

No. 20-157

---

---

IN THE  
**Supreme Court of the United States**

---

EDWARD A. CANIGLIA,  
*Petitioner,*  
v.

ROBERT F. STROM, *et al.*,  
*Respondents.*

---

**On Writ of Certiorari to the  
United States Court of Appeals  
for the First Circuit**

---

**JOINT APPENDIX**

---

Shay Dvoretzky  
*Counsel of Record*  
Jonathan L. Marcus  
Emily J. Kennedy  
Sylvia O. Tsakos  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Ave., NW  
Washington, DC 20005  
(202) 371-7000  
shay.dvoretzky@skadden.com

Emma S. Gardner  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
One Manhattan West  
New York, NY 10001

Thomas W. Lyons  
Rhiannon S. Huffman  
STRAUSS, FACTOR,  
LAING & LYONS  
One Davol Square, Suite 305  
Providence, RI 02903

*Counsel for Petitioner*

---

---

Marc DeSisto  
*Counsel of Record*  
Michael A. DeSisto  
Rebecca Tedford Partington  
DESISTO LAW LLC  
60 Ship Street  
Providence, RI 02903  
(401) 272-4442  
marc@desistolaw.com  
michael@desistolaw.com  
rebecca@desistolaw.com

*Counsel for Respondents*

---

---

**PETITION FOR CERTIORARI FILED AUGUST 10, 2020  
CERTIORARI GRANTED NOVEMBER 20, 2020**

## TABLE OF CONTENTS

	Page
Docket Entries, <i>Caniglia v. Strom, et al.</i> , No. 19-1764 (1st Cir.).....	1
Docket Entries, <i>Edward A. Caniglia v. Robert F. Strom, as the Finance Director of the City of Cranston</i> , No. 1:15-cv- 00525-JJM-LDA (D.R.I.).....	9
<b>Materials from District Court Proceedings No. 1:15-cv-00525-JJM-LDA (D.R.I.)</b>	
Plaintiff's Statement of Undisputed Facts (Dkt. # 44) (12/17/2018) .....	39
Exhibit C to Plaintiff's Statement of Undisputed Facts: Deposition Transcript of Cpt. Russell C. Henry, Jr. (dated June 13, 2018) (excerpts) (Dkt. # 44-3) (12/17/2018).....	64
Exhibit D to Plaintiff's Statement of Undisputed Facts: CPD General Order 000.01 (Dkt. # 44-4) (12/17/2018) .....	68
Exhibit E to Plaintiff's Statement of Undisputed Facts: CPD General Order 100.10 (Dkt. # 44-5) (12/17/2018) .....	69
Exhibit F to Plaintiff's Statement of Undisputed Facts: CPD General Order 320.80 (Dkt. # 44-6) (12/17/2018) .....	84
Exhibit G to Plaintiff's Statement of Undisputed Facts: CPD General Order 350.20 (Dkt. # 44-7) (12/17/2018) .....	86

## TABLE OF CONTENTS—Continued

	Page
Exhibit H to Plaintiff's Statement of Undisputed Facts: CPD General Order 320.70 (Dkt. # 44-8) (12/17/2018) .....	127
Exhibit M to Plaintiff's Statement of Undisputed Facts: Deposition Transcript of Officer John Mastrati (dated May 13, 2018) (excerpts) (Dkt. # 44-13) (12/17/2018) .....	136
Exhibit O to Plaintiff's Statement of Undisputed Facts: Deposition Transcript of Officer Wayne Russell (dated July 20, 2018) (excerpts) (Dkt. # 44-15) (12/17/2018) .....	140
Exhibit R to Plaintiff's Statement of Undisputed Facts: Deposition Transcript of Kim Caniglia (dated June 27, 2018) (excerpts) (Dkt. # 44-18) (12/17/2018) .....	142
Exhibit U to Plaintiff's Statement of Undisputed Facts: Deposition Transcript of Richard Greene (dated July 26, 2018) (excerpts) (Dkt. # 44-22) (12/17/2018) .....	147
Defendants Statement of Undisputed Facts (Dkt. # 46) (12/17/2018) .....	152
Exhibit 1 to Defendants Statement of Undisputed Facts:.....	161
Exhibit "A": Deposition Transcript of Kim Caniglia (dated June 27, 2018) (excerpts) .....	161
Exhibit "B": Affidavit of Kim Caniglia (dated December 17, 2015) .....	172

## TABLE OF CONTENTS—Continued

	Page
Exhibit “C”: Deposition Transcript of Officer John Mastrati (dated May 31, 2018) (excerpts).....	176
Exhibit “E”: Notification re: Audio Recording dated August 21, 2015 .....	187
Exhibit “F”: Deposition Transcript of Sgt. Brandon Barth (dated July 19, 2018) (excerpts).....	188
Exhibit “G”: Deposition Transcript of Edward A. Caniglia (dated June 29, 2018) (excerpts).....	196
Exhibit “H”: Deposition Transcript of Capt. Russell C. Henry, Jr. (dated June 13, 2018) (excerpts) (Dkt. # 46-1) (12/17/2018).....	201
Plaintiff’s Statement of Disputed and Undisputed Facts (Dkt. # 55) (01/30/2019).....	204
Exhibit 1 to Plaintiff’s Statement of Disputed and Undisputed Facts: Deposition Transcript of Kim Caniglia (dated June 27, 2018) (excerpts) (Dkt. # 55-1) (01/30/2019).....	217
Exhibit 3 to Plaintiff’s Statement of Disputed and Undisputed Facts: Deposition Transcript of Edward A. Caniglia (dated June 29, 2018) (excerpts) (Dkt. # 55-3) (01/30/2019).....	219
Plaintiff’s Statement of Additional Undisputed Facts (Dkt. # 56) (01/30/2019).....	224

## TABLE OF CONTENTS—Continued

	Page
Exhibit FF to Plaintiff’s Statement of Additional Undisputed Facts: Deposition Transcript of Sgt. Brandon Barth (dated July 19, 2018) (excerpts) (Dkt. # 56-1) (01/30/2019).....	228
Defendants Statement of (Additional) Undisputed Facts (Dkt. # 58) (01/30/2019).....	230
Exhibit 1 to Defendants Statement of (Additional) Undisputed Facts:.....	235
Exhibit “K”: Deposition Transcript of Kim Caniglia (dated June 27, 2018) (excerpts).....	235
Exhibit “N”: Deposition Transcript of Sgt. Brandon Barth (dated July 19, 2018) (excerpts) (Dkt. # 58-1) (01/30/2019).....	239
Defendants’ Statement of Disputed Facts (Dkt. # 59) (01/30/2019) .....	245
Exhibit 1 to Defendants’ Statement of Disputed Facts: Exhibit “3”: Deposition Transcript of Officer John Mastrati (dated May 31, 2018) (excerpts) (Dkt. # 59-1) (01/30/2019).....	283
Defendants’ Statement of Additional Disputed Facts (Dkt. # 62) (02/06/2019) ..	287
Exhibit 1 to Defendants’ Statement of Additional Disputed Facts: Exhibit “11”: Deposition Transcript of Sgt. Brandon Barth (dated July 19, 2018) (excerpts) (Dkt. # 62-1) (02/06/2019).....	293

## TABLE OF CONTENTS—Continued

	Page
Plaintiff's Additional Statement of Disputed and Undisputed Facts (Dkt. # 65) (02/06/2019).....	295
Exhibit 1 to Plaintiff's Additional Statement of Disputed and Undisputed Facts: Deposition Transcript of Kim Caniglia (dated June 27, 2018) (excerpts) (Dkt. # 65-1) (02/06/2019).....	305
Exhibit 2 to Plaintiff's Additional Statement of Disputed and Undisputed Facts: Deposition Transcript of Officer John Mastrati (dated May 31, 2018) (excerpts) (Dkt. # 65-2) (02/06/2019).....	307

UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

---

Court of Appeals Docket #: 19-1764

---

CANIGLIA,

v.

STROM, *et al.*

---

**DOCKET ENTRIES**

---

DATE	DOCKET TEXT
08/02/2019	CIVIL CASE docketed. Notice of appeal (doc. #72) filed by Appellant Edward A. Caniglia. Docketing Statement due 08/16/2019. Transcript Report/Order form due 08/16/2019. Appearance form due 08/16/2019. [19-1764] (CMP) [Entered: 08/02/2019 11:40 AM]
08/02/2019	NOTICE of appearance on behalf of Appellant Edward A. Caniglia filed by Attorney Thomas W. Lyons. Certificate of service dated 08/02/2019. [191764] (TWL) [Entered: 08/02/2019 03:43 PM]
08/02/2019	TRANSCRIPT report/order form filed by Appellant Edward A. Caniglia indicating transcripts are being ordered. Certificate of service dated 08/02/2019. [19-1764] (TWL) [Entered: 08/02/2019 03:44 PM]

DATE	DOCKET TEXT
08/02/2019	DOCKETING statement filed by Appellant Edward A. Caniglia. Certificate of service dated 08/02/2019. [19-1764] (TWL) [Entered: 08/02/2019 03:45 PM]
08/06/2019	NOTICE of appearance on behalf of Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winquist filed by Attorney Marc DeSisto. Certificate of service dated 08/06/2019. [19-1764] (MD) [Entered: 08/06/2019 02:07 PM]
08/06/2019	NOTICE of appearance on behalf of Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winquist filed by Attorney Patrick K. Cunningham. Certificate of service dated 08/06/2019. [19-1764] (PKC) [Entered: 08/06/2019 02:17 PM]
08/16/2019	NOTICE of appearance on behalf of Appellees Robert F. Strom, Cranston, RI and Michael J. Winquist filed by Attorney Caroline V. Murphy. Certificate of service dated 08/16/2019. [19-1764] (CVM) [Entered: 08/16/2019 09:59 AM]
08/21/2019	BRIEFING schedule set. Brief due 09/30/2019 for appellant Edward A. Caniglia. Appendix due 09/30/2019 for appellant Edward A. Caniglia. Pursuant

DATE	DOCKET TEXT
	to F.R.A.P. 31(a), appellee's brief will be due 30 days following service of appellant's brief and appellant's reply brief will be due 21 days following service of appellee's brief. [19-1764] (CMP) [Entered: 08/21/2019 04:08 PM]
09/25/2019	BRIEF tendered by Appellant Edward A. Caniglia. [19-1764] (TWL) [Entered: 09/25/2019 03:13 PM]
09/27/2019	ORDER directing Appellant Edward A. Caniglia to file a conforming brief. Brief due 10/04/2019. Appendix due 10/04/2019. [19-1764] (CMP) [Entered: 09/27/2019 08:31 AM]
09/27/2019	BRIEF tendered by Appellant Edward A. Caniglia. [19-1764] (TWL) [Entered: 09/27/2019 10:40 AM]
09/27/2019	PLEADING tendered: APPENDIX filed by Appellant Edward A. Caniglia. Number of Volumes: 2. Number of Copies: 5. Certificate of service was not included. [19-1764] (AMM) [Entered: 09/27/2019 12:08 PM]
09/30/2019	CERTIFICATE of service for pleading tendered [6285490-2] filed by Appellant Edward A. Caniglia. Certificate of service dated 09/26/2019. [19-1764] (RSH) [Entered: 09/30/2019 04:08 PM]
10/01/2019	APPELLANT'S BRIEF filed by Appellant Edward A. Caniglia. Certificate of service dated 09/27/2019. Nine paper copies identical to that of the electronically filed

DATE	DOCKET TEXT
	brief must be submitted so that they are received by the court on or before 10/08/2019. Brief due 10/28/2019 for APPELLEE Brandon Barth, Cranston, RI, Russell C. Henry Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winqvist. [19-1764] (AMM) [Entered: 10/01/2019 04:28 PM]
10/01/2019	APPENDIX filed by Appellant Edward A. Caniglia. Number of volumes: 2. Number of copies: 5. Certificate of service dated 09/26/2019. [19-1764] (AMM) [Entered: 10/01/2019 04:58 PM]
10/03/2019	NINE (9) paper copies of appellant/petitioner brief [6286419-2] submitted by Appellant Edward A. Caniglia. [19-1764] (JMK) [Entered: 10/03/2019 11:49 AM]
10/23/2019	BRIEF tendered by Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winqvist. [19-1764] (MD) [Entered: 10/23/2019 09:25 AM]
10/28/2019	APPELLEES' BRIEF filed by Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winqvist. Certificate of service dated 10/23/2019. Nine paper copies identical to that of the electronically filed brief must be

DATE	DOCKET TEXT
	submitted so that they are received by the court on or before 11/04/2019. Reply brief due 11/13/2019 for APPELLANT Edward A. Caniglia. [19-1764] (AMM) [Entered: 10/28/2019 01:14 PM]
10/29/2019	NINE (9) paper copies of appellee/respondent brief <a href="#">[6292762-2]</a> submitted by Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winquist. [19-1764] (LIM) [Entered: 10/29/2019 11:57 AM]
11/08/2019	BRIEF tendered by Appellant Edward A. Caniglia. [19-1764] (TWL) [Entered: 11/08/2019 03:53 PM]
11/22/2019	REPLY BRIEF filed by Appellant Edward A. Caniglia. Certificate of service dated 11/08/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 11/27/2019. [19-1764] (DK) [Entered: 11/22/2019 11:58 AM]
11/25/2019	NINE (9) paper copies of reply brief <a href="#">[6299459-2]</a> submitted by Appellant Edward A. Caniglia. [19-1764] (JMK) [Entered: 11/26/2019 09:19 AM]
11/27/2019	CASE calendared: Wednesday, 01/08/2020 AM Boston, MA Panel Courtroom. Designation form due 12/11/2019. [19-1764] (DJT) [Entered: 11/27/2019 01:35 PM]

DATE	DOCKET TEXT
11/27/2019	DESIGNATION of attorney presenting oral argument filed by Attorney Thomas W. Lyons, Ill for Appellant Edward A. Caniglia. Certificate of service dated 11/27/2019. [19-1764] (TWL) [Entered: 11/27/2019 02:13 PM]
12/04/2019	DESIGNATION of attorney presenting oral argument filed by Attorney Marc DeSisto for Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winqvist. Certificate of service dated 12/04/2019. [19-1764] (MD) [Entered: 12/04/2019 01:57 PM]
12/20/2019	LETTER regarding <i>Rule 28j</i> filed by Attorney Marc DeSisto for Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winqvist. Certificate of service dated 12/20/2019. [19-1764] (MD) [Entered: 12/20/2019 03:18 PM]
12/23/2019	LETTER regarding <i>Response to 12-20-2019 M. DeSisto Letter</i> filed by Attorney Thomas W. Lyons, Ill for Appellant Edward A. Caniglia. Certificate of service dated 12/23/2019. [19-1764] CLERK'S NOTE: It appears the document was scanned rather than created by converting the original word processing document into a PDF file. THE FILER IS DIRECTED TO RE-FILE THE DOCUMENT BY

DATE	DOCKET TEXT
	12/26/19. (TWL) [Entered: 12/23/2019 10:14 AM]
12/26/2019	LETTER regarding <i>Response to 12-20-2019 Letter from M. DeSisto</i> filed by Attorney Thomas W. Lyons, Ill for Appellant Edward A. Caniglia. Certificate of service dated 12/26/2019. [19-1764] (TWL) [Entered: 12/26/2019 10:36 AM]
12/30/2019	COURTESY COPY OF Letter regarding Rule 28j <a href="#">[6305574-2]</a> filed by Attorney Marc DeSisto for Appellees Brandon Barth, Cranston, RI, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom and Michael J. Winqvist. Certificate of service was not included. [19-1764] (GB) [Entered: 12/30/2019 03:37 PM]
01/08/2020	CASE argued. Panel: David J. Barron, Appellate Judge; David H. Souter, Associate Supreme Court Justice and Bruce M. Selya, Appellate Judge. Arguing attorneys: Thomas W. Lyons, Ill for Edward A. Caniglia and Marc DeSisto for Cranston, RI, Robert F. Strom, Michael J. Winqvist, Russell C. Henry, Jr., Robert Quirk, Brandon Barth, John Mastrati, Wayne Russell and Austin Smith. [19-1764] (DJT) [Entered: 01/08/2020 12:52 PM]
03/13/2020	OPINION issued by David J. Barron, Appellate Judge; David H. Souter,* Associate Supreme Court Justice and Bruce

DATE	DOCKET TEXT
	M. Selya, Appellate Judge. Published. *Hon. David H. Souter, Associate Justice (Ret.) of the Supreme Court of the United States, sitting by designation. [19-1764] (CMP) [Entered: 03/13/2020 03:31 PM]
03/13/2020	JUDGMENT. Affirmed [19-1764] (CMP) [Entered: 03/13/2020 03:37 PM]
04/03/2020	MANDATE issued. [19-1764] (CMP) [Entered: 04/03/2020 02:20 PM]
08/13/2020	U.S. SUPREME COURT NOTICE advis- ing a petition for a writ of certiorari was filed on 08/10/2020 and assigned case number 20-157. [19-1764] (CMP) [Entered: 08/20/2020 05:20 PM]
11/20/2020	U.S. SUPREME COURT ORDER entered on 11/20/2020. The petition for a writ of certiorari was granted. [19-1764] (CMP) [Entered: 11/23/2020 05:01 PM]

U.S. DISTRICT COURT  
DISTRICT OF RHODE ISLAND (PROVIDENCE)

—————  
Civil Docket #: 1:15-cv-00525-JJM-LDA  
—————

EDWARD A. CANIGLIA,

v.

ROBERT F. STROM, AS THE  
FINANCE DIRECTOR OF THE CITY OF CRANSTON.  
—————

**DOCKET ENTRIES**

DATE	#	DOCKET TEXT
12/11/2015	1	COMPLAINT (filing fee paid \$400.00, receipt number 0103-922105), filed by Edward A. Caniglia. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B, # 3 Exhibit Exhibit C, # 4 Civil Cover Sheet Civil Cover Sheet, # 5 Summons to City of Cranston, # 6 Summons to Col Winqvist, # 7 Summons to Strom) (Lyons, Thomas) (Entered: 12/11/2015)
12/11/2015	2	NOTICE of Appearance by Thomas W. Lyons, III on behalf of Edward A. Caniglia (Lyons, Thomas) (Entered: 12/11/2015)
12/11/2015	3	NOTICE of Appearance by Rhiannon S. Huffman on behalf of Edward A. Caniglia (Huffman, Rhiannon) (Entered: 12/11/2015)

DATE	#	DOCKET TEXT
12/11/2015		Case assigned to Judge John J. McConnell, Jr. and Magistrate Judge Lincoln D. Almond. (Melendez, Filipa) (Entered: 12/11/2015)
12/11/2015	4	Summons Issued as to Robert F. Strom, The City of Cranston, Michael J. Winqvist. (Attachments: # 1 Summons–Strom, # 2 Summons–Winqvist) (Melendez, Filipa) (Entered: 12/11/2015)
12/16/2015	5	SUMMONS Returned Executed by Edward A. Caniglia. The City of Cranston served on 12/15/2015, answer due 1/5/2016. (Huffman, Rhiannon) (Entered: 12/16/2015)
12/16/2015	6	SUMMONS Returned Executed by Edward A. Caniglia. Robert F. Strom served on 12/15/2015, answer due 1/5/2016. (Huffman, Rhiannon) (Entered: 12/16/2015)
12/16/2015	7	SUMMONS Returned Executed by Edward A. Caniglia. Michael J. Winqvist served on 12/15/2015, answer due 1/5/2016. (Huffman, Rhiannon) (Entered: 12/16/2015)
12/29/2015	8	ANSWER to Complaint by Robert F. Strom, The City of Cranston, Michael J. Winqvist. (DeSisto, Marc) (Entered: 12/29/2015)
01/07/2016	9	NOTICE of Hearing: TELEPHONIC Rule 16 Conference set for Friday, 2/5/2016 at 09:00 AM before Judge

DATE	#	DOCKET TEXT
		John J. McConnell, Jr.; Court to initiate call. Kindly contact clerk at 401-752-7202 if contact information differs from the information on the docket sheet (Barletta, Barbara) (Entered: 01/07/2016)
01/07/2016		HEARING CANCELLED: The Telephonic Rule 16 Conference scheduled for Wednesday, 2/5/16 at 9:00 a.m. before Judge John J. McConnell, Jr. is cancelled (Barletta, Barbara) (Entered: 01/07/2016)
01/07/2016	10	PRETRIAL SCHEDULING ORDER: Factual Discovery to close on 6/30/2016; Plaintiffs expert disclosures shall be made by 7/29/16; Defendants' expert disclosures shall be made by 8/31/16; Expert Discovery to close on 9/30/2016; Dispositive Motions due by 10/28/2016 and if no diapositive motions are filed, Pretrial Memorandum due by 10/28/2016. – So Ordered by Judge John J. McConnell, Jr. on 1/7/2016. (Barletta, Barbara) (Entered: 01/07/2016)
01/19/2016		NOTICE of Hearing: Telephone Conference set for Monday, 1/25/2016 at 02:00 PM before Judge John J. McConnell, Jr.; Court to initiate call (Barletta, Barbara) (Entered: 01/19/2016)

DATE	#	DOCKET TEXT
01/25/2016		Minute Entry for proceedings held before Judge John J. McConnell, Jr.: Telephone Conference held on 1/25/2016; Thomas W. Lyon, III, Rhiannon S. Huffman, Marc DeSisto and Patrick C. Cunningham participated (Barletta, Barbara) (Entered: 01/25/2016)
01/26/2016		NOTICE of Hearing: Telephone Conference set for Wednesday, 1/27/2016 at 10:00 AM before Judge John J. McConnell, Jr.; Court to initiate call (Barletta, Barbara) (Entered: 01/26/2016)
01/26/2016		HEARING CANCELLED: The telephone conference scheduled for Wednesday, 1/27/16 at 10:00 a.m. in Courtroom 3 before Judge John J. McConnell, Jr. is cancelled (Barletta, Barbara) (Entered: 01/26/2016)
01/29/2016		TEXT ORDER: Discovery is stayed in this matter until the Court issues a decision on Plaintiffs Motion for Partial Summary Judgment in Richer v. Parmelee 15-162 – So Ordered by Judge John J. McConnell, Jr. on 1/29/2016. (Barletta, Barbara) (Entered: 01/29/2016)
01/29/2016	11	NOTICE of Appearance by Patrick K. Cunningham on behalf of All Defendants (Cunningham, Patrick) (Entered: 01/29/2016)

DATE	#	DOCKET TEXT
01/29/2016	12	NOTICE of Appearance by Marc DeSisto on behalf of All Defendants (DeSisto, Marc) (Entered: 01/29/2016)
08/02/2016	13	MOTION for an Extension of Time to Extend the Discovery Deadlines filed by Edward A. Caniglia. Responses due by 8/19/2016 (Lyons, Thomas) (Entered: 08/02/2016)
08/05/2016		NOTICE of Hearing: In Chambers Conference set for Wednesday, 8/10/2016 at 02:30 PM in Judge McConnell Chambers – Room 211 (Barletta, Barbara) (Entered: 08/05/2016)
08/05/2016		REVISED NOTICE of Hearing: In Chambers Conference is RESET to Wednesday, 8/17/2016 at 09:00 AM in Judge McConnell Chambers – Room 211 (Barletta, Barbara) (Entered: 08/05/2016)
08/11/2016	14	MOTION to Compel Answers to Interrogatories filed by Edward A. Caniglia. Responses due by 8/29/2016 (Lyons, Thomas) (Entered: 08/11/2016)
08/11/2016	15	MOTION to Compel Production of Documents filed by Edward A. Caniglia. Responses due by 8/29/2016 (Lyons, Thomas) (Entered: 08/11/2016)
08/16/2016		HEARING CANCELLED: The chambers conference scheduled for Wednesday, 8/17/16 at 9:00 a.m. before Judge John J. McConnell, Jr.

DATE	#	DOCKET TEXT
		is cancelled and will be rescheduled (Barletta, Barbara) (Entered: 08/16/2016)
08/16/2016		REVISED NOTICE of Hearing: In Chambers Conference is RESET to Thursday, 8/18/2016 at 09:00 AM in Judge McConnell Chambers – Room 211 (Barletta, Barbara) (Entered: 08/16/2016)
08/18/2016		Minute Entry for proceedings held before Judge John J. McConnell, Jr.: In Chambers Conference held on 8/18/2016; Thomas W. Lyons, Rhiannon S. Huffman, Marc DeSisto and Patrick K. Cunningham present (Barletta, Barbara) (Entered: 08/18/2016)
08/18/2016		TEXT ORDER vacating 10 Pretrial Scheduling Order – So Ordered by Judge John J. McConnell, Jr. on 8/18/2016. (Barletta, Barbara) (Entered: 08/18/2016)
08/18/2016		TEXT ORDER denying as moot 13 Motion for Extension of Time for discovery in light of the Text Order vacating 10 Pretrial Scheduling Order – So Ordered by Judge John J. McConnell, Jr. on 8/18/2016. (Barletta, Barbara) (Entered: 08/18/2016)
08/18/2016		TEXT ORDER denying without prejudice 14 Motion to Compel;

DATE	#	DOCKET TEXT
		denying without prejudice 15 Motion to Compel – So Ordered by Judge John J. McConnell, Jr. on 8/18/2016. (Barletta, Barbara) (Entered: 08/18/2016)
08/29/2016		NOTICE of Hearing: Settlement Conference scheduled for Wednesday 10/12/2016 at 10:00 AM in Chambers before Chief Judge William E. Smith; Principle clients with settlement authority must be present at the conference; counsel are to submit ex parte, confidential settlement statements on or before 10/5/16 via email to Case Manager Ryan Jackson (Jackson, Ryan) (Entered: 08/29/2016)
09/26/2016		NOTICE of Hearing: Joint–Case Settlement Conference RE–SCHEDULED for Tuesday 11/15/2016 at 10:00 AM in Chambers before Chief Judge William E. Smith; the conference previously scheduled for 10/12/16 is hereby CANCELLED; Principle clients with settlement authority must be present at the conference; counsel are to submit ex parte confidential settlement statements on or before 11/4/16 via email to Case Manager Ryan Jackson. (Jackson, Ryan) (Entered: 09/26/2016)
11/04/2016		Reset Hearings re: Notice of Joint–Case Settlement Conference RE–

DATE	#	DOCKET TEXT
		<p>SCHEДУED for Monday 12/12/16 at 10:00 AM in Chambers before Chief Judge William E. Smith; the conference previously scheduled for 11/15/16 is hereby CANCELLED; Principle clients with settlement authority must be present at the conference; counsel are to submit ex parte confidential settlement statements on or before 12/5/16 via email to Case Manager Ryan Jackson (if they have not already been submitted) (Jackson, Ryan) (Entered: 11/04/2016)</p>
12/12/2016		<p>Minute Entry for proceedings held before Chief Judge William E. Smith: Settlement Conference held on 12/12/2016. (Urizandi, Nisshy) (Entered: 01/10/2017)</p>
12/21/2016		<p>NOTICE of Hearing: Telephone Conference scheduled for Thursday 12/22/2016 at 11:45 AM before Chief Judge William E. Smith; this office will initiate the call and counsel are to provide Case Manager Ryan Jackson with direct-dial contact telephone numbers as soon as possible, via email. (Jackson, Ryan) (Entered: 12/21/2016)</p>
12/22/2016		<p>Minute Entry for proceedings held before Chief Judge William E. Smith: Telephone Conference held on 12/22/2016; counsel on call: T.</p>

DATE	#	DOCKET TEXT
		Lyons; M. DeSisto, P. Cunningham (Jackson, Ryan) (Entered: 12/22/2016)
01/20/2017		NOTICE of Hearing: Continued Settlement Conference scheduled for Thursday 2/2/2017 at 2:00 PM in Chambers before Chief Judge William E. Smith. (Jackson, Ryan) (Entered: 01/20/2017)
01/25/2017		Reset Hearings re: Notice of Continued Settlement Conference RE-SCHEDULED for Tuesday 2/21/2017 at 10:00 AM in Chambers before Chief Judge William E. Smith; conference previously scheduled for 2/2/17 is hereby CANCELLED. (Jackson, Ryan) (Entered: 01/25/2017)
02/21/2017		Minute Entry for proceedings held before Chief Judge William E. Smith: Settlement Conference held on 2/21/2017. (Jackson, Ryan) (Entered: 03/02/2017)
03/29/2017		NOTICE of Hearing: Telephone Conference set for Thursday, 4/6/2017 at 11:30 AM before District Judge John J. McConnell, Jr.; Court to initiate call (Barletta, Barbara) (Entered: 03/29/2017)
04/06/2017		Minute Entry for proceedings held before District Judge John J. McConnell, Jr.: Telephone Conference held on 4/6/2017; Thomas Lyons and Marc DeSisto participated

DATE	#	DOCKET TEXT
		(Barletta, Barbara) (Entered: 04/06/2017)
04/06/2017	16	PRETRIAL SCHEDULING ORDER: Factual Discovery to close by 1/8/2018; Plaintiffs Expert Disclosures shall be made by 2/8/2018; Defendants' Expert Disclosures shall be made by 3/8/2018; Expert Discovery to close by 4/9/2018 and Dispositive Motions due by 5/8/2018 – So Ordered by District Judge John J. McConnell, Jr. on 4/6/2017. (Barletta, Barbara) (Entered: 04/06/2017)
04/13/2017	17	CONSENT ORDER granting 14 MOTION to Compel Answers to Interrogatories filed by Edward A. Caniglia; Defendants shall respond by 5/12/17 – So Ordered by District Judge John J. McConnell, Jr. on 4/13/2017. (Barletta, Barbara) (Entered: 04/13/2017)
04/13/2017	18	CONSENT ORDER granting 15 MOTION to Compel Production of Documents filed by Edward A. Caniglia; Defendants shall respond by 5/12/17 – So Ordered by District Judge John J. McConnell, Jr. on 4/13/2017. (Barletta, Barbara) (Entered: 04/13/2017)
04/13/2017	19	MOTION to Amend/Correct Complaint WITH SUPPORTING MEMO filed by Edward A. Caniglia. Responses

DATE	#	DOCKET TEXT
		due by 4/27/2017. (Attachments: # 1 Supporting Memorandum Memorandum in Support of Motion to Amend Complaint, # 2 Exhibit Proposed Amended Verified Complaint) (Lyons, Thomas) (Entered: 04/13/2017)
04/28/2017		TEXT ORDER granting as unopposed 19 Motion to Amend/Correct Complaint – So Ordered by District Judge John J. McConnell, Jr. on 4/28/2017. (Barletta, Barbara) (Entered: 04/28/2017)
05/18/2017	20	AMENDED COMPLAINT against All Defendants, filed by Edward A. Caniglia. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B, # 3 Exhibit Exhibit C) (Lyons, Thomas) (Entered: 05/18/2017)
05/18/2017	21	Summons Request filed by Edward A. Caniglia. (Huffman, Rhiannon) (Entered: 05/18/2017)
05/18/2017	22	Summons Request filed by Edward A. Caniglia. (Huffman, Rhiannon) (Entered: 05/18/2017)
05/18/2017	23	Summons Request filed by Edward A. Caniglia. (Huffman, Rhiannon) (Entered: 05/18/2017)
05/18/2017	24	Summons Request filed by Edward A. Caniglia. (Huffman, Rhiannon) (Entered: 05/18/2017)

DATE	#	DOCKET TEXT
05/18/2017	25	Summons Request filed by Edward A. Caniglia. (Huffman, Rhiannon) (Entered: 05/18/2017)
05/18/2017	26	Summons Request filed by Edward A. Caniglia. (Huffman, Rhiannon) (Entered: 05/18/2017)
05/18/2017	27	Summons Issued as to Brandon Barth, Russell C. Henry, Jr, John Mastrati, Robert Quirk, Wayne Russell, Austin Smith. (Attachments: # 1 Summons, # 2 Summons, # 3 Summons, # 4 Summons, # 5 Summons) (McGuire, Vickie) (Entered: 05/18/2017)
05/22/2017	28	WAIVER OF SERVICE Returned Executed by Edward A. Caniglia. Brandon Barth waiver sent on 5/19/2017, answer due 7/18/2017. (Huffman, Rhiannon) (Entered: 05/22/2017)
05/22/2017	29	WAIVER OF SERVICE Returned Executed by Edward A. Caniglia. Russell C. Henry, Jr waiver sent on 5/19/2017, answer due 7/18/2017. (Huffman, Rhiannon) (Entered: 05/22/2017)
05/22/2017	30	WAIVER OF SERVICE Returned Executed by Edward A. Caniglia. John Mastrati waiver sent on 5/19/2017, answer due 7/18/2017. (Huffman, Rhiannon) (Entered: 05/22/2017)

DATE	#	DOCKET TEXT
05/22/2017	31	WAIVER OF SERVICE Returned Executed by Edward A. Caniglia. Robert Quirk waiver sent on 5/19/2017, answer due 7/18/2017. (Huffman, Rhiannon) (Entered: 05/22/2017)
05/22/2017	32	WAIVER OF SERVICE Returned Executed by Edward A. Caniglia. Wayne Russell waiver sent on 5/19/2017, answer due 7/18/2017. (Huffman, Rhiannon) (Entered: 05/22/2017)
05/22/2017	33	WAIVER OF SERVICE Returned Executed by Edward A. Caniglia. Austin Smith waiver sent on 5/19/2017, answer due 7/18/2017. (Huffman, Rhiannon) (Entered: 05/22/2017)
05/24/2017	34	NOTICE of Appearance by Patrick K. Cunningham on behalf of Brandon Barth, Russell C. Henry, Jr, John Mastrati, Robert Quirk, Wayne Russell, Austin Smith (Cunningham, Patrick) (Entered: 05/24/2017)
05/24/2017	35	NOTICE of Appearance by Marc DeSisto on behalf of Brandon Barth, Russell C. Henry, Jr, John Mastrati, Robert Quirk, Wayne Russell, Austin Smith (DeSisto, Marc) (Entered: 05/24/2017)

DATE	#	DOCKET TEXT
05/24/2017	36	ANSWER to 20 Amended Complaint by Brandon Barth, Russell C. Henry, Jr, John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom, The City of Cranston, Michael J. Winquist. (DeSisto, Marc) (Entered: 05/24/2017)
08/11/2017	37	STIPULATION extending defs' time to respond to discovery filed by All Defendants. (DeSisto, Marc) (Entered: 08/11/2017)
08/15/2017		TEXT ORDER entering 37 Stipulation to extend time for defendants to respond to discovery – So Ordered by District Judge John J. McConnell, Jr. on 8/15/2017. (Barletta, Barbara) (Entered: 08/15/2017)
09/14/2017	38	Second STIPULATION extending defs' time to respond to discovery filed by All Defendants. (DeSisto, Marc) (Entered: 09/14/2017)
09/15/2017		TEXT ORDER entering 38 Stipulation to extend time for defendants to respond to discovery requests – So Ordered by District Judge John J. McConnell, Jr. on 9/15/2017. (Barletta, Barbara) (Entered: 09/15/2017)
10/06/2017	39	MOTION for an Extension of Time extending all pretrial deadlines filed by All Defendants. Responses due by 10/20/2017. (DeSisto, Marc) (Entered: 10/06/2017)

DATE	#	DOCKET TEXT
10/10/2017		TEXT ORDER granting 39 Motion for Extension of Time ; Reset Scheduling Order Deadlines: Factual Discovery to close by 4/9/2018; Plaintiffs Expert Disclosures shall be made by 5/8/2018; Defendants' Expert Disclosures shall be made by 6/8/2018; Expert Discovery to close by 7/9/2018 and Dispositive Motions due by 8/6/2018 – NO FURTHER EXTENSIONS WILL BE GRANTED – So Ordered by District Judge John J. McConnell, Jr. on 10/10/2017. (Barletta, Barbara) (Entered: 10/10/2017)
02/23/2018	40	NOTICE of Appearance by Caroline V. Murphy on behalf of All Defendants (Murphy, Caroline) (Entered: 02/23/2018)
03/19/2018	41	Joint MOTION for an Extension of Time extending all pretrial dates filed by All Defendants. Responses due by 4/2/2018. (Cunningham, Patrick) (Entered: 03/19/2018)
03/19/2018		TEXT ORDER granting 41 Motion for Extension of Time; Reset Scheduling Order Deadlines: Factual Discovery to close by 7/9/2018; Plaintiffs Expert Disclosures shall be made by 8/9/2018; Defendants' Expert Disclosures shall be made by 9/10/2018; Expert Discovery to close by 10/9/2018 and Dispositive

DATE	#	DOCKET TEXT
		Motions due by 11/9/2018 – So Ordered by District Judge John J. McConnell, Jr. on 3/19/2018 (Barletta, Barbara) (Entered: 03/19/2018)
06/15/2018	42	Final MOTION for an Extension of Time to Complete Discovery filed by Edward A. Caniglia. Responses due by 6/29/2018. (Lyons, Thomas) (Entered: 06/15/2018)
06/18/2018		TEXT ORDER granting 42 Motion for Extension of Time to Complete Discovery; Reset Scheduling Order Deadlines: Factual Discovery to close by 8/17/2018; Plaintiffs Expert Disclosures shall be made by 9/17/2018,, Defendants' Expert Disclosures shall be made by 10/17/2018; Expert Discovery to close by 11/17/2018 and Dispositive Motions shall be filed by 12/17/2018. Pretrial Memoranda deadline will be set in the trial notice. NO FURTHER EXTENSIONS WILL BE GRANTED – So Ordered by District Judge John J. McConnell, Jr. on 6/18/2018 (Barletta, Barbara) (Entered: 06/18/2018)
12/17/2018	43	MOTION for Partial Summary Judgment with Supporting Memorandum filed by All Plaintiffs. Responses due by 12/31/2018. (Attachments: # 1 Supporting Memorandum) (Lyons, Thomas) (Entered: 12/17/2018)

