

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 DOUGLAS DORTENZIO

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 2:00 p.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

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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 DOUGLAS DORTENZIO,
2 Of Wallingford Police Department, 135 North Main
3 Street, Wallingford, Connecticut 06492, having
4 first been duly sworn, was examined and testified
5 as follows:

6
7 (Plaintiff Exhibit J - L marked for I.D.)

8
9 DIRECT EXAMINATION

10
11 BY MS. BAIRD:

12 Q Good afternoon, chief. How are you?

13 A I'm fine.

14 Q As I indicated when you walked in, my name is
15 Rachel Baird. I represent Rich Burgess in the case of
16 Burgess versus Town of Wallingford. Are you familiar with
17 that case?

18 A Yes.

19 Q Have you been deposed before?

20 A Yes.

21 Q So you know that if you need to take a break or
22 if a question is not clear or if your attorney objects,
23 just give the attorneys time to talk about it?

24 A I understand.

25 Q Okay. Good. So let's get started.

1 MS. MACCINI: I'm sorry. I'm sorry to
2 interrupt, Attorney Baird. I just want to put
3 on the record as I did in Sergeant Colavolpe's
4 deposition, your client is electronically
5 recording this deposition, and we stipulated at
6 the last deposition that this is in compliance
7 with Judge Haight's order. It will not be
8 disseminated on the Internet; it's only for his
9 personal use. It will not be disseminated in
10 any way, shape or form.

11 MS. BAIRD: I don't know if I would term it
12 as a stipulation. I indicated that we will, of
13 course, follow the court's order in all
14 respects.

15 MS. MACCINI: And by following the court's
16 order, quote/unquote, this is the court's order:
17 Specifically, to restore judicial efficiency -
18 both in light of the acrimonious climate
19 prevailing at depositions and the noted
20 susceptibility of audio recordings to splicing -
21 no party in this action shall publish or
22 disseminate audio recordings in any manner
23 without prior permission of the Court. Unless
24 or until their contents are admitted into
25 evidence, audio recordings shall be held as

1 confidential matter with access only by, one,
2 parties and/or their attorneys of record and,
3 two, the staff of the aforementioned attorneys
4 under the attorneys' direct supervision and
5 responsibility. Anyone who publishes or
6 disseminates audio recordings without permission
7 of the court shall be subject to sanctions.

8 It's my expectation that you and your
9 client are agreeing to abide by this court order
10 dated September 21st, 2012.

11 BY MS. BAIRD:

12 Q Are you ready, chief?

13 A Yes.

14 Q Okay.

15 MS. MACCINI: Are you not agreeing to --

16 MS. BAIRD: I've already stated that I
17 follow the court's order.

18 MS. MACCINI: And that it will not be
19 published on the Internet.

20 BY MS. BAIRD:

21 Q Are you ready, chief?

22 A I said yes.

23 Q Okay. How long have you been the chief of the
24 Wallingford Police Department?

25 A Since 1990.

1 Q Okay. And how long has your career in law
2 enforcement spanned? Over what time?

3 A I started in 1972. Four years.

4 Q What departments have you been associated with
5 other than Wallingford?

6 A New Haven and Wallingford.

7 Q So it's fair to say you started in New Haven in
8 1972?

9 A Yes.

10 Q And you left there in 1990.

11 A Yes.

12 Q What was your position when you left?

13 A I held the rank of major.

14 Q Did you receive training prior or at the time you
15 entered the New Haven police force?

16 A Prior to or at the time? Yes.

17 Q Okay. And what was that training?

18 A Well, I went to the police academy.

19 Q How long did it last?

20 A Twenty-six weeks.

21 Q And since that time of your 26-week course, have
22 you attended any other training? In excess of a week.

23 A Yes.

24 Q Okay. And what has that training consisted of?

25 A Well, I went to -- I finished college. I went to

1 graduate school. I finished the 36th session at Quantico,
2 Virginia.

