

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF CONNECTICUT

3 * * * * *

4 RICHARD E. BURGESS,
Plaintiff,

5 V

6 TOWN OF WALLINGFORD; CHIEF DOUGLAS
7 L. DORTENZIO, in his Official and
Individual Capacities; SERGEANT
8 MICHAEL COLAVOLPE, in his Official
and Individual Capacities; OFFICER
9 GABRIEL GARCIA, in his Individual
Capacity; OFFICER DEVIN FLOOD, in
10 his Individual Capacity; AND MARK
VANAMAN,

11 Defendants.

12 * * * * *

13
14 DEPOSITION OF MICHAEL COLAVOLPE

15
16 Taken on behalf of the Plaintiff in the above-entitled
17 cause, before Patricia Tyszka, Registered Merit Reporter,
18 License No. 46, Notary Public, in and for the State of
19 Connecticut, on Thursday, December 27, 2012, at 10:46 a.m.,
20 at the law office of Howd & Ludorf, 65 Wethersfield Avenue,
21 Hartford, Connecticut, pursuant to the Rules of Civil
22 Procedure.

23
24 TYSZKA COURT REPORTING SERVICES
189 Old Forge Road

25 West Hartland, Connecticut 06091

pat7995@charter.net

26 Phone/Fax (860)379-7955

APPEARANCES

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For the Plaintiff:

LAW OFFICES OF RACHEL M. BAIRD
379 Prospect Street
Torrington, Connecticut 06790-5238
BY: RACHEL M. BAIRD, ESQ.
(860) 626-9991

For Defendants Town of Wallingford, Chief Dortenzio,
Sergeant Colavolpe, Officer Garcia, Officer Flood:

HOWD & LUDORF
65 Wethersfield Avenue
Hartford, Connecticut 06114-1121
BY: KRISTAN MACCINI, ESQ.
(860) 249-1361

Also Present:

Richard Burgess

STIPULATIONS

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IT IS STIPULATED by counsel that formalities as to the proof of the authority of the Notary Public and sufficiency of Notice are waived.

IT IS STIPULATED and agreed between counsel that all objections, except as to form, are reserved to the time of trial.

IT IS FURTHER STIPULATED and agreed that the deposition may be signed before a Notary Public.

1 MS. BAIRD: We can go on the record for
2 this.

3 So again my understanding is the town's
4 objecting to us recording this deposition. And
5 I have indicated to the town that there was a
6 31-page ruling under docket No. 38 in this case,
7 dated September 21st, 2012, which addressed this
8 issue. I've invited the town to look at the
9 judge's 31-page decision and go over it with me,
10 and that's where we're at right now.

11 MS. MACCINI: I will need to leave the
12 deposition room and go up and get the judge's
13 31-page decision, but it is the defendants'
14 position that this is a different deposition. I
15 have not had the opportunity to file a
16 protective order in this case where the
17 deposition notices are dated December 19th, and
18 I received them in my office on December 26,
19 the day after Christmas. So the defendants
20 object to the recording of the depositions and
21 we would like a ruling on this issue from the
22 current judge before these depositions proceed
23 if Mr. Burgess intends to record them. That's
24 all we're asking.

25 I don't think there is any need for anybody

1 other than the official court reporter to record
2 the deposition. She is the official reporter.
3 There is no other reporter. There is case law
4 on this issue which has said there is only one
5 official reporter, and that's the reason why.

6 MS. BAIRD: If I could just read the
7 court's decision in this case into the record.
8 "With respect to the method of taking oral
9 testimony at a deposition, Federal Rule
10 30(b)(3)(a) of Civil Procedure specifies that
11 the party who notices the deposition must state
12 in the notice the method for recording the
13 testimony and unless the court orders otherwise,
14 testimony may be recorded by audio, audiovisual,
15 or stenographic means. Prior to a noticed
16 deposition, any party may specify an additional
17 method of recording, as follows. With prior
18 notice to the deponent and other parties, any
19 party may designate another method for recording
20 the testimony in addition to that specified in
21 the original notice. That party bears the
22 expense of the additional record or transcript
23 unless the court orders otherwise. Thus, in
24 general, unless a court orders otherwise, a
25 party may audiotape a deposition as a matter of

1 right, as long as notice is given of the party's
2 intention to do so."

3 Then the court goes into his prior ruling,
4 the effect of notice.

5 "However, with respect to the deposition
6 currently at issue, that of pro se defendant
7 Mark Vanaman, plaintiff points out that prior to
8 that deposition, he provided the requisite
9 notice of his intention to make an audio
10 recording by including in the notice of
11 deposition that he reserved the right to record
12 the proceedings of the deposition by digital
13 audio recorder in addition to the means stated
14 above." "Counsel for the remaining defendants,
15 however, have asserted that Vanaman did not
16 receive a written copy of the notice." "Once
17 again, defendants contend that no sufficient
18 notice was given." "It is of course the fact
19 that under Federal Rule of Civil
20 Procedure"... "with prior notice to the deponent
21 and other parties, any party may designate
22 another method for recording" --

23 MS. MACCINI: Attorney Baird, I received
24 these deposition notices -- your official depo
25 notice I received on December 26. We worked

1 this out over the phone. You did not advise me
2 over the phone that you intended to record these
3 depositions. I object. I would like to file a
4 paper objection if you are going to maintain
5 that you are going to record them. I would like
6 a ruling on it.

7 State courts have ruled that you cannot
8 have a separate recording. I know of at least
9 one Connecticut Superior Court decision. I know
10 that we're in federal court. This is new
11 training for federal courts. We object. If you
12 wish to proceed, I need to file an objection and
13 we need a court ruling. If you'd like to get a
14 judge on the phone, we can get a judge on the
15 phone right now to rule on it.

16 MS. BAIRD: My understanding is that we've
17 noticed these depositions for the various
18 defendants on numerous occasions, but they've
19 been rescheduled due to availability and things
20 like that. And didn't we talk about this
21 deposition and I actually handed you the paper
22 copies of the notice of deposition last week at
23 my office? We did that. And who was being
24 deposed? Oh, at Mr. Vanaman's deposition we
25 discussed the depositions, we discussed

1 scheduling and we made copies --

2 MS. MACCINI: We did not at any time
3 discuss the fact that you intended to record the
4 proceedings.

5 MS. BAIRD: Oh, no, no. It's noticed in
6 the deposition --

7 MS. MACCINI: Right.

8 MS. BAIRD: Right.

9 MS. MACCINI: So you handed this to me on
10 December 19th.

11 MS. BAIRD: Right.

12 MS. MACCINI: I have not had sufficient
13 time to object, and I am just right now
14 realizing that you wish to record it. So I'm
15 telling you get a judge on the phone or I'm
16 going to tell my client to leave and come back
17 another day after we have a ruling.

18 MS. BAIRD: Well, my understanding is that
19 a judge has already ruled on this, so there was
20 no need to give -- I mean I gave you notice in
21 the deposition notice. Please, call the court.

22 MS. MACCINI: I am not calling the court.
23 This is your deposition. I'm telling you that
24 my client is not going to give testimony today
25 while an unofficial recording is being made.

1 MS. BAIRD: So let me get this. It's my
2 contention that I have a decision by a federal
3 court judge, a 31-page decision which denied
4 your motion for sanctions and denied your
5 position that we had the right to an additional
6 method of recording; and that you're sitting
7 there and you haven't even read this decision,
8 that it's not even in front of you --

9 MS. MACCINI: Let me go get the decision.

10 MS. BAIRD: -- but your -- please.

11 MS. MACCINI: I will do that right now.

12 MS. BAIRD: I think you would benefit from
13 that.

14 (Brief recess.)

15 MS. BAIRD: So what's the determination?

16 MS. MACCINI: The determination is that
17 Judge Haight ruled specifically that he could
18 record it with notice, but he cannot publish it
19 on-line.

20 MS. BAIRD: Okay.

21 MS. MACCINI: If you agree that he's not
22 going to publish it on-line, then we will
23 proceed. But I want to read the order and I
24 want there to be no misunderstanding.

25 MS. BAIRD: Oh, no. I have had the order.

1 MS. MACCINI: I think we should read it
2 into the record.

3 MS. BAIRD: Definitely. That's why I
4 wanted you to go get a copy.

5 MS. MACCINI: "Specifically, to restore
6 judicial efficiency - both in light of the
7 acrimonious climate prevailing at depositions
8 and the noted susceptibility of audio recordings
9 to splicing - no party in this action shall
10 publish or disseminate audio recordings in any
11 manner without prior permission of the Court.
12 Unless or until their contents are admitted into
13 evidence, audio recordings shall be held as
14 confidential matter with access only by parties
15 and/or their attorneys of record; and the staff
16 of the aforementioned attorneys under the
17 attorneys' direct supervision and
18 responsibility. Anyone who publishes or
19 disseminates audio recordings without permission
20 of the Court shall be subject to sanctions."
21 And I will move for sanctions if Mr. Burgess
22 publishes this anywhere on-line.

23 MS. BAIRD: Well, I'm glad you went and got
24 a copy of the order and had a chance to review
25 it and read it. And certainly we have a copy of

the order and have given no indication of any
intention not to comply with the court's order.

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1 break, let me know. If you don't understand a question,
2 let me know. And if there is an objection, just wait
3 until the lawyers hash it out to respond. Fair enough?

