

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

- - - - - x

BARBARA C. DOUDEL,

Plaintiff

CIVIL NO.

vs.

3:11CV1164 VLB

CITY OF NORWALK, Et Al,

Defendants.

- - - - - x

DEPOSITION OF OFFICER JARED ZWICKLER

Taken before Dolores A. Falzarano, RMR,
LSR 111 a Notary Public within and for
the State of Connecticut, pursuant to
Notice and the Federal Rules of Civil
Procedure, at the Office of Corporation
Counsel, 125 East Avenue, Norwalk,
Connecticut, on April 12, 2012, commencing
at 10:10 a.m.

TYSZKA COURT REPORTING

189 Old Forge Road

West Hartland, CT

860.379.6955

1 APPEARANCES:

2 For the Plaintiff:
3 LAW OFFICE OF RACHEL M. BAIRD
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5 rbaird@rachelbairdlaw.com
By: RACHEL M. BAIRD, ESQ.

6
7 For the Defendant City of Norwalk:
8 CITY OF NORWALK
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11 jspahr@norwalkct.org
By: M. JEFFRY SPAHR, ESQ.
12 Deputy Corporation Counsel

13
14 Also Present:
15 Barbara C. Doutel, Plaintiff
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S T I P U L A T I O N S

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It is stipulated by counsel for the parties that all objections are reserved until the time of trial, except those objections as are directed to the form of the question.

It is stipulated and agreed between counsel for the parties that the proof of the authority of the Notary Public before whom this deposition is taken is waived.

It is further stipulated that any defects in the Notice are waived.

It is further stipulated that the deposition may be signed before any Notary Public.

1 (Deposition commenced: 10:10 a.m.)

2

3 (Plaintiff's Exhibits 1 to 9:

4 Marked for Identification.)

5

6 OFFICER JARED B. ZWICKLER, Deponent,

7 having offices at 1 Monroe Street,

8 Norwalk, Connecticut, 06854, being first

9 duly sworn by the Notary Public,

10 was examined and testified, on his

11 oath, as follows:

12

13 MR. SPAHR: I'll reserve the right

14 to object to questions if they're not

15 reasonably calculated to lead to the

16 introduction of admissible evidence at

17 the time of trial.

18 MS. BAIRD: If he answers the

19 question, we can address it later.

20 MR. SPAHR: If you ask him

21 something clearly intended to harass

22 him, I have rights. So . . .

23 MS. BAIRD: Okay. Well, I would

24 assume that we --

25 MR. SPAHR: I'm hoping that doesn't

1 happen. I don't know.

2

3

DIRECT EXAMINATION

4

5 BY MS. BAIRD:

6 Q Good morning, Officer Zwickler. How are
7 you this morning?

8 A Good. How are you?

9 Q I'm doing well. Have you been through
10 this process of having your deposition taken
11 before?

12 A I have not.

13 Q Let me just go over a few things then.
14 What you may or may not have gone over again with
15 your attorney, but as a matter of record, I want
16 to make clear, if you don't understand a question
17 that I ask, tell me. And I'll attempt to clarify
18 it.

19 If you need to take a break at anytime,
20 again, just tell me or tell your attorney and
21 we'll take a break because we want you to be able
22 to focus on answering the questions and not feel
23 uncomfortable.

24 If you need to talk to your attorney,
25 then we can take a break for that; and, basically,

1 if you have any questions about anything, feel
2 free to ask, okay?

3 A Okay.

4 Q How long have you been a police officer
5 with the Norwalk Police Department?

6 A Since February 2010.

7 Q February 2010. So, that's a little over
8 two years, correct?

9 A That's correct.

10 Q Had you been in law enforcement prior to
11 that?

12 A No.

13 Q What were you doing prior to becoming a
14 police officer?

15 A I worked for an ambulance company.

16 Q Were you an EMT?

17 A I worked at -- my work capacity was
18 dispatcher, 911 operator but I'm a certified EMT
19 as well.

20 Q Okay. What ambulance company did you
21 work for?

22 A American Medical Response.

23 Q American Medical Response?

24 A Yes.

25 Q How long did you work for AMR?

1 A I think three years part time. The
2 majority of it was part time.

3 Q It sounds like that you worked for AMR
4 from 2007 to 2010 maybe?

5 A Yeah.

6 Q And during that time you were a
7 dispatcher?

8 A Uh-hum.

9 Q That was another thing I omitted to tell
10 you. When you answer the question, you have to
11 answer out loud because the reporter is taking it
12 down.

13 A Okay.

14 Q So, from 2007 to 2010 approximately you
15 worked with American Medical Response?

16 A Yes.

17 Q During that time you were a dispatcher?

18 A Yes.

19 Q Did you ever go out in the actual
20 ambulance to respond to calls?

21 A No.

22 Q What kind of training did you receive to
23 be an EMT?

24 A There's a state course and I think it's
25 like 130 hours, I'm not exactly sure how many

1 hours, but that's pretty much it. Classroom,
2 hands-on. You could do some rotation in the ER.

3 Q What year did you graduate high school?

4 A 2005.

5 Q Between 2005 and 2007, what were you
6 doing work-wise or school-wise?

7 A I was a full-time student.

8 Q Where did you go to school?

9 A University of New Haven.

10 Q What did you study there?

11 A Criminal justice.

12 Q Did you receive any certificate or
13 degree from your studies at the University of New
14 Haven?

15 A I did. I received a Bachelor of
16 Science.

17 Q And was that Bachelor of Science in
18 criminal justice?

19 A Yes, it was.

20 Q When you take criminal justice courses
21 at the University of New Haven, is there any kind
22 of focus; did you have a minor or anything like
23 that?

24 A Yeah. I think it's called focus or
25 something like that. I think it was investigative

1 classes, I guess.

2 Q So, when you went to the University of
3 New Haven and got your Bachelor of Science in
4 criminal justice, were you interested in becoming
5 a police officer at that time?

6 A I was.

7 Q Did you have a professor named Michael
8 Lawlor there?

9 A I did.

10 Q What did you have him for?

11 A I think it was search and seizure.

12 Q Did you like his class?

13 A Yeah.

14 Q So, when you graduated from the
15 University of New Haven, what was that, in 2009?

16 A 2008.

17 Q You were already working as a
18 dispatcher?

19 A I was.

20 Q For American Medical Response?

21 A Yes.

22 Q Did you go full time to the University
23 of New Haven or part time?

24 A Part time.

25 Q After graduating from the University of

1 New Haven, did you go on to take any graduate
2 courses towards a Master's degree or anything like
3 that?

4 A No.

5 Q How many police departments did you
6 apply to after graduation from University of New
7 Haven or while you were still going there?

8 A I can't recall.

9 Q The job you landed was in Norwalk,
10 correct?

11 A Yes.

12 Q When you got the offer of employment
13 from the Norwalk Police Department, were there
14 arrangements made for you to have training at the
15 police academy?

16 A Yes.

17 Q What police academy did you attend?

18 A POST Academy in Meriden.

19 Q How long was that training at POST?

20 A About five or six months.

21 Q And you lived there in Meriden while you
22 were training?

23 A Well, you don't live there. You stay
24 there four nights a week and you come home on the
25 weekends.

1 Q Did you train with any other Norwalk --
2 did you train with any other individuals who went
3 on to the Norwalk Police Department after
4 graduation?

5 A I did.

6 Q Approximately how many?

7 A In my class there was one.

8 Q What kinds of things did you study at
9 POST?

10 A You study laws of evidence, laws of
11 arrest, search and seizure, motor vehicle, penal
12 code, arrest control. They have an MRT
13 certification; traffic, you know, driving, they
14 have practical scenarios; they have a physical
15 fitness part of it, too.

16 Q Did you take any courses in firearms?

17 A Yeah, firearms.

18 Q And when I say -- I'll divide that up --
19 did you take any courses where you actually shot
20 firearms?

21 A Yes.

22 Q Did you take any courses where you
23 focused on the laws in the state of Connecticut
24 regarding firearms?

25 A Yes.

1 Q What was the name of the course that you
2 took in the classroom about the laws in
3 Connecticut involving firearms?

4 A I can't recall.

5 Q How many classes did you take that had
6 do with firearms law?

7 A I don't know.

8 Q Are you sure you took some?

9 A I can't recall if there was a
10 specialized course, like, if it was titled, like,
11 if it had a title for firearms. It was covered.

12 Q It may have been thrown with some other
13 courses is what you're saying?

14 A It's possible.

15 Q Did you take any courses in search and
16 seizure?

17 A Yes.

18 Q Was the course particularly called
19 search and seizure?

20 A Yes.

21 Q And you recall that one?

22 A That it was titled search and seizure?

23 Q Yes?

24 A Yes.

25 Q What other courses do you recall taking

1 specifically?

2 A Like the ones I listed before?

3 Q Yes.

4 A Search and seizure, laws of evidence,
5 laws of arrest, penal code, motor vehicle,
6 domestic violence courses, MRT, which is like
7 medical response, arrest control, firearms. There
8 was other ones that would be a two-hour segment or
9 like a one hour class.

