO. 15-525-M-LDA

ROBERT F. STROM, as the
Finance Director of the
CITY OF CRANSTON, et al.
Defendants

DEPOSITION OF EDWARD A. CANIGLIA, taken on
behalf of the Defendants, Friday, June 29, 2018 at
10:00 a.m., pursuant to Rule 30 and Rule 45 of the
Federal Rules of Civil Procedure at the offices of
DeSisto Law LLC, 60 Ship Street, Providence,
Rhode Island, before Linda F. Oakley, RPR,
Notary Public.

APPEARANCES:

STRAUSS, FACTOR, LAING & LYONS
BY: THOMAS W. LYONS, III, ESQ.
Counsel for the Plaintiff

DESISTO LAW LLC
BY: CAROLINE MURPHY, ESQ.
Counsel for the Defendants

Edward A. Caniglia - June 29, 2018

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1 MS. MURPHY: Off the record, yes.

2 MR. LYONS: Yes, let's go off the record.

3 (Discussion off the record)

4 THE COURT REPORTER: Back on the record?

5 MR. LYONS: Yes, back on the record.

6 Q. And so I apologize. I misheard your earlier
7 statement.

8 A. He --

9 Q. And I'll ask to clarify. You stated earlier that you
10 heard an officer suggest the confiscation of your
11 firearms.

12 A. Yes. He suggested that in situations like this,
13 but that's not -- that's when I told them, "You're
14 not confiscating anything."

15 Q. And just to be clear, when you said, "You're not
16 confiscating anything," you're directing this
17 statement to the officer in the white shirt?

18 A. To the officers, all the officers.

19 Q. Do you recall how the officers were positioned when
20 you were having this -- making this statement, where
21 they were located?

22 A. One was here, one was here, one was directly in
23 front of me, and the other one was behind him.

24 Q. And was this in the back yard of your house?

25 A. On the back porch.