DATE	#	DOCKET TEXT
12/17/2018	44	STATEMENT OF UNDISPUTED FACTS by All Plaintiffs re MOTION for Partial Summary Judgment with Supporting Memorandum. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B, # 3 Exhibit Exhibit C, # 4 Exhibit Exhibit D, # 5 Exhibit Exhibit E, # 6 Exhibit Exhibit F, # 7 Exhibit Exhibit G, # 8 Exhibit Exhibit H, # 9 Exhibit Exhibit I, # 10 Exhibit Exhibit J, # 11 Exhibit Exhibit K, # 12 Exhibit Exhibit L, # 13 Exhibit Exhibit M, # 14 Exhibit Exhibit N, # 15 Exhibit Exhibit O, # 16 Exhibit Exhibit P, # 17 Exhibit Exhibit Q, # 18 Exhibit Exhibit R – Part 1 of 2, # 19 Exhibit Exhibit – Part 2 of 2, # 20 Exhibit Exhibit S, # 21 Exhibit Exhibit T, # 22 Exhibit Exhibit U, # 23 Exhibit Exhibit V, # 24 Exhibit Exhibit W, # 25 Exhibit Exhibit X, # 26 Exhibit Exhibit Y, # 27 Exhibit Exhibit Z, # 28 Exhibit Exhibit AA, # 29 Exhibit Exhibit BB – Part 1 of 5, T30 Exhibit Exhibit BB – Part 2 of 5, # 31 Exhibit Exhibit BB – Part 3 of 5, # 32 Exhibit Exhibit BB – Part 4 of 5, # 33 Exhibit Exhibit BB – Part 5 of 5, # 34 Exhibit Exhibit CC, # 35 Exhibit Exhibit DD – Part 1 of 2, # 36 Exhibit Exhibit DD – Part 2 of 2, # 37 Exhibit Exhibit EE) (Lyons, Thomas) Modified on 12/17/2018

DATE	#	DOCKET TEXT
		(McGuire, Vickie).CLERKS NOTE: Remote electronic access to the document has been restricted by the Clerks Office as it contains one or more personal identifiers. /i> (Entered: 12/17/2018)
12/17/2018	45	MOTION for Partial Summary Judgment filed by All Defendants. Responses due by 12/31/2018. (Attachments: # 1 Supporting Memorandum) (DeSisto, Marc) Docket Text Modified on 12/18/2018 (Farrell Pletcher, Paula). (Entered: 12/17/2018)
12/17/2018	46	STATEMENT OF UNDISPUTED FACTS by All Defendants re 45 MOTION for Summary Judgment. (Attachments: # 1 Exhibit) (DeSisto, Marc) (Entered: 12/17/2018)
12/17/2018	47	MOTION to Seal Exhibit E of Defendants' Partial MSJ Filed. Notice Sent To: All Defendants. (DeSisto, Marc) This entry/document has been filed under seal pursuant to statute, rule or court order and access is restricted. Please login to CM/ECF to view document(s). (Entered: 12/17/2018)
12/18/2018		TEXT ORDER granting 47 Motion to Seal – So Ordered by District Judge John J. McConnell, Jr. on 12/18/2018. (Barletta, Barbara) (Entered: 12/18/2018)

DATE	#	DOCKET TEXT
12/21/2018	48	Joint MOTION for an Extension of Time to File Response/Reply as to 45 MOTION for Summary Judgment, 43 MOTION for Partial Summary Judgment with Supporting Memorandum filed by Edward A. Caniglia. Responses due by 1/4/2019. (Lyons, Thomas) (Entered: 12/21/2018)
12/21/2018	49	Joint MOTION for an Extension of Time to File Response/Reply as to 45 MOTION for Summary Judgment, 43 MOTION for Partial Summary Judgment with Supporting Memorandum filed by Edward A. Caniglia. Responses due by 1/4/2019. (Lyons, Thomas) (Entered: 12/21/2018)
12/27/2018		TEXT ORDER granting 49 Motion for Extension of Time to File Responses to 43 MOTION for Partial Summary Judgment with Supporting Memorandum, 45 MOTION for Summary Judgment. Responses due by 1/30/2019. – So Ordered by District Judge John J. McConnell, Jr. on 12/27/2018. (Barletta, Barbara) (Entered: 12/27/2018)
12/29/2018	50	Second MOTION to Amend/Correct 20 Amended Complaint filed by Edward A. Caniglia. Responses due by 1/14/2019. (Attachments: # 1 Proposed Amended Complaint, # 2 Supporting Memorandum, # 3 Exhibit CPD GO Public Mental

DATE	#	DOCKET TEXT
		Health, # 4 Exhibit Mastria ATI 21, # 5 Exhibit E. Caniglia Deposition, # 6 Exhibit Winquist Deposition, # 7 Exhibit Henry Deposition, # 8 Exhibit Barth Deposition, # 9 Exhibit Expert Report of Dr. Berman) (Lyons, Thomas) (Entered: 12/29/2018)
01/18/2019		TEXT ORDER granting as unopposed 50 Motion to Amend/Correct Complaint – So Ordered by District Judge John J. McConnell, Jr. on 1/18/2019. (Barletta, Barbara) (Entered: 01/18/2019)
01/19/2019	51	AMENDED COMPLAINT against All Defendants, filed by Edward A. Caniglia. (Lyons, Thomas) (Entered: 01/19/2019)
01/23/2019	52	ANSWER to 51 Amended Complaint by Brandon Barth, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom, The City of Cranston, Michael J. Winquist. (DeSisto, Marc) (Entered: 01/23/2019)
01/28/2019	53	Consent MOTION to file supplement filed by All Defendants. Responses due by 2/11/2019. (DeSisto, Marc) (Entered: 01/28/2019)
01/29/2019		TEXT ORDER granting 53 Consent MOTION to file supplement; Plaintiff shall submit a supplement to his

DATE	#	DOCKET TEXT
		Motion for Summary Judgment addressing the due process claim on or before 2/2/19 and defendants shall respond to plaintiffs supplement on or before 2/9/19 – So Ordered by District Judge John J. McConnell, Jr. on 1/29/2019. (Barletta, Barbara) (Entered: 01/29/2019)
01/30/2019	54	RESPONSE In Opposition to 45 MOTION for Summary Judgment filed by Edward A. Caniglia. Replies due by 2/6/2019. (Lyons, Thomas) (Entered: 01/30/2019)
01/30/2019	55	STATEMENT OF DISPUTED FACTS by Edward A. Caniglia re 46 Statement of Undisputed Facts. (Attachments: # 1 Exhibit Exhibit 1, # 2 Exhibit Exhibit 2, # 3 Exhibit Exhibit 3) (Lyons, Thomas) (Entered: 01/30/2019)
01/30/2019	56	STATEMENT OF UNDISPUTED FACTS Statement of Additional Undisputed Facts by Edward A. Caniglia re 44 Statement of Undisputed Facts,,,,,. (Attachments: # 1 Exhibit Exhibit FF) (Lyons, Thomas) (Entered: 01/30/2019)
01/30/2019	57	RESPONSE In Opposition to 43 MOTION for Partial Summary Judgment with Supporting Memorandum filed by All Defendants. Replies due by 2/6/2019. (Attachments: # 1

DATE	#	DOCKET TEXT
		Supporting Memorandum) (DeSisto, Marc) (Entered: 01/30/2019)
01/30/2019	58	STATEMENT OF UNDISPUTED FACTS Additional by All Defendants re 57 Response to Motion,. (Attachments: # 1 Exhibit) (DeSisto, Marc) (Entered: 01/30/2019)
01/30/2019	59	STATEMENT OF DISPUTED FACTS by All Defendants re 57 Response to Motion,. (Attachments: # 1 Exhibit) (DeSisto, Marc) (Entered: 01/30/2019)
01/31/2019	60	SUPPLEMENTAL MEMORANDUM by Edward A. Caniglia in support of 43 MOTION for Partial Summary Judgment with Supporting Memorandum, Order on Motion for Miscellaneous Relief,. (Lyons, Thomas) (Entered: 01/31/2019)
02/06/2019	61	REPLY MEMORANDUM re 54 Response to Motion. (DeSisto, Marc) (Entered: 02/06/2019)
02/06/2019	62	STATEMENT OF DISPUTED FACTS Additional by All Defendants. (Attachments: # 1 Exhibit Deposition Transcript) (DeSisto, Marc) (Entered: 02/06/2019)
02/06/2019	63	REPLY MEMORANDUM re 60 Supplemental Memorandum in Support. (DeSisto, Marc) (Entered: 02/06/2019)

DATE	#	DOCKET TEXT
02/06/2019	64	REPLY to Response re 57 Response to Motion, re: Plaintiffs Motion for Summary Judgment filed by Edward A. Caniglia. (Lyons, Thomas) (Entered: 02/06/2019)
02/06/2019	65	STATEMENT OF DISPUTED FACTS Additional by Edward A. Caniglia re 58 Statement of Undisputed Facts. (Attachments: # 1 Exhibit Exhibit 1, # 2 Exhibit Exhibit 2, # 3 Exhibit Exhibit 3, # 4 Exhibit Exhibit 4, # 5 Exhibit Exhibit 5) (Lyons, Thomas) (Entered: 02/06/2019)
02/08/2019		NOTICE of Hearing on Motion: 43 MOTION for Partial Summary Judgment with Supporting Memorandum, 45 MOTION for Summary Judgment: Motion Hearing set for Monday, 3/25/2019 at 09:30 AM at Roger Williams University School of Law before District Judge John J. McConnell, Jr. (Barletta, Barbara) (Entered: 02/08/2019)
02/08/2019		NOTICE of Hearing: Telephone Conference set for Friday, 3/22/2019 at 09:00 AM before District Judge John J. McConnell, Jr.; Court to initiate call. Kindly provide case manager at 401-752-7202 with telephone contact information if it differs from the docket sheet (Barletta, Barbara) (Entered: 02/08/2019)

DATE	#	DOCKET TEXT
03/25/2019		Minute Entry for proceedings held before District Judge John J. McConnell, Jr.: Motion Hearing held on 3/25/2019 re (45 in 1:15-cv-00525-JJM-LDA) MOTION for Summary Judgment filed by John Mastrati, Wayne Russell, Michael J. Winkvist, The City of Cranston, Robert Quirk, Brandon Barth, Austin Smith, Russell C. Henry, Jr., Robert F. Strom, (79 in 1:15-cv-00162-JJM-PAS) MOTION for Summary Judgment filed by Russell Amato, Glenn Lamoureux, Tim Lafferty, Town of North Smithfield, Stephen Riccitelli, Jason Parmelee, Gregory Landry, Mark Bergeron, Steven E. Reynolds, (77 in 1:15-cv-00162-JJM-PAS) Second MOTION for Partial Summary Judgment with Supporting Memorandum filed by Jason A. Richer, (43 in 1:15-cv-00525-JJM-LDA) MOTION for Partial Summary Judgment with Supporting Memorandum filed by Edward A. Caniglia. Thomas Lyons for Plaintiff. Patrick Cunningham & Mark DeSisto for Defendants. Defendant and Plaintiff present arguments to the Court. Plaintiff to submit further briefing. Court adjourned. (Court Reporter Lisa Schwam in Courtroom RWU at 9:30

DATE	#	DOCKET TEXT
		am.) (McGuire, Vickie) (Entered: 03/25/2019)
03/28/2019	66	SUR-REPLY to Reply to Motion Response re 64 Reply to Response filed by All Plaintiffs. (Attachments: # 1 Exhibit Plaintiffs Answers to Interrogatories, # 2 Exhibit E. Caniglia Deposition, # 3 Exhibit K. Caniglia Deposition) (Lyons, Thomas) (Entered: 03/28/2019)
06/04/2019	67	MEMORANDUM AND ORDER granting in part and denying in part 43 Motion for Partial Summary Judgment; granting 45 Motion for Summary Judgment – So Ordered by District Judge John J. McConnell, Jr. on 6/4/2019. (Barletta, Barbara) (Entered: 06/04/2019)
06/04/2019		NOTICE of Hearing: In Chambers Conference set for Wednesday, 6/26/2019 at 03:00 PM in Judge McConnell Chambers (Barletta, Barbara) (Entered: 06/04/2019)
06/04/2019		REVISED NOTICE of Hearing: In Chambers Conference is RESCHEDULED to Tuesday, 6/25/2019 at 02:30 PM in Judge McConnell Chambers (Barletta, Barbara) (Entered: 06/04/2019)
06/10/2019	68	TRANSCRIPT ORDER for proceedings held on 3/25/2019 before Judge McConnell. Ordinary Transcript

DATE	#	DOCKET TEXT
		delivery selected. Transcript to be delivered in 30 days.. (Huffman, Rhiannon) (Entered: 06/10/2019)
06/10/2019	69	TRANSCRIPT ORDER ACKNOWLEDGMENT Entered re: 68 Transcript Order. Court Reporter/Transcriber: Lisa Schwam. (Dias, Jennifer) (Entered: 06/10/2019)
06/25/2019		Minute Entry for proceedings held before District Judge John J. McConnell, Jr.: In Chambers Conference held on 6/25/2019; Thomas W. Lyons, Marc DeSisto and Patrick Cunningham participated (Barletta, Barbara) (Entered: 06/25/2019)
06/27/2019	70	TRIAL NOTICE AND PRETRIAL ORDER – So Ordered by District Judge John J. McConnell, Jr. on 6/27/2019. (Barletta, Barbara) (Entered: 06/27/2019)
06/27/2019		NOTICE of Hearing: Jury Selection set for Tuesday, 7/9/2019 at 09:30 AM in Courtroom 1 before District Judge John J. McConnell, Jr. (Barletta, Barbara) (Entered: 06/27/2019)
07/08/2019		HEARING CANCELLED: The jury selection scheduled for Tuesday, 7/9/19 at 9:30 a.m. in Courtroom 1 before Judge John J. McConnell, Jr.

DATE	#	DOCKET TEXT
		is cancelled (Barletta, Barbara) (Entered: 07/08/2019)
07/19/2019	71	FINAL JUDGMENT – So Ordered by District Judge John J. McConnell, Jr. on 7/19/2019. (Barletta, Barbara) (Entered: 07/19/2019)
08/01/2019	72	NOTICE OF APPEAL by Edward A. Caniglia as to 71 Judgment (filing fee paid \$ 505.00, receipt number 0103-1402621)  NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at <a href="http://pacer.psc.uscourts.gov/cmecf/">http://pacer.psc.uscourts.gov/cmecf/</a> . Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at <a href="http://www.cal.uscourts.gov/cmecf">http://www.cal.uscourts.gov/cmecf</a> Appeal Record due by 8/8/2019. (Lyons, Thomas) (Entered: 08/01/2019)
08/01/2019	73	CLERK'S CERTIFICATE AND APPELLATE COVER SHEET: Abbreviated record on appeal consisting of notice of appeal, order(s) being appealed, and a certified copy of the district court docket report transmitted to the U.S. Court of Appeals for the First Circuit in accordance with 1st Cir. R. 11.0(b). 72 Notice of Appeal. (Attachments: #

DATE	#	DOCKET TEXT
		1 Record on Appeal) (Potter, Carrie) (Entered: 08/01/2019)
08/02/2019		USCA Case Number 19-1764 for 72 Notice of Appeal filed by Edward A. Caniglia. (Farrell Pletcher, Paula) (Entered: 08/02/2019)
03/16/2020	74	OPINION of the U.S. Court of Appeals for the First Circuit entered as to 72 Notice of Appeal filed by Edward A. Caniglia: We need go no further. Police officers play an important role as community care- takers. As this case illustrates, they sometimes are confronted with pecu- liar circumstances circumstances that present them with difficult choices. Here, the actions of the defendant officers, though not letter perfect, did not exceed the proper province of their community caretak- ing responsibilities. The able district court recognized as much and, for the reasons elucidated above, its judgment is Affirmed. (Potter, Carrie) (Entered: 03/16/2020)
03/16/2020	75	JUDGMENT of the U.S. Court of Appeals for the First Circuit entered as to 72 Notice of Appeal filed by Edward A. Caniglia: This cause came on to be heard on appeal from the United States District Court for the District of Rhode Island and was

DATE	#	DOCKET TEXT
		argued by counsel. Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: the judgment of the district court is affirmed. (Potter, Carrie) (Entered: 03/16/2020)
04/06/2020	76	MANDATE of the U.S. Court of Appeals for the First Circuit issued as to and in accordance with 75 Judgment of the U.S. Court of Appeals for the First Circuit: In accordance with the judgment of March 13, 2020, and pursuant to Federal Rule of Appellate Procedure 41(a), this constitutes the formal mandate of this Court. (Potter, Carrie) (Entered: 04/06/2020)
05/07/2020	77	MOTION for Attorney Fees filed by Edward A. Caniglia. Responses due by 5/21/2020. (Attachments: # 1 Supporting Memorandum, # 2 Affidavit, # 3 Affidavit, # 4 Affidavit) (Lyons, Thomas) (Entered: 05/07/2020)
05/15/2020	78	CONSENT ORDER holding 77 MOTION for Attorney Fees filed by Edward A. Caniglia in abeyance until further Order of this Court – So Ordered by Chief Judge John J. McConnell, Jr. on 5/15/2020. (Barletta, Barbara) (Entered: 05/15/2020)
12/18/2020		TEXT ORDER denying without prejudice 77 Motion for Attorney

DATE	#	DOCKET TEXT
		Fees – So Ordered by Chief Judge John J. McConnell, Jr. on 12/18/2020. (Barletta, Barbara) (Entered: 12/18/2020)
12/18/2020	79	NOTICE by Brandon Barth, Russell C. Henry, Jr., John Mastrati, Robert Quirk, Wayne Russell, Austin Smith, Robert F. Strom, The City of Cranston, Michael J. Winqvist (DeSisto, Marc) (Entered: 12/18/2020)

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,  
*Plaintiff*

v.

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

---

PLAINTIFF'S STATEMENT OF  
UNDISPUTED FACTS

1. Plaintiff Edward ("Ed") Caniglia is 68 years old. (Plaintiff's Answers to Defendant City of Cranston's Interrogatories at Answer No. 1, attached as Exhibit A). He has been married to Kim Caniglia since 1993. (E. Caniglia depo. at p. 11, excerpts attached as Exhibit Q). They have never filed for divorce. (*Id.* at pp. 67-68, 82-83).

2. Col. Winquist joined the Rhode Island State Police in 1990 after attending the State Police Academy. (Winquist depo. pp. 10-11, excerpts attached as Exhibit B).

3. Col. Winquist was told while with the State Police that he could require a person to submit to a mental health evaluation at a hospital emergency room without obtaining a court order if that person was in imminent danger of harming himself or someone else. (Exhibit B at pp. 18-20).

4. Moreover, Col. Winqvist was told he had the authority in those circumstances to seize firearms without a court order to protect the public. (Id. at p. 20).

5. Col. Winqvist was told this was part of the community caretaking function. (Id. at p. 20). The community caretaking function was not embodied in any written document nor was Col. Winqvist taught any legal basis for the function. (Id. at pp. 21-22).

6. Col. Winqvist is not aware of any statute that embodies the community caretaking function. (Id. at p. 31). Prior to 2017, there was no statute that authorized police to require a person to have a psychiatric evaluation. (Id.). Prior to 2018, there was no statute that authorized police to seize a person's firearms when that person was a danger to himself or others. (Id. at pp. 30-31).

7. There was no written policy or procedure that set forth the State Police's authority to seize firearms or to require persons to submit to psychiatric examinations without a court order. (Id. at pp. 22-23).

8. Col. Winqvist was with the State Police until 2014 when he was hired to be the Colonel of the Cranston Police Department. (Id. at p. 13).

9. The State Police eventually became accredited by the Commission for Accreditation of Law Enforcement ("CALEA"). (Id. at pp. 15, 21). Col. Winqvist was involved in the accreditation process. (Id.).

10. None of the CALEA standards dealt with the community caretaking function or the authority of the State Police to require someone to submit to a psychiatric evaluation or to seize firearms without a court

order. (Id. at p. 23; Henry depo. pp. 42-43, excerpts attached as Exhibit C).

11. Col. Winqvist is the person who establishes policy for the Cranston Police Department. (Exhibit B at p. 24).

12. The Cranston Police Department first became accredited by CALEA in 2011 or 2012. (Exhibit C at p. 41). CALEA establishes “best practices” for law enforcement agencies. (Id. at pp. 39-40).

13. The Cranston Police Department has a manual of policies and procedures. (Exhibit B at p. 34). It includes General Orders (“GO”). (Id. at pp. 36-37). The GOs are based on CALEA standards. (Exhibit C at p. 41).

14. The first GO, number 000.01, entitled “Introduction,” states: “This manual is a complete catalog of department issued general orders, policies, procedures, rules and regulations. Revisions have been completed as needed.” (Exhibit D). As of January 6, 2014, the manual was a complete catalog of the Department’s policies and procedures. (Exhibit C at p. 44). The manual is “the bible for the Cranston Police Department.” (Id. at p. 46).

15. The Manual has a GO 100.10 which sets forth the Cranston Police Departments “Limits of Authority” “during the execution of the criminal process.” (Exhibit E).

16. The situation involving Plaintiff was not part of the criminal process. Col. Winqvist believes that Cranston Police Department does not have a GO which sets forth its limits of authority in situations such as those involving Plaintiff. (Exhibit B at pp. 38-39).

17. The Cranston Police Department does have a GO 320.80 entitled “Civil Procedure” which provides guidelines while executing the police role in civil situations, including “keep the peace” situations. (Exhibit F). This GO provides that in “keep the peace” situations “the officer must terminate the process if there’s any resistance.” (Id.)

18. Col. Winqvist does not believe that this GO applies to the situation involving Plaintiff. (Exhibit B at pp. 39-42).

19. Col. Winqvist does not believe that this GO limits the authority of the Cranston police to act pursuant to the community caretaking function when there is imminent harm to the public. (Id. at pp. 42-43).

20. Capt. Henry’s understanding is that there is no limit on the police authority under the community caretaking function so long as it is not used to collect evidence to prosecute a crime. (Exhibit C at pp. 54-55). He believes the function authorizes police to take whatever steps are reasonable based on the facts and circumstances at the time. (Id. at p. 55). What is reasonable is “in the eye of the beholder.” (Id.). There are no written guidelines to help a police officer determine whether he has the authority to act pursuant to the community caretaking function. (Id. at pp. 55-56). Capt. Henry is not aware of any training for Cranston police officers on the scope of their authority under the community caretaking function. (Id. p. 56).

21. GO 350.20, “Bureau of Criminal Identification,” addresses the return of firearms that have been seized for safekeeping. (Exhibit G; Exhibit B at pp. 45-48).

22. Col. Winqvist believes this GO authorizes the seizure of firearms based on a person's "temporary state of mind." (Exhibit B at p. 47).

23. There is no specific time frame that the Cranston Police hold a firearm based on a person's temporary state of mind. (Id. at pp. 53-54).

24. The Cranston Police do not keep statistics as to how often they seize firearms based on a person's temporary state of mind and Col. Winqvist has no idea how often it happens. (Id. at p. 55).

25. Cranston Police Department GO 320.70 addresses "Public Mental Health," including voluntary and involuntary admissions to mental health facilities. (Exhibit H).

26. Col. Winqvist believes that if the Cranston police tell a person that they are going to seize his firearms unless he goes for a mental evaluation that that is a voluntary admission because the person can still say "no." (Exhibit B at p. 57-58).

27. Conversely, Capt. Henry says the Cranston police should not coerce someone to have a mental examination by threatening to take away his firearms. (Exhibit C at pp. 85-86).

28. GO 320.70 states that "officers are not in a position to diagnose mental illness but must be alert to common symptoms." (Exhibit H at § IV(a)(i)). Col. Winqvist agrees with this statement. (Exhibit B at pp. 74-75). Symptoms of mental illness include a person making a statement that they want to kill themselves, that they are despondent, that they have heavy use of drugs or alcohol. (Id. at p. 63).

29. A person's behavior meets the criteria for an involuntary admission when a police officer believes

that the person is in imminent harm of their safety or another person. (Id. at p. 59).

30. The officer on the scene makes a determination as to whether there is imminent danger. (Id. at p. 43). The Cranston police are trained in learning the symptoms of someone who is in a mental health crisis. (Id. at pp. 43-44).

31. Col. Winquist has seized firearms for safekeeping many times. With respect to the criteria uses to do so, he says “it was an assessment made on the scene by myself and other troopers.” (Id. at p. 62). He says police are not trained to diagnose someone but to be aware of symptoms of an emotional crisis. (Id. at pp. 62-63).

32. Col. Winquist says that a Cranston police officer’s knowledge respecting mental illness would come from the officer’s training and experience. (Id. at pp. 63-64).

33. Col. Winquist believes that a police officer’s experience dealing with people who have attempted suicide provides training in diagnosing mental illness. (Id. at pp. 77-78). The decision to seize a person’s firearms is up to the individual officer’s discretion. (Id. at p. 78). The factors a police officer considers may not all be set forth in the Department’s training. It may also be based on the officer’s “instinct.” (Id. at pp. 79-80).

34. Defendants have produced three different Powerpoint training presentations on mental health, dated 2008, 2011, and 2013. (Exhibits I, J, and K respectively).

35. The 2008 presentation references the Rhode Island Mental Health Law. (Exhibit I at p. 5). Col. Winquist is not familiar with the Mental Health Law.

(Exhibit I; Exhibit B at pp. 73-74). He has not seen this presentation. (Id. at p. 74). Col. Winqvist has not seen the 2011 presentation. (Id. at p. 74).

36. The 2011 presentation states if a person does not want help, “Never threaten them with hospitalization.” (Exhibit J at p. 40).

37. The 2011 presentation includes slides on “Risk Factors for Suicide.” (Id. at pp. 43, 44, 45). Capt. Henry says the only risk factor for suicide that applies to Mr. Caniglia is that he supposedly asked his wife to kill him. (Exhibit C at pp. 88-91).

38. The 2013 presentation includes a slide on risk factors for suicide. (Exhibit K at p. 8). Capt. Henry does not know whether the officers on the scene considered any of these factors. (Exhibit C at p. 92).

39. In 2016, at Col. Winqvist’s request, the Rhode Island Attorney General’s office gave the Cranston Police a PowerPoint presentation on “Search and Seizure Law.” (Exhibit L; Exhibit B at pp. 82-83). Col. Winqvist is not aware of any prior presentations to the Cranston Police Department by the Rhode Island Attorney General’s office on search and seizure law. (Exhibit B at pp. 83, 84, 86).

40. The Search and Seizure presentation covers the community caretaking function, including Rhode Island decisions. (Exhibit L at p. 32; Exhibit B at pp. 87-89). All of the decisions respecting the community caretaking function of which Col. Winqvist is aware involve motor vehicles. (Id. at p. 89).

41. When the Cranston police seize a person’s firearm for “safekeeping” it is pursuant to the community caretaking function because they are “in a crisis or an imminent risk to themselves.” (Id. at pp. 94-95).

42. To Col. Winqvist's knowledge, neither the State Police nor the Cranston Police have used any studies, data, or reports to determine when it is appropriate to seize firearms for safekeeping pursuant to the community caretaking function. (Id. at p. 95).

43. Col. Winqvist is not aware of any statistics on what percentages of home with firearms have a suicide by firearm. (Id. at pp. 98-99). He does not think such statistics are relevant to the Cranston Police Department's policy of seizing firearms for safekeeping because "it's a judgment decision by that officer based on what's in front of him." (Id. at p. 99).

44. The Cranston Police Department has a policy or procedure of obtaining written consents for searches. (Id. at p. 99).

45. Before August 2015, neither Officer Mastrati nor any other Individual Defendant had never heard of Edward Caniglia nor had they had any contact with him or his wife. (Mastrati depo. at p. 49, excerpts attached as Exhibit M; Smith depo. at pp. 41-42, excerpts attached as Exhibit N; Russell depo. at pp. 41-42, excerpts attached as Exhibit O).

46. Mr. Caniglia has never had any kind of restraining order entered against him. (Exhibit M at p. 49). He has never had any kind of criminal charges against him. (Id. at pp. 49-50). Mr. Caniglia has never been accused of domestic violence. (Id. at p. 50). He has no history of violence. (Id.). Mr. Caniglia has no history of violence or of threatening violence or of misusing firearms. (Id.). He has no history of threatening violence to himself. (Id.).

47. Officer Mastrati is not aware of any legal reason why Mr. Caniglia cannot possess a firearm. (Id. at pp. 51-52).

48. Officer Mastrati understands that the only reason for which the police can take people into custody without arresting them is to interview them as a witness. (Id. at p. 14).

49. Officer Mastrati recalls being trained that property can be seized for “safekeeping” without a warrant. Safekeeping includes holding property until a person returns from the hospital. (Id. at pp. 14-15).

50. Officer Mastrati has heard of the community caretaking function but does not understand what it is. (Id. at p. 15).

51. Officer Smith does not know what the community caretaking function is. (Exhibit N at pp. 64-66). He has no idea whether it relates to the seizure of Mr. Caniglia’s firearms. (Id. at p. 66). He does not know whether the community caretaking function authorizes the Police Department to require people to talk to the Cranston rescue about their psychological condition. (Id. at pp. 66-67).

52. Officers Mastrati and Smith have attended Cranston Police Department training about dealing with people with perceived mental health issues. Officer Smith recalls it was 2011. Officer Mastrati recalls training in 2013. (Exhibit 9 to Mastrati depo., attached here as Exhibit P; Exhibit M at pp. 116-17; Exhibit N at pp. 70-71).

53. Officer Mastrati states he does not require a person to have a psychiatric evaluation. Rather, he calls the rescue and the rescue evaluates the person. (Exhibit M at pp. 17-18). Mastrati understands that he does not have the authority to require someone to have a psychiatric evaluation. (Id. at pp. 25-26). He understands that the rescue can require a person to go for a psychiatric evaluation. (Id. at p. 18).

54. Officer Mastrati believes that he does have the authority to seize a person's firearms if he thinks they are suicidal. (*Id.* at pp. 26-27). When Officer Mastrati seizes a firearm because he believes the person is suicidal that comes under the category of "safekeeping." (*Id.* at p. 43).

55. The policy or procedure of the Cranston Police Department is to have a supervisor make the decision whether to seize a person's firearms for safekeeping. (*Id.* at p. 28).

56. Officer Mastrati is not aware of any court decision, or constitutional provision, or statute or police department policy or procedure that gives him the authority to seize a person's firearms to prevent that person from hurting himself or others. (*Id.* at pp. 37-38). The Cranston Police Department does not have either a written or unwritten policy or procedure that deals with seizing firearms for "safekeeping." (*Id.* at pp. 43-44).

57. Officer Mastrati understands that the Cranston Police Department cannot take someone into custody if there is not a criminal process. (*Id.* at p. 97). There is no GO that sets forth any authority to seize property when there is not a criminal process. (*Id.* at pp. 97-98).

58. On August 20, 2015, Plaintiff and his wife Kim had an argument in their house. At one point during the argument, Mr. Caniglia retrieved a handgun that he keeps under the mattress of the bed, put it on the dining room table, and said "just shoot me now and get it over with." (Exhibit Q at p. 24).

59. Kim and Ed agree that the magazine was not in the handgun and that the handgun was not loaded when Ed did this, although Kim did not know that at

the time. (Exhibit Q at p. 82; K. Caniglia depo. at p. 17, excerpts attached as Exhibit R).

60. Ed subsequently left the house and went for drive. Kim took the handgun, put it back under the bed, and she hid the magazine that was still under the bed. (Exhibit R at pp. 19-21).

61. When Ed returned, the Caniglias argued some more. Kim decided to leave and went to stay at the Econo Lodge Motel on Reservoir Avenue. (Id. at pp. 24-25).

62. The next morning Kim went to eat breakfast at the “Scramblers” restaurant on Reservoir Avenue. (Id. at p. 28). She tried to call Ed but he did not answer the phone. (Id. at p. 33). Ed was in the restroom and missed the call. (Exhibit Q at pp. 28-29).

63. Kim became concerned that Ed may have committed suicide and called the Cranston Police because she wanted an officer to accompany her to the house to check on Ed. (Exhibit R at pp. 29-31, 72). She was not afraid that he would use the gun on himself. (Id.).

64. The Cranston Police dispatched four squad cars in response to Mrs. Caniglia’s call. (Id. at pp. 33-34). She told the police officers she wanted an escort back to the house to check on Mr. Caniglia. (Id. at p. 35).

65. Officer Mastrati spoke with Mrs. Caniglia in the parking lot of the “Scramblers” restaurant on Reservoir Avenue. (Exhibit M at pp. 52-53). The Incident Report says: “She stated that she was not scared for her own life, but more scared walking in and not knowing if Edward had committed suicide.” (Id. at pp. 75-76).

66. Officer Mastrati called Ed from the parking lot. He said he wanted to come to the house to check on Ed's well-being. (Exhibit Q at pp. 33-34).

67. Officer Mastrati told Mrs. Caniglia that Mr. Caniglia sounded fine. (Exhibit R at pp. 36-37). The Cranston Police officers told Mrs. Caniglia to follow them to the house but to remain in the car while they spoke with Mr. Caniglia. (Id. at pp. 37-38).

68. Officers Mastrati, Russell, Smith, and Sergeant Barth went to the Caniglias' house. (Exhibit M at p. 77). Sgt. Barth was the officer in charge of the scene. (Id. at p. 79). There were four squad cars at the Caniglias' house. (Exhibit R at p. 39).

69. The officers spoke with Mr. Caniglia on his back porch. (Exhibit Q at pp. 36-37). They were all near him when they spoke. (Id. at p. 38; Exhibit R at p. 43).

70. Mr. Caniglia was "cooperative." He was not abrasive or aggressive. He said he was not suicidal. (Exhibit M at p. 80). Mr. Caniglia was "calm." (Id.).

71. Mr. Caniglia told Officer Mastrati that he had had a friend commit suicide and that he would never do that to [his] family." (Id. at p. 83).

72. Mr. Caniglia did not feel depressed or suicidal. (Exhibit Q at pp. 57-58).

73. However, Officer Mastrati did not believe Mr. Caniglia. (Exhibit M at pp. 83-84).

74. Officer Mastrati said "I can't determine if someone is not suicidal. To me, I felt like he was a risk to himself." (Id. at p. 81).

75. Officer Mastrati based this opinion on the fact that Mr. Caniglia had put his handgun and, suppos-

edly, the magazine on the counter and “ask[ed] his wife to end his life.” (Id. at pp. 82, 106-07).

76. Officer Mastrati had no other reason to disbelieve Mr. Caniglia’s statement that he was not suicidal. (Id. at p. 84).

77. Officer Mastrati has heard people say “shoot me now” but he doesn’t know if they really mean it. (Id. at pp. 82-83).

78. Mr. Caniglia never made any threat to use his firearm on himself. (Id. at p. 54).

79. Officer Mastrati has received training on assessing people for risk of suicide. (Exhibit 10 to Mastrati depo., attached here as Exhibit S; Exhibit M at pp. 116). None of the factors set forth in that training applied to Mr. Caniglia when Officer Mastrati spoke with him. (Exhibit M at pp. 117-120).

80. Officer Mastrati acknowledges that Mr. Caniglia seemed “normal” when they spoke. (Incident Report, attached as Exhibit T; Exhibit M at p. 122).

81. Officer Russell said that Mr. Caniglia seemed “nice,” “very polite,” and “welcoming.” (Exhibit O at p. 43-44). He does not remember that Mr. Caniglia said anything that indicated that he wanted to harm himself. (Id. at p. 46). He said Mr. Caniglia did not seem suicidal. (Id. at p. 49).

82. The police officers asked about Mr. Caniglia’s mental health. He told them that was none of their business. (Exhibit Q at pp. 85-86).

83. One of the officers said that in these situations the Cranston Police confiscate firearms. (Id. at p. 38).

84. Mr. Caniglia responded: “You’re not confiscating anything.” (Id.).

85. The police officers told Mr. Caniglia that if he submitted to a psychiatric evaluation at Kent Hospital his firearms would not be removed from the house. (Id. at p. 66). Mr. Caniglia only agreed to go to the hospital to prevent the confiscation of his firearms. (Id. at p. 83).

86. One of the police officers told Mrs. Caniglia that Ed “needed to have a psych eval” and that if he did that “we won’t have to take the firearm.” (Exhibit R at pp. 41-42, 44).

87. Captain Henry made the decision to seize Mr. Caniglia’s firearms. (Incident Report, Exhibit T; Exhibit M at pp. 53-54). Capt. Henry assumes he got a phone call from the officers at the scene. (Exhibit C at p. 107). He does not remember any reasons for the seizure apart from what is set forth in the Incident Report. (Id. at p. 119). He says the officers on the scene felt it was reasonable to do so based on Mr. Caniglia’s state of mind (Id. at p. 62).

88. Capt. Henry graduated from the Rhode Island Municipal Police Training Academy in 1992. (Id. at pp. 16-17). He does not recall any classes on when it is appropriate to hold or detain a person without arresting them. He does not recall any classes on when it is appropriate to seize property without a warrant or a court order. (Id. at pp. 17-18). Capt. Henry does not recall any classes on when, if ever, it is appropriate to seize weapons for safekeeping. (Id. at p. 19). He does not recall any classes on the community caretaking function. (Id.). Capt. Henry remembers he received training on dealing with people with mental health issues but he does not recall specifics. (Id. at pp. 19-20).

89. Capt. Henry thinks that the community caretaking function has been discussed during “in-service”

training at the Cranston Police Department on mental health. (*Id.* at p. 28).

90. The Cranston Police Department seizes firearms for “safekeeping” “if we feel that the circumstances that exist at the time create a danger relative to the firearms, create a danger to the public, or to any member of the public...” (*Id.* at p. 29). The authority to do this arises under the community caretaking function. (*Id.*).

91. With respect to the community caretaking function, Capt. Henry says: “My understanding is that the courts recognize that law enforcement needs to take certain actions relative to the Fourth Amendment without a warrant that pertain to public safety functions or emergencies.” (*Id.* at p. 24).

92. Capt. Henry thinks the public safety function includes a person with a firearm who is thinking of harming themselves. (*Id.* at pp. 24-25).

93. Capt. Henry agrees with GO 320.70 that “[o]fficers are not in a position to diagnose mental illness.” (Exhibit H; Exhibit C at p. 68).

94. The court decisions of which Capt. Henry is aware respecting the community caretaking function deal with motor vehicles. (*Id.* at p. 97). He is not aware of any court decision authorizing police to seize property, including firearms, from a home pursuant to the community caretaking function. (*Id.* at p. 34).

95. Capt. Henry thinks the community caretaking function authorizes the Cranston police to require a person to go to a hospital where a mental examination can be performed. However, the community caretaking function does not permit the Cranston police to require a person to submit to a psychological evalua-

tion. (Id. at pp. 31-32, 69-70). He is not aware that any Cranston police officer has ever required a person to do that. (Id. at p. 32).

96. Capt. Henry understands that the decision that Mr. Caniglia was “imminently dangerous” was based on his statements and actions the night before Cranston police spoke with him. Mr. Caniglia did not say anything to Cranston police that indicated he was “imminently dangerous.” (Id. at pp. 74-75).

97. Capt. Henry says that in the circumstances the Cranston police would have made the decision to take Mr. Caniglia to the hospital regardless of whether he objected. (Id. at p. 157-58).

98. The Cranston police have not received any formal training on whether someone is imminently dangerous. (Id. at p. 77).