3 Q When did you receive your degree in college?
4 Your bachelor's.

5 A '79.

6 Q Okay. What was that in?

7 A Criminal justice.

8 Q And you said you have a master's?

9 A I do.

10 Q What year is that?

11 A '88.

12 Q And what did you receive that in?

13 A Business administration.

14 Q And where from?

15 A Sacred Heart University.

16 Q Okay. I want to direct your attention back to
17 May 16th, 2010. You were the chief of the police
18 department at that time?

19 A I was.

20 Q Did it come to your attention after May 16th,
21 2010, that an individual by the name of Richard Burgess
22 had been arrested at the Yale Billiards club?

23 A Yes.

24 Q How did that come to your attention?

25 A I don't recall.

1 Q Were you called at the time the arrest was being
2 made on May 16th, 2012 [sic]?

3 A No.

4 Q What's your normal schedule of work during that
5 time?

6 A When you say at that time, what are you referring
7 to?

8 Q I'm sorry. May of 2010.

9 A I can't speak to that specific day, but routinely
10 I'm in the office by about 7:30 in the morning and
11 generally I'm there until 4:30, 5:00 o'clock in the
12 afternoon.

13 Q Do you have any memory of being at the office at
14 the police department when the issue of Mr. Burgess at
15 Yale Billiards came up?

16 A No.

17 Q And do you recall who informed you about
18 Mr. Burgess's arrest?

19 A No.

20 Q Is it fair to say that -- well, let me ask you.
21 Are you informed about all arrests that are made at the
22 Wallingford Police Department? And I'll focus on
23 May 2010.

24 A No.

25 Q Was there a reason that you know of why

1 Mr. Burgess's arrest was brought to your attention?

2 A I'm not certain.

3 Q And when Mr. Burgess's arrest was brought to your
4 attention, what were you told about it?

5 A I don't know what I was told initially. I can't
6 recall that. I am aware generally of what the
7 circumstances were. And the litigation; I know what the
8 claims are in the litigation. But I don't remember
9 precisely what occurred that day.

10 Q Okay. And after you were informed of
11 Mr. Burgess's arrest, did you as the chief direct anyone
12 to do anything or did you yourself respond in any way to
13 follow up on the arrest?

14 A Not the arrest, per se. No.

15 Q Okay. Is it fair to say that you didn't
16 participate at all in the decision to arrest Mr. Burgess?

17 A That's correct.

18 Q Were you contacted by the court, the Superior
19 Court, with regard to the disposition of Mr. Burgess's
20 case at court?

21 A I don't believe so.

22 Q At some point did you learn what the disposition
23 of Mr. Burgess's case in court was?

24 A I can't recall if it's in your complaint or not.

25 Q I'm going to show you a document that is dated

1 July 16th, 2010.

2 MS. BAIRD: And Attorney Maccini, if you
3 could just look on there with him because I
4 didn't make a copy of it, and I don't think I
5 really need a copy of it.

6 BY MS. BAIRD:

7 Q With regard to that document that's been marked
8 as Exhibit --

9 A L.

10 Q L. Thank you, chief. Have you seen that
11 document before?

12 A Yes.

13 Q And is that your signature on the bottom of the
14 document?

15 A Yes, it is.

16 Q And what was the purpose of drafting that
17 document?

18 A We have a policy of notifying complainants of the
19 outcome of their complaints.

20 Q Okay. And prior to that document -- again, this
21 is Plaintiff's Exhibit K -- I'll ask you the same
22 question, if you're familiar with that document?

23 A Yes.

24 Q And is that your signature that appears on it?

25 A It is.

1 Q What was the purpose of that document?

2 A It's a form letter that is used to notify
3 complainants that their complaint has been received and
4 who is going to be assigned to investigate the matter.

