

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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HANDSCHU,

PLAINTIFF,

-against- 71CIV.2203

(CSH)

SPECIAL SERVICES DIVISION,

DEFENDANT.

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100 Church Street

New York, New York

June 28, 2012

10:30 a.m.

EXAMINATION BEFORE TRIAL of a non-party witness, THOMAS GALATI, taken by the respective parties herein, pursuant to order, held at the Offices of The New York City Law Department, 100 Church Street, New York, New York, before a Notary Public of the State of New York.

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A P P E A R A N C E S:
PROFETA & EISENSTEIN, ESQS.
Attorneys for the Plaintiff
45 Broadway, Suite 2200
New York, New York 10006
BY: Jethro M. Eisenstein, Esq.

NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL
Attorneys for the Defendants
100 Church Street
New York, New York 10007-2601

BY: Peter G. Farrell, Senior Counsel
Special Federal Litigation Division
Also Present: Alexis Leist
Arthur Eisenberg
Paul G. Chevigny
Martin R. Stolar
Franklin Siegel

ALSO PRESENT:
New York Police Department
Steven Colon
Stuart Parker
Thomas Doepfner
THE NEW YORK CITY LAW DEPARTMENT:
Celeste Koeleveld
Natalya Fadeyeva

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T. Galati

T H O M A S G A L A T I, called as a
witness, having been first duly sworn by a
Notary Public of the State of New York, was
examined and as follows:

MR. EISENSTEIN: I want to put on
the record part of the terms in which
this deposition is being conducted.

We have agreed that the entire
deposition is confidential for 30 days
after delivery of the transcript to the
defendants.

So that, you, Peter have the
opportunity to review the transcript to
determine what, if anything, you and
your client feel needs to be kept
confidential.

30 days after delivery of the
transcript, you will identify any
portions you want sealed. If there is
agreement about sealing, those portions
will be sealed. If plaintiff's counsel
disagrees, the matter is to be submitted
to the court and the portions you have

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designated are under a protective order pending a decision. That pending a decision on your request, that it be sealed.

If a party wishes to append the portion of the deposition transcript to its court's submission, the filing will be done under protective order setting forth a procedure for determining whether the attachment itself shall be sealed and disclosed, outlined in *Lugosch, L-U-G-O-S-C-H versus Pyramid Company* 435F.3d 110 (2d Cir.2006.)

First of all, I'd like to ascend that that's the agreement that we have made.

MR. FARRELL: I concur that is the agreement regarding confidentiality subject to one question. I'd like to add that "confidential" means disclosure is limited to the five plaintiffs' attorneys in the room today. That's what we mean by "confidentiality". You agree?

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MR. EISENSTEIN: Correct.

MR. FARRELL: We had agreed that we would in 30 days look at the transcript. You and I had a discussion. If I needed additional time to do the review so I would ask that come 30 days, I would be in contact with you, rather than having an automatic trigger where you put the transcript on the internet, that at least we confer on that point first.

MR. EISENSTEIN: Peter, we initially agreed 30. That's fine. If you call prior to the 30 days, you're in the middle of a trial. I'm not going to disclose it.

If you're otherwise unable to make the decision, we're not going to disclose it. On the other hand, we expect your good faith about not letting that process go on indefinitely.

MR. FARRELL: That I concur with upon receiving the transcript. The only part I wasn't sure about is, if there's

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a disagreement over sealing that part
that we want to remain confidential.
Did you in your recitation put the
burden on one of us in particular?

MR. EISENSTEIN: Yes, I thought
we had agreed that the presumption is to
be disclosed. In other words, we
started out and plaintiffs did not agree
that the presumption was going to be
confidential. Because the presumption
is to be disclosed, you're the ones that
are pushing the rock up the hill about
sealing it.

In other words, unless you
prevail in persuading the court that the
section needs to be sealed, then it
would be disclosed. Presumption is
disclosure, presumption of
confidentiality. Look at our exchange
of letters, that was one of the things
which clearly in my view we agreed upon.

MR. FARRELL: I'll reserve my
right to look at that. I'm not going to
take issue on that further now. I want

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to add that this deposition is pursuant to an agreement between the parties to conduct some voluntary discovery in response to counsel's motion of, I believe it is, October of 2011, and that voluntary discovery is set out. The parameters are set out in letter and e-mail correspondence between counsel for the parties and specifically there are at least five letters where that is set out.

