

EXHIBIT “J”

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RONALD T. WHITAKER, SR. AND :
DALEA LYNN, CO-ADMINISTRATORS :
OF THE ESTATE OF RONALD TAYLOR :
WHITAKER, JR.; AND RONALD T. :
WHITAKER, SR., TAYLOR WHITAKER, :
BRANDI WHITAKER AND CHRISTOPHER : CIVIL ACTION
HAMMERSTONE, INDIVIDUALLY, :
PLAINTIFFS : NO: 1-08-CV-00627

V

SPRINGETTSBURY TOWNSHIP; :
SPRINGETTSBURY TOWNSHIP POLICE :
DEPARTMENT; CHIEF OF POLICE :
DAVID ESHBACH AND POLICE :
OFFICER GARY UTTER, :
DEFENDANTS : JURY TRIAL DEMANDED

DEPOSITION OF: CHRISTOPHER FORD
TAKEN BY: PLAINTIFFS
BEFORE: DIANE F. FOLTZ, RMR
NOTARY PUBLIC
DATE: JANUARY 20, 2009, 10:45 A.M.
PLACE: HAGGERTY & SILVERMAN, P.C.
240 NORTH DUKE STREET
LANCASTER, PENNSYLVANIA



1 Q -- before that?

2 A No.

3 Q Okay. Any knowledge of Utter having been
4 involved in a warrant for Mr. Whitaker's arrest on a bad
5 check charge?

6 A No, I'm not aware of that.

7 Q Okay. How did you first receive notice of the
8 incident at the Giant market relating to Mr. Whitaker?

9 A I was dispatched to Giant for a subject that was
10 being physically restrained after trying to steal a cash
11 register at Giant. It initially came across that he was
12 being restrained by subjects inside of Giant at that
13 time.

14 Q Were you on patrol in your car when you got this
15 call?

16 A Yes, I was.

17 Q How far away from the Giant were you?

18 A I was just around the Banana Max area which is to
19 estimate as the crow flies mileage wise maybe a half a mile
20 away. I don't know. That's an estimate.

21 Q Okay. How long did it take you to get there?

22 A I don't have the call sheet in front of me, but I
23 would estimate, you know, one to two minutes.

24 Q Okay. Were you the first one on the scene?

25 A Yes.

1 Q Okay. What did you see when you got there?

2 A When I entered the Giant on the north exit or
3 entrance rather, I entered the store and observed the
4 subject later identified as Mr. Whitaker laying face down,
5 being physically restrained by several subjects to include
6 patrons of the store and what appeared to be employees of
7 the store at that time. I also observed the cash register
8 and displays and whatnot knocked over, things on the floor,
9 and it appeared there had been some type of physical
10 altercation inside that store right in the area of where
11 Mr. Whitaker was laying.

12 Q What did you do when you came upon --

13 A I approached Mr. Whitaker. I placed my knee in
14 the center of his back, upper shoulder area. I told him
15 that if he resisted or struggled he would be tased. I
16 assisted in placing his hands behind his back, and I
17 secured him with handcuffs.

18 Q And during this time were you the only officer on
19 the scene?

20 A Yes.

21 Q Okay. Did Mr. Whitaker appear to be under the
22 influence of alcohol?

23 A Based upon my training and experience, when we
24 actually had a face-to-face conversation or a brief contact
25 there when he was standing up, after he was assisted in

1 A Charges were never completed.

2 Q Right. Are you aware of what other charges were
3 written up with regard to the Giant incident?

4 A Listed in the report?

5 Q Yes.

6 A Yes.

7 Q And what's your recollection of what they were?

8 A I completed the report, and I'm the one that
9 entered the UCR codes into the report, and I'm familiar
10 with this charge that we just discussed as far as the
11 robbery, attempted robbery, and the public drunkenness, the
12 criminal mischief, and also I believe it was a harassment
13 charge.

14 Q Okay. And he was charged with public drunkenness
15 because he was displaying outward signs of intoxication; is
16 that correct?

17 A Absolutely, and I mean it falls into conjunction
18 with the statute itself. He was a harm to himself and/or
19 others at that point.

20 Q So by the time he was even out of the Giant
21 store, you and other officers had determined that he was
22 intoxicated and was a harm to himself and/or others?

23 A I'm not saying he was intoxicated. I said he was
24 under the influence of something.

25 MR. GABRIEL: Objection to the form of the

1 question.

2 MS. FULTON: The same.

3 BY MR. KEEPERS:

4 Q Okay. It's a form objection. You can answer.

5 A I believe I just answered. I'm not saying he was
6 intoxicated at that point in time. I had the suspicions
7 that he was under the influence to the degree that he was a
8 harm to himself or others as the statute reads.

9 Q Okay.

10 A And as far as the rest of the charges, that's
11 pretty much a given. There was victims there that were
12 assaulted or bitten by Mr. Whitaker, and furthermore there
13 was damage to property of the store which would constitute
14 a criminal mischief charge.

15 Q And Mr. Whitaker I assume was handcuffed before
16 he was placed in the car, or don't you know?

17 A I handcuffed Mr. Whitaker.

18 Q Oh, that's right. I'm sorry. Yes. I'm sorry.
19 You already testified you handcuffed him inside the store.
20 Okay. And he was still restrained in cuffs when he was
21 placed in the car?

