

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SARAH C. DOZIER, as Administrator of)
The Estate of KATHRYN JOHNSTON,)

Plaintiff,)

vs.)

CITY OF ATLANTA, et al.,)

Defendants.)

CIVIL ACTION
FILE NO.
1:08CV00007MHS

Videotaped Deposition of LIEUTENANT STACIE GIBBS,
taken on behalf of the Plaintiff, pursuant to Notice
and agreement of counsel, in accordance with the
Federal Rules of Civil Procedure, before JoRita B.
Meyer, RMR, CRR, CCR, at City Hall, 68 Mitchell St.,
S.W., Suite 4100, Atlanta, Georgia, on the 10th day of
July, 2009, commencing at the hour of 10:46 a.m.

REGENCY-BRENTANO, INC.

Certified Court Reporters

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1 Q. Thank you. I think that's -- we can go
2 with that process. And if I understand your question
3 -- before you explained -- your answer was "no" to my
4 question; then you explained it. Is that correct?

5 A. No -- yes, that's correct.

6 Q. All right. All right. Why don't you
7 think that officers should be required, in the
8 Narcotics Unit, to have a certain amount of arrests,
9 required to have a certain amount of arrests per
10 month?

11 A. Due to vacation, training, scheduling
12 conflicts, and manpower allocations, it's not feasibly
13 possible to always say that something will be the same
14 each month. My -- my requirements of my individuals
15 were over a yearly period, or over an evaluation
16 period.

17 Q. You said over a yearly period, or what?

18 A. Over -- over the evaluation period.

19 Q. Over the evaluation?

20 A. The City of Atlanta evaluation system is a
21 yearly period.

22 Q. During that evaluation period that you
23 said you required regarding evaluating your officers
24 when you was in the -- Lieutenant in the Narcotics
25 Units, they still were required over that period to

1 A. There was not a specific number. The
2 arrests that were to be generated by the Narcotics
3 Unit were to be over a yearly evaluation period.

4 Q. Were any aspects of your evaluation as
5 relates to your officers during that yearly period in
6 '06 to '07 based on any numbers, whether it be
7 arrests, or warrants, or anything?

8 A. Yes.

9 Q. Which ones were based on numbers?

10 A. I -- my evaluation was based over a yearly
11 amount of search warrants, a certain amount of
12 arrests, based on investigative lead sheets. That was
13 information provided to the investigators by citizens,
14 council members, and other police officers, in
15 addition to -- in addition to arrests they made
16 through self-initiated investigations.

17 Q. Can you tell me, as we sit here, what the
18 certain amount of arrests -- on a yearly basis, based
19 on the lead sheets, what was the requirement in '06 --

20 A. The requirement --

21 Q. Let me finish. From August of '06 to
22 during that -- from August of '06 to the end of that
23 period, evaluation period?

24 A. It would have been 50 -- well, as you see,
25 the Atlanta -- the overall evaluation system is set up

1 make certain numbers of arrests; is that correct?

2 A. The evaluation that I put into place is
3 dated in August; so from August until the end of the
4 year, because due to manpower allocations, we were not
5 able to go forward under the same evaluation system.
6 My evaluation system was set up for a yearly
7 evaluation system. It had been open from August;
8 that's when it started.

9 Q. August of what year?

10 A. August of 2006.

11 Q. And it was to end?

12 A. It would have ended in -- the Atlanta
13 budgeting period is July 1st to June 30th. So it
14 would have ended in June, so that the new budget --

15 Q. June of '07?

16 A. Yes, sir.

17 Q. Okay. My question was, getting back -- I
18 appreciate the information, because that helps me out.

19 Getting back, from August of '06 to June
20 of '07, during that evaluation period that you set up,
21 were they required to meet a certain amount of number
22 of arrests?

23 A. Not per month.

24 Q. Okay. Not per month. But how were they
25 supposed to do it?

1 to where people will have a "needs improvement"
2 rating, a "effective" rating, a "highly effective"
3 rating, and an "outstanding" rating.

4 Q. Okay.

5 A. For arrests, to receive an effective
6 rating, I wanted -- I'd have to look at the exact
7 percentage. I know for outstanding, I think it would
8 have been 50 percent. But I need to review the
9 documents.

10 Q. And I understand that you're kind of going
11 from recollection, and we're going to have a bunch of
12 documents, so I'm not holding you to it, but I'm kind
13 of getting a general sense.