10 But those were like the major ones you
11 went to over and over again.

12 Q When you were at POST, was there a
13 captain or major there named Alaric Fox who was
14 the comandante?

15 A No.

16 Q You don't recall that name?

17 A Not that I recall.

18 Q Who were some of the teachers that you
19 had at POST; do you remember any of them?

20 A There was Detective Ameleto, there was
21 Officer Noonan, Sergeant Anderson, Lieutenant
22 Konesky. There was a captain -- I can't remember
23 his last name though.

24 Q Were these teachers from municipal
25 police departments or from the State Police; do

1 you know?

2 A They were employed by POST; POST
3 Academy.

4 Q Did they wear uniforms?

5 A No.

6 Q You don't know if they were civilians or
7 law enforcement?

8 A I think they were law enforcement.

9 Q But you don't know what departments they
10 were associated with?

11 A They're associated with POST.

12 Q I think you already testified the
13 training lasted about five months. So, when did
14 you start the training; would that have been about
15 in February 2010?

16 A About then.

17 Q And so, you finished up the training
18 sometime towards the middle of 2010?

19 A Yeah, I can't remember. I think it was
20 July or August.

21 Q What did you do after you completed the
22 training in terms of going to work for the Norwalk
23 Police Department?

24 A Well, there was in-house training at the
25 police department.

1 Q Is that called field training?

2 A No, it's called in-house training.

3 Q What is that?

4 A In-house training.

5 Q Well, describe it for me.

6 A Like they have things that they want to
7 cover; policies and procedures, the director's
8 manual, firearms qualification. They get your
9 uniforms all set. They set you up with field
10 training. They tell you who you're going to work
11 with, what shifts; that kind of thing.

12 Q How long did that last?

13 A I think a week or two.

14 Q Did you have somebody specifically who
15 provided that in-house training who was your
16 teacher?

17 A The officers that were in the training
18 department.

19 Q And how many officers are in the
20 training department?

21 A There's two officers and a lieutenant.

22 Q And you at the time when you received
23 this in-house training, who were the officers in
24 the training department?

25 A Officer Pennoyer and Officer Spagnuolo.

1 Q And then the lieutenant? Who was the
2 lieutenant?

3 A Lieutenant Cunningham.

4 Q After you finished this in-house
5 training, what was your next assignment within the
6 Norwalk Police Department?

7 A Field training.

8 Q Did you have a particular field training
9 officer?

10 A I did.

11 Q And who was that?

12 A I had officer Fitzmaurice, Officer
13 Mosher and Officer Williams.

14 Q How long did that field training last?

15 A Ten weeks or something. Ten weeks on
16 the street, then there's a week in the jail and a
17 week in communications.

18 Q It sounds like it was about 12 weeks of
19 field training?

20 A About that.

21 Q And that field training, did that take
22 place during a probationary period?

23 A Yes.

24 Q How long is the probationary period on
25 the Norwalk Police Department and specifically

1 your probationary period?

2 A I don't know.

3 Q Does it vary among police officers?

4 A No. Unless it's extended.

5 Q Are you still on probation?

6 A No.

7 Q So, it did end at some point?

8 A Yes.

9 Q You have no idea how long it was?

10 A No.

11 Q Is there a reason why you don't know how
12 long it was?

13 A No.

14 Q Did they tell you how long it was?

15 A Yes. I just can't recall.

16 Q Does six months sound about right, or a
17 year?

18 A I can't recall.

19 Q But you know you're off of it?

20 A Yes.

21 Q How did you find out you're off of it?

22 A At the time it was relevant to me, so I
23 looked in the directive and found out when I was
24 off probation, but it's not something I recall.

25 Q Okay. How did your job change, if it

1 changed at all, after you were off of probation?

2 A It didn't.

3 Q You were already -- what kind of shifts
4 were you working on probation?

5 A Patrol.

6 Q And when you went on patrol, did your
7 field training officers go out with you?

8 A Well, when I completed field training,
9 no. After completion of field training they did
10 not.

11 Q That would have been after, what, that
12 12-week period I think you said?

13 A Uh-hum.

14 Q When you finished that 12-week training,
15 you may have been on probation?

16 A I was on probation at the completion of
17 field training for a period of time. I don't know
18 what that period of time was.

19 Q Prior to ending probation, you were out
20 on patrol, correct?

21 A Yes.

22 Q Now, in February 16th of 2011 do you
23 know if you were off probation at that point?

24 A I don't know.

25 Q Do you know if you completed field

1 training at that point, February 16, 2011?

2 A Yes.

3 Q What shift were you working around that
4 time frame?

5 A I believe the day shift.

6 Q Now, I'm going to direct your attention
7 to February 16, 2011 and ask you about a call that
8 you received to go to a location in Norwalk,
9 Connecticut, 83 East Avenue, Norwalk. Do you know
10 where that is?

11 A Yes.

12 Q Had you ever been to that location
13 before February 16, 2011?

14 A I can't recall.

15 Q When you were called to that location on
16 February 16, 2011, are you going to need to refer
17 to your police report to recall?

18 A Yes.

19 Q This is an exhibit that's been marked
20 Exhibit 2. I'll go ahead and hand it to you so
21 you have the actual exhibit. I'll ask you if you
22 recognize that four-page document and I'll give
23 you a moment to look at it.

24 (Pause.)

25 Q Officer Zwickler, did you have time to

1 look at Exhibit 2, that four-page document I
2 handed you?

3 A Yes.

4 Q Do you recognize Exhibit 2?

5 A Yes.

6 Q What do you recognize it as?

7 A It's a police report.

8 Q Does your name appear on Exhibit 2?

9 A Yes.

10 Q For what reason does your name appear on
11 Exhibit 2?

12 A It says, "officer's signature."

13 Q Were you involved in the incident that's
14 reflected in the Exhibit 2?

15 A Yes.

16 Q How?

17 A I was the assigned officer.

18 Q How did you come to be the assigned
19 officer to this incident, reported in Exhibit 2?

20 A Because dispatch assigned me to it.

21 Q And you were working a shift when you
22 were assigned to it?

23 A Yes.

24 Q What shift were you?

25 A Day shift.

1 Q Was that your regular shift?

2 A Yes.

3 Q When you received the call, what was
4 your response?

5 A I responded to 83 East Avenue for a
6 complaint.

7 Q When you arrived at 83 East Avenue in
8 Norwalk in response to a threatening complaint,
9 what was the first thing that you did?

10 A I contacted -- from my report it says I
11 contacted Janine Roy who's the office manager.

12 Q Had you already been provided Ms. Roy's
13 name through dispatch?

14 A I can't recall.

15 Q When you arrived there, did you ask for
16 Janine Roy?

17 A I can't recall.

18 Q When you arrived there, were you met by
19 somebody at 83 East Avenue?

20 A I can't recall.

21 Q Is it fair to say that except for what's
22 in your report you don't recall that day?

23 A No.

24 Q You do recall some of that day?

25 A Yes.

1 Q At some point do you recall talking to
2 Janine Roy?

3 A Yes.

4 Q Do you recall that based on your report
5 or do you recall that separately?

6 A I mean, there's nothing that really
7 stands out about like if you ask me to quote our
8 dialogue, I couldn't do that because that was a
9 year ago. So, I would have to reference my report
10 if you want me to tell you what I spoke to her
11 about.

12 Q Do you remember what she looks like?

13 A No.

14 Q And when you arrived there, do you know
15 if you spoke to Ms. Roy first or spoke to somebody
16 else before her?

17 A I don't recall. I think I spoke to her
18 first.

19 Q When you walked into the office, did you
20 just walk in the office or was it locked or did
21 somebody let you in?

22 A I don't remember.

23 Q And when you walked into the office,
24 were you met by Ms. Roy or did you have to walk up
25 to a desk to talk to her?

1 A I don't remember.

2 Q It says in your report at Exhibit 2 that
3 Ms. Roy had reported to you that she checked the
4 office voicemail in the morning?

5 A Yes.

6 Q Is that what you recall?

7 A Yes, that's what it says in my report.

8 Q Well, do you recall it -- should we just
9 go through your report and I'll ask you if you
10 recall it separately?

11 A I don't understand.

12 Q We'll just go piece by piece then. So,
13 on page 2 of your incident report, which is
14 Exhibit 2, first line says, "I responded to
15 83 East Avenue, Internal & Respiratory Associates
16 for a threatening complaint."

17 Do you recall, separate from the report,
18 going to 83 East Avenue for a threatening
19 complaint?

20 A Yes, I recall going there.

21 Q And it says, "Janine Roy, the office
22 manager, reported she checked the office voicemail
23 this morning and received a threatening voicemail
24 from a former patient, Duane Doutel. Do you
25 recall separate from the report Ms. Roy telling

1 you that?

2 A Yes.

3 Q Where were your in the office when
4 Ms. Roy told you that?

5 A I don't remember.

6 Q How did Ms. Roy appear when she told you
7 that?

8 A I don't remember.

9 Q The second paragraph of the case
10 incident report at page 2 indicates that Roy
11 stated that Doutel recently stopped seeing Dr.
12 Staw and was angry with one of the results of one
13 of the procedures he conducted.