22 A I don't believe I was present as I testified to,
23 that I was, you know, actually witnessing him going into
24 the car. I testified that I saw him being patted down, so
25 I wasn't present for him being placed in the car.

1 A We're a small department.

2 Q How long after Mr. Whitaker was taken away was it
3 until you received the 911 call from Gary Utter?

4 A You mean when he radioed the Signal 13?

5 Q Yeah.

6 A I really hate to estimate a timeframe when it
7 comes to that without looking at the actual transcript from
8 the or the radio log from York County Control. I really --
9 if I had to estimate, I'd say ten minutes maybe, but again
10 to be quite, you know, quite honest with you I'd like to
11 look at the radio log to give you a specific answer
12 obviously.

13 Q That's fine. Were you still at the Giant at the
14 time?

15 A Yes, I was.

16 Q Okay. Do you remember any of the words of the
17 call? Do you remember anything that he said?

18 A Yes.

19 Q Go ahead.

20 A Again it was kind of garbled. There was yelling.
21 I identified it as being Gary given the voice. Signal 13,
22 22, and I think the dispatcher said where are you at or
23 something like that, and he said Signal 2, Signal 13 or
24 something like that, 22, Signal 13. It was -- like I said,
25 that part, at that point my mind was going trying to figure

1 A Being escorted out to the ambulance.

2 Q Do you recall whether the taser was still in
3 Mr. Whitaker's body?

4 A I recall seeing taser leads, yes.

5 Q Still attached to his body?

6 A Those are projectiles, and then there is a wire
7 lead that attaches the projectile to the cartridge itself.
8 I recall seeing the long wire leads, and I don't -- I don't
9 recall if it was the EMS crew or if it was Jamie, Officer
10 Miller, removed that as they were being wheeled out the
11 door.

12 Q Okay. Were you involved in the department's
13 investigation of the shooting?

14 A I was interviewed about it.

15 Q Okay. Who were you interviewed by?

16 A Lieutenant Scott Laird.

17 Q Anyone else?

18 A I was interviewed by the Pennsylvania State
19 Police, I believe it was Trooper or Investigator, however
20 you want to say it, Bryan Henneman of the York Barracks.

21 Q Okay.

22 A Loganville Barracks. And I also went through
23 the debriefing obviously through the Pennsylvania State
24 Police.

25 Q Okay. Do you recall Lieutenant Laird asking you

1 A And obviously the circumstances surrounding why
2 the person was in custody and things of that -- things of
3 that degree.

4 Q Okay. Did you ever receive any training on how
5 to determine whether a detainee is at risk for attempting
6 suicide?

7 A Other than, you know, MPOETC courses which we
8 received through updates, training, the academy, and things
9 of that nature, I mean, dealing with mentally unstable,
10 persons with disabilities, things like that, yes, we
11 receive training on that.

12 Q Okay. And you received that during the time that
13 you were employed with the department?

14 A Yes, and also through the six-month academy or
15 five-month academy in Harrisburg, yes.

16 Q Were you ever taught that a person who is under
17 the influence of alcohol is more likely to attempt suicide
18 than one who is not?

19 A I don't recall if I was ever told that or not.

20 Q Before July 8th, 2007, was it your practice to
21 remove your gun belt before entering a holding room where
22 there was a detainee?

23 A Was it common practice, no.

24 Q Was it yours?

25 A Was it mine, no.

1 on that or not.

2 Q Is there now?

3 A I'm really unsure of that one, sir. I know it's
4 fairly common even if the portable is on that it's -- it
5 doesn't work inside the building, but there are
6 wall-mounted radios within the station also.

7 Q After July 8th, 2007, were there -- were there
8 new policies issued as to how to handle detainees?

9 MS. FULTON: Objection to relevancy.

10 MR. KEEPERS: You have produced the documents.

11 THE WITNESS: Should I answer that question?

12 MR. GABRIEL: You can answer the question.

13 THE WITNESS: I don't think there were new
14 policies. I believe there were amended or changes within
15 the current policies.

16 BY MR. KEEPERS:

17 Q Okay. And under the changed new policies, is the
18 practice now to remove the shoes and laces of the detainee
19 before putting them in the holding room?

20 A Me personally, I do remove shoelaces, belts,
21 necklaces, things to that degree.

22 Q And your understanding is that that is the
23 official position of the department?

24 A That's my understanding, yes.

25 MR. KEEPERS: Okay. I think that's all I have for

1 the moment.

2 BY MR. GABRIEL:

3 Q Officer Ford, very briefly, as I understood it
4 you were responsible for putting in the code numbers for
5 the charges that would have been brought against
6 Mr. Whitaker; is that right?

7 A Yes.

8 Q And was your input in that regard based upon
9 conduct that had occurred inside of the store before you
10 had arrived?

11 A Yes.

12 Q And with regard to the handcuffing or
13 unhandcuffing of a prisoner in the holding room, did I
14 understand your testimony to be at the time the SOP
15 indicated that an officer was to have secured his weapon
16 before either handcuffing or unhandcuffing the prisoner?

17 A That's the understanding that I have of the SOP
18 prior to this incident, yes.

19 Q And is it your or was it your testimony that that
20 same SOP provided for the situation where there was an
21 emergency?

22 A To enter with your weapon on?

23 Q Yes.

24 A Yes.

25 MR. GABRIEL: Okay. That's all I have. Thank

1 you.

