

EXHIBIT C

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

2 -----X
3 ADRIAN SCHOOLCRAFT,

3
4 PLAINTIFF,

4 -against- Case No:
5 10 Civ. 6005
6 (RWS)

7 THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL MARINO,
8 Tax Id. 873220, Individually and in his Official
9 Capacity, ASSISTANT CHIEF PATROL BOROUGH BROOKLYN
10 NORTH GERALD NELSON, Tax Id. 912370, Individually
11 and in his Official Capacity, DEPUTY INSPECTOR
12 STEVEN MAURIELLO, Tax Id. 895117, Individually and
13 in his Official Capacity, CAPTAIN THEODORE
14 LAUTERBORN, Tax Id. 897840, Individually and in his
15 Official Capacity, LIEUTENANT WILLIAM GOUGH, Tax Id.
16 919124, Individually and in his Official Capacity,
17 SGT. FREDERICK SAWYER, Shield No. 2576, Individually
18 and in his Official Capacity, SERGEANT KURT DUNCAN,
19 Shield No. 2483, Individually and in his Official
20 Capacity, LIEUTENANT CHRISTOPHER BROSCART, Tax Id.
21 915354, Individually and in his Official Capacity,
22 LIEUTENANT TIMOTHY CAUGHEY, Tax Id. 885374,
23 Individually and in his Official Capacity, SERGEANT
24 SHANTEL JAMES, Shield No. 3004 and P.O.'s "JOHN DOE"
25 #1-50, Individually and in their Official Capacity
(the name John Doe being fictitious, as the true
names are presently unknown) (collectively referred
to as "NYPD defendants"), JAMAICA HOSPITAL MEDICAL
CENTER, DR. ISAK ISAKOV, Individually and in his
Official Capacity, DR. LILIAN ALDANA-BERNIER,
Individually and in her Official Capacity and
JAMAICA HOSPITAL MEDICAL CENTER EMPLOYEES "JOHN
DOE" #1-50, Individually and in their Official
Capacity (the name John Doe being fictitious, as
the true names are presently unknown),

21 DEFENDANTS.

22 -----X

23 DATE: October 17, 2014
24 TIME: 10:20 A.M.

24 (Deposition of JOHN ETERNO, PhD)

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DATE: October 17, 2014
TIME: 10:20 A.M.

DEPOSITION of an Expert Witness,
JOHN ETERNO, PhD, taken by the Respective Parties,
Pursuant to a Notice and to the Federal Rules of
Civil Procedure, held at the offices of the New
York City Law Department, 100 Church Street,
New York, New York 10007, before Nathan MacCormack,
a Notary Public of the State of New York.

J. ETERNO

1 that's included with police management.

2 Q. Have you ever qualified as an expert on the
3 specific area of blue wall of silence?

4 A. No.

5 Q. Have you ever been qualified as an expert in the
6 specific area of whistleblowers?

7 A. No.

8 Q. Have you ever been qualified as an expert in the
9 specific area of emotionally disturbed persons?

10 A. No.

11 Q. Have you ever been qualified as an expert in the
12 specific area of the use of surveys and political science
13 research?

14 A. No.

15 Q. Have you ever been qualified as an expert in the
16 specific area of statistical analysis?

17 A. No.

18 Q. Have you ever been qualified as an expert in any
19 court in New York?

20 A. New York State or Federal Court?

21 Q. New York State or Federal Court.

22 A. I was -- I, as I said earlier, I was an expert
23 witness in a case in the United States, Southern District.

24 Q. That was the Daniels case?

25 A. No, that was the Keenan case that I -- yeah.

J. ETERNO

1 C.V. than the one in Exhibit A?

2 A. Yes.

3 MS. PUBLICKER METTHAM: I'm going to call
4 for production of that C.V.

5 MR. SMITH: We will take that under
6 advisement.

7 Q. From where did you receive your Bachelor's
8 Degree?

9 A. Queens College, City University of New York.

10 Q. What was your degree?

11 A. History.

12 Q. What year did you receive that degree?

13 A. I got that in 1981.

14 MR. SMITH: Let the record reflect the
15 witness was reviewing his C.V., which is before
16 him.

17 Q. Do you hold any advanced degrees?

18 A. I do.

19 Q. How many advanced degrees do you hold?

20 A. Three.

21 Q. What are those degrees?

22 A. Master's in human relations, a Master's in
23 criminal justice, and a PhD in criminal justice.

24 Q. Have you ever attended law school?

25 A. No. But I want to point out that one of my

J. ETERNO

1 areas -- you have to have an area of concentration in your
2 PhD program, one of my areas of concentrations was law.