The dates are January 3rd, 2012, January 24, 2012, February 2nd, 2012, February 29, 2012 and March 30, 2012.

While we call this voluntary discovery, we have also reserved our rights regarding the duration of the deposition and that's set forth those correspondence.

Finally, I would like to request review and signing as contemplated under federal rules civil procedure 30 (e), which is a separate request other than or in addition to the 30-day review for

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the confidentiality.

MR. EISENSTEIN: I don't think we would have an objection to signing, but if review and signing is going to extend the period during which we have agreed to keep it confidential, that is certainly not something that we had discussed. I don't see any reason why the review for the purpose of signing can't go on concurrently with your review.

I'm not sure whether you're suggesting that that is an additional period of time.

MR. FARRELL: I wasn't addressing the time period right now. What I was addressing was, in addition to having the ability to deem things confidential, I explicitly want the right to review as contemplated under the federal rules. That's usually done as a review and signing of the transcript under Federal Rule 30, Subsection E.

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T. Galati

MR. EISENSTEIN: If all you're saying is you want to invoke 30E, this is a deposition in an action pending in the United States District Court for the Southern District of New York.

It's governed by the federal rules. I don't know what else to say about that.

You're invoking a rule which exists and applies to any deposition as far as I'm concerned. You can either waive reviewing and signing or they can insist in reviewing and signing.

On behalf of Chief Galati, you are insisting on reviewing --

MR. FARRELL: Yes, we have that right.

MR. EISENSTEIN: Anything else?

MR. FARRELL: No, that's all that I have.

EXAMINATION BY

MR. EISENSTEIN:

Q With that introduction, good morning. My name is Jethro Eisenstein. I'm

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one of the attorneys for the plaintiff in the Handschu case. Chief, have you had your deposition taken before?

A I have had depositions taken before, yes.

Q I just want to review a couple of rules: The court reporter sitting to your left is going to take down every word that you say and every word that I say. Do you understand that?

A Yes.

Q Do you understand the oath that you take to tell the truth is the same oath that you take in court?

A Yes.

Q Do you agree to answer the questions out loud with words because the court reporter can't take down nods of the head?

A Yes.

Q I'm going to ask you to wait until I finish a question so that we get a clean record. Sometimes it's hard to discipline oneself, but if you wait until

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I'm done, she gets the question and then the answer and we have a clean record. Okay?

A Yes.

Q If I ask you a question that is not clear to you, please don't guess at my question, just tell me you don't understand and I'll ask the question in a different way. Okay?

A Yes.

Q Are you employed by the New York City Police Department?

A Yes, I am.

Q What is your current rank and command?

A I am an Assistant Chief. I am the Commanding Officer of the Intelligence Division.

Q How long have you been employed by the New York City Police Department?

A This July will complete 28 years.

Q How long have you held your current rank?

A My current rank, I believe I'm in four years, three or four years.

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Q How long have you been assigned to the Intelligence Division?

A Since September of 2006.

Q What positions have you held in the Intelligence Division?

A I've always been the commanding officer of the Intelligence Division.

Q Have you held the position of supervisor in other commands in the police department?

A Yes, I have.

Q What other commands and what supervisory divisions? You don't have sergeant. Let's just say lieutenant and above.

A It may be easier if I go backwards.

Q Go backwards.

A I'm presently the commanding officer of the Intelligence Division. Prior to that, I was the commanding officer of the gang division. Prior to that, I was the commanding officer of the 46th Precinct.

Prior to that, I was the

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commanding officer of the 47th Precinct.

Prior to that, I was the commanding officer of the Bronx Anticrime Unit. Prior to that, I was the commanding officer of the Bronx Tracer Unit and prior to that, I was a lieutenant and I was assigned to the Street Crime Unit.

Q What is your formal educational background?

A I have a bachelors from Empire State. I've also had other certificate programs from the Harvard Kennedy School and the police management of Columbia University.

Q What were those certificate programs in?

A Harvard Kennedy School was for state and local -- I can't think of the name of the actual program, but it was for state and local. Not law enforcement, it was for municipal, I guess.

Q But, it's related to law enforcement?

A No, it's related to many

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different issues.