2 BY MS. FULTON:

3 Q I have one quick question for you, Officer Ford.
4 What was Mr. Whitaker's demeanor when you encountered him
5 at the Giant store, and by demeanor I mean was he compliant
6 or was he actively resisting?

7 A Upon entering the store he appeared to be
8 compliant at that point in time, but again he had a fairly
9 large male which he had bitten on the right side of his
10 body, and again he was face down on the ground. I believe
11 there was another male on his left side, and I believe
12 someone was laying on his legs. He had three adults to
13 include one large man holding him on the ground, so I don't
14 know that he really had a choice at that point to be
15 compliant or noncompliant, but he was being compliant at
16 that point in time, and upon me handcuffing him he remained
17 compliant and did what I told him to do.

18 Q At any time after you handcuffed him was he
19 anything other than compliant?

20 A No, he remained compliant throughout the entire
21 process or rather through the entire contact I had with
22 him.

23 MS. FULTON: That's all I have. Thanks.

24 BY MR. KEEPERS:

25 Q Just a little bit of follow-up. So you had

EXHIBIT “K”

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RONALD T. WHITAKER, SR. AND	:	
DALEA LYNN, CO-ADMINISTRATORS	:	
OF THE ESTATE OF RONALD TAYLOR	:	
WHITAKER, JR.; AND RONALD T.	:	
WHITAKER, SR., TAYLOR WHITAKER,	:	
BRANDI WHITAKER AND CHRISTOPHER	:	CIVIL ACTION
HAMMERSTONE, INDIVIDUALLY,	:	
PLAINTIFFS	:	NO: 1-08-CV-00627
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SPRINGETTSBURY TOWNSHIP;	:	
SPRINGETTSBURY TOWNSHIP POLICE	:	
DEPARTMENT; CHIEF OF POLICE	:	
DAVID ESHBACH AND POLICE	:	
OFFICER GARY UTTER,	:	
DEFENDANTS	:	JURY TRIAL DEMANDED

DEPOSITION OF: JOHN P. KRENTZ

TAKEN BY: PLAINTIFFS

BEFORE: DIANE F. FOLTZ, RMR
NOTARY PUBLIC

DATE: JANUARY 20, 2009, 9:07 A.M.

PLACE: HAGGERTY & SILVERMAN, P.C.
240 NORTH DUKE STREET
LANCASTER, PENNSYLVANIA



1 noes as opposed to the uh-huhs and the casual things that
2 we say in conversation.

3 We're looking for your personal knowledge and
4 recollection. Please don't guess at an answer. If you
5 don't understand a question, please let me know, and I'll
6 try to rephrase it until you're satisfied that you do
7 understand it. If you don't recall or don't know an
8 answer, please feel free to tell me just that rather than
9 guessing, and if you'd like to take a break at any time,
10 just let us know, and we'll go off the record and take a
11 break. Are you okay with all that?

12 A That's fine, yes.

13 Q Are you taking any medication or substance that
14 would affect your ability to understand and answer
15 questions today?

16 A No.

17 Q Okay. Have you spoken with anyone other than
18 your attorney about your deposition?

19 A No.

20 Q Have you reviewed any documents in preparation
21 for your deposition?

22 A Just my interview with I believe it was
23 Lieutenant Laird.

24 Q Okay. And Lieutenant Laird is with
25 Springettsbury Police Department?

1 A Yes.

2 Q Is that an interview that was conducted on August
3 6, 2007?

4 A Yes.

5 Q Could we start for the record with your full name
6 and address, please?

7 A John Paul Krentz, 936 Narnia Court, York, PA,
8 17404.

9 Q Was that the same as of July 8th of 2007?

10 A Yes.

11 Q Could you tell us your educational background
12 beginning with high school, please?

13 A I went to Johnstown Vocational Technical School,
14 data processing, graduated; went on to Shippensburg
15 University, a criminal justice degree; basically HACC, went
16 to HACC for, you know, Municipal Police Officers Education
17 and Training Commission, federal law enforcement training,
18 Glynco, Georgia, and that pretty much sums it up.

19 Q What was your first law enforcement position?

20 A It was a federal corrections institute in
21 Loretto, Pennsylvania.

22 Q Okay. How long did you -- what was your position
23 there?

24 A It would have been materials handler leader.

25 Q Okay. How long did you stay there?

1 Q Okay. Did you respond?

2 A Yes.

3 Q Was anyone at the station with you at that time?

4 A There was somebody else. I can't really say for
5 sure who it was.

6 Q Okay. So you drove to the Giant market then?

7 A Yes.

8 Q Okay. Were you the first one to arrive?

9 A No.

10 Q Do you know who was?

11 A I can't say. I can just tell you I remember
12 Sergeant Witmer's vehicle was parked in front of the
13 Giant.

14 Q Do you remember if there were any other vehicles
15 there when you arrived?

16 A I don't remember any other vehicles. I know
17 there were other vehicles there already, but I can't say
18 who it was.

19 Q Okay. What do you recall seeing when you got on
20 the scene?

21 A When I walked in the door, they pretty much had
22 Mr. Whitaker down, face down on the ground. He seemed to
23 be calm, and I think it was Polizzotto and Officer Utter on
24 either side.