3 Q. Have you ever taken any course at a law school?

4 A. No.

5 Q. Are you an attorney?

6 A. No.

7 Q. Have you attended any classes at any university
8 since you received your PhD?

9 A. That's a good question. I can't recall.

10 MR. SMITH: You mean as a student?

11 Q. As a student.

12 A. No.

13 Q. Do you attend any classes or trainings as a
14 student?

15 A. No. It's mostly in-service training.

16 Q. In-service training that you received?

17 A. That I would take, yes.

18 Q. When was the last time you took in-service
19 training?

20 A. I would say -- I don't know, maybe a year ago.

21 Q. What was that training on?

22 A. I don't recall.

23 Q. How frequently do you receive in-service
24 training?

25 A. I will go maybe once a year or so.

J. ETERNO

1 A. That would be in police science.

2 Q. So, when I asked earlier if you had ever taught
3 any course dealing with emotionally disturbed persons you
4 would add that to the list?

5 A. I would.

6 Q. When did you teach that course?

7 A. This was 1987 through '88.

8 Q. In what context did you teach that course?

9 A. I taught recruits at the academy.

10 Q. Was the course solely on emotionally disturbed
11 persons?

12 A. No.

13 Q. What was the context of the course?

14 A. Police science.

15 Q. How long was the section on emotionally disturbed
16 persons?

17 A. I don't recall.

18 Q. How long was the training that you gave to these
19 new recruits?

20 A. Approximately six months.

21 Q. What kind of training did you give with regard to
22 emotionally disturbed persons?

23 A. There were very strict lectures that we do and
24 cover on emotionally disturbed people. We sometimes do
25 role play, other types of activities for the recruits.

J. ETERNO

1 A. Can you repeat the question?

2 Q. Sure.

3 It states that, "As the years progressed, the
4 range of information expanded widely to include summonses,
5 stop-and-frisk encounters, quality of life violations and
6 numerous other activity;" is that correct?

7 A. Yes.

8 Q. What CompStat books did you review to come to
9 this opinion?

10 A. I have reviewed the initial CompStat books that
11 came out, and I am well aware of them. And I also reviewed
12 the CompStat notes that were provided to me for this case.

13 We have also reviewed Dr. Silverman's book and
14 material from the initial CompStat meetings. And also, my
15 knowledge of CompStat, and my awareness of what goes on at
16 that meetings, as well.

17 Q. So, when was the last time you looked at a
18 CompStat book?

19 MR. SMITH: Objection to the form.

20 A. It's been back when I was on the police
21 department.

22 Q. So, not since 2003 or 2004?

23 A. Yes.

24 Q. So, on what do you base your opinion that the
25 range of information in CompStat books now includes

J. ETERNO

1 stop-and-frisk encounters are in CompStat books?

2 A. Well, we are also aware of this from our
3 research, our surveys.

4 Q. And the surveys stated that stop-and-frisk
5 material is found in CompStat books, specifically?

6 A. We did not ask that specific question. However,
7 as part of our own research, we also interviewed some
8 commanders where this would come up.

9 Q. So, commanders told you that stop-and-frisk
10 activity, and other activities, were found in CompStat
11 books?

12 A. Yes.

13 Q. When did you learn that?

14 A. This was more recently, after the 2008 survey
15 came out.

16 Q. Would it change your opinion, in any way, if I
17 told you that stop-and-frisk activity is not found in
18 CompStat books?

19 MR. SMITH: Objection to the form.

20 A. No.

21 Q. Why not?

22 A. Whether or not stop-and-frisk activities are in
23 the book, it's just one of many items. CompStat notes have
24 indicated that stop-and-frisk activity is something that's
25 discussed. And I am aware that it is something, or was

J. ETERNO

1 about pressure from CompStat meetings?

