

**Stacey Hightower**  
**December 30, 2010**

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UNITED STATES DISTRICT COURT  
FOR THE COMMONWEALTH OF MASSACHUSETTS

Civil Action No. 08-11955-PBS

\*\*\*\*\*

STACEY HIGHTOWER, \*

Plaintiff, \*

vs. \*

CITY OF BOSTON and BOSTON POLICE \*

COMMISSIONER EDWARD DAVIS, \*

Defendants. \*

\*\*\*\*\*

DEPOSITION of STACEY HIGHTOWER  
Thursday, December 30, 2010 at 12:00 p.m.

City of Boston Law Department

City Hall

Boston, Massachusetts

----- Jacqueline P. Shields, RPR, CSR -----

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1 Q. Did you know why the department was  
2 investigating more than just the officer who  
3 allegedly punched him in the face?

4 MR. GURA: Calls for speculation.

5 BY MS. MAKI:

6 Q. If you know.

7 A. No.

8 Q. Had you ever heard that there was a coverup  
9 amongst the other officers?

10 A. No.

11 Q. No. Did you know that there was a civil  
12 lawsuit brought in connection with this?

13 A. Not sure. I'm not sure about a civil case  
14 with it.

15 Q. Were you ever called to testify as part of  
16 the civil case?

17 A. I don't think so. I don't recall, no.

18 Q. Other than your IA interview, had you ever  
19 been questioned about it before or after?

20 A. No, I don't think so. To the best of my  
21 recollection, it was that one time.

22 Q. At Internal Affairs?

23 A. Yes.

24 Q. What did you receive as a discipline with

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1 regard to those sustained charges?

2 A. Discipline?

3 Q. Were you disciplined?

4 A. For what?

5 Q. For the charges that were sustained.

6 MR. GURA: Are you referring to Exhibit 3?

7 A. What charges?

8 BY MS. MAKI:

9 Q. Exhibit 3.

10 A. That's not a charge. That's a violation.

11 Q. Okay.

12 A. That's not a charge. It's a violation.

13 Q. Okay.

14 A. It says "violation."

15 Q. I'm sorry.

16 A. Not a charge. So a violation is like  
17 running a red light. That's a violation.

18 Q. Did you receive a discipline for violating  
19 those three rules?

20 A. No.

21 Q. You never received a discipline?

22 A. No.

23 Q. Did you ever appeal those rules violations?

24 A. Yes. I believe my union rep may have. I'm

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1 not sure.

2 Q. Did you contact your union rep once you  
3 received that?

4 A. Yes.

5 Q. Why did you do that?

6 A. Well, I did that because my understanding  
7 was that I was a witness and that I wasn't being --  
8 there were no charges filed against me whatsoever.  
9 And that I was coming in as a witness to give  
10 testimony as if someone would in a shooting.  
11 Subsequently, after giving my testimony I received  
12 this. So, you know, you can imagine the shock, how  
13 was it I turn from witness to all of a sudden the  
14 defendant? How did that happen without any hey,  
15 you're being charged with this or -- no one said  
16 anything like that. So I was a witness. And then I  
17 get this, that I'm in violation. So I'm -- it's  
18 very confusing. How is it that I'm in violation of  
19 something when I came in and gave you honest  
20 testimony of what I recalled? Then I found out a  
21 lot of people had one of these.

22 So the next thing to do is to contact your  
23 union rep, so they can handle this type of  
24 situation. That's what they are there for. That's

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1 who I contacted.

2 Q. Were you disputing the violations?

3 A. Yes.

4 Q. Okay. And why were you disputing them?

5 A. I was disputing them because, first of all,  
6 I'm not a liar. That was a big one, and the second  
7 one, given the chaos at the scene, and the fact that  
8 superior officers were there at the scene, and they  
9 were the ones was telling us hurry up. Get out of  
10 there. Get out of there. There was a bunch of  
11 frenzy all over the place. They had already  
12 searched the prisoner, I wasn't going to get out of  
13 the vehicle. It was just not appropriate. These  
14 violations weren't appropriate based on the scene.

15 Q. Okay.

16 A. Based on the scenario.

17 Q. Okay. But at that point you realized that  
18 you had become more than just a witness, and when I  
19 say at this point, I mean November 4th, 2005 as  
20 displayed in Exhibit 3?

21 MR. GURA: Objection. Vague and ambiguous.  
22 What do you mean by "more than just a witness"?

23 BY MS. MAKI:

24 Q. You had gone from a witness to a police

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1 speculation, calls for a legal conclusion.

2 BY MS. MAKI:

3 Q. You can answer.

4 A. That was over two years later, from that  
5 incident to this incident. So I'm not really sure  
6 what was going on in his head.