5 Q And how would you characterize Mr. Burgess's
6 complaint? Was it an internal affairs complaint?

7 A Yes.

8 Q And what was he complaining of?

9 A I don't recall. It would be in the investigative
10 report.

11 Q Does that letter refresh your recollection at all
12 with regard to what he was complaining about?

13 A (Reviewing.) No.

14 Q And who did you assign to look into Mr. Burgess's
15 complaint?

16 A The letter states Lieutenant Anthony Martino.

17 Q Was Lieutenant Martino the only lieutenant in the
18 police department at the time, in May 2010?

19 A No.

20 Q What other lieutenants were there?

21 A Mikulski. Flis. Homestead. Kane. Zakrzewski.
22 How many have I -- and Martino would be the seventh?

23 Q I have him as the sixth. Unless I missed one.

24 A I'm missing someone.

25 Q So approximately six or seven lieutenants?

1 A Yes.

2 Q How big was the department overall back in May of
3 2010?

4 A Its sworn strength I think was 71. I don't
5 remember how many vacancies there may have been at the
6 time.

7 Q Has it changed considerably in the past
8 two-and-a-half years in terms of numbers of sworn
9 officers?

10 A It has. With the economy, we've lost about
11 5 percent of the budgeted strength.

12 Q In May of 2010, did you have a specific unit
13 called the internal affairs division?

14 A No.

15 Q Did you have officers who -- sworn officers who
16 were by and large assigned internal affairs
17 investigations?

18 A Any of the lieutenants.

19 Q So at that time you had a choice of six or seven
20 individuals to assign the internal affairs investigation
21 commenced by Mr. --

22 A Potentially.

23 Q -- Burgess's complaint?

24 A Potentially, yes.

25 Q How at that time did you make the decision to

1 assign Lieutenant Martino to Mr. Burgess's complaint?

2 A I believe he was the supervisor in charge of the
3 shift where the officers in question, the defendants, were
4 working.

5 Q How did the fact that Lieutenant Martino was the
6 supervisor in charge of the shift that the officers were
7 working on May 16th, 2010 impact your decision to give him
8 the investigation?

9 A How did it impact my decision?

10 Q Yes.

11 A He's got access to the individuals to interview
12 them to ask them questions. He's not at the scene. He
13 works in the office; he's not on the road. He would have
14 no firsthand knowledge of what transpired at the pool
15 hall.

16 Q Okay. And when you say he would have access to
17 the officers on the scene, you mean he worked the same
18 shift?

19 A He works the same shift. If he wanted to sit
20 down and question them, he could easily do so.

21 Q And what shift did the other lieutenants work at
22 that time?

23 A Some of them would have worked different shifts
24 in patrol. One would have worked in records. One is
25 assigned to the traffic accident unit, and the other works

1 in charge of my detective bureau.

2 Q Okay. Do you know if Lieutenant Martino had any
3 input into the decision to arrest Mr. Burgess?

4 A I don't believe he did.

5 Q Do you know if he had any conversations with the
6 officers on scene at Yale Billiards with regard to
7 arresting Mr. Burgess?

8 A I'm not certain.

9 Q Okay. I'm handing you a document that's
10 previously been marked as Exhibit B. Have you seen this
11 document before? I'll give you a moment. Take as much
12 time as you need.

13 A (Reviewing.) It appears from the first line to
14 be a transcript of telephone calls and radio transmissions
15 that occurred through dispatch relative to a particular
16 investigation.

17 Q And have you read this document, this transcript
18 before?

19 A I may have read this before.

20 Q If I could direct your attention -- unless you
21 need more time to look at it? Just tell me if you do.

22 A Do you want me to look at a particular section?

23 Q I do. Yes. I do. If you could look at the next
24 to the last page. Does your exhibit indicate a
25 conversation or statements transcribed from Lieutenant

1 Martino and Sergeant Colavolpe?

2 A Yes.

3 Q Okay. Is it fair to say that Lieutenant Martino
4 and Sergeant Colavolpe were engaged in a discussion about
5 a concealed weapons permit?

6 A Yes.

7 Q And directing your attention to the fifth
8 statement from the bottom -- in other words, the bottom
9 one's Lieutenant Martino, and then if you go up to another
10 statement by Lieutenant Martino that begins with "Wright
11 said"?