4 A Fair enough.

5 Q Okay. So you're a sergeant with the Wallingford
6 Police Department?

7 A Yes.

8 Q How long have you been a sergeant with the
9 department?

10 A It's going to be three years in January.

11 Q How long have you been with the department
12 overall?

13 A Eleven years.

14 Q And prior to being a sergeant, were you a patrol
15 officer?

16 A I was a detective.

17 Q How long were you a detective?

18 A Just about six years.

19 Q And prior to being a detective, what was your
20 rank?

21 A A patrolman.

22 Q Have you been a police officer with any other
23 municipal or state law enforcement agencies?

24 A No.

25 Q Other than Wallingford?

1 A No.

2 Q And prior to working for Wallingford, did you
3 receive any training?

4 A Yes.

5 Q To be a police officer?

6 A Prior to working --

7 Q Yes.

8 A -- for Wallingford?

9 Q Okay. You were hired by Wallingford and then you
10 went to the police academy?

11 A Correct.

12 Q And how long was the police academy?

13 A Four months.

14 Q And where did you attend?

15 A Meriden.

16 Q And do you remember what year that was?

17 A October 2001.

18 Q What is your highest level of education?

19 A Master's.

20 Q What did you receive your master's in?

21 A Public administration.

22 Q And where did you receive that from?

23 A University of New Haven.

24 Q What year?

25 A That's a good question. Maybe '05, '06ish.

1 Q Okay.

2 A I'm not exactly sure.

3 Q And where did you receive your bachelor's degree?

4 A Quinnipiac.

5 Q What major?

6 A Accounting.

7 Q And what year did you graduate from Quinnipiac?

8 A 2001.

9 Q And what high school did you graduate from?

10 A North Haven.

11 Q While you were attending Quinnipiac, is it fair
12 to say that you were already employed as a police officer?

13 A No.

14 Q Okay. Were you working in any other job while
15 you attended Quinnipiac?

16 A Yes.

17 Q What?

18 A Where would you like me to begin?

19 Q Well, let's start with post-high school, I guess.

20 A I held numerous jobs. I worked landscaping at
21 Quinnipiac. I worked at a bank as a teller. I worked at
22 a liquor store as a cashier and a stock person. And then
23 before being hired I worked at Blue Cross.

24 Q And is it fair to say that you received your
25 master's in public administration, that you attended

1 classes towards that degree while you were a police
2 officer?

3 A Yes.

4 Q What kind of work did you do as a detective with
5 the police department?

6 A Mostly narcotics.

7 Q And as a sergeant, when you became a sergeant,
8 who did you supervise? What kinds of officers did you --

9 A Patrolmen.

10 Q Any particular shift?

11 A Mostly 4:00 to 12:00.

12 Q Has that changed at all up to this day, your
13 supervising patrol officers mainly in the 4:00-to-12:00
14 shift?

15 A Correct.

16 Q How has that changed? Or it remains the same?

17 A It remains the same.

18 Q Okay. Are you still working the 4:00-to-midnight
19 shift?

20 A Yes.

21 Q Approximately how many patrol officers do you
22 supervise on a shift?

23 A It varies anywhere from six to nine. Sometimes
24 eight or nine.

25 Q During your work as a patrol officer, then as a

1 detective, and now as a sergeant, have you had occasion to
2 go to Yale Billiards in Wallingford?

3 A Yes.

4 Q And you went there in 2010 on this case.
5 Correct?

6 A Correct.

7 Q Prior to going to Yale Billiards in this matter
8 in May of 2010, had you been to Yale Billiards before?

9 A I don't believe so.

10 Q Were you aware of Yale Billiards in the Town of
11 Wallingford?

12 A Yes.

13 Q And how were you aware of it?

14 A I knew it was a bar located in town.

15 Q Because you would drive by it, for example?

16 A Yes. Just seeing -- you get to know most of the
17 businesses.

18 Q Had you ever been inside that business yourself,
19 Yale Billiards?

20 A I don't believe so.

21 Q Okay. Did you know the owner in May of 2010,
22 Robert Hilton?

23 A No, I did not.

24 Q Had you ever met prior to May 2010, a man by the
25 name of Mark Vanaman?

1 A No, I had not.

2 Q And had you ever met prior to May 2010, an
3 individual by the name of Richard Burgess?

4 A No, I did not.

5 Q Did you receive while you were a patrol officer
6 any training, on-the-job training?

7 A Yes.

8 Q And what kind of on-the-job training did you
9 receive?

10 A We have mandated certification training every --
11 I want to say it's two years, three years. Certain skills
12 areas. I wouldn't know the exact skill areas without
13 having them in front of me, but, you know, juvenile law,
14 domestic law, firearms.

15 Q Where do you go for that training?

16 A It's either in-house or they send us to either
17 the academy or another police department.

18 Q When was the last time you received that
19 training?

20 A Maybe last year?

21 Q Maybe 2011?

22 A Yeah, possibly.

23 Q And where did you go for the training?

24 A The New Haven Fire Academy.

25 Q So prior to that you would have received training

1 in, what, 2008, 2009? Do you recall?

2 A Yeah; it varies because you also go to -- it
3 depends what type of classes the academy's offering. You
4 know, they may have a class tomorrow in a specific area
5 and then they send me to that, and those hours count
6 towards my certification training. So I really without
7 having any training records in front of me --

8 Q Okay.

9 A -- can't recall.

10 Q Are you able to recall particular training you've
11 had in firearms law in the State of Connecticut?

12 A Yes.

13 Q What is that training that you recall?

14 A Just from the police academy.

15 Q And that would have been back in 2001?

16 A It was either the fall of 2001 or January,
17 February of 2002. Because that's when I graduated.

18 Q In any of the certification training sessions
19 have the sessions addressed firearms law in the State of
20 Connecticut?

21 A Yes.

22 Q When was the last class you attended for
23 certification you recall addressed firearms law?

24 A In the police academy.

25 Q Okay. And that was back in 2001?

1 A Or the beginning of 2002.

2 Q Okay. And except for the firearms law training
3 that you had at the police academy in 2001 or 2002, do you
4 recall any other training you've had in firearms law?

5 A When I received my pistol permit.

6 Q Okay. When did you receive that?

7 A I took the course -- it had to be either '99 or
8 2000.

9 Q Was that the NRA safety course?

10 A Yes.

11 Q And while you've been a police officer, other
12 than the firearms training that you received at the
13 academy in 2001 or 2002, have you attended any other
14 training with regard to firearms law?

15 A No, I haven't.

16 Q Do you have any officers, and by "officers" I
17 mean detectives, sergeants, lieutenants, any rank, any
18 sworn officers in your department who are the go-to people
19 for firearms issues or laws?

20 MS. MACCINI: Objection to form.

21 BY MS. BAIRD:

22 Q Do you understand my question?

23 A No. Could you repeat it?

24 Q Okay. Is there anybody at the Wallingford Police
25 Department that other officers go to when they have a

1 question about a firearms law or firearms issues?

2 MS. MACCINI: Objection to form. Are we
3 talking in the 2010 time frame? Now? When
4 specifically?

5 BY MS. BAIRD:

6 Q Well, let's talk about now.

7 A No. Nobody specific.

8 Q Okay. Back in 2010, was there any particular
9 officer in the Wallingford Police Department that other
10 officers would go to to have specific questions about
11 firearms laws or firearms issues?

12 A No. Nobody specific.

13 Q Okay. So you were working is it fair to say --
14 if I direct your attention to Mr. Burgess's arrest on
15 May 16th, 2010, you know what I'm referring to?

16 A Yes.

17 Q I'll just refer it as "the arrest" or
18 "Mr. Burgess's arrest" and you'll know what I'm referring
19 to?

20 A Absolutely.

21 Q So directing your attention then back in
22 May 16th, 2010, on the day when Mr. Burgess was arrested,
23 were you working as a shift supervisor on the
24 4:00-to-midnight shift?

25 A I was the patrol supervisor.

1 Q Okay. And you were supervising those approximate
2 six to nine officers?

3 A Yeah; whoever was working that evening.

4 Q Were there other supervisors on duty at that
5 time?

6 A Yeah; the shift commander.

7 Q And who was he?

8 A Lieutenant Martino.

9 Q How was it that you learned of an incident
10 occurring at the Yale Billiards on May 16th, 2010?

11 A It was either the radio dispatch or a phone call
12 I received.

13 Q Did you prepare any police incident reports
14 related to the incident?

15 A I don't believe so.

16 Q Okay. And what do you recall about how long it
17 took you to respond to the scene after you received the
18 initial dispatch?

19 A I want to say it took about five -- five, six
20 minutes possibly.

21 Q What I'm going to do just to make it easier
22 probably on both of us, and to make it fair because I know
23 it has been a couple of years --

24 A Yes.

25 Q -- I made a copy of a document.

1 MS. BAIRD: If I could have this marked as
2 Plaintiff's Exhibit F.

3 (Plaintiff Exhibit F marked for I.D.)

4 BY MS. BAIRD:

5 Q Sergeant, I've handed you a document that's been
6 marked as Plaintiff's Exhibit F. Do you recognize the
7 first two pages of the document which appears to be a memo
8 from Lieutenant Martino to you?

9 A Yes, I do.

10 Q Okay. And then do you recognize the third,
11 fourth, and fifth page of that document which appears to
12 be a memo from you to Lieutenant Martino?

13 A Yes, I do.

14 Q If I could direct your attention then to page
15 three of Exhibit F which begins your memo to Lieutenant
16 Martino. First of all, what was the purpose of you
17 sending this memo to Lieutenant Martino on -- well, dated
18 June 14th, 2010?

19 A I received a memo from him requesting me to
20 respond.

21 Q Prior to receiving the memo from Lieutenant
22 Martino, were you aware that Mr. Burgess had made a false
23 arrest claim against Officer Flood?

24 A Yes.

25 Q How did you become aware that Mr. Burgess had

1 made a false arrest claim against Officer Flood?

2 A I believe Lieutenant Martino had told me.

3 Q And do you know when you learned of that from
4 Lieutenant Martino?

5 A I do not.

6 Q Do you remember how close in time it was to the
7 actual arrest that you heard that Mr. Burgess had made a
8 false arrest claim?

9 A I believe it was a couple of days after the
10 arrest.

11 Q If I could ask you, on page three of Exhibit F
12 under question one, it appears that you refer to -- in the
13 third line under your response to question one -- that
14 several units had arrived at the location and began to
15 stage.

16 What does that mean, "began to stage"?

17 A They began to take a position up in the area at
18 the location. And staging, they were waiting for me to
19 arrive.

20 Q Prior to arrival, did you communicate by radio or
21 dispatch any orders or directions for the officers already
22 on scene?