25 Q So both Polizzotto and Utter were there before

1 A I believe it was Polizzotto and Utter, and they
2 just escorted him outside to the vehicle.

3 Q Okay. Did you see either one of them take him
4 away then?

5 A Actually drive away in the police car?

6 Q Yeah.

7 A No, no.

8 Q Okay. What did you do on the scene?

9 A I spoke with the -- I believe it was one of the
10 guys that actually tried to help assist in taking this guy
11 into custody, and apparently Mr. Whitaker had bit him, and
12 I was trying to convince this gentleman to get checked out
13 by the ambulance, go to the hospital, because human bites
14 are -- I know they're pretty -- they're one of the worst
15 bites you can get.

16 You know, I got his information. I took some
17 photos of the scene, tried to talk to whoever was there,
18 what other witnesses, reviewed videotape.

19 Q Who made the determination of what to charge
20 Mr. Whitaker with for the Giant incident?

21 A Honestly I can't say. I really don't know.

22 Q Okay. It wasn't you?

23 A No, no.

24 Q So did the -- the witnesses that you talked to,
25 did they tell you that Mr. Whitaker had become suddenly

1 Q How about Lieutenant Trott?

2 A I don't remember that.

3 Q Okay.

4 A I thought it would have been Laird but -- I
5 guess it could have been Laird or Trott. I really -- I
6 don't recall.

7 Q Okay. Let me show you what was produced to us
8 as State Police Bates No. 26. Tell me if you recognize
9 that.

10 A Okay. I'm sorry. I can't remember even sitting
11 there talking with him.

12 Q Okay.

13 A I know they were -- they all arrived, you know,
14 after that, but it's like a blur after.

15 Q All right. Any possibility that Trooper Henneman
16 just got your statement from the one you gave to Laird?

17 A I guess it's possible.

18 Q So you have no recollection of actually talking
19 to Trooper Bryan Henneman?

20 A I remember the debriefing, you know, after a
21 critical incident stress, you know, talking to troopers
22 and things like that, but I don't remember anything like
23 that.

24 Q Okay. Do you know who was involved, what members
25 of the Springettsbury Township Department were involved in

1 the investigation?

2 MR. GABRIEL: A point of clarification. You mean
3 the internal investigation by the police department or the
4 State Police investigation?

5 MR. KEEPERS: I meant the township department's
6 own investigation, yeah.

7 THE WITNESS: I can't say. It doesn't say on
8 here, does it, who did the interview?

9 BY MR. KEEPERS:

10 Q Well, if you are referring to your statement of
11 August 6, 2007, that's Bates No. RTW SPD 552. It's been
12 represented to us that that was Lieutenant Laird.

13 A Okay.

14 Q And I think that's consistent with your testimony
15 so far.

16 A Okay.

17 Q Did you have any communications with anybody
18 after the incident about whether Mr. -- whether
19 Mr. Whitaker had been handcuffed in the holding room?

20 A No, I don't recall anything.

21 Q Any discussions about why Mr. Utter didn't remove
22 his weapon before entering the holding room?

23 A After, after hearing how everything would have
24 transpired, I can't -- I could not say who exactly would
25 have told me what. I just -- all's I can remember is what

1 of any sanctions or discipline imposed on Mr. Utter by the
2 department?

3 A No.

4 Q How about any ongoing investigations relating to
5 any conduct by Mr. Utter?

6 A No.

7 Q Oh, did you -- were there any policies or
8 procedures in place at the department before July 8th,
9 2007, relating to assessing the risk that a detainee might
10 harm himself?

11 A We would have had a little bit of training
12 somewhere along the lines there, but I can't recall because
13 you need to be able to recognize medical conditions, maybe
14 some mental issues. You need to know what you're dealing
15 with as far as that goes.

16 Q What would have been the source of this training?

17 A It would have been from MPOETC, probably updates,
18 legal updates.

19 Q That you attended while you were employed with
20 the department?

21 A Yes.

22 Q Okay. Do you recall the substance of any of it,
23 like how do you determine whether someone is at risk for
24 suicide?

25 A Basically their statements that they could say to

1 you, like, you know, I want to die, or maybe, of course,
2 their actions on what they might do to themselves, you
3 know, while you're in their presence, maybe what you would
4 hear, have heard from family members, those type of things.

5 Q Were you ever trained that an intoxicated person
6 is more likely to attempt suicide?

7 A Somewhere along the lines I'm sure, you know,
8 that's come up because alcohol is a depressant.

9 Q Do you know whether any sanctions or discipline
10 were imposed against Mr. Utter as a result of the accident
11 -- as a result of the incident of July 8th, 2007?

12 A No, I'm not aware of anything.

13 Q Do you know whether Chief -- do you know whether
14 Chief Eshbach was aware that officers were not in the
15 practice of removing the shoes from a detainee when putting
16 them in the holding room?

17 A No, I'm not aware of anything. I don't recall.

18 Q Now, you've testified earlier, I believe, that
19 was it your practice to remove your gun belt before placing
20 a detainee in the holding room?

21 A At least, at least the gun.

22 Q Was it also your practice to remove your gun
23 before entering the holding room where there already was a
24 detainee?

25 A I would. It would be safer. That would usually

1 rooms, and I realize you left in 2007, was there ever a
2 situation where you had to respond to an emergency in a
3 holding room, in other words, where you had to get there as
4 quickly as you can?

5 A No, not that I can recall.

6 Q And in that situation do you recall whether or
7 not under the standard operating procedures it would be
8 permissible to not secure your weapon or do anything else
9 because it was an emergency?