99. Whether someone is “imminently dangerous” would be a subjective decision based on an individual officer’s experience. Two different police officers in the same situation could come to two different conclusions. (Id. at pp. 77-78)

100. Officer Mastrati did not hear the conversation between Mr. Caniglia and the Cranston Rescue. (Exhibit M at p. 55). He does not know whether Mr. Caniglia agreed to go for an evaluation. (Id.).

101. Richard Greene is a rescue lieutenant with the Cranston Fire Department rescue service. (Greene depo. p. 18, excerpts attached as Exhibit U). He responded to the call to the Caniglia’s house. (Id. at pp. 39-40). He was on the scene for approximately 8 minutes. (Id. at pp. 53-55).

102. Officer Greene identified thirteen risk factors that are part of the State of Rhode Island protocol that

he recognizes as relevant to determining whether a person is suicidal. (Exhibit 43 to Greene depo., attached here as Exhibit V; Exhibit U at pp. 35-36). All the factors are important. (Id. p. 38).

103. Lt. Greene specifically remembers very little about the incident beyond what is set forth in the Cranston rescue report. (Exhibit 42 to Greene depo., attached here as Exhibit W; Exhibit U at pp. 39-42). He does not recall whether he asked Mr. Caniglia about any of the risk factors. (Exhibit U at p. 44). He does not know if Mr. Caniglia met any of the risk factors he identified. (Id. at pp. 45-47).

104. The rescue report states, inter alia: “pt stated he was not looking to hurt himself.” (Exhibit W).

105. Officer Greene told Mr. Caniglia that they were taking him to the hospital. (Exhibit U at p. 48). He said the Cranston police made the decision that Mr. Caniglia was going to the hospital. (Id.).

106. Officer Greene says that the decision to take Mr. Caniglia to the hospital was based on Mr. Caniglia telling his wife to shoot him and that that statement provided the authority to take Mr. Caniglia to the hospital. (Id. at pp. 49-50). Officer Greene did not consider any other factors besides the fact that Mr. Caniglia had a gun. (Id. at pp. 73-74).

107. Officer Greene says that if someone says to another person “just shoot me now,” he assumes that they actually want the other person to shoot them. (Id. at pp. 67-68). He made no determination as to whether Mr. Caniglia actually wanted his wife to shoot him. (Id. at p. 68).

108. Col. Winquist believes, based on the Incident Report, that Mr. Caniglia was at imminent risk of

harm when the Defendants seized his firearms and sent him for a mental evaluation. (Exhibit B at pp. 59-61).

109. Mr. Caniglia never threatened to use his firearms or any other weapons on himself. (Exhibit B at p. 110).

110. Officer Mastrati understood that the firearms in the house belong to Mr. Caniglia. (Exhibit M at p. 89). He did not ask Mr. Caniglia if he could seize the firearms. (Id.).

111. The Defendants did not obtain a written consent to search the house. (Exhibit B at p. 99). Mr. Caniglia did not give verbal consent for a search. (Id. at p. 100).

112. Officer Mastrati said there was no crime involved with respect to the incident at the Caniglia's house. (Exhibit M at p. 59).

113. After Mr. Caniglia left in the Cranston rescue, one of the police officers told Mrs. Caniglia that Ed had given him permission to seize the firearms. (Exhibit R at p. 47, 49-51). Mrs. Caniglia never said she wanted the guns out of the house. (Id. at p. 51). The officer told Mrs. Caniglia that she could retrieve the guns by going to the Police Department and they would be returned to her. (Id. at p. 65).

114. Defendants believe that Mrs. Caniglia consented to a search of the house. However, she did not consent to seizure of the firearms. (Exhibit B at p. 117).

115. Officer Mastrati seized five items from the Caniglia residence including two handguns, clips for the handguns, and ammunition. (Exhibit M at p. 66).

116. The guns belong to Mr. Caniglia. (Exhibit R at p. 10).

117. Officer Mastrati found one firearm under the Caniglia's bed. (Exhibit M at p. 89). The second firearm was in a box behind a workbench in the garage. (Id. at p. 90).

118. Officer Mastrati wrote in the Incident Report: "It should be noted that in further speaking with Kim she stated that she was not in fear for her own life from Edward but was more worried about Edward taking his own life." (Id. at pp. 91-92).

119. Mrs. Caniglia never indicated that Edward had ever threatened to take his own life with a firearm. (Id. at p. 92).

120. Officer Mastrati is not aware of any statute that requires a court order before a person can be compelled to go to a hospital or mental health facility. (Id. at p. 107).

121. Mr. Caniglia went in the Cranston rescue to Kent Hospital, was evaluated by a social worker, and discharged. (Exhibit X).

122. On Monday, August 24, 2015, Kim Caniglia went to the Cranston Police Department to retrieve Ed's firearms. (Exhibit R at p. 65). She was told she would have to request a copy of the police report, that it would take 3-5 business days, and that it would cost 35 cents a page. (Id. at pp. 66-68). She was told she would have to wait for a captain to review the request. (Id.).

123. On August 24, 2015, Mrs. Caniglia returned to the Cranston Police Department and received a copy of the report. (Id. at 68-69). She was told the captain had not reviewed the request yet. (Id.). A few days

later, the Police Department called the Caniglias and said that the guns would not be returned and they would have to get a court order. (Id.)

124. The Cranston Police Department has a record which indicates that on September 1, 2015, a captain of the Department denied a request to return the firearms. (Exhibit 25 to Henry depo., attached here as Exhibit Y). That captain's signature is not identified. (Quirk depo. at p. 34, excerpts attached as Exhibit Z).

125. During the second week of September 2015, Mr. Caniglia went to the Cranston Police Department to obtain his firearms. He was told they were not going to release the firearms. (Exhibit Q at pp. 73-74).

126. On October 1, 2015, Mr. Caniglia's attorney, Nicholas Lambros wrote a letter to Chief Winqvist requesting the return of Mr. Caniglia's firearms. (Exhibit 28 to Winqvist depo., attached here as Exhibit AA).

127. Major Quirk was not involved in seizure of Mr. Caniglia's firearms. He was involved in the return of Mr. Caniglia's firearms after the receipt of Mr. Lambros' letter. (Exhibit Z at pp. 22-23).

128. When Col. Winqvist received Attorney Nicholas Lambros' letter, dated October 1, 2015, about the return of Mr. Caniglia's firearms he initially instructed Major Quirk to tell Attorney Lambros to get a court order because he mistakenly believed that the situation involved a domestic assault. (Exhibit B at p. 49-50). When Major Quirk told him it did not, Col. Winqvist says he instructed Major Quirk to return the firearms. (Id. at p. 50).

129. However, Major Quirk recalls the events differently. He testified that he reviewed the Incident

Report, that he spoke with Col. Winqvist about the incident, and that he called Mr. Lambros to tell him he would have to get a court order for the return of the firearms. (Exhibit Z at pp. 24-25, 29-30). He reported this conversation to Col. Winqvist. (Id. at p. 31).

130. Major Quirk does not know whether Col. Winqvist and he consulted with any of the Cranston Police Department's policies or procedures. (Id. at p. 25). He does not believe that he spoke with any of the officers involved in the seizure of Mr. Caniglia's firearms before making this decision. (Id. at p. 43).

131. This decision was consistent with the custom and practice of the Cranston Police Department. (Id. at p. 27). That custom and practice is not reflected in any written document. (Id.). Major Quirk is not aware of any legal authority for this custom and practice. (Id. at pp. 28-29).

132. Major Quirk recalls that there was some other event that prompted Col. Winqvist to instruct him to return Mr. Caniglia's firearms but he does not recall what it was. (Id. at pp. 31-32).

133. On December 11, 2015, Plaintiff filed this lawsuit.

134. On December 22, 2015, Defendants returned Mr. Caniglia's firearms, magazine and ammunition to him without a court order. (Exhibit Y).

135. Col. Winqvist does not know why it took until December 22, 2015 to release Mr. Cangilia's firearms. (Exhibit B at p. 118).

136. Mr. Caniglia has retained Lanny Berman, Ph.D., a psychologist specializing in suicidology, as an expert witness. His expert report is attached as Exhibits BB). In sum, Dr. Berman opines to a reasonable

degree of scientific, psychological and profession certainty based on 47 years of experience that:

a. Mr. Caniglia was neither at acute nor imminent risk of suicide on August 20 and 21, 2016. (Id. at p. 6).

b. Mr. Caniglia's actions and statements on the evening of August 20, 2015 did not constitute a suicidal communication, nor did they communicate any suicidal intent. Further, at no other time and especially on the morning of August 21, 2015 did Mr. Caniglia express or communicate in words or actions anything that could possibly be construed as indicating he was at imminent risk of suicide. (Id. at p. 9);

c. No independent evaluation of Mr. Caniglia's risk for suicide was made based on both his current mental status and associated risk factors as the Cranston Police Department officers were trained to observe and a sole reliance on Mr. Caniglia's statement and action on the night before to document any level of concern for imminent risk of harm was inappropriate and a breach of the standards to which these officers were trained. (Id. at pp. 9-10); and

d. Officers of the Cranston Police Department did not apply or rely upon appropriate criteria or reasonable and standard police procedures in determining Mr. Caniglia was in imminent danger of suicide and in determining that his firearms needed to be confiscated on August 21, 2015. (Id. at pp. 10-13).

137. The Cranston Police Department is aware of the Second Amendment, the Fourth Amendment, the Due Process Clause of the Fourteenth Amendment

and the corresponding provisions of the Rhode Island Constitution. (Exhibit B at pp. 113-14).

138. Col. Winqvist is not aware of the Rhode Island Firearms Act. He does not know whether other members of the Cranston Police Department are aware of that Act. (Id. at p. 114-15).

139. Col. Winqvist and the Cranston Police Department are generally aware of the Rhode Island Mental Health Law. (Id. at p. 115).

140. Other than the community caretaking function, Col. Winqvist is not aware of any authority for the Cranston police to seize Mr. Caniglia's firearms and to transport him for a psychological evaluation. (Id. at p. 116).

141. Col. Winqvist believes that the community caretaking function gives the Cranston police the authority to seize Mr. Caniglia's firearms even if he objected and the authority to require him to have a psychiatric evaluation even if he objected. (Id. at p. 126).

142. Defendants' actions were not at all what Kim Caniglia had in mind when she called the CPD and she was very angry with them. (Exhibit R at pp. 71-72). "I thought that I would have an officer go with me to the house, he would knock on the door, Ed would answer the door, I would know he was okay, that we would talk, and if things were fine, the officer would leave." (Id. at p. 72).

143. Mr. Caniglia incurred approximately \$1000 in costs for the Cranston rescue taking him to the hospital. (Exhibit Q at p. 83).

144. Officer Russell became a Cranston Police officer in 2013 (Exhibit O at p. 21). He estimates he

has been involved in a “couple dozen” situations in which the Cranston Police Department seized firearms for “safekeeping.” (*Id.* at p. 40). He has been involved in approximately fifty situations in which the Cranston Police Department had someone transported for a psychological evaluation. (*Id.* at p. 41).

145. Defendants have produced a nine-page inventory of seized weapons dated 2017. (Exhibit CC). It contains approximately 475 weapons, mostly all firearms. It does not set forth why individual weapons were seized.

146. Defendants have also produced a fifty-one page inventory entitled “Firearms Destruction Log” listing approximately 900 weapons between 2006 and 2016, mostly firearms. (Exhibit DD).

EDWARD CANIGLIA

By his attorneys,

*/s/ Thomas W. Lyons*

Thomas W. Lyons #2946

Rhiannon S. Huffman #8642

RHODE ISLAND AFFILIATE,

AMERICAN CIVIL LIBERTIES UNION

Strauss, Factor, Laing & Lyons

One Davol Square, Suite 305

Providence, RI 02903

(401) 456-0700

[tlyons@straussfactor.com](mailto:tlyons@straussfactor.com)

CERTIFICATION

I hereby certify that on December 17, 2018, a copy of the foregoing was filed and served electronically on all registered CM/ECF users through the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Thomas W. Lyons

In The Matter Of: Caniglia vs Strom, et al

Cpt. Russell C. Henry, Jr.

June 13, 2018

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

[85] to a health care professional. As I spoke about earlier, that's our primary goal is to get – present them to a medical personnel, and if the person doesn't want to participate, the person we're bringing doesn't want to participate, that's their prerogative, we can't force them. It's much different than involuntary committal.

Q. Do you know if Mr. Caniglia was given any reason why he should agree to go for a psychiatric evaluation?

MR. CUNNINGHAM: Objection.

A. No.

Q. Do you know, for example, whether any of the police officers on the scene told Mr. Caniglia that they were going to seize his firearms, but if he had, and passed a psychiatric evaluation, he could get them back?

A. No.

Q. Okay. If a police officer said that to Mr. Caniglia, would that be contrary to police department policy or procedure?

A. Well, we wouldn't coerce somebody. We request, and then if it came to a point where the person didn't want to cooperate, and we felt it was necessary to have him transported, then we [86] could physically take them to the hospital. But it was not quid pro quo, if

you submit, we'll give you the guns back; that's not part of our policy.

MR. LYONS: Since we were just talking about it, let's mark this as Exhibit 20.

EXHIBIT 20 (PLAINTIFF'S EXHIBIT 20 MARKED FOR IDENTIFICATION)

Q. Captain Henry, let me show you what's been marked as Exhibit 20, which is a copy of a Rhode Island General Lam Section 40-1-5-7 which is entitled Emergency Certification. I'm going to ask you if this is the same one that is referred to in the PowerPoint presentation we just looked at.

A. I believe so.

Q. Is it your understanding this was the statute that was in effect in August of 2015?

A. I'm not 100 percent sure about the history of the section, it shows 2017. I believe this is the last update to this.

MR. CUNNINGHAM: Yes.

Q. Do you know when you studied to be captain if this is what you looked at?

A. Some form of this, I believe.

Q. As you sit here, are you aware of any differences between this statute that's been marked as an

\* \* \*

[89] of these conditions apply to him?

Q. I'm asking whether any of them were considered, specifically considered. Let me withdraw the question. Let me put it this way: You recall having a discussion with an officer who was at Mr. Caniglia's

home at the time – phone conversation at the time of the alleged incident?

A. Right.

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

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

Q. Okay. Do you know if the wife said that she believed that Mr. Caniglia wanted her to kill him? [90] In other words, did the wife believe that Mr. Caniglia wanted his wife to kill him?

MR. CUNNINGHAM: Objection.

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

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

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

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

A. Yes.

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

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

Q. Do you know if anything else was considered or

\* \* \*

**Cranston Police Department  
General Order 000.01**

[SEAL]

<b>SECTION</b>	<b>EFFECTIVE DATE</b>	<b>PAGES</b>
000 - Preface	June 6, 2014	1
<b>SUBSECTION</b>	<b>SPECIAL INSTRUCTIONS</b>	
00 - Policy and Procedure Manual	N/A	
<b>TITLE</b>	<b>CALEA STANDARD</b>	
000.01 - Introduction	12.2.1(b)	

**I. Introduction**

- a. The Cranston Police Department, in furthering its commitment to professionalism has compiled this Policy and Procedure Manual.
- b. This manual is a complete catalog of department issued general orders, policies, procedures, rules and regulations. Revisions have been completed as needed.
- c. The Chief of Police, consistent with the City of Cranston Charter, Section 9.01 titled "Department of Police," has approved the written directives contained in this manual.

[Digital Signature]  
Sgt. Matthew J. Kite, LP.D.

**Cranston Police Department  
General Order 100.10**

[SEAL]

<b>SECTION</b>	<b>EFFECTIVE DATE</b>	<b>PAGES</b>
<b>100</b> — Administration	December 5, 2016	6
<b>SUBSECTION</b>	<b>SPECIAL INSTRUCTIONS</b>	
<b>00</b> — Authority	N/A	
<b>TITLE</b>	<b>CALEA STANDARD</b>	
<b>100.10</b> — Limits of Authority	<b>1.2.1, 1.2.3, 1.2.4, 1.2.6, 1.2.7, 74.1.1, 74.1.2, 74.1.3, 74.3.1, 74.3.2</b>	

**I. Purpose**

- a. To define limits of law enforcement authority during the execution of criminal process.

**II. Policy**

- a. It is the duty of the Cranston Police Department and its employees to protect and defend the Constitution and to comply with all federal, state, and local laws striving to accomplish the department mission.

**III. Authority**

- a. The Constitution of the United States
- b. Constitution of the State of Rhode Island and Providence Plantations
- c. City Charter of Cranston, Rhode Island, Section 9.01

- d. City of Cranston Code, Title 2, Chapter 2.16
- e. The Chief of Police is vested by and subject to the provisions of the City Charter and the laws of the State of Rhode Island, with the authority to approve, issue, modify, or rescind all departmental general orders, special orders, personnel orders, and memoranda.

#### **IV. Definitions**

- a. Arrest — The deprivation of a person's liberty through legal authority.
- b. Arrest Warrant — A written order, in the name of the people, signed by a magistrate or other judicial authority, pursuant to law, directing a peace officer to place into custody a specified person and bring them before a magistrate to answer to the charge or charges brought against him or her.
- c. Article I Section 6 (R.I. Constitution) - Search and seizure. — The right of the people to be secure in their persons, papers and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation, and describing as nearly as may be, the place to be searched and the persons or things to be seized.
- d. Bench Warrant — A court issued order directing a peace officer to arrest a specified person and bring him or her before a magistrate to answer the charge or charges brought against him or her.
- e. Custodial Interrogation — Questioning initiated by a peace officer where an individual has

been taken into custody or has been otherwise deprived of his or her liberty in any significant way.

- f. Fourth Amendment (U.S. Constitution) - The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall be issued but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
- g. Interview — a conversation controlled by an officer with a victim, witness, or anyone else who may have information about a crime.
- h. Probable Cause - Facts and circumstances that are sufficient to lead an reasonable officer to believe that a crime has been, is being, or is about to be committed.
- i. Reasonable Suspicion — There are specific and articulable facts that would lead a reasonable officer to believe that criminal activity is afoot.
- j. Search Warrant — A written order, in the name of the people, signed by a magistrate or other judicial authority, pursuant to law, directing a peace officer to search a specified area, property, or body for evidence related to a crime or the perpetrator of a crime.

## **V. Arrest**

- a. Authority
  - i. All sworn members of the Cranston Police Department have the authority to make an arrest by virtue of R.I. General Law Chapter 12-7

- b. Circumstances that must exist to make an arrest
  - i. The commission, attempt to commit, conspiracy to commit, or warrant charging the commission of a felony or misdemeanor criminal offense.
  - ii. Probable cause to believe the individual to be arrested committed the offense.
- c. Arrest with a warrant
  - i. Warrants should be obtained prior to making an arrest, however, if time and circumstances do not allow, Rhode Island General Law Chapter 12-7 authorizes peace officers to make arrests without a warrant when certain conditions exist.
  - ii. Members of the Uniform Division must hold the rank of Sergeant or higher as the complainant on an arrest warrant.
  - iii. Any Detective or Inspector may serve or sign a warrant as an affiant and complainant.
  - iv. When attempting to execute a warrant at a private residence, entry will only be made under exigent circumstances, with a search warrant, or by consent of the owner or occupant.
  - v. Sworn members are authorized to execute warrants anywhere within the State of Rhode Island and Providence Plantations, with proper authorization from a supervisor.
    - 1. Prior to executing warrants in another jurisdiction, officers of this department are required to notify the local police

department of jurisdiction or to the Rhode Island State Police, if there is no local law enforcement agency.

- vi. Warrants may be served at any time, day or night.
  - vii. Upon making an arrest on a warrant, the officer, will identify himself or herself as a police officer and inform the arrestee that a warrant exists and the charge(s) on that warrant.
  - viii. When making an arrest, every reasonable effort will be made to mitigate the risk to those not involved in the arrest.
  - ix. All officers on scene should be briefed prior to executing the warrant.
  - x. When practical and reasonable, occupants of public buildings, like businesses, should be notified prior to the execution of a warrant on their property. If prior notification is not made, an effort will be made to explain the facts and circumstances behind the arrest, as soon as practicable.
- d. Arrest without a warrant.
- i. When it is not practical or reasonable to obtain an arrest warrant, a sworn officer of this department may affect an arrest under the following conditions:
    - 1. Felony arrest (RIGL 12-7-4), a warrantless arrest can be made if either of the following conditions exist.
      - a. Reasonable grounds exist to believe that a felony has been or is being com-

mitted and the person to be arrested has committed or is committing it.

- b. When the person to be arrested has, in fact, committed or is committing a felony.
  - c. Misdemeanor arrest (RIGL 12-7-3) a warrantless arrest can be made if either of the following conditions exist.
  - d. Reasonable grounds exist to believe that the person cannot be arrested later, or may cause injury to himself or herself or others, or loss or damage to property unless immediately arrested.
  - e. Probable cause exists that the person committed a crime classified as domestic violence under RIGL Chapter 12-29 and it occurred within twenty-four (24) hours of the arrest.
- e. Arrest in a foreign jurisdiction.
- i. Sworn members shall assist the State of Rhode Island Office of the Attorney General in arrests involving persons in foreign jurisdictions.
  - ii. When extradition/rendition is authorized by the Office of the Attorney General, the officer will:
    - 1. Contact the local law enforcement agency in the jurisdiction where the individual is located or being detained.

2. Send a teletype message through the National Law Enforcement Telecommunications System (N.L.E.T.S) confirming extradition/rendition and the charges for which the individual is wanted.
  3. Once arrested, the fugitive will be brought before the appropriate court based upon the jurisdiction where arrested.
  4. The sworn personnel will respond to the jurisdiction to take custody of the fugitive under the following circumstances:
    - a. A Governor's Warrant exists.
    - b. A Rhode Island supervising Assistant Attorney General authorizes the action.
  5. If the fugitive challenges extradition/rendition, the Office of the Attorney General will be notified.
- f. Special immunities from arrest.
- i. Diplomatic immunity.
    1. See General Order 100.05.
  - ii. Members of the Rhode Island General Assembly.
    1. While the General Assembly is in session, including 2 days prior to the start and two days after termination of the session, in accordance with R.I.G.L. 22-4-2.
- g. Alternatives to arrest.
- i. Verbal warning.

- ii. Emergency commitment to an approved public treatment facility.
- iii. Referrals to social service agencies.
- iv. Any use of an alternative to arrest must be documented in a written report.
- h. Alternatives to pre-arraignment confinement.
  - i. District court summons.
  - ii. Any use of an alternative to pre-arraignment confinement must be documented in a written report.
- i. Arrestee reporting and processing see General Order 370.01.

## **VI. Interviews and interrogations**

- a. Interviews
  - i. Non-custodial conversations usually with a voluntary and cooperative person.
  - ii. Involved participants and witnesses should be interviewed separately and isolated from each other prior to and after the interviews to avoid discussion.
- b. Interrogations
  - i. Review the situations where recorded interrogations are required General Order 350.06.
  - ii. A directed interview that involves an uncooperative person.
  - iii. A custodial interrogation involves the questioning of someone suspected of committing or attempting to commit a crime.

- iv. For custodial interrogations, the Miranda Warnings are required.
  - 1. An individual is considered to be "in custody" when, based upon the existing circumstances, the person being questioned reasonably believes that he or she is no longer free to leave.
  - 2. R.I.G.L. 12-7-20 — requires the opportunity to make a phone call within one hour of detention to call an attorney.
  - 3. If the suspect invokes his or her constitutional rights at any time during the interrogation, questioning must stop.
  - 4. The suspect does have the right to voluntarily re-initiate the interrogation.
  - 5. All statements made during an interrogation must be elicited without force, coercion, or promises of leniency.

## **VII. Search warrants**

- a. Refer to General Order 100.11 for department rules on strip and body cavity searches.
- b. Search warrants will be completed according to Rhode Island State Law, specifically R.I.G.L. 12-5-1, 12-5-2, and 12-5-3.
- c. Members of the Uniform Division must hold the rank of Sergeant or higher as the complainant on a search warrant.
- d. Any Detective or Inspector may serve or sign a warrant as an affiant and complainant.

- e. Search warrants shall be reviewed by a supervisor prior to being brought before a magistrate, when feasible.
- f. Search warrants that have been deemed to "high risk" shall require notification to the Chief of Police or designee to determine whether or not the Special Reaction Team will be deployed.
- g. The search will be conducted in the safest manner possible.
- h. The complaining officer will leave the property owner a copy of the search warrant along with an inventory list of the items seized.
- i. Within fourteen (14) days of issuance of the warrant, whether executed or not, shall be returned to the district court having jurisdiction over the place of search or, if unexecuted, returned to the court of issuance. A warrant that has been served shall be accompanied by any supporting affidavits and inventory.
- j. Exceptions to the search warrant requirement.
  - i. Consent to search the property by the person whose rights will be affected by the search.
    - 1. Must be voluntary and either written or verbal.
    - 2. A signed "Consent to Search" form is preferred.
    - 3. Consent searches during vehicle stops must be conducted in accordance with R.I.G.L. 31-21.2-1 and General Order 320.50.
  - ii. Stop and frisk

1. Officers may frisk the outer clothing of a person for the purpose of locating a weapon when the officer has articulable reasons to detain the individual and has knowledge of facts or circumstances that would lead a reasonable officer to believe the person is armed or otherwise dangerous.
  - a. While conducting a lawful frisk, an officer may seize contraband that he or she immediately identifies based upon touch, without manipulation of the object. "Plain touch" doctrine.

iii. Movable vehicles

1. When probable cause exists that the vehicle, capable of being moved, contains evidence of a crime.
2. These searches may be conducted either at the location where the vehicle was encountered or at the police station.
3. Probable cause searches of vehicles extend to all areas of the vehicle, unless probable cause limits the location.

iv. Search incident to arrest.

1. May be conducted in the area of immediate control of a person being arrested.
2. The search must be contemporaneous to the arrest and will be conducted for the following reasons:
  - a. Protect arresting officers and others on scene.

- b. Prevent escape or injury to the arrestee.
  - c. Seize evidence.
  - d. Prevent destruction of evidence.
  - e. Provide an inventory of items possessed by the arrestee at the time of arrest.
  - f. The scope of the search includes the arrestee's clothing, closed containers in his or her possession, and everything within his or her immediate control.
  - g. The search of a vehicle, incident to arrest, must be supported by an officer's ability to demonstrate an actual and continuing threat to public and officer safety posed by the arrestee, or a need to preserve evidence from tampering by the arrestee.
  - h. Closed containers not in the arrestee's immediate control, may be seized, but they may only be searched when probable cause exists to do so.
3. Plain view
- a. The "Plain View" Doctrine allows police to seize items that are in plain view and the officer has probable cause to believe this item is either contraband or evidence when:
    - i. The officer is lawfully present in the location.

- ii. Seizing the item would require no further intrusion.

4. Exigent circumstances.

- a. A search may be conducted of anything when there is reason to believe the search is necessary to save a life, prevent injury, or serious property damage.
- b. Searches conducted under exigent circumstances are limited to emergency situations.
- c. This includes "Hot Pursuit" of a suspect where probable cause exists to believe that the suspect has committed a felonious crime. An officer may enter and search a building into which he or she has pursued a suspect.

5. Inventory search.

- a. Will be conducted of any personal property, including containers, in the possession of a person under custodial arrest.
- b. Officers will conduct inventory searches of seized vehicles consistent with department policy, General Order 330.41, if applicable.

6. Any search not listed in this policy, but is authorized by the United States Constitution and/or the Constitution of the State of Rhode Island and Providence Plantations.

**VIII. Use of discretion**

- a. The use of discretion may be exercised by sworn personnel in situations where alternatives to official law enforcement action will result in a better solution for affected individuals, society, the police department, and the offender.
  - i. Discretion may not be exercised in situations mandated by law.
  - ii. Use of discretion in situations involving a misdemeanor or felony crime requires notification to and approval from a supervisor.

**IX. Service of court documents**

- a. Communications will be notified of all attempts to serve court documents.
- b. When the service location is outside of the City of Cranston, the local law enforcement agency will be notified.
- c. The servicing officer will document the following:
  - i. Date and time of attempt.
  - ii. Officer's name.
  - iii. Name of person served.
  - iv. Location of attempt.
  - v. Method of service or reason for non-service.
  - vi. The service form will be completed for successful attempts.

- vii. This information can be logged as a dispatch entry if no report is required.
- d. The Prosecution Unit will maintain a log with the following information for:
  - i. Date and time received.
  - ii. Date and time of attempt.
  - iii. Officer's name.
  - iv. Type of process.
  - v. Nature of document.
  - vi. Originating court.
  - vii. Name of individual being sought/served.
  - viii. Date of assignment.
  - ix. Date of service due.
  - x. Docket number.
- e. When assisting with Civil Court process, refer to General Order 320.80 — Civil Procedures/Keep the Peace.
  - i. Sworn officers of this agency are not authorized to serve civil process.

## **X. Responsibility**

- a. It is the responsibility of all personnel to familiarize themselves and comply with this order.

**Cranston Police Department  
General Order 320.80**

[SEAL]

<b>SECTION</b>	<b>EFFECTIVE DATE</b>	<b>PAGES</b>
300 - Law Enforcement Operations	June 6, 2014	1
<b>SUBSECTION</b>	<b>SPECIAL INSTRUCTIONS</b>	
20 - Patrol Functions	N/A	
<b>TITLE</b>	<b>CALEA STANDARD</b>	
320.80 — Civil Procedures	N/A	

**I. Purpose**

- a. To provide guidelines for the Cranston Police Department while executing the police role in civil situations.

**II. Policy**

- a. It is the policy of the Cranston Police Department to aid in keeping the peace in civil situations and to fully document such actions.

**III. Authority**

- a. The Chief of Police is vested by and subject to the provisions of the City Charter and the laws of the State of Rhode Island, with the authority to approve, issue, modify, or rescind all departmental general orders, special orders, personnel orders, and memoranda.

**IV. Procedures**

- a. Telephone requests to dispatch and walk-in request for police presence at a "keep the peace"

will be forwarded to the Patrol Officer-in-Charge.

- b. The Officer-in-Charge will determine the nature of the action and if a police presence is warranted.
- c. The Cranston Police Department will dispatch officers to provide for a "keep the peace" whenever necessary. Appropriate "keep the peace" functions include:
  - i. Tenant/Landlord disputes
  - ii. Eviction by Sheriff/Constable
  - iii. Repossession.
  - iv. Domestic dispute resolutions (post arrest assistance).
  - v. Any situation deemed appropriate by the Officer in Charge.
- d. Once dispatched to a "Keep the Peace Call", the officer must terminate the process if there is any resistance except when the process is served by the County Sheriff/Constable in possession of Writ of Execution. In that event, the officer may assist the Sheriff by maintaining peace.
- e. In all cases, a police report will be completed.

#### **V. Responsibility**

- a. It is the responsibility of all officers to familiarize themselves and comply with this order.

[Digital Signature]  
Sgt. Matthew J. Kite, LP.D.

**Cranston Police Department  
General Order 350.20**

[SEAL]

<b>SECTION</b>	<b>EFFECTIVE DATE</b>	<b>PAGES</b>	
300 — Law Enforcement Operations	April 14, 2015	15	
<b>SUBSECTION</b>	<b>SPECIAL INSTRUCTIONS</b>		
50 — Investigations			
<b>TITLE</b>	<b>CALEA STANDARD</b>		
350.20 — Bureau of Criminal Identification	<b>83.1.1,</b>	<b>83.2.1,</b>	<b>83.2.2,</b>
	<b>83.2.3,</b>	<b>83.2.4,</b>	<b>83.2.5,</b>
	<b>83.2.6,</b>	<b>83.2.7,</b>	<b>83.3.1,</b>
	<b>83.3.2,</b>	<b>84.1.1,</b>	<b>84.1.2,</b>
	<b>84.1.3,</b>	<b>84.1.4,</b>	<b>84.1.5,</b>
	<b>84.1.6,</b>	<b>84.1.7,</b>	<b>84.1.8</b>

**I. Purpose**

- a. To provide guidelines for the accurate, timely collection and preservation of evidence. This policy will establish guidelines for both maintaining the integrity of the evidentiary chain of custody and properly storing found/personal property.

**II. Policy**

- a. It is the policy of the Cranston Police Department to provide efficiency in the identification, collection and preservation of physical evidence at a crime scene.

### **III. Authority**

- a. Federal Law
- b. State Law
- c. The Chief of Police is vested by and subject to the provisions of the City Charter and the laws of the State of Rhode Island, with the authority to approve, issue, modify, or rescind all departmental general orders, special orders, personnel orders, and memoranda.

### **IV. Procedure**

- a. Crime Scene Processing
  - i. The first department member to arrive at a crime scene should not move or touch anything whenever possible.
  - ii. Members should always check for persons requiring medical attention and/or suspects, but should be cautious as to not disturb the crime scene.
  - iii. All activity performed and any alterations to the scene should always be noted.
    1. Request necessary assistance. All persons found at the scene should be identified, detained and kept separate from each other
    2. Briefly note and record any evidence that may relate to the crime. The date, time of arrival, weather conditions and room conditions should be recorded and a Crime Scene Roster should be started and maintained.

3. Officers should physically isolate the outer perimeter by erecting a clearly marked crime scene barrier.
4. Only authorized personnel are to be allowed inside the perimeter of the crime scene.
  - a. BCI Detectives can authorize or deny officers access to a crime scene, regardless of rank.
5. The name and time of authorized persons entering and leaving the crime scene will be recorded utilizing the designated Cranston Police Department Crime Scene Roster.
6. It is imperative that all evidence be protected from contamination, alteration, damage, destruction and theft.
  - a. Any officer who is unfamiliar with the procedure relating to the collection and preservation of evidence should obtain assistance from a supervisor, a member of BCI or a Crime Scene Technician.
- iv. Members of BCI processing a crime scene will photograph search, collect, preserve, document, transport, and submit evidence to the Property/Evidence Room or other authorized location.
  1. BCI will provide technical assistance to other department members as needed.
  2. BCI personnel will be equipped with department issued cellular phones so

response will be provided in an efficient manner.

- v. A mobile crime scene vehicle will be assigned for use by BCI Detectives
  - 1. It will contain the required equipment and supplies to perform the following tasks:
    - a. Recovery of latent fingerprint evidence.
    - b. Photography and video documentation.
    - c. Crime Scene sketching and recording.
    - d. Collection and preservation of physical evidence.
  - 2. It is the responsibility of members of BCI to ensure that the Crime Scene Vehicle is maintained in good repair and is ready for service on a 24-hr basis.
  - 3. Detectives of BCI will keep the crime scene vehicle stocked with the necessary supplies and equipment to ensure the performance of the above listed tasks.
  - 4. BCI Detectives will be allowed access and use of the Mobile Resource Center when it is deemed necessary.
- vi. Reports filed by officers processing the crime/accident scene will be completed by the end of their tour and will contain the following information;
  - 1. Case Number

2. Officer's name, date and time of notification and arrival at the scene
3. Location of the crime scene
4. Name and information of all parties involved
5. Actions taken at the scene, to include:
  - a. Number of photographs taken, type of camera used (digital or film), type of film, if applicable and which camera was used.
  - b. Whether or not measurements were taken for preparation of a crime scene sketch.
  - c. Documenting all physical evidence recovered to include;
  - d. A description of the item (make, model, and serial number)
  - e. The source of the item and name of the officer collecting the item.
  - f. Assigning a property number and providing a description of the evidence.
  - g. Exposed film or Digital Media containing photos and crime scene measurement information.
6. The investigating officers will document in a written report all procedures used and circumstances surrounding how all visible and latent evidence was located and recovered.

7. In situations where a substance or material from a known source is available, it will be collected for submission to the appropriate laboratory for comparison with physical evidence collected from the scene. This will be done in a manner to ensure the admissibility and integrity of the sample in a court of law.

vii. Photography

1. The crime scene should be photographed and/or videotaped before any search has begun.
  - a. In a team situation, one person should be assigned to all the photography and videotaping
2. No personnel should be within the scene at this time and no police equipment should be included in the photographs except as necessary for investigative purposes
3. Items of evidence may not be moved or examined until they have been photographed and/or videotaped from all relevant angles and examined for evidentiary value.
4. Crime scene photographs and/or videotape should include the following:
  - a. The approaches to the crime scene
  - b. The surrounding area
  - c. The general scene
  - d. Relevant close-ups

- e. Body positions should be photographed from all compass points (N,S,E,W), along with an identification photo of the decedent's face.
  - f. Any fingerprints, bloodstains, tool marks, bite marks, damaged area, skid marks, tire tracks, glass, impressions, etc.
5. In photographs where a scale is required, a minimum of (2) photographs should be taken; one (1) without the scale in the photograph and one (1) with the scale in the photograph.
  6. At the time the photographs are taken, a record should be made of the date, time and location of the photographs, as well as the case number of the incident. The type of camera, f/stop, focal length and air temperature should also be noted.
  7. Each item of evidence should be photographed showing its location relative to the crime scene.
  8. If a digital camera is used then the photographs will be stored onto a CD/DVD and loaded into the Image Archive Folder, or the photos may be loaded into the image files of the records management system.
  9. If film is used, then upon completion, the rolls of film will be placed in the alarmed evidence room until such time that the film can be transported for development.

- a. The negatives and photographs will be stored and filed by case number in the evidence room.

viii. Crime Scene Sketch

1. The investigating officer and/or member of BCI will create a sketch of the crime scene when applicable. This sketch will include, but not be limited to the following:
  2. Dimensions of the crime scene
  3. Relation of the crime scene to surrounding area/buildings.
  4. Address, floor or room number as appropriate.
  5. Location of the significant features of the crime scene including the victim, if any.
  6. Date and time of preparation.
  7. Name of person(s) preparing the sketch.
  8. Direction of North.
  9. Locations of physical evidence recovered.
10. The department's Total Station Forensic Mapping System will be utilized on major crime scenes or where BCI members deem it necessary. The BCI Division may request assistance from the Traffic Division or any other Officer that may be trained in the use of the Total Station.

ix. Fingerprints

1. A crime scene search will include a detailed examination for visible, plastic

and latent fingerprints when appropriate. Officers performing this function will preserve all developed prints.

2. All surface areas in and around the crime scene that have the potential of retaining fingerprints or palm prints will be searched and processed using an appropriate method determined by the Crime Scene Technician or BCI Officer.
3. Elimination fingerprints will be obtained from all persons who had legal access to a crime scene so that the prints may be used to exclude them. This includes any victims, witnesses or involved parties. Elimination prints will include all of the individual's information and be marked "Elimination" prints.
4. Fingerprints found at a crime scene will be immediately recorded by photography before any attempt is made to lift the prints. A photograph of the print will be taken with a scale present in the photograph and another without the scale present.
5. The fingerprint lift card will contain the following information:
  - a. Case number
  - b. Date and Time
  - c. Officer's Name/Badge Number
  - d. Property Number
  - e. Location or object the print was lifted from.