23 A I don't believe so.

24 Q And at that time, am I correct that you upgraded
25 your response to a Code 1 in responding to Yale Billiards?

1 A Correct.

2 Q And how many codes are there?

3 A We have two.

4 Q And had it been a Code 2 prior to being upgraded
5 by you to a Code 1?

6 A I don't know what the initial units were
7 dispatched as.

8 Q And what was the information that you based your
9 decision to upgrade the response to a Code 1?

10 A All the other units had arrived at the location
11 and they were awaiting my arrival, and I was across town
12 and there would be some time for me to get there if I
13 continued on a Code 2.

14 Q Explain that to me. Why would it take you longer
15 if you continued on Code 2?

16 A Code 2 is a normal response; no lights or sirens.

17 Q So you wanted to put on your lights and sirens
18 and --

19 MS. MACCINI: Go ahead. Are you through
20 with the question?

21 BY MS. BAIRD:

22 Q So you wanted to put on your lights and sirens
23 and so you upgraded it to Code 1?

24 MS. MACCINI: Objection to form.

25

1 BY MS. BAIRD:

2 Q Do you understand the question?

3 A Could you repeat it?

4 Q Okay. Was your desire to put on lights and
5 sirens a reason to upgrade it to Code 1?

6 MS. MACCINI: Objection to form. That was
7 not his testimony.

8 BY MS. BAIRD:

9 Q Do you understand the question?

10 A Not --

11 Q Let me make this clear.

12 A -- completely.

13 Q I'm not saying that was your testimony. I'm
14 asking you a question, and you're free to say, "Ms. Baird,
15 I didn't say that." You can say that: "Ms. Baird, I
16 never said that. I deny ever saying that." You're free
17 to say that. You're free to answer however you want.

18 So that's what I'm asking you. Is one of the
19 reasons why you upgraded it to Code 1 so that you could
20 put on your lights and sirens?

21 A Yes.

22 Q And you also refer to at page three of
23 Plaintiff's Exhibit F: Because of the seriousness of the
24 alleged offense.

25 Was that also one of the reasons why you decided

1 to upgrade it to Code 1?

2 A That was the reason, yes.

3 Q Okay. And at that time when you upgraded it to
4 Code 1, what was your determination that the alleged
5 offense was serious based on?

6 A The initial dispatch.

7 Q And do you know what that was?

8 A A male was inside the establishment in possession
9 of a handgun.

10 Q Anything else?

11 A Not without referring to a transcript. I don't
12 recall --

13 Q Let me see --

14 A -- completely.

15 Q This has already been entered as Exhibit B. I'll
16 give you a chance to look at that and see if that's the
17 transcript you're referring to. It could very well be
18 another one, but I'll give you a chance to look at it.

19 A (Reviewing.) The dispatch was -- well, could you
20 repeat your question first before I answer?

21 Q Let me think back.

22 What was the information you had while you were
23 en route to Yale Billiards regarding the seriousness of
24 the alleged offense?

25 A There was a white male with a firearm exposed and

1 he's refusing to conceal it, pacing back and forth in
2 front of the billiards.

3 Q And you're looking at Exhibit B. Right?

4 A Yes.

5 Q What page did you just read from?

6 A That would be the fourth page. Page four. I
7 don't have numbers on mine.

8 Q Oh, okay. Can I see yours? I don't know if I
9 have Exhibit B in front of me.

10 A (Handing.)

11 Q I do. Okay. I see it. Thank you.

12 Okay. Was there any other information other
13 than what you've already indicated that supported your
14 determination that the alleged offense was serious?

15 A Well, we received two calls: One from the owner
16 inside and a caller outside as well.

17 Q And do you recall what information the owner
18 provided that impacted your determination that the alleged
19 offense was serious?

20 A I don't recall specifically without looking.

21 Q Okay. Do you want to take a moment to look?

22 A Please.

23 (Reviewing.) Okay. Could you repeat your
24 question?

25 Q Other than the testimony you've already provided,

1 was there information provided by the owner, Robert
2 Hilton, that impacted your determination that the alleged
3 offense was serious?

4 A No.

5 Q If I could ask you, on page seven of Exhibit B at
6 the top it refers to a Signal 88.

7 A I don't see --

8 Q I don't know why these aren't completely matching
9 up. Let me see if I can find it for you.

10 A (Handing.)

11 Q Oh, okay. It's actually right at the bottom of
12 your page six.

13 Do you see where it refers to at the bottom of
14 your page six in Exhibit B, a Signal 88?

15 A Yes.

16 Q What is that?

17 A Emergency radio traffic only.

18 Q And what does that mean: The Signal 88 is
19 canceled?

20 A It means you can resume normal radio
21 transmissions.

22 Q Do you know when it was during the course of the
23 response to Yale Billiards where a Signal 88 was ordered?

24 A I do not.

25 Q Who would order that?

1 A Anybody could order a Signal 88.

2 Q And what effect would that have on the radio
3 transmissions?

4 A Only emergency traffic. Only emergency
5 transmissions.

6 Q And so patrol officers in Wallingford that were
7 working on other things other than the Yale Billiards
8 response would not be allowed to transmit on that
9 frequency?

10 A Correct.

11 Q Did you discuss with Lieutenant Martino in the
12 course of responding, his decision to cancel the Signal
13 88?

14 A No.

15 Q Do you know why he did that?

16 A (Reviewing.) From reading the transcript I could
17 tell you.

18 Q Okay.

19 A Because the situation was under control and the
20 subject was detained.

21 Q So are you able to tell from the transcript
22 whether you had already arrived at the scene when the
23 Signal 88 was canceled?

24 A Yes.

25 Q And had you already arrived at the scene when it

1 was canceled?

2 A Yes.

3 Q So when you arrived at the scene, where did you
4 park your cruiser?

5 A I'd have to refer back to this other exhibit.
6 Exhibit F. I believe it was near where Officer Flood was.
7 To the north of Yale Billiards.

8 Q Was it in a parking lot?

9 A Yes, it was.

10 Q And what did you do after you parked your
11 vehicle?

12 A I met with Officer Flood.

13 Q And when you met with Officer Flood, had you
14 already identified who Mr. Burgess was, the subject of the
15 dispatch?

16 A No, I hadn't.

17 Q And what did you discuss with Officer Flood?

18 A He briefed me on the incident and pointed out the
19 complainant, who he had been talking to.

20 Q And when Officer Flood pointed out the
21 complainant, where was the complainant standing?

22 A A short distance away from Officer Flood.

23 Q Okay. Within hearing distance of you and Officer
24 Flood?

25 A Possibly.

1 Q Did you talk to the complainant at that time?

2 A Yes, I did.

3 Q Okay. And did you learn that he was Mark
4 Vanaman?

5 A I'm not sure if I knew his name at that point. I
6 think that was later on when we gathered everybody's
7 names.

8 Q Okay. When you talked to the complainant, at
9 that point was Officer Flood with you?

10 A I believe -- yes, I believe so.

11 Q And how did Mr. Vanaman appear to you?

12 A He was upset.

13 Q Was he crying?

14 A No, he wasn't crying.

15 Q And how did you know he was upset?

16 A Based on his demeanor.

17 Q What was his demeanor?

18 A He was -- I wouldn't say -- well, he was kind of
19 shaken up. He was surprised by what was going on. He
20 was talking very fast.

21 Q What was he saying when he talked very fast?

22 A He was saying there was a gentleman inside that
23 had an exposed firearm and that he was making people
24 uncomfortable. He said that he had asked him to cover the
25 firearm up and he refused to do so.

1 Q Okay. And what was the tone of Mr. Vanaman's
2 voice when you were talking to him?

3 A Sort of a normal tone. He wasn't being loud or
4 anything.

5 Q Did he ask to be taken to safety anywhere or --

6 A He was a safe distance away. He was -- when I
7 initially arrived, we were quite a distance from the
8 entrance to the billiards.

9 Q And when you say "quite a distance from the
10 entrance to the billiards," where was Mr. Burgess standing
11 at that time, if you knew? Or where was Mr. Burgess at
12 that time, if you knew?

13 A I didn't know. I believed him to be inside
14 still.

15 Q Why did you believe Mr. Burgess was inside when
16 you were talking to Mr. Vanaman and Officer Flood?

17 A I believe dispatch had told us that. I'd have to
18 look back at Exhibit B.

19 Q Okay. Do you still have Exhibit B?

20 A (Reviewing.) At first we were told the subject
21 was sitting in the front of Yale Billiards, and then
22 couple of transmissions later we were told he was sitting
23 in the first booth to the left of the main entrance, and
24 that led me to believe that he was still inside.

25 Q When you were talking to Officer Flood, what

1 other officers were on scene in addition to Officer Flood?

2 A Referring to Exhibit F, Officer Garcia, Officer
3 Gonzalez, and Officer Fraenza.

4 Q And where were they positioned, these three
5 officers: Garcia, Gonzalez, and Fraenza?

6 A Well, Officer Garcia was positioned to the west
7 of the building. Gonzalez and Fraenza were located to the
8 east.

9 Q Had Garcia been told by you where to position
10 himself?

11 A No. I don't recall telling them. I'd have to
12 look back at the transmissions, but I don't think I did.

13 Q And I'll ask the same question with regard to
14 Gonzalez and Fraenza. Were they told where to position
15 themselves by you?

16 A (Reviewing.) At that point in time, no. I don't
17 believe so.

18 Q How did you learn when you arrived where Garcia,
19 Gonzalez, and Fraenza were positioned?

20 A Officer Flood told me.

21 Q Is there a protocol or procedure that these
22 officers followed when they arrived with regard to their
23 positioning?

24 A Not so much of a protocol, it's more of a you
25 take up a position where you can see the location and

1 what's going on. It all depends on the situation and the
2 scenario.

3 Q Were any officers in the pool hall when you
4 arrived?

5 A No, they were not.

6 Q And when you were talking to Mr. Vanaman with
7 Officer Flood present, what was your understanding of what
8 Mr. Burgess was doing in the pool hall?