2 A. No, not necessarily.

3 Q. Why not?

4 A. Length in time of a meeting is not necessarily
5 indicative of the pressure that's put on commanders.

6 Q. The last sentence -- the second-to-last sentence
7 in this section states that, "Commanders are ranked and
8 evaluated based on their comparative crime statistics,
9 anti-crime plan, related law enforcement activities and the
10 ability to articulate these at meetings."

11 A. Yes.

12 Q. "Commanders who do not measure up are often
13 reassigned to other positions." Did I read that
14 accurately?

15 A. You did.

16 Q. Which commanders have been moved based on their
17 inability to measure up at CompStat meetings?

18 A. You would have to get that information from my
19 colleagues, and Dr. Silverman.

20 Q. So, you can't answer that question?

21 A. Well, I can say that I am aware that commanders
22 have been changed due to CompStat meetings, but I cannot
23 specifically name people.

24 I do know that three commanders were fired due to
25 their playing with crime reports. That's public

J. ETERNO

1 information.

2 Q. On what did you base the opinion of the sentence
3 I just read?

4 A. This was based on my discussions with
5 Dr. Silverman.

6 Q. So, do you have any independent information on
7 which you based your opinion that these commanders were
8 moved based on their inability to measure up?

9 A. I do know that we have -- we do know that
10 commanders feel a lot of pressure. And we do know that
11 commanders have told us that they are worried about this.
12 Essentially, the informal message given at these meetings
13 is if you have a bad CompStat meeting, you don't have a
14 career.

15 Q. But my question to you is, these three C.O.s that
16 you mentioned, or the C.O.s that you mentioned in your
17 report who are resigned, do you have any independent
18 knowledge that they were moved solely on their inability to
19 measure up and not based on other factors?

20 A. No.

21 Q. How often are commanders moved for the inability
22 to measure up at CompStat meetings?

23 A. I don't know. That's a question you would have
24 to ask the police department.

25 Q. Do you believe it's inappropriate to rate a

J. ETERNO

1 A. This would now be Commissioner Safir -- well,
2 starting with Commissioner Bratton, Commissioner Safir,
3 Commissioner Kerik and Commissioner Kelly.

4 Q. And to what other government officials were you
5 referring?

6 A. Where are you reading -- "Regardless of the
7 explanation" --

8 Q. "The mayor, the police commissioner and other
9 government officials' rhetoric."

10 A. I am referring to numerous media reports where we
11 have constantly seen it. So, it would be police officials
12 and other officials who would have been in the media.

13 Q. Can you name any specifically?

14 A. Chiefs, Chief Esposito, perhaps, and others that
15 are in the police department.

16 Q. The last sentence, the next one in this paragraph
17 you state, "It became the focal point, the narrative of
18 both the Giuliani and Bloomberg administration."

19 My question to you is, what is the "it" that you
20 were referring to?

21 A. The reduction of crime.

22 Q. So, you are not referring to the impact of
23 CompStat on the decrease on index crime?

24 MR. SMITH: Objection to the form.

25 A. I am referring to the reduction of crime. The

J. ETERNO

1 MS. PUBLICKER METTHAM: That was my
2 question, Mr. Smith. Please stop interjecting
3 your comments.

4 MR. SMITH: I was just making sure I heard
5 what you said. Is that what you said, "Just the
6 judge's decision"?

7 Q. Dr. Eterno, have you ever heard --

8 MR. SMITH: Can you go back and repeat that
9 last question, please.

10 (Whereupon, the referred to question and
11 answer were read back by the Reporter.)

12 A. I would like to change that. And also, based on
13 my experience and knowledge of policing in New York City.

14 Q. So, in your experience, you have seen police
15 officers make a stop of a citizen unlawfully just to meet a
16 quota?

17 A. Anecdotally, I have got a lot of information on
18 that, media accounts and other information where that is
19 stated, yes.

20 I have also seen it on websites and other places.
21 And I have had informal and anecdotal conversations with
22 people where this has been mentioned.