14 You had some percentage that you had to do
15 based on -- explain that to me so I make sure I'm
16 understanding. For arrests. For arrests.

17 A. In preparing my evaluation system, having
18 spent five years as a narcotics investigator myself,
19 having spent four years supervising the Weed and Seed
20 Unit, which also conducted narcotics investigations,
21 and being the one that took in the information, these
22 lead sheets, documented it, assigned it, read it, and
23 approved it, what my evaluation -- my arrests were
24 based on -- my writing of that was based on what I
25 felt could feasibly be done from having done it

1 evaluation plan for your narcotics units were as
2 relates to arrests from August of '06 to June of '07.

3 Do you recall testifying to that?

4 A. Yes, sir.

5 Q. You explained how you went about coming up
6 with those indicators?

7 A. I do. And if I may add -- and it goes
8 relevant to this -- in looking at it, everything that
9 we do in Atlanta is based on crime throughout the
10 city. We meet weekly, all of the command staff,
11 meaning from Chief Pennington down, officers are
12 involved, anyone in the department that wishes to
13 attend; and we discuss crime in every zone. Every
14 neighborhood, each commander is responsible for
15 talking about the crime that happens there. They even
16 inlay where those crimes are happening, how many of
17 those crimes could be related to narcotics activity.

18 So the evaluation system was written, one,
19 based on the high volume of narcotics-related calls
20 for service, lead sheets that were coming in, the
21 large number of crimes, homicides, burglaries,
22 robberies, that were suspected to be drug-related.
23 And then that is how -- you know, that is what
24 generated --

25 Q. I understand. What I'm trying to get at

1 average a certain amount per month over that year
2 period; is that correct?

3 A. At the end of the year, if you take the
4 number of search warrants, it would have averaged two.

5 Q. And that's what they were required to do,
6 based on their performance indicators that you put in
7 place, that they had to do a certain average per month
8 over that year; is that correct?

9 A. Yes. They were not expected to
10 necessarily do this number of search warrants in
11 January, this number in February. But if you looked
12 at the entire -- I didn't evaluate them each month.
13 If you looked at the entire year, then it would have
14 averaged out to that amount. And that was based on
15 what had been done the prior year, prior to this
16 evaluation being in place.

17 Q. So that we're clear, the enforcement
18 operations that were -- that are set forth on Bates
19 stamp 106 on Plaintiff's Exhibit 17 were the
20 enforcement operations requirements that were required
21 for the performance evaluation for the officers
22 involved in the Neal Street shooting in November of
23 '06?

24 A. This was opened in August.

25 Q. Okay. So the ones -- when this shooting

1 is, on page Bates stamp 106 of Plaintiff's Exhibit
2 17 --

3 A. Are we back on 106?

4 Q. Yes.

5 A. Okay.

6 Q. You see where it says, "Enforcement
7 operations: Effective, highly effective, outstanding,
8 needs improvement, unacceptable"?

9 A. Yes.

10 Q. My only question is: Is that a system
11 that you had in place, that you put in place?

12 A. Yes, it is.

13 Q. And that accurately, on Bates stamp 106 of
14 Plaintiff's Exhibit 17, sets forth your performance
15 requirements for your officers during -- in November
16 of '06?

17 A. I have not looked at the -- but, yes, it
18 does. It does.

19 Q. All right. We have a requirement of
20 warrants here, do you see that, a month?

21 A. Uh-huh. Over the evaluation period, that
22 at the end of a 12-month period, it would have
23 averaged to be that.

24 Q. Yeah, I think I understand that's what you
25 were saying before. But specifically, they are to

1 of Ms. Johnston occurred, they would have been
2 required to comply with these performance indicators
3 as set forth in your evaluation, over a yearly period?

4 A. Yes. The evaluation was open.

5 Q. Okay. You say -- when you say -- let's
6 look at "effective" -- or "highly effective," because
7 I think the officers here had "highly effective" or
8 "outstanding." They are to average at least
9 three search warrants per month. Is that what that
10 says for "highly effective"?

11 A. The way the evaluation system is written,
12 they would have -- to benefit -- they could not --
13 they could have done two of these three and been
14 effective. You did not have to have each of these
15 three criteria met.