9 A At that time I didn't know what he was doing in
10 the pool hall. I just knew there was a male with an
11 exposed gun inside.

12 Q Did you believe that Mr. Burgess was holding
13 anybody hostage in the pool hall?

14 A No.

15 Q Did you believe there was anybody injured in the
16 pool hall?

17 A No.

18 Q Did you believe that Mr. Burgess had been taken
19 into custody by any officer in the pool hall?

20 A Could you repeat that?

21 Q Did you believe that Mr. Burgess had been taken
22 into custody by any officer in the pool hall?

23 A No.

24 Q Did you believe that Mr. Burgess presented a
25 danger at that point while you were talking to Mr. Vanaman

1 and Officer Flood?

2 A Yes.

3 Q And what did you do in response to your belief
4 that Mr. Burgess presented a danger?

5 A After speaking with Mr. Vanaman we approached the
6 pool hall.

7 Q And when you say "we," was that you and Officer
8 Flood?

9 A Officer Flood and Officer Garcia.

10 Q How did you indicate to Officer Garcia to join
11 you in approaching the pool hall?

12 A I don't recall.

13 Q And how did you and Officer Garcia and Officer
14 Flood approach the pool hall?

15 A On foot.

16 Q Okay. And were your guns drawn?

17 A No.

18 Q Did you walk together?

19 A Yes.

20 Q When you say you walked together, were you in a
21 line one behind the other or walking side by side? How
22 were you walking together?

23 A I was slightly ahead of them, kind of like in a
24 triangle position. They were covering each side of me.

25 Q Okay. And did you actually enter the pool hall

1 with Officers Garcia and Flood?

2 A No.

3 Q Why not?

4 A Because as we approached the building, Officer
5 Flood advised me that the male -- there was a male sitting
6 on the bench outside that matched the description of the
7 suspect.

8 Q Had Officer Flood indicated to you at any time
9 between your arrival and what you've just indicated as his
10 notice to you that that was Mr. Burgess, that Mr. Burgess
11 was outside?

12 A No.

13 Q And what was Mr. Burgess doing when you were
14 first informed by Officer Flood that that was Mr. Burgess?

15 A He was sitting on a bench.

16 Q Was there anyone else sitting on the bench?

17 A There was a female next to him.

18 Q Other than the police officers, were there any
19 other individuals in the area of the bench?

20 A There were.

21 Q And who were they; do you know?

22 A I don't know.

23 Q Were they dressed in civilian clothes?

24 A I believe so.

25 Q And what were they doing?

1 A I'm not sure.

2 Q Did you say anything to those individuals?

3 A No. My focus was on the male with the gun.

4 Q Did you attempt to clear the area in any way of
5 civilians?

6 A No.

7 Q Right after Officer Flood identified Mr. Burgess
8 to you, what was the first thing you did?

9 A Once I saw him sitting outside, I released the
10 safety mechanisms on my holster.

11 Q And what does that mean that you released the
12 safety mechanisms on your holster?

13 A Our holster has safety mechanisms where you have
14 to -- there is a rocker on the top that you have to
15 release, and then there is an internal mechanism inside
16 the holster that has -- you've got to rock the weapon back
17 to be able to draw the weapon out. So it's kind of you
18 prepare yourself should you have to draw your gun; it's a
19 quicker draw.

20 Q Okay. Now, when you were talking to Mr. Vanaman
21 and Officer Flood right after your arrival, was it your
22 understanding that there was an individual in the pool
23 hall area, either inside or outside, that had a firearm?

24 A I believed him to be inside with a firearm.

25 Q Okay. And was there a reason you didn't release

1 the safety mechanism at that point?

2 MS. MACCINI: Objection to form.

3 BY MS. BAIRD:

4 Q While you were talking to Officer Flood and
5 Mr. Vanaman?

6 A We were quite a distance away from the pool hall.

7 Q Okay. Do you recall what kind of firearm you
8 seized from Mr. Burgess?

9 A I don't know.

10 Q And after you released the safety mechanism from
11 your firearm, what did you do next?

12 A I approached Mr. Burgess.

13 Q And how --

14 A Gave him --

15 Q How far away were you from Mr. Burgess when you
16 released the safety mechanism in your holster -- in your
17 firearm?

18 A Either the first or second row in the parking lot
19 closest to the building.

20 Q And when Officer Flood pointed out Mr. Burgess to
21 you, did Officer Flood sound surprised?

22 A No.

23 Q Did Officer Flood sound concerned?

24 A I don't think so.

25 Q Okay.

1 A I think I was more concerned.

2 Q Did Officer Flood say anything about, oh, he's
3 not inside, he's out here?

4 A No.

5 Q Did you ask Officer Flood at any time after this
6 incident whether Officer Flood knew Mr. Burgess was
7 outside as opposed to inside the pool hall?

8 A I don't believe so.

9 Q Did that concern you at the time, that you
10 believed Mr. Burgess was inside the pool hall, but he was
11 right out there?

12 A Yes.

13 MS. MACCINI: Objection to form.

14 BY MS. BAIRD:

15 Q And why did it concern you?

16 A Well, my understanding was that he was inside the
17 pool hall. So I was kind of taking a -- my approach would
18 have been different had I known him to be outside, sitting
19 on the bench.

20 Q And how would your approach have been different?

21 A I wasn't behind any cover.

22 Q And when you believed that Mr. Burgess was in the
23 pool hall, what was your understanding of whether there
24 were any other people in the pool hall?

25 A I did not know at that time.

1 Q Okay. Did you ask anyone how many other people
2 were in the pool hall with Mr. Burgess?

3 A No.

4 Q When you believed that Mr. Burgess was in the
5 pool hall.

6 A No, I did not.

7 Q Did it concern you that there may be other people
8 in the pool hall with Mr. Burgess when you believed that
9 he was in the pool hall?

10 A Yes.

11 Q But at any time prior to your encounter with
12 Mr. Burgess out on the bench, did you gather any
13 information about how many people were in the pool hall?

14 A No.

15 Q When you saw Mr. Burgess on the bench, how were
16 his arms positioned; if you recall?

17 A They were either crossed against his chest or his
18 hands were on his knees.

19 Q And did Mr. Burgess say anything to you while you
20 were approaching him?

21 A Yes.

22 Q What did he say?

23 A "I'm the one you're looking for."

24 Q And when Mr. Burgess said, "I'm the one you're
25 looking for," had you already been told by Officer Flood

1 that that was Mr. Burgess sitting there?

2 MS. MACCINI: Objection to form. Asked and
3 answered.

4 BY MS. BAIRD:

5 Q Go ahead and answer.

6 A Could you repeat?

7 Q When Mr. Burgess indicated to you that "I'm the
8 one you're looking for," had you already been informed by
9 Officer Flood that that was Mr. Burgess?

10 A Yes.

11 Q And what did you say, if anything, in response to
12 Mr. Burgess when he said, "I'm the one you're looking
13 for"?

14 A I told him to keep his hands where they were and
15 not to move.

16 Q Did you observe a firearm --

17 A Yes.

18 Q -- on Mr. Burgess's person?

19 A Yes.

20 Q And where was the firearm?

21 A (Reviewing.) I was positioned on his right side,
22 so it would have been on his right side.

23 Q And was the firearm secured on his right side in
24 any manner?

25 A It was in a holster.

1 Q Did you have any information from Mr. Vanaman
2 that Mr. Burgess had removed his firearm from the holster
3 at any time?

4 A No.

5 Q Did you have any information from anyone that
6 Mr. Burgess had removed his firearm from the holster at
7 any time?

8 A No.

9 Q And after you asked Mr. Burgess to keep his hands
10 where they were, what did you do next?

11 A I approached him.

12 Q Okay. Well -- okay. And how close did you get
13 to Mr. Burgess?

14 A Right up next to him.

15 Q Okay. And then what did you do?

16 A I told him I was going to take his gun.

17 Q And did he say anything?

18 A "Watch out, it's loaded."

19 Q Okay. Did he resist your attempt to take his
20 gun?

21 A No.

22 Q And did you take his gun?

23 A Yes.

24 Q And was it loaded?

25 A Yes.

1 Q And what did you do with regard to safeguarding
2 or taking possession of Mr. Burgess's firearm?

3 A I cleared the weapon. There was one round in the
4 chamber and I handed it to Officer Gonzalez.

5 Q Okay. And did you search Mr. Burgess?

6 A I don't believe I searched him. I think I just
7 took his gun from him.

8 Q Okay. Did you pat him down --

9 A He may have been patted down for other weapons.

10 Q Okay. Did you do that?

11 A I'm not sure if I did that or one of the other
12 officers did that.

13 Q Okay. And do you know if pursuant to a pat-down
14 any other firearms were found on Mr. Burgess?

15 A No; that was the only one.

16 Q Do you know if pursuant to a pat-down any other
17 weapons were found on Mr. Burgess?

18 A Not to my knowledge.

19 Q Was there any ammunition found on Mr. Burgess
20 pursuant to a pat-down?

21 A Well, he -- visible, he had two magazines on his
22 waist.

23 Q Okay. And did you take custody of those
24 magazines?

25 A I don't believe I did.

1 Q Did you order anyone to take custody of the
2 magazines?

3 A I think when he was taken into custody we took
4 the magazines from him, and whatever property he had on
5 his person.

6 Q Why didn't you take the magazines at Yale
7 Billiards prior to his arrest?

8 A Because I had the firearm so he can't shoot.

9 Q Was there anything unlawful about him having the
10 magazines on his person?

11 A No.

12 Q Okay. Any further conversation with Mr. Burgess
13 after you cleared his firearm and gave it to Officer
14 Gonzalez?

15 A At that point I don't believe so.

16 Q What did you then tell Mr. Burgess to do, if
17 anything?

18 A I don't believe I told him anything.

19 Q At that time do you -- well, let me ask you this.
20 You mentioned Officer Gonzalez. When did he come in the
21 area of Mr. Burgess to join you, Officer Garcia, and
22 Officer Flood?