23 Q. Can you name a single person who has made a stop
24 of a citizen unlawfully just to meet a quota?

25 A. I do know, again based on media accounts, that

J. ETERNO

1 the union has pointed out, and they have done a whole big
2 advertisement, "Don't blame the beat cop for what's
3 happening," and they say, "Blame management."

4 This was quite clear in their language and
5 rhetoric. So, I would say based on those accounts, yes.

6 Q. But my question to you is whether you can name a
7 single person who you know that stopped someone unlawfully
8 in order to meet a quota?

9 A. No.

10 Q. Can you name a single police officer who issued a
11 summons without probable cause solely to meet a quota?

12 A. No.

13 Q. Can you name a single police officer who made an
14 arrest solely to meet a quota?

15 A. No.

16 Q. Have you ever heard a chief say during CompStat,
17 "I don't want numbers for numbers"?

18 A. I don't recall that exact statement being said.

19 Q. Have you ever heard a chief say during CompStat,
20 "I don't want you pushing numbers just for the sake of
21 numbers"?

22 A. Again, I don't recall that exact statement.

23 Q. If I were to tell you, and you can assume it's
24 true for the purposes of this question, that chiefs have
25 said multiple times during CompStat, "I don't want numbers

J. ETERNO

1 A. The date that I provided of 2004? I would say
2 this. What our research shows -- and this basically backs
3 it up -- is that there is this pressure and downgrading
4 that occurs.

5 It occurs, regardless of time period. So, the
6 year 2004 is not that important to me. I am just not sure
7 how this is important.

8 Q. Would it be important to you to learn if Adrian
9 Schoolcraft did not start feeling pressure until 2007 or
10 2008?

11 A. That's very possible, depending on where he
12 individually worked, and the commanders that he was working
13 on, and supervisors.

14 Q. And the media reports that you refer to in this
15 Media Accounts section, they begin with claims from 2004
16 out of the 50th Precinct; is that correct?

17 MR. SMITH: Objection to the form.

18 A. Yes.

19 Q. Do you know if the plaintiff ever worked in the
20 50th Precinct?

21 A. I don't know.

22 Q. You then state in here that your research
23 uncovered current occurrences of similar practices. Are
24 you referring to just the 2008 and 2012 surveys when you
25 say "our research"?

J. ETERNO

1 A. Yes. Well, not just that, but also experience in
2 talking with officers, media accounts, all of this
3 information we gathered.

4 Q. Has your research ever focused on the 81st
5 Precinct?

6 A. Not specifically, no.

7 Q. Why not?

8 A. We were studying the police department, not
9 individual precincts.

10 Q. Are you aware of accounts of pressure from within
11 the 81st Precinct aside from Adrian Schoolcraft?

12 A. I am aware of statements made by other
13 supervisors there indicating that there was such pressure,
14 which was publicly acknowledged.

15 Q. To which supervisors are you referring?

16 A. It was either the X.O., or the lieutenant there,
17 that went to the supervisors' meeting there and taped it.

18 Q. Is there any other information you have about
19 pressure in the 81st Precinct?

20 A. Specifically the 81st Precinct?

21 Q. Specifically.

22 A. No.

23 Q. On the next page, page 7, you cite to a 2004 New
24 York Times article reporting on 2003 FBI crime statistics
25 for New York City.

J. ETERNO

1 other examples of this in the media, sure.

2 Q. So, would you say the materials you relied on in
3 forming this report, are those cited in this report and
4 also the media cited in your book?

5 A. I would say certainly that's part of it, yeah.

6 Q. Which book are you referring to?

7 A. Crime Numbers, again.

8 Q. Are there any other media accounts that you
9 considered that you have not listed in here?

10 A. You can check the book.

11 Q. Are there any media accounts that are not listed
12 in the book or the report that you considered in forming
13 your opinion in this case?