12 A Yes.

13 Q At the end of that statement Lieutenant Martino
14 indicates: So we need to charge, we need to charge him
15 with the breach.

16 Do you see that?

17 A Yes.

18 Q Did that concern you at all in assigning
19 Lieutenant Martino to Mr. Burgess's complaint, that
20 Lieutenant Martino had been involved already in
21 conversations about what to arrest Mr. Burgess for?

22 A No.

23 MS. MACCINI: Objection to form.

24 BY MS. BAIRD:

25 Q Why not?

1 A The next line says that he's already under
2 arrest.

3 Q Okay. And that was the reason it didn't concern
4 you? Would it have concerned you if Lieutenant Martino
5 had been the decision-maker with regard to the arrest?

6 A If he was the decision-maker, perhaps.

7 Q Okay. And it's your understanding that it was
8 Sergeant Colavolpe who was the decision-maker?

9 A Yes.

10 Q Did you instruct any officers to follow up on
11 investigating Mr. Burgess after his arrest on May 16th,
12 2010?

13 A In the context of this investigation?

14 Q Yes.

15 A No.

16 Q Okay. Did you instruct any officers to go out to
17 Yale Billiards and attempt to obtain a video from Yale
18 Billiards' owner?

19 A No.

20 Q Did you instruct any officers to attempt to get
21 any statements, written statements from individuals who
22 were at Yale Billiards that evening?

23 A No.

24 Q Were you in contact with the State Police in 2010
25 regarding Mr. Burgess's permit to carry?

1 A I don't believe so.

2 Q Did you talk to the State Police at all about
3 Mr. Burgess's arrest?

4 A I don't think so.

5 Q Are you aware of whether Mr. Burgess's state
6 permit was revoked?

7 A I am not.

8 Q And you didn't make any request to the State
9 Police to do so.

10 A I don't believe so.

11 Q There is an Exhibit G, if I could hand that over
12 to you. Is the document identified as Exhibit G and
13 further identified as an internal affairs investigation,
14 the document that you reviewed prior to issuing
15 Plaintiff's Exhibit L to Mr. --

16 A Yes.

17 Q -- Burgess? Was the document identified as
18 Exhibit G the internal affairs investigation, the final
19 draft of the report from Lieutenant Martino to you?

20 A A final draft?

21 Q Yes. The final. The final --

22 A Final version?

23 Q Final version.

24 A Yes. Yes.

25 Q Were there previous versions to the report?

1 A Not that I recall.

2 Q Okay. In other words, you did not review any
3 previous versions to Exhibit G.

4 A No.

5 Q Did you issue any directives to Lieutenant
6 Martino after you reviewed Exhibit G, with regard to any
7 additional work that needed to be done?

8 A Not that I recall.

9 Q Did Lieutenant Martino interview you at all with
10 regard to his internal affairs investigation?

11 A I don't believe so.

12 Q Did you have any input into the internal affairs
13 investigation conducted by Lieutenant Martino?

14 A I assigned it.

15 Q You assigned it.

16 A Yes.

17 Q Okay. And then you reviewed it; is that correct?

18 A Yes.

19 Q And in between assigning it and reviewing it, any
20 other input?

21 A Not that I recall.

22 Q Had the issue of an individual in possession of a
23 valid state permit openly carrying a pistol or revolver
24 ever come to your attention prior to May 10th --

25 A I don't believe so.

1 Q -- 2010?

2 A I don't believe so.

3 Q In May of 2010, were you aware of a case James
4 Goldberg versus Town of Glastonbury?

5 A Only superficially.

6 Q Okay. In May of 2010, what was your
7 understanding of the requirements of the firearms statute
8 29-35 with regard to carrying concealed?

9 A My understanding was that at the time it was
10 supposed to be concealed, and I believe there are state
11 publications to that effect.

12 Q Okay. And you had, in fact, issued a letter
13 dated May 27th, 2010 that's been marked as Exhibit J that
14 cites some of those publications; am I correct?