23 A I'm not sure if we radioed -- it was a radio
24 transmission or if he saw us approaching him.

25 Q And Officer Fraenza, do you know what he was

1 doing during this time when you, Officers Garcia, Fraenza,
2 and Gonzalez were with Mr. Burgess?

3 A I do not.

4 Q Other than you and the Officers Garcia, Gonzalez,
5 Fraenza, and Flood, were there any other Wallingford
6 police officers on scene at Yale Billiards during this
7 investigation?

8 A Not to my knowledge.

9 Q And am I correct that Officer Flood was
10 determined to be the arresting officer?

11 A Correct.

12 Q And how was that determination made?

13 A I believe it may have been his zone or he was the
14 first one dispatched? I don't know.

15 Q And as the sergeant at the scene, the shift
16 supervisor, what was your role?

17 A To supervise.

18 Q Okay. To supervise the other officers on the
19 scene?

20 A Right.

21 Q And is it the case that -- I mean you wouldn't
22 show up to every scene or every arrest. Correct?

23 A No, I do not.

24 Q Okay. When was Mr. Burgess taken into custody?

25 A I believe after I took the firearm from him and

1 had handed off to Officer Gonzalez.

2 Q Let me ask you this. Were you involved as the
3 shift supervisor in determining whether Mr. Burgess would
4 be placed under arrest?

5 A I made that determination.

6 Just -- could I make a clarification? I'm the
7 road supervisor. I'm --

8 Q Okay.

9 A -- the lieutenant's the actual shift supervisor.
10 He's the shift commander.

11 Q Commander.

12 A I'm the road sergeant. I'm the road supervisor.

13 Q Road supervisor. Okay. I'll get that
14 terminology correct. Thank you.

15 A Just so it's not confusing.

16 Q What was your determination with regard to the
17 law that Mr. Burgess had violated?

18 A I believed he had created an annoyance or alarm
19 inside the pool hall based on his conduct.

20 Q And what was the conduct that had created the
21 annoyance and the alarm?

22 A He was inside the pool hall with an exposed
23 firearm. And we received I believe at least two phone
24 calls.

25 Q And the two phone calls that you're referring to,

1 are those from Mark Vanaman and Robert Hilton that we've
2 already discussed?

3 A That's correct.

4 Q And at the time, did you ever actually go into
5 the pool hall on May 16th, 2010, during the investigation?
6 At the scene?

7 A Eventually.

8 Q Okay. That day?

9 A Yes.

10 Q And did you talk to anyone in the pool hall?

11 A I don't believe so.

12 Q Was there anyone in the pool hall when you went
13 in?

14 A Yes. There were people inside.

15 Q And what were people doing inside the pool hall?

16 A Drinking and playing pool.

17 Q Did you talk to the owner, Robert Hilton, when
18 you went in the pool hall?

19 A He came outside.

20 Q Okay.

21 A But yes, I did talk to him.

22 Q And you talked to him on May 16th, 2010, when he
23 came outside?

24 A Was that the day, the 16th? I thought it was May
25 9th. Sorry. Yeah, May 16th.

1 Q Okay. Did you talk to him that day when he --

2 A Yes.

3 Q -- when he came outside the pool hall? And what
4 did Mr. Hilton tell you?

5 A (Reviewing.) Several people approached him, told
6 him there was a man playing pool with a gun. The man was
7 making them feel uncomfortable, and that he had also
8 called to report the incident.

9 Q You were reading from Plaintiff's Exhibit F?

10 A Yes. Page three.

11 Q The last page of the document?

12 A Yes.

13 Q Okay. Is there --

14 A While you're looking that over, can I take a
15 break?

16 Q Yes.

17 (A recess was taken at 12:01 p.m.)

18 (The proceedings resumed at 12:04 p.m.)

19 BY MS. BAIRD:

20 Q Okay. So back to Plaintiff's Exhibit F, the last
21 page, question No. 7, if I could direct your attention
22 there.

23 A Yes.

24 Q What was the reason -- how do I go about this?

25 It appears to me, and correct me if I'm wrong, in

1 Plaintiff's Exhibit F that you provide six reasons to
2 Lieutenant Martino in response to his question why written
3 statements weren't taken from the parties at the scene.

4 Am I correct in that?

5 A Yes.

6 Q Okay. With regard to the reason that appears to
7 be listed as the first reason under question No. 7, that
8 you along with fellow officers saw that the suspect had an
9 exposed firearm on his waistband that was visible to the
10 public.

11 Sergeant, on May 16th, 2010, did you believe
12 that Mr. Burgess having an exposed firearm on his
13 waistband that was visible to the public was cause in and
14 of itself, probable cause in and of itself for arrest?

15 A Could you repeat that?

16 Q Yes. On May 16th, 2010, did you believe that the
17 information you had that Mr. Burgess had an exposed
18 firearm on his waistband that was visible to the public
19 was reason in and of itself, without any other
20 information, to arrest him?

21 A Yes.

22 Q Okay. On May 16th, 2010, did you believe that
23 the information you had that Mr. Burgess was inside the
24 pool hall playing pool with the exposed firearm and was
25 making people feel uncomfortable was probable cause for

1 his arrest? In and of itself.

2 A Absolutely.

3 Q Going on to your fifth reason under question
4 seven, what information did you have that Mr. Burgess
5 caused a disturbance in the pool hall?

6 A I spoke with the original complainant,
7 Mr. Vanaman, and I also spoke with the owner of the pool
8 hall, Mr. Hilton.

9 Q Okay. And what did Mr. Vanaman describe as the
10 disturbance that occurred in the pool hall?

11 A (Reviewing.) He had an exposed firearm. He was
12 making people very uncomfortable. He asked the suspect to
13 cover the firearm, but he refused.

14 Q And what was the disturbance?

15 A To -- what I believe, making people very
16 uncomfortable is an annoyance or alarm.

17 Q Okay. So is it your testimony that making people
18 uncomfortable causes a disturbance?

19 MS. MACCINI: Objection form.

20 A Could you repeat that?

21 BY MS. BAIRD:

22 Q Other than the information you had that people
23 were uncomfortable, did you have any other information
24 about a disturbance?

25 A It was the totality of the circumstance.

1 Q And that's what I'm trying to figure out. Did
2 you see anybody crying when you went in the pool hall?

3 A No.

4 Q Did you see anybody crying outside when you
5 arrived?

6 A No.

7 Q Did you see anybody who had fallen on the ground
8 because they were running?

9 A No.

10 Q Did you see anybody injured?

11 A No.

12 Q Did anybody ask for medical attention when you
13 arrived?

14 A No.

15 Q Other than Mr. Vanaman and Mr. Hilton, did
16 anybody in the pool hall approach you to talk about the
17 incident?

18 A Not that I recall.

19 Q And how many people were in the pool hall when
20 you went in?

21 A I don't recall.

22 Q How many people were outside when you arrived?

23 A There was a small group. I don't know the
24 numbers.

25 Q And did any of them approach you to talk to you

1 about the disturbance?

2 A I think there was small talk within the group,
3 but nothing substantial; not that I pulled somebody aside
4 and individually talked to them.

5 Q Did you hear anybody screaming in the pool hall?

6 A No.

7 Q Did you hear anybody screaming in the parking
8 lot?

9 A No.

10 Q Were there cars in the parking lot?

11 A Yes.

12 Q Did Mr. Vanaman provide any information to you
13 that there had been any physical altercation in the pool
14 hall when Mr. Burgess was in there?

15 A No.

16 Q Did Mr. Hilton tell you that his business was
17 disturbed because so many people left the pool hall
18 because of a disturbance?

19 A (Reviewing.) I know Hilton was approached by
20 customers in the pool hall. I don't know exactly what the
21 customers said to Mr. Hilton.

22 Q Okay. Did you ask Mr. Hilton who those customers
23 were?

24 A Me specifically? No.

25 Q Do you know who did?

1 A I believe Officer Flood may have gotten their
2 names or spoke to somebody.

3 Q Okay. Going back to Plaintiff's Exhibit F, the
4 next to the last sentence under question seven where it
5 indicates that because of Mr. Burgess's action there was a
6 heightened police response that not only put the officers
7 at risk, but also other motorists and pedestrians.

8 Are you claiming that the officers' response to
9 Yale Billiards created annoyance and alarm on the part of
10 the officers to support an arrest?

11 MS. MACCINI: Objection to form.

12 BY MS. BAIRD:

13 Q Do you understand the question?

14 A If you could repeat it.

15 Q Well, are you claiming that the Wallingford
16 police officers were somehow victims of Mr. Burgess?

17 MS. MACCINI: Objection to form.

18 A I think everybody; not only the officers, but the
19 motorists and the public.

20 BY MS. BAIRD:

21 Q Were a victim of Mr. Burgess?

22 A Not per se his -- you know, possibly because we
23 had a subject that's just trying to make a point, and he
24 has five cops going to a man-with-a-gun call, I think
25 that's -- there is no reason, you know, for that to have

1 occurred.

2 Q When you say Mr. Burgess was just trying to make
3 a point, what makes you think that?

4 A Because it was later learned that he was trying
5 to make a point.

6 Q Well, how was that learned?

7 A Through his statements.

8 Q At that time did Mr. Burgess say anything like
9 that on scene.

10 A I don't believe on scene -- hold on one second.
11 (Reviewing.)

12 Q To you.

13 A He did say something, something about a learning
14 experience. It was going to be a learning experience.
15 I'm not sure when.

16 (Reviewing.) Yeah. On page -- the last page.
17 "I informed Burgess that he was not being arrested for
18 having the exposed firearm, but rather for creating a
19 disturbance inside the pool hall. I briefly looked at
20 the paperwork he provided me. He made comments about me
21 not knowing the law and that this was going to be a
22 learning experience for all of us."

23 Q So Mr. Burgess in that sentence you just read,
24 did you state -- are you stating to Lieutenant Martino
25 that Mr. Burgess wasn't arrested for having an exposed

1 firearm?