10 A If it was an emergency I don't know how you would
11 have time to, you know, think of those things. You've got
12 to act, you know. You only have a few minutes and
13 depending upon what happens, you know, maybe to save a life
14 because it goes -- it happens fast.

15 MR. GABRIEL: Okay. That's all I have.

16 BY MR. KEEPERS:

17 Q Just one follow-up question. In your experience
18 as a police officer, would you agree that the detainee
19 handling procedures are put into place to prevent
20 emergencies from arising?

21 A Err on the side of caution if you're -- yeah, you
22 definitely want to avoid an emergency.

23 MR. KEEPERS: That's all I have.

24 BY MS. FULTON:

25 Q I do have one question. When you arrived at the

EXHIBIT “L”



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FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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DALEA LYNN, CO-ADMINISTRATORS	:	
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SPRINGETTSBURY TOWNSHIP POLICE	:	
DEPARTMENT; CHIEF OF POLICE	:	
DAVID ESHBACH AND POLICE	:	
OFFICER GARY UTTER,	:	
DEFENDANTS	:	JURY TRIAL DEMANDED

DEPOSITION OF: GREGORY WITMER

TAKEN BY: PLAINTIFFS

BEFORE: DIANE F. FOLTZ, RMR
NOTARY PUBLIC

DATE: JANUARY 20, 2009, 1:56 P.M.

PLACE: HAGGERTY & SILVERMAN, P.C.
240 NORTH DUKE STREET
LANCASTER, PENNSYLVANIA



1 Q Were you at the station when you got the call?

2 A Yes, sir.

3 Q Okay. Why did you decide to respond personally
4 to that call?

5 A Because the person was being reported as out of
6 control and a robbery involved incident, and I was the
7 shift supervisor.

8 Q Okay. Were you the first one on the scene?

9 A No, sir.

10 Q Who was?

11 A Christopher Ford.

12 Q Okay. Anybody other than Mr. Ford get there
13 before you did?

14 A I don't remember the exact sequence of who got
15 there when other than Chris Ford was out.

16 Q Okay. What do you recall seeing when you got
17 there?

18 A When I walked into the vestibule of the main
19 customer area of the Giant, the person -- a white male
20 subsequently identified as Ronald Whitaker was laying prone
21 and already handcuffed in the area of the floor between the
22 customer service desk and the row of cash register aisles,
23 and there was quite a mess there. There was money and part
24 of the -- the better part of a cash register machine laying
25 on the floor, and several customers, several employees and

1 other officers in that area at that time.

2 Q Okay. Was Gary Utter one of the other officers?

3 A I don't remember.

4 Q Okay. At that moment when you first saw
5 Mr. Whitaker was Officer Ford physically restraining him?

6 A He was standing beside him. Whitaker was laying
7 prone, in essentially a prone position on the floor, and
8 Officer Ford was standing beside him.

9 Q Okay. Did you discuss with Officer Ford what had
10 occurred?

11 A He explained to me what he had learned up to that
12 point.

13 Q Okay. What did he say?

14 A Just that Mr. Whitaker had come in, was trying to
15 use the Coin Star machine to cash in coins into paper money
16 and that there had been some kind of discrepancy or dispute
17 or I don't know what you really want to call it at that
18 point with how much he said he put into the machine and how
19 much the store was going to do to alleviate that problem at
20 that particular hour, and he became upset with the store
21 personnel's decision at that point and indicated that he
22 would have to -- or he was told he would have to come back,
23 and when he got that response he subsequently attempted to
24 grab the cash register off the customer service counter and
25 apparently -- I would only be guessing, but the electrical

1 service lines into the cash register prevented the complete
2 removal, and the cash register subsequently fell to the
3 floor in the customer area, and that several customers
4 and employees subsequently took Mr. Whitaker into custody
5 until Officer Ford was there to come and complete the
6 custody.

7 Q Did you -- have you spoken to anyone who had any
8 knowledge as to whether Mr. Whitaker intended to leave the
9 premises with the cash register?

10 A No, sir.

11 Q At some point it was determined -- I'll show you
12 documents marked RTW SPD Bates No. 16 through 21 that have
13 been produced in this case, and tell me if you recognize
14 those.

15 A Yes, sir.

16 Q Okay. Now, do those pages indicate what the
17 department would have charged Mr. Whitaker with if he
18 hadn't died?

19 A Yes, sir.

20 Q Okay. Who made that determination?

21 A I don't remember.

22 Q Okay.

23 A I don't know who all was involved with the
24 discussion.

25 Q All right. Did you tell Mr. Whitaker that he was

1 Q Has it -- did it include --

2 A Yes, sir.

3 Q -- training on how to recognize that somebody is
4 under the influence?

5 A Yes, sir.

6 Q Okay. And is it your understanding that somebody
7 who is under the influence is liable to be violent or
8 unpredictable in their behavior?

9 A That could be one response, yes.

10 Q Have you ever received training indicating that a
11 person who is under the influence is at a greater risk of
12 attempting suicide than one who is not?

13 A I don't remember that specific aspect.

14 Q Did Mr. Whitaker appear to be confused?

15 A Not in the short time that I saw him, no.

16 Q What do you remember him saying, if anything?

17 A He was just overly apologetic to everyone there.
18 He was apologizing to the staff at the store, to the other
19 customers, to the police, asked if there's anything he
20 could -- we could do to work this out. I didn't get right
21 up to him. The other officers were there. That's why I
22 can say that I didn't smell alcohol on him.