14 Do you recall Ms. Roy telling you that?

15 A No.

16 Q That's why you wrote it in the report;
17 so there would be a record of it?

18 A I'm not sure of the question.

19 Q Let me ask you: Why did you put that
20 sentence in your report? "Roy stated that Doutel
21 recently stopped seeing Dr. Staw and was angry
22 with one of the results of one of the procedures
23 he conducted."

24 A Because it was part of the nature in the
25 complaint.

1 Q Who was the complainant in this case?

2 A Well, I believe it to be Roy because she
3 was the first person to listen to the voicemail.

4 Q Now, going back to Exhibit 2 at page 2,
5 the second paragraph, the second sentence it says,
6 "Roy stated she had been advised by other office
7 staff that Doutel carries a gun with him to each
8 visit." Do you recall Roy saying that to you?

9 A Yes.

10 Q Did she say to you that she had seen
11 Mr. Doutel carry a gun?

12 A I can't recall if she said that. I
13 mean, I just don't remember. I know she said she
14 was aware of it. I would have to ask her because
15 I can't say what she saw or not.

16 Q Did you ask her that?

17 A Yes.

18 Q And what did she say?

19 A I don't remember.

20 Q Well, did you write down what she said?

21 A "Roy stated she's been advised by the
22 other office staff that Doutel carries a gun with
23 him to each visit."

24 Q Did you follow up and say, Did you see
25 him with a gun?

1 A I don't recall my line of questioning
2 with her.

3 Q Did ask you ask her if she'd been
4 carrying a gun before?

5 A I don't remember my line of questioning.

6 Q The third line in the second paragraph
7 on page 2 of Exhibit 2 says, "Roy stated Doutel
8 often brandishes the firearm and sets it on the
9 counter and discussed it with Dr. Staw."
10 Separate from the report, do you recall Roy
11 telling you that?

12 A Yes.

13 Q And did Roy tell you that Mr. Doutel
14 brandishes the firearm?

15 A Yes.

16 Q Was that Janine Roy's word; "brandish"?

17 A I don't remember.

18 Q And did Ms. Roy tell you that Mr. Doutel
19 sets the firearm on the counter?

20 A I cannot recall.

21 Q Well, it says in the report she did. Is
22 there any reason not to take the report at its
23 word that she told you that?

24 A Whatever it says in the report. If
25 that's what she said -- which line is it?

1 Q I'm sorry, page 2 of Exhibit 2, the
2 second paragraph. It's probably the third
3 sentence.

4 (Pause.)

5 A Yes.

6 Q So, my question was: Did Roy tell you
7 that Mr. Doutel sets the firearm on the counter?

8 A Yes.

9 Q Did she point out which counter to you?

10 A No.

11 Q Did you ask her if she'd seen him set
12 the firearm on the counter?

13 A I can't recall.

14 Q Did you ask her how she knew that?

15 A I can't recall what I asked her.

16 Q Was it -- when you wrote, "Roy stated
17 Doutel often brandishes the firearm," did you
18 understand Ms. Roy to mean she had seen Mr. Doutel
19 do that?

20 A I understand she was aware that he did
21 that.

22 Q Did you ask her how she was aware of
23 that?

24 A I believe I did, but I can't exactly
25 remember my line of questioning. So, I don't

1 know.

2 Q Was there a reason you didn't have
3 Janine Roy make a statement; a written statement?

4 A No.

5 Q She was the complainant, correct?

6 A Well, in this case I think there are
7 multiple complainants, but she was the first
8 person I talked to.

9 Q And she told you that -- did Ms. Roy
10 tell you that Mr. Doutel brandished the firearm?

11 A I don't know if that's the wording she
12 used.

13 Q Was that your word, "brandish"?

14 A It's either my word or her word, but I
15 can't recall who said it.

16 Q Let's say it was her word. If someone
17 says, "brandish" to you, what does that mean?

18 A Display.

19 Q Just display?

20 A Yes.

21 Q So, if I set this pen in the middle of
22 the table, I'm brandishing it?

23 A Yes.

24 Q So, there is no difference between
25 display and brandish?

1 A I'm not really sure. There might be.
2 Like, I don't know if there's a dictionary I could
3 reference for that. That's what I took it to
4 mean; like display it.

5 Q Is that a word that you have used in the
6 past in any police reports; "brandish"?

7 A I can't recall.

8 Q When that word came up in your
9 conversation with Ms. Roy, somehow did you know
10 what it meant?

11 MR. SPAHR: Objection to form. He
12 never said it came up.

13 BY MS. BAIRD:

14 Q Let me ask you: Did it come up in the
15 conversation, "brandish"?

16 A I can't recall.

17 Q Sitting here today looking at your own
18 report, what does the word, "brandish" In your
19 report mean to you?

20 A That Mr. Doutel displays the firearm and
21 sets it on the counter.

22 Q Is there anything unlawful about
23 brandishing a firearm the way you just described
24 it?

25 A I'm not sure. Like, I'm not sure of the

1 question you're asking me. Could you rephrase it
2 or something?

3 Q Okay. Well, when you wrote, "Roy stated
4 Doutel often brandishes the firearm," did you
5 write that to mean that in some manner brandishing
6 the firearm was threatening?

7 A I'm not really sure. I'm not sure.
8 Again, I'm not sure what you're asking me. In my
9 conversation with the complainants, from the
10 doctor and his wife, I think that his display of
11 the firearm was unusual to them.

12 Q Do you know how many times, based on
13 your conversation with, let's say, Janine Roy,
14 Mr. Doutel brandished a firearm at the office?

15 A No, I don't know.

16 Q Did you ask her?

17 A I don't remember.

18 Q Do you know how many times, based on
19 your conversation with Dr. Staw, that Mr. Doutel
20 brandished a firearm at the office?

21 A I don't remember.

22 Q Do you know if it was once?

23 A I don't remember.

24 Q Do you know if it was more than once?

25 A I do not remember.

1 Q Do you know in your conversation with
2 Sandy Staw how many times Mr. Doutel brandished a
3 firearm at the office?

4 A I don't remember.

5 Q Do you know if it was even one time?

6 A He said it happened once at least.

7 Q Going on then to Exhibit 2, page 2 the
8 next sentence in the second paragraph which would
9 be the fourth sentence, "Roy stated that Doutel is
10 easily excited and often voices strong opinions on
11 politics."

12 Do you recall Janine Roy telling you
13 that?

14 A Yes.

15 Q "Roy stated that Doutel expresses racist
16 ideas and she considers him to be a radical
17 right-wing individual."

18 Did Janine Roy use that term, "radical
19 right-wing individual."

20 A I believe so.

21 Q Did you ask her what that meant?

22 A No.

23 Q Do you know what that means?

24 MR. SPAHR: Objection to form.

25

1 BY MS. BAIRD:

2 Q When you wrote that down, did you know
3 what she meant by that?

4 MR. SPAHR: Yes. The question is:
5 Do you know what somebody else means by
6 saying something?

7 THE WITNESS: No.

8 BY MS. BAIRD:

9 Q Well, if I make a report to you and
10 you're a police officer and I say I just saw
11 somebody steal a car, okay?

12 A Uh-hum.

13 Q When I say the word, "car," do you know
14 what that means?

15 A Yes.

16 Q You know what I meant by "car"?

17 A Yes.

18 Q What I'm asking you, you wrote down,
19 "radical right wing individual" in your report.
20 What did that mean to you when that term was used?

21 A That's what she believed him to be.

22 Q Did you ask her what she meant by
23 radical right wing individual"?

24 A I can't recall.

25 Q Did you have any idea what she meant?

1 A I could guess, but, I mean, I could just
2 ask her.

3 Q Well, you wrote it in your report
4 though, right?

5 A Right.

6 Q As a record of what happened in a
7 conversation?

8 A Right.

9 Q And what's the purpose of writing a
10 report?

11 A To document facts.

12 Q And other people are going to read the
13 report, correct?

14 A That's correct.

15 Q When you wrote, "radical right-wing
16 individual," what did you think that meant when
17 you put it in your report?

18 A I believe it was pertaining to like
19 political ideas or -- merely conservative ideas or
20 thoughts. But radical meaning like extreme.

21 Q Okay. Did Ms. Roy say anything in
22 particular about what had led her to believe that
23 Mr. Doutel was a radical right-wing individual?

24 A I believe she said that he expresses
25 racist ideas and that's what she considers him to

1 be.

2 Q So, when she said he expresses racist
3 ideas," was that in response to a question that
4 you had about, Well, why do you think he's a
5 radical right-wing individual?

6 A I can't recall.

7 Q This is just something she may have told
8 you that he's racist?

9 A Yes did that concern you.

10 A Yes.

11 Q And why did that concern you; to put it
12 in your report?

13 A Because I think that if someone is
14 racist, that it goes to -- that's like a character
15 trait that should be noted.