2 A He wasn't arrested for having an exposed firearm.

3 Q Okay. He was arrested for creating a
4 disturbance.

5 A Correct.

6 Q So that if he had had an exposed firearm but
7 there was no disturbance, would you have arrested him?

8 A Probably not.

9 Q Well, let me ask you this then. In question
10 No. 7 on Exhibit F, under your fifth reason when you
11 state, "I believed that the suspect did cause a
12 disturbance because a reasonable person that sees someone
13 other than a law enforcement officer with an exposed
14 firearm in public would be alarmed.," in that fifth reason
15 are you saying that the mere act of having an exposed
16 firearm in public causes a disturbance?

17 MS. MACCINI: Objection to form. Asked and
18 answered. But he will answer it again.

19 A I think you misunderstood --

20 BY MS. BAIRD:

21 Q Okay. I probably did.

22 A -- how I answered the previous question.

23 Q Okay.

24 A If he had walked into the pool hall with just the
25 firearm, and we had gotten a phone call asking questions

1 about the law and it didn't cause a disturbance or an
2 alarm, then he probably would not have been arrested.
3 Because it caused the annoyance and alarm and people were
4 feeling uncomfortable, that's where that came in.

5 Q Okay. Did anyone tell you that they were annoyed
6 or alarmed?

7 A To me, people being uncomfortable, that was an
8 annoyance and alarm. They didn't know what to think.

9 Q Okay. And you may have answered this already,
10 but what law was it that you determined that Mr. Burgess
11 had violated?

12 A In reviewing my report, I believe -- and my phone
13 conversation -- he was initially charged with breach,
14 breach of peace.

15 Q Okay. If you could go to the next to the last
16 page of your Exhibit B, the transcript.

17 A Yes.

18 Q What statute are you referring to in the
19 transcript when you say: Hey, are you familiar with, uh,
20 they amended the statute so you're able to open carry in
21 public?

22 What statute are you referring to?

23 A A firearms statute. Carrying a firearm.

24 Q Okay. And what understanding do you have,
25 sitting here today, of that firearms statute with regard

1 to whether it's lawful to openly carry in public?

2 A I think there's much debate on that and we
3 haven't been given a clear answer yet.

4 Q And when you say "we," do you mean officers in
5 your department?

6 A The law enforcement field. Yes.

7 Q Did you ever find out from Lieutenant Martino
8 whether the firearms statute had at some point been
9 amended to allow open carry in public?

10 A I don't believe so.

11 Q When you say "I don't believe so," do you mean --

12 A I mean I don't think -- on this day I don't think
13 so. I don't think the statute's been amended at all.

14 Q Okay. At some point was it your understanding
15 that the firearms statute required a permit holder to
16 carry his firearm concealed?

17 A Yes.

18 Q Were you taught that in the NRA safety course
19 that you took back in 1999?

20 A Yes, I was.

21 Q Were you taught that at the police academy in
22 2001 and 2002?

23 A Yes, I was.

24 Q Was there any subsequent firearms training that
25 you received while you were a Wallingford police officer

1 after you graduated from the police academy, that taught
2 you that concealed carry was required for someone who
3 holds a valid permit?

4 A No, I don't believe so.

5 Q Now, in the same transcript on the same page of
6 Exhibit B that we've been talking about, there's a
7 statement there by Lieutenant Martino that it's a
8 concealed -- if it's a concealed weapons permit. Were you
9 in agreement with Lieutenant Martino at that time that it
10 was a concealed weapons permit?

11 MS. MACCINI: Objection to form.

12 A I believed -- I think the wording -- I believe
13 you had to -- it was a pistol permit to carry, and I
14 believed under that the weapon was supposed to be
15 concealed.

16 BY MS. BAIRD:

17 Q Okay. At any time subsequent to May 16th, 2010,
18 did you go back and review the firearms statute?

19 A Could you repeat that?

20 Q At any time after May 16th, 2010 when this
21 transcript was made, have you gone back to review the
22 firearms statute?

23 A I believe I read it if not that day, then -- I
24 think I probably read it that day because I was trying to
25 see if there was any other charges I could charge him with

1 in relation to the firearm, rather than just the
2 disturbance.

3 Q And when you reviewed the statute that day, were
4 you at the police station?

5 A Yes.

6 Q Did you review it with any other officers
7 present?

8 A Probably the lieutenant.

9 Q Did you know what Lieutenant Martino was
10 referring to when he said that there was some NRA attorney
11 that wanted to argue the statute?

12 A That was the first time I heard.

13 Q Okay. Sitting here today, have you heard of the
14 case of Goldberg versus Glastonbury?

15 A Yes.

16 Q Had you heard of it on May 16th, 2010?

17 A I had not.

18 Q Do you know who Bill Wright is?

19 A Yes.

20 Q Who is he?

21 A He's our now deputy chief.

22 Q When Lieutenant Martino says in the transcript on
23 the second to the last page, the same page we're looking
24 at, I guess, where he mentions Bill Wright, he says: So
25 we need to charge, we need to charge him with the breach.

1 You had already charged him for breach.

2 A Correct. He was already under arrest.

3 Q Okay.

4 A Prior to this conversation.

5 Q Okay. Had you informed Lieutenant Martino that
6 Mr. Burgess was already under arrest for breach?

7 A I think that may have been the first time.

8 Q Did you talk to anyone in the State Police about
9 Mr. Burgess's charges or arrest on May 16th, 2010?

10 A I don't believe I called the State Police.

11 Q Okay.

12 A I think somebody may have, but I don't think it
13 was me.

14 Q On the last page of the transcript when you say
15 to Lieutenant Martino that everybody's freaking out, who
16 did you mean by "everybody"?

17 A The complainants.

18 Q Okay. And who were they?

19 A Vanaman and Hilton.

20 Q And they were freaking out?

21 A Maybe a poor choice of word, "freaking out"; but
22 they were alarmed by what was going on.

23 Q Did they tell you they were alarmed?

24 A Yes.

25 Q They said "alarmed"?

1 A No. But uncomfortable; they didn't know if this
2 was legal or not legal. Hilton had customers coming up to
3 him asking him what was going on. They asked him to
4 conceal it. He refused to conceal it.

5 Q Did Mr. Vanaman have -- well, first of all, is
6 Mr. Vanaman a police officer?

7 A No.

8 Q Was Mr. Burgess's decision not to listen to
9 Mr. Vanaman a violation of the law?

10 A No.

11 Q Did you determine whether Mr. Vanaman had any
12 legal authority over Mr. Burgess?

13 A He had none.

14 Q After May 16th, 2010, have you spoken to
15 Mr. Hilton, the owner of Yale Billiards?

16 A No.

17 Q What follow-up investigation did you do -- you
18 do -- if any, after the date of the incident?

19 A I didn't do any.

20 Q Did you instruct any officers to go back to the
21 scene to take statements after May 16th, 2010?

22 A I don't believe I instructed them.

23 Q Were you --

24 A To clarify, I can't recall. I would have to look
25 back. I'm not sure if -- no, I don't think I went back

1 there. I know we were trying to obtain a video. I'm not
2 sure -- I mean, you're going back almost three years, so
3 I'm not sure if I had gone back there a day or two after
4 to try and retrieve a video or not. Because I know we
5 were trying to retrieve a video. But other than that I
6 haven't been there in an official capacity since.

7 Q What video are you referring to?

8 A We believe he had surveillance inside the pool
9 hall.

10 Q And "he," do you mean Mr. Hilton?

11 A Mr. Hilton.

12 Q How did you come to that belief?

13 A I believe we asked him.

14 Q Did you ask him on the actual date of the
15 incident?

16 A I'm not sure if it was that day or the day after.

17 Q And for what reason did you ask Mr. Hilton that
18 the day after?

19 A For the video?

20 Q Yes.

21 A It would be evidence.

22 Q Okay. Was there a reason why you determined to
23 take more evidence after Mr. Burgess was arrested?

24 MS. MACCINI: Objection to form.

25 A I didn't make any determination. I believe the

1 lieutenant was handling.

2 BY MS. BAIRD:

3 Q Is it fair to say that on May 16th, 2010 when you
4 arrested Mr. Burgess, you believed you had enough
5 information to make the arrest?

6 A Yeah. I had probable cause.

7 Q And it was your belief that you didn't need to
8 take any written statements at that time?

9 A Correct.

10 Q If, in fact, you went back the next day or
11 subsequent to look at the video, I want to ask you
12 questions about it, so let me just clarify.

13 Do you remember, or not, going back to Yale
14 Billiards to look at a video?

15 A I don't recall. I just didn't want to say on the
16 video an absolute no, when I may have gone back. But I
17 don't recall going back.

18 Q Do you know if a video was recovered from Yale
19 Billiards?

20 A I don't know. I don't think so.

21 Q Did you discuss with Mr. Hilton on the date of
22 the incident that as the owner of the premises he could
23 post a sign saying no firearms permitted?

24 A I don't believe so.

25 Q But you're aware of that. Correct?

1 A Yes. Now.

2 Q What do you mean by that?

3 A Well --

4 Q That I just said it? But you do know that.

5 Correct?

6 A Yes.

7 Q I just want to go back and ask some pointed

8 questions to make sure I fill everything in.

9 When you approached Mr. Burgess, how would you

10 describe his demeanor?

11 A Calm. He was sitting on a bench.

12 Q At what point in time to the scenario did you

13 determine that Mr. Burgess needed to be handcuffed?

14 A I believe after I removed his firearm from his

15 waist.

16 Q Did Mr. Burgess ask you what he was being

17 arrested for?

18 A Yes.

19 Q And what did you say?

20 A I told him breach of peace.

21 Q Now, that charge was changed to disorderly

22 conduct, was it not?