7 Q. What do you know, what is your  
8 understanding of what happened with these rules  
9 violations?

10 A. My understanding is nothing happened with  
11 them. That's my understanding.

12 Q. Okay. So you're found to be in violation  
13 of these rules, right?

14 A. Uh-huh.

15 Q. You called your union representative  
16 because you disputed them, right?

17 A. That's correct.

18 Q. And at some point you're in discussions  
19 with Richard Bardi, I don't want to hear anything  
20 that you guys discussed, but you contacted him?

21 A. Yes.

22 Q. He represented your interests with regard  
23 to the rules violations noted in Exhibit 3?

24 A. Yes.

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1 Q. And in 2007 he was still representing you  
2 with regard to the rules violations in Exhibit 3?

3 A. Yes.

4 Q. Okay. And as you sit here today you have  
5 no idea of what happened with those rules  
6 violations?

7 A. No.

8 Q. Are you aware that those rules violations  
9 listed in Exhibit 3 were still pending in 2008 when  
10 you resigned from the Boston Police Department?

11 A. No, I'm not aware of what was going on with  
12 that.

13 MS. MAKI: Mark that as the next exhibit,  
14 please.

15 (Exhibit No. 5, marked; Document entitled  
16 Police Commissioner's Personnel Order, dated August  
17 18, 2008.)

18 BY MS. MAKI:

19 Q. Ms. Hightower, I'm going to show you  
20 Exhibit 5. Do you recognize that document?

21 A. Yes.

22 Q. Okay. When did you first see that  
23 document?

24 A. "Resignation of Police Officer Stacey

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1 being presented with charges pending is hereby  
2 effective Friday, August 15th, 2008," when you  
3 received that language, what did you think "charges  
4 pending" meant?

5 A. I had no idea.

6 Q. Did you think it meant the Holbrook appeal?

7 A. I didn't know what it was talking about,  
8 charges pending.

9 Q. Did you ever --

10 A. I was never charged with anything. I had  
11 never been charged with anything, so I didn't know  
12 what this charges pending was.

13 Q. What is your understanding of the word  
14 "charge" within Boston Police Department?

15 A. So charge is when, let's say you have a  
16 complaint filed against you and you go in and you  
17 testify to the complaint that's filed against you,  
18 all right? And subsequently the department says  
19 that, all right, I found you -- we're going to  
20 charge you with stolen property. All right? So now  
21 you're charged with stolen property, whatever it is,  
22 whatever crime it is, and that charge is pending  
23 against you, or let's say administrative, not  
24 criminally. So administrative, you go in and say



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1 you're charged with, I don't know, violation of,  
2 let's say a violation of these rules, say that they  
3 say you're charged with violation of 102, Section 4,  
4 102, Section 27, 103A, Section 28, and they want you  
5 to come in and testify to those charges, you go in  
6 and you testify to those charges and then they say,  
7 we now find you guilty of this and we're going to  
8 give you 28 days' suspension. Those charges are  
9 pending.

10 Q. So your understanding of "charges" means it  
11 is the equivalent of somebody investigating you and  
12 disciplining you for a Boston Police Department  
13 rules violations?

14 A. With due process.

15 Q. Of course, with due process. But is that  
16 the same thing in your mind?

17 A. So in my mind, I told you charges pending  
18 means charges pending, it means you've been accused  
19 of something. You've been called in to give  
20 testimony on whatever it is you're being accused of,  
21 right? So you have your opportunity to testify to  
22 it or whatever, get an attorney, whatever, and then  
23 they inflict charges. They inflict punishment. And  
24 you get the date to serve. And it's done.

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1           Q.   Okay.   So Exhibit 3, how is that different  
2   from what you just described?

3           A.   Well, because I didn't -- first of all, I  
4   didn't have any due process on this.   I told you, I  
5   was called in as a witness and gave testimony as a  
6   witness.

7           Q.   That's not due process?

8           A.   No, that is not.   Okay?   Is this due  
9   process?   If I call you in and give witness  
10   testimony on a motor vehicle accident that you  
11   witnessed --

12          Q.   Let me just stop you right there.   I'm  
13   going to ask you the question.

14          A.   I'm just saying that due process is if I  
15   called you and ask you to give testimony on a car  
16   accident that you witnessed, and then I say thank  
17   you, have a nice day, and subsequently I send you a  
18   letter in the mail saying that I found you in  
19   violation of jaywalking --

20          Q.   I appreciate this.   My question is, you  
21   just described what you feel is charges pending, and  
22   the difference, what you're telling me between what  
23   Exhibit 3 is and charges pending is due process?

24               MR. GURA:   Misstates the testimony.   I

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1 believe she was getting to answer you.

2 BY MS. MAKI:

3 Q. Why don't you finish. You described it,  
4 you feel that you weren't given due process in  
5 Exhibit 3. What else is the difference?