23 My main concern at that point was making sure
24 everybody else was okay because we did have a customer that
25 came up and showed us a mark on his arm that he claimed was

1 caused by Mr. Whitaker biting him in the process of being
2 subdued. So Mr. Whitaker seemed to be fully under control
3 at that point, remorseful for what he did, apologetic,
4 overly apologetic, and so then I focussed on making sure
5 everybody else there was okay and trying to get to the
6 bottom of what had actually occurred.

7 Q All right. Did you make any effort to determine
8 whether Mr. Whitaker might be under the influence of
9 something in addition --

10 A I'm sorry, sir. You are sort of mumbling.

11 Q Did you make any effort to determine whether
12 Mr. Whitaker might be under the influence of something in
13 addition to alcohol?

14 A At that point, no. That was a thought that I
15 had, but it was just a preliminary encounter with him, and
16 I'm sure we would have gotten to that in a subsequent
17 interview back at the office, but in the short time that I
18 was with him at the store it was nothing more than just my
19 conjecture that that may be a possibility.

20 Q Okay. What did Mr. Utter do with regard to
21 Mr. Whitaker at the Giant market?

22 A He was one of the officers that took Mr. Whitaker
23 out to the car, to the cruiser in the process of taking him
24 back to the store -- or from the store back to the office
25 for processing and so forth with respect to the crime that

1 he had just been alleged to have occurred, and as I recall
2 he was the lead officer that actually patted him down once
3 we got him out beside the cruiser to make sure that he
4 didn't have any weapons on his person prior to being placed
5 into the back of the car.

6 Q Okay. So is it fair to say Mr. Utter had a
7 significant amount of contact with Mr. Whitaker in that
8 initial encounter at the Giant market?

9 A I don't know if significant is the proper
10 adjective, but he had an opportunity to be with him.

11 Q Okay. Did you see Mr. Whitaker being placed into
12 Mr. Utter's car?

13 A Yes, sir.

14 Q And was Mr. Whitaker handcuffed at that time?

15 A Yes, sir.

16 Q What did you do then? What did you do next?

17 A Well, Mr. Whitaker made a reference to the fact
18 that he was there by himself but his -- a woman, I forget
19 if he said wife or girlfriend, needed to come to the store
20 to get the vehicle, some type of van that he was driving,
21 and that in the process of coming she would need the keys,
22 so he asked us and specifically Officer Utter if we could
23 possibly put the keys to the van into the van so that she
24 could get it, and that's about it at that point.

25 Q Is that what you did, put the keys in the van?

1 A No, I instructed Officer Utter to do that.

2 Q Okay. What did you do at that point?

3 A I got into my car with the intention of going
4 back to the office to assist Officer Utter, but then we
5 subsequently got another disturbance call that I responded
6 to.

7 Q Okay. You and someone else?

8 A Two other officers.

9 Q And they were?

10 A Officer Polizzotto -- or I'm sorry. It was one
11 other officer, just Officer Polizzotto. Officer Krentz
12 stayed at the Giant.

13 Q Okay. And at what point did you receive the
14 Signal 13 call?

15 A I remember hearing it as I was driving on Concord
16 Road in the vicinity of the York County Prison as I was on
17 my -- ultimately on my way back to the office.

18 Q Would you be able to estimate the amount of time
19 between when Officer Utter took Mr. Whitaker away from the
20 Giant and when the Signal 13 call came?

21 A No.

22 Q Had you already finished handling the subsequent
23 call involving the disturbance?

24 A For what, sir?

25 Q Okay. You said after you left Giant you got

1 another call?

2 A Yes, sir.

3 Q Okay. Did you resolve that entire matter before
4 Signal 13?

5 A Oh, yes, sir.

6 Q And when you got the Signal 13 call you were
7 about how far away from the station?

8 A I'd say within a mile as the roads were laid out,
9 so to speak.

10 Q Okay. Before the Signal 13 call did you receive
11 a Nextel call from Officer Utter seeking permission to call
12 an ambulance for Mr. Whitaker?

13 A He wasn't asking permission. He was simply
14 indicating that he had been told by Mr. Whitaker that he
15 was subsequently experiencing pain from the process of
16 being subdued by the customers and staff and that he wanted
17 to know if it's best or he wanted to know if it would be
18 okay to get an ambulance, that he was going to do that, and
19 I simply confirmed that, yes, that's the proper response at
20 that point.

21 Q Do you know whether Utter and Whitaker were at
22 the station or in the car?

23 A I have no idea where it was at that point.

24 Q And about how long after that Nextel call did the
25 Signal 13 call come?

1 duty.

2 Q Okay. And you gave a statement to Lieutenant
3 Laird, correct?

4 A We had a question and answer session.

5 Q And did you also give a statement to Trooper
6 Bryan Henneman?

7 A I don't know if I did or not.

8 Q I show you what's been produced to us as State
9 Police Bates No. 24.

10 A Okay, I did.

11 Q Do you recall it now?

12 A Yes, this is the same thing as I have already
13 told you about, yes, but I don't remember specifically
14 giving -- talking to the trooper about that.

15 Q Do you have any reason to believe that the
16 trooper may have just used your Laird interview and
17 completed his report based on the content of the Laird
18 interview?