23 A Yes, it was.

24 Q How did that come to be that it was changed?

25 A That's a good question.

1 Q So you're not aware?

2 A I wasn't the one that changed the charge.

3 Q Were you contacted at all by the prosecutor's
4 office with regard to the disposition of Mr. Burgess's
5 charge?

6 A They didn't contact me directly. No.

7 Q Did you have any input into the disposition of
8 Mr. Burgess's charge after he went to court?

9 A I did not.

10 Q At some point did you try to determine if
11 Mr. Burgess had a valid pistol permit?

12 A Yeah; we ran his permit.

13 Q Okay. When did you run that?

14 A That evening.

15 Q And when you say "that evening," was it prior to
16 his arrest?

17 A After his arrest.

18 Q After his arrest.

19 A I believe so, yes.

20 Q Did you ask Mr. Burgess on scene if he had a
21 valid pistol permit?

22 A I'm not sure if I did. I think he may have told
23 us. I'm not exactly sure how that occurred. But that I
24 wasn't questioning whether or not he was legally able to
25 carry the firearm, it was more that he was under arrest

1 for disturbance.

2 Q It would have been a concern to you if he had a
3 firearm without a permit, though. Correct?

4 A Oh, yeah. Then there would be more charges.

5 Q Was there any report made to you on scene or at
6 any time, that Mr. Burgess threatened anyone?

7 A No. Not to me.

8 Q What did Mr. Burgess say to you, if anything,
9 about his right to openly carry his firearm?

10 A (Reviewing.) After he was arrested he -- after I
11 informed him what he was being arrested for, he told me I
12 was going to have big problems if I arrest him because
13 he's allowed to open carry, and then he told me he had
14 paperwork to prove it.

15 Q Did you see any paperwork that Mr. Burgess had?

16 A Yes.

17 Q Did you take custody of it? Or take it from him,
18 I should say?

19 A I don't remember if we took a copy of it or not.

20 Q Did you read it?

21 A I briefly looked at it.

22 Q Did Mr. Burgess ever complain to you that he was,
23 in fact, the one that had been subject to Mr. Vanaman's
24 disorderly conduct?

25 A I believe something like that transpired after --

1 or while he was being released. I'd have to refer to
2 reports or something. I don't recall.

3 Q Who took Mr. Burgess back to the police
4 department after he was arrested?

5 A Officer --

6 Q It wasn't you?

7 A No.

8 Q Okay. That's all I really wanted to know, so you
9 don't have to look.

10 A My involvement was over at that point.

11 Q Okay. That's what I'm getting at.

12 When you got back to the police station, did you
13 see Mr. Burgess at all anymore?

14 A Yes. As he was being released.

15 Q Okay. So as he was being released, do you recall
16 Mr. Burgess saying anything about Mr. Vanaman's conduct in
17 the pool hall?

18 A Yeah; I believe like I just answered. I think he
19 mentioned something like that, and I recall seeing that in
20 one of the reports. I can't tell you exactly from memory
21 what it was.

22 Q Okay. Do you recall making any statement to
23 Mr. Burgess about police officers in your department
24 needing more training on the subject of open carry?

25 A (Reviewing.) I don't recall.

1 Q Sitting here today, do you believe that you would
2 benefit from more training on the firearms statute
3 regarding open carry or concealed carry?

4 A Yeah, I think we're always beneficial from
5 training.

6 Q Do you recall Mr. Burgess asking while you were
7 present, when he was told he was going to be released,
8 what the department -- what you police officers would do
9 if he put his firearm back in his holster and open-carried
10 it out of the department?

11 A I don't recall.

12 Q Do you have any recollection of Mr. Burgess's
13 record being run en route or after you arrived at the
14 scene? Let's see if I can help you out here.

15 A Yeah. I thought I saw it somewhere.

16 Q Look at around page five or six of Exhibit B.

17 A Negative File 5, which means he wasn't wanted.
18 Negative SPRC. One domestic violence charge out of Ohio;
19 if that was even him. Sometimes those out-of-states they
20 get the names, sound-alikes, so I'm not even sure that's
21 him or not. That was it.

22 Q Okay. Is it fair to say that you received
23 information en route to the scene that Mr. Burgess had a
24 domestic violence charge out of Ohio?

25 MS. MACCINI: Objection to form.

1 A That was all after the fact.

2 BY MS. BAIRD:

3 Q That was after.

4 A Yes. Because we hadn't identified him yet.

5 Q Wait a second. When you say "after the fact,"
6 after what fact? I'm getting confused here.

7 A (Reviewing.) Yeah. He was already detained when
8 we ran his op number. And that's when they ran his --
9 it's on page -- it would be my page six. At the top it
10 says, "Dispatch: 1-2 we have the owner on the line."
11 Going down, I say on the radio, "We have him detained."
12 And then "2-5" -- which is Officer Garcia -- runs his op
13 number and that's how he was identified. And that's when
14 his history was -- right before the Signal 88 was canceled
15 is when we learned that he had a -- that domestic violence
16 charge came about.

17 Q Well, let me understand. On the bottom of your
18 page five it has a statement by dispatch. Correct?

19 A Page five?

20 Q Yes.

21 A What statement are you referring to?

22 Q The statement by dispatch indicates "units at
23 Yale Billiards be advised the subject is sitting in the
24 first booth to the left of the main entrance. He's
25 sitting with a blond woman, curly hair."

1 At the time dispatch made that statement, was
2 Mr. Burgess in custody?

3 MS. MACCINI: Objection to form.

4 A No.

5 BY MS. BAIRD:

6 Q Okay. And then proceeding then on to the next
7 page, six, at what point in that conversation do you say
8 he was in custody?

9 A I say, "Okay we got him." Lieutenant asks if
10 he's secured and I say, "We have him detained."

11 Q Okay. And Lieutenant Martino, he indicates right
12 before "Okay, we got him," "He's apparently sitting on a
13 bench right to the left of Yale Billiards." Had you
14 provided that information to Lieutenant Martino?

15 A No.

16 Q And prior to that you indicate, "Can you find out
17 from the owner exactly where he's sitting right now?"

18 A Correct.

19 Q Okay. So when Lieutenant Martino indicates he's
20 apparently sitting on a bench right to the left of Yale
21 Billiards, had you already found out from Officer Flood
22 that Mr. Burgess was outside? Or was Lieutenant Martino
23 the first to indicate that to you?

24 A I don't --

25 MS. MACCINI: Objection to form.

1 A I don't know.

2 BY MS. BAIRD:

3 Q Okay.

4 A It would help if there was a time stamp, but --

5 Q Right. Exactly.

6 And it's your testimony that at the time the
7 dispatch came out about the domestic violence charge in
8 Ohio, you had already made the determination to arrest
9 Mr. Burgess?

10 A Yes; he was already under arrest.

11 Q Okay. And had you made the determination that he
12 was under arrest for breach of peace?

13 A Yes.

14 MS. BAIRD: If we could have this marked as

15 G.

16 (Plaintiff Exhibit G marked for I.D.)

17 BY MS. BAIRD:

18 Q Exhibit G that's just been marked, sergeant, is
19 an internal affairs investigation date-stamped July 14th,
20 2010. I have a couple of questions about it.

21 If I could direct your attention to page seven,
22 eight of Exhibit G where it begins, on page seven,
23 "Synopsis of Sergeant Michael Colavolpe's written
24 response on 6/14/2010." If I could ask you to read the
25 last paragraph of page seven under that synopsis, and

1 then page eight, and indicate to me if that synopsis is
2 accurate.

3 A Want me to read the whole entire thing?

4 Q Yes.

5 A Out loud or to myself?

6 Q To yourself is fine.

7 A Oh, okay.

8 (Reviewing.) Okay.

9 Q Is there any statement in that synopsis that is
10 not accurate, from your perspective?

11 A Page eight, the first paragraph. I'm not sure if
12 I directed Officer Gonzalez and Fraenza to the rear of
13 Yale Billiards or not. And also in that same paragraph,
14 Vanaman told him that the suspect later identified as
15 Richard Burgess was previously inside Yale Billiards.

16 Yeah; I don't know if he mentioned to me that he
17 was previously inside. Because I believe when I arrived
18 and I was talking with Vanaman, I still believed
19 Mr. Burgess to be inside the pool hall.

20 Other than that, everything else seems accurate.

21 Q Okay. So in the second paragraph on page eight
22 where it states in the last sentence, "Sergeant Colavolpe
23 could see that the suspect was armed with a handgun on his
24 right side that was affixed to his belt," is it your
25 testimony that you noticed that only after Officer Flood

1 pointed out that Mr. Burgess was, in fact, outside and
2 sitting on the bench?

3 A Could you rephrase that?

4 Q Yes. In the last sentence of paragraph two on
5 page eight, it says, "Sergeant Colavolpe could see that
6 the suspect was armed with a handgun on his right side
7 that was affixed to his belt." You saw that when
8 Mr. Burgess was sitting on a bench outside. Right?

9 A Yes.

10 Q And it's your testimony that you only saw that
11 after Officer Flood told you that Mr. Burgess was sitting
12 on that bench.

13 MS. MACCINI: Objection to form. His
14 testimony -- and you've done this repeatedly.
15 His testimony was that Officer Flood said
16 there's a man that matches the subject on the
17 bench. He did not say that Officer Flood said
18 that it was Mr. Burgess.

19 MS. BAIRD: Oh, okay.

20 BY MS. BAIRD:

21 Q Well, do you recognize Mr. Burgess sitting here
22 today?

23 A Kind of sort of.

24 Q Okay.

25 A Cut his hair or something.

1 Q Okay. And the individual that was pointed out as
2 sitting on the bench, did you later identify him as
3 Mr. Burgess that day?

4 A Yes.

5 Q Okay. What I'm trying to figure out, and let me
6 try to get the question right, is in the synopsis on the
7 second paragraph of page eight, it says that the suspect
8 was -- it was described -- the suspect described by both
9 the Public Safety communications dispatchers as well as
10 the description given to the on-scene officers by
11 Mr. Vanaman matched a male subject that was sitting on a
12 bench just to the east of the front door to Yale
13 Billiards. Sergeant Colavolpe could see that the suspect
14 was armed with a handgun on his right side that was
15 affixed to his belt.