6. Fingerprints from known individuals, latent fingerprints and all other fingerprint evidence will be stored in such a manner as to preserve evidentiary value through proper identification, packaging security and chain of custody.

b. Evidence Collection

- i. Any officer impounding evidence shall properly handle, mark, package (if appropriate) and transport all physical evidence to headquarters or any other authorized location as soon as practicable prior to the end of their tour of duty and document the evidence in accordance with this policy.
- ii. After the search has been completed and the sketches and photographs have been taken, the evidence may be collected.
- iii. One (1) member of BCI will be the lead evidence collector who would have the responsibility of securing the evidence and maintaining the chain of custody.
- iv. For all items of evidence that are collected, a list containing the following information should be prepared:
  1. A description of the item(s), including the make, model and serial number, if any.
  2. The source from which the item(s) were obtained.
  3. The date, time, location and the name/badge number of the person seizing the evidence

- v. Evidence should only be handled when necessary
  - vi. Latex Gloves will be used when handling any evidence
  - vii. If needed, a swatch or section may be cut out, taken away or removed from its original environment (i.e., carpet, upholstery, wall, door, ceiling, etc.)
  - viii. Some types of evidence require special handling procedures, such as, but not limited to the following:
    1. Liquid blood samples shall be placed in properly sealed containers and promptly refrigerated.
    2. Wet or bloody clothing should be air dried and packaged in paper bags.
    3. Physiological fluids should be frozen.
    4. Items possibly supporting latent fingerprints should be protected from any movement or actions that might destroy or contaminate the prints.
- c. Marking the Evidence
- i. All property shall be packaged, labeled and sealed. The packaging shall be initialed and dated.
  - ii. Property that cannot be packaged should be initialed in a manner that preserves the evidentiary value and has minimal effect on the item's appearance.

- d. Packaging Evidence
  - i. The main purpose in using proper containers and packaging is to prevent a change in the physical evidence through:
    - 1. Loss by leakage
    - 2. Evaporation or seepage
    - 3. Contamination
    - 4. Mixture or mingling
    - 5. Alteration
    - 6. Pilferage
  - ii. All evidence containers shall be sealed in such a way that a container cannot be opened unless a seal is broken. All seals shall be marked with the Officer/Detectives initials, badge number, date and time (RISCL Required).
    - 1. Narcotics and currency that are not sealed properly will not be accepted.
  - iii. Evidence should not be bent or forced into a container. Padding may be added to prevent the object from moving, sliding or rolling within a container.
  - iv. To ensure the preservation of evidence and the prevention of contamination, all items should be properly packaged by using:
    - 1. Glass canning jars with screw on lids and metal paint cans for volatile substances (DO NOT USE PLASTIC).
    - 2. Sterile plastic jars, metal cans or small packaging envelopes for small items,

such as: bullets, shell casings, glass fragments, paint chips, hair, fibers, powdery substances, etc.

3. Specified cardboard boxes for knives and firearms.
  4. Self-sealing, plastic bags for narcotics and other dangerous drugs, currency, jewelry, and other small items.
  5. Paper bags for stained materials such as, bloodied articles or those containing bodily fluids. (CAUTION: DO NOT PACKAGE MATERIALS WHEN WET AND MOIST. ARTICLES SHOULD BE ALLOWED TO DRY AND THEN BE PLACED IN THEIR OWN SEPARATE CONTAINER).
  6. Sharps containers for Hypodermic needles.
- v. All evidence will be appropriately stored and secured according to department directives.
- e. Documenting Evidence
- i. To minimize the chain of custody, evidence should be handled by as few people as possible. The impounding officer is responsible for the evidence seized, and its chain of custody, until the evidence is turned over to the evidence custodian.
  - ii. The impounding officer will issue each piece of evidence/property a separate IMC Property Number and attach the appropriate Property Label to the item. Items should be packaged separately and then secured in

Temporary Storage Lockers, The Impound Garage or the outside Impound Area.

- iii. Any Evidence suspected of having blood and/or bodily fluid on it shall be allowed to air dry and then placed in doubled paper bags and sealed (preferably with red-bio hazard tape or labeled with biohazard stickers).
- iv. The impounding officer is to complete a Cranston Police Department Property Form prior to placing the evidence in the temporary storage lockers. The evidence is to be listed in the property section of the officer's report. The Property Form is to generically describe the items being seized and shall also include any serial numbers. Indicate which evidence needs to be processed, and what it needs to be processed for. The Property Form shall accompany the evidence to either the temporary storage lockers or the evidence custodian.
- v. Evidence shall be properly marked and labeled. Evidence seized shall be marked with the following:
  1. Date and time evidence was seized.
  2. Property number(s).
  3. Case report number.
  4. Officer seizing and depositing evidence.
  5. Storage location (Temporary storage lockers, Evidence Bay, etc.)
  6. Indication of whether processing is necessary.

- vi. Items too large to be stored inside the temporary storage lockers are to be stored in the impound bay in the basement or the outside impound area in the rear lot of Headquarters.
- vii. Evidence which needs to be processed (i.e., fingerprints, DNA analysis, etc.) shall be accompanied by a memorandum indicating what the item is and for what it is to be processed.
  - 1. The memorandum should also include suspect/victim's names and date of birth.
- viii. Evidence to be analyzed for fluids (i.e., blood, urine and alcohol) shall be placed in the temporary storage refrigerators.
  - 1. The impounding officer should notify BCI via e-mail or departmental memorandum that the evidence has been placed there and what analysis is required.
- ix. Any cash which is seized shall be counted by the impounding officer and a supervisor.
  - 1. It shall then be placed in a clear, tamper proof, plastic evidence envelope, sealed, initialed and dated.
  - 2. A property label showing the amount should be affixed to the front of the tamper proof bag.
- x. Separate Property Forms should be completed for each group of narcotics, each group of money, each group of jewelry, etc.
  - 1. For example: an officer seizes 2 bags of Marijuana, 1 gram of cocaine, and

\$150.00 in cash. The two baggies of Marijuana are packaged together and listed on one Property Form. The cocaine is packaged separately and listed on a second Property Form. The money is secured in a third package and listed on a separate Property Form than the narcotics.

- xi. Any evidence that is seized relative to a felony investigation shall be documented on a Cranston Police Department Seizure Report. The impounding officer will sign the Seizure Report and it will accompany the evidence where it is to be stored. Upon accepting and storing the evidence, the BCI Detective shall sign the Seizure Report and forward it to Records to be scanned into the images section of the report.
  - xii. Any officer that seizes any narcotics during an investigation shall complete a Rhode Island Department of Health Transmittal Form. The Transmittal Form shall indicate the tests that are being requested and submitted along with the property form to BCI.
- f. Storage of Evidence
- i. BCI Detectives shall be responsible for receiving, storing, maintaining, releasing and accounting for all evidence in compliance with department policy.
    - 1. The Temporary Storage Lockers are to be emptied and the property shall be transported to the Alarmed Evidence Room (AER) in a timely manner

- ii. Upon receiving the evidence/property, the BCI Detective shall examine it to ensure that it is properly marked and packaged.
  - 1. They will also ensure that the Property Form is properly filled out. If either does not conform to requirements, the Detective shall return the item to the submitting officer's supervisor for correction.
- iii. Upon acceptance of the property/evidence, the BCI Detective shall transfer the evidence from the temporary storage lockers to the appropriate storage area in the AER.
  - 1. A storage location (Bin #) shall be assigned for the property/evidence and recorded on the Property Form and in the record management system. All Property Forms will be stored in numerical order, by year, inside of the evidence room.
- g. Submission of Evidence to Forensic Laboratories
  - i. It shall be the responsibility of the BCI Detectives to request crime/forensic laboratory examinations.
    - 1. BCI Detectives will be responsible for preparing and transporting physical evidence to the appropriate laboratory.
  - ii. All narcotics and other controlled substances will be transported by a BCI Detective to the Rhode Island Department of Health, Toxicology Unit for examination.
    - 1. In instances involving juvenile suspects, narcotics and controlled substances that

are seized will only be tested by special request as required by the court.

- iii. All seized evidence subject to examination shall be submitted to the appropriate laboratory as soon as possible.
- iv. In situations where perishable evidence, such as fresh blood, bloodstained objects, physiological stains and tissue, biological materials and alcoholic beverage samples cannot be submitted in a timely fashion, such perishable evidence will be stored in BCI evidence refrigerator.
- v. Items of physical evidence submitted for examination will be prepared in a uniform manner.
- vi. Items of evidence will be packaged and transmitted consistent with the requirements of the receiving laboratory.
- vii. Depending upon the circumstances surrounding a particular investigation and/or the type of evidence in question, the department will utilize, but is not limited to, the following laboratories:
  - 1. The Rhode Island Crime Laboratory at the University of Rhode Island
  - 2. The Rhode Island Department of Health, Providence, Rhode Island. Please note that any evidential submissions must be forwarded consistent with RIDOH guidelines (electronically located in the departmental "M-Drive," hard copy on file in the BCI Unit).

3. The Connecticut State Crime Lab, Meriden, CT.
  4. The Federal Bureau of Investigation's Forensic Lab, Quantico, VA.
- viii. The officer transporting the evidence to the laboratory will obtain a receipt to maintain the chain of custody.
- ix. Regardless of which laboratory is utilized, the following information will be recorded upon submission of evidence:
1. The name of last person having custody of the item
  2. The date and time of the submission or mailing and the method used for transportation.
  3. The date and time of receipt in the laboratory
  4. Name and signature of the laboratory personnel receiving the evidence.
- x. A written report of the laboratory findings will be obtained and the results will be documented in a supplemental report by the submitting officer. The written lab report will then be scanned into the images section of the record management system and the original will be stored in records.
- h. Recording Transfers of Custody
- i. BCI Detectives shall be responsible for maintaining an accurate record of all changes in the custody of evidence.

1. Such changes shall be fully recorded on the reverse side of the Property Form and the record management system.
- ii. Members of the department to whom evidence is transferred bear full responsibility for ensuring its security, proper handling, storage and maintenance until the evidence is returned to the evidence custodian.
- iii. When evidence/property is being released to its owner, the receiver shall sign the Property Form indicating receipt of the items. The receiver is required to produce a photo ID prior to the release of the evidence/property.
- iv. Evidence may be released for court purposes to the impounding officer, lead investigator, or prosecution officer. The officer must sign and date the Property Form and the record management system tracking must be updated to reflect the transfer.
- v. Except when admitted into evidence in court, evidence removed for court purposes shall be returned immediately.
  1. Upon return, the officer shall indicate the date and time it was returned and place it in the Temporary Storage Lockers or return it to a BCI Detective.
  2. A log recording the transfer of narcotics and/or other evidence for training purposes (i.e., K-9, SIU) shall be kept. The log shall indicate the time and date of transfer, amount transferred, transfer-

ring officer's name and badge number,  
and date time of return.

- vi. Members of the department shall document the transfer of custody of physical evidence, while in the field/at the scene.
- i. Disposal of Evidence
  - i. When no longer needed for evidentiary purposes, all evidence with the exception of firearms and contraband shall be returned to its lawful owner. If the property is transferred to this department by court order, or the lawful owner fails/refuses to claim the property, then the agency may, as permitted by law:
    - 1. Destroy the item;
    - 2. Dispose of it through auction;
    - 3. Turn it over to the Unclaimed Property Division of the State of Rhode Island; or
    - 4. Retain it for use by the department
  - ii. Firearms and non-drug contraband shall be destroyed unless a court order authorizes use of this item by this agency; or the firearm is required by State Law, Court Order, or request of the Attorney General to be returned to its owner.
  - iii. Drugs shall be destroyed in accordance with the practices established by the State of Rhode Island and/or Departmental Policy.
  - iv. All fireworks and ammunition shall be delivered to the State of Rhode Island Fire Marshal's Office for destruction.

- v. At no time will any contraband be removed for the personal use/possession of an employee of this department.
- vi. Evidence seized in a case shall be disposed of in the following manner:
  - 1. Felonies:
    - a. When the case results in a conviction then the destruction date shall be set at 1/2 the term of the sentence, to avoid any appeals processes and must be completed within six (6) months of that date.
    - b. When the case results in a non-conviction, 48A or the defendant is otherwise exonerated; then the evidence shall either be returned to its rightful owner or disposed of in accordance with this policy.
    - c. If no suspects exist or no arrests have been made, and the statute of limitations has expired, then the items can be disposed of or returned in accordance with this policy.
    - d. Under no circumstances shall evidence in unsolved Capital Crimes be disposed.
  - 2. Misdemeanors:
    - a. When the case results in a conviction then the destruction date shall be set at 1/2 the term of the sentence, to avoid any appeals processes and must be completed within six (6) months of that date.

- b. When the case results in a non-conviction, 48A or the defendant is otherwise exonerated; then the evidence shall either be returned to its rightful owner or disposed of in accordance with this policy.
  - c. If suspects exist or no arrests have been made, and the statute of limitations has expired, then the items can be disposed of or returned in accordance with this policy.
3. Evidence collected in suicide and attempted suicide cases shall be disposed of after 90 days. If the item is a firearm, refer to the Firearms section of this policy.
- j. Missing Evidence or Property
    - i. If after a thorough search of the Temporary Storage Lockers, Alarmed Evidence Room, or any other possible location of storage, the evidence custodian believes a piece of evidence or seized property cannot be accounted for, the BCI Sergeant and the Detective Captain shall be notified in writing.
  - k. Procedures for Found or Personal Property (non-evidence)
    - i. Found/Personal Property shall be properly marked and placed into the Temporary Storage Lockers with a completed Property Form. Personal Property with no evidentiary value shall not be impounded unless absolutely necessary. Prisoner traps should

remain in the holding area and returned to prisoners upon their release or transfer. Officers are to ensure that prisoners sign a release form for their property.

- ii. Every effort shall be made by the officer/detective involved in a Found/Personal Property case to locate the owner and return the property to that person.
  - iii. As time and space constraints require, the evidence custodian shall dispose of property for which no owner can be determined, or for which the owner refuses/fails to pick up. The disposal of Found/Personal Property shall be by the evidence custodian who shall follow the same general rules as apply to the disposal of evidence in accordance with the Rhode Island General Law.
1. Guidelines for Specific Types of Evidence
    - i. Blood Sample
      1. Blood vials shall be placed in a plastic storage tube and then placed in the Temporary Storage Locker refrigerator. The storage tube shall be sealed, and labeled with the case number, initials and code number, and date/time. A Property Form shall accompany the vials.
    - ii. Alcohol
      1. A photograph of all alcohol seized shall be taken. One unit of alcohol (bottle, can, etc.) shall be saved, labeled, and packaged as evidence, the remainder destroyed. If the alcohol seized has been

opened, then a sample shall be placed in an airtight container. The container will be sealed, labeled, packaged and then both the original container and the sample container will be logged as evidence.

iii. Drugs

1. Seized drugs will be weighed by the impounding officer prior to submission as evidence. Drugs will be packaged in a clear, tamper proof, plastic evidence bag. The bag will be sealed, labeled and placed in a Temporary Storage Locker. A Property Form and a RI State Toxicology Transmittal Form shall accompany the drugs.

iv. Recovered Stolen Goods

1. Recovered property from shoplifting and minor theft cases shall be photographed and returned to the owner.

v. Knives

1. All knives shall be placed in a cardboard knife box in such a manner that the edges or tip cannot injure someone who may handle the knife. The knife box shall be labeled and appropriately marked.

vi. Firearms

1. Safety - All seized or surrendered firearms.
  - a. All Firearms will be handled in a safe manner in accordance with department policy.

- b. Every officer that confiscates a firearm will complete a Property Card and a Firearms Recovery Form. A Property Number will be issued for each individual firearm.
- c. The firearm will be checked through NCIC and an ATF trace shall be requested.
- d. The impounding officer will ensure that the firearm is rendered safe.
  - i. In the case of a semi-automatic/fully automatic weapon then it will be secured by pulling the slide back, and opening the cylinder or bolt.
    - 1. The same procedures should be utilized when securing long rifles and shotguns.
  - ii. If the firearm is a revolver, it will be secured by ensuring that the cylinder is open and devoid of any ammunition.
  - iii. The firearm will be secured in a long gun or handgun cardboard box.
  - iv. The firearms shall be stored separately from ammunition.
  - v. Secure the firearm in the Temporary Storage Lockers.
- e. If the arrestee possesses a State of Rhode Island Permit to Carry a Concealed Weapon then the permit will be

confiscated and submitted as evidence.

- f. Upon taking possession of a firearm the BCI Officer will ensure that it is secured properly and all necessary paperwork and record management system entries have been completed. The firearm will then be stored appropriately in the AER.

## 2. Firearms seized as evidence

- a. If testing is required (NIBIN entry, Test Fire, etc.), then the BCI Detective handling the case shall ensure that the firearm is sent to the appropriate Laboratory.
- b. Upon learning that the criminal complaint has been adjudicated, the BCI Detective will confirm in writing (or email) with the Prosecution Division that:
  - i. The criminal complaint has been fully and finally adjudicated.
  - ii. The Prosecution Unit no longer requests that we retain possession of the firearm.
  - iii. When the Defendant is found guilty or otherwise convicted of the charge, the firearm will be disposed of as follows:
    1. If the firearm is owned by a person with no criminal involvement in the case, then they shall be notified in writing

that he/she has six months from the date of notification to claim the firearm or it will be presumed abandoned under RI General Law.

2. If the defendant owns the firearm then a motion for forfeiture will be filed by the Prosecution Division, as provided for in R.I. General Law.
  3. If the firearm was purchased with the proceeds of illegal narcotic related activity, move to have the firearm forfeited as provided for in R.I. General Law.
- iv. When the Defendant is found NOT GUILTY or otherwise exonerated, return the firearm to its rightful original owner.
1. If the defendant is the owner, notify the defendant in writing that he/she has six (6) months from the date of notification to claim the firearm or it will be presumed abandoned under R.I. General Law.
  2. If the defendant is not the owner of the firearm, notify the owner in writing that he/she has six (6) months from the date of notification to claim the firearm or it will be presumed

abandoned under R.I. General Law.

c. The Prosecution Unit will notify the Attorney General in writing of the circumstances surrounding the seizure of a concealed weapons permit.

i. If the Attorney General will take action against the permit holder, the Prosecution Unit will notify the licensee in writing of the disposition of the permit.

1. The licensee will also be notified that will not be authorized to carry a concealed firearm until otherwise notified.

ii. If the Attorney General will not take action against the permit holder, the Prosecution Unit will notify the licensee in writing that no action has been taken against their permit and that the licensee must respond to headquarters to retrieve the permit.

### 3. Firearms Seized for Safe Keeping

a. If it is believed that the owner meets the criteria set forth in R.I. General Law, mental incompetents, drug addicts, and drunkards prohibited from possession, the owner will be notified that they will need an order from a competent court instructing the department to return the firearm.

- i. The owner may "file a motion to return seized property" with the court and arrange for a hearing on the matter.
    - ii. If the owner has not filed this motion within six (6) months from the date of notification, the firearms will be presumed abandoned under R.I. General Law.
  - b. If the firearm was confiscated due to the owner's temporary state of mind posing a threat to him/herself or others and the case has been adjudicated, no court orders are in effect and no other circumstances exists that would prevent the owner from legally possessing the firearm, then notification will be made in writing:
    - i. That the department is in possession of the firearm and that it was confiscated based on the office's reasonable concerns as outlined in the case report.
    - ii. That the owner may retrieve the firearm at headquarters.
    - iii. That if the owner does not retrieve the firearm within six (6) months from the date of notification, the firearm will be presumed abandoned under R.I. General Law.
4. Firearms Seized as Found Property
  - a. Officers will take a first report and list the firearm as "found property".

- b. Every effort will be made to locate the rightful owner of the firearm. The BCI Detective will complete a supplemental report documenting what efforts were made.
  - i. If the owner is identified and located, notification will be made that the owner has six (6) months from the date to claim the firearm or it will be presumed abandoned under R.I. General Law.
  - ii. If an owner is not identified or located, then the firearm will be held for six (6) months and then presumed abandoned.

5. Firearms Surrendered to the Police Department

- a. Record the firearm as "in custody-confiscated" in the record management system's property section.
- b. Firearms Recovery Form.
- c. Firearms will be disposed of according to department policy.

vii. Disposition of Forfeited and Abandoned Firearms

- 1. Dispose of any firearm forfeited under R.I. General Law according to the instructions of the Attorney General.
- 2. Dispose of any firearm forfeited under R.I. General Law as follows:
  - a. If requested by the Chief of Police, a motion will be filed for non-

destruction and retention of the firearm by the department

- b. If the Chief of Police makes no request, the firearm will be destroyed in a manner consistent with the standards of firearm destruction set forth by the Bureau of Alcohol, Tobacco, and Firearms.

### 3. Abandoned Firearms

- a. Any firearm will be held for six (6) months after it was declared abandoned.
- b. On the six (6) month anniversary, the firearm will be destroyed in a manner consistent with department policy.

### 4. Procedures Relating to the Release of Firearms

- a. The release of any firearm that has been confiscated, seized or forfeited to the custody of the Cranston Police Department shall not be released without the prior consent and authorization of the Chief of Police designee.

### viii. Cash/Valuables

1. Shall be counted by the impounding officer and a supervisor. The currency/valuables shall be placed in a plastic tamper proof bag, sealed, and properly marked by the impounding officer and the supervisor. The amount contained shall be indicated on the property label and on the Property Form and secured in the Temporary Storage Lockers.

ix. Seizure of Computer Equipment and Other Electronic Storage Devices.

1. If the seizure of computer equipment and other devices capable of storing data in electronic format is necessary in the performance of an investigation and if all legal requirements have been fulfilled, investigators should follow the listed procedures to limit the loss of electronic evidence.
2. Preserve the computer/device area for potential fingerprints.
3. Immediately restrict access to the computer/device.
4. Isolate the computer/device from phone lines and/or cable modems to restrict remote access.
5. If the computer/device is "Off", do not turn it "On".
6. If the computer/device is "On", and is a Stand-Alone Computer, then:
  - a. Photograph screen, then disconnect all power sources; unplug from wall AND the back of the computer.
  - b. Place evidence tape over each drive slot.
  - c. Photograph/diagram and label back of computer components with existing connections.
  - d. Label all connections/cable ends to allow reassembly as needed.

- e. If transport is required, then package components and transport/store components as fragile cargo.
- f. Keep away from magnets, radio transmitters and otherwise hostile environments
- g. If the computer is Networked or a Business Computer, then:
  - i. Consult a computer specialist for assistance.
  - ii. Do not attempt to disconnect any part of the computer system as this may severely damage the system, disrupt legitimate business, and/or create liability.
  - iii. Additional information and computer specialist may be accessed through the MIS Department, the RI State Police, the U.S. Secret Service, the Federal Bureau of Investigation and/or other law enforcement agencies.
- x. Motor Vehicles
  - 1. Dispatch will include a detailed description and the tow location of the vehicle in the IMC tow log.
  - 2. The officer towing the vehicle will assign it, (the vehicle), a PR# and complete a property card for any vehicle that is being towed and held, as it should be considered evidence or seized/held property. If there are keys with the vehicle, they should be assigned a separate PR#.

3. The officer towing the vehicle will include, on the property card, the reason that it is being held at HQ or the City garage.
  - a. i.e. Held for prints, Held for processing, To be searched by/for.
4. The Property card will be placed into designated temporary evidence locker (T121). , with the keys attached, if there are any. Do not leave the property card with the vehicle.
5. A property label will be completed and kept with the vehicle.
6. The officer towing the vehicle will complete a department vehicle hold form which includes the specific location of the vehicle as well as the PR# assigned. This should also be attached to the Property Card submitted to BCI.
7. The officer towing the vehicle will include the vehicle information in IMC under the property tab.
  - a. Enter the detailed vehicle information under the "Vehicle" tab
  - b. Enter the storage location under the "Case Tracking" tab
  - c. Select either "Police Impound lot", "CPD basement", or "City garage"
8. Release of vehicles being held at HQ will be handled by the BCI Unit. Subjects requesting the return of their vehicles

will be required to make an appointment with the BCI Unit.

9. BCI will be responsible for performing a monthly audit of the impound lot and basement of HQ on the first of each month to insure compliance and proper tracking of seized vehicles.

#### **V. Medication Disposal Program**

- a. The drug collection unit (DCU) shall be located in the lobby of the Cranston Police Department in an area that affords an accessible and anonymous drop-off point to the public on a 24-hour/7 day per week basis.
  - i. Non-sworn members of the department shall neither accept, nor receive into their possession, any items from any entity for disposal into the DCU. When asked about the disposal of medication, all civilian personnel shall inform the general public about their ability to use the DCU in the lobby.
  - ii. Acceptable medications that are physically turned over to any sworn department employee for disposal shall not be deposited into the DCU, but shall be treated as recovered property and handled in accordance with established department procedures governing such property.
  - iii. In order to ensure the safety and security of the DCU, its lobby location shall be continuously monitored by the video surveillance system.
  - iv. The DCU shall be securely locked with a uniquely keyed padlock at all times except

when being emptied by authorized personnel.

1. The padlock provided with the DCU shall not be changed without prior written consent of the Detective Division Commander.
  2. The duplication of the padlock key is prohibited.
- v. The DCU shall have a sign posted upon it listing both acceptable medications that may be placed inside the unit and unacceptable items that may not be placed inside the unit.
- b. Acceptable and Unacceptable Items
- i. Acceptable - Prescriptions, prescription patches, prescription medications, prescription ointments, over-the-counter medications, vitamins, medication samples, and pet medications.
  - ii. Unacceptable - Thermometers, hydrogen peroxide, inhalers, aerosol cans, ointments, lotions, liquids, "sharps" (i.e., needles, lancets, syringes, IV's), and any medications or items from entities such as, but not limited to, businesses, pharmacies, and health care providers
- c. Collection and Control
- i. The DCU shall be the responsibility of the supervisor of the Bureau of Criminal Identification.
    1. The supervisor of BCI and the Detective Division Commander shall possess a copy of the padlock key.

2. The supervisor of BCI and the Detective Division Commander shall be responsible for the security of the key that is assigned to each unit.
  3. The supervisor of BCI and a detective assigned to BCI shall be responsible for ensuring access cannot be gained into the storage area located within the DCU by affixing the padlock to the DCU after completion of their duties.
- ii. The BCI Supervisor, or designee, and a second detective assigned to BCI shall be present at all times whenever the DCU is opened.
  - iii. The DCU shall be opened and inspected periodically to ensure that it does not become overfilled.
  - iv. The DCU shall be emptied as needed, but no less than once per month.
  - v. When emptied, the contents of the DCU shall be immediately transferred to the secure property room by the BCI Supervisor or designee and a second detective assigned to BCI.
  - vi. A documented inventory of the contents is not mandatory, but may be performed by the BCI Supervisor or designee and a second detective assigned to BCI.
  - vii. The contents will be bagged, sealed, weighed, bar-coded, and placed in the drug locker located within the secure property room by both parties.

- viii. The sealed bag containing the contents will be disposed of in accordance with established department guidelines.
- ix. The BCI Supervisor or designee shall annually initiate and maintain a new DCU incident report with a supplemental narrative being added whenever the DCU is opened or emptied.
- x. Additionally, whenever the DCU is opened or emptied, a log shall be kept by the BCI Supervisor containing the following information:
  - 1. Incident number.
  - 2. Date and time of opening or emptying of the DCU.
  - 3. Identities of the personnel present.
  - 4. Weight of contents (when the DCU is emptied).
  - 5. Property tag number.
  - 6. The BCI Supervisor shall immediately notify the Commander of the Detective Division, in writing, of all activities and reports generated with respect to the DCU.

## **VI. Training**

- a. As a mandatory requirement of their probation, all members of the Cranston Police Department BCI will successfully complete Criminal Investigation: Scientific Evidence I & II, hosted by the RI State Crime Lab.

- b. BCI members will make every attempt to remain current with any applicable changes in state laws, the procedures for the collection and preservation of evidence, and the policies of outside agencies, i.e., the RI State Crime Laboratory or the Department of Health.
- e. Members may be required to attend refresher courses and specialized training seminars or schools relating to the collection and preservation of evidence.
- d. The expense for all memberships and dues for any professional organizations dealing with the duties and responsibilities of a Cranston Police Department BCI Detective, such as IAI, NEDIA, RICA, IAPE will be covered by the City of Cranston

## **VII. Inspections and Audits**

- a. An audit of the property room will take place when new personnel are transferred in or out of the BCI.
  - i. The purpose of the audit is to ensure the continuity of custody and not to account for every item of property.
  - ii. Any discrepancies found during the audit should be noted before the new officer is assigned
- b. An audit of the property room will take place annually.
  - i. This audit will be conducted by a supervisor, appointed by the Chief of Police, not assigned to the Detective Division.

- ii. The audit should be a random sampling of property held to satisfy the auditor that policies and procedures are being followed.
- c. An unannounced inspection of the property storage area will take place annually and will be conducted by the Chief of Police or designee.

**VIII. Responsibility**

- a. It is the responsibility of all personnel to familiarize themselves and comply with this order.

[Digital Signature]  
Matthew J. Kite, LP.D.

**Cranston Police Department  
General Order 320.70**

{SEAL}

<b>SECTION</b>	<b>EFFECTIVE DATE</b>	<b>PAGES</b>
300 - Law Enforcement Operations	June 6, 2014	4
<b>SUBSECTION</b>	<b>SPECIAL INSTRUCTIONS</b>	
20 - Patrol Functions	N/A	
<b>TITLE</b>	<b>CALEA STANDARD</b>	
320.70 - Public Mental Health	41.2.7(a-e)	

**I. Purpose**

- a. To address the most common types of interactions with mentally ill persons, and provide guidance to department personnel in dealing with such individuals.

**II. Policy**

- a. It is the policy of the Cranston Police Department to ensure a consistently high level of service is provided to all community members and to afford people who have mental illnesses the same rights, dignity, and access to police and other government and community services as are provided to all citizens.

**III. Authority**

- a. United States Constitution

- b. Constitution of Rhode Island and Providence Plantations
- c. Federal Law
- d. State Law
- e. The Chief of Police is vested by and subject to the provisions of the City Charter and the laws of the State of Rhode Island, with the authority to approve, issue, modify, or rescind all departmental general orders, special orders, personnel orders, and memoranda.

#### **IV. Procedures**

- a. Recognizing mental illness.
  - i. Officers are not in a position to diagnose mental illness but must be alert to common symptoms.
  - ii. Symptoms of mental illness may vary, but all mentally ill persons have thoughts, feelings, or behavioral characteristics which result in an inability to cope with the ordinary demands of life.
  - iii. While a single symptom or isolated event does not necessarily indicate mental illness, professional help should be sought if symptoms persist or worsen.
- b. Common encounters
  - i. Officers should be prepared to encounter a person with a mental illness at any time.
  - ii. Common situations in which such individuals may be encountered include but are not limited to, the following:

1. Mentally ill persons may be found in medical emergency situations;
  2. Disturbances may develop when caregivers are unable to maintain control over mentally ill persons engaging in self-destructive behaviors;
  3. Individuals with mental challenges may be found wandering aimlessly or engaged in repetitive or bizarre behaviors in a public place;
  4. Repetitive and seemingly nonsensical motions and actions in public places, inappropriate laughing or crying, and personal endangerment;
  5. Socially inappropriate or unacceptable acts such as ignorance of personal space, annoyance of others, inappropriate touching of oneself or others, are sometimes associated with the mentally ill person who are not conscious of acceptable social behaviors.
- c. Response to people with perceived mental illness
- i. Persons with mental illness can be easily upset and may engage in tantrums or self-destructive behavior.
    1. Minor changes in daily routines may trigger these behaviors.
  - ii. Frequently, a family member or friend is of great value in calming an individual exhibiting unusual behavior as a result of mental or emotional impairment.

- iii. The following guidelines detail how to approach and interact with people who may have mental illness, and who may be a crime victim, witness or suspect.
  1. These guidelines should be followed in all contacts, whether on the street or during more formal interviews and interrogations.
  2. While protecting their own safety, the safety of the person with mental illness and others at the scene, the officer should:
    - a. Speak calmly;
    - b. Use non-threatening body language;
    - c. Eliminate commotion;
    - d. Look for personal identification:
      - i. Medical tags or cards often indicate mental illness and will supply a contact name and telephone number;
    - e. Call the caregiver;
    - f. Prepare for a lengthy interaction;
    - g. Be attentive to sensory impairments;
    - h. In some situations and particularly when dealing with someone who is lost or has run away, the officer may gain improved response by accompanying the person through a building or neighborhood to seek visual clues;
      - i. Be aware of different forms of communication. Mentally ill individu-

als often use signals or gestures instead of words or demonstrate limited speaking capabilities;

- j. Don't get angry;
  - k. Maintain a safe distance.
- iv. Once sufficient information has been collected about the nature of the situation, and the situation has been stabilized, there is a range of options officers should consider when selecting an appropriate disposition. These options include the following:
1. Refer or transport the person for medical attention if he or she is injured or abused.
  2. Outright release.
  3. Release to care of family, care giver or mental health provider.
  4. Refer or transport to substance abuse services.
  5. Assist in arranging voluntary admission to a mental health facility if requested.
  6. Transport for involuntary emergency psychiatric evaluation if the person's behavior meets the criteria for this action.
  7. Arrest if a crime has been committed
- d. Interview & Interrogation
- i. Officers attempting to conduct an interview with a mentally ill individual should consult a mental health professional to determine if the person understands the Miranda rights.

1. If the mentally ill person is a witness, officers should:
  - a. Not interpret lack of eye contact or strange actions as indications of deceit;
  - b. Use simple and straightforward language;
  - c. Do not employ common interrogation techniques, suggest answers, attempt to complete thoughts of persons slow to respond, or pose hypothetical conclusions.
  - e. Custody
    - i. If an individual with a mental, emotional, or psychological illness is taken into custody, officers will make reasonable effort to use the least restraint possible and protect the arrestee from self-injury, while taking all necessary precautions.
    - ii. In a misdemeanor incident where an individual is apparently mentally ill, officers may seek non-arrest resolutions.
      1. The most desired resolution being voluntary admission to an appropriate mental health facility.
      2. When public safety is at issue, officers will follow RI General Law, regarding involuntary emergency evaluation:

a. Refer to RIGL 40.1-5-7.

f. Voluntary admission

- i. Persons who appear to be in need of psychiatric evaluation and do not appear to pose an imminent danger to themselves or others should be referred to a mental health facility.
- ii. Persons who have been or are under the care of a private physician should be referred to the physician if possible.
- iii. Persons, who voluntarily agree to psychiatric evaluation, will be taken to Rhode Island Hospital or another appropriate facility.

g. Involuntary admission

- i. A higher level of law enforcement intervention will be required when officers encounter the following scenarios:
  - 1. The person is imminently dangerous to him/herself or others.
  - 2. The person is unable to care for him/herself
  - 3. The person is suffering substantial physical deterioration and shows an inability to function if not treated immediately.
- ii. Officers can respond with the most appropriate of the following alter-

natives for involuntary admissions to a psychiatric hospital:

1. Police officers, who have personally observed the actions of the individual and have reason to believe that the person is in clear and imminent danger of causing personal harm to him/herself or others, will ensure the individual is evaluated,. The normal procedure will be to have rescue transport the individual.
  2. Rhode Island Hospital is the primary hospital, however rescue personnel may make the determination to which hospital the patient is ultimately transported.
  3. Rescue personnel should be informed of the observations of the officer that lead to the evaluation request.
  4. Police and rescue personnel should work together to determine the best course of police involvement in the transport.
- iii. The officer must complete an incident report detailing the circumstances of the event(s) they observed, which led to the involuntary admission evaluation.

**V. Training**

- a. Cranston Police Department will provide entry level personnel with training on this subject, and will provide refresher training at least every three (3) years.
- b. Newly hired personnel will receive training in department procedures set forth in this General Order as part of their entry level training.
- c. Refresher training for all personnel will include, but not be limited to: policy review during staff meetings, roll call training, and in-service programs.

**VI. Responsibility**

- a. It is the responsibility of all personnel to familiarize themselves and comply with this order.

[Digital Signature]  
Sgt. Matthew J. Kite, LP.D.

In The Matter Of: Caniglia vs Strom, et al

Officer John Mastrati

May 31, 2018

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

[18] told someone that they had to go for a psychiatric evaluation?

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

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

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

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

A. Yes.

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

A. Yes.

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

MR. CUNNINGHAM: Objection.

THE WITNESS: The rescue?

MR. LYONS: Yes.

A. Yes.

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

\* \* \*

[83] mean it.

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

MR. CUNNINGHAM: Objection.

A. I don't know.

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

A. I don't know.

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

A. I wouldn't know.

Q. Can you read to yourself the last sentence – no, let me withdraw the question. The next sentence says, quote, “He stated that he had a friend who committed suicide, and he would never do that to family.” Do you see that?

A. I do.

Q. Do you remember him saying that?

A. I do.

Q. Okay. How did he say that?

MR. CUNNINGHAM: Objection.

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

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

[89] A. Yes.

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

A. According to Kim, yes.

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

A. No.

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

A. I don't know.

Q. You located one firearm under the bed?

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

Q. She put it under the bed?

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

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

A. I do not.

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

A. I don't.

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

[92] whether or not Kim indicated that she had any concerns for her own safety?

MR. CUNNINGHAM: Objection.

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

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

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

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

MR. CUNNINGHAM: Objection.

A. No.

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

A. No.

MR. LYONS: Exhibit 3.

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

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

\* \* \*

In The Matter Of: Caniglia vs Strom, et al

Officer Wayne Russell

July 20, 2018

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

[44] apart from reviewing the incident report or –

A. Okay.

Q. – stuff you heard from other officers?

A. That he was – he was nice. He was very polite.

Q. Okay.

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

Q. Okay. When you say “he,” you’re talking about Mr. Caniglia?

A. Yes, sir.

Q. Okay.

A. I didn’t – I don’t believe I said anything to him.

Q. Okay.

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

Q. Okay.

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

Q. Okay.

A. Besides that, I don't really –

\* \* \*

[1] UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

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

---

EDWARD A. CANIGLIA,

vs

ROBERT F. STROM, AS THE FINANCE DIRECTOR OF THE  
CITY OF CRANSTON, *et al.*

---

DEPOSITION

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.

AFFILIATED COURT REPORTERS (401) 246-0520

\* \* \*

[17] the bedroom, he gets the gun. Does he get anything else?