16 Q And how about radical right-wing
17 individual," what was the reason why up put that
18 in your report?

19 A I put that down for officer safety
20 because I've had training on people who are
21 like -- well I've had training on people who are
22 like very, you know, politically minded that don't
23 like law enforcement.

24 Q So, you got the impression somehow that
25 Mr. Doutel didn't like law enforcement?

1 A I didn't say that.

2 Q When you put radical right-wing
3 individual" down, did that mean to you a person
4 that doesn't like law enforcement?

5 A No.

6 Q Okay. Well what was this training that
7 you received then?

8 A Well, I received, like, officer safety
9 training on people who are, like, not necessarily
10 radical right-wing; but there are people that
11 don't like government and, therefore, and they're
12 very politically minded.

13 And I'm trying to think of an example of
14 people -- like sovereign citizens. Not knowing
15 because I'm getting one side of this from the
16 complainant. So, not knowing who it is, I put it
17 in there because she thought it was pertinent to
18 tell me that it was a character trait that she
19 observed. So, I thought it was pertinent.

20 Q In your training, did you receive --
21 this training that you're talking about, was that
22 at POST?

23 A I can't recall. I recently just took a
24 class a couple weeks ago on it. But this event
25 obviously was prior to that.

1 Q Was what was the class you took on it?

2 A Recently?

3 Q Yes?

4 A It was called street crimes.

5 Q And that talked about , people that
6 don't like the government?

7 A It was officer safety. A lot of officer
8 safety issues.

9 Q Is there any instruction in a course
10 such as you just took, what did you say street
11 crimes --

12 A Yes.

13 Q -- where it talks about individuals who
14 carry firearms?

15 A Yes.

16 Q And what's the instruction with regard
17 to individuals who carry firearms?

18 A It depends on the situation.

19 Q Did you receive training at POST or in
20 your field of training with the Norwalk Police
21 Department to treat individuals differently who
22 carry, lawfully carry, firearms?

23 A It depends on the situation.

24 Q Just the fact that somebody is lawfully
25 carrying a firearm doesn't mean you treat them

1 differently correct?

2 A Like I said, it depends.

3 Q Did Ms. Roy refuse to give you a written
4 statement; did you ask her to give you one?

5 A I don't recall.

6 Q Was she worried about giving a written
7 statement?

8 MR. SPAHR: Objection to form.

9 BY MS. BAIRD:

10 Q Did she express that she was worried?

11 A I don't recall.

12 Q Going then in Exhibit 2, the second page
13 in the second paragraph, the next sentence, second
14 from the last sentence says, "Roy stated that she
15 fears for her safety based on Doutel's unstable,
16 irritable demeanor and his threatening voicemail."

17 Q Again, do you recall Ms. Roy telling you
18 that she feared for her safety?

19 A Yes.

20 Q You didn't ask her to make a written
21 statement about that fear?

22 A Well, the reason -- there were two other
23 people that provided statements, which would be
24 the doctor himself, whose practice it was and his
25 wife, officer manager.

1 So, I thought that was sufficient. As
2 far as two people being in fear for their safety,
3 the two people have their name on the practice, I
4 thought that was sufficient that both of them gave
5 statements saying they're in fear for their
6 safety.

7 Q Then going on to the second paragraph in
8 Exhibit 2 of the report, it indicates, am I
9 correct, that at some point you did speak to Sandy
10 Staw at the office?

11

12 (The last question was read
13 by the Court Reporter.)

14 BY MS. BAIRD:

15 Q In Exhibit 2, the second page of
16 Exhibit 2, am I correct that it indicates that you
17 did speak to Sandy Staw at the office?

18 A Yes.

19 Q In the second paragraph you write, "Staw
20 had knowledge that Doutel carries and brandishes a
21 firearm to the office for medical appointments."

22 Do you recall if Sandy Staw told you
23 that she had seen Mr. Doutel carry a firearm to
24 the office?

25 A I don't recall if she said she saw it or

1 not.

2 Q When you say, "Staw has knowledge that
3 Doutel carries and brandishes a firearm," that's
4 not really saying she saw him carry or brandish a
5 firearm, correct?

6 A Correct.

7 Q That knowledge could be based on
8 somebody just telling her?

9 A Right.

10 Q Is that why you wrote it that way?
11 "Staw has knowledge because she" --

12 A Yes.

13 Q -- "she hadn't seen him"?

14 A She was aware that he does it, but as
15 far as I can recall, it seems when I wrote my
16 report, I don't recall her actually saying she saw
17 it. I put she was aware he does it, but I'm not
18 going to say she said she saw it if she didn't
19 tell me.

20 Q Did she say -- do you recall her saying
21 how she knew that he carries and brandishes a
22 firearm to the office?

23 A I don't recall.

24 Q Did you ask Sandy Staw if there was a
25 policy at the office with regard to the presence

1 of firearms?

2 A Let me see what I put in my report about
3 it.

4 Q Sure.

5 (Pause.)

6 A I can't recall asking that, but I
7 remember, I think, Dr. Staw told me that I don't
8 think he has any other patients that carry a
9 firearm, even patients of his who are police
10 officers.

11 But that's all I can recall about that.

12 Q And you didn't see any signs posted at
13 the office that firearms were prohibited?

14 A No.

15 Q You're aware of the statute that a
16 premises owner can prohibit firearms on the
17 premises, correct?

18 A I am now.

19 Q What do you mean now; this incident?

20 A Well, if that's true.

21 Q So, prior to today you were not aware of
22 statute 29-28 subsection e?

23 A I haven't read it, no.

24 Q Okay. Let me ask you this: You
25 listened to the voicemail message while you were

1 at the office?

2 A Yes.

3 Q And tell me the mechanics of how the
4 voicemail message went about being played for you.
5 Who did it; what machinery was it on?

6 A I think they played it off a voicemail
7 and I think, I don't remember who played it for
8 me -- either Sandy Staw or the receptionist,
9 Ms. Roy. I can't remember who did it. I believe
10 it was Ms. Roy. I remember she was sitting at her
11 desk and played it.

12 Q When you made your report, which is
13 Exhibit 2, is it fair to say you didn't transcribe
14 the entire voice message that you heard?

15 A I quoted it in certain places in the
16 fourth paragraph I quoted part of what he said,
17 but I didn't transcribe the entire voicemail.

18 Q So, was there a process you used to
19 decide what to pick in your report?

20 A I selected what I thought was pertinent
21 and also because they said they would give me the
22 recording for evidence. So, the evidence would
23 stand on its own.

24 Q You didn't take a recording of the
25 evidence that day, correct?

1 A Correct.

2 Q When you say, "The evidence would stand
3 on its own," what does that mean?

4 A I mean, like why would I write in my
5 report if I'm gonna have a CD that I could listen
6 to?

7 Q You may not know this, but is it fair to
8 say when a report goes to court and a judge
9 reviews it for probable cause, he's not going to
10 have the tape or the evidence to review?

11 A I don't know.

12 Q You're not aware of that?

13 A I don't know.

14 Q Well, what do you do with your case
15 incident reports after you finish writing them up?

16 A Spell check.

17 Q Well, that's good. After you finish
18 spell checking, what do you do?

19 A You submit it for supervisor's approval.

20 Q Do you see it after that? Do you know
21 what happens to it after that?

22 A It's approved by a supervisor. I think
23 it goes to records. I'm not really sure on the
24 process, but I think that's pretty much it. If
25 you made an arrest, like, the court officer will

1 somehow get the report over to the court.

2 Q Have you ever been a court officer when
3 you transported records back and forth to the
4 court?

5 A No.

6 Q Do you know when the court officer does
7 that, he takes the evidence with him?

8 A I don't know.

9 MS. BAIRD: I have an audio that
10 I'm going to ask you to listen to and
11 then I'll ask you questions about the
12 audio.

13

14 (An audiotape was played.)

15

16 "Hi. This is Duane Doutel, a
17 former patient of Dr. Staw's. I
18 paid at my last visit for an EKG
19 and a CBC, which were preop, and
20 they have not been forwarded
21 despite several requests to the
22 surgeon. He will provide those
23 because I paid for them up front.
24 I want them forwarded. If I
25 haven't heard within 48 hours that

1 those results have been forwarded
2 to Dr. Altman, I will be walking
3 into the office and it will not be
4 pretty. Do you understand me? I
5 paid for those up front. You will
6 provide them. I will see to it
7 that a valid A1C is done; not the
8 botched one that Dr. Staw ran
9 without fasting. Thank you."

10 BY MS. BAIRD:

11 **Q Do you recognize --**

12

13 (A portion of an audiotape was played:)

14

15 "Hi. This is Duane Doutel, a former
16 patient of Dr. Staw's."

17

18 **A Yes.**

19 **Q And what do you recognize it as?**

20 **A That was the recording that they played
21 for me in their office.**

22 **Q When you responded on February 16, 2011?**

23 **A Yes.**

24 **Q Now at the end of that voicemail message
25 it says, "Thank you." Did you hear that?**

1 **A** **No, you have to play it again so I can**
2 **hear it.**

3 MR. SPAHR: So that makes up for
4 it?

5 MS. BAIRD: For the record, I find
6 that comment highly inappropriate. This
7 is a deposition being taken in a federal
8 court matter.

