

SM EXHIBIT DH

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 ADRIAN SCHOOLCRAFT,

PLAINTIFF,

4 -against-

Case No.:
10CIV 6005 (RWS)

6 THE CITY OF NEW YORK, ET AL, DEPUTY CHIEF MICHAEL MARINO
7 TAX ID 873220, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,
8 ASSISTANT CHIEF PATROL BOROUGH BROOKLYN NORTH, GERALD
9 NELSON, TAX ID 912370, INDIVIDUALLY AND IN HIS OFFICIAL
10 CAPACITY, DEPUTY INSPECTOR STEVEN MAURIELLO TAX ID 895117,
11 INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, CAPTAIN THEODORE
12 LAUTERBORN, TAX ID 897840, INDIVIDUALLY AND IN HIS OFFICIAL
13 CAPACITY, LIEUTENANT WILLIAM GOUGH, TAX ID 919124,
14 INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, SERGEANT
15 FREDERICK SAWYER, SHIELD NUMBER 2576, INDIVIDUALLY AND IN
16 HIS OFFICIAL CAPACITY, SERGEANT KURT DUNCAN, SHIELD 2483,
17 INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, LIEUTENANT
18 CHRISTOPHER BROSCART TAX ID 915354, INDIVIDUALLY AND IN
19 HIS OFFICIAL CAPACITY, LIEUTENANT TIMOTHY CAUGHEY, TAX ID
20 885374, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, SERGEANT
21 SHANTEL JAMES, SHIELD NO. 3004 AND PO'S JOHN DOE 1-50
22 INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES, JAMAICA
23 HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV, INDIVIDUALLY AND
24 IN HIS OFFICIAL CAPACITY, DR. LILIAN ALDANA-BERNIER,
25 INDIVIDUALLY AND IN HER OFFICIAL CAPACITY AND JAMAICA
HOSPITAL MEDICAL CENTER EMPLOYEES JOHN DOE 1-50
INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITIES (THE NAME
JOHN DOE BEING FICTITIOUS, AS THE TRUE NAMES ARE PRESENTLY
UNKNOWN),

DEFENDANTS.

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DATE: June 5, 2014

TIME: 10:16 A.M.

(DEPOSITION OF JOSEPH FERRARA.)

JOSEPH FERRARA

1 and they started the training, the officers -- the training
2 sergeant would leave -- let's say hypothetically it was an
3 in-term order, he'd have copies of the in-term orders in
4 the -- where roll call was done. So an officer can come by
5 later and get a copy of that in-term order and you know,
6 read it themselves. So I didn't feel based on that that
7 there was anything wrong with that.

8 Q. You were a -- a sergeant on patrol at some point,
9 correct?

10 A. Yes.

11 Q. Did you ever discuss new in-term orders or new
12 policies with officers under your command when you were a
13 sergeant on patrol?

14 A. Not on patrol, no.

15 Q. And why not?

16 A. Because they had the training sergeant, he does
17 that.

18 Q. As a member of the NYPD, are you required to
19 report misconduct that you personally observe?

20 A. You are, yes. Official misconduct.

21 Q. In -- going back to your e-mail from August 11th,
22 you stated that downgrading crime reports this happens
23 everywhere.

24 A. Yes.

25 Q. What did you mean by this happens everywhere?

JOSEPH FERRARA

1 A. All the commands do that. When there's a report
2 taken for a specific crime, the -- the usual course is that
3 that complaint gets taken by the officer on patrol, it gets
4 handed into the desk officer to be signed off on. It gets
5 put into the computer and it goes up to what's called crime
6 analysis. Depending on the crime it gets referred to the
7 detective squad. If it's something that's still open it
8 needs to be investigated. Because of ComStat, as a result
9 of ComStat, commanding officers were being looked at as far
10 as their numbers in regards to seven major crimes and they
11 were looked at unfavorably if they had a spike in seven
12 major crimes.