14 A. Maybe some general knowledge of things I read in
15 the papers, of course.

16 Q. But you can't specifically state any of those?

17 A. No, not off the top of my head.

18 Q. You also cite a Jim Hoffer 2010 article; is that
19 correct?

20 A. Actually, he is ABC News investigative reporter,
21 Jim Hoffer.

22 Q. I am sorry.

23 So, a Jim Hoffer 2010 report; is that correct?

24 A. Yes.

25 Q. And in that you claim to portray Commissioner

J. ETERNO

1 A. No. From what I understand, they are just people
2 in the precinct or others. I know in the case of Borrelli,
3 actually, he had complainants on the tapes.

4 Q. My question was about Officer Polanco's
5 recordings, Dr. Eterno.

6 A. Sorry.

7 Q. So, it's not your understanding that Officer
8 Angel Herran, who was the P.B.A. representative, was the
9 individual making the statements on Officer Polanco's
10 recording?

11 A. I don't know.

12 Q. So, you don't know who made any of the statements
13 on Officer Herran's recordings?

14 A. I don't know.

15 Q. How did you receive those recordings?

16 A. Again, through media accounts.

17 Q. When did you last listen to those recordings?

18 A. I haven't listened to them in quite a while.

19 Q. How long?

20 A. Months.

21 Q. What do you remember about his recordings?

22 A. Not much. Polanco's?

23 Q. Polanco.

24 A. Not much.

25 Q. From what precinct did those recordings

J. ETERNO

1 A. Of course. Or you might take a report for
2 another reason. For example, person says it's a robbery
3 and then it could be something else.

4 Q. What audiotapes from Sergeant Robert Borrelli do
5 you have?

6 A. I don't have any of his tapes, other than what
7 the media has released.

8 Q. What tapes are those?

9 A. I think was a tape of the 100th Precinct where he
10 worked, some complainants that indicated things to him that
11 were not recorded on complaint reports.

12 Q. And in what year were those recordings made?

13 A. I don't recall.

14 Q. Was it prior to 2010?

15 A. I don't recall.

16 Q. Do you recall when these tapes were made public?

17 A. No.

18 Q. When did you last listen to these tapes?

19 A. Again, I don't recall the exact time and date.

20 Q. Do you know when the tapes from Officer Polanco
21 were recorded?

22 A. No, I don't know. I don't remember the dates. I
23 know, but I don't remember off the top of my head, the dates.

24 Q. Do you recall whether they were before 2010?

25 A. I don't recall.

J. ETERNO

1 Q. What else do you remember about the recordings of
2 Sergeant Robert Borrelli?

3 A. I do remember that he was disciplined for it. I
4 remember that he was sent to -- he was in the 100th
5 Precinct and then he was sent to, I think the Bronx from
6 the 100th Precinct. So, he was disciplined right after
7 these recordings were released.

8 Q. I am sorry, but you didn't answer my question,
9 which is, what do you remember about the recordings?

10 A. I think I basically told you that.

11 Q. That's all you recall, what you have already told
12 me?

13 A. Yeah, that's what I remember.

14 Q. Just to confirm, you stated you have no audio
15 recordings from any other members of the N.Y.P.D.?

16 A. I don't have them, other than the media accounts
17 that are available publicly. I don't have their personal
18 tape recordings, but I do have the publicly-available media
19 accounts from what's been released.

20 Q. So, what other audiotape recordings from media
21 accounts do you rely on in your report that are not listed
22 here?

23 A. Again, my book is listed in the references
24 section, with Eli, and all of these would be in that book,
25 so they are listed in the book. If you want to read the

J. ETERNO

1 enforced.

2 Q. When you were a member of the N.Y.P.D., you never
3 saw, personally, a quota being strictly enforced?

4 A. Strictly, no. I do know of people who were
5 disciplined for not doing any activity, things like that,
6 yes.

7 Q. And do you believe it was inappropriate to
8 discipline those individuals for getting no activity?

9 A. No. If they had nothing, they should be doing
10 something. As a supervisor, I would expect that.

11 Q. Do you know why Officer Polanco was suspended?

12 A. No.

13 Q. Are you aware that Officer Polanco was suspended
14 for issuing a summons to a citizen for a violation he did
15 not observe?

16 A. Actually, I remember reading something about that
17 in one of the news articles, yes.

18 Q. Are you aware that he admitted to issuing a
19 summons for a violation he did not observe?

20 A. If I remember correctly, and again this is based
21 on media accounts, he said that it was because he felt
22 pressures from the precinct to write these summonses. But
23 I can't speak for Officer Polanco.