A I don't know. I didn't— He went into the bedroom. I didn't.

Q Let me try it this way. You said he went into the bedroom, got a gun, dropped the gun on the table?

A Just the gun.

Q Just the gun. Nothing else?

A No.

Q Was the gun loaded?

A I couldn't tell from where I was sitting.

Q And he said, why don't you just shoot me and put me out of my misery?

A Correct.

MR. CUNNINGHAM: Brenda, I'm going to have you mark an exhibit for us.

(WHEREUPON; Affidavit of Kim Caniglia marked Defendant's Exhibit A for Identification)

Q Mrs. Caniglia, do you remember executing an Affidavit, I'm assuming for Mr. Lyons, regarding this lawsuit?

A Yes.

Q Could you look at Paragraph Number 5 for me and just read it to yourself.

A Yes.

Q Does that refresh your recollection whether Mr. Caniglia

\* \* \*

[19] Q Your memory is that your husband said why don't you just shoot me and put me out of my misery?

A I believe that's what he said.

Q Your Affidavit on Paragraph 5 said that you remember him saying, “shoot me now and get it over with”?

A Yes.

Q Do you remember him saying that too?

A I don’t remember exactly.

Q But it was something to the effect of shoot me now and put me out of my misery?

A Yes.

Q What happens after he puts the gun on the table and says shoot me now and put me out of my misery?

A I asked him what he was doing? What are you thinking? I’m going to– I’m going to call 911.

Q And did he respond to that?

A I don’t believe he did. He– It was shocking. I don’t remember exactly what occurred, but very shortly after that he said, I’m leaving, and he left, I have to go for a ride.

Q So shortly after he puts the gun on the table and says why don’t you just shoot me and put me out of my misery, shortly after that he leaves?

A Yes

[20] Q He says I need to go for a ride?

A Yes.

Q And you have no memory of him putting a magazine on the table?

A No.

Q What do you do when he goes for a ride?

A Cry.

Q Besides—

A Thinking about what I should do. I've never been in this situation. I got the gun, I put it back underneath the bed, that's in my recollection when I saw the magazine so I knew the gun wasn't loaded. As soon as I picked up the gun and saw the magazine wasn't in it, I knew it wasn't loaded. I got the magazine out from underneath the bed and I hid it in a drawer.

Q I'm going to do this one step at a time again. So after he leaves, you say you put the gun underneath the bed?

A Back where it always is.

Q When you say "underneath the bed", do you mean?

A In between.

Q What do you mean when you say "underneath the bed"?

A I mean between the mattress and the box spring.

Q Perfect. And then you said that when you picked up the gun to put it in between the mattress and the box spring, [21] you noticed that there was no magazine?

A Yes.

Q So you noticed then that it was unloaded?

A Yes.

Q Then what did you do?

A As I was putting the gun back between the mattress and the box spring, I felt the magazine which is in its own little holder, and I took that and I hid it in a drawer in the bedroom.

Q Again, I'm not trying to put words in your mouth, I'm just trying to clarify and understand it. So the magazine was, for lack of a better description, hidden in the same place the gun was, in between the mattress and the box spring?

A Yes.

Q I'm sorry, you took the magazine and hid that?

A Yes.

Q Where did you hide that?

A I hid it in a drawer, a dresser drawer in the bedroom.

Q Why did you hide the gun and the magazine?

MR. LYONS: Objection.

A I didn't know what else to do.

Q You say you didn't know what else to do, but what was the purpose of hiding the gun and the magazine?

\* \* \*

In The Matter Of: Caniglia vs Strom, et al

Richard Greene

July 26, 2018

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

[42] Q. Do you remember anything specific that the police said to you?

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

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

A. No.

Q. Did you talk to Mr. Caniglia?

A. Yes.

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

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

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

A. No.

Q. Did you – would you normally have asked that question?

A. No.

Q. Would it matter to you?

A. No.

Q. Why not?

\* \* \*

[44] dispute with his wife.

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

A. I don't recall.

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

A. No idea.

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

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

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

A. Yes.

Q. And what is that based on?

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

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

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

\* \* \*

[46] A. I do not recall.

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

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

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

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

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

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

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

A. No, I didn't.

Q. Did you ask him?

A. I don't remember.

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

A. No idea.

Q. Did you ask him?

A. I don't remember.

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

A. Correct.

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

\* \* \*

[48] THE WITNESS: Say that question again?

Q. Do you know who decided that Mr. Caniglia was going to go to the hospital?

A. He had no – he didn't have a – he never denied (sic) not to go.

Q. Well, did you ask him if he wanted to go?

A. Did I ask him? I believe I told him that we were going to the hospital, and he did not deny it.

Q. Did the Cranston police tell you that Mr. Caniglia was going to the hospital?

A. I would say yes. That's why I was there.

Q. Did the Cranston police tell you why Mr. Caniglia was going to the hospital?

A. Yes.

Q. What did he they tell you?

A. He wanted his wife to shoot him, so they wanted a psych evaluation.

Q. Did anybody say that Mr. Caniglia had agreed to go to the hospital?

A. He agreed.

Q. How did he agree?

A. I told him we're going to the hospital, and he didn't refuse.

[49] Q. Okay. Did Mr. Caniglia ever say I want to go to the hospital for a psych evaluation?

A. Them words, no.

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

MR. CUNNINGHAM: Objection.

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

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

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

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

\* \* \*

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,  
*Plaintiff,*  
v.

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 DEPARTMENT, 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 Undisputed Facts

1. On August 20, 2015, Plaintiff and his wife, Kim Caniglia (“Mrs. Caniglia”) had an argument over a coffee mug at their residence in Cranston, Rhode Island. Exhibit A, Kim Caniglia June 27, 2018, Deposition Transcript at 11.

2. During the argument, Plaintiff told Mrs. Caniglia that her “family wasn’t all that great,’ that she “liked [her] brothers better than” Plaintiff and that she should “go live with” them. Exhibit A at 12-13.

3. Mrs. Caniglia asked Plaintiff “what’s wrong? Why aren’t you happy? I can’t make you happy, you have to do that yourself. And that’s when [Plaintiff] walked into the bedroom . . . [and] he came out with a gun, threw it on the table, and said why don’t you just shoot me and get me out of my misery.” Exhibit A at 16.\

4. After Plaintiff told his wife to “shoot” him, Mrs. Caniglia asked him “[w]hat are you thinking?” Exhibit A at 19.

5. Mrs. Caniglia told Plaintiff that she was going to contact 911 because she wanted Plaintiff to know that by bringing out the gun “he brought [the argument] to a different level.” Exhibit A at 19, 23.

6. Mrs. Caniglia thought Plaintiff’s behavior was “shocking.” Exhibit A at 19.

7. Shortly after Mrs. Caniglia informed Plaintiff that she was going to contact 911, Plaintiff left the residence. Mrs. Caniglia, however, did not contact 911. Exhibit A at 19, 23.

8. After Plaintiff left the residence, Mrs. Caniglia put the gun “between the mattress and the box spring” in their bedroom. Exhibit A at 20.

9. At her deposition, Mrs. Caniglia testified that it was at this point she discovered that the magazine was not in the gun. She testified that she took the magazine “out from underneath the bed and . . . hid it in a drawer” in the bedroom. Exhibit A at 20.

10. In an affidavit executed before her deposition, however, Mrs. Caniglia averred that, during the argument, Plaintiff brought an unloaded gun *and a magazine* to her and implored her to “shoot me now and get it over with.” Exhibit B, Affidavit of Kim Caniglia at ¶ 5.

11. Mrs. Caniglia hid the gun and the magazine because she was worried about Plaintiff’s “state of mind.” Exhibit A at 22.

12. Plaintiff was “depressed”, and Mrs. Caniglia was afraid that Plaintiff “was going to do something with the gun and the magazine” and “hurt himself” or “take[] his own life.” Exhibit A at 22-23; `Exhibit C, John Mastrati May 31, 2018 Deposition Transcript at 75, 91; Exhibit D, Cranston Police Department Incident Report at 3, 4.

13. Before Plaintiff returned to the residence, Mrs. Caniglia thought it best to “pack a bag” and “go to a hotel for a night.” Exhibit A at 24.

14. When Plaintiff returned to the residence, he informed Mrs. Caniglia that the argument was “all [her] fault . . . .” After that comment, Mrs. Caniglia left the residence and went to the Econo Lodge on Reservoir Avenue in Cranston. Exhibit A at 25.

15. At some point that evening, Mrs. Caniglia spoke to Plaintiff by telephone. Plaintiff asked Mrs. Caniglia to come home but she refused because she thought they needed time to “chill.” Plaintiff was upset and angry. Exhibit A at 26.

16. At some point the following morning, Mrs. Caniglia contacted the CPD and “requested an officer to do a well call.” Exhibit A at 29.

17. Mrs. Caniglia was “incredibly worried” that Plaintiff was going to harm himself or commit suicide. Exhibit A at 30.

18. During the telephone call to the Cumberland Police Department (“CPD”), Mrs. Caniglia requested an escort to her residence because she was a “little afraid” of Plaintiff. Mrs. Caniglia also informed the CPD that (1) she and Plaintiff had “gotten into a verbal fight;” (2) Plaintiff took a gun and said “shoot me;” (3) Plaintiff took the gun and magazine and threw it on the table; (4) she spent the night in a hotel and was now in the parking lot of Scramblers Restaurant, and (5) she “hid the gun” and put the magazine in a drawer. Exhibit E; CD of Digitally Recorded Telephone Call From Kim Caniglia to Cranston Police Department August 21, 2015.<sup>1</sup>

19. As a result of Mrs. Caniglia’s telephone call to the CPD, Cranston Police Officers John Mastrati (“Mastrati”), Austin Smith (“Smith”) and Sgt. Brandon Barth (“Sgt. Barth”) were dispatched to Scrambler’s Restaurant. Exhibit C at 65, Exhibit F, Sgt. Brandon Barth July 19, 2018, Deposition Transcript at 29, 31.

20. At Scramblers, Mrs. Caniglia informed a CPD officer “about the gun, about the words [Plaintiff] said and what [she] did with the gun” and magazine. Exhibit A at 35.

21. Mrs. Caniglia informed Officer Mastrati that she had an argument with Plaintiff and that during

---

<sup>1</sup> Defendants have filed the digital recording of the telephone call under seal because it contains personally identifiable information.

the argument Plaintiff took out an unloaded firearm and a magazine and asked Mrs. Caniglia to use it on him. Exhibit C at 52-54, Exhibit D at 3; Exhibit F at 30.

22. Mrs. Caniglia stated that she was concerned about what she would find when she returned home, that she was concerned about Plaintiff's safety; specifically informing Mastrati that she was worried about Plaintiff committing suicide. Exhibit A at 36, Exhibit C at 75-76; Exhibit D at 3-4; Exhibit F at 91.

23. Officer Mastrati contacted Plaintiff by telephone from Scramblers. Plaintiff agreed to speak to Mastrati at Plaintiff's residence. Exhibit C at 76-77.

24. CPD officers informed Mrs. Caniglia to follow them to the Caniglia residence but to stay in her car when they arrived at the residence. Exhibit A at 37-38.

25. Upon arrival at the residence, Officer Mastrati spoke to Plaintiff outside of the house, near or about the porch/deck area of the property. Exhibit C at 77-78. Sgt. Barth and Officer Smith and Officer Wayne Russell were also on scene, in or about the same area. Exhibit F at 35.

26. Plaintiff told Mastrati that he brought the gun out during the argument with Mrs. Caniglia. Exhibit C at 119-120.

27. Plaintiff "pretty much told [Mastrati] the same story that [Mrs. Caniglia] told" him. Exhibit C at 53.

28. Plaintiff corroborated what Mrs. Caniglia had informed Cranston Police Officers about the argument, the gun, and that Mrs. Caniglia should shoot him. Exhibit F at 38, 39.

29. Plaintiff admitted to Mastrati that he and Mrs. Caniglia had had an argument over a coffee mug and he was "sick of the arguments" and he took out his

unloaded handgun and told his wife to “just shoot me” because he “couldn’t take it anymore.” Exhibit G Edward A. Caniglia June 29, 2018 Deposition Transcript at 67-68; Exhibit D at 3.

30. Plaintiff also admitted to a Kent Hospital employee that, during the argument with Mrs. Caniglia, he retrieved an unloaded gun and told Mrs. Caniglia that “she should just shoot him and put him out of his misery.” Exhibit G at 54; see also *id.* at 24 (admitting he said “shoot me now and get it over with”).

31. At some point after Mrs. Caniglia arrived at the residence, an officer approached her car and told her she could come to the residence. Exhibit A at 39-40.

32. When she arrived at the residence, Plaintiff asked her why she contacted the CPD. Exhibit A at 40.

33. Mrs. Caniglia informed Plaintiff that she was worried about him. Exhibit A at 40.

34. Plaintiff was “very upset” because Mrs. Caniglia contacted the CPD so she went back to the car. Exhibit B at ¶ 14.

35. While at the residence, Mrs. Caniglia overheard Plaintiff inform a CPD officer that he had an argument with Mrs. Caniglia about a coffee mug and that he “did bring out a gun and set in on the table and told [Mrs. Caniglia] to just go ahead and shoot him and put him out of his misery.” Exhibit A at 41.

36. Although Plaintiff informed Mastrati that he was not suicidal, Mastrati was not convinced because a “normal person would [not] take out a gun and ask his wife to end his life . . .” Exhibit C at 82.

37. Mastrati believed that Plaintiff was a danger to himself. Exhibit C at 106-107.

38. Sgt. Barth considered Plaintiff's statement to his wife to shoot him to be a suicidal statement. Exhibit F at 84-85.

39. The CPD seized two guns and ammunition from the Caniglia residence for safekeeping. Exhibit D at 2.

40. Mrs. Caniglia showed police the location of the guns and magazines. The guns and ammunition were seized from the bedroom and the garage. Exhibit A at 51; Exhibit D at 4.

41. Sgt. Barth made the decision to seize the guns, however, that decision was approved by Captain Russell Henry ("Captain Henry"). Exhibit F at 44; Exhibit H Cpt. Russell C. Henry, Jr. June 13, 2018, Deposition Transcript at 119.

42. Captain Henry believed that if the CPD had left Plaintiff "there with the firearms, potentially, he's in danger, [Mrs. Caniglia] could be in danger, the neighbors could be in danger, any person that comes in contact with Mr. Caniglia could be in danger." Exhibit H at 79.

43. Plaintiff was eventually transported to Kent County Hospital for a medical evaluation. Exhibit G at 44; Exhibit B at ¶ 17.

44. Plaintiff was evaluated at the hospital but was not admitted. Amended Complaint Exhibit B; Exhibit B at ¶ 20.

45. Plaintiff was not charged with any crime with respect to the incident. Answer to ¶ 50 of Amended Complaint.

46. The CPD did not prevent Plaintiff from obtaining any firearms after the August 21, 2015 incident. Answer to ¶ 47 of Amended Complaint.

47. On or about October 1, 2015, Plaintiff's attorney sent Colonel Winqvist a letter requesting the return of his guns. Answer to ¶ 41 of Amended Complaint.

48. Plaintiff's guns were returned to him in late December 2015. Exhibit H at 132.

49. At his deposition Plaintiff testified that he believes that his life is "wonderful and great" and denied any "potential thoughts of suicide in the future." Exhibit G at 58-59.

50. Colonel Michael Winqvist and Major Robert Quirk were not at the scene nor were they consulted by officers at the scene. Exhibit I Colonel Michael Winqvist June 20, 2018 Deposition Transcript at 44; Exhibit J Major Robert Quirk July 13, 2018 Deposition Transcript at 22; Exhibit D.

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 17th day of December 2018 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

EXHIBIT A

\* \* \*

[11] Q Were you employed in August of 2015?

A No, I had just lost my job.

Q What did you do before 2015?

A I worked for Swank.

Q In Attleboro?

A Yeah, in Taunton for 18 years.

Q What did you do for Swank?

A I was the financial manager, then promoted to merchandising manager until we were bought out and then they closed Swank.

Q Mr. Caniglia's lawsuit – am I saying that right?

A Yes, the Italian way.

Q I was schooled on that, believe me. The lawsuit is based on an August 20, 2015 incident that occurred at your house on Cranston Street; is that correct?

A Yes.

Q As you sit here today, do you have an independent recollection of that event?

A Yes.

Q It is my understanding that the incident started over an argument over a coffee mug; is that correct?

A Yes.

Q Could you describe for me how the incident started relative to the coffee mug?

\* \* \*

[24] said, well, I'm leaving, I need to take a ride.

Q So Ed takes a ride. What do you do next?

A I get the gun and I put it in between the mattress and the box spring. I take the magazine, I hide it. I'm struggling with myself, do I stay, do I leave, what do I do? I don't know how long Ed's going to be gone. Is there something that I should have said, should have done, should have – all of those things were going through my mind. And I thought, okay, what I'll do is I'll pack a bag, and I threw a couple of pair of pajamas, underwear, deodorant, toothpaste, and I figured I would go to a hotel for a night, but first I was going to wait until Ed got back. I was putting together a go-bag for better description, to see what was going to happen when Ed got back, whether he had cooled off enough, play it by ear.

Q Did Ed eventually come back before you left the house?

A Yes.

Q And what happened when Ed came back?

A I was in the living room sitting on the couch. I heard the truck come in. He didn't come up for about 15 minutes, 10, 15 minutes, he was still down the stairs. Our garage is underneath the house. Finally, he did, and he walked into the living room, and he looked at me [25] sitting on the couch and he said, this is all your fault you've changed since your mom died. And that's when I decided to go to a hotel.

Q Did you tell him you were leaving?

A Yes.

Q What was his response, if any?

A None really. Fine, if that's what you think you should do.

Q What hotel did you go to?

A The Econo Lodge on Reservoir Avenue across from Garden City.

Q I'm sorry, I'm not familiar with Cranston. How far is that from your house?

A A mile, mile and a half.

Q Around what time did you get to the Econo Lodge if you remember?

A I don't know, 9, 10.

Q Once you get to the Econo Lodge, did you talk to anyone or tell anyone about what had occurred between you and Ed?

A No.

Q Did you speak to Ed?

A Yes.

Q What were the circumstances of how you spoke to Ed? Did [26] Ed call you? Did you call Ed?

A I don't remember. I don't remember who called who. I remember telling him that I was fine.

Q Do you remember anything else about that phone call besides telling him that you were fine?

A Not really. I'm sure – I believe he said that I should come home. And I believe that I said, no, I think it's better that we have the time to cool – chill, I probably said chill.

Q Do you remember his demeanor on the telephone call? Was he upset?

A Sorry?

Q Did he seem upset to you?

A Yes.

Q Did he seem angry?

A A little.

Q And you said that he, although you don't have a specific memory of it, that he probably said come home?

A Yes.

Q Do you have a memory of saying, no, I'm going to stay here?

A I believe I did, yes.

Q Do you remember if you spoke about anything else?

A That I would call him in the next day.

\* \* \*

[29] the table and that he said just shoot me and get me out of my misery. She said, well, you can call the police and have a well call, and I knew what that was in my mind. And so that's what I did, I called the Cranston Police Department, not 911, it was not an emergency, and requested an officer to do a well call.

Q I'm going to roll it back a little bit. So you were in the Scramblers parking lot which is a restaurant somewhere near the hotel and you call your therapist?

A Yes.

Q You tell your therapist about the incident you had with your husband?

A Yes.

Q You also inform your therapist of the incident that your husband put the gun on the table?

A Yes.

Q Did you tell the therapist what your husband said?

A Yes.

Q That he said, I don't want to put words in your mouth again, I apologize, why don't you shoot me, just put me out of my misery?

A Yes.

Q And she suggests that you call the police for a well call?

[30] A I probably told her that I was worried about going home, that I was worried about what I was going to find.

Q When you say you were worried about going home and worried about what you were going to find, what were you worried you were going to find?

A I was afraid that I was going to find Ed hanging from the rafters, that's what I was worried about.

Q You were afraid you were going to find him, when you say "hanging from the rafters"?

A Hanging.

Q Were you afraid that he was going to use the gun?

A No.

Q Why weren't you afraid that he was going to use the gun?

A I don't know.

Q You were afraid he was going to commit suicide?

A I was incredibly worried.

Q You were incredibly worried that he was going to commit suicide or harm himself in some way; is that correct?

A Yes.

Q So after you have the discussion with Barbara, you call the Cranston Police Department; is that correct?

A Yes.

Q Do you remember what you informed the Cranston Police Department on that telephone call?

\* \* \*

[36] A Yes.

Q Did you ever tell them you were concerned that your husband may have committed suicide?

A I believe what I said was that I was worried about what I would find when I got home.

Q And did you expand or describe what you meant when you said you were worried about what you would find?

A I don't remember. I don't believe that I did. I believe what I had said was I was afraid of what I would find when I got home.

Q When I jumped in, I believe what you said was at some point the officers said, okay, follow us to the house; is that what happened?

A Yes.

Q Could you describe to me what happened once you left the Scramblers –

MR. CUNNINGHAM: Strike that.

Q Do you remember which officer said, okay, follow us to the house?

A No.

Q I believe what you said was you overheard the conversation between one of the officers and your husband?

A Yes.

[37] Q After that officer spoke to your husband, did he say anything to you?

A He actually – He said that your husband sounds fine, he answered, he said that it was alright for us to come over.

Q What happens next?

A That's when all of the other police cars came and they had a conference in the parking lot. I was still in the car. They came over to me, that's when I called my therapist and said—

Q There's a lot of cops here?

MR. LYONS: Is that yes?

A Yes.

Q Do you remember how many police officers arrived at Scramblers Restaurant?

A Not really. Four squad cars.

Q So four squad cars arrive, you speak to your therapist. After you speak to your therapist what happens?

A One of the officers, and I do not know which one, came over to the car and said, okay, we're going to go

over to your house, follow us, you'll stay in the car, and we'll go talk to Ed.

Q So at this point one officer comes over to you and says we're going to go to the house, you follow us but you [38] stay in the car, we're going to go talk to your husband?

A Yes.

Q So now do you follow the officer to your house?

A Yes.

Q And what do you do once you get to your house?

A I stayed in the car.

Q Do you remember how long you were in the car?

A Not really. It felt like a long time. It probably wasn't. Maybe 15, 20 minutes.

Q While you're in the car, can you see your house?

A I can see our house.

Q While you're in your car can you see any of the police officers?

A No, I'm on – The driveway goes here, the front of the house, the house, and I'm on this street so I see the bedroom windows basically.

Q So you see a portion of your house?

A Yeah.

Q But you don't see any police officers from your viewpoint while you're in the car?

A Not really, no.

Q Do you see your husband while you're in the car?

A No.

Q Did you see anybody close to your house while you're [39] sitting in the car?

A Like other people?

Q Other people, yes.

A I don't know, didn't pay attention.

Q Did you see any individuals or any individuals associated with the Cranston Fire Department or rescue from your viewpoint in the car at that time?

A No.

Q So you're in the car because you have been instructed by one of the police officers, okay, we're going to go talk to Ed, you stay over there; right?

A Yes.

Q You're in the car for say anywhere between 10 and 20 minutes to the best of your recollection?

A Yes.

Q You don't see any police officers, you don't see any rescue personnel, you don't see your husband?

A No.

Q You just see a portion of your house?

A Yes, and I'm parked behind a police officer. There's a police officer's car across the street. There is another one at the cross— a cross street that comes into Cranston Street and there is another car in front of our house.

[40] Q Are there any police officers in the cars?

A I don't know. I don't know if I paid attention to that.

Q At some point in time you left your car; correct?

A A police officer came to the car and said it's okay, you can come up.

Q What happens next?

A We walk down the driveway to the back of the house and up to the deck and there were police officers standing there and Ed was standing there and I walked up the stairs and I saw Ed. And he's like, why did you call the police, what's going on? And I didn't say anything.

Q You didn't respond?

A I was worried. No, I just said, I was worried, I was worried about you.

Q And you were worried about him because you were worried he may have committed suicide or may have harmed himself:

A Yes.

Q What happens after that?

A They were talking with Ed. They were talking with themselves. There was — I'm sorry.

Q It's quite all right.

A There was — I was there. I was separated but I was there, I was on the deck.

Q You were on the deck?

\* \* \*

[51] to get the guns.

Q Did you ever suggest to the police officers that you wanted the guns out of the house?

A No.

Q Did you ever suggest to the police officers that you didn't feel comfortable with the guns being in the house?

A No.

Q Do you know how the police removed the guns from the house?

A The officer and I went into the house and he asked me to show him where the guns were.

Q Did you show him where the guns were?

A Yes, we walked into the bedroom and I pointed to where we kept the gun between the mattress and the box spring, and he asked me if I would get it out, and I did. I gave the gun to the officer. And I went to the dresser drawer where I put the magazine, and I got that out and gave it to him. He said, Ed said he had another gun, do you know where that is? And I said, yes. And he said, will you show me? I said, it's down in the garage. I brought him down into the garage. The gun was hidden in a sock hanging from a nail behind the pegboard and I could not reach that, so I told him where it was and he got it and got it out of the sock, and the magazine to that gun was

\* \* \*

EXHIBIT B

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No.

---

EDWARD A. CANIGLIA,

*Plaintiff,*

v.

ROBERT F. STROM AS THE FINANCE DIRECTOR OF THE  
CITY OF CRANSTON, THE CITY OF CRANSTON, AND  
COL. MICHAEL J. WINQUIST IN HIS OFFICIAL CAPACITY  
AS CHIEF OF THE CRANSTON POLICE DEPARTMENT,

*Defendants.*

---

AFFIDAVIT OF KIM CANIGLIA

Kim Caniglia, being duly sworn, says:

1. I am 58 years old. I have been married to Edward A. Caniglia (“Ed”) since 1993. We live in Cranston, Rhode Island.
2. My father was a police officer for the City of Chicago.
3. I have been around handguns since I was a child. I have fired handguns at shooting ranges.
4. Ed has kept two handguns in our house for protection. One handgun was kept under our bed. The other handgun was kept in our garage.
5. On August 20, 2015, Ed and I had an argument in our house about a broken coffee cup. During the argument, he brought the unloaded handgun from under the bed, and a bullet magazine to the kitchen,

put them on a counter separately and said “shoot me now and get it over with.” Ed then left the house.

6. While Ed was gone, I put the gun back under the bed and hid the Magazine.

7. Ed came back to the house and we argued some more. I left and went to a hotel for the night. However, at no time did I feel I was in danger.

8. The next morning, while eating breakfast at a restaurant, I tried calling Ed’s cell phone. He did not answer. I became concerned for his well-being.

9. I called the Cranston Police Department’s regular phone number from the restaurant parking lot and asked that a police officer accompany me to the hot to check on Ed.

10. A Cranston police officer came to the restaurant. I explained the situation to him in the parking lot. Then, three more squad cars of Cranston police officers arrived.

11. The first Cranston police officer called Ed’s cell phone with the number I gave him. I could hear him laugh during the phone conversation. He then told me he had spoken to Ed and Ed was “fine.”

12. The police officers then told me that they were going to go to the house to check on Ed. They told me to follow them but not to go into the house until they had gone in and spoken to Ed.

13. I parked my car near my house. The Cranston police officers blocked part of the street in front of our house with their cars. They went into the house.

14. A few minutes later, one of the police officers came out and told me I could come into the house.

However, Ed was very upset with me for calling the police so I went back to my car.

15. I saw a Cranston rescue arrive, Ed got into the rescue and left.

16. One of the Cranston police officers then told me I could come into the house.

17. One of the Cranston police officers told me that Ed had gone to Kent Hospital for a psychiatric evaluation. They said Ed had given them permission to take his guns for safekeeping. They asked me to show them where the guns were.

18. I showed the officers where the guns were, including the magazine I had hidden, and his ammunition, all of which they took.

19. I asked when we could get the guns back. One of the officers said that after Ed was evaluated, I could go down to the police station and they would release the guns.

20. I then went to Kent Hospital to wait for Ed to be released. I spoke with a nurse/doctor about the circumstances while I was there. Ed was released that day and he drove us home,

21. On August 24, 2015, I called the Cranston Police Department and left a message that I wanted to come in to pick up the guns, I did not receive a return call. I then went to the Cranston Police Department headquarters to obtain the guns,

22. After I waited for four hours, a police officer gave me the number for the incident report and said I could get the incident report from a window at the Police Department.

23. I then went to that window and requested the report and the guns. I was told that I would have to return for the report and that the guns would not be released that day. I was told the Cranston Police Department had a procedure to return the guns and the matter was with the Captain” who would decide on the request.

24. I subsequently received a phone message that I could pick up the incident report in a few days.

25. On September 1 or 2, 2015, I returned to the Cranston Police headquarters and obtained a copy of the incident report.

/s/ Kim Caniglia  
Kim Caniglia

Subscribed and sworn to before me this 17 day of December, 2015.

/s/ Marion Sipka  
Marion Sipka  
Notary Public  
My commission expires: 11-10-2016

## EXHIBIT C

Officer John Mastrati - May 31, 2018

\* \* \*

[52] A. No.

Q. We're going to look at your incident report in a second. What I want you to do now is just describe for me what you remember about the incident without having looked at the incident report.

A. All right. I know it was an early morning call, the calling party was his wife. I met her, not at their residence, but off of Reservoir Ave. She stated to me that last night she was in an argument with her husband. During the argument he pulled out a firearm, which was unloaded at the time, I believe he had the firearm and the magazine separate in both hands – in each hand. She stated that once that displayed, she was going to call 911. That's when he put the firearm and magazine down on the counter, she left – he left, went outside, she hid the gun and the magazine. He came back in. I believe there was another argument in which she stated she left, she stayed the night elsewhere. She then called – he called her some time that night asking her to come back, or they were trying to resolve the issue. She said no. I think that was the end of the phone call. She didn't hear from him after that. Then [53] I believe that she called us to meet her to go back to the house because she was unsure what she was going to walk into.

I think at that time due to the nature of the call with a firearm being involved, I talked to him on the phone and had him come outside the residence, asked him if he would come out to speak to me. He said he would. Once I got to the scene with other officers, I spoke with

Edward, and Edward pretty much told me the same story that Kim told me that happened.

From there I asked him if he would speak to the rescue personnel. He said he would.

Rescue personnel came on scene, they spoke together in private, and then rescue informed me they would be transporting him to the hospital for an evaluation, or to talk to someone.

After that, Kim – I had Kim come back to the house where she was waiting down the street, and she pointed out where the firearms were, and the firearm was exactly where she hid it, and then she informed me about another firearm that was out in the garage that she didn't want in the house.

Q. Did you seize the firearms?

A. Yes.

[54] Q. All right. Who made the decision to seize the firearms?

A. Captain Henry.

Q. Captain Henry was your supervisor?

A. He was the day shift commander, yes.

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

A. I believe it was on the phone.

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

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

Q. Okay. And Kim is his wife?

A. Yes.

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

A. Yes. Yes.

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

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

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

\* \* \*

[65] A. Beat 11, it would be the beat assignment, the area.

Q. Okay. And then underneath location type, it says at Scramblers, what does that mean?

A. Initially it was at Scrambler's, that's where I met the reporting party, Kim, and then I continued to 2300 Cranston Street, which was their house.

Q. Underneath that it says mental health issues?

A. Yes.

Q. What does that mean?

A. That's what I label it as because what the call was about. So something brief, so I put that this has to do with mental health.

Q. Are there specific categories that you pick from?

A. Yes.

Q. Okay. So mental health issues is like a drop down?

A. Yeah, it would be pertaining to mental health.

Q. Then there's another category on the next page which says persons, and there appears to be a listing of information for Mrs. Caniglia; is that right?

A. Yes.

\* \* \*

[76] Edward had committed suicide." Is that a correct reading of the sentence?

A. Yes.

Q. Does that refresh your recollection as to whether Mrs. Caniglia had any concerns about her own safety?

MR. CUNNINGHAM: Objection.

A. At that point when I first met her, what she told me, no.

Q. Then you called – you took the phone number for Mr. Caniglia?

A. Yes.

Q. And you called him?

A. Yes.

Q. And did you use your own phone to call him?

A. I believe I did.

Q. Okay. And you asked if he was at home?

A. Yes.

Q. He said he was?

A. Yes.

Q. And you asked if you went by the house would he come outside?

A. Yes.

Q. And he said that he would be home, and he was willing to talk to you?

[77] A. Yes.

Q. Okay. When you talked to him on the phone, do you recall if anything else was said besides what is set forth in that paragraph?

A. I don't believe about the incident. I think I just wanted to get him to come outside to talk to me when I came there, so that was my main concern at that point.

Q. Okay. It says Officer Russell, Officer Smith, Sergeant Barth and I responded to 2300 Cranston Street.

A. Yes.

Q. What is Officer Russell's first name?

A. Wayne.

Q. Officer Smith?

A. Austin.

Q. And Officer Barth?

A. Brendan.

Q. And Mr. Edward came out – Mr. Caniglia came outside?

A. Yes. When I arrived, yes.

Q. Do you recall where you spoke to him?

A. I believe it was on his front porch. He had a wraparound deck, I believe.

Q. Was he outside when you got there, or did he come [78] outside after you arrived?

A. I believe he was outside when I got there, or when I got there, I talked to him again to have him

come outside. Because, for my safety, I wouldn't approach the house knowing there was a firearm involved.

Q. Do you recall whether he was already outside when you got there, or whether he came outside after you got there?

A. I don't recall.

Q. Okay. Was it in the front yard or the backyard that you talked to him?

A. I believe it was the front side, like where his driveway was.

Q. It was on the deck?

A. On the deck, I believe, yes.

Q. And then you had a discussion with him about what had happened?

A. Yes.

Q. Were any of the other officers present for that discussion with Mr. Caniglia?

A. I don't know. Maybe standing next to me. I couldn't tell you.

Q. Do you know if any of them were not standing next to you?

\* \* \*

[81] distinction I'm making?

A. I do.

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

A. Okay.

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

A. I do.

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

MR. CUNNINGHAM: Objection.

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

Q. Did he convince you he was not suicidal?

A. No.

Q. Why not?

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

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

\* \* \*

[91] out to me by Kim.

Q. And you refer to the second firearm and you said, which was also confiscated; do you see that?

A. Yes.

Q. What do you mean by confiscated?

A. Confiscated as in taken.

Q. If you go down to the last sentence in the narrative, it actually says, "Nothing further to report."

A. Yes.

Q. Why do you put that there?

A. Showing that I'm ending my narrative. So nothing else to follow.

Q. Is that your standard practice that you put that at the end?

A. Yes.

Q. The sentence above that, can you read that, please?

A. "It should be noted that in further speaking with Kim she stated that she was not in fear for her life from Edward but was more worried about Edward taking his own life."

Q. And was that accurate when you wrote that?

A. Yes.

Q. Okay. Does that refresh your recollection as to

\* \* \*

[106] voluntary or involuntary?

A. I would imagine it would be voluntary because rescue personnel can't hold someone against their own will. They would request us to assist them if that was the case, which they did not.

Q. That's your assumption?

A. No, that's what they would do. They won't physically force somebody to go. If there was ever an incident where someone needed to go and they were uncooperative, then they would call us.

Q. Have you ever talked anybody into going to the hospital?

MR. CUNNINGHAM: Objection.

A. No.

Q. Were any other police officers near the rescue when the rescue personnel talked to Mr. Caniglia?

A. I wouldn't know. I believe I was talking to Kim at that time away from the scene.

Q. Besides the fact that Mr. Caniglia had put the firearm and the magazine on the counter in front of his wife the previous evening, are you aware of any other information which indicated to you that he might be suicidal?

A. No.

Q. Was Mr. Caniglia in clear and imminent danger of [107] causing personal harm to himself?

A. Yes.

Q. What do you base that on?

A. I base that off his statements and presenting a firearm.

Q. Are you aware of whether any Rhode Island statute in effect at the time addressed the situations under which a person can be compelled to go to a hospital or mental health facility?

A. No.

Q. Are you aware of whether or not, for example, a court order may be required?

A. No.

Q. Has that been any part of your training at either the Cranston Police Department or at the training academy?

A. I don't think so.

Q. Okay. If you go down to the last section on that page which has the letter V, and it says training?

A. Yes.

Q. It says, "Cranston Police Department will provide entry-level personnel with training on this subject and will provide refresher training at least every three years." Do you see that?

A. Yes.

\* \* \*

[119] A. He did.

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

A. I do.

Q. When you spoke with Mr. Caniglia, did you feel the need to allow him an escape route? A. No.

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

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

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

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

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

A. No.

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

A. No.

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

A. I can't remember if it was on the phone, he [120] admitted to having the firearm and bringing the firearm out. I'm just not sure if that was on the phone or when I spoke to him in person, or both.

Q. When you said he admitted to bringing the firearm –

A. Presenting the firearm during the argument.

Q. The previous night?

A. Yes.

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

A. I do.

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

A. No.

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

A. No.

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

A. You did.

Q. Your answer was no; is that correct?

A. Yes.

\* \* \*

EXHIBIT E

Defendants have filed Exhibit E, a compact disc containing a digital recording of Mrs. Caniglia's August 21, 2015, telephone call to the Cranston Police, under seal.

EXHIBIT F

Sergeant Brandon Barth - July 19, 2018

\* \* \*

[29] A. I don't know.

Q. Was he a felon or a fugitive from justice?

A. I would say no because that probably would have come up at the time.

Q. Okay. Was Mr. Caniglia an unnaturalized, foreign-born citizen?

A. I don't know.

Q. Are you aware of any legal reason why Mr. Caniglia cannot possess firearms?

A. No.

Q. Why don't we start with why don't you just generally tell me what you remember, as you sit here today, about what happened back in August of 2015.

A. I was – it was a day shift call, so I was working day shift as a patrol supervisor. I don't recall if I was called to the scene or if I just showed up there, but there was officers meeting with a subject at the Scramblers Restaurant which is on Reservoir Avenue.

Once I arrived on scene there, they advised me that they were speaking with Mrs. – is it Caniglia? Is that the correct pronunciation?

Q. Yes.

[30] A. With Mrs. Caniglia with regards to an incident that she had had with her husband the night prior. They advised me that there was a verbal – she advised them that her and her husband had a verbal altercation at their residence on Cranston Street in

Cranston. And during the course of this verbal argument, she stated her husband produced a firearm and either slid it across the table at her and said something to the effect of, "why don't you use this on me" or I don't remember the exact verbiage that she used.

Mrs. Caniglia stated that she then left the residence and stayed at a hotel for the night, and she was concerned and scared to go back to her house because she wasn't sure what state her husband was in so she contacted us.

