

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EDWARD A. CANIGLIA,
Plaintiff,

v.

C.A. No. 15-525

ROBERT F. STROM as the Finance Director
Of the CITY OF CRANSTON, THE CITY
OF CRANSTON, COL. MICHAEL J. WINQUIST,
in his individual and in his official capacity as
Chief of the CRANSTON POLICE DEPARTMENT,
CAPT. RUSSELL HENRY, JR., in his individual
and in his official capacity as an officer of the
CRANSTON POLICE DEPARTMENT; MAJOR
ROBERT QUIRK, in his individual capacity
and in his official capacity as an officer of the
CRANSTON POLICE DEPARTMENT, SGT.
BRANDON BARTH, in his individual capacity
and in his official capacity as an officer of the
CRANSTON POLICE DEPARTMEN, OFFICER
JOHN MASTRATI, in his individual capacity
and in his official capacity as an officer of the
CRANSTON POLICE DEPARTMENT, OFFICER
WAYNE RUSSELL, in his individual capacity
and in his official capacity as an officer of the
CRANSTON POLICE DEPARTMENT, OFFICER
AUSTIN SMITH, in his individual capacity
and in his official capacity as an officer of the
CRANSTON POLICE DEPARTMENT, and JOHN
And JANE DOES NOS 1-10, in their individual capacities
and their official capacities as officers of the
CRANSTON POLICE DEPARTMENT,
Defendants.

DEFENDANTS' STATEMENT OF ADDITIONAL DISPUTED FACTS

147. Sgt. Brandon Barth was the senior CPD officer present at Plaintiff's house on August 21,
2015. (Barth depo. p. 36, excerpts attached as Exhibit FF).

Undisputed.

148. Sgt. Barth heard about the “Community Care Doctrine” when he prepared for his deposition in this case. (Id. at p. 9).

Undisputed.

149. Sgt. Barth read about the “Community Care Doctrine” on Wikipedia in preparation for his deposition. (Id. at pp. 9-12).

Undisputed.

150. Sgt. Brandon Barth does not know whether he heard about the “Community Care Doctrine” before 2015. (Id. at p. 11).

Undisputed.

151. Sgt. Barth has no knowledge that the CPD has any written material about the “Community Care Doctrine.” (Id. at p. 10)

Objection insofar as he testified “it could be in there” but he did not know. See id.

152. Sgt. Barth does not recall having any classes or receiving any materials concerning the Community Care Doctrine.” (Id. at p. 11).

Undisputed.

153. Sgt. Barth does not recall having any prior education or training on the issue of dealing with public safety outside the criminal context. (Id. at p. 12-13).

Undisputed insofar as he testified that dealing with public safety outside of the criminal context is standard procedure in his day to day activities in the police department. See id.

154. Sgt. Barth said the Cranston Rescue does not do any mental evaluations on any patients. “They just transport those patients to the hospital.” (Id. at p. 46).

Undisputed insofar as he testified “as far as [his] knowledge.” See id.

155. Sgt. Barth did not recall whether the CPD had any written policy or procedure for determining when it will seek a mental evaluation of a person. (Id. at p. 47).

Disputed. Barth testified if he had time he could probably find it. See id.

156. Sgt. Barth does not know the specifics of the CPD's policy. "[I] was probably more going on my experience up until that point..." (Id. at p. 47).

Undisputed insofar as he could not recall the specifics during the deposition.

157. Sgt. Barth has required people to go for mental evaluations "[m]ore times than [he] can count." (Id.)

Undisputed.

158. Sgt. Barth did not consult any specific psychological or psychiatric criteria before deciding to send Mr. Caniglia for a psychological evaluation. (Id. at pp. 51-52).

Undisputed.

159. Sgt. Barth did not consult with any medical professional before deciding to send Mr. Caniglia for a psychological evaluation. (Id. at p. 52).

Undisputed.

160. Sgt. Barth bases his authority to send someone for a psychological evaluation on the Community Care Doctrine. (Id. at p. 79).

Objection. The cite to the record does not support the fact statement.

161. Sgt. Barth said that Mr. Caniglia was transported for an "involuntary emergency psychiatric evaluation" under GO 320.09. (Id. at p. 101).

Disputed. See Exhibit 11, July 19, 2018 Deposition Transcript of Sergeant Brandon Barth at 125-126.

162. Sgt. Barth said he determined that Mr. Caniglia was imminently dangerous to himself or others. (Id. p. 102-03). Sgt. Barth understands “imminent” to mean “immediately.” (Id. at p. 103).

Undisputed.

163. Sgt. Barth has attended CPD training on dealing with people with mental health issues. (Id. at p. 105). He does not remember any of that training. (Id. at pp. 106-09).

Undisputed insofar as the training occurred in 2008, 2011 and 2013.

164. Of the various suicide risk factors in his training, the only ones that Sgt. Barth considered were that Mr. Caniglia had a gun and he had supposedly said “he wanted harm done to himself.” (Id. at pp. 111-118).

Disputed. Sgt. Barth considered the totality of the circumstances. See Defendants’ Statement of Undisputed Facts at 61-62.

165. Sgt. Barth is not aware of any Rhode Island decision on the community caretaking function that authorizes police to seize firearms from a person’s residence without a court order. (Id. at p. 121).

Undisputed.

166. Sgt. Barth is not aware of any Rhode Island decision on the community caretaking function that authorizes police to require someone to have a psychiatric evaluation without a court order. (Id. at p. 121).

Undisputed.

Defendants,
By their attorneys,

/s/ Marc DeSisto
Marc DeSisto, Esq. (#2757)
Patrick K. Cunningham, Esq. (#4749)
DESISTO LAW LLC
60 Ship Street
Providence, RI 02903
401-272-4442
marc@desistolaw.com
patrick@desistolaw.com

CERTIFICATION OF SERVICE

I hereby certify that the within document has been electronically filed with the Court on this 6th day of February 2019 and is available for viewing and downloading from the ECF system.

Thomas W. Lyons, Esq.
tlyons@straussfactor.com

Rhiannon S. Huffman, Esq.
rhuffman@straussfactor.com

/s/ Marc DeSisto
Marc DeSisto