9

10 (An audiotape was played.)

11

12 "Hi. This is Duane Doutel, a
13 former patient of Dr. Staw's. I
14 paid at my last visit for an EKG
15 and a CBC, which were preop; and
16 they have not been forwarded
17 despite several requests to the
18 surgeon. He will provide those
19 because I paid for them up front.
20 I want them forwarded. If I
21 haven't heard within 48 hours that
22 those results had been forwarded to
23 Dr. Altman, I will be walking into
24 the office and it will not be
25 pretty. Do you understand me? I

1 paid for those up front. You will
2 provide them. I will see to it
3 that a valid A1C is done. Not the
4 botched one that Dr. Staw ran
5 without fasting. Thank you."

6 BY MS. BAIRD:

7 Q I know your counsel already answered,
8 but I'll ask you the question: Did you hear in
9 that audio that we just listened to Mr. Doutel
10 say, "Thank you" at the end?

11 A I did.

12 Q Do you remember hearing that on the day
13 you listened to the tape on February 16th?

14 A I can't recall.

15 Q Is there a reason you wouldn't put at
16 the end that he said, "Thank you"?

17 A Because it's not pertinent.

18 Q And what you put in is pertinent?

19 A Yes.

20 Q And what you put in as pertinent to the
21 threatening charge you brought against Mr. Doutel?

22 A To probable cause.

23 Q And anything that wasn't pertinent to
24 that you would not put in the report?

25 A Correct.

1 Q So, is it fair so say if there was
2 evidence that didn't support the threatening
3 charge, you would have left that out of the
4 report?

5 A No, that's not fair to say.

6 Q So, when you say something's pertinent,
7 what do you mean, "pertinent"?

8 A I mean that it was relative to the
9 probable cause. Like, it was important to put in
10 there to show probable cause.

11 Q How pertinent was it when you listened
12 to the voicemail message that to the charge of
13 threatening that Mr. Doutel was known to carry a
14 firearm?

15 A I think it was relevant.

16 Q And why was it relevant?

17 A From talking to the office staff, one of
18 the reasons why they felt threatened was because
19 they knew that he carried a firearm.

20 Q When you learned from the office staff
21 that Mr. Doutel carried a firearm, what did you
22 do, if anything, to determine if he had the lawful
23 authority or had a permit to carry a firearm?

24 A I -- not at the office, but I went back
25 to headquarters and I had the dispatchers run him

1 for a pistol permit.

2 Q And what did you find out if Mr. Doutel
3 had a pistol permit?

4 A That he had a valid pistol permit with
5 several guns registered to him.

6 Q Outside of being told by the office
7 staff that day that Mr. Doutel was known to or did
8 carry a firearm to the office, what was it about
9 the audio message that we just listened to that
10 you determined was of a threatening nature?

11 A Because the office staff felt threatened
12 by it.

13 Q Well, let me ask you this: If I make a
14 complaint to you as a police officer and I say,
15 You know, that person wore a red dress today and I
16 feel threatened by that. You wouldn't agree,
17 correct?

18 I mean, would you arrest somebody
19 because they wore a red dress?

20 A Would I arrest them because they wore a
21 red dress?

22 Q If I said I felt threatened because
23 somebody wore a red address, would you say, Okay,
24 Rachel Baird felt threatened. I'm arresting you.

25 A From the way you're saying it, it

1 doesn't make any sense that I would arrest them
2 unless there's something you're leaving out.

3 Q That's what I'm getting at. With this,
4 when the office staff told you they felt
5 threatened, did that make sense that they felt
6 threatened?

7 A Yes.

8 Q They explained it in a way to you that
9 you understood it?

10 A Yes.

11 Q And what was it about the audio message
12 where they said they felt threatened by that and
13 that made sense to you; you understood that?

14 A Well, they told me what he said and they
15 played it for me; and they told me that he carries
16 a firearm; and in the tape he sounds extremely
17 irritated.

18 And when he says, "I will come into the
19 office and it will not be pretty. Do you
20 understand me?" That sounds like a threat; like
21 he's threatening to come to the office and do
22 something.

23 Q Come to the office and shoot people?

24 A I didn't say that.

25 Q Well, what did you take from that that

1 he was going to come to the office and do?

2 A I don't know.

3 Q Well, do you know what they felt
4 threatened -- do you know what they felt he was
5 threatening to do? They felt threatened? What
6 did they think he was gonna do?

7 A You'd have to ask them.

8 Q But you're the one who arrested him for
9 threatening, so --

10 A Right.

11 Q -- did you ask him what they felt
12 threatened by what he was going to do?

13 A They felt threatened because he's
14 leaving this open-ended threat. Like I will come
15 to the office and it will not be pretty. It's not
16 like he said, I will come to the office and ask
17 you for paperwork. He said, "It will not be
18 pretty."

19 That's like an open-ended -- in my
20 experience when people make remarks like that,
21 they're leaving it up to -- whoever the subject
22 is whoever, like whoever they're saying it to to
23 imagine what will happen.

24 So, it seems like that's what he's
25 doing; giving them the opportunity to imagine what

1 he will do.

2 Q Have you -- have you heard that term
3 before, "and it won't be pretty"?

4 A Yes.

5 Q Where have you heard that term before?

6 A I can't cite a specific example, but
7 I've heard it before.

8 Q Just somebody saying, "It won't be
9 pretty," is there anything threatening about that?

10 A Depends how you use it.

11 Q Is it fair to say that people say it,
12 you've heard it and they haven't been arrested?

13 A Yes.

14 Q What was it about Mr. Doutel's use of
15 the term, "It won't be pretty" that made sense to
16 you that the office staff felt threatened?

17 A Well, because he said he'll be coming to
18 the office and it won't be pretty, because he
19 sounds irritated because they're in fear for their
20 safety because of their knowledge that he carries
21 a firearm and they perceive him to be unstable.

22 Q Let me ask you this: Did you treat what
23 Mr. Doutel said differently or interpret it
24 differently than you would have if there had been
25 no report that he had a firearm?

1 A I don't think so.

2 Q So, the fact that you were told that he
3 was known to carry a firearm or brandish a firearm
4 didn't have any effect on your decision?

5 A I think it, like, heightened the threat
6 to these people. They felt more threatened, but
7 I'm aware you could still cause violence or harm
8 without a firearm.

9 Q At the time when you wrote your incident
10 report in February of 2008, were you aware that
11 Dr. Staw was a felon?

12 A I wrote this in February of --

13 Q I'm sorry, 2011. In February 2011 were
14 you aware Dr. Staw was a felon?

15 A No.

16 Q When were you aware of that or had you
17 become aware of that?

18 A I'm not aware that.

19 Q You're not aware of that sitting here
20 today?

21 A No.

22 Q Going on to page 3 of Exhibit 2, the top
23 paragraph, there's a sentence that indicates
24 that -- second to last sentence in the first
25 paragraph, "Doutel has told Dr. Staw that he

1 sleeps with a gun under his pillow and the police
2 do not have an obligation to protect him."

3 How was the information conveyed to you
4 by Dr. Staw that Mr. Doutel had told him the
5 police do not have an obligation to protect him
6 pertinent to this police report or this arrest?

7 A Because I think that just goes to
8 show -- well, Dr. Staw was aware of that and
9 Dr. Staw was aware of Mr. Doutel's attachment to
10 his gun. First of all, that's not good firearm
11 safety. I mean sleeping with a gun directly under
12 your head isn't safe. I thought it was relevant.

13 Q Is there any -- assuming that for
14 purposes of this question there are no children,
15 you know, under 16 in Mr. Doutel's house, is there
16 anything unlawful about sleeping with a gun under
17 your pillow?

18 A No.

19 Q And the information about the police do
20 not have an obligation to protect him, is that
21 consistent with what you've been taught about
22 people who I think you mentioned the term
23 "sovereign" -- what was the term you used before
24 that you learned in your training class about
25 "sovereign individuals"?

1 A Yes. That's the term.

2 Q Is that something that a sovereign
3 individual would hold that the police don't have
4 an obligation to protect them?

5 A It depends on the person, but it could
6 be. It's possible.

7 Q But there's nothing that says that this
8 is -- in other words, you aren't taught that if
9 someone is a sovereign individual, then consistent
10 with that is believing that the police don't have
11 an obligation to protect them?

12 A No, that wasn't what I was taught.

13 Q Did you have any reason to believe based
14 on what you were told, that Mr. Doutel met the
15 definition of somebody who doesn't like law
16 enforcement?

17 A It seemed from that statement that he
18 might not work well with law enforcement. He
19 might not cooperate. There are a lot of people
20 that don't like law enforcement. So, it seemed
21 pertinent to me to put it in my report.

22 Q Let me show you what's been marked --
23 we'll start with Exhibit 4. I'll let you look at
24 that and when you've had ample time to look at it,
25 tell me and we'll go on and I'll ask you specific

1 questions about Exhibit 4.