15 A Yes.

16 Q What was your reason for issuing this May 27th,
17 2010 letter?

18 A I believe in large part it had to do with the
19 confusion by our work force between what they were
20 experiencing or reading in the news and what they had been
21 previously taught.

22 Q And what was your understanding of what the work
23 force had previously been taught?

24 A That the weapons had to be concealed.

25 Q Had you issued any directives prior to May 16th,

1 2010, informing the work force that firearms needed to be
2 concealed?

3 A Not to the best of my recollection, no.

4 Q Is that the training that you received at the
5 police academy in 1972?

6 A Yes. And it's been continued far after that.

7 Q Do you know if that's still the training?

8 A I do not.

9 Q And when you say "far after that," when is the
10 last you know that that was --

11 A I've seen a publication produced by the state
12 that's distributed both to law enforcement and the public
13 that I think had a publication date of 2002.

14 Q And when you say "by the state," do you mean the
15 State Police?

16 A I --

17 MS. MACCINI: Objection to form.

18 BY MS. BAIRD:

19 Q Do you understand the question?

20 A I do.

21 Q Okay.

22 A I don't know if it indicates that it's put out by
23 the State Police. My recollection is that the cover said
24 State of Connecticut.

25 Q Okay. What was your goal in drafting this May

1 27th, 2010 letter to the work force?

2 A Clarifying what I understood to be the current
3 state of affairs.

4 Q Between May 16th, 2010 and May 27th, 2010, had
5 your understanding of the current affairs regarding that
6 firearms statute changed at all?

7 A Between the time of?

8 Q Mr. Burgess's arrest --

9 A Okay.

10 Q -- and the time you wrote this memo to the work
11 force, had there been any change in your understanding of
12 the requirements of 29-35 to carry concealed?

13 A Yes. I think so.

14 Q And what was that change in understanding based
15 on?

16 A Well, I talked to a number of attorneys at the
17 time. I had not been previously familiar with the federal
18 court decision entitled Gonzalez versus the Village of --
19 whatever it's listed in this document. That was new to
20 me. So yes, all those things were learned between the
21 dates that you specified.

22 Q And what was your position on May 27th, 2010 when
23 you issued this memo to the work force with regard to the
24 lawfulness of openly carrying?

25 A That they -- the question of how a weapon is

1 carried may or may not be a violation of law.

2 Q Was it your understanding when you issued this
3 memo on May 27th, 2010, that mere open carry of a firearm
4 by a valid permit holder violated the law?

5 A Depends under the circumstances.

6 Q And are you able to articulate those
7 circumstances?

8 A Well, I think that based on the decisions that
9 I've seen, including Gonzalez, it clearly illustrates
10 cases where it could be unlawful. It's not necessarily
11 so.

12 Q Okay. And Gonzalez, that's a Wisconsin case?

13 A Yes.

14 Q And are you aware of their firearms statute?

15 A I am not.

16 Q Okay. Do you know if it's similar to
17 Connecticut's firearms statute?

18 A I do not know that.

19 Q Do you know if their breach of peace statute is
20 similar?

21 A I don't recall if their breach of peace or
22 disorderly conduct statute may be very similar to
23 Connecticut.

24 Q Okay. Is that something you looked into at the
25 time?

1 A Yes.

2 Q Okay. What concerns, if any, did you have -- and
3 you may not have; that's why I'm asking -- what concerns,
4 if any, did you have about Mr. Burgess's arrest after you
5 reviewed the internal affairs investigation?

6 A I'm not sure I understand your question.

7 Q Okay. What concerns did you have about whether
8 there was probable cause for Mr. Burgess's arrest after
9 you read the internal affairs investigation?

10 A I didn't have --

11 MS. MACCINI: Objection to form.

12 BY MS. BAIRD:

13 Q You didn't have any concerns?

14 A I did not.

15 Q Okay. In your opinion, did the totality of the
16 circumstances in Mr. Burgess's case support his arrest?

17 A Yes.

18 Q And what were those circumstances?

19 A That the patrons of the facility were in fear;
20 that they -- some left the facility, called the
21 department, were concerned about their welfare and the
22 welfare of other people there; that there was some alarm
23 associated with Mr. Burgess's conduct at the facility that
24 day.