16 When could you see first that the suspect was
17 armed with a handgun on his right side that was affixed
18 to his belt?

19 A When Officer Flood told me.

20 Q Okay. That was my question.

21 A Right.

22 Q And at what point in the parking lot were you in
23 relationship to Mr. Burgess, the person on the bench, when
24 Officer Flood told you that?

25 A I believe I answered that earlier. We were, I

1 don't know, one or two rows --

2 Q Okay.

3 A -- from the building and making our approach. My
4 concentration was on the door. There was a small group
5 outside. So I was paying more attention to the door,
6 rather than the group outside.

7 Q Okay. The door to the billiards hall.

8 A Right. Correct.

9 MS. BAIRD: I think I'm about done. Let me
10 just take a 10-minute break and I may be done.

11 (A recess was taken at 12:49 p.m.)

12 (The proceedings resumed at 1:03 p.m.)

13 BY MS. BAIRD:

14 Q Did there come a time when you found out what
15 happened to Mr. Burgess's case when he went to court?

16 A Yes.

17 Q Okay. And when did you find that out?

18 A I don't recall exactly.

19 Q Was it in the same year, maybe, 2010?

20 A Yeah. Probably within a month or two after the
21 arrest.

22 Q And how did you find out?

23 A Oh, I'm not sure. Somebody told -- I don't know
24 if it was somebody from records or Lieutenant Martino or
25 one of the other officers. I don't recall who I heard it

1 from.

2 Q Were there any -- let me ask it this way. Did
3 you as a supervisor, the road supervisor, in any way
4 address with the people you supervised the issue of
5 arresting an individual who is openly carrying a firearm
6 after Mr. Burgess's arrest?

7 MS. MACCINI: Objection to form.

8 A No. I think the only thing I may have done as a
9 supervisor was read the memo issued by the chief at roll
10 call.

11 BY MS. BAIRD:

12 Q And when did that memo issue?

13 A I'd have to look at the memo to get a date.

14 Q And other than reading the memo issued by the
15 chief at roll call, were there any other times you
16 addressed the issue of open carry with people you
17 supervised?

18 A Not that I recall.

19 Q As a result of the memo issued by the chief that
20 you read at roll call, did any policies change at the
21 department?

22 A Not that I believe so, no.

23 Q Okay. Were you involved at all in any
24 determination whether the department would recommend to
25 the State Police that Mr. Burgess's permit be revoked?

1 A Not to my knowledge.

2 Q Did that issue come up at all in the course of
3 the arrest?

4 A I don't recall if -- like I said earlier, I don't
5 know if somebody called the State Police or not. I don't
6 believe it was me, so --.

7 Q Okay. Do you know it wasn't you that called the
8 police?

9 A I know in there it says to call the State Police,
10 but I don't know if somebody actually did or if contact
11 was made. I don't recall calling them and asking them.

12 MS. BAIRD: Let me have these marked as H
13 and then I.

14 (Plaintiff Exhibit H and I marked for I.D.)

15 BY MS. BAIRD:

16 Q I'm handing you Plaintiff's Exhibit H which is
17 labeled at the top "Torrington Police Department Roll Call
18 Training." Have you ever seen this document?

19 A I believe so.

20 Q When did you see it?

21 A I don't recall when.

22 Q Where did you receive it from?

23 A I believe on Mr. Burgess's Web site.

24 Q For what reason did you go to Mr. Burgess's
25 Web site?

1 A Curiosity.

2 Q In looking at Exhibit H which is labeled
3 "Torrington Police Department Roll Call Training," I'd
4 like to direct your attention to the middle of the
5 document where it starts out "If the open carry." Do you
6 see that paragraph?

7 A Yes.

8 Q If you could just read that paragraph. Not out
9 loud.

10 A (Reviewing.)

11 Q Am I correct, sergeant, that based on your
12 testimony today, you are not in agreement with the
13 paragraph contained in Exhibit H that begins "If the open
14 carry of a firearm"?

15 A Correct. I'm not in agreement with that.

16 Q Okay. Then if I could provide you with Exhibit
17 I, Plaintiff's Exhibit I which is a three-page document.
18 Have you seen this document before?

19 A No, I haven't.

20 Q If I could direct your attention to the second
21 page, the paragraph about three-quarters of the way down
22 which is identical to the paragraph you just read in
23 Exhibit H. It states -- I'm going to read it for the
24 record. "If the open carry of a firearm by a valid permit
25 holder is legal, and another person or persons who" --

1 MS. BAIRD: Did you get a copy?

2 MS. MACCINI: I did.

3 MS. BAIRD: You did. Okay.

4 BY MS. BAIRD:

5 Q "If the open carry of a firearm by a valid permit
6 holder is legal, and another person or persons are
7 alarmed, annoyed or inconvenienced because they are
8 unaware that the permit holder is exercising his legal
9 right to carry his weapon unconcealed, this in itself
10 would not constitute a crime on the part of the permit
11 holder."

12 Am I correct that based on your testimony today,
13 you are not in agreement with that paragraph?

14 A Correct.

15 Q Okay.

16 A It's written by the same author. That's a belief
17 of the same captain.

18 MS. MACCINI: Are you going to identify
19 these documents for the record and make clear
20 that they're not documents of the Wallingford
21 Police Department?

22 MS. BAIRD: In referring to Exhibit H on
23 the record, I had indicated that it's labeled at
24 the top "Torrington Police Department." I could
25 further identify it and say it is labeled

1 "Torrington Police Department Roll Call Training
2 9/2011." There is no indication on Exhibit H,
3 that I see, that it was issued by the
4 Wallingford Police Department. At the bottom it
5 indicates a Captain Francis Balzano, who my
6 understanding is not a captain with the
7 Wallingford Police Department, but is with the
8 Torrington Police Department.

9 It is part of the record as an exhibit, so
10 it does speak for itself. Do you need any
11 further clarification that it wasn't issued by
12 Wallingford?

13 MS. MACCINI: No. That was perfect. I
14 just wanted it clear on the record what my
15 client is testifying to.

16 BY MS. BAIRD:

17 Q Well, sergeant, just for the record, it is part
18 of the record. So it is clear what you're testifying to
19 because it's in the record.

20 Okay. And going on to --

21 MS. MACCINI: The deposition exhibits are
22 not --

23 MS. BAIRD: Are you going to --

24 MS. MACCINI: I'm sorry.

25 MS. BAIRD: Because they are part of the

1 record.

2 MS. MACCINI: I mean it's not part of the
3 court reporter's record, it's part of what you
4 retain. I don't get a copy of it with the
5 deposition transcript and neither does my client
6 when he's reviewing the transcript --

7 MS. BAIRD: So do you have a concern that
8 the exhibits that we are marking at depositions
9 are not part of the record?

10 MS. MACCINI: I have a concern and object
11 to this entire line of questioning, as long as
12 we're here. How can he testify to literature
13 from other police departments?

14 MS. BAIRD: Well, I'm asking him questions
15 about it, and if he says, "I have no idea,
16 Attorney Baird, what you're talking about," he's
17 free to say that. Okay.

18 So again, we should probably resolve
19 whether the exhibits that we've identified in
20 the course of discovery in depositions is part
21 of the record, and my understanding is that it
22 is.

23 MS. MACCINI: There's no authentication for
24 either one of these documents. I don't know
25 whether these are actual -- I don't know whether

1 your client -- where these came from, whether
2 these are current training, whether it's still
3 in effect. I don't know where either one of
4 these things came from.

5 MS. BAIRD: And in the course of discovery
6 there are different rules for exhibits, but
7 certainly on summary judgment or at trial you
8 can make those objections if a proper foundation
9 has not been laid.

10 MS. MACCINI: I will.

11 MS. BAIRD: Okay. Good.

12 BY MS. BAIRD:

13 Q Okay. Going forward then, you have Exhibit I in
14 front of you; is that correct?

15 A Yes.

16 Q And you had indicated that it's your
17 understanding that the same individual wrote Exhibit I as
18 Exhibit H. Correct?

19 A It's -- they're exactly the same.

20 Q Okay. And sitting here today, you don't know
21 where Exhibit I issued from; is that correct?

22 A It says the Wethersfield Police Training Unit.

23 Q Okay. And are you familiar with an instructor
24 named Sergeant Michael Connolly of Wethersfield?

25 A No, I am not.

1 Q Okay. Fair enough.

2 MS. BAIRD: That's it. Thank you.

3 Your witness, Attorney Maccini.

4 MS. MACCINI: I don't have any questions.

5

6 (Whereupon, the witness was excused and the

7 proceedings were concluded at 1:14 p.m.)

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SIGNATURE PAGE

I, MICHAEL COLAVOLPE, have read the foregoing transcript of the testimony given at the deposition held on DECEMBER 27, 2012, and it is true and accurate to the best of my knowledge as originally transcribed or with the changes as noted on the attached Errata Sheet.

MICHAEL COLAVOLPE

STATE OF CONNECTICUT
COUNTY OF _____

Sworn and subscribed to before me this _____ day of _____, 2013.

NOTARY PUBLIC

My Commission Expires: _____

CERTIFICATE

STATE OF CONNECTICUT)
) SS: West Hartland, Connecticut
COUNTY OF HARTFORD)

I, Patricia Tyszka, a Notary Public duly commissioned and qualified in and for the County of Hartford, State of Connecticut, do hereby certify that pursuant to notice there came before me on the 27 day of December 2012, at 10:46 a.m., the following named person, to wit: MICHAEL COLAVOLPE, who was by me duly sworn to testify to the truth and nothing but the truth of his knowledge touching and concerning the matters in controversy in this cause; and that he was thereupon carefully examined upon his oath and his testimony reduced to writing under my direction; that the deposition is a true record of the testimony given by the witness; that the deposition may be signed before a Notary Public.

I further certify that I am neither attorney nor counsel for, nor related to, nor employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

In witness whereof, I have hereunto set my hand and affixed my notarial seal this _____ day of _____, 2013.

Patricia Tyszka, LSR, RMR
Notary Public
License No. 46

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