Q And the Columbia University program is?

A A business school for police executives.

MR. EISENSTEIN: Off the record.

(A discussion was held off the record.)

Q Did you review any documents in preparation for this deposition today?

A Yes.

Q What did you review?

A I reviewed the police department's Handschu Guidelines and I did look through some material that was provided to me, I believe the same material that you have, I did peruse.

Q The material, the Zone Assessment Unit reports?

A Yes.

MR. EISENSTEIN: Would you mark this as Exhibit 1 for today's date.

(Plaintiff's Exhibit 1, a document, was marked for identification,

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as of this date.)

Q Chief, I'm showing you what had been marked as Plaintiff's Exhibit 1. Do you recognize this document?

A I do recognize this document.

Q Can you tell us who prepared this document?

A I cannot tell you who prepared this document. I saw this document for the first time when it was published in the AP Article.

Q Do you know whether it is a document that was prepared within the New York City Police Department?

A I can't tell you definitively that it was prepared by someone in the police department. It appears to have the police department's logo on it, but I have been unable to find who authored it and find it in any of my records or the department's records.

Q When it was published by the AP Article, did you inquire about the origins of this document?

1 T. Galati

2 A Yes.

3 Q Am I to understand that you were
4 not able to find anybody in the Intelligence
5 Division who knew what the origins were?

6 A Yes.

7 MR. EISENSTEIN: Can you mark
8 this as Exhibit 2?

9 (Plaintiff's Exhibit 2, a
10 document, was marked for identification,
11 as of this date.)

12 Q Do you recognize this document?

13 A Yes.

14 Q Can you identify what this
15 document is?

16 A This is a section out of the
17 police department's organizational guide.

18 Q Is the first page of it an
19 organizational chart for the Intelligence
20 Division as of 2/15/08?

21 A Yes, 2/8/08.

22 Q Sorry, 2/8/08. The Demographics
23 Unit, would that name exist at the present
24 time in the New York City Police Department?

25 A Not at the present time.

1 T. Galati

2 Q The Zone Assessment Unit was
3 formerly known as the Demographics Unit?

4 A Yes.

5 Q When did the change from
6 Demographics Unit to Zone Assessment Unit
7 occur?

8 A I couldn't give you an exact
9 date, but I believe it was sometime in 2010.

10 Q What was the reason for the
11 change of name?

12 A It was a different way that we
13 wanted to look at deployment. We were
14 breaking up deployments into zone, so that
15 could correspond with an analyst who also
16 had a zone deployment.

17 Q When it was called the
18 Demographics Unit, who did the Demographics
19 Unit report to?

20 A Clarify your question. Direct
21 report?

22 Q Yes. Who did the Demographics
23 Unit operatives directly report to?

24 A The people assigned to the
25 Demographics Unit reported to a sergeant,

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sergeants, actually in the Demographics Unit.

Q In turn, who did they report to?

A The sergeants reported to a lieutenant.

Q Was the lieutenant in the Demographics Unit?

A The lieutenant would oversee more than the Demographics Unit. He would oversee other units as well.

Q What other units did the lieutenant oversee?

A It has changed over the years. I'm not exactly positive. Presently, I believe he oversees the Citywide Debriefing team and the Demographics team, the zone assessment team, and I think that's all he oversees right now. It may have been different at different times.

Q You're talking about now when it's called the Zone Assessment Unit, right?

A Yes.

Q Was that different when it was called the Demographics Unit in terms of the

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lieutenant?

Who did the lieutenant supervise?

Were one of the things he or she was supervising was the Demographics Unit, also Citywide Debriefing?

A The lieutenants have been assigned to different people at different times. I am not exactly positive which other ones. I believe -- I don't want to guess what ones they were. We switched it.

Q Are there persons assigned to the Demographics Unit? Withdrawn.

Were there persons assigned to the Demographics Unit who were referred to as Rakers?

MR. FARRELL: Objection.

A The first time I heard the term Rakers is when the AP Articles came out. However, I believe the term would be referring to people assigned within the then Demographics, now Zone Assessment Unit.

Q Were there persons within the Demographics Unit who were referred to as mosque crawlers?

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MR. FARRELL: Objection.

A Again, the term mosque crawlers -- the first time I ever heard that was from the AP Article. I've never heard anyone in the division refer to mosque crawlers.