2 A I looked at this in the beginning.

3 Q Is that a statement that Dr. Staw gave?

4 A Yes.

5 Q Where did he give that statement?

6 A At 83 East Avenue, Norwalk.

7 Q Is it fair to say that Dr. Staw wrote
8 the statement?

9 A It is.

10 Q And do you know if Dr. Staw ever
11 obtained a protective order or sought a protective
12 order with regard to Mr. Doutel's arrest?

13 A I don't know.

14 Q Did you discuss that with him?

15 A Yes, I did.

16 Q What was that discussion?

17 A I want to refer to my report.

18 Q Sure, whatever you need to refer to.

19 A Dr. Staw, he no longer wanted to have
20 Mr. Doutel as a patient and he had no reason to
21 come to his office or call his office. So, I told
22 him he should send him a certified letter making
23 this idea clear to Mr. Doutel.

24 And Dr. Staw told me would he go to
25 GA 20 to get a restraining order to further

1 protect himself from Mr. Doutel.

2 Q Do you know if Dr. Staw ever did that?

3 A I don't know.

4 Q Did you ever have any contact with
5 Dr. Staw after this date?

6 A No.

7 Q How about Sandy Staw; any contact with
8 her?

9 A No.

10 Q And Janine Roy; any contact with her?

11 A No.

12 Q When the recorded voicemail arrived at
13 some point at the Norwalk Police Department, were
14 you the one it was delivered to?

15 A No. I believe it went to the front desk
16 officer.

17 Q So, after you had found out the status
18 of Mr. Doutel's pistol permit, what, if anything,
19 did you next do to follow up on learning more
20 about what whether he, in fact, owned any
21 firearms?

22 A The dispatcher told me he had some
23 registered to him, so that was, like, part of the
24 same process.

25 Q Okay, it was part of the same process

1 and you learned that Mr. Doutel had some firearms
2 registered to him. How did that impact on what
3 you next did?

4 A What I next did?

5 Q Yes.

6 A I believe I contacted Mr. Doutel.

7 Q And that was by phone?

8 A Right.

9 Q What did Mr. Doutel say to you?

10 A I asked him if he would come to
11 headquarters to speak with me. He became
12 irritated and yelled at me over the phone. He
13 stated, "Don't come to my house without a warrant.
14 Don't come here until you're going to arrest me."
15 He was advised I would be coming to his home to
16 arrest him.

17 Q And did you take anything he said in
18 that phone conversation with you as threatening?

19 A He's very irritated.

20 Q Did you save that voice conversation,
21 the audio of the conversation, you had with
22 Mr. Doutel as evidence in the case?

23 A No.

24 Q Do you know if it still exists?

25 A I don't think so. It was just over a

1 regular phone.

2 Q Did you believe, based on your training
3 and experience, with your conversation with
4 Mr. Doutel and information you gathered already
5 that Mr. Doutel was unstable?

6 A I wouldn't say unstable. But that's
7 what the complainant had told me. He wasn't
8 cooperating. So, I wouldn't say unstable, no.

9 Q Did you believe he was a threat to
10 himself or others?

11 A No. Well, did I believe he was a threat
12 to himself or others because of my conversation
13 with him?

14 Q No. Good, I'll clarify that.

15 A I'm sorry.

16 Q Yeah. Did you, based on everything that
17 you had learned at that time, the information that
18 you had gathered from this case, come to the
19 opinion that Mr. Doutel presented a danger to
20 himself or others?

21 A Yes, I believe he posed a danger to the
22 complainant.

23 Q Did you come to the opinion that
24 Mr. Doutel posed a danger to the complainant in
25 that the complainant was in danger of imminent

1 harm, I mean to their physical safety?

2 A Can you rephrase that? I'm not sure
3 what you mean by the word, "imminent."

4 Q Well, who is? It's in the statute.
5 It's in the threatening statute, right? That's
6 what the threatening statute is; imminent danger
7 to oneself or others."

8 A Okay.

9 Q Right? Well, you charged him with
10 threatening?

11 A Right.

12 Q Okay. I can't explain it to you. I
13 guess immediate. I guess we could say immediate.

14 A Okay.

15 Q Do you think Mr. Doutel presented an
16 immediate danger to the physical safety of anybody
17 at the office?

18 A Yes.

19 Q Are you familiar with what a risk
20 warrant is?

21 A Yes, vaguely.

22 Q Have you ever executed a risk warrant?

23 A No.

24 Q Did you receive any training in risk
25 warrants?

1 so specific about saying he came into the office
2 with a revolver?

3 A No, I didn't.

4 Q I mean, is it fair to say a lot of
5 people that don't know much about firearms don't
6 know the difference between a pistol and a
7 revolver?

8 A I think that's fair.

9 Q Do you know if Dr. Staw knew about
10 firearms?

11 A I don't know.

12 Q Did you ask him why he thought it was
13 revolver?

14 A I didn't ask.

15 Q Well, the revolver, or whatever firearm
16 Dr. Staw was talking about, you treated that as
17 evidence in the case, right?

18 A Yes.

19 Q So, whatever firearm that Mr. Doutel was
20 reported to have brought to the office was
21 evidence in this case?

22 A Yes.

23 Q How was it evidence in this case?

24 A Well, it was tagged as property, as
25 evidence.

1 Q What was it evidence of?

2 A It was the firearm that he mentioned.

3 Q So, the firearms that were seized
4 eventually from Mr. Doutel's home, they were taken
5 as evidence of the firearm that Dr. Staw reported
6 Mr. Doutel brought to the office?

7 MR. SPAHR: Objection to form.

8 BY MS. BAIRD:

9 Q Do you understand the question? Do you
10 want me to restate it?

11 A Yeah.

12 Q So, the firearms that eventually were
13 seized from Mr. Doutel's home were evidence of
14 what had happened in Mr. Doutel bringing a
15 revolver to Dr. Staw's office?

16 MR. SPAHR: Same objection.

17 BY MS. BAIRD:

18 Q Do you understand the question?

19 A No, I don't.

20 Q There were firearms that were seized in
21 this case as evidence; that's correct?

22 MR. SPAHR: Objection to form.

23 "Evidence" is a term of art. Firearms
24 were seized.

25

1 BY MS. BAIRD:

2 Q Let me ask you this: Do you know if
3 they were seized as evidence?

4 A I don't know.

5 Q Do you know why they were seized?

6 A No.

7 Q Well, do you consider them to have been
8 evidence of the threatening charge that you
9 arrested Mr. Doutel for?

10 A I don't know because it wasn't my
11 decision to do that.

12 Q Whose decision was it?

13 A One of the superiors or veteran officers
14 that were there.

15 Q Who were the superiors or veteran
16 officers were there?

17 A Sergeant Walsh was there. Can I look at
18 my report?

19 Q Yes.

20 A Officer Curwen, Salley, Fludd, Reda,
21 Lieutenant Materra.

22 Q Going back to Exhibit 2, do you still
23 have that in front of you? On the front page of
24 Exhibit 2 it lists some items in the bottom half
25 of the page?

1 A Okay.

2 Q And there's a code and the code says E.
3 Do you see that?

4 A I do.

5 Q What does that E stand for?

6 A There's a guide up at on top.

7 Q Am I correct that the E stands for
8 evidence?

9 A That's what it says.

10 Q So, there was a firearm, a Springfield
11 9-millimeter that's described in Exhibit 2 of
12 page 1 with a code of E. What does that mean?

13 A E equals evidence.

14 Q Does that mean that the firearm was
15 seized as evidence?

16 A Yes.

17 Q You're the one that completed this
18 report, right?

19 A That's correct.

20 Q There's a second firearm that's listed
21 as a Glock 19 on Exhibit 2 and it has an E next to
22 it. Does that mean that that Glock was seized as
23 evidence?

24 A Yes.

25 Q And what was the Glock seized as

1 evidence of pertinent to the case?

2 A I don't know.

3 Q Well, you did this report, right?

4 A Yes.

5 Q Did anybody help you with it?

6 A No.

7 Q Well, what made you put the E down if
8 you don't know?

9 A Because I didn't know what else to put
10 it as. They weren't burned, they are weren't
11 counterfeited, they weren't damaged and I didn't
12 know how that E came up. I guess I probably could
13 have put they were recovered, they were seized.

14 They weren't stolen or unknown. I could
15 have put down 2, but at the time of the report it
16 seemed, you know, the best option was to put it as
17 evidence.

18 Q Now, was there a reason why you didn't
19 put that they were seized?

20 A I don't know how that option was
21 available. Like now, looking at it, it probably
22 would have been a better option to put down they
23 were seized or recovered or something like that;
24 or unknown.

25 Q None of these firearms are revolvers,

1 right, that are listed on page 1 of Exhibit 2?

2 A It doesn't even say on the property
3 sheet whether they're revolvers or automatics.

4 MS. BAIRD: It's Exhibit 9.

5 BY MS. BAIRD:

6 Q Do you have Exhibit 9? Here is
7 Exhibit 9. I'm looking at Exhibit 9. Is this the
8 receipt of the property that you were talking
9 about?