24 Q. Do you believe it's inappropriate to suspend an
25 individual for admitting that they violated the

J. ETERNO

1 Q. Is that to a reasonable degree of scientific
2 certainty?

3 A. Yes.

4 Q. And on what do you base that opinion?

5 A. On what's in appendix B, and all the other
6 materials, my knowledge and expertise.

7 Q. Did you read the depositions of any officers
8 involved in this case?

9 A. Not in their entirety.

10 Q. Did you read any in part?

11 A. There was, I think, an Officer Duncan that I
12 looked at.

13 Q. And earlier today, when I asked you about
14 documents, you did not mention Officer Duncan?

15 A. Isn't that in appendix B?

16 Q. I am sorry, that one is in appendix B.

17 MR. SMITH: As is Finnegan.

18 Q. So, the only depositions you reviewed would be
19 Finnegan and Duncan?

20 A. Yes.

21 MR. SMITH: But he did mention that there
22 were subsequent reports.

23 THE WITNESS: Yes, the lieutenant's special
24 assignment from the medical division.

25 Q. So, you did not review the complete deposition of

J. ETERNO

1 A. Yes. And that was from the Lauterborn memo.

2 Q. Were you aware that he had a shotgun under his
3 bed?

4 A. No.

5 Q. Would that change your opinion in any way?

6 A. As to?

7 Q. As to any of your opinions in this case.

8 A. Well, that should have been on his force record
9 card, which is all weapons that an officer has must be on
10 that record card. So, that weapon should be taken.

11 As part of the patrol guide procedure, all
12 weapons should be vouchered from the medical -- previously
13 should have been vouchered.

14 Q. Would it change your opinion about Adrian
15 Schoolcraft in any way if you learned that he had not
16 reported the shotgun to the medical division, had not
17 returned it after his weapons were removed from him?

18 MR. SMITH: Objection to the form.

19 A. Yes. He should have reported that.

20 Q. Would it change your opinion about this case in
21 any way?

22 MR. SMITH: Objection to form.

23 A. Perhaps. I don't know. Maybe.

24 Q. Would it change your opinion about this case in
25 any way to learn that he had the gun under his bed during

J. ETERNO

1 the recording you listened to?

2 A. Yeah. It might be an important piece of
3 evidence.

4 Q. Did plaintiff's counsel provide you with a
5 recording in which Adrian Schoolcraft spoke about the
6 shotgun to his father earlier in the day, on the date of
7 October 31, 2009?

8 A. No. The only thing I have is what's in appendix
9 B.

10 Q. And were you provided with any documents
11 indicating that when I.A.B. went back to his home they did
12 vouch for the shotgun found under his bed?

13 A. No.

14 Q. Have you heard any of the recordings Schoolcraft
15 took earlier in the day where he stated he wished he still
16 had his service weapon in case he got into a gun battle at
17 the precinct?

18 A. No.

19 Q. Assuming that's accurate, would that change your
20 opinion about this case in any way?

21 MR. SMITH: Objection to the form.

22 A. It might.

23 Q. How so?

24 A. Well, it does show a concern against his fellow
25 officers. But we are starting to talk now about at least a

J. ETERNO

1 important I would have noted it.

2 Q. So, again, you believe this is a direct quote
3 from that report?

4 A. It's pretty close. I think it's correct. I
5 would need that report to confirm.

6 Q. Did you have the report in front of you when you
7 wrote your report?

8 A. I may have. I don't recall.

9 Q. So, you may have just paraphrased?

10 A. It's possible.

11 Q. Did you read Dr. Lambstein's deposition
12 transcript?

13 A. It's not in appendix B, so I would not have read
14 it.

15 Q. So, you didn't think it was important to know
16 what Dr. Lambstein believed on the night of the incident?

17 A. My expert opinion is not regarding what the
18 doctor at the hospital did or did not do or whatever
19 statement that was made. My expert opinion is based on the
20 police behavior at the scene and basic pressures that
21 happen to officers.