25 Q Okay. And that's information that you obtained

1 from the internal affairs investigation?

2 A Yes.

3 Q Did you obtain that information from any other
4 source?

5 A No.

6 Q Did you interview any of the officers who were at
7 the scene on May 16th, 2010?

8 A I don't believe so.

9 Q How was this May 27th, 2010 document distributed
10 to the work force?

11 A It's been distributed at several times
12 electronically and in person.

13 Q Was it read at roll call; do you know?

14 A I don't know that.

15 Q Other than the May 27th, 2010 memo to the work
16 force, has there been any other -- well, let me ask you.
17 Have there been any other memos issued to the work force
18 about the concealed versus open-carry issue?

19 A No.

20 Q Has there been any firearms training conducted at
21 the Wallingford Police Department since May 16th, 2010?

22 A In what context?

23 Q Well, any context. Well, let me ask you this.
24 What firearms training does Wallingford Police Department
25 provide?

1 A We comply with the P.O.S.T. requirements for the
2 State of Connecticut.

3 Q And you're talking about the certification
4 classes?

5 A Yes.

6 Q Did Wallingford give any instruction on its own
7 outside those certification requirements with regard to
8 the firearms laws after May 16th, 2010?

9 A I'm not sure.

10 Q Do you know who would know that?

11 A I don't know. We -- we send our employees to
12 outside training. We have had attorneys come in and speak
13 to the law to our -- regarding law changes to our work
14 force. I can't say as to whether or not that particular
15 issue was covered by those attorneys.

16 Q Do you have a training officer --

17 A I do.

18 Q -- at the department? Who is that?

19 A Carmelo Ticino.

20 Q And he was a training officer in 2010 as well?

21 A Yes.

22 Q Have you gone to any chiefs' meetings where --
23 Police Chiefs Association meetings where this issue of
24 concealed versus open carry under the firearms statute has
25 been discussed?

1 A I've been to a lot of meetings. I can't say
2 whether it was discussed or not.

3 Q Have you discussed this issue with any other
4 chiefs?

5 A Yes.

6 Q Who have you discussed it with?

7 A Well, Tom Sweeney, who is in Glastonbury is the
8 one that comes to mind. I may have discussed it with
9 others closer to my particular region of the state. I'm
10 not sure.

11 Q Okay. And when did you have a conversation with
12 Chief Sweeney?

13 A I know Tom both professionally and socially.
14 There's been many conversations between us.

15 Q Did the conversation occur after Mr. Burgess had
16 filed his lawsuit against the Town of Wallingford?

17 A I don't know.

18 Q Okay. Let me show you a document that's been
19 identified as Plaintiff's Exhibit No. H. I'll just ask
20 you if you've seen that document before?

21 A Yes.

22 Q When did you first -- when was it first brought
23 to your attention?

24 A About five minutes before this deposition.

25 Q Oh. Okay. So is it fair to say you weren't

1 aware that that document existed before today?

2 A I don't believe I've seen it before.

3 Q Did you have time to review it already?

4 A No; just scanning it. No, I haven't really read
5 it. Scanned it.

6 Q Do you know Captain Balzano?

7 A I do not.

8 Q Do you know Chief Maniago?

9 A I do.

10 Q Have you ever discussed this issue of open versus
11 concealed carry with Chief Maniago?

12 A I don't believe so.

13 Q Let me ask you this. About halfway down that
14 page there is a paragraph that begins with "If the open
15 carry of a firearm."

16 A Yes.

17 Q And the paragraph reads, and I'm just going to
18 read it into the record: If the open carry of a firearm
19 by a valid permit holder is legal, and another person or
20 persons are alarmed, annoyed or inconvenienced because
21 they are unaware that the permit holder is exercising his
22 legal right to carry his weapon unconcealed, this in
23 itself would not constitute a crime on the part of the
24 permit holder.