6 A. It's the difference, just like I told you,  
7 now I'm saying that you're jaywalking, and then I  
8 send you a letter back and say I found you in  
9 violation of jaywalking, right, however, what  
10 happened here, I never allowed you to -- I never  
11 called you in and said that I was finding you in  
12 violation of jaywalking. I never allowed you the  
13 opportunity to talk about whether you were  
14 jaywalking or not. I could have said that you were  
15 doing anything in anything and wrote it down on the  
16 piece of paper and trying to say that you were in  
17 violation of that. That's what happened here. This  
18 was not -- this was just something that came out of  
19 nowhere. I don't know where this came from. I was  
20 a witness, so to me this isn't any type of sustained  
21 violation in connection with any type of charges  
22 pending. It just can't be. It doesn't make any  
23 sense. It's not sensible.

24 Q. Okay. Other than it doesn't make any sense

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1 to you, what is the difference?

2 A. It doesn't make any sense if you were given  
3 a violation of jaywalking, what you would have done  
4 was you would have taken your violation of  
5 jaywalking, you would have contacted yourself an  
6 attorney, or would you have filed an appeal in court  
7 against this, and people would have had to come and  
8 give testimony, right? And you come and give  
9 testimony on this jaywalking, and your attorney  
10 would represent you on that, and the City of Boston  
11 would come in and give the, bring evidence as to why  
12 they say that you're jaywalking. That's what would  
13 happen. And then someone who was not related would  
14 then make a determination that they find you guilty  
15 and therefore guilty as charged, at which time you  
16 would have to either pay or, you know, community  
17 service.

18 Q. Okay.

19 A. That's charges pending.

20 Q. You're still not answering my question.

21 A. I don't know how to answer your question.

22 MR. GURA: She's -- okay --

23 A. I'm trying to answer your question. I  
24 can't really put this into --

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1 MR. GURA: Okay, is there -- go ahead and  
2 ask.

3 BY MS. MAKI:

4 Q. My question is the difference between what  
5 you just described as rules violations and you come  
6 in and you're being investigated, and you're  
7 notified that you're being investigated for X, Y and  
8 Z, right? That's charges pending to you?

9 A. Yes, being investigated for something,  
10 you're called in to give testimony on what it is,  
11 like, for instance, the original complaint, so the  
12 officers who were allegedly in violation of the  
13 original Reddick complaint, the two officers  
14 mentioned, two, three, four, whoever they were, I  
15 believe it was two, they were charged with --

16 Q. They were investigated?

17 A. It was my understanding that they were  
18 charged.

19 Q. Okay. But for purposes of this deposition,  
20 and I don't want to talk about speculation over what  
21 happens when you jaywalk, the difference between  
22 what this paper says here and what you believe to be  
23 charges pending is that you were not notified that  
24 you were being investigated; is that correct?

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1           A.   Not necessarily.

2           Q.   Please explain how it's different.

3           A.   I just tried to explain to you how it was  
4 different.

5           Q.   But the due process, to be notified that  
6 you were investigated and to have a hearing and  
7 defend yourself, right? And you're saying the  
8 difference here is that you didn't have that; is  
9 that correct?

10          A.   Well, I did not have that. I just all of a  
11 sudden just got this piece of paper saying that I  
12 was in violation.

13          Q.   I understand that, but you're saying that  
14 you don't believe these to be charges pending  
15 because you were not notified and you were not given  
16 an opportunity to --

17          A.   Is this what you're talking about, this  
18 charges pending? Is this what you're talking about?

19          Q.   Let's stay on my question. What's charges  
20 pending in your mind?

21          A.   I just told you, charges pending is when  
22 you've been found to broke some rule, whatever it  
23 is, and the next thing you do is you go and you  
24 testify to that, and a decision is made, discipline

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1 is issued, and you're about to serve it out. You're  
2 going to serve it out. That's charges pending.

3 Q. Okay. When you're --

4 A. That's closure. It's done.

5 Q. Sure. When you're being investigated, is  
6 there a specific document that you receive that's  
7 saying you're being investigated?

8 MR. GURA: Objection. Calls for  
9 speculation. Are you asking about the procedure  
10 used by the Boston Police Department?

11 BY MS. MAKI:

12 Q. Ms. Hightower, you've been investigated on  
13 the Holbrook case; is that right?

14 A. Have I been investigated before the  
15 Holbrook case?

16 Q. There was an investigation into the  
17 Holbrook case, correct? Specifically of you.

18 A. Yes.

19 Q. What notice did you receive that you were  
20 being investigated?

21 A. I don't recall necessarily if I had  
22 documentation on it, versus my captain just talking  
23 to me, that that's what he was doing.