22 So, Dr. Lambstein's commentary to me is something
23 that I am not really commenting on, nor am I a psychologist
24 or a psychiatrist where I could comment on what a doctor, a
25 psychiatrist I am assuming, would say about Officer

J. ETERNO

1 Schoolcraft at the time he entered the hospital.

2 I am talking about at the scene, and what
3 information that I have available, and what I am basing my
4 decision on -- my expert opinion on is the information that
5 is in appendix B, my expertise in police management.

6 Q. So, you don't understand, then, that
7 Dr. Lambstein is the psychologist you are allegedly quoting
8 here?

9 A. I am sorry. I thought you were talking about the
10 person who entered the -- when he got to the hospital.

11 Q. No, Dr. Lambstein is --

12 A. I am sorry, I don't have the report in front of
13 me. So, what is your question now regarding Dr. Lambstein?

14 Q. Do you believe it would have been helpful to read
15 her transcript to understand what she believed and her
16 recollection of what she told Captain Lauterborn that night
17 was?

18 A. Yes, that would be important.

19 Q. But you didn't actually review that transcript?

20 A. It's not in appendix B, I didn't read it.

21 Q. Did you ask plaintiff's counsel for it?

22 A. I didn't know she was involved.

23 Q. If I told you that her opinion was that the last
24 time she saw him he did not appear to be a danger, but she
25 could not speak for him, and his mental state at the time

J. ETERNO

1 A. I didn't say "only," but I do feel that that was
2 certainly a contributing factor.

3 Q. I believe you do say it's a direct result. On
4 page 11, "If any actions appeared emotionally disturbed
5 they occurred after they entered the apartment. In fact,
6 if they occurred, they apparently were the direct result of
7 the actions of the N.Y.P.D."

8 A. Apparently.

9 Q. So, what do you mean by apparently, then?

10 A. It appears that that was the direct reaction of
11 them staying in his living room, or bedroom, not sure
12 which. But they stayed there against his wishes. That
13 would drive anyone's blood pressure, I think, higher.

14 Q. Do you have any medical background or training?

15 A. Just what I had with the Police Academy.

16 Q. So, are you qualified to make a determination
17 about the impact of others on an individual's mental or
18 physical health?

19 A. I am a physical fitness instructor for law
20 enforcement, but I am not a qualified doctor of medicine.

21 Q. And have you ever done any studies on the impact
22 of others on someone's physical and mental health?

23 A. I actually did a study for the police department
24 on physical fitness standards and their effect on arrests
25 that went on to win an award. It won a police foundation

J. ETERNO

1 not be it.

2 Q. Your report indicates that it would have been
3 exceedingly prudent to contact the legal bureau for advice,
4 as well as notify them directly; is that correct?

5 A. Yes.

6 Q. Is it required that officers contact the legal
7 bureau before declaring someone an E.D.P.?

8 A. It's not required to declare someone an E.D.P.
9 But this is an extremely unusual situation, where a
10 uniformed member of the service is being declared
11 emotionally disturbed. It would have been extremely
12 prudent to contact the legal bureau on this.

13 Q. But is it required?

14 A. No.

15 Q. Moving on to the next section, which is also on
16 page 11. That's your section on hospital data; is that
17 right?

18 A. Yes.

19 Q. Mr. Smith has represented that the Health and
20 Hospital Corporation data is no longer available on the
21 website and no copy has been maintained by the expert; is
22 that accurate?

23 A. Yes.

24 Q. So, there is nothing --

25 MR. SMITH: Just correct one thing. I

J. ETERNO

1 how to do it.

2 Q. But you did expect they would rely on the history
3 that you provided as one part of their overall evaluation
4 of that person, correct?

5 A. Of course.

6 MR. LEE: Thank you.

7 MS. PUBLICKER METTHAM: The time is 6:46.

8 (Whereupon, at 6:46 P.M., the Examination of
9 this Witness was concluded.)

10

11

12

JOHN ETERNO, PhD

13

14 Subscribed and sworn to before me

15 this ____ day of _____ 20__.

16

17

NOTARY PUBLIC

18

19

20

21

22

23

24

25