19 A No, I have no reason to believe that. The Laird
20 interview was the 31st of July. What's the date of the
21 trooper's report?

22 Q July 18th.

23 A Then no. I think he did -- the trooper did come
24 back subsequent to that. That's where that came from.

25 Q What do you mean?

1 A The trooper came back to our office after the
2 fact. I'm assuming it was on the 18th if that's what date
3 he has on it, but he did come back to the station to try to
4 get more details. That's why I don't remember really
5 talking to him that night.

6 Q All right. And then after the trooper you had
7 your interview with detective -- Lieutenant Laird?

8 A Yes, sir.

9 Q As of July 8th, 2007, was there any procedure in
10 the department for -- strike that. As of July 8th, 2007,
11 was there any procedure in place dictating what items to
12 remove from a detainee before placing them in a holding
13 room?

14 A I don't specifically remember, no.

15 Q Was it the usual practice of Springettsbury
16 department officers to remove the shoes and laces of a
17 detainee before placing them in a holding room?

18 A No.

19 Q Was it ever done before July 8th, 2007?

20 A Oh, it's been done depending on the demeanor of
21 the suspect, yes.

22 Q Okay. Was it the -- was it a matter for the
23 officer's discretion whether to remove these items from the
24 detainee before putting them in a holding room?

25 A That's my interpretation, yes.

1 Q Okay. Your interpretation of what?

2 A The best possible police procedure at that point.

3 Q Okay. Before July 8th, 2007, had you ever
4 removed the shoes and laces of a detainee before putting
5 them in a holding room?

6 A I have taken shoes away from people but never had
7 them physically remove the laces that I recall.

8 Q Well, if you take the shoes away they don't have
9 the laces anymore, right?

10 A Yeah, that's what I mean. I wouldn't let them
11 have their shoes and just take their laces.

12 Q Right. So rather than an across-the-board
13 procedure one way or the other, it was just left up to the
14 booking officer to determine how much property to remove
15 from the detainee?

16 A Based on their demeanor, yes.

17 Q Was that procedure changed after July 8th, 2007?

18 A I don't know. I only worked there a couple
19 months after that and then retired.

20 Q Okay. As of July 8th, 2007, was there any
21 procedure determining whether to keep the handcuffs on a
22 detainee when they are in a holding room?

23 A Again, that was something that I remembered being
24 individual specific based on their demeanor and like the
25 extent of their crime, so on.

1 place in the department as to whether an officer should
2 enter a holding room alone?

3 A No.

4 Q Is there now?

5 A I don't know, sir. I only worked there another
6 month and a half after that date.

7 MR. KEEPERS: Okay. That's all I have for right
8 now.

9 BY MS. FULTON:

10 Q I have just a few follow-up questions. What was
11 Mr. Whitaker's demeanor at the Giant store when you
12 arrived?

13 A While I was there he was totally apologetic,
14 falling over himself in a manner of speaking, apologetic,
15 apologizing to the staff, to the customers, to the police
16 officers.

17 Q Compliant with the police officers?

18 A Oh, at that point absolutely.

19 Q At any time during your interaction with
20 Mr. Whitaker did you see him being anything other than
21 compliant with the officers?

22 A No.

23 Q Did you have any concerns based on what you
24 observed of Mr. Whitaker about Officer Utter going back to
25 the station alone with Mr. Whitaker?

EXHIBIT “M”

012

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RONALD T. WHITAKER, SR. AND	:	
DALEA LYNN, CO-ADMINISTRATORS	:	
OF THE ESTATE OF RONALD TAYLOR	:	
WHITAKER, JR.; AND RONALD T.	:	
WHITAKER, SR., TAYLOR WHITAKER,	:	
BRANDI WHITAKER AND CHRISTOPHER	:	CIVIL ACTION
HAMMERSTONE, INDIVIDUALLY,	:	
PLAINTIFFS	:	NO: 1-08-CV-00627
	:	
V	:	
	:	
SPRINGETTSBURY TOWNSHIP;	:	
SPRINGETTSBURY TOWNSHIP POLICE	:	
DEPARTMENT; CHIEF OF POLICE	:	
DAVID ESHBACH AND POLICE	:	
OFFICER GARY UTTER,	:	
DEFENDANTS	:	JURY TRIAL DEMANDED

DEPOSITION OF: WILLIAM POLIZZOTTO, JR.

TAKEN BY: PLAINTIFFS

BEFORE: DIANE F. FOLTZ, RMR
NOTARY PUBLIC

DATE: JANUARY 20, 2009, 1:04 P.M.

PLACE: HAGGERTY & SILVERMAN, P.C.
240 NORTH DUKE STREET
LANCASTER, PENNSYLVANIA



1 A Yes, I did.

2 Q Okay. Did anyone get there before you did?

3 A Officer Ford.

4 Q Okay. Were you the second to arrive?

5 A Basically we all arrived simultaneously
6 thereafter. I was pulling in, and Sergeant Witmer was
7 pulling in, and Officer Utter and Officer Krentz were
8 basically just behind me, virtually the same time.

9 Q Was it unusual for all four of you to respond to
10 a call at the same time?

11 A No, not in a situation of what we were dispatched
12 for, absolutely not.

13 Q Okay. What did you see when you got there?

14 A Myself and Sergeant Witmer entered in through the
15 north side doors of Giant at which time you are somewhat
16 immediately in the front aisle where the checkout counter
17 is and where customer service is, and when we walked in,
18 looking to our left we saw a bunch of people, Officer Ford
19 there and Mr. Whitaker in handcuffs laying on the floor.

