

In The Matter Of:

*Caniglia vs
Strom, et al*

*Officer Austin Smith
June 1, 2018*



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1 A. I believe we just had general law classes
2 that might have briefly covered something along
3 those lines.

4 Q. Okay. Do you specifically recall anything that
5 you were taught about when, if ever, you have the
6 authority to seize property without a warrant?

7 A. No.

8 Q. Do you recall learning anything about the
9 community caretaking function at the police
10 training academy?

11 A. No.

12 Q. Did you receive training at the police training
13 academy about how to deal with people who may have
14 mental issues?

15 A. Yes.

16 Q. What do you recall about that?

17 A. I mean, it was a pretty large course.

18 Q. How about specifically dealing with people who may
19 be suicidal, did you have any instruction on that
20 at the police training academy?

21 A. Yes.

22 Q. What do you recall about that?

23 A. Just essentially we were just taught to keep
24 everyone safe, make sure no one gets hurt,
25 including ourselves, the general people, and the

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1 A. We were just given a copy of the general
2 order, usually it has to do with mental health.

3 Q. All right. Was there a presentation that you saw,
4 like a PowerPoint, for example?

5 A. I believe there was, yes.

6 Q. All right. Maybe we have that and --

7 A. I don't remember it that well, though.

8 Q. Well, we might have a copy of the PowerPoint.

9 A. Okay.

10 Q. How about your authority to seize a firearm when
11 there's not a criminal investigation, have you
12 received any training on that?

13 A. Yes, I have.

14 Q. What kinds of training have you received on that?

15 A. I don't recall exactly, but usually a
16 decision like that isn't made by someone like me,
17 I'm just ordered by a supervisor who usually makes
18 that decision.

19 Q. Okay. And is the supervisor present on the scene
20 when that decision is made, or sometimes do you
21 call a supervisor and ask for that?

22 A. In most cases the supervisor is present on
23 the scene.

24 Q. Do you recall if there is a general order that
25 gives the authority to seize firearms without a

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1 warrant?

2 A. I'm not sure.

3 Q. Okay. Has the Cranston Police Department's custom
4 or practice with respect to seizing a person's
5 firearms changed since November 2015?

6 MR. CUNNINGHAM: Objection.

7 A. I'm not exactly sure.

8 Q. Okay. Well, let me -- if you look at Page 2 of
9 your Answers to Interrogatories, at the bottom
10 there is an Interrogatory number 6, and can you
11 read to yourself the interrogatory and your
12 response.

13 (PAUSE)

14 Q. In the interrogatory we ask about a custom or
15 practice prior to November 2015. The response
16 refers to a custom or practice prior to November
17 2015. So I'm asking are you aware of any change
18 in that custom or practice since November of 2015?

19 THE WITNESS: Having to do with
20 safekeeping?

21 MR. LYONS: Seizing firearms for
22 safekeeping.

23 A. I'm not exactly sure.

24 Q. All right. Are you aware of whether the custom or
25 practice of the -- or the procedure or policies of

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1 A. We make dangles. It's a product using
2 barrel electroplating.

3 Q. Have you had any other employment since 2012 other
4 than the Cranston Police Department and Dangles,
5 Incorporated?

6 A. No.

7 Q. Since you started with the Cranston Police
8 Department, have you worked a particular shift?

9 A. Yes.

10 Q. What shift do you usually work?

11 A. Third shift.

12 Q. And what are the hours of third shift?

13 A. 10:45 P.M. until 6:45 A.M.

14 Q. In your Answers to Interrogatories, Number 3, you
15 refer to Lieutenant Justin Dutra as your
16 supervisor; is that correct?

17 A. At the time I answered this, yes.

18 Q. Okay. How about in 2015 who was your supervisor?

19 A. Lieutenant Justin Dutra.

20 Q. Did you receive any in-service training on the
21 seizure of firearms without a warrant?

22 A. I don't recall. I don't recall it.

23 Q. Have you received any awards or promotions since
24 you started with the police department?

25 A. I've received several awards.

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1 A. No.

2 Q. Okay. Are you aware of any occasion in which the
3 Cranston Police Department has seized a police
4 officer's firearms?

5 A. No.

6 Q. Does the Cranston Police Department have a policy
7 or practice with respect to seizing firearms for
8 safekeeping?

9 A. I believe they do. I'm not very familiar
10 with it.

11 Q. Okay. Who is your understanding of who would be
12 familiar with the policy?

13 A. Probably supervisors, detectives.

14 Q. Have you ever seen a written policy or procedure
15 respecting the seizure of weapons for safekeeping?

16 THE WITNESS: A Cranston Police
17 Department?

18 MR. LYONS: Correct.

19 A. I probably have, but I don't recall. I'm not
20 very familiar with it.

21 Q. Have you seen any other policy or procedure with
22 respect to the seizure of firearms for
23 safekeeping?

24 A. I'm not sure.

25 Q. Okay. With respect to whatever policy or

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1 procedure the Cranston Police Department may have
2 with respect to seizing firearms for safekeeping,
3 do you know what the basis was of that policy or
4 procedure?