13 So, it started to be done where a commanding
14 officer would tell the crime analysis people who were
15 supposed to put together the 61s and even the desk officers
16 at some point call up the complainant and let's go back
17 over what the complainant says in regards to their
18 allegation, let's see if it really is a robbery. Let's see
19 if they really got their car stolen. Let's see if somebody
20 was hit with a pipe for real, how do they know they were
21 hit with an object, how do they know it wasn't a fist.
22 That's in order to reduce the complaint for that category,
23 because if the complainant says well, I thought it was a
24 bat or I thought it was a pipe, and this person says to the
25 complainant well, are you sure and they turn around and say

JOSEPH FERRARA

1 well, no, I'm not sure, then it could have been a fist;
2 yeah, it could have been a fist. Now that changes from an
3 assault two which is a seven major felony down to an
4 assault three which is playing with numbers. Because if
5 the original complaint -- if the officer who took the
6 report out in the street listens to the complainant and
7 complainant says I got hit with a pipe, the officer is
8 going to write complainant states he got hit with a pipe.
9 We're going on what the complainant says out in the street
10 because that's what the cops are trained to do. Now, later
11 on we want to -- we want to -- oh, we don't want another
12 felony assault, so -- in that area especially, if it
13 happened in a certain area that wasn't conducive to -- to,
14 you know, to the CO. So then these phone calls would be
15 made and then reports would be changed.

16 Q. How many times did you see reports changed?

17 A. I didn't personally see reports changed. I know
18 the process was done by talking to people, but I never
19 saw -- I was never asked to call anybody back to
20 re-interview anybody.

21 Q. Did you ever downgrade any crime complaints?

22 A. No.

23 Q. And you were never asked by a supervisor to
24 downgrade any crime complaints?

25 A. No.

JOSEPH FERRARA

1 Q. Have you ever attended ComStat?

2 A. Once.

3 Q. And when was that?

4 A. I think it was when I was in the 40 Precinct, I
5 think.

6 Q. Why did you attend ComStat at that time?

7 A. The CO wanted sergeants to get a feel of what
8 ComStat was like.

9 Q. Did you have to speak at ComStat?

10 A. No. Actually, you know what, I went to ComStat
11 more than -- well, I went to TrafficStat, I went to ComStat
12 just to get a feel of what it was like, but I went to
13 TrafficStat I believe twice when I was a sergeant in the 40
14 when I was assistant ICO.

15 Q. Have you ever worked in a supervisory position
16 before ComStat came to the NYPD?

17 A. No.

18 Q. Would it be appropriate for an officer on the
19 street to ask a victim are you sure it was a bat or a pipe?

20 A. No.

21 Q. You don't believe it would be appropriate for an
22 officer on the street to ask questions?

23 A. Appropriate, yes, but does it happen, no, because
24 the radios are so busy in these commands, the officer wants
25 to take the report, give whatever kind of aid is needed and

JOSEPH FERRARA

1 go to the next job, because there's pressure from the COs
2 in regards to response time, for how long does it take a
3 cop to get to another job.

4 Q. But if an officer did ask a victim on the scene
5 are you sure it was a pipe or a bat, do you believe that
6 would be an inappropriate question?

7 A. No, that would be appropriate.

8 Q. So, your -- your problem with this is -- is
9 calling later?

10 A. Yes. The NYPD teaches its officers to interact
11 with the community on various different levels and if an
12 officer goes to a job and the person says they got hit with
13 a bat and robbed, they got hit with a bat and robbed and
14 the officer puts that down. I don't know why later on
15 there would be further questions in regards to that
16 complaint. The only further question in my feeling and
17 really departmentallywise is that that will go to the squad
18 and a detective assigned to that case would investigate
19 that crime.

20 Q. Who do you believe was responsible for this
21 downgrading of crime complaints?

22 MR. SMITH: Objection to form.

23 MR. KRETZ: Objection.

24 A. Who actually did it or who gave the orders to do
25 it?

JOSEPH FERRARA

1 Q. Both.

2 A. Well, I believe it -- it -- it fell on crime
3 analysis people because they worked hand in hand with the
4 commanding officer in -- because crime analysis put
5 together all the complaints into a system and was able to
6 tally all the crimes up for the seven majors. So they
7 worked hand in hand with the CO in all the precincts that's
8 the way it was.

9 In the 81 precinct it would be DI Mauriello, you
10 know, giving the orders to look at certain crimes. He
11 would even say it at the -- at roll calls or COs' meetings
12 that the desk officers have to start looking at special
13 complaint reports that come in because the desk officer is
14 supposed to review the complaint reports, but it went on in
15 the -- in the 103. It went on in the -- in the 40. It was
16 just a general practice for commanding officers to try to
17 limit the amount of numbers that they have because the way
18 the job is if a CO has a rise in numbers and they want to
19 get promoted that will stop them from getting promoted.