Q. Okay.

A. Once I was advised of the situation, we made the decision that we were going to respond to the residence on Cranston Street. We advised Mrs. Caniglia to follow us there but not respond to the house, to stay in her vehicle slightly down the street where we could speak to her if we needed to, but, again, we weren't sure of the [31] state that Mr. Caniglia was in. She had concerns that he might have done harm to himself and wasn't sure what type of situation we'd be walking into.

Q. Okay. All right. Let me stop you there. Did you talk to Mrs. Caniglia directly at Scramblers?

A. I believe I did. I don't remember the exact conversations or if I was told by the officers on scene, but I remember being at Scramblers with them and her, but the exact conversation that I may have had with her I don't recall.

Q. Okay. Do you recall who the other officers were?

A. I believe it was Officer Mastrati and Officer Smith, I believe.

Q. Okay. And do you know whether one of them or both of them had spoken with Mrs. Caniglia at Scramblers?

A. At least one of them had. I believe it was Officer Smith that had given me the information that he had spoke to her and I may have asked her some other qualifying questions just to kind of corroborate, but, again, I don't recall exactly if it was Officer Mastrati or Mr. Smith (sic).

Q. Okay. Do you know if there were any other police officers who came to Scramblers?

\* \* \*

[35] it was the front door or the main door that the Caniglias used was off of that porch on the left side of the house if I'm looking directly at it, I believe.

Q. Okay. So what happened generally when you went to the house?

A. We responded to the house and at some point we made contact with Mr. Caniglia. I don't recall if we ever entered the house at that time. I do remember officers speaking with Mr. Caniglia on the porch outside of the house.

Q. Okay. Do you recall where Mr. Caniglia was when you arrived at the house?

A. He was inside the house, I believe, but I don't know where inside the house he was. Again, I don't – I can't remember if we actually entered the house or if he came to the door or if he was outside, but the majority of the interaction with Mr. Caniglia was outside on the porch.

Q. On the porch. Okay. And which officers were on the porch with Mr. Caniglia?

A. From what I remember, Officer Mastrati and Officer Smith and Officer Russell was there as well and myself.

[38] yourself, said to Mr. Caniglia?

A. Specific, no, but we asked him his version of events that happened the night before, you know. Obviously, we'd go there and advise him of why we were there, why we're speaking to him.

Q. Okay.

A. Again, specific sentences I said I don't recall, but –

Q. Okay. Do you recall what Mr. Caniglia said?

A. From what I remember, he corroborated what Mr. Caniglia – or Mrs. Caniglia had stated about the verbal arguments and the firearm in question.

Q. Okay. Did anyone ask Mr. Caniglia if he was suicidal?

A. I don't know if that exact verbiage was used, suicidal, but through the course of a call like that we would ask him, you know, "do you want to do harm to yourself, what is your" – again, I'm pretty sure none of those officers or myself are medical professionals, so just trying to, maybe, get a piece that somebody says that they're not in the right frame of mind and they may want to do harm to themselves or thought about it, so just kind of looking for that red flag.

Q. Did Mr. Caniglia indicate that he wanted to do [39] harm to himself?

A. I believe, yes, that he corroborated what Mrs. Caniglia had said, that he made that statement to her.

Q. Okay. You interpreted the statement of him pushing the gun towards Mrs. Caniglia and saying

“why don’t you shoot me” as indicating he wanted to do harm to himself?

A. Yes. Not – again, it’s not harm to himself, but here’s a person who obviously is not in his right frame of mind. And a reasonable person would not, in the course of an argument in my experience, slide a firearm over to his wife and say “why don’t you go ahead and, you know, use it on me” or something to that effect. So in my experience, this is a person that needs medical attention and may need to seek it out or I need to get him to medical attention.

Q. Do you know if the firearm was loaded?

A. I don’t know.

Q. Did Mr. Caniglia ever indicate that he was considering using a firearm on himself?

A. I don’t recall.

Q. Did Mr. Caniglia ever say he was considering using a firearm on someone else?

\* \* \*

[44] A. I don’t recall what he said. I know generally there was a lot of pushback from him that he did not want to go on those terms.

Q. Okay. Was there any discussion with him while he was still at the house about taking or seizing his firearms?

A. I don’t recall any firearm discussion at the scene while Mr. Caniglia was there.

Q. All right. At some point in time, a decision was made to seize his firearms?

A. There was a point in time after we were able to talk Mr. Caniglia onto the rescue, the ambulance, and

he was going to go to the hospital, the decision was made that we would take possession of the firearms in the house.

Q. Okay. Who made the decision to take possession of the firearms?

A. Ultimately, it was my decision. But at some point, I believe I called Captain Henry either on the phone or the radio. I think he may have responded to the scene and said – it was more just to run it up the chain of command that this is what I'm going to do. I just want to let you know as the division commander that that's what we're going to do.

\* \* \*

[84] MR. CUNNINGHAM: Objection.

A. I don't recall the exact conversation back and forth. I just remember that there was a lot of trepidation with him. And there – like I referenced earlier, when I was training there are instances where if a person is refusing to go to the hospital that, if there's no other alternative, they're physically detained and taken to the hospital that way.

As the police department would much rather not deal with it that way, so ultimately spoke with him and he decided to go in the rescue. But the exact conversation back and forth, what was said to ultimately that he consented to go into the rescue, I don't recall.

Q. (By Mr. Lyons) This response refers to Mr. Caniglia making suicidal statements. Do you see that?

A. Yes.

Q. All right. And you've previously identified the comment he made the night before to his wife where he put the gun down and said, essentially, in words or

substance, “why don’t you shoot me now.” Is that what you considered to be the suicidal statement?

[85] A. Yes.

Q. Were there any other statements Mr. Caniglia made that you considered suicidal?

A. Not that I recall.

Q. And why did you consider that statement to be suicidal?

A. Try to put myself or any other reasonable person into a certain incident that I’m at, a call that I’m on in this type of case, I don’t believe any reasonable person in their right frame of mind would make a statement likes that.

Everybody argues with their spouse. It happens. But to rise it to the level of producing a firearm. And even if someone’s trying for, you know, an effect in that case, that’s not a reasonable thing to do. So in my mind, that said that he wasn’t in his right frame of mind and it’s possible that he wanted to do harm to himself, that he needed to get to a medical professional and I needed to get him there.

Q. Have you had any training or read any materials that indicated to you that that statement was suicidal?

A. Specifically, I can’t recall. I would more

\* \* \*

[91] A. Oh, I apologize.

Q. – the second full sentence says, “Based on my recollection, when I spoke with Kim Caniglia at Scramblers, she informed me that she was concerned about the safety of her husband and less concerned about her own safety.” Do you see that?

A. Yes.

Q. Do you remember Mrs. Caniglia saying that?

A. Yes.

Q. Okay. Do you remember Mrs. Caniglia ever saying that she was concerned about her own safety?

A. Not verbally, no.

Q. Okay. Can you go to Interrogatory Number 23, which is on Page 10, and read the interrogatory and your response.

(Witness complied.)

A. Okay.

Q. (By Mr. Lyons) About two-thirds of the way through your response, there's a sentence which says, quote, "based on my recollection, the plaintiff did not want the officers to take his guns," end quote. Do you see that?

A. Yes.

Q. Do you recall Mr. Caniglia objecting to the

\* \* \*

EXHIBIT G

Edward A. Caniglia - June 29, 2018

\* \* \*

[24] MR. LYONS: Yes.

MS. MURPHY: I'll be very specific.

I apologize.

Q. With respect to statement Number 5, the second sentence, "During the argument, he brought the unloaded handgun from under the bed and a bullet magazine. ."

A. No.

Q. ". .to the kitchen."

A. The bullet magazine never left its place under the bed.

Q. So, again, just to confirm, you don't agree with your with wife's statement?

A. There was also a statement – and, no, I don't agree with that.

MS. MURPHY: Okay.

MR. LYONS: And just to be clear, the part of Paragraph 5 you don't agree with is the part about the bullet magazine?

THE DEPONENT: Yes.

MR. LYONS: Okay.

Q. And just to confirm, but you agree with the clause "shoot me now," that you said, "shoot me now and get it over with"?

A. Yes.

\* \* \*

[44] PT – patient – at a gun and told his wife to shoot him, police recovered gun, PT – meaning patient – stated he was not looking to hurt himself. This happened last night. Wife called today. Wife leaving him, stated for her to shoot him again. PT – indicating patient – calm, did not deny altercation, psych eval. I’m going to focus on the last sentence that I’ve read. It says: Patient calm, did not deny altercation, psych eval.

Today as I read this out loud, does it refresh your recollection as to the statement that I just read, did not deny altercation? Do you recall having any kind of conversation with the rescue?

A. I had no conversation with the fire rescue people, other than he spoke to one of the officers. He got into the back of the wagon. I was sitting on the rescue cart. He said, “How are you feeling?” I said, “Fine.” He said, “Okay. We’re going to go to Kent County Hospital.” I said, “Fine.” And that was it.

Q. Okay.

A. He said – he may have said, “Do you have any obvious health problems?” And I said, “Just high blood pressure,” or something like that.

\* \* \*

[54] arguing recently. She has been in tx – I’ll represent to you that that means treatment – for psych issues related to loss of her mother about a year ago, and last night they got into an argument about a minor issue. He became increasingly frustrated about this and eventually went and got his unloaded gun and made a comment to his wife, and that she should just shoot him and put him out of his misery.

Do you believe that information to be accurate about what you communicated to the employee at Kent Hospital that is referring to me?

A. Yes.

Q. Okay. And I know that you had earlier mentioned the part that says and had some tequila then – and then went to bed, you don't believe that that's accurate?

A. No.

Q. Okay. Now, I'd like to direct your attention to – it's Bates stamped 29. It is the second to last page of that package. And I'm not going to have to make you read the whole page, but I'd like to direct your attention to the second paragraph, the third to last sentence starting with States that he made an appointment with his PCP for a full workup. And then I'll just read it out loud to you. And just follow

\* \* \*

[68] stated that he is going through a divorce and is just sick of the arguments, and at the time he took out his handgun and the magazine in the other hand, which was unloaded at the time. And he asked Kim to just end his life because he couldn't take it any more. Edward then stated that she stated that she was going to call 911, and that's when he placed the firearm down on the counter and he left for one hour.

A. No. He stated – I have never used the word “divorce” and my wife at any time. We have never said the word “divorce” to each other during our entire marriage.

Q. And when you stated we never stated divorce, is it conversations that you had between you and your wife?

A. Yes. I've never said "divorce" to the officer. I never said "divorce" to my wife. I've said "divorce" to no one.

Q. Okay. And I just want to go into a little bit more detail. When you said – when it says "he took out his handgun," where was your handgun at the time?

A. Under the bed.

Q. Under the bed. Did you go to the bed and go under the bed and then go to the counter and place it on the counter?

A. Never went to the counter. It was on the dining [69] room table.

Q. Oh, dining room table?

A. Which is one step from the bedroom.

Q. Okay.

A. The magazine was never with the pistol.

Q. Is it fair to the say, though, that you had to go to –

A. I never asked her –

Q. Oh, sorry. I ask that I have the opportunity, if your –

MR. LYONS: He didn't finish his answer.

MS. MURPHY: Yes, exactly. I just wanted to let you know.

MR. LYONS: Okay.

Q. If you want to continue your answer, just let me know.

A. I never asked her to end my life as it says. I said, "Just shoot me." The quote was, quote, "Just shoot me," end quote.

Q. All right. Now I want to go to page 2 of the Incident Report. And it indicates, you know, a category that says Other Properties.

MR. LYONS: She means this one, this page.

MS. MURPHY: Okay. I apologize. Didn't

\* \* \*

EXHIBIT H

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

\* \* \*

[79] dangerous?

A. Well, I think you're applying the standard of imminently dangerous from the policy to a situation. So I think an officer – so in this instance, my thought process was how intrusive are the steps that we're taking versus the potential consequences if we don't. If we don't take action – this man already put a gun on the table, asked his wife to use it on him to kill him. Based on – he was upset, was emotionally disturbed over their marriage being ending. She left for the night. She was afraid that he had killed himself, apparently, because she hadn't heard from him, that's why she called us. That's why the officers went to the house, to check on his well-being.

So my thought process was, okay, he has firearms, if we leave him there with the firearms, potentially he's in danger, she could be in danger, the neighbors could be in danger, any person that comes in contact with Mr. Caniglia could be in danger. It could be another police officer.

Q. Do you know whether Mr. Caniglia had ever threatened to use the firearm on himself?

\* \*

[119] A. Yes.

Q. And it says, "He requested," does that mean that you requested that the officers on the scene seize the firearms?

A. Yes.

Q. Do you recall separate from what is set forth in this incident report, the reasons why you requested seizure of the firearms?

A. No.

Q. Do you recall whether – let me back up. Do you know whether the firearms belonged to Mr. Caniglia – let me withdraw the question. Is it your understanding the firearms belonged to Mr. Caniglia?

A. I believe so.

Q. Okay. And did you know that in 2015 when you made the request to seize them?

A. That would make sense.

Q. Do you know if Mr. Caniglia gave permission for the seizure of the firearms?

A. I don't know.

Q. All right. Do you know if Mrs. Caniglia, Kim, gave permission for seizure of the firearms?

A. I believe that was part of the information relayed to me.

\* \* \*

[132] Q. Okay. And then above it, there is an entry which says, "Captain's signature authorizing the release of firearms," with a date of 12-22-15; do you see that?

A. Yes.

Q. And the handwritten note says per Captain Winquist, something for release clearance?

A. "Okay to release. Clearance paperwork from Kent Hospital received."

Q. Do you recognize the signature there?

A. Looks like Captain Guilbeault.

MR. LYONS: I'm going to show you an incident report from a different incident around the same time, we'll mark this as Exhibit 26.

EXHIBIT 26 (PLAINTIFF'S EXHIBIT 26 MARKED FOR IDENTIFICATION)

Q. This is an incident report dated August 27, 2015 which is approximately six days after this incident. And just so you know, part of the reason this came to my attention was I believe it's your son who is involved, which I did not realize at the time that it was a different Officer Henry. There's a reference to an Officer Henry. At first I thought it was you, but it may be your son. But in any event, can you take a

\* \* \*

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,

*Plaintiff*

v.

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

*Defendants*

---

PLAINTIFF'S STATEMENT OF DISPUTED  
AND UNDISPUTED FACTS

Pursuant to LR. 56, Plaintiff hereby responds to Defendants' Statement of Undisputed Facts as follows:

1. On August 20, 2015, Plaintiff and his wife, Kim Caniglia ("Mrs. Caniglia") had an argument over a coffee mug at their residence in Cranston, Rhode Island. Exhibit A, Kim Caniglia June 27, 2018, Deposition Transcript at 11.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

2. During the argument, Plaintiff told Mrs. Caniglia that her "family wasn't all that great," that she "liked [her] brothers better than" Plaintiff and that she should "go live with" them. Exhibit A at 12-13.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

3. Mrs. Caniglia asked Plaintiff “what’s wrong? Why aren’t you happy? I can’t make you happy, you have to do that yourself. And that’s when [Plaintiff] walked into the bedroom . . . [and] he came out with a gun, threw it on the table, and said why don’t you just shoot me and get me out of my misery.” Exhibit A at 16.

RESPONSE: Not disputed that, as a dramatic gesture, Plaintiff brought out an unloaded gun and threw it on the table, and made the comment. (SUF 59).

4. After Plaintiff told his wife to “shoot” him, Mrs. Caniglia asked him “[w]hat are you thinking?” Exhibit A at 19.

RESPONSE: Not disputed that, as a dramatic gesture, Plaintiff brought out an unloaded gun and threw it on the table, and the Caniglias made those comments. (SUF 59).

5. Mrs. Caniglia told Plaintiff that she was going to contact 911 because she wanted Plaintiff to know that by bringing out the gun “he brought [the argument] to a different level.” Exhibit A at 19, 23.

RESPONSE: Disputed that Mrs. Caniglia told Mr. Caniglia “he brought it to a different level.” It is not disputed that that was Mrs. Caniglia’s perspective.

6. Mrs. Caniglia thought Plaintiff’s behavior was “shocking.” Exhibit A at 19.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

7. Shortly after Mrs. Caniglia informed Plaintiff that she was going to contact 911, Plaintiff left the residence. Mrs. Caniglia, however, did not contact 911. Exhibit A at 19, 23.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

8. After Plaintiff left the residence, Mrs. Caniglia put the gun "between the mattress and the box spring" in their bedroom. Exhibit A at 20.

RESPONSE: Not disputed that Mrs. Caniglia put the gun back between the mattress and box spring which was where Mr. Caniglia kept it. (SUF 58).

9. At her deposition, Mrs. Caniglia testified that it was at this point she discovered that the magazine was not in the gun. She testified that she took the magazine "out from underneath the bed and . . . hid it in a drawer" in the bedroom. Exhibit A at 20.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

10. In an affidavit executed before her deposition, however, Mrs. Caniglia averred that, during the argument, Plaintiff brought an unloaded gun *and a magazine* to her and implored her to "shoot me now and get it over with." Exhibit B, Affidavit of Kim Caniglia at ¶ 5.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment except that the affidavit does not state that Plaintiff "implored" her. The affidavit speaks for itself.

11. Mrs. Caniglia hid the gun and the magazine because she was worried about Plaintiff's "state of mind." Exhibit A at 22.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

12. Plaintiff was "depressed", and Mrs. Caniglia was afraid that Plaintiff "was going to do something with the gun and the magazine" and "hurt himself" or

“take[] his own life.” Exhibit A at 22-23; ‘Exhibit C, John Mastrati May 31, 2018 Deposition Transcript at 75, 91; Exhibit D, Cranston Police Department Incident Report at 3, 4.

RESPONSE: Plaintiff denies that Mrs. Caniglia told Officer Mastrati or any police officer that she was afraid that Plaintiff would harm himself or others with the handgun. To the contrary, the Incident Report states that Mrs. Caniglia made clear that she did not fear for her own safety. (SUF 118). Moreover, she testified at her deposition that she was not concerned that Mr. Caniglia would use the gun to commit suicide. (SUF 63). Finally, Plaintiff disputes that he was “depressed.” (SUF 72). To the contrary, Plaintiff was subsequently diagnosed with lung cancer and was informed by his physician that some symptoms of lung cancer mimic depression. (Kim Caniglia’s deposition pp. 72-73, excerpts attached as Exhibit 1).

13. Before Plaintiff returned to the residence, Mrs. Caniglia thought it best to “pack a bag” and “go to a hotel for a night.” Exhibit A at 24.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

14. When Plaintiff returned to the residence, he informed Mrs. Caniglia that the argument was “all [her] fault . . .” After that comment, Mrs. Caniglia left the residence and went to the Econo Lodge on Reservoir Avenue in Cranston. Exhibit A at 25.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

15. At some point that evening, Mrs. Caniglia spoke to Plaintiff by telephone. Plaintiff asked Mrs. Caniglia to come home but she refused because she

thought they needed time to “chill.” Plaintiff was upset and angry. Exhibit A at 26.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

16. At some point the following morning, Mrs. Caniglia contacted the CPD and “requested an officer to do a well call.” Exhibit A at 29.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

17. Mrs. Caniglia was “incredibly worried” that Plaintiff was going to harm himself or commit suicide. Exhibit A at 30.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

18. During the telephone call to the Cumberland Police Department (“CPD”), Mrs. Caniglia requested an escort to her residence because she was a “little afraid” of Plaintiff. Mrs. Caniglia also informed the CPD that (1) she and Plaintiff had “gotten into a verbal fight;” (2) Plaintiff took a gun and said “shoot me;” (3) Plaintiff took the gun *and magazine* and threw it on the table; (4) she spent the night in a hotel and was now in the parking lot of Scramblers Restaurant, and (5) she “hid the gun” and put the magazine in a drawer. Exhibit E; CD of Digitally Recorded Telephone Call From Kim Caniglia to Cranston Police Department August 21, 2015.<sup>1</sup>

RESPONSE: Denied that Mrs. Caniglia was afraid of Mr. Caniglia. To the contrary, as reflected in the

---

<sup>1</sup> Defendants have filed the digital recording of the telephone call under seal because it contains personally identifiable information.

Incident Report, she told Officer Mastrati, that she did not fear for her own safety. (SUF 118). She testified the same at her deposition. (SUF 118).

19. As a result of Mrs. Caniglia's telephone call to the CPD, Cranston Police Officers John Mastrati ("Mastrati"), Austin Smith ("Smith") and Sgt. Brandon Barth ("Sgt. Barth") were dispatched to Scrambler's Restaurant. Exhibit C at 65, Exhibit F, Sgt. Brandon Barth July 19, 2018, Deposition Transcript at 29, 31.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment, except that CPD Officer Russell also responded. (SUF 68).

20. At Scramblers, Mrs. Caniglia informed a CPD officer "about the gun, about the words [Plaintiff] said and what [she] did with the gun" and magazine. Exhibit A at 35.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

21. Mrs. Caniglia informed Officer Mastrati that she had an argument with Plaintiff and that during the argument Plaintiff took out an unloaded firearm and a magazine and asked Mrs. Caniglia to use it on him. Exhibit C at 52-54, Exhibit D at 3; Exhibit F at 30. RESPONSE: Disputed. Mrs. Caniglia told the Cranston police officer that her husband took out an unloaded handgun and said "just shoot me know and get it over with." (SUF 58-59).

22. Mrs. Caniglia stated that she was concerned about what she would find when she returned home, that she was concerned about Plaintiff's safety; specifically informing Mastrati that she was worried about Plaintiff committing suicide. Exhibit A at 36, Exhibit C at 75-76; Exhibit D at 3-4; Exhibit F at 91.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

23. Officer Mastrati contacted Plaintiff by telephone from Scramblers. Plaintiff agreed to speak to Mastrati at Plaintiff's residence. Exhibit C at 76-77.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment, except that Officer Mastrati told Mrs. Caniglia that Mr. Caniglia sounded fine. (SUF 66-67).

24. CPD officers informed Mrs. Caniglia to follow them to the Caniglia residence but to stay in her car when they arrived at the residence. Exhibit A at 37-38.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment, except that Officer Mastrati told Mrs. Caniglia that Plaintiff was "fine." (SUF 67).

25. Upon arrival at the residence, Officer Mastrati spoke to Plaintiff outside of the house, near or about the porch/deck area of the property. Exhibit C at 77-78. Sgt. Barth and Officer Smith and Officer Wayne Russell were also on scene, in or about the same area. Exhibit F at 35.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

26. Plaintiff told Mastrati that he brought the gun out during the argument with Mrs. Caniglia. Exhibit C at 119-120.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

27. Plaintiff "pretty much told [Mastrati] the same story that [Mrs. Caniglia] told" him. Exhibit C at 53.

RESPONSE: Disputed. Officer Mastrati testified that the Incident Report sets forth “everything” that both Caniglias told him. (Mastrati depo. p. 57, excerpt attached as Exhibit 2). The Caniglias dispute much that is set forth in the Incident Report. (E. Caniglia depo., pp. 63-66, 82-83, excerpts attached as Exhibit 3; Exhibit 1 at pp. 56-58).

28. Plaintiff corroborated what Mrs. Caniglia had informed Cranston Police Officers about the argument, the gun, and that Mrs. Caniglia should shoot him. Exhibit F at 38, 39.

RESPONSE: Disputed. Plaintiff was not asked to corroborate what Mrs. Caniglia may have said. To the contrary, he told CPD officers that he was not suicidal or depressed. (SUF 70-72, 80). Moreover, he did not actually ask his wife to end his life. (Exhibit 3 at p. 69).

29. Plaintiff admitted to Mastrati that he and Mrs. Caniglia had had an argument over a coffee mug and he was “sick of the arguments” and he took out his unloaded handgun and told his wife to “just shoot me” because he “couldn’t take it anymore.” Exhibit G Edward A. Caniglia June 29, 2018 Deposition Transcript at 67-68; Exhibit D at 3.

RESPONSE: Admitted that Plaintiff and his wife had an argument over a coffee mug, that Plaintiff said he was “sick of the arguments,” that he took out his unloaded handgun, and said to his wife “just shoot me.” (Exhibit 3 at pp. 67-69).

30. Plaintiff also admitted to a Kent Hospital employee that, during the argument with Mrs. Caniglia, he retrieved an unloaded gun and told Mrs. Caniglia that “she should just shoot him and put him out of his misery.” Exhibit G at 54; see also id. at 24

(admitting he said “shoot me now and get it over with”).

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

31. At some point after Mrs. Caniglia arrived at the residence, an officer approached her car and told her she could come to the residence. Exhibit A at 39-40.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

32. When she arrived at the residence, Plaintiff asked her why she contacted the CPD. Exhibit A at 40.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

33. Mrs. Caniglia informed Plaintiff that she was worried about him. Exhibit A at 40.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

34. Plaintiff was “very upset” because Mrs. Caniglia contacted the CPD so she went back to the car. Exhibit B at ¶ 14.

RESPONSE: Disputed. Plaintiff admits that he was “at a loss” that his wife called the CPD. (Exhibit 3 at pp. 49-50).

35. While at the residence, Mrs. Caniglia overheard Plaintiff inform a CPD officer that he had an argument with Mrs. Caniglia about a coffee mug and that he “did bring out a gun and set in on the table and told [Mrs. Caniglia] to just go ahead and shoot him and put him out of his misery.” Exhibit A at 41.

RESPONSE: Not disputed that Mrs. Caniglia so testified, however, both Caniglia's knew at that time that the handgun was unloaded. (SUF 59).

36. Although Plaintiff informed Mastrati that he was not suicidal, Mastrati was not convinced because a "normal person would [not] take out a gun and ask his wife to end his life . . ." Exhibit C at 82.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment, that Mastrati so testified. Plaintiff disputes that Mastrati could reasonably have concluded he was suicidal. (SUF 28, 31, 74, 93, 136).

37. Mastrati believed that Plaintiff was a danger to himself. Exhibit C at 106-107.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment, that Mastrati so testified. Plaintiff disputes that Mastrati could reasonably have believed that Plaintiff was a danger to himself. (SUF 28, 31, 74, 93, 136).

38. Sgt. Barth considered Plaintiff's statement to his wife to shoot him to be a suicidal statement. Exhibit F at 84-85.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment that Sgt. Barth so testified. Plaintiff disputes that Barth could reasonably have believed that Plaintiff was suicidal. (SUF 28, 31, 74, 93, 136).

39. The CPD seized two guns and ammunition from the Caniglia residence for safekeeping. Exhibit D at 2.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

40. Mrs. Caniglia showed police the location of the guns and magazines. The guns and ammunition were seized from the bedroom and the garage. Exhibit A at 51; Exhibit D at 4.

RESPONSE: Not disputed that Mrs. Caniglia showed the police the locations of the guns and magazines, after Defendants told her that Plaintiff had authorized the seizure, which statement was false. (SUF 84, 85, 111, 113).

41. Sgt. Barth made the decision to seize the guns, however, that decision was approved by Captain Russell Henry (“Captain Henry”). Exhibit F at 44; Exhibit H Cpt. Russell C. Henry, Jr. June 13, 2018, Deposition Transcript at 119.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

42. Captain Henry believed that if the CPD had left Plaintiff “there with the firearms, potentially, he’s in danger, [Mrs. Caniglia] could be in danger, the neighbors could be in danger, any person that comes in contact with Mr. Caniglia could be in danger.” Exhibit H at 79.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment that Capt. Henry so testified. Plaintiff disputes that Capt. Henry could reasonably have believed Plaintiff was a danger to himself or to Mrs. Caniglia or to any other person. (SUF 28, 31, 74, 93, 136).

43. Plaintiff was eventually transported to Kent County Hospital for a medical evaluation. Exhibit G at 44; Exhibit B at ¶ 17.

RESPONSE: Not disputed for purposes of the Parties’ Cross Motions for Summary Judgment.

44. Plaintiff was evaluated at the hospital but was not admitted. Amended Complaint Exhibit B; Exhibit B at ¶ 20.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

45. Plaintiff was not charged with any crime with respect to the incident. Answer to ¶ 50 of Amended Complaint.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

46. The CPD did not prevent Plaintiff from obtaining any firearms after the August 21, 2015 incident. Answer to ¶ 47 of Amended Complaint.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

47. On or about October 1, 2015, Plaintiff's attorney sent Colonel Winqvist a letter requesting the return of his guns. Answer to ¶ 41 of Amended Complaint.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

48. Plaintiff's guns were returned to him in late December 2015. Exhibit H at 132.

RESPONSE: Not disputed that Plaintiff's guns were returned to him in late December 2015, after Defendants had rejected several attempts to obtain a return of the firearms and after Plaintiff filed this lawsuit. (SUF 122-126, 128-129, 133-134).

49. At his deposition Plaintiff testified that he believes that his life is "wonderful and great" and denied any "potential thoughts of suicide in the future." Exhibit G at 58-59.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

50. Colonel Michael Winqvist and Major Robert Quirk were not at the scene nor were they consulted by officers at the scene. Exhibit I Colonel Michael Winqvist June 20, 2018 Deposition Transcript at 44; Exhibit J Major Robert Quirk July 13, 2018 Deposition Transcript at 22; Exhibit D.

RESPONSE: Not disputed for purposes of the Parties' Cross Motions for Summary Judgment.

Plaintiff also adopts his Statement of Undisputed Facts (Doc. 44) as a Statement of Additional Undisputed Facts.

EDWARD CANIGLIA

By his attorneys,

/s/ Thomas W. Lyons

Thomas W. Lyons #2946

Rhiannon S. Huffman #8642

RHODE ISLAND AFFILIATE,  
AMERICAN CIVIL LIBERTIES UNION

Strauss, Factor, Laing & Lyons

One Davol Square, Suite 305

Providence, RI 02903

(401) 456-0700

tlyons@straussfactor.com

CERTIFICATION

I hereby certify that on January 30, 2019, a copy of the foregoing was filed and served electronically on all registered CM/ECF users through the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Thomas W. Lyons

[1] UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

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

---

EDWARD A. CANIGLIA

v

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

---

DEPOSITION

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.

\* \* \*

[58] Q Can I have you look at the third paragraph on the first page. The first full sentence states, “Kim stated that when they argued over the coffee mug, he went to the bedroom and grabbed the firearm which was unloaded and had the magazine in the other hand

and stated to Kim to end his life”; does that refresh your recollection about the magazine?

A No.

Q It does not?

A I remember the gun.

Q You don't remember the magazine?

A I do not.

MR. CUNNINGHAM: Can we go off the record.

(off the record conversation had)

MR. CUNNINGHAM: I'm going to introduce this.

Brenda could you mark that.

(WHEREUPON; medical records from Kent County Hospital marked Defendant's Exhibit B for Identification)

Q Mrs. Caniglia, I'm going to hand you what has been marked as Defendant's Exhibit B, and I will represent to you that is what Mr. Lyons turned over to us as the medical records from Kent Hospital with regard to the incident on August 20th and 21st.

A Yes.

\* \* \*

In The Matter Of: Caniglia vs Strom, et al

Edward A. Caniglia

June 29, 2018

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

[49] insignificant argument with her last night over a coffee mug. Wife left for the night and returned this morning. States that he placed the gun on the table, and had removed the magazine prior to this. Admitted that he made the statement but denied feeling suicidal or homicidal before, during, or after this incident.” Do you believe that information’s accurate?

A. Except for the part she opened our conversation with, “Are you the man who beat his wife?” Those were the first words out of his mouth.

Q. Whose mouth?

A. The social worker’s.

Q. And this was regards to your visit on August 21st, —

A. Yes.

Q. — 2015?

A. Yes.

Q. Okay. Now, and that, you said that was at the start of the conversation?

A. That is how she started the conversation with me.

Q. Now, I’d like to just focus on one particular statement that is included in here. “Patient reported

that he felt at a loss that his wife called the Police.” Do you recall reporting that to the social worker?

[50] A. Yes.

Q. And what did you mean when you said you felt at a loss that your wife called the police?

A. ‘Cause it wasn’t that big an incident.

Q. Now, I’d like to direct your attention to — and there aren’t page numbers in here, so I’d like you to look at the top left corner. These are Bates stamps, which Bates stamps are documentation that are helpful for attorneys to identify particular pages or particular parts of the document. It says C00012.

A. Yes.

Q. So I’d like to direct your attention to the bottom paragraph, the category or the subject line says Basic Information. And specifically what I’m looking at is Additional Information. I want you to have the opportunity just to review that paragraph before I ask you a question.

A. Arrivals — “Arrival mode” —

MR. LYONS: Yes. No, no, no, no.

MS. MURPHY: Oh.

MR. LYONS: I’m just pointing out to you. She just wants you to read the part —

THE DEPONENT: Okay.

MR. LYONS: — that says Additional Information. Think what he’s pointing to is the

\* \* \*

[66] Q. Okay.

A. That’s about it.

Q. Now I'd like to move forward to conversations on scene. And you indicated to me that there's more details as to the conversations with the officers on scene. Can you explain to me what those details are?

A. The officers stated to me that how they handle these situations was that if I submitted to a psych evaluation that morning at Kent County Hospital, my firearms would not be removed from the house.

Q. And when you said officers, who are the particular officers?

A. Mastrati and the gentleman in the white shirt. The two younger officers said nothing during these entire conversations.

Q. And you earlier described when we had this conversation earlier in the deposition about your conversations with the officers on scene when they arrived, you mentioned that Kim Caniglia was not on scene at that time; is that fair to say?

A. She was not at the scene. She was not at the house.

Q. She was not at the house?

A. She was across the street in her car on a side street.

\* \* \*

[82] MR. LYONS: I think he said where she always hides things.

Q. Where she always hides things?

A. Yes.

MS. MURPHY: Okay. Let me just take a moment just to look over this real quick to see if I have any additional.

MR. LYONS: I have a couple of questions.

MS. MURPHY: Okay.

MR. LYONS: So why don't you let me ask my questions.

MS. MURPHY: Okay. Sounds good.

MR. LYONS: And then you can figure out if you have any more.

EXAMINATION BY MR. LYONS

Q. Mr. Caniglia, when you brought the gun out from under the bed, you said you did not bring the magazine?

A. Correct.

Q. Was the gun loaded at all?

A. No.

Q. Okay. The police Incident Report, the narrative says that you said you were getting a divorce. Just to be clear, did you ever tell the police —

A. No.

Q. — that you were going through a divorce?

[83] A. No.

Q. The Incident Report on the second page of the narrative says, quote: I asked Edward to get checked out by rescue and to talk to someone at the hospital which he willingly agreed to. Do you see that?

A. Yes.

Q. Is that correct? Did you willingly agree to get checked out at the hospital?

A. I agreed to go to the hospital to prevent the confiscation of my weapons.

Q. Okay. Would you have agreed to go to the hospital if your weapons weren't going to be confiscated?

A. No.

(Discussion off the record)

Q. Did you incur any bills as a result of this incident?

A. Yes.

Q. What bills?

A. The rescue squad paid for that. I had to pay co-payment for the time spent at Kent County Hospital. That's it.

Q. Do you recall about how much those bills were?

A. About a thousand dollars or so.

Q. And then I know you can't read it, the Cranston — so I'll read it to you. The Cranston Fire Department report, the narrative, it says: Wife leaving him,

\* \* \*

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,  
*Plaintiff*

v.

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

---

PLAINTIFF'S STATEMENT OF  
ADDITIONAL UNDISPUTED FACTS

Pursuant to LR 56, in response to Defendants' Statement of Undisputed Facts, Plaintiff designates the following as additional undisputed facts. For ease of reference, Plaintiff will number them from the next number of the Undisputed Facts he set forth in support of his Motion for Partial Summary Judgment:

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).

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

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

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

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

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

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).

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).

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).

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).

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

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).

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

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

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

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).

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).

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).

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).

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).

EDWARD CANIGLIA

By his attorneys,

/s/ Thomas W. Lyons

Thomas W. Lyons #2946

Rhiannon S. Huffman #8642

RHODE ISLAND AFFILIATE,

AMERICAN CIVIL LIBERTIES UNION

Strauss, Factor, Laing & Lyons

One Davol Square, Suite 305

Providence, RI 02903

(401) 456-0700

tlyons@straussfactor.com

CERTIFICATION

I hereby certify that on January 30, 2019, a copy of the foregoing was filed and served electronically on all registered CM/ECF users through the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Thomas W. Lyons

In The Matter Of: Caniglia vs Strom, et al

Sergeant Brandon Barth

July 19, 2018

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

{112] about all three pages.

A. Okay.

Q. If you want to look at them all together now, please go and do so, but we're going to go through and talk about all three. Okay?

The page that says "Suicide Risk Assessment," the first bullet point is gender. Do you see that?

A. Yes.

Q. Did you use that to make an assessment of whether Mr. Caniglia was suicidal?

A. I mean, the term "assessment," I would say no because I'm looking at it as a — kind of a totality when they use that term "assessment," so I would say, no, I didn't use that. Wouldn't matter either way if he was a male or female.

Q. Did you use any of the factors so forth on this page as bullet points in your decision-making with respect to Mr. Caniglia?

A. No, I wasn't looking at his risk at that point. The statement, in my opinion, was enough that he needed to seek medical attention.

Q. Okay. If you go to the next page which is warning signs of suicide, did you use any of these warning signs in your assessment of Mr.

\* \* \*

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,

*Plaintiff,*

v.

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 DEPARTMENT, 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) Undisputed Facts

51. When she called the Cranston Police Department, Mrs. Caniglia believes that she informed the Cranston Police Department that she and Mr. Caniglia had had an argument and that Mr. Caniglia had been depressed. Exhibit K; June 27, 2018 Deposition Transcript of Kim Caniglia at 31-32.

52. Mrs. Caniglia hid the magazine because Plaintiff was depressed. Id. at 22.

53. Mrs. Caniglia hoped that Plaintiff could get some help at the hospital. Id. at 63. She was concerned about Plaintiff's depression. Id.

54. Mrs. Caniglia did not know why she was not worried that Plaintiff would use the gun on himself. Id. at 30.

55. Officer Mastrati testified that, as a police officer, he has the legal authority to seize a weapon from an individual who he thought was suicidal. Exhibit L; May 31, 2018 Deposition Transcript of John Mastrati at 27. Under these circumstances, he would notify a supervisor and the supervisor would make the decision. Id. He was aware of this as a result of training. Id. at 27, 36-37. Seizing the weapons would be for the safety of the person and the public. Id. at 36-37, 38

56. Officer Mastrati believed that Plaintiff was in a clear and imminent danger of harming himself as a result of the statements he made to his wife and the presentation of a firearm. Id. at 107.