20 Q Okay. Who came -- who came into the Giant market
21 with you?

22 A Sergeant Witmer.

23 Q And Utter and Krentz were just arriving?

24 A They were just, I mean, just behind me as I was
25 walking in the door, I mean.

1 had already handcuffed him.

2 Q Okay. Did you assist in putting Mr. Whitaker
3 into Officer Utter's car?

4 A Yes.

5 Q And was Mr. Whitaker in handcuffs at that point
6 in time?

7 A Yes, he was.

8 Q After -- after Officer Utter took Mr. Whitaker
9 away in his car, what did you do?

10 A I was dispatched to another call for a
11 disturbance, and I had to leave the scene there.

12 Q Did you get to the location of the other call
13 before receiving the distress call from Mr. --

14 A Yes, actually just as I was -- as I was
15 dispatched, Officer Utter was leaving. I contacted
16 Sergeant Witmer by Nextel and advised him that had just
17 received a call from county regarding a disturbance, gave
18 him the address, and he and I both responded to that
19 location and handled that incident.

20 Q Okay. And were you at that location when the
21 Signal 13 came in?

22 A No, we were cleared, and I was traveling west on
23 East Market Street about the 3400 block.

24 Q Okay. So the call subsequent to the Giant one
25 obviously didn't take very long to resolve?

1 he had said something to the effect of I think I feel a
2 pulse. We need to get the EMTs inside which they were
3 basically filing in right behind me, so they were right
4 there immediately.

5 Q Did you see Mr. Whitaker move or make any sound?

6 A No, I didn't.

7 Q Did you observe any spent casings on the floor of
8 the hallway?

9 A No, I didn't. Other than opening the door at
10 that particular point in time to look in, I didn't go back
11 in the back hallway again that night.

12 Q Did you have any other conversations after July
13 7, 2007, with Mr. Utter about what happened?

14 A Other than just questions to ask him how he was
15 doing with dealing with the whole incident.

16 Q Did you ever discuss what took place in any
17 greater detail?

18 A No, we didn't.

19 Q Were you involved in the department's
20 investigation of the incident?

21 A Yes, I was.

22 Q In what capacity?

23 A I was interviewed.

24 Q By whom?

25 A A trooper from the State Police as well as

1 Lieutenant Laird.

2 Q Okay. Was the trooper Bryan Henneman?

3 A I believe that was his name, yes.

4 Q Did you ever ask Utter why he took the handcuffs
5 off of Mr. Whitaker before putting him in the holding
6 room?

7 A No, I didn't.

8 MR. GABRIEL: Objection to the form of the
9 question. You said took them off before putting him in the
10 holding room.

11 BY MR. KEEPERS:

12 Q Let's put it this way. Why he left Mr. Whitaker
13 in the holding room without handcuffs?

14 A I don't remember if I specifically asked him that
15 or not.

16 Q You don't recall --

17 A No.

18 Q -- discussing that matter with him at all?

19 A (Shakes head from side to side.)

20 Q Did you have any discussions with Mr. Utter about
21 why he entered the holding room with his handgun on?

22 MR. GABRIEL: Just in terms of the form of the
23 question, when you say entered the holding room, do you
24 mean at the beginning or the second time or the third time
25 or --

1 Q About how long does it take to take off your gun
2 and lock it up in one of those places?

3 A Not very long, a few seconds.

4 Q Was there a usual practice or a policy in the
5 department as of July 7, 2007, on whether you should take
6 the shoes and laces of a detainee before putting them in
7 the holding room?

8 A Prior to that? Prior to this incident?

9 Q Yeah.

10 A No.

11 Q Was it a matter that was left to the officer's
12 discretion?

13 A Yes.

14 Q Okay. What was your usual practice?

15 A It depended on the demeanor of the person that
16 you're placing in there.

17 Q Would the same be true of the decision whether to
18 keep the person in handcuffs in the holding room?

19 A Yes.

20 Q Left up to the officer's discretion?

21 A Yes.

22 Q Did you ever have any training on how to
23 determine whether a detainee is at risk for suicide?

24 A No.

25 Q It was not a part of your MPOE --

1 A I never measured it.

2 MR. KEEPERS: I'm not surprised. That's all I
3 have. Do you guys have anything?

4 BY MS. FULTON:

5 Q Officer Polizzotto, what was Mr. Whitaker's
6 demeanor when you encountered him at the Giant store?

7 A At that particular point in time he was calmed
8 down. I believe he -- when he realized what he was facing
9 as far as charges wise, he was surprised, but he wasn't
10 physically or verbally abusive towards us.

11 Q Would you describe him as compliant?

12 A Oh, very much so.

13 Q During your entire interaction with him was he
14 compliant the whole time?

15 A Absolutely, yes.

16 MS. FULTON: That's all I have.

17 MR. GABRIEL: I don't have any questions.

18 BY MR. KEEPERS:

19 Q Just one follow-up. Mr. Whitaker was compliant
20 when you got to him, but you knew that he had just been
21 violent, that's the reason you were there, right?

22 A Yes.

23 Q And Mr. Utter had the same information you had,
24 correct?

25 A Yes.