25 Do you agree with that?

1 A No.

2 Q And what part of it don't you agree with?

3 A I don't believe it's the law.

4 Q And I'm going to show you -- I'm looking for the
5 Wethersfield one. Plaintiff's Exhibit I. Have you seen
6 that document before?

7 A No.

8 Q Okay. Do you know Chief Cetran?

9 A I know him by sight. I don't know him otherwise.

10 Q Okay. And have you ever discussed the issue of
11 open versus concealed carry with --

12 A No.

13 Q -- Chief Cetran?

14 A No.

15 Q Okay. Chief, let me ask you this. It sounds to
16 me like your position is that whether a person violates
17 the law in openly carrying a firearm depends on whether
18 others are annoyed or alarmed by that conduct. Is that a
19 fair statement?

20 MS. MACCINI: Objection to form.

21 A In part, yes.

22 BY MS. BAIRD:

23 Q Okay. And what would you have to add to that?
24 What am I missing?

25 A Well, I don't know what all the totality of the

1 circumstances would be, but based on the totality of the
2 circumstances, the conduct could be unlawful.

3 Q Okay. So after reading the internal affairs
4 investigation, what was the totality of the circumstances
5 that in your opinion supported Mr. Burgess's arrest on
6 May 16th?

7 A Well, I wasn't present, so I'm not sure I'm -- I
8 could answer that question.

9 Q Okay. Are you aware that Mr. Burgess made a
10 complaint against a Mark Vanaman, an individual who called
11 the police department?

12 A I know the name, yes.

13 Q Okay. And are you aware that Mr. Burgess made a
14 complaint against Mark Vanaman?

15 A Yes.

16 Q How did you become aware of that complaint?

17 A Well, I believe it was written in the internal
18 affairs report.

19 Q And what was your understanding of the complaint
20 that Mr. Burgess made against Mr. Vanaman?

21 A I can't recall what the specific nature of the
22 complaint was.

23 Q Did you have any input into the determination not
24 to act on the criminal complaint by Mr. Burgess in
25 arresting Mark Vanaman?

1 A Tell me the first part of that question again?

2 Q Did you have any input or decision-making
3 authority --

4 A No.

5 Q -- in the decision not to arrest Mark Vanaman?

6 A No.

7 Q Did you yourself contact the owner of Yale
8 Billiards to inform him that he could post a sign
9 indicating no firearms allowed on his premises?

10 A No.

11 Q Were you aware that he could do that in 2010?

12 A Yes.

13 Q Did you direct anybody in your department to
14 inform Mr. Hilton that he could post a sign?

15 A No.

16 Q In your opinion, did your May 27th, 2010 memo to
17 the work force succeed in clarifying the issue of under
18 what circumstances an individual who is openly carrying
19 should be arrested?

20 MS. MACCINI: Objection to form.

21 A I'm not sure I can tell you what my work force
22 thought of the memo.

23 BY MS. BAIRD:

24 Q Okay. Well, I mean the purpose of the memo was
25 to -- what was the purpose of the memo?

1 A I think I've already stated it was to clarify the
2 issue as I understood it at that time.

3 Q Okay. Have you received any indication since the
4 memo's issuance that it succeeded in its mission to
5 clarify the issue?

6 A I don't know one way or another.

7 Q Have you done any follow-up since May 2010, the
8 issuance of the memo, to determine if it has succeeded in
9 clarifying the issue for the work force?

10 A No.

11 Q Do you have any idea if the issue is clarified
12 for the work force?

13 A If you're asking me their state of mind, I can't
14 answer that question.

15 Q Well, you're the chief who would have the
16 responsibility for the work force implementing or
17 enforcing the law; is that correct?