57. Officer Smith testified that the Cranston Police Department can seize a firearm for safekeeping in non-criminal situations where a supervisor makes a decision that an individual who has a firearm may

cause harm to himself or a member of the public. Exhibit M; June 1, 2018 Deposition Transcript of Austin Smith at 34.

58. Officer Barth was familiar with the Community Caretaking Doctrine. Exhibit N; July 19, 2018 Deposition Transcript of Brandon Barth at 9. Officer Barth testified that the Community Caretaking Doctrine involved the “rights of police officers when it comes to public safety.” *Id.* at 12. He practices this type of public safety daily. *Id.*

59. Officer Barth is not sure if the specific term “Community Caretaking” was ever used in training or whether it was on a particular policy. He was, however, familiar with the theory behind the doctrine in so far as it concerns public safety and police acting in non-criminal situations. *Id.* at 12, 79.

60. Officer Barth testified that police officers need to maintain public safety “whether it’s an individual who wants to do harm to themselves or do harm to others” and it’s not a criminal matter and “it’s up to the police department to maintain safety and order of the public.” *Id.* at 12. Moreover, he noted that “sometimes there could be exceptions to search and seizure rules [with respect to] maintaining public safety.” *Id.* at 15.

61. Officer Barth testified that Plaintiff was “upset” and “agitated.” *Id.* at 86, 124.

62. Officer Barth considered the totality of the circumstances in dealing with the situation, including, but not limited to, (1) Mrs. Caniglia decided to leave the residence, (2) Mrs. Caniglia wanted a police escort back to her house; (3) Mr. Caniglia had corroborated what Mrs. Caniglia had informed the Cranston Police; (4) the fact that Mr. Caniglia brandished a gun and asked Mrs. Caniglia to shoot him; (5) Mr. Caniglia was

agitated and upset. Id. at 41, 56, 82-83, 86-89, 102, 124.

63. Captain Henry is aware of the Community Caretaking Doctrine and hears about it periodically. His understanding of the Doctrine is that “courts recognize that law enforcement needs to take certain actions relative to the Fourth Amendment without a warrant that pertains to public safety functions or emergencies.” Exhibit O; June 13, 2018, Deposition Transcript of Russell Henry at 24, 26.

64. Captain Henry testified that Courts recognize that the police may take “reasonable action to prevent [a] person from killing themselves. A person has a firearm that’s thinking of harming themselves or others, I think the courts recognize police have to take whatever action is necessary to prevent that.” Id. at 25.

65. Captain Henry testified that he believes the Community Caretaking Doctrine is synonymous with public safety. Id. at 26.

66. Captain Henry may have learned about the Community Caretaking Doctrine in formal education or from materials he has read. Id. at 26. He tries to keep current on the topic by reading current court cases. Id.

67. Captain Henry testified that although the specific phrase “Community Caretaking” may not have come up in training – the theory of community caretaking may have been discussed in training even though the particular phrase was not used. Id. at 31.

68. Captain Henry testified that the mental health training that Cranston Police Officers receive encompassed the concept of the Community Caretaking Doctrine. Id. at 35.

69. Captain Henry testified that Cranston Police have also been trained on the Community Caretaking Doctrine related to exceptions to the Search Warrant Requirement. *Id.* at 94-95.

70. An individual associated with the Cranston Rescue informed Plaintiff that they were “going to Kent Hospital” and Plaintiff replied “[f]ine.” Exhibit P, June 29, 2018 Deposition Transcript of Edward Caniglia at 44.

71. Officers Russell, Smith, Barth, Henry, and Mastrati are not involved in the return of seized property. Exhibit N at 58; Exhibit O at 58-59, 63; Exhibit M at 57; Exhibit L at 100; Exhibit Q; Office Wayne Russell’s Answer to Plaintiff’s Interrogatory 7.

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 30th day of January, 2019 and is available for viewing and downloading from the ECF system.

Thomas W. Lyons, Esq.  
[tlyons@straussfactor.com](mailto:tlyons@straussfactor.com)

Rhiannon S. Huffman, Esq.  
[rhuffman@straussfactor.com](mailto:rhuffman@straussfactor.com)

*/s/ Marc DeSisto*

Marc DeSisto

235

Exhibit K

Deposition Transcript of Kim Caniglia  
June 27, 2018

---

[1] UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

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

---

EDWARD A. CANIGLIA

v

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

---

DEPOSITION

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.

[31] A Not verbatim.

Q. What do you remember concerning what you said on that telephone call?

A. That I would like to have an officer come with me to my house to check on my husband, I was worried about him. I may have said that we had an argument the night before and that he has been depressed. I don't remember word for word.

Q. So you requested some sort of escort from where you were to your house?

A. Yes.

Q. You also informed officers that your husband may have been depressed?

A. Yes, only I think they asked me why.

Q. Did you inform the officer of the gun incident?

A. On the phone?

Q. Yes.

A. I don't know. I don't remember.

Q. So you don't remember if you told the officer about the gun incident or the words your husband used?

A. No, I don't remember. I don't remember.

MR. LYONS: So far we're just talking about the phone call?

MR. CUNNINGHAM: Phone call, yes, just the [32] phone call.

Q. On the phone call did you inform the Cranston police officer that you were afraid of your husband?

A. No.

Q. You don't remember saying that?

A. I don't remember saying that. I was afraid for my husband.

Q. But you don't remember saying you were afraid of your husband?

A. No.

Q. So as we sit here today, again I don't want to put words in your mouth, but from what I'm understanding there are two things that you remember about the phone call, that you requested an escort to the house and that you informed the police department that your husband was depressed?

A. I don't remember the exact words, but I believe they asked me why, and I had told them that he was depressed, I was worried for him, I was worried about what I would find.

Q. When you say worried about what you would find, did you express that to the police officer?

A. Yes, I was worried about Ed.

Q. And again, when you say you were worried about what you

\* \* \*

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

A. Yes.

Q. Do you remember sharing that concern or hope?

A. It was taken out of context.

Q. What was taken out of context?

A. This statement.

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

A. Yes.

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

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

Q. So you were concerned about his depression?

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

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

\* \* \*

Exhibit N

Deposition Transcript of Sergeant Brandon Barth  
July 19, 2018

---

[1] UNITED STATES DISTRICT  
COURT DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,

vs.

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

[41] taking the totality of the situation, you know, again, here's a wife that decided to stay at a hotel because she was concerned of what her husband may do. So wasn't hysterics, but, you know, there was definitely concern for the fact that she called the police and wouldn't go back to her house without us.

Q. Okay. Did she indicate to you whether she wanted all four police officers to go to the house?

A. I don't think she indicated that. That was what the response was going to be regardless just based on what she had told us about the incident prior.

Q. So even if Mrs. Caniglia had indicated, for example, that she only wanted one police officer to go with her to the house, would you still have responded the same way?

A. Yes.

Q. Okay. How was Mr. Caniglia's emotional state when you spoke with him?

A. I'd say aggravated. He wasn't happy that we were there based on the incident prior to that, so — but, otherwise, he wasn't, you know, overly angry or hysterical or anything like that. There was definitely annoyance, some trepidation about

\* \* \*

[56] A. I'm sure he did when I spoke with him either in person or on the phone, but the exact questions that he asked me I'm not sure of.

Q. Does the Cranston Police Department use written forms to obtain consent to do searches?

A. Sometimes, yes.

Q. Okay. Did you use a written form in this case?

A. No.

Q. Why not?

A. Because of the totality of the circumstances, that Mr. Caniglia had corroborated what Mrs. Caniglia had said. Even with his misgivings about going to the hospital, we felt that Mr. Caniglia was a harm to himself in the least and possibly a harm to his wife until he sought medical help.

And not being a medical professional, I don't know how long that takes, so we didn't seek that. We just took possession of the firearms at that point.

Q. Okay. Do you recall where the firearms were located?

A. I believe there were two firearms that were taken from the home. The first one, I don't recall where that one was located. The second

\* \* \*

[83] concerned that she stayed at a hotel that night. That kind of added to the totality of that particular call.

Q. Okay. But your recollection was when you saw her at Scramblers her demeanor was that she was calm?

A. Yes.

Q. Okay. And when you spoke to Mr. Caniglia, he was agitated about the fact that the police had come to his house, but, otherwise, he was calm?

A. Agitated. He wasn't — like I said, wasn't happy with us being there but wasn't hysterical.

Q. Okay. Apart from the fact that he wasn't happy with you being there, how was his demeanor?

A. Again, angry but not overtly angry. He was — there was a lot of discussion back and forth between the officers and him about going to the hospital. He did not want to go, from what I remember, to the hospital under those circumstances. Ultimately, he did consent to going after talking to him some time, you know, in regards to the situation. But, otherwise, it was more just anger, but not hysterical anger.

Q. Do you know if he consented to go to the hospital after he was told that if he did not consent his firearms would be seized?

\* \* \*

[88] have changed any outcome at that time.

Q. Okay. If you go down to Number 4, it says, “During the argument plaintiff grabbed a firearm with one hand and a magazine with the other.” Do you see that?

A. Yes.

Q. Okay. Do you recall someone telling you that, in fact, Mr. Caniglia had a firearm in one hand and a magazine in the other?

A. Specific, I don’t know if it was him or an officer that had relayed it on scene or if it was Mrs. Caniglia, but going off of the dispatch, Exhibit 22 there, she had mentioned something different, so specifically I don’t know who said that.

Q. Okay. Would it have made a difference to you here if, in fact, he had not had a magazine in his hand?

A. Wouldn’t have made a difference. The fact that the — it’s a firearm. It is a true firearm that whether or not it was loaded or not, whether or not he made reference to load it, it doesn’t really change much, in my opinion.

Q. Number 5 says “plaintiff was upset.”

A. Yes.

[89] Q. Have you described for me the way in which plaintiff was upset?

A. Just the — the anger and trepidation when we were on scene speaking to him on the porch.

Q. And that had to do with the fact that the police had gotten involved?

A. Yes.

Q. Okay. If you go to Number 8 it says, “Upon returning to the residence, plaintiff’s wife parked her car about 100 feet away from the residence and remained in her car until plaintiff left the property by rescue.” Do you see that?

A. Yes.

Q. My understanding, as you testified earlier, that she did that because she was told to by the Cranston Police.

A. Yes.

Q. Okay.

A. May I go back to that?

Q. Oh, yes. Yes.

A. I just — she was told to, meaning advised, that we as the police department wanted to make contact. She was concerned about what could have possibly happened. We didn’t want Mrs. Caniglia to possibly walk into something tragic. So,

\* \* \*

[102] higher level of law enforcement intervention will be required when officers encounter the following

scenarios,” and Number 1 says, “the person is imminently dangerous to himself or others.” Do you see that?

A. Yes.

Q. Is that what you thought applied here? Did you believe Mr. Caniglia was imminently dangerous to himself or others?

A. Yes, based on the totality of the circumstances, the — you know, what had happened the previous night, I know imminently applies there was the night before and now we’re dealing with it a day later (sic).

My concern at that point was the statements were made that the Police Department was made aware of those statements and that he —when we go back to the involuntary part of it, regardless of what Mr. Caniglia had said, after we had learned — corroborated the statement from the night before, he was going to the hospital for a medical evaluation.

When I go back and state that we would rather — the Police Department would rather not put our hands on somebody and take physical

\* \* \*

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,  
*Plaintiff*

v.

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

---

DEFENDANTS' STATEMENT OF  
DISPUTED FACTS

1. Plaintiff Edward ("Ed") Caniglia is 68 years old. (Plaintiff's Answers to Defendant City of Cranston's Interrogatories at Answer No. 1, attached as Exhibit A). He has been married to Kim Caniglia since 1993. (E. Caniglia depo. at p. 11, excerpts attached as Exhibit Q). They have never filed for divorce. (*Id.* at pp. 67-68, 82-83).

**Undisputed.**

2. Col. Winquist joined the Rhode Island State Police in 1990 after attending the State Police Academy. (Winquist depo. pp. 10-11, excerpts attached as Exhibit B).

**Undisputed.**

3. Col. Winquist was told while with the State Police that he could require a person to submit to a mental health evaluation at a hospital emergency

room without obtaining a court order if that person was in imminent danger of harming himself or someone else. (Exhibit B at pp. 18-20).

**Objection. Any reference to the Rhode Island State Police (“R.I.S.P.”) in Plaintiff’s Statement of Undisputed Facts is irrelevant.<sup>1</sup> Disputed insofar as Colonel Winqvist testified that he was told by his superior officers at R.I.S.P. that “if somebody was in imminent danger of harming themselves or somebody else, then we could take them either voluntarily or involuntarily to the local emergency room at a hospital for the purpose of a mental health evaluation.” Exhibit 1; June 20, 2018 Deposition Transcript of Colonel Michael Winqvist at 18-19.**

4. Moreover, Col. Winqvist was told he had the authority in those circumstances to seize firearms without a court order to protect the public. (*Id.* at p. 20).

**Disputed insofar as Colonel Winqvist testified that he was told by senior members of the RISP that members of the RISP have a “responsibility to be community caretakers, and that our role is to make sure that if somebody is in imminent danger, you can take a person to get evaluated, and you can seize property, such as firearms, to protect the public.” Exhibit 1 at 20.**

5. Col. Winqvist was told this was part of the community caretaking function. (*Id.* at p. 20). The community caretaking function was not embodied in any writ-

---

<sup>1</sup> Defendants propound a continuing objection to any and all references to the Rhode Island State Police contained in Plaintiff’s Statement of Undisputed Facts as being irrelevant.

ten document nor was Col. Winqvist taught any legal basis for the function. (Id. at pp. 21-22).

**Disputed insofar that Colonel Winqvist's understanding of the community caretaking function is consistent with the disputed facts noted in 3 and 4 above. He testified that he did not "recall" if he ever saw any "written document that authorized the State Police to either require a psychiatric evaluation or to seize property." Colonel Winqvist testified that he "did not recall" if he was told the legal authority for the community caretaking function. Exhibit 1 at 21, 22.**

6. Col. Winqvist is not aware of any statute that embodies the community caretaking function. (Id. at p. 31). Prior to 2017, there was no statute that authorized police to require a person to have a psychiatric evaluation. (Id.). Prior to 2018, there was no statute that authorized police to seize a person's firearms when that person was a danger to himself or others. (Id. at pp. 30-31).

**Undisputed insofar as Colonel Winqvist testified as to his understanding.**

7. There was no written policy or procedure that set forth the State Police's authority to seize firearms or to require persons to submit to psychiatric examinations without a court order. (Id. at pp. 22-23).

**Disputed. Colonel Winqvist testified that he did not recall seeing a written policy or procedure that set forth the RISP's authority to require an individual to submit to a psychiatric evaluation or to seize property pursuant to the community caretaking function. Exhibit 1 at 22, 23.**

8. Col. Winquist was with the State Police until 2014 when he was hired to be the Colonel of the Cranston Police Department. (Id. at p. 13).

**Undisputed.**

9. The State Police eventually became accredited by the Commission for Accreditation of Law Enforcement (“CALEA”). (Id. at pp. 15, 21). Col. Winquist was involved in the accreditation process. (Id.).

**Undisputed.**

10. None of the CALEA standards dealt with the community caretaking function or the authority of the State Police to require someone to submit to a psychiatric evaluation or to seize firearms without a court order. (Id. at p. 23; Henry depo. pp. 42-43, excerpts attached as Exhibit C).

**Disputed. Colonel Winquist testified that he did not recall if any CALEA standard dealt with the community caretaking function, or the authority of the R.I.S.P. to require someone to submit to a psychiatric evaluation or to seize firearms, without a court order. The reference to Officer Henry’s deposition does not support the fact statement.**

11. Col. Winquist is the person who establishes policy for the Cranston Police Department. (Exhibit B at p. 24).

**Undisputed.**

12. The Cranston Police Department first became accredited by CALEA in 2011 or 2012. (Exhibit C at p. 41). CALEA establishes “best practices” for law enforcement agencies. (Id. at pp. 39-40).

**Disputed insofar as Officer Henry testified he “believes” the Cranston Police Department was first accredited by CALEA in 2011 or 2012.**

13. The Cranston Police Department has a manual of policies and procedures. (Exhibit B at p. 34). It includes General Orders (“GO”). (*Id.* at pp. 36-37). The GOs are based on CALEA standards. (Exhibit C at p. 41).

**Undisputed.**

14. The first GO, number 000.01, entitled “Introduction,” states: “This manual is a complete catalog of department issued general orders, policies, procedures, rules and regulations. Revisions have been completed as needed.” (Exhibit D). As of January 6, 2014, the manual was a complete catalog of the Department’s policies and procedures. (Exhibit C at p. 44). The manual is “the bible for the Cranston Police Department.” (*Id.* at p. 46).

**Objection insofar as GO 000.01 speaks for itself.**

15. The Manual has a GO 100.10 which sets forth the Cranston Police Departments “Limits of Authority” “during the execution of the criminal process.” (Exhibit E).

**Objection insofar as GO 100.10 speaks for itself.**

16. The situation involving Plaintiff was not part of the criminal process. Col. Winquist believes that Cranston Police Department does not have a GO which sets forth its limits of authority in situations such as those involving Plaintiff. (Exhibit B at pp. 38-39).

**Undisputed.**

17. The Cranston Police Department does have a GO 320.80 entitled “Civil Procedure” which provides guidelines while executing the police role in civil situations, including “keep the peace” situations. (Exhibit F). This GO provides that in “keep the peace” situations “the officer must terminate the process if there's any resistance.” (Id.)

**Objection insofar as GO 320.80 speaks for itself.**

18. Col. Winquist does not believe that this GO applies to the situation involving Plaintiff. (Exhibit B at pp. 39-42).

**Undisputed.**

19. Col. Winquist does not believe that this GO limits the authority of the Cranston police to act pursuant to the community caretaking function when there is imminent harm to the public. (Id. at pp. 42-43).

**Undisputed.**

20. Capt. Henry’s understanding is that there is no limit on the police authority under the community caretaking function so long as it is not used to collect evidence to prosecute a crime. (Exhibit C at pp. 54-55). He believes the function authorizes police to take whatever steps are reasonable based on the facts and circumstances at the time. (Id. at p. 55). What is reasonable is “in the eye of the beholder.” (Id.). There are no written guidelines to help a police officer determine whether he has the authority to act pursuant to the community caretaking function. (Id. at pp. 55-56). Capt. Henry is not aware of any training for Cranston police officers on the scope of their authority under the community caretaking function. (Id. p. 56).

**Disputed.** Captain Henry testified that the “eye of the beholder” are the “eyes of the . . . person who is on scene collecting all the facts, all information they can . . . .” Exhibit 2; June 13, 2018 Deposition Transcript of Captain Russell C. Henry, Jr. at 55. Captain Henry also testified that there may have been training for Cranston Police Officers on the scope of their authority under the community caretaking function – he did not recall. Id. at 56.

21. GO 350.20, “Bureau of Criminal Identification,” addresses the return of firearms that have been seized for safekeeping. (Exhibit G; Exhibit B at pp. 45-48).

**Objection insofar as GO 350.20 speaks for itself.**

22. Col. Winqvist believes this GO authorizes the seizure of firearms based on a person’s “temporary state of mind.” (Exhibit B at p. 47).

**Undisputed.**

23. There is no specific time frame that the Cranston Police hold a firearm based on a person’s temporary state of mind. (Id. at pp. 53-54).

**Disputed insofar as Colonel Winqvist testified he did not “think” there was any specific timeframe. Exhibit 1 at 53.**

24. The Cranston Police do not keep statistics as to how often they seize firearms based on a person’s temporary state of mind and Col. Winqvist has no idea how often it happens. (Id. at p. 55).

**Undisputed.**

25. Cranston Police Department GO 320.70 addresses “Public Mental Health,” including voluntary and involuntary admissions to mental health facilities. (Exhibit H).

**Objection insofar as GO 320.70 speaks for itself.**

26. Col. Winqvist believes that if the Cranston police tell a person that they are going to seize his firearms unless he goes for a mental evaluation that that is a voluntary admission because the person can still say “no.” (Exhibit B at p. 57-58).

**Undisputed.**

27. Conversely, Capt. Henry says the Cranston police should not coerce someone to have a mental examination by threatening to take away his firearms. (Exhibit C at pp. 85-86).

**Undisputed.**

28. GO 320.70 states that “officers are not in a position to diagnose mental illness but must be alert to common symptoms.” (Exhibit H at § IV(a)(i)). Col. Winqvist agrees with this statement. (Exhibit B at pp. 74-75). Symptoms of mental illness include a person making a statement that they want to kill themselves, that they are despondent, that they have heavy use of drugs or alcohol. (Id. at p. 63).

**Objection insofar as GO 320.70 speaks for itself. Objection insofar as Colonel Winqvist testified that symptoms of an emotional crisis are “making an outward statement that [an individual] wants to kill themselves” and if “somebody is despondent, heavy use of alcohol, narcotics, combination of many different factors most often.” Exhibit 1 at 63**

29. A person's behavior meets the criteria for an involuntary admission when a police officer believes that the person is in imminent harm of their safety or another person. (Id. at p. 59).

**Undisputed.**

30. The officer on the scene makes a determination as to whether there is imminent danger. (Id. at p. 43). The Cranston police are trained in learning the symptoms of someone who is in a mental health crisis. (Id. at pp. 43-44).

**Undisputed.**

31. Col. Winqvist has seized firearms for safekeeping many times. With respect to the criteria uses to do so, he says "it was an assessment made on the scene by myself and other troopers." (Id. at p. 62). He says police are not trained to diagnose someone but to be aware of symptoms of an emotional crisis. (Id. at pp. 62-63).

**Objection insofar as Colonel Winqvist testified that he has seized firearms for safekeeping "ten or more" times. Exhibit 1 at 62.**

32. Col. Winqvist says that a Cranston police officer's knowledge respecting mental illness would come from the officer's training and experience. (Id. at pp. 63-64).

**Undisputed.**

33. Col. Winqvist believes that a police officer's experience dealing with people who have attempted suicide provides training in diagnosing mental illness. (Id. at pp. 77-78). The decision to seize a person's firearms is up to the individual officer's discretion. (Id. at p. 78). The factors a police officer considers may not all

be set forth in the Department's training. It may also be based on the officer's "instinct." (*Id.* at pp. 79-80).

**Disputed. Police Officers do not diagnose mental illness. Exhibit 1 at 76. Disputed insofar as Colonel Winqvist testified that there are "so many different factors. There is no way to predict . . . or assume every factor. We make judgment decisions every day based on our instinct, our training." *Id.* at 80.**

34. Defendants have produced three different PowerPoint training presentations on mental health, dated 2008, 2011, and 2013. (Exhibits I, J, and K respectively).

**Undisputed.**

35. The 2008 presentation references the Rhode Island Mental Health Law. (Exhibit I at p. 5). Col. Winqvist is not familiar with the Mental Health Law. (Exhibit I; Exhibit B at pp. 73-74). He has not seen this presentation. (*Id.* at p. 74). Col. Winqvist has not seen the 2011 presentation. (*Id.* at p. 74).

**Objection insofar as the training presentations speak for themselves. Disputed insofar as Colonel Winqvist testified he was not aware of R.I. Gen. Laws § 40.1-5-8. Exhibit 1 at 74. Disputed insofar as Colonel Winqvist testified he had not seen the printout of the 2011 PowerPoint presentation. *Id.* at 74. Disputed. See Plaintiffs' Undisputed Fact Statement 139 and Defendants' Response.**

36. The 2011 presentation states if a person does not want help, "Never threaten them with hospitalization." (Exhibit J at p. 40).

**Objection insofar as the presentation speaks for itself.**

37. The 2011 presentation includes slides on “Risk Factors for Suicide.” (Id. at pp. 43, 44, 45). Capt. Henry says the only risk factor for suicide that applies to Mr. Caniglia is that he supposedly asked his wife to kill him. (Exhibit C at pp. 88-91).

**Objection insofar as the presentation speaks for itself. Objection to use of term “supposedly.” Plaintiff admitted that he implored his wife to shoot him.**

**See Defendants’ Statement of Undisputed Facts 25-29. Disputed insofar as Captain Henry testified “that was one of the factors.” Exhibit 2 at 89. He also testified that other signs of suicide were considered with respect to Plaintiff, including talking or writing about suicide – the conversation Plaintiff had with his wife, the fact the Plaintiff was agitated. Exhibit 2 at 90. He was not aware if Officers read the questions outlined in the presentation to Plaintiff. Id.**

38. The 2013 presentation includes a slide on risk factors for suicide. (Exhibit K at p. 8). Capt. Henry does not know whether the officers on the scene considered any of these factors. (Exhibit C at p. 92).

**Disputed insofar as the 2013 presentation speaks for itself.**

39. In 2016, at Col. Winqvist’s request, the Rhode Island Attorney General’s office gave the Cranston Police a PowerPoint presentation on “Search and Seizure Law.” (Exhibit L; Exhibit B at pp. 82-83). Col. Winqvist is not aware of any prior presentations to the Cranston Police Department by the Rhode Island

Attorney General's office on search and seizure law. (Exhibit B at pp. 83, 84, 86).

**Undisputed.**

40. The Search and Seizure presentation covers the community caretaking function, including Rhode Island decisions. (Exhibit L at p. 32; Exhibit B at pp. 87-89). All of the decisions respecting the community caretaking function of which Col. Winqvist is aware involve motor vehicles. (*Id.* at p. 89).

**Undisputed.**

41. When the Cranston police seize a person's firearm for "safekeeping" it is pursuant to the community caretaking function because they are "in a crisis or an imminent risk to themselves." (*Id.* at pp. 94-95).

**Undisputed.**

42. To Col. Winqvist's knowledge, neither the State Police nor the Cranston Police have used any studies, data, or reports to determine when it is appropriate to seize firearms for safekeeping pursuant to the community caretaking function. (*Id.* at p. 95).

**Undisputed.**

43. Col. Winqvist is not aware of any statistics on what percentages of home with firearms have a suicide by firearm. (*Id.* at pp. 98-99). He does not think such statistics are relevant to the Cranston Police Department's policy of seizing firearms for safekeeping because "it's a judgment decision by that officer based on what's in front of him." (*Id.* at p. 99).

**Undisputed.**

44. The Cranston Police Department has a policy or procedure of obtaining written consents for searches. (*Id.* at p. 99).

**Undisputed.**

45. Before August 2015, neither Officer Mastrati nor any other Individual Defendant had ever heard of Edward Caniglia nor had they had any contact with him or his wife. (Mastrati depo. at p. 49, excerpts attached as Exhibit M; Smith depo. at pp. 41-42, excerpts attached as Exhibit N; Russell depo. at pp. 41-42, excerpts attached as Exhibit O).

**Undisputed.**

46. Mr. Caniglia has never had any kind of restraining order entered against him. (Exhibit M at p. 49). He has never had any kind of criminal charges against him. (Id. at pp. 49-50). Mr. Caniglia has never been accused of domestic violence. (Id. at p. 50). He has no history of violence. (Id.). Mr. Caniglia has no history of violence or of threatening violence or of misusing firearms. (Id.). He has no history of threatening violence to himself. (Id.).

**Undisputed.**

47. Officer Mastrati is not aware of any legal reason why Mr. Caniglia cannot possess a firearm. (Id. at pp. 51-52).

**Undisputed.**

48. Officer Mastrati understands that the only reason for which the police can take people into custody without arresting them is to interview them as a witness. (Id. at p. 14).

**Disputed. Officer Mastrati testified that “it could be for interviews, witnesses.” However, he also testified that he could not think of any other circumstances “right now.” Exhibit 3; May 31, 2018 Deposition Transcript of Officer John Mastrati at 14.**

49. Officer Mastrati recalls being trained that property can be seized for “safekeeping” without a warrant. Safekeeping includes holding property until a person returns from the hospital. (Id. at pp. 14-15).

**Undisputed.**

50. Officer Mastrati has heard of the community caretaking function but does not understand what it is. (Id. at p. 15).

**Undisputed.**

51. Officer Smith does not know what the community caretaking function is. (Exhibit N at pp. 64-66). He has no idea whether it relates to the seizure of Mr. Caniglia’s firearms. (Id. at p. 66). He does not know whether the community caretaking function authorizes the Police Department to require people to talk to the Cranston rescue about their psychological condition. (Id. at pp. 66-67).

**Undisputed.**

52. Officers Mastrati and Smith have attended Cranston Police Department training about dealing with people with perceived mental health issues. Officer Smith recalls it was 2011. Officer Mastrati recalls training in 2013. (Exhibit 9 to Mastrati depo., attached here as Exhibit P; Exhibit M at pp. 116-17; Exhibit N at pp. 70-71).

**Undisputed.**

53. Officer Mastrati states he does not require a person to have a psychiatric evaluation. Rather, he calls the rescue and the rescue evaluates the person. (Exhibit M at pp. 17-18). Mastrati understands that he does not have the authority to require someone to have a psychiatric evaluation. (Id. at pp. 25-26). He under-

stands that the rescue can require a person to go for a psychiatric evaluation. (Id. at p. 18).

**Undisputed.**

54. Officer Mastrati believes that he does have the authority to seize a person's firearms if he thinks they are suicidal. (Id. at pp. 26-27). When Officer Mastrati seizes a firearm because he believes the person is suicidal that comes under the category of "safekeeping." (Id. at p. 43).

**Undisputed.**

55. The policy or procedure of the Cranston Police Department is to have a supervisor make the decision whether to seize a person's firearms for safekeeping. (Id. at p. 28).

**Undisputed.**

56. Officer Mastrati is not aware of any court decision, or constitutional provision, or statute or police department policy or procedure that gives him the authority to seize a person's firearms to prevent that person from hurting himself or others. (Id. at pp. 37-38). The Cranston Police Department does not have either a written or unwritten policy or procedure that deals with seizing firearms for "safekeeping." (Id. at pp. 43-44).

**Disputed. See Defendants' Response to Fact Statement 55.**

57. Officer Mastrati understands that the Cranston Police Department cannot take someone into custody if there is not a criminal process. (Id. at p. 97). There is no GO that sets forth any authority to seize property when there is not a criminal process. (Id. at pp. 97-98).

**Disputed insofar as Officer Mastrati testified he was not aware of any general order. Exhibit 3 at 98.**

58. On August 20, 2015, Plaintiff and his wife Kim had an argument in their house. At one point during the argument, Mr. Caniglia retrieved a handgun that he keeps under the mattress of the bed, put it on the dining room table, and said “just shoot me now and get it over with.” (Exhibit Q at p. 24).

**Defendants do not dispute the fact statement but note that the reference to the record does not support the full fact statement. See Defendants’ Statement of Undisputed Facts at 29, 30.**

59. Kim and Ed agree that the magazine was not in the handgun and that the handgun was not loaded when Ed did this, although Kim did not know that at the time. (Exhibit Q at p. 82; K. Caniglia depo. at p. 17, excerpts attached as Exhibit R).

**Undisputed.**

60. Ed subsequently left the house and went for drive. Kim took the handgun, put it back under the bed, and she hid the magazine that was still under the bed. (Exhibit R at pp. 19-21).

**Disputed. See Defendants’ Statement of Undisputed Facts at 10.**

61. When Ed returned, the Caniglias argued some more. Kim decided to leave and went to stay at the Econo Lodge Motel on Reservoir Avenue. (Id. at pp. 24-25).

**Undisputed.**

62. The next morning Kim went to eat breakfast at the “Scramblers” restaurant on Reservoir Avenue. (Id.

at p. 28). She tried to call Ed but he did not answer the phone. (*Id.* at p. 33). Ed was in the restroom and missed the call. (Exhibit Q at pp. 28-29).

**Undisputed.**

63. Kim became concerned that Ed may have committed suicide and called the Cranston Police because she wanted an officer to accompany her to the house to check on Ed. (Exhibit R at pp. 29-31, 72). She was not afraid that he would use the gun on himself. (*Id.*).

**Disputed. Mrs. Caniglia testified that she was “afraid that [Plaintiff] would do something with the gun and the magazine.” Exhibit 9; June 27, 2018 Deposition Transcript of Kim Caniglia at 22.**

64. The Cranston Police dispatched four squad cars in response to Mrs. Caniglia’s call. (*Id.* at pp. 33-34). She told the police officers she wanted an escort back to the house to check on Mr. Caniglia. (*Id.* at p. 35).

**Undisputed.**

65. Officer Mastrati spoke with Mrs. Caniglia in the parking lot of the “Scramblers” restaurant on Reservoir Avenue. (Exhibit M at pp. 52-53). The Incident Report says: “She stated that she was not scared for her own life, but more scared walking in and not knowing if Edward had committed suicide.” (*Id.* at pp. 75-76).

**Undisputed.**

66. Officer Mastrati called Ed from the parking lot. He said he wanted to come to the house to check on Ed’s well-being. (Exhibit Q at pp. 33-34).

**Undisputed.**

67. Officer Mastrati told Mrs. Caniglia that Mr. Caniglia sounded fine. (Exhibit R at pp. 36-37). The Cranston Police officers told Mrs. Caniglia to follow them to the house but to remain in the car while they spoke with Mr. Caniglia. (Id. at pp. 37-38).

**Undisputed.**

68. Officers Mastrati, Russell, Smith, and Sergeant Barth went to the Caniglias' house. (Exhibit M at p. 77). Sgt. Barth was the officer in charge of the scene. (Id. at p. 79). There were four squad cars at the Caniglias' house. (Exhibit R at p. 39).

**Undisputed.**

69. The officers spoke with Mr. Caniglia on his back porch. (Exhibit Q at pp. 36-37). They were all near him when they spoke. (Id. at p. 38; Exhibit R at p. 43).

**Undisputed.**

70. Mr. Caniglia was "cooperative." He was not abrasive or aggressive. He said he was not suicidal. (Exhibit M at p. 80). Mr. Caniglia was "calm." (Id.).

**Disputed. Officer Mastrati testified Plaintiff was calm "for the most part . . ." Exhibit 3 at 80. Officer Barth testified that Plaintiff was upset and agitated. Exhibit 7; July 19, 2018 Deposition Transcript of Sgt. Brandon Barth at 86, 124; see also Defendants' Statement of (Additional) Undisputed Facts at 61. Mrs. Caniglia testified that Plaintiff was very upset. See Defendants Statement of Undisputed Facts at 34. Moreover, when officers asked Mr. Caniglia about his mental health, he informed them it was none of their business. See Plaintiff's Statement of Undisputed Facts at 82.**

71. Mr. Caniglia told Officer Mastrati that he had had a friend commit suicide and that he would never to do that to [his] family.” (*Id.* at p. 83).

**Undisputed.**

72. Mr. Caniglia did not feel depressed or suicidal. (Exhibit Q at pp. 57-58).

**Disputed. Mrs. Caniglia testified that Plaintiff was depressed. Exhibit 9 at 22, 63. The hospital records reflect that Plaintiff was depressed. See Plaintiff’s Exhibit X. The reference to the record at “Exhibit Q at pp. 57-58” does not support a reference to suicide.**

73. However, Officer Mastrati did not believe Mr. Caniglia. (Exhibit M at pp. 83-84).

**Undisputed.**

74. Officer Mastrati said “I can’t determine if someone is not suicidal. To me, I felt like he was a risk to himself.” (*Id.* at p. 81).

**Disputed insofar as Officer Mastrati also testified “just from his actions in taking out a weapon.” Exhibit 3 at 81.**

75. Officer Mastrati based this opinion on the fact that Mr. Caniglia had put his handgun and, supposedly, the magazine on the counter and “ask[ed] his wife to end his life.” (*Id.* at pp. 82, 106-07).

**Objection to the term “supposedly.” See Defendants’ Statement of Undisputed Facts at 10, 18. Officer Mastrati also based it on his training. Exhibit 3 at 82.**

76. Officer Mastrati had no other reason to disbelieve Mr. Caniglia’s statement that he was not suicidal. (*Id.* at p. 84).

**Undisputed.**

77. Officer Mastrati has heard people say “shoot me now” but he doesn’t know if they really mean it. (Id. at pp. 82-83).

**Disputed. Officer Mastrati testified he didn’t “know if they don’t mean it.” Exhibit 3 at 82, 83.**

78. Mr. Caniglia never made any threat to use his firearm on himself. (Id. at p. 54).

**Disputed. Officer Mastrati testified he did “not recall exactly.” Exhibit 3 at 54.**

79. Officer Mastrati has received training on assessing people for risk of suicide. (Exhibit 10 to Mastrati depo., attached here as Exhibit S; Exhibit M at pp. 116). None of the factors set forth in that training applied to Mr. Caniglia when Officer Mastrati spoke with him. (Exhibit M at pp. 117-120).

**Disputed. Officer Mastrati testified that a factor that applied to Plaintiff was that Plaintiff behaved in an unusual way that drew the attention of others. In addition, Officer Mastrati was worried about the firearms that Plaintiff had. Exhibit 3 at 117-120.**

80. Officer Mastrati acknowledges that Mr. Caniglia seemed “normal” when they spoke. (Incident Report, attached as Exhibit T; Exhibit M at p. 122).

**Undisputed.**

81. Officer Russell said that Mr. Caniglia seemed “nice,” “very polite,” and “welcoming.” (Exhibit O at p. 43-44). He does not remember that Mr. Caniglia said anything that indicated that he wanted to harm himself. (Id. at p. 46). He said Mr. Caniglia did not seem suicidal. (Id. at p. 49).

**Disputed.** Officer Russell thought Plaintiff presented Mrs. Caniglia with a gun and may have said “if you want me gone” or “you want to end this” to Mrs. Caniglia. Exhibit 4; July 20, 2018 Deposition Transcript of Officer Wayne Russell at 46 and 48.

82. The police officers asked about Mr. Caniglia’s mental health. He told them that was none of their business. (Exhibit Q at pp. 85-86).

**Undisputed.**

83. One of the officers said that in these situations the Cranston Police confiscate firearms. (*Id.* at p. 38).

**Disputed.** Mr. Caniglia testified that the officer “suggested” confiscation. Exhibit 10; June 29, 2018 Deposition Transcript of Edward A. Caniglia at 38.

84. Mr. Caniglia responded: “You’re not confiscating anything.” (*Id.*).

**Undisputed.**

85. The police officers told Mr. Caniglia that if he submitted to a psychiatric evaluation at Kent Hospital his firearms would not be removed from the house. (*Id.* at p. 66). Mr. Caniglia only agreed to go to the hospital to prevent the confiscation of his firearms. (*Id.* at p. 83).

**Disputed.** Officer Russell did not speak to Mr. Caniglia. Exhibit 4 at 44, 46. Officer Barth does not recall any such conversation. Exhibit 7 at 127. Officer Mastrati does not recall if he spoke to Plaintiff about the firearms. Exhibit 3 at 56. Officer Smith does not believe he spoke to Mr. Caniglia. Exhibit 8; June 1, 2018 Deposition Transcript of Austin Smith at 45.