24 Q. That what? What was he doing?

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1 understand that to mean only Boston Police officers  
2 are required to fill out this form?

3 A. Yes.

4 MR. GURA: I thought the first question was  
5 whether they are required to do it.

6 THE WITNESS: It was.

7 MS. MAKI: As a Boston Police officer.  
8 Sorry if the question was bad.

9 BY MS. MAKI:

10 Q. If you don't understand my question, let me  
11 know and I will ask it in a better way.

12 A. I understood what you just said.

13 Q. We'll work like that. Moving down the  
14 page, I guess three quarters of the way down where  
15 it says, under restrictions it says, "Are there any  
16 complaints or charges pending against you?" You  
17 wrote no.

18 A. That's right.

19 Q. And what did you understand the language  
20 "Are there any complaints or charges pending against  
21 you" to mean when you filled this out?

22 A. Are there any charges or complaints against  
23 you.

24 Q. Okay. What do you understand "complaints"



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1 to mean?

2 A. Someone's filed a complaint against you.

3 Q. Like a civilian?

4 A. Like any type of misdemeanor or felony,  
5 complaint or charge.

6 Q. Okay. So you understand that to mean  
7 criminal complaint?

8 A. Yes.

9 Q. Okay. Do you understand it to possibly  
10 mean an internal complaint as a Boston Police  
11 officer?

12 A. No.

13 Q. So you understand the word "complaint" to  
14 mean only criminal complaints?

15 A. To me, yes.

16 Q. Okay. And what's "or charges" mean to you?

17 A. Criminal.

18 Q. Okay. So this question here, you only  
19 understood to mean did you have any criminal charges  
20 pending against you?

21 A. Yes.

22 Q. Okay. Did you ever find out that it meant  
23 Internal Affairs charges pending against you?

24 A. Absolutely not.

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1 Q. You never heard that?

2 A. No.

3 Q. Is today the first day that you heard that?

4 MR. GURA: Can you be more specific about --  
5 it's a vague question. Can you rephrase it? Have  
6 you ever found out, I mean, that...

7 BY MS. MAKI:

8 Q. Have you ever learned that question to mean  
9 something other than do you have criminal complaints  
10 or charges pending against you?

11 A. No.

12 Q. Okay. Okay.

13 MS. MAKI: Let's mark this as Exhibit 7.

14 (Exhibit No. 7, marked; Letter dated August  
15 20, 2008.)

16 BY MS. MAKI:

17 Q. Ms. Hightower, I'm passing to you what's  
18 marked as Exhibit 7. Do you recognize that?

19 A. Yes.

20 Q. What do you recognize that to be?

21 A. This was a letter sent to me telling me  
22 they revoked my license to carry a firearm, sent  
23 after I had left the Boston Police Department.

24 Q. Do you know why they were revoking your

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1 Q. Do you know you have a right to reapply?

2 A. Yeah, sure.

3 Q. You're aware that you can reapply?

4 A. Sure, I can reapply.

5 Q. So you know that, why haven't you done

6 that?

7 A. Why would I? They revoked my license.

8 Q. But you understand that you can go reapply

9 for another one, right?

10 A. Sure.

11 Q. Okay. Why haven't you done that?

12 A. Because they revoked my license.

13 Q. Okay.

14 A. It's a waste of time. Why would I go apply

15 when they revoked my license?

16 Q. So you believe that because they revoked

17 your license you'll be denied if you reapply?

18 A. It's not my belief that I would be

19 necessarily denied to carry a firearm. It's my

20 belief I would be denied a Class A.

21 Q. A Class A, unrestricted license to carry a

22 concealed --

23 A. That's right.

24 Q. You don't want your gun license if you

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1 can't carry it concealed?

2 A. That's not necessarily true.

3 Q. Okay.

4 A. I would like to have my gun license and be  
5 able to carry it concealed. I was a police officer  
6 for ten years with the Boston Police. I've been a  
7 police officer for over 20 years. I've arrested a  
8 lot of people, a lot of criminals with very  
9 dangerous pasts, drugs, and what have you. You run  
10 into people that I've arrested in the past, in malls  
11 shopping, what have you. I need to be protected  
12 from these individuals who perhaps may remember me  
13 or maybe I don't remember them or whatever, but I've  
14 lived a very dangerous life and I've arrested some  
15 dangerous people, and I would feel a lot more  
16 comfortable if I could have a Class A unrestricted  
17 license.

18 Q. Okay.

19 A. Specially since Boston Police were the ones  
20 who wanted me to live in the City of Boston when I  
21 wanted to live elsewhere. So I ended up living for  
22 ten years in the City of Boston where I policed, you  
23 know the old saying, you know, don't shit where you  
24 lay. Well, I shit where I laid. It's not good.