5 MR. CUNNINGHAM: Objection.

6 A. I don't exactly understand that question.

7 Q. Okay. If I understood correctly, you said that
8 you believe the Cranston Police Department has a
9 policy or procedure with respect to seizing
10 firearms for safekeeping, but that a supervisor or
11 detective would know better what the policy was,
12 okay --

13 A. Yes.

14 Q. -- I think you said that.

15 A. That's what I said, yes.

16 Q. So my question is, if you don't know exactly what
17 the policy or procedure was, do you know where it
18 came from, how it was developed, what information
19 was used to develop that policy or procedure?

20 A. Probably goes back to general orders and how
21 they've created those with CALEA standards.

22 Q. I don't want you to guess, though. So if you
23 don't know --

24 A. I'm not sure, then.

25 Q. All right. Would it be fair to say with respect

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1 A. What we as a police officer on scene observe.

2 Q. What kind of things -- I'm sorry, go ahead.

3 A. If there are other witnesses, not just a
4 family member, other witnesses, maybe an
5 independent witness to what's going on.

6 Q. Okay. Are you aware of any criteria that the
7 Cranston Police Department considers in making a
8 determination whether to seize someone's firearm
9 for safekeeping?

10 A. Criteria, like the -- are you talking about
11 like the general orders or policies?

12 Q. Well, if there are criteria set forth in a general
13 order or policy, if they're not set forth in a
14 general order or policy, then I'm interested in
15 knowing what they are, too.

16 A. I mean, I believe it's in the general orders
17 and policies, but I'm not that familiar with them
18 myself.

19 Q. Okay. What I'm getting at is if I asked you what
20 criteria are actually considered with respect to
21 the seizure of firearms for safekeeping, you're
22 not in a position to tell me today what those
23 criteria are?

24 A. Yes.

25 Q. Okay. What is the police department's procedure

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1 Caniglia?

2 A. Other than the fire department, I don't
3 recall anyone else.

4 Q. Okay. Let me show you what was marked as Exhibit
5 8 during Officer Mastrati's deposition, which is a
6 printout of a PowerPoint presentation entitled
7 Rhode Island Search and Seizure Law. I'm going to
8 ask if you have seen that before?

9 A. Yes. I'm relatively familiar with it, yes.

10 Q. This is dated January of 2016; do you see that --

11 A. Okay.

12 Q. -- on the first slide on the first page?

13 A. Yup.

14 Q. Do you remember if you saw this presentation in
15 January of 2016?

16 A. No. I don't remember.

17 Q. Okay. Do you remember when you did see this
18 presentation?

19 A. I believe in the police academy I saw
20 something similar to this.

21 Q. Do you know who gave the presentation at the
22 police academy?

23 A. Someone from the Attorney General's office.

24 Q. Okay. Do you know if it was Steven Regine, by
25 chance?

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1 A. I don't remember, no.

2 Q. Let me ask you to go to Page 10 -- well, actually
3 first, let me ask you this generally: Do you know
4 whether this presentation addresses the authority
5 of the police department to seize property without
6 a warrant and when there's not a criminal process?

7 A. No, I don't remember.

8 Q. Okay. Now let's go to Page 10. There's a slide
9 which is entitled Exceptions to the Search Order
10 Requirement; do you see that?

11 A. Yes.

12 Q. There's a listing of ten things; do you see those?

13 A. Yes.

14 Q. Do you know if any of those pertain to the
15 authority of the police department to seize
16 property without a search warrant when there's not
17 a criminal process?

18 A. Yes.

19 Q. Which ones?

20 A. Protective sweep, abandoned property. I
21 don't know what pre-trial detainees is.

22 Q. Any others?

23 A. Consent, plain view, exigent circumstances.
24 That's just my opinion.

25 Q. Do you know what community care means?

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1 A. Not exactly, no.

2 Q. Okay. Do you have any idea what it means?

3 A. Not exactly, no.

4 Q. Okay. Do any of these exceptions listed in this
5 slide pertain to the seizure of Mr. Caniglia's
6 firearms?

7 MR. CUNNINGHAM: Objection.

8 A. I'm not sure.

9 Q. Okay. Mr. Caniglia was not arrested, right?

10 A. No.

11 Q. He was not charged with a crime?

12 A. No.

13 Q. Okay. Do you know where his firearms were
14 located?

15 A. No.

16 Q. Do you know if they were in plain view?

17 A. No.

18 Q. Okay. Do you know if they were abandoned?

19 A. No.

20 Q. Do you know if anyone gave consent to them being
21 seized?

22 A. I don't recall.

23 Q. Do you know if there were any exigent
24 circumstances with respect to the seizure of his
25 firearms?

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1 A. No.

2 Q. If you go to Page 32, at the bottom of the page
3 there's a slide entitled community caretaking
4 function; do you see that?

5 A. Yes.

6 Q. Do you remember ever being taught about the
7 community caretaking function at any point in your
8 training?

9 A. Sounds familiar, but I'm not familiar with
10 it.

11 Q. If someone asked you to explain what it was, would
12 you be able to?

13 A. No; probably not.

14 Q. Do you have any idea whether the community
15 caretaking function relates to the seizure of
16 Mr. Caniglia's firearms?

17 A. No.

18 Q. Do you have any idea whether the community
19 caretaking function relates to a requirement that
20 Mr. Caniglia speak to the Cranston rescue?

21 A. I don't understand that question.

22 Q. Okay. My understanding is that you believe that
23 the Cranston police has the authority to require
24 someone to speak to the Cranston rescue about
25 their psychological condition?