10 A Yeah, this is the receipt.

11 Q And the items on Exhibit 9 that are
12 listed match up to the items on page 1 of
13 Exhibit 2?

14 A Page 1 of Exhibit 2, except for the bags
15 there, yeah, they match up.

16 Q And they should match up, right?

17 A Right.

18 Q And looking at Exhibit 9 and page 1 of
19 Exhibit 2, are you able to tell whether there's a
20 revolver that's listed?

21 A I'm not able to determine that.

22 Q Were you present when this property
23 that's listed on Exhibit 9 was taken from the
24 Doutel house?

25 A Yes.

1 Q Do you remember seeing a revolver?

2 A I can't recall.

3 Q Do you remember looking for a revolver
4 while you were in the Doutel house?

5 A I can't recall.

6 Q Was it important to you to follow
7 through with looking for a firearm that matched
8 the one described by Dr. Staw?

9 A No, we didn't look for it. Mr. Doutel
10 just told us where they were.

11 Q And when Mr. Doutel told you that, he
12 was in handcuffs, correct?

13 A Yes.

14 Q When the items were taken from the
15 Doutel house that are listed on Exhibit 9, was
16 there an actual -- was there an officer at the
17 scene who was in charge of gathering the items;
18 the evidence officer or someone like that?

19 A I don't think that position was assigned
20 to him.

21 Q Well, let's talk then after the phone
22 call you had with Mr. Doutel where he said he was
23 not coming to the police department, you had
24 already made the decision that you were going to
25 arrest Mr. Doutel at that time, correct?

1 A Yes.

2 Q And after Mr. Doutel said he wasn't
3 coming to the police department, who did you talk
4 to, if anybody, to determine who would go out to
5 the house, or what procedure would be used to go
6 out to the house to talk to Mr. Doutel and place
7 him under arrest?

8 A Sergeant Walsh.

9 Q And tell me a little bit about how you
10 got to the Doutel house and what exactly you did
11 once you arrived?

12 A We parked on the street, took an
13 approach to the house. Mr. Doutel was contacted
14 by headquarters which is like our dispatch and
15 told to exit the house. Prior to going there, I
16 told him when we came to arrest him, not to come
17 with any firearms on his person or anything like
18 that; or not to have one within reach for officer
19 safety. And he was arrested.

20 Q When you say was arrested, he was
21 handcuffed, correct?

22 A Correct.

23 Q What was the conversation that you were
24 present for that you had with Mr. Doutel that led
25 to your entry into the Doutel house?

1 MR. SPAHR: Objection to form.

2 Those are compound.

3 BY MS. BAIRD:

4 Q Do you understand the question?

5 A No.

6 Q What is the conversation that you had
7 with Mr. Doutel that preceded or led to your entry
8 into the house?

9 A I don't recall. Like I -- when he was
10 handcuffed -- I didn't handcuff him -- I was,
11 like, across the yard. So, when I walked off, I
12 was advised by other officers that we'd be going
13 to his house and retrieve the firearms, which he
14 pointed out to us.

15 Q So, you're not aware whether Mr. Doutel
16 objected to going into his home or consented or
17 anything like that?

18 A I don't recall. I'm not aware if he
19 objected or consented.

20 Q Because you weren't present for whatever
21 that conversation was?

22 A Correct.

23 Q When you went into the house, what rooms
24 did you go into and what property, if any, did you
25 take?

1 A There was a bedroom we were in. I think
2 there is, like, a downstairs. It was a raised
3 ranch style and the family room in the basement.
4 There's a computer and living room set up where we
5 were.

6 Q And what was the conversation, if any,
7 that you had with other officers about why these
8 weapons or firearms were being taken from the
9 house?

10 A We didn't discuss that right there at
11 the scene. I wasn't about -- I'm not going to do
12 that at the scene with firearms present. We have
13 someone in custody, so I'm not gonna start getting
14 into it with them about that. I went with what I
15 was told and that was it.

16 Q And so, is it your testimony that you
17 were told that we're taking these firearms?

18 A Right.

19 Q It wasn't your decision to take the
20 firearms?

21 A Correct.

22 Q Do you know who told you that?

23 A I can't recall. There's several other
24 officers there; sergeant. So, I don't remember
25 who exactly told me that. At that point they all

1 at had 30 years more experience than me, so I
2 listened to what I was told.

3 Q Do you know what it was about the
4 firearms that led you to the decision to take them
5 from the home?

6 A No.

7 Q Did anybody say, This is an illegal
8 assault weapon, for example?

9 A No one said that.

10 Q Did anybody say Mr. Doutel is a felon.
11 They're not supposed to be here. Did anyone say
12 that?

13 A No one said that.

14 Q Did anybody say, This one comes up as
15 stolen. We need to do that?

16 A No.

17 Q Did you take anything else from the
18 house besides firearms?

19 A I think we took a rifle bag -- it was
20 green -- and a rifle case which was brown and some
21 federal tactical rifle slug.

22 Q Do you know why a bag was taken from the
23 house?

24 A Well, the gun was in it. So, I assume
25 to protect his property.

1 Q So, that was with the firearm?

2 A Yeah, it was protecting whatever firearm
3 there.

4 Q Did you take any knives from the house?

5 A No.

6 Q Did you -- other than firearm-related
7 items, did you take anything else from the house?

8 A No.

9 Q Why not?

10 A I don't know.

11 Q What was it about the firearms that led
12 you to the decision to take those from the house?

13 A I didn't make that decision.

14 Q Did anybody tell you to put the E as a
15 code down on page 1 of Exhibit 2?

16 A I think I inquired and that's what I was
17 told.

18 Q So, are you testifying that you didn't
19 make that decision either?

20 A I can't recall. Like I'm saying, I
21 can't remember if I did it or not. So, that's
22 what I'm saying.

23 Q I want to direct your attention to
24 Exhibit 2, page 3. The last paragraph, the third
25 sentence from the end of the paragraph, it says,

1 "Doutel led us through the home and gave the
2 locations of his firearms." Do you recall that?

3 A Yes.

4 Q And then, "These firearms were secured
5 for evidence of the threatening charge." Do you
6 recall writing that?

7 A Yes.

8 Q And did somebody tell you to write that
9 or was that a decision you made on your own to
10 write that sentence?

11 A Well, I put the sentence together, but
12 I'm pretty sure I consulted with other officers as
13 to say what they were seized for.

14 Q But you were the arresting officer for
15 the threatening charge; is that correct?

16 A That's correct.

17 Q And you wrote that these firearms were
18 evidence of that threatening charge, correct?

19 A Yes.

20 Q So, how were the firearms evidence of a
21 threatening charge?

22 A I don't know.

23 Q Do you need to take a break. It's been
24 an hour and a half. I thought I'd take ask.

25 A I'll take a break, sure.

1

2

(Recess: 11:32 to 11:38.)

3

4 BY MS. BAIRD:

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Q Here is Plaintiff's Exhibit 3. I see an officer's signature in the bottom right-hand corner that says, "Kenny Fludd." That's not you, right?

9

A No.

10

Q It's in the bottom right-hand --

11

A It's in left-hand --

12

Q On the left-hand side, you're right.

13

You didn't write this report?

14

A No.

15

Q Have you read this report before?

16

A Yes.

17

Q What's the nature of this report; does

18

it supplement your report?

19

A Yes.

20

Q How did Officer Fludd assist you, if he

21

did, in fact, assist you, in the investigation of

22

this incident?

23

A He assisted in taking the suspect into

24

custody.

25

Q And were you present when Officer

1 Fludd -- let me ask you this: Do you know if
2 Officer Fludd entered the Doutel home?

3 A I don't know.

4 Q Let me show you Exhibit 5. I'll give
5 you a minute to look at that and tell me when
6 you've had enough opportunity.

7 (Pause.)

8 A Okay.

9 Q Do you recognize this statement,
10 Exhibit 5?

11 A Yes.

12 Q Did you take this statement from Sandy
13 Staw?

14 A Yes.

15 Q And if I could direct your attention to
16 the statement, probably about five or six lines up
17 from the bottom where Ms. Staw appears to say and
18 it's in handwriting, so hopefully I get it right,
19 "He typically alerts the physician that he has a
20 firearm and has a permit to carry it."

21 I know you had mentioned earlier that
22 putting a firearm under one's pillow probably
23 isn't the safest thing to do. Did you mention
24 that earlier?

25 A Yes.

1 Q Is there anything about Mr. Doutel
2 alerting the physician that he has a firearm that
3 seemed any way improper to you?

4 A I wasn't a witness to it, so I don't
5 know the manner in which he did it. So, I'm just
6 gonna go with I don't know on that one. I wasn't
7 there for the occurrence.

8 Q If you could go back to Exhibit 2, page
9 4 of 4, the last sentence on page 4 of 4 of
10 Exhibit 2 it indicates, "I will be contacting
11 Detective Barbara Matson of the Connecticut State
12 Police requesting further review of Doutel's
13 permit to carry a concealed pistol."