16 Q. Yeah. Yeah. What I'm -- are you saying
17 that to be highly effective, you could have done one
18 of -- you could have either done, averaged at least
19 three search warrants a month, cleared 60 percent, and
20 exceeds yearly watch average by five percent? You're
21 saying that you could have done one of those three?

22 A. Yes. And I would explain.

23 When this evaluation system is opened,
24 you -- prior to opening it, and prior to putting it
25 into place, a meeting is held with the employee. You

1 A. A lead sheet, when it is generated -- and
2 have you -- a lead sheet is information that can come
3 in through anonymous phone calls; often they came in
4 through town hall meetings, NPU meetings, citizen
5 contact, other officers, other agencies. It's
6 documented information of narcotic or illegal
7 activity.

8 Q. Gotcha.

9 A. The information is then -- and it was put
10 into a database, but it's actually on a sheet of
11 paper.

12 Q. Okay.

13 A. It says exactly what the information is.

14 This is referring to that over the year --
15 you're talking about highly effective -- that over the
16 year, that 60 percent of those sheets -- the way this
17 is worded, 60 percent of the information that was
18 provided to you through lead sheets would be cleared
19 by arrest.

20 Q. What do you mean by "cleared"?

21 A. Cleared, meaning that there was a
22 resolution in it; meaning that if the information was
23 provided that illegal activity was happening at this
24 location -- now, also with these lead sheets, we would
25 sometimes get -- the lead sheet itself might not be

1 correct information. Maybe the person was incorrect.
2 But in the course of investigating that, officers also
3 -- investigators frequently came across other
4 activities which might lead to an arrest.

5 But the wording of this is that that
6 information that was provided to you -- through
7 citizen contact, other agencies, other officers -- was
8 cleared, meaning resolved by arrest.

9 Q. So, basically, once you get a lead sheet,
10 a narcotics officer gets assigned a lead sheet, your
11 performance requirement states, to be highly
12 effective --

13 A. Yes.

14 Q. -- you need to -- 60 percent of those
15 sheets, you need to dispose of by arrest; is that
16 correct?

17 A. Over the course of the year, is how this
18 evaluation was written.

19 Q. All right. So you expect, in order to be
20 highly effective or outstanding -- highly effective is
21 60 percent of those sheets they need to arrest, based
22 on those lead sheets; correct?

23 A. Rephrase it, please.

24 Q. Yeah. To be highly effective, to be
25 deemed highly effective, they need to at least clear

1 60 of those assigned arrest sheets?

2 A. 60 of those, yes, that is how it is --

3 Q. And they need to arrest people on those?

4 A. That is how it is written.

5 Q. Okay. So that's how you got the numbers
6 -- that was the performance indicator number
7 requirements for the officers for that year?

8 A. This was my evaluation system for the
9 year, beginning in August.

10 Q. Okay. But you said that --

11 A. I think I may have misunderstood you.

12 Q. No, no problem. You testified, though,
13 that you sit down with these officers; you let them
14 know what you expected; if they don't have any
15 problems, feasible, they go out and do it. So even
16 before they go out and do this plan, they understand
17 that this is what is expected and required of them; is
18 that fair?

19 A. Yes, if they agree to these requirements.

20 Q. Okay. Have you ever had anybody that
21 didn't agree with the requirements?

22 A. Yes.

23 Q. Who did you have?

24 A. I didn't -- I've never had -- I did not
25 have anyone in the Narcotics Unit; but in my tenure as

1 a supervisor, I have.

2 Q. Okay. All right. All right.

3 Next one, it says: "Exceeds the yearly
4 watch average by five percent to be highly effective."

5 What does that mean?

6 A. Where are you?

7 Q. Still under "highly effective."

8 A. There were twenty one -- well, two teams,
9 that if you took the arrests made by -- at the end of
10 the year, you looked at each person, and if someone's
11 arrest -- if the average for the unit was, let's use
12 the number ten, then a person who was highly effective
13 would have exceeded that by five percent.

14 Q. So the yearly watch average you're talking
15 about is the yearly watch average of all the other
16 narcotics investigators in the unit?

17 A. Yes.

18 Q. Okay.

19 A. It was the yearly watch average.

20 Q. All right. As relates to critical job
21 element number three, am I correct that, based on the
22 average warrants per month that needed to be done, the
23 percentage of lead sheets that need to be cleared by
24 arrests, and the yearly watch average that needed to
25 be considered or be done by these officers, all of