86. One of the police officers told Mrs. Caniglia that Ed “needed to have a psych eval” and that if he did that “we won’t have to take the firearm.” (Exhibit R at pp. 41-42, 44).

**Disputed. See Defendants’ Response to Fact Statement 85.**

87. Captain Henry made the decision to seize Mr. Caniglia’s firearms. (Incident Report, Exhibit T; Exhibit M at pp. 53-54). Capt. Henry assumes he got a phone call from the officers at the scene. (Exhibit C at p. 107). He does not remember any reasons for the seizure apart from what is set forth in the Incident Report. (*Id.* at p. 119). He says the officers on the scene felt it was reasonable to do so based on Mr. Caniglia’s state of mind. (*Id.* at p. 62).

**Undisputed.**

88. Capt. Henry graduated from the Rhode Island Municipal Police Training Academy in 1992. (*Id.* at pp. 16-17). He does not recall any classes on when it is appropriate to hold or detain a person without arresting them. He does not recall any classes on when it is appropriate to seize property without a warrant or a court order. (*Id.* at pp. 17-18). Capt. Henry does not recall any classes on when, if ever, it is appropriate to seize weapons for safekeeping. (*Id.* at p. 19). He does not recall any classes on the community caretaking function. (*Id.*). Capt. Henry remembers he received training on dealing with people with mental health issues but he does not recall specifics. (*Id.* at pp. 19-20).

**Disputed insofar as Captain Henry testified there may have been classes, but he did not specifically recall. Exhibit 2 at 17-19.**

89. Capt. Henry thinks that the community caretaking function has been discussed during “in-service” training at the Cranston Police Department on mental health. (Id. at p. 28).

**Undisputed.**

90. The Cranston Police Department seizes firearms for “safekeeping” “if we feel that the circumstances that exist at the time create a danger relative to the firearms, create a danger to the public, or to any member of the public...” (Id. at p. 29). The authority to do this arises under the community caretaking function. (Id.).

**Undisputed.**

91. With respect to the community caretaking function, Capt. Henry says: “My understanding is that the courts recognize that law enforcement needs to take certain actions relative to the Fourth Amendment without a warrant that pertain to public safety functions or emergencies.” (Id. at p. 24).

**Undisputed.**

92. Capt. Henry thinks the public safety function includes a person with a firearm who is thinking of harming themselves. (Id. at pp. 24-25).

**Undisputed.**

93. Capt. Henry agrees with GO 320.70 that “[o]fficers are not in a position to diagnose mental illness.” (Exhibit H; Exhibit C at p. 68).

**Undisputed.**

94. The court decisions of which Capt. Henry is aware respecting the community caretaking function deal with motor vehicles. (Id. at p. 97). He is not aware of any court decision authorizing police to seize prop-

erty, including firearms, from a home pursuant to the community caretaking function. (*Id.* at p. 34).

**Undisputed.**

95. Capt. Henry thinks the community caretaking function authorizes the Cranston police to require a person to go to a hospital where a mental examination can be performed. However, the community caretaking function does not permit the Cranston police to require a person to submit to a psychological evaluation. (*Id.* at pp. 31-32, 69-70). He is not aware that any Cranston police officer has ever required a person to do that. (*Id.* at p. 32).

**Undisputed.**

96. Capt. Henry understands that the decision that Mr. Caniglia was “imminently dangerous” was based on his statements and actions the night before Cranston police spoke with him. Mr. Caniglia did not say anything to Cranston police that indicated he was “imminently dangerous.” (*Id.* at pp. 74-75).

**Undisputed insofar as Captain Henry testified that Plaintiff did not say anything to police the morning after he told his wife to shoot him that indicated he was imminently dangerous. Exhibit 2 at 75. Disputed insofar as Plaintiff was upset and agitated and refused to answer questions concerning his mental health. See Defendants’ Response to Fact Statement 70; see also Plaintiff’s Fact Statement 82.**

97. Capt. Henry says that in the circumstances the Cranston police would have made the decision to take Mr. Caniglia to the hospital regardless of whether he objected. (*Id.* at p. 157-58).

**Undisputed.**

98. The Cranston police have not received any formal training on whether someone is imminently dangerous. (*Id.* at p. 77).

**Disputed. Captain Henry testified “not that he kn[e]w of.” Exhibit 2 at 77.**

99. Whether someone is “imminently dangerous” would be a subjective decision based on an individual officer’s experience. Two different police officers in the same situation could come to two different conclusions. (*Id.* at pp. 77-78)

**Disputed insofar as Captain Henry testified it’s a “case-by-case basis based on the facts that a reasonable person is presented with.” Exhibit 2 at 77.**

100. Officer Mastrati did not hear the conversation between Mr. Caniglia and the Cranston Rescue. (Exhibit M at p. 55). He does not know whether Mr. Caniglia agreed to go for an evaluation. (*Id.*).

**Disputed. Officer Mastrati testified that Plaintiff voluntarily went to the hospital. Exhibit 3 at 85, 103, 104, 105.**

101. Richard Greene is a rescue lieutenant with the Cranston Fire Department rescue service. (Greene depo. p. 18, excerpts attached as Exhibit U). He responded to the call to the Caniglia’s house. (*Id.* at pp. 39-40). He was on the scene for approximately 8 minutes. (*Id.* at pp. 53-55).

**Undisputed.**

102. Officer Greene identified thirteen risk factors that are part of the State of Rhode Island protocol that he recognizes as relevant to determining whether a person is suicidal. (Exhibit 43 to Greene depo.,

attached here as Exhibit V; Exhibit U at pp. 35-36). All the factors are important. (Id. p. 38).

**Lt. Green testified that the factors “could be one of the reasons, one of them.” Exhibit 6; July 26, 2018 Deposition Transcript of Richard Greene at 37.**

103. Lt. Greene specifically remembers very little about the incident beyond what is set forth in the Cranston rescue report. (Exhibit 42 to Greene depo., attached here as Exhibit W; Exhibit U at pp. 39-42). He does not recall whether he asked Mr. Caniglia about any of the risk factors. (Exhibit U at p. 44). He does not know if Mr. Caniglia met any of the risk factors he identified. (Id. at pp. 45-47).

**Disputed. Lt. Greene testified that the Cranston Police Department informed him that they recovered a gun and told him that Plaintiff wanted his wife to shoot him with his own gun. Exhibit 6 at 42. Lt. Greene testified he considered the factor that Plaintiff wanted his wife to shoot him. Id. at 44. Officer Greene also testified that Plaintiff was upset. Id. at 46. He also testified that he did not remember whether he asked about the other factors. Id. at 44-47.**

104. The rescue report states, inter alia: “pt stated he was not looking to hurt himself.” (Exhibit W).

**Objection insofar as the rescue report speaks for itself.**

105. Officer Greene told Mr. Caniglia that they were taking him to the hospital. (Exhibit U at p. 48). He said the Cranston police made the decision that Mr. Caniglia was going to the hospital. (Id.).

**Disputed. Plaintiff went to the hospital voluntarily. See Exhibit 3 at 85, 103, 104, 105; Exhibit 6 at 49; see also Defendants' Statement of (Additional) Undisputed Facts at 70.**

106. Officer Greene says that the decision to take Mr. Caniglia to the hospital was based on Mr. Caniglia telling his wife to shoot him and that that statement provided the authority to take Mr. Caniglia to the hospital. (*Id.* at pp. 49-50). Officer Greene did not consider any other factors besides the fact that Mr. Caniglia had a gun. (*Id.* at pp. 73-74).

**Disputed. Lt. Greene also testified that Plaintiff was upset. Exhibit 6 at 46.**

107. Officer Greene says that if someone says to another person "just shoot me now," he assumes that they actually want the other person to shoot them. (*Id.* at pp. 67-68). He made no determination as to whether Mr. Caniglia actually wanted his wife to shoot him. (*Id.* at p. 68).

**Undisputed.**

108. Col. Winquist believes, based on the Incident Report, that Mr. Caniglia was at imminent risk of harm when the Defendants seized his firearms and sent him for a mental evaluation. (Exhibit B at pp. 59-61).

**Disputed insofar as Plaintiff went to the hospital voluntarily. See Defendants' Response to Fact Statements 100, 105.**

109. Mr. Caniglia never threatened to use his firearms or any other weapons on himself. (Exhibit B at p. 110).

**Disputed.** Colonel Winquist testified that he was not aware of a threat by Plaintiff to use a firearm on himself. Exhibit 1 at 110.

110. Officer Mastrati understood that the firearms in the house belong to Mr. Caniglia. (Exhibit M at p. 89). He did not ask Mr. Caniglia if he could seize the firearms. (*Id.*).

**Undisputed.**

111. The Defendants did not obtain a written consent to search the house. (Exhibit B at p. 99). Mr. Caniglia did not give verbal consent for a search. (*Id.* at p. 100).

**Undisputed.**

112. Officer Mastrati said there was no crime involved with respect to the incident at the Caniglia's house. (Exhibit M at p. 59).

**Undisputed.**

113. After Mr. Caniglia left in the Cranston rescue, one of the police officers told Mrs. Caniglia that Ed had given him permission to seize the firearms. (Exhibit R at p. 47, 49-51). Mrs. Caniglia never said she wanted the guns out of the house. (*Id.* at p. 51). The officer told Mrs. Caniglia that she could retrieve the guns by going to the Police Department and they would be returned to her. (*Id.* at p. 65).

**Disputed.** Mrs. Caniglia informed Officer Mastrati that she did not want the guns in the house and informed Mastrati that she wanted the Cranston Police Department to take the guns "mostly" for Plaintiff's well-being. Exhibit 3 at 56, 92. Mrs. Caniglia "pointed out" the weapon under the bed and in the garage. *Id.* at 89, 56.

114. Defendants believe that Mrs. Caniglia consented to a search of the house. However, she did not consent to seizure of the firearms. (Exhibit B at p. 117).

**Disputed. Mrs. Caniglia consented to the seizure of the guns. Exhibit 3 at 56, 89, 92.**

115. Officer Mastrati seized five items from the Caniglia residence including two handguns, clips for the handguns, and ammunition. (Exhibit M at p. 66).

**Undisputed.**

116. The guns belong to Mr. Caniglia. (Exhibit R at p. 10).

**Undisputed.**

117. Officer Mastrati found one firearm under the Caniglia's bed. (Exhibit M at p. 89). The second firearm was in a box behind a workbench in the garage. (Id. at p. 90).

**Undisputed.**

118. Officer Mastrati wrote in the Incident Report: "It should be noted that in further speaking with Kim she stated that she was not in fear for her own life from Edward but was more worried about Edward taking his own life." (Id. at pp. 91-92).

**Undisputed.**

119. Mrs. Caniglia never indicated that Edward had ever threatened to take his own life with a firearm. (Id. at p. 92).

**Disputed. See Defendants' Response to Fact Statement 63.**

120. Officer Mastrati is not aware of any statute that requires a court order before a person can be com-

pelled to go to a hospital or mental health facility. (Id. at p. 107).

**Undisputed.**

121. Mr. Caniglia went in the Cranston rescue to Kent Hospital, was evaluated by a social worker, and discharged. (Exhibit X).

**Disputed insofar as the hospital records reflect Plaintiff was also examined by a physician and a nurse.**

122. On Monday, August 24, 2015, Kim Caniglia went to the Cranston Police Department to retrieve Ed's firearms. (Exhibit R at p. 65). She was told she would have to request a copy of the police report, that it would take 3-5 business days, and that it would cost 35 cents a page. (Id. at pp. 66-68). She was told she would have to wait for a captain to review the request. (Id.).

**Undisputed.**

123. On August 24, 2015, Mrs. Caniglia returned to the Cranston Police Department and received a copy of the report. (Id. at 68-69). She was told the captain had not reviewed the request yet. (Id.). A few days later, the Police Department called the Caniglias and said that the guns would not be returned and they would have to get a court order. (Id.)

**Undisputed.**

124. The Cranston Police Department has a record which indicates that on September 1, 2015, a captain of the Department denied a request to return the firearms. (Exhibit 25 to Henry depo., attached here as Exhibit Y). That captain's signature is not identified. (Quirk depo. at p. 34, excerpts attached as Exhibit Z).

**Undisputed.**

125. During the second week of September 2015, Mr. Caniglia went to the Cranston Police Department to obtain his firearms. He was told they were not going to release the firearms. (Exhibit Q at pp. 73-74).

**Undisputed.**

126. On October 1, 2015, Mr. Caniglia's attorney, Nicholas Lambros wrote a letter to Chief Winquist requesting the return of Mr. Caniglia's firearms. (Exhibit 28 to Winquist depo., attached here as Exhibit AA).

**Undisputed insofar as the letter speaks for itself.**

127. Major Quirk was not involved in seizure of Mr. Caniglia's firearms. He was involved in the return of Mr. Caniglia's firearms after the receipt of Mr. Lambros' letter. (Exhibit Z at pp. 22-23).

**Undisputed.**

128. When Col. Winquist received Attorney Nicholas Lambros' letter, dated October 1, 2015, about the return of Mr. Caniglia's firearms he initially instructed Major Quirk to tell Attorney Lambros to get a court order because he mistakenly believed that the situation involved a domestic assault. (Exhibit B at p. 49-50). When Major Quirk told him it did not, Col. Winquist says he instructed Major Quirk to return the firearms. (*Id.* at p. 50).

**Undisputed insofar as the reference to the record (*id.* at 50) does not specifically support the fact statement that Major Quirk told Colonel Winquist that the matter did not involve domestic assault.**

129. However, Major Quirk recalls the events differently. He testified that he reviewed the Incident Report, that he spoke with Col. Winqvist about the incident, and that he called Mr. Lambros to tell him he would have to get a court order for the return of the firearms. (Exhibit Z at pp. 24-25, 29-30). He reported this conversation to Col. Winqvist. (Id. at p. 31).

**Undisputed.**

130. Major Quirk does not know whether Col. Winqvist and he consulted with any of the Cranston Police Department's policies or procedures. (Id. at p. 25). He does not believe that he spoke with any of the officers involved in the seizure of Mr. Caniglia's firearms before making this decision. (Id. at p. 43).

**Undisputed insofar as "this decision" refers to a decision about returning the firearms.**

131. This decision was consistent with the custom and practice of the Cranston Police Department. (Id. at p. 27). That custom and practice is not reflected in any written document. (Id.). Major Quirk is not aware of any legal authority for this custom and practice. (Id. at pp. 28-29).

**Undisputed insofar as "this decision" refers to a decision about returning the firearms.**

132. Major Quirk recalls that there was some other event that prompted Col. Winqvist to instruct him to return Mr. Caniglia's firearms but he does not recall what it was. (Id. at pp. 31-32).

**Undisputed.**

133. On December 11, 2015, Plaintiff filed this lawsuit.

**Undisputed.**

134. On December 22, 2015, Defendants returned Mr. Caniglia's firearms, magazine and ammunition to him without a court order. (Exhibit Y).

**Undisputed.**

135. Col. Winquist does not know why it took until December 22, 2015 to release Mr. Caniglia's firearms. (Exhibit B at p. 118).

**Undisputed.**

136. Mr. Caniglia has retained Lanny Berman, Ph.D., a psychologist specializing in suicidology, as an expert witness. His expert report is attached as Exhibits BB). In sum, Dr. Berman opines to a reasonable degree of scientific, psychological and professional certainty based on 47 years of experience that:

- a. Mr. Caniglia was neither at acute nor imminent risk of suicide on August 20 and 21, 2016. (Id. at p. 6).
- b. Mr. Caniglia's actions and statements on the evening of August 20, 2015 did not constitute a suicidal communication, nor did they communicate any suicidal intent. Further, at no other time and especially on the morning of August 21, 2015 did Mr. Caniglia express or communicate in words or actions anything that could possibly be construed as indicating he was at imminent risk of suicide. (Id. at p. 9);
- c. No independent evaluation of Mr. Caniglia's risk for suicide was made based on both his current mental status and associated risk factors as the Cranston Police Department officers were trained to observe and a sole reliance on Mr. Caniglia's statement and action on the night before to document any level of concern

for imminent risk of harm was inappropriate and a breach of the standards to which these officers were trained. (*Id.* at pp. 9-10); and

- d. Officers of the Cranston Police Department did not apply or rely upon appropriate criteria or reasonable and standard police procedures in determining Mr. Caniglia was in imminent danger of suicide and in determining that his firearms needed to be confiscated on August 21, 2015. (*Id.* at pp. 10-13).

### **Objection.**

1. **Mr. Berman's report is inadmissible hearsay.** Casillas v. Vida, No. 16-2564 (PAD), 2018 U.S. Dist. LEXIS 144729 (D.P.R. Aug. 23, 2018); Prudential Ins. Co. v. Textron Aviation Inc., No. 16-2380-DDC-JPO, 2018 U.S. Dist. LEXIS 71019 (D. Kansas April 27, 2018) (same).

2. **The report is irrelevant. The opinion of a trained psychologist of Plaintiff's mental state (after the fact and after consideration of facts that the officers were not privy to) is not relevant to whether non-psychologist police officers on the scene had sufficient information on Plaintiff's mental state to reach a conclusion. Mr. Berman's opinion is irrelevant to whether a police officer has probable cause to seize an individual for a mental health evaluation.** Gargano v. Belmont Police Department, 476 F. Supp. 2d 39 (D. Mass. 2007) (probable cause is not vitiated by when the basis of which police officer is shown after the fact to have been erroneous - probable cause is determined at the moment of the seizure); United States v. Acevedo-Vazquez, No. 16 642, 2018 U.S. Dist.

LEXIS 168386 (D.P.R. Sept. 27, 2018) (probable cause focuses on the collective knowledge of all officers *at the time of the event* and considers the totality of the circumstances). The existence of probable cause is ultimately a question of law to be decided by the court. Zinicola v. Mott MacDonald, LLC, No. 16-cv-542-JL, 2018 U.S. Dist. LEXIS 64366 (D.N.H. April 17, 2018). Furthermore, Mr. Berman's conclusion that the officers were not adequately trained does little to prove a Fourth Amendment violation. City of Canton v. Harris, 489 U.S. 378 (1989).

3. Lack of foundation. Mr. Berman's CV does not reflect any experience with a police officer's or a police department's response to allegedly suicidal individuals or any familiarity or exposure to police department training, tactics, policies or procedures. The application of the Community Caretaking Doctrine in this matter turns on whether Defendant police officers acted reasonably under the totality of the circumstances. United States v. Davis, 909 F.3d 9 (1st Cir. 2018).

**Disputed.** See Defendants' Statement of Undisputed Facts at 10-12, 16-18, 20-22, 26-29, 34-38, 42; see also Defendants' Statement of Disputed Facts 37, 63, 70, 72, 75, 79, 81; Defendants' Statement of (Additional) Undisputed Facts at 51-53, 55-69.

137. The Cranston Police Department is aware of the Second Amendment, the Fourth Amendment, the Due Process Clause of the Fourteenth Amendment and the corresponding provisions of the Rhode Island Constitution. (Exhibit B at pp. 113-14).

**Undisputed.**

138. Col. Winqvist is not aware of the Rhode Island Firearms Act. He does not know whether other members of the Cranston Police Department are aware of that Act. (Id. at p. 114-15).

**Disputed. Colonel Winqvist is aware of the Rhode Island Firearms Act. He testified that he is aware that the Act provides for the circumstances under which a person can be deprived of their firearms. Exhibit 1 at 113, 114, 115.**

139. Col. Winqvist and the Cranston Police Department are generally aware of the Rhode Island Mental Health Law. (Id. at p. 115).

**Undisputed.**

140. Other than the community caretaking function, Col. Winqvist is not aware of any authority for the Cranston police to seize Mr. Caniglia's firearms and to transport him for a psychological evaluation. (Id. at p. 116).

**Undisputed.**

141. Col. Winqvist believes that the community caretaking function gives the Cranston police the authority to seize Mr. Caniglia's firearms even if he objected and the authority to require him to have a psychiatric evaluation even if he objected. (Id. at p. 126).

**Undisputed.**

142. Defendants' actions were not at all what Kim Caniglia had in mind when she called the CPD and she was very angry with them. (Exhibit R at pp. 71-72). "I thought that I would have an officer go with me to the house, he would knock on the door, Ed would answer the door, I would know he was okay, that we would

talk, and if things were fine, the officer would leave.” (Id. at p. 72).

**Undisputed.**

143. Mr. Caniglia incurred approximately \$1000 in costs for the Cranston rescue taking him to the hospital. (Exhibit Q at p. 83).

**Undisputed.**

144. Officer Russell became a Cranston Police officer in 2013 (Exhibit O at p. 21). He estimates he has been involved in a “couple dozen” situations in which the Cranston Police Department seized firearms for “safekeeping.” (Id. at p. 40). He has been involved in approximately fifty situations in which the Cranston Police Department had someone transported for a psychological evaluation. (Id. at p. 41).

**Undisputed.**

145. Defendants have produced a nine-page inventory of seized weapons dated 2017. (Exhibit CC). It contains approximately 475 weapons, mostly all firearms. It does not set forth why individual weapons were seized.

**Undisputed insofar as the report includes weapons in the possession of Defendants as a result of seizure and voluntary actions of the listed individuals.**

146. Defendants have also produced a fifty-one page inventory entitled “Firearms Destruction Log” listing approximately 900 weapons between 2006 and 2016, mostly firearms. (Exhibit DD).

**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 30th day of January, 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

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

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

[56] Q. All right. Did you talk to Mr. Caniglia about his firearms?

A. I don't recall.

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

A. I don't recall.

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

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

Q. Okay. Do you recall that specifically?

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

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

A. For the safety of Edward and herself.

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

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

\* \* \*

[103] A. Yes.

Q. Is that what happened?

A. Yes.

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

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

Q. So —

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

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

A. Bringing it up? Yes, I asked him, would you want to, to what the incident was. At that point [104] I felt to help him, maybe suggest, instead of just saying okay, see you later.

Q. I don't understand.

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

Q. What hospital did he go to?

A. I believe it was Kent.

Q. Is Kent a mental health facility?

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

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

A. No. I have no involvement with him going to the hospital. My involvement was having him talk [105] to the rescue personnel who is more trained with the mental health issues and having them decide from there. They have their own way of talking to him and getting him help.

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

A. Yes.

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

A. Yes.

Q. Was Mr. Caniglia taken into custody?

A. No.

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

A. Yes.

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

A. No.

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

\* \* \*

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,

*Plaintiff,*

v.

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 DEPARTMENT, 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 sent 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](mailto:tlyons@straussfactor.com)

Rhiannon S. Huffman, Esq.  
[rhuffman@straussfactor.com](mailto:rhuffman@straussfactor.com)

*/s/ Marc DeSisto*

Marc DeSisto

Exhibit 11

Deposition Transcript of Sergeant Brandon Barth  
July 19, 2018

---

[1] UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,

vs.

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  
Daval 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

[125] Cranston General Order 320.70.

A. Okay.

Q. And if you could look at Page 2 and small Roman Numeral iv?

A. Yes.

Q. In questioning from Mr. Lyons, I believe you said that Number 6 applied in this instance; is that correct?

A. Yes.

Q. Number 6 reads, "Transport for involuntary emergency psychiatric evaluation if the person's behavior meets the criteria for this action"; is that correct?

A. Correct.

Q. Isn't it true, however, that Mr. Caniglia consented to going to get the medical evaluation?

MR. LYONS: Objection.

A. As I said, that there was trepidation with Mr. Caniglia about going to the hospital, and we try to refrain as much as we can about physically putting our hands on somebody. So ultimately once we had enough of a conversation with him, he willfully walked to the rescue and got onto it.

Q. (By Mr. Cunningham) Okay. So it wasn't involuntary?

\* \* \*

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

C.A. No. 15-525

---

EDWARD A. CANIGLIA,

*Plaintiff*

v.

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

*Defendants*

---

PLAINTIFF'S ADDITIONAL STATEMENT  
OF DISPUTED AND UNDISPUTED FACTS

Pursuant to LR 56, Plaintiff Edward Caniglia hereby responds to Defendants' Statement of Additional Undisputed Facts as follows:<sup>1</sup>

51. When she called the Cranston Police Department, Mrs. Caniglia believes that she informed the Cranston Police Department that she and Mr. Caniglia had had an argument and that Mr. Caniglia had been depressed. Exhibit K; June 27, 2018 Deposition Transcript of Kim Caniglia at 31-32.

---

<sup>1</sup> Plaintiff incorporates by reference the summary of the facts set forth in his motion for summary judgment as well as his Statement of Undisputed Facts filed in support of that motion and the Statement of Additional Undisputed Facts filed in opposition to Defendants' motion for summary judgment. Plaintiff will refer to those specific facts here and throughout this Objection as SUF \_\_\_\_.

RESPONSE: Undisputed for purposes of the Parties' Cross Motions for Summary Judgment.

52. Mrs. Caniglia hid the magazine because Plaintiff was depressed. Id. at 22.

RESPONSE: Undisputed for purposes of the Parties' Cross Motions for Summary Judgment that Mrs. Caniglia hid the magazine because she thought Plaintiff was depressed. However, as it turned out, Plaintiff was not depressed. Rather, he had lung cancer. (Plaintiff's Statement of Disputed and Undisputed Facts, # 12).

53. Mrs. Caniglia hoped that Plaintiff could get some help at the hospital. Id. at 63. She was concerned about Plaintiff's depression. Id.

RESPONSE: Disputed because Mrs. Caniglia testified that the statement in the Kent Hospital records was taken out of context and she never made that statement to Defendants. (K. Caniglia, pp. 63-64, excerpts attached as Exhibit 1).

54. Mrs. Caniglia did not know why she was not worried that Plaintiff would use the gun on himself. Id. at 30.

RESPONSE: Undisputed for purposes of the Parties' Cross Motions for Summary Judgment.

55. Officer Mastrati testified that, as a police officer, he has the legal authority to seize a weapon from an individual who he thought was suicidal. Exhibit L; May 31, 2018 Deposition Transcript of John Mastrati at 27. Under these circumstances, he would notify a supervisor and the supervisor would make the decision. Id. He was aware of this as a result of training. Id. at 27, 36-37. Seizing the weapons would be for the safety of the person and the public. Id. at 36-37, 38

RESPONSE: Undisputed that Officer Mastrati so testified. However, Officer Mastrati could not identify any Supreme Court case, constitutional provision, court decision, Rhode Island statute, or Cranston Police Department (“CPD”) written policy, procedure or general order that gives him that authority. (Mastrati depo., pp. 37-39, excerpts attached as Exhibit 2). Further, he could not identify any formal training he had received that provided that authority. (SUF 56).

56. Officer Mastrati believed that Plaintiff was in a clear and imminent danger of harming himself as a result of the statements he made to his wife and the presentation of a firearm. *Id.* at 107.

RESPONSE: Disputed because Officer Mastrati could not reasonably have believed that Plaintiff was in clear and imminent danger of harming himself. To the contrary, Officer Mastrati testified that he could not subjectively rule out the possibility that Plaintiff might be suicidal. (SUF 28, 74-76, 93). His subjective belief was contrary to CPD general orders, CPD training, as well as Rhode Island’s and other risk factors for suicide. (SUF 17, 25, 27-28, 34-38, 52-53, 57. 102-106, 136).

57. Officer Smith testified that the Cranston Police Department can seize a firearm for safekeeping in non-criminal situations where a supervisor makes a decision that an individual who has a firearm may cause harm to himself or a member of the public. Exhibit M; June 1, 2018 Deposition Transcript of Austin Smith at 34.

RESPONSE: Undisputed that Officer Smith so testified. However, Officer Smith’s subjective belief does not establish this authority. He testified that he does

not recall any training he received on that topic (Smith depo. at pp. 17, 23, 26, excerpts attached as Exhibit 5); he is not aware of any CPD general order or written policy that sets forth this authority or any written criteria used to make this decision, (Id. at pp. 24, 31, 38); he is not aware of the CPD's basis for this purported authority, (Id. at p. 32); he does not know whether a CPD Powerpoint presentation on "Search and Seizure," (SUF 39), sets forth the CPD's authority to seize Mr. Caniglia's firearms, including under the community caretaking function. (Exhibit 5 at pp. 63-66).

58. Officer Barth was familiar with the Community Caretaking Doctrine. Exhibit N; July 19, 2018 Deposition Transcript of Brandon Barth at 9. Officer Barth testified that the Community Caretaking Doctrine involved the "rights of police officers when it comes to public safety." Id. at 12. He practices this type of public safety daily. Id.

RESPONSE: Undisputed that at the time of his deposition, Officer Barth was familiar with the "Community Caretaking Doctrine." However, he testified that he heard about it in preparation for his deposition and he learned about it on Wikipedia in preparation for his deposition. (SUF 149). Officer Barth could not say whether he knew about it before 2015. (SUF 150).

59. Officer Barth is not sure if the specific term "Community Caretaking" was ever used in training or whether it was on a particular policy. He was, however, familiar with the theory behind the doctrine in so far as it concerns public safety and police acting in non-criminal situations. Id. at 12, 79.

RESPONSE: Undisputed that at the time of his deposition, Officer Barth was familiar with the "Community Caretaking Doctrine." However, he testified that

he heard about it in preparation for his deposition and he learned about it on Wikipedia in preparation for his deposition. (SUF 149). Officer Barth could not say whether he knew about it before 2015 (SUF 150) and he could not recall having received any prior education or training on the issue of dealing with public safety outside the criminal context. (SUF 151-53).

60. Officer Barth testified that police officers need to maintain public safety “whether it’s an individual who wants to do harm to themselves or do harm to others” and it’s not a criminal matter and “it’s up to the police department to maintain safety and order of the public.” *Id.* at 12. Moreover, he noted that “sometimes there could be exceptions to search and seizure rules [with respect to] maintaining public safety.” *Id.* at 15.

RESPONSE: Undisputed that Officer Barth so testified.

61. Officer Barth testified that Plaintiff was “upset” and “agitated.” *Id.* at 41, 86, 124.

RESPONSE: Undisputed that Officer Barth testified that Plaintiff was upset and agitated that the police had gotten involved in the dispute with his wife. (Barth depo., pp. 88-89, excerpts attached as Exhibit 3). Disputed in that other CPD officers testified that Plaintiff was “calm,” “normal,” and not suicidal. (SUF 70, 80).

62. Officer Barth considered the totality of the circumstances in dealing with the situation, including, but not limited to, (1) Mrs. Caniglia decided to leave the residence, (2) Mrs. Caniglia wanted a police escort back to her house; (3) Mr. Caniglia had corroborated what Mrs. Caniglia had informed the Cranston Police; (4) the fact that Mr. Caniglia brandished a gun and asked Mrs. Caniglia to shoot him; (5) Mr. Caniglia was

agitated and upset. *Id.* at 41, 56, 82-83, 86-89, 102, 124.

RESPONSE: Undisputed that at different points in his deposition, Officer Barth said he considered those points among the “totality of the circumstances,” however, he considered virtually none of the risk factors for suicide that he had been trained to consider in 2011 and 2013. (SUF 163-164 and SUF Exhibit FF at pp. 108-118).

63. Captain Henry is aware of the Community Caretaking Doctrine and hears about it periodically. His understanding of the Doctrine is that “courts recognize that law enforcement needs to take certain actions relative to the Fourth Amendment without a warrant that pertains to public safety functions or emergencies.” Exhibit O; June 13, 2018, Deposition Transcript of Russell Henry at 24, 26.

RESPONSE: Undisputed that Capt. Henry so testified. Disputed in that he could not identify any specific training that the CPD had received on the community caretaking doctrine, except possibly with respect to mental health topics and that that training would have covered the police’s authority under the doctrine. (SUF at Exhibit C, p. 28). He testified that CPD does not have the authority the police to require a person to take a psychological evaluation. (*Id.* at pp. 31-32). He could not recall any training he had on seizing weapons for safekeeping, (SUF 88), nor could he recall any court decisions that authorized the seizure of firearms for safekeeping pursuant to the community caretaking doctrine. (SUF 94).

64. Captain Henry testified that Courts recognize that the police may take “reasonable action to prevent [a] person from killing themselves. A person has a fire-

arm that's thinking of harming themselves or others, I think the courts recognize police have to take whatever action is necessary to prevent that." Id. at 25.

RESPONSE: Undisputed that Capt. Henry so testified. Disputed in that he could not identify a single court decision that had authorized the seizure of firearms for safekeeping. (SUF 94).

65. Captain Henry testified that he believes the Community Caretaking Doctrine is synonymous with public safety. Id. at 26.

RESPONSE: Undisputed that Capt. Henry so testified. Disputed in that Capt. Henry testified that the community caretaking doctrine does not permit the CPD to require a person to submit to a psychological evaluation. (SUF 95).

66. Captain Henry may have learned about the Community Caretaking Doctrine in formal education or from materials he has read. Id. at 26. He tries to keep current on the topic by reading current court cases. Id.

RESPONSE: Undisputed that Capt. Henry so testified. Disputed in that Capt. Henry had no recollection of whether he learned about the community caretaking function at the police training academy, (Henry depo. at p. 19, excerpts attached as Exhibit 4); or at any other formal police training, (Id. at pp. 21-22); or where specifically he may have heard about it. (Id. at p. 26). He did not think he or any other CPD officer had heard about it from any CPD in-service training. (Id. at pp. 27-28). He did not know whether the CPD had any written materials on the community caretaking function. (Id. at pp. 29-30). He was not aware of any specific statute, regulation, CPD GO, or court decision that set forth the CPD's authority pursuant

to the community caretaking function. (Id. at pp. 32-34). He was not aware of any court decision that said the community caretaking function authorized the police to seize a person's firearms from his residence or to require the person to have a psychological evaluation. (Id.).

67. Captain Henry testified that although the specific phrase "Community Caretaking" may not have come up in training – the theory of community caretaking may have been discussed in training even though the particular phrase was not used. Id. at 31.

RESPONSE: Undisputed that Capt. Henry so testified. Disputed in that Capt. Henry had no recollection of whether he learned about the community caretaking function at the police training academy, (Exhibit 4 at p. 19); or at any other formal police training, (Id. at pp. 21-22); or where specifically he may have heard about it. (Id. at p. 26). He did not think he or any other CPD officer had heard about it from any CPD in-service training. (Id. at pp. 27-28). He did not know whether the CPD had any written materials on the community caretaking function. (Id. at pp. 29-30). He was not aware of any specific statute, regulation, CPD GO, or court decision that set forth the CPD's authority pursuant to the community caretaking function. (Id. at pp. 32-34). He was not aware of any court decision that said the community caretaking function authorized the police to seize a person's firearms from his residence or to require the person to have a psychological evaluation. (Id.).

68. Captain Henry testified that the mental health training that Cranston Police Officers receive encompassed the concept of the Community Caretaking Doctrine. Id. at 35.

RESPONSE: Undisputed that Capt. Henry testified that the community caretaking doctrine may have come up in training with respect to mental health topics and that that training would have covered the police's authority under the doctrine. (SUF Exhibit C at p. 28).

69. Captain Henry testified that Cranston Police have also been trained on the Community Caretaking Doctrine related to exceptions to the Search Warrant Requirement. *Id.* at 94-95.

RESPONSE: Not disputed that Capt. Henry testified that this was an exception set forth in a Powerpoint presentation dated January 2016 and that he was not aware of any Rhode Island decisions respecting the community caretaking doctrine that did not involve motor vehicles. (Exhibit 4 at. pp. 94-98).

70. An individual associated with the Cranston Rescue informed Plaintiff that they were "going to Kent Hospital" and Plaintiff replied "[f]ine." Exhibit P, June 29, 2018 Deposition Transcript of Edward Caniglia at 44.

RESPONSE: Undisputed that Plaintiff reached an understanding with Defendants that he would have a psychological evaluation so that they would not seize his firearms. (SUF 85). Defendant did not willing agree to a psychological evaluation. (SUF 85).

71. Officers Russell, Smith, Barth, Henry, and Mastrati are not involved in the return of seized property. Exhibit N at 58; Exhibit O at 58-59, 63; Exhibit M at 57; Exhibit L at 100; Exhibit Q; Office Wayne Russell's Answer to Plaintiff's Interrogatory 7.

RESPONSE: Undisputed.

EDWARD CANIGLIA

By his attorneys,

/s/ Thomas W. Lyons

Thomas W. Lyons #2946

Rhiannon S. Huffman #8642

RHODE ISLAND AFFILIATE,

AMERICAN CIVIL LIBERTIES UNION

Strauss, Factor, Laing & Lyons

One Davol Square, Suite 305

Providence, RI 02903

(401) 456-0700

tlyons@straussfactor.com

CERTIFICATION

I hereby certify that on February 6, 2019, a copy of the foregoing was filed and served electronically on all registered CM/ECF users through the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Thomas W. Lyons

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

---

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

---

EDWARD A. CANIGLIA

v.

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

---

DEPOSITION

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.

\* \* \*

[64] A. Yes.

Q. Just to clarify, I believe that when I asked this earlier, you didn't express that hope to any of the police officers at the scene, that you hoped he could get some medical help?

MR. LYONS: Objection.

A. No.

MR. CUNNINGHAM: You did not. If you give me just five minute, maybe not even that long, I may be finished.

(break taken)

Q. Just a couple more.

A. Of course.

Q. Do you have any memory of informing any Cranston police officer that you wanted the guns removed from the household for your husband's well-being?

A. No.

Q. Do you have any memory of informing a Cranston police officer that you did not want the fire-arm that was in the garage in the house —

MR. CUNNINGHAM: Sorry, strike that. Sorry that was a bad question.

A. Thank you.

MR. CUNNINGHAM: Let me try that again.

\* \* \*

In The Matter Of: Caniglia vs Strom, et al

Officer John Mastrati

May 31, 2018

ALLIED COURT REPORTERS, INC.  
AND VIDEO CONFERENCE CENTERS

\* \* \*

[39] your understanding of your legal authority to seize the firearms of someone who may be suicidal come from the in-service training you received?

A. Yes.

Q. Okay. Just so we're clear, you don't recall who it was who told you that?

A. No.

Q. Does Cranston use what are referred to as domestic violence/sexual assault forms?

A. Yes, DV/SA forms.

Q. Have you completed a DV/SA form?

A. Yes.

Q. Under what circumstances do you complete a DV/SA form?

A. Any incident involving a domestic could be with a crime, without a crime.

Q. With respect to Mr. Caniglia, do you know if you completed a DV/SA form?

A. I don't believe I did.

Q. Why not?

A. Because I didn't believe that incident involved a domestic at the time. To me it was more of his well-being.

308

Q. Okay. The Cranston Police Department has general orders; is that correct?

\* \* \*