20 Q. Do you believe that this downgrading of crime
21 complaints was official misconduct?

22 A. I don't know if it was official misconduct. I
23 felt it was misconduct.

24 Q. Did you ever report this misconduct to anyone?

25 A. No.

JOSEPH FERRARA

1 Q. Why not?

2 A. Because if you -- if you go around reporting
3 stuff about your fellow workers or your commanding officer
4 then chances are you're going to get yourself jammed up
5 because there's -- there's that -- there's a perception in
6 the NYPD to punish people who try to do good stuff
7 sometimes. So, I wasn't looking to get myself jammed up by
8 making any kind of enemies with anybody or -- you know, I
9 was trying to just keep myself out of trouble and do the
10 right thing like I'm supposed to do.

11 Q. And you believe that this quote, unquote numbers
12 game happened because Commissioner Kelly and the commanding
13 officers wanted to see crime go down, right?

14 MR. SMITH: Objection to form.

15 A. Yes.

16 MR. SMITH: What was the answer to that
17 question?

18 THE WITNESS: Yes.

19 Q. Now, again, in your -- in your e-mail to
20 Mr. Norinsberg from August 11th you stated that cops are
21 also directed to write certain moving summonses, they're
22 frowned upon if they issue a brake light, taillight,
23 headlight summons, the cops have to write seat belt, cell
24 phone summonses --

25 A. Yes.

JOSEPH FERRARA

1 Q. -- do you recall that?

2 A. Uh-huh.

3 Q. So, the supervisors didn't want officers to come
4 in with just any kind of summons?

5 A. Yes.

6 Q. Do you know why?

7 A. There's numbers with that, too. The -- the
8 executive officer of a command was in charge of traffic
9 conditions in the command. The CO was in charge of crimes
10 in the command and he goes to ComStat. The XO is in charge
11 of traffic conditions in the command and he goes to
12 TrafficStat.

13 So, the XO wanted to make sure that his numbers
14 looked good or better than last year's numbers in regards
15 to seat belts, cell phone summonses, because another part
16 of TrafficStat is accidents. The number of accidents, the
17 number of injuries and there was pressure on the XOs from
18 the chief of traffic to reduce accidents, to reduce
19 injuries and to increase summonses because they felt if we
20 gave out more summonses for cell phones and for seat belts,
21 less people would get injured, there would be less
22 accidents.

23 In the -- in the 81 specifically on one of those
24 tapes Captain Perez who was the XO at the time has a whole
25 big thing about how he doesn't care, he wants his number.

JOSEPH FERRARA

1 They even had started in the 81 which I had never seen
2 before, they would make the supervisors on patrol document
3 as the patrol officers came in at the end of their tour
4 what did you write today, day by day, how many did you
5 write, what did you write.

6 Q. And that was in reference to these seat belts and
7 cell phones?

8 A. Yes.

9 Q. Do you believe there was a quota policy in the
10 81st Precinct?

11 A. No, I don't believe there was a quota, because
12 there was never a number set in stone, but there was
13 tremendous pressure put on officers to answer the radios,
14 write complaints, take care of people who needed, you know,
15 aid with hospitals and stuff, help with lost kids, help
16 finding people. But then they also had pressure to write
17 summonses throughout their day. They wanted to see those
18 numbers from those officers. And they didn't care if the
19 officer answered 15 different jobs that day and didn't get
20 a meal, how many summonses did you write that day.

21 Q. Did you believe there was a quota policy in the
22 81st Precinct requiring officers to issue a certain number
23 of UF-250s?

24 MR. SMITH: Objection to form.

25 A. There was never a set number, but there was

JOSEPH FERRARA

1 tremendous pressure for that, also, because that ended up
2 being statistic at ComStat number of 250s that were done.

3 Q. But there was never a number of UF-250s that
4 officers in the 81st Precinct were required to issue?

5 A. No. Not a set number, no.

6 Q. Have you ever issued a UF-250 without reasonable
7 suspicion?

8 A. No.

9 Q. Did any supervisor ever tell you to stop someone
10 even if you did not have reasonable suspicion?

11 A. No.

12 Q. Have you personally observed another officer stop
13 someone without reasonable suspicion?

14 A. No.

15 Q. Did you ever lose overtime for failing to issue a
16 certain number of UF-250s?

17 A. No.

18 Q. Did you ever suffer a change of tours as a result
19 of failing to issue a certain number of UF-250s?

20 A. No.

21 Q. Were you ever denied vacation days as a result
22 failing to issue a certain number of UF-250s?

23 A. No.

24 Q. Was there a quota policy regarding the number of
25 summonses officers in the 81st Precinct were required to