14 You wrote that, right?

15 A I did.

16 Q What is a permit to carry a concealed
17 pistol?

18 A It's a state-issued, I guess, license or
19 ID that legally allows someone to carry a firearm
20 in a concealed manner.

21 Q Is it your testimony that under
22 Connecticut state law there is such a thing as a
23 permit to carry a concealed pistol?

24 A Are you asking me if that's the title?

25 Q Okay. I'll ask you that first. Yes?

1 A I don't know if that's the official
2 title of it. I didn't put it in capitals or
3 anything.

4 Q Well, what do you mean by "concealed."
5 what does that word, "concealed" mean in that
6 sentence?

7 A Something that's concealed is something;
8 that's not visible. It's hidden.

9 Q Is it -- it's your testimony, in
10 Connecticut when an individual has a permit to
11 carry a pistol, that the pistol has to be
12 concealed?

13 A That's not my testimony.

14 Q Well, when a person has a permit to
15 carry a pistol in Connecticut, does the permit
16 entitle them only to carry it concealed?

17 A Well, the permit is so they can legally
18 carry it in a concealed manner.

19 Q And who taught you that?

20 A That the permit is so that they can
21 carry it in a concealed manner?

22 Q Yes.

23 A I believe I learned that at the academy.

24 Q And at the academy did they teach you
25 that a permit to carry is a permit to carry in a

1 concealed manner?

2 A That that particular permit allows
3 someone to carry a pistol concealed?

4 Q Is there another kind of permit that
5 allows someone to carry a pistol openly?

6 A You need a permit for that in
7 Connecticut, from my training.

8 Q So, your training has told you that you
9 don't need a permit in Connecticut to openly
10 carry?

11 A Right.

12 Q Do you know which kind of permit
13 Mr. Doutel had?

14 A I believe he had the one to carry a
15 concealed pistol.

16 Q Right. Because the other one you don't
17 need a permit?

18 A Right.

19 Q In patrolling Norwalk have you observed
20 individuals openly carrying pistols?

21 A No.

22 Q Do you know why?

23 A I could guess, but, no.

24 MR. SPAHR: Why he didn't observe
25 people carrying open pistols?

1 BY MS. BAIRD:

2 Q Were you aware that Mr. Doutel's state
3 permit was revoked following this arrest?

4 A No.

5 Q Did you make any request when you spoke
6 to Detective Matson over at the special licensing
7 and firearms unit to revoke Mr. Doutel's state
8 permit?

9 A I don't even know if I spoke to her. I
10 can't recall speaking to her. I know I forwarded
11 my report to her. I know I've spoken to her about
12 other issues, but I don't know if I did on this
13 particular case or not.

14 Q I think we're almost done. Let me just
15 make sure.

16 Do you hold the -- withdraw that.

17 Let me hand you Plaintiff's Exhibit 7.

18 Do you recognize that?

19 A I do.

20 Q That's an uniform arrest report?

21 A Okay.

22 Q Is it?

23 A Yes.

24 Q And for what reason do you use these
25 forms, if you do use them in your related-to

1 another member of an organized police department
2 from the person or persons named or identified
3 therein as indicated in the attached report that
4 the report is an accurate statement of the
5 information so received by me.

6 Q Do you sign this affidavit related to
7 any arrest --

8 A No.

9 Q -- where you're the investigating
10 officer?

11 A Not all arrests.

12 Q How do you know which arrests require
13 that you submit such an affidavit and which don't?

14 A Well, it depends on the crime. Like
15 motor vehicle crimes you don't. If you give them
16 a summons, you don't. Other things with a
17 signature you don't.

18 If they get brought in on criminal
19 charges, then you do. If they get transported --
20 taken into custody and transported to
21 headquarters.

22 Q Does it just apply to on-site arrests or
23 does it apply to -- it wouldn't apply to arrest by
24 warrant; would it?

25 A Well, you sign the warrant. You don't

1 have to do the affidavit because you sign the
2 warrant.

3 Q So, it's a form that would apply -- and
4 correct me if I'm wrong -- to on-site arrest where
5 the person is charged with a criminal offense and
6 brought in?

7 A Yes.

8 Q And held in custody?

9 A Yes.

10 Q And Plaintiff's Exhibit 6, what, if
11 anything, did you have to do with preparing
12 Exhibit 6?

13 A I didn't prepare this. It's printed out
14 from the computer.

15 Q Did you put the information into the
16 computer that resulted in this printout?

17 A No.

18 Q Was this done in processing?

19 A Yes.

20 Q Do you recognize the form though;
21 Exhibit 6?

22 A I do.

23 Q Is it part of what, though investigation
24 file or record?

25 A It's an arrest profile.

1 Q Did you become aware that after -- well,
2 let me ask you this: Did you become aware at any
3 point that Mr. Doutel's state permit was revoked?

4 A No.

5 Q Do you know the status of a state permit
6 currently?

7 A Of whose?

8 Q Mr. Doutel's.

9 A No.

10 Q How about when you ran the information
11 or requested that the information be run with
12 regard to whether Mr. Doutel had a state permit?
13 Did you determine whether there was anyone else in
14 the residence at Mr. Doutel's house that held a
15 state permit?

16 A No.

17 Q Did you determine if anyone resided with
18 Mr. Doutel at his residence?

19 A No.

20 Q At any point did you learn whether
21 anyone else resided with Mr. Doutel at his
22 residence?

23 A At any point?

24 Q After the arrest.

25 A After the arrest, I believe I became

1 aware that he resided with his wife.

2 Q How did you become aware of that?

3 A I think it was in court.

4 Q But prior to that, you were not aware of
5 whether Mr. Doutel lived with someone or didn't
6 live with someone?

7 A No.

8 Q After the firearms were taken into
9 custody and listed on Exhibit 2 as evidence, was
10 there any investigation done with regard to who
11 owned those firearms?

12 A I think I ran them to make sure they
13 weren't stolen.

14 Q When you ran them, what computer
15 software or system do you use to run?

16 A It's -- I called the dispatcher to do
17 it. I didn't personally do it.

18 Q You call the dispatcher and you say,
19 Could you run these for me?

20 A Uh-hum.

21 Q Yes?

22 A Yes.

23 Q What information did you have to give?
24 The serial number?

25 A The serial number, make and model.

1 Q How does the dispatcher get back to you;
2 verbally or was there a report?

3 A I think there's a printout that they can
4 give to you. But I just wanted to make sure they
5 weren't stolen. As best I recall, I called them,
6 gave them the information.

7 Are they stolen?

8 No, they're not.

9 Okay, that was it.

10 Q Did the dispatcher indicate to you who
11 was the owner of record for any of the firearms?

12 A I can't recall.

13 Q Was that something that would have been
14 looked into at some point?

15 A I didn't look into it.

16 Q Do you know, sitting here today, who's
17 the owner of record for any of the firearms?

18 A No.

19 MS. BAIRD: Okay. I'll have ten
20 minutes with my client and see if she
21 has anything she wants to confer with me
22 about and I think we're almost done,
23 okay? Right on schedule. Right on
24 schedule.

25 I think we'll step outside since

1 they stepped outside before.

2

3 (Recess: 11:55 to 12:01.)

4 MS. BAIRD: I have no further
5 questions.

6 MR. SPAHR: I have no questions.

7

8 (Deposition adjourned: 12:02 p.m.)

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STATE OF CONNECTICUT

I, DOLORES A. FALZARANO, RMR, LSR #111, a Notary Public, duly commissioned and qualified in and for the State of Connecticut, do hereby certify that pursuant to Notice there came before me on the 12th day of April 2012, the following named person, to wit: OFFICER JARED B. ZWICKLER, who was by me duly sworn to testify to the truth and nothing but the truth; that he was thereupon carefully examined upon his oath and his examination reduced to writing under my supervision; that this deposition is a true record of the testimony given by the witness.

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 this action.

IN WITNESS THEREOF, I have hereunto set my hand this ____day of _____2012.

Dolores A. Falzarano, RMR, LSR 111
Notary Public

My Commission Expires: July 31, 2014

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Reporter's note: Exhibits retained by
Attorney Baird.

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JURAT

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BARBARA C. DOUDEL,	
Plaintiff	CIVIL NO.
vs.	3:11CV1164 VLB
CITY OF NORWALK, Et Al,	
Defendants.	

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With the addition of the changes, if any, indicated on the attached errata sheet, the foregoing is a true and accurate transcript of my testimony given in the above-entitled action on April 12, 2012.

Officer Jared B. Zwickler

Subscribed and sworn to before me, the undersigned authority, on this the ____day of _____ 2012.

Notary Public

My Commission Expires:

DAF

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ERRATA SHEET

Please note any corrections on this sheet.
Do not mark up the transcript.

The ORIGINAL JURAT and ERRATA SHEETS must be NOTARIZED (even if there are no corrections) and returned within 30 days of receipt to the attorney who took the DIRECT EXAMINATION. All other counsel of record must be sent a COPY, along with a COPY to our office for our records.

Page Line From To

Date Officer Jared B. Zwickler

Sworn to before me this ____day _____
2012.

DAF