18 A Yes.

19 Q Does it concern you that you don't know their
20 state of mind with regard to this issue?

21 MS. MACCINI: Objection to form.

22 A I've already indicated I've distributed it on
23 more than one occasion, given them a -- given my
24 supervisors an opportunity to ask questions. And beyond
25 that I don't know whether they -- I don't know what their

1 state of mind is with respect to having read that
2 document.

3 BY MS. BAIRD:

4 Q Have any circumstances arisen since Mr. Burgess's
5 arrest on May 16th, 2010, that have brought the issue to
6 the Wallingford Police Department of concealed versus open
7 carry?

8 A Not that I am aware of.

9 Q And did any of your supervisors in fact come to
10 you and ask you any questions about your memo or the issue
11 after --

12 A No.

13 Q Do you know whether or not the new officers in
14 your department -- well, let me ask you this. Since
15 May 2010, have you gotten any new officers in your
16 department?

17 A Yes.

18 Q Do you know what they've been taught at the
19 police academy regarding this issue of whether concealed
20 carry is required?

21 A I do not know.

22 MS. BAIRD: I don't have any further
23 questions. Thanks.

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

25 MR. BURGESS: Can we maybe just take a

1 break --

2 MS. BAIRD: Oh, my client wants to talk.

3 (A recess was taken at 2:41 p.m.)

4 (The proceedings resumed at 2:46 p.m.)

5 BY MS. BAIRD:

6 Q Two issues. Were you contacted by the Bristol
7 Press with regard to Mr. Burgess's arrest?

8 A I don't remember.

9 Q I was afraid of that. I have to find the
10 article. I think I can find it. It will probably take
11 about 10 minutes.

12 MS. MACCINI: Okay.

13 BY MS. BAIRD:

14 Q In the complaint -- did you have an opportunity
15 to review the complaint?

16 A When it was first filed. Not since.

17 Q Okay. Well, we allege in paragraph 77 of the
18 complaint that there is a quote in the Bristol Press dated
19 April 10th, 2010, attributed to you, indicating, quote,
20 we're concerned about this movement and how they are
21 testing the waters to carry everywhere, end quote. sic

22 Do you recall making a statement like that to
23 the Bristol Press?

24 A No.

25 Q Do you recall making any statement to the Bristol

1 Press?

2 A I'm not sure I even talked to them.

3 Q Okay. So you don't know if you talked to the
4 Bristol Press or not?

5 A That's correct.

6 Q And you don't know what you said or didn't say to
7 the Bristol Press.

8 A That's correct.

9 Q Did you talk to any other media about
10 Mr. Burgess's arrest, that you know of?

11 A I don't know.

12 Q How many conversations, if any, did you have with
13 Mr. Burgess directly by telephone?

14 A I don't know.

15 Q Did Mr. Burgess contact you to ask that
16 Lieutenant Martino be taken off the internal affairs
17 investigation because of his involvement in the case?

18 A I don't know.

19 Q Did it come to your attention that at the
20 Memorial Day parade in Wallingford that Mr. Burgess was
21 approached by an officer from your department?

22 A I don't know.

23 Q So you don't know if Mr. Burgess was approached
24 on Memorial Day of 2010 by an officer in your department
25 regarding him openly carrying a firearm?

1 A Not that I'm aware.

2 Q Okay. And the officer's name was Lieutenant
3 Homestead.

4 A Okay.

5 Q Okay. Does that refresh your recollection at
6 all?

7 A Well, I have a Lieutenant Homestead.

8 Q Okay. Did Lieutenant Homestead ever come to you
9 with regard to a conversation he had with Mr. Burgess on
10 Memorial Day 2010 about him openly carrying a firearm?

11 A Not that I recall.

12 MS. BAIRD: Okay. That's it.

13 MS. MACCINI: Thank you.

14

15 (Whereupon, the witness was excused and the
16 proceedings were concluded at 2:53 p.m.)

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I, DOUGLAS DORTENZIO, 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.

DOUGLAS DORTENZIO

STATE OF CONNECTICUT
COUNTY OF _____

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

NOTARY PUBLIC

My Commission Expires: _____

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