As I mentioned for Rakers too, that term, I've been assigned to the Intelligence Division since 2006 and I've never heard that term being used other than when it came out in the AP Articles.

Q Are the persons, who have been assigned to the Demographics Unit and then to the Zone Assessment Unit, members of the New York City Police Department?

By members, I mean graduates of the police department, police academy assigned to shield and tax ID number.

A Yes, they were sworn members of the NYPD.

Q What formal training have the persons had, the members of the NYPD assigned to the Demographics Unit?

Let me break it down. What

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formal training did members of the NYPD,
assigned to the Demographics Unit, receive
before being deployed in the Demographics
Unit's activities?

MR. FARRELL: Objection.

A There's a lot of training that
officers get when they are in the academy
and outside of the academy during the course
of their career, you know. You're asking
for a specific time?

Q Let me be more specific. I'm
asking about the training received by
members of the force who were assigned to
the Demographics Unit.

I'm asking about the training
received by members of the force who were
assigned to the Demographics Unit before
they were deployed in their capacity as
members of the Demographics Unit.

In other words, training
specifically to the tasks that they would be
undertaking as members of the Demographics
Unit?

A Well, members of the Demographics

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Unit/Zone Assessment Unit receive training that we give every year. We go to an annual training, more specific to their assignments.

They are given Handschu training based on the Handschu Guidelines that is provided by the legal team that we have assigned to the Intelligence Division.

Q Is there written material provided to them in connection with the Handschu training?

A The Handschu Guidelines which are in the Patrol Guide, are written material. I believe the other training does not have any other handouts other than the Handschu Guideline.

Q Before being deployed as members of the Demographics Unit or the Zone Assessment Unit, do they receive any other training detailing what they are expected to do?

A Yes, we do inform them. If you want to call it a specific training, we do inform them about things that they should

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do. Yes, I don't want to call it official training, if that's what you're asking for.

Official is not the word I'm looking for. They are instructed on what they should do.

Q Who issues the instructions to them about what they are to do?

A Their instructions could come from their direct supervisor. Their instructions could come from me. I do know that our legal counsel has sat down with the entire unit at one point, so instructions has come from our legal counsel.

Q Have you personally had interaction with the members of the force who were assigned to the Zone Assessment Unit?

I can call it that and you'll tell me if the answer would be different than when it was the Demographics Unit; okay?

A Yes.

Q Have you personally issued instructions to members of the Zone

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Assessment Unit?

A I would say I have personally issued instructions, but I may have done it through a chain of command. I would direct something and then it would be given down to the ranks, to them.

Q What were the members of the Zone Assessment Unit told that they are to do? What are the instructions that are given to them?

MR. FARRELL: Objection.

A It's a broad statement. If you're asking me what their duties and responsibilities are, I don't know what your question is.

Q Okay. What are the duties and responsibilities of the members of the Zone Assessment Unit?

A The function of the Zone Assessment Unit is to -- let me begin by saying that in the beginning of the Zone Assessment Unit, the function of the Zone Assessment in the post 9-11 time was to go out and go through the different communities

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in New York City and help us identify different communities that would be considered communities that have people that live in it from countries of concern.

Q How were they told to go about identifying such people?

A Well, as I said, this is directly after 9-11, and countries that are of concern were identified based on the 9-11 attack and other attacks that happened throughout the world, the people who committed those attacks;

Islamists that have been radicalized to violence that committed those acts came from countries of concern. Those countries were identified. The Demographics Unit were to go out to communities and tell us if these communities represented the same countries of concern where these Islamists radicals came from.

Q Take a look at Exhibit 1. On the fifth page, there's a page headed ancestries of interest.

A Yes.

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Q Does that correspond to the communities that you were sending people out to look into?

MR. FARRELL: Objection.

A Are you asking me if this corresponds to the countries of concern?

Q Correct.

A I would say that most of them here do, but not all. Yugoslavia is no longer a country. Chechnya is part of Russia.

Most of the other countries themselves are correct and American black Muslim is not a country.

Q Take a look at page five of Exhibit 2. I'm looking at the paragraph on page five on Demographics Unit.

Was it a function of the Demographics Unit to develop a comprehensive analysis and understanding of the demographics trend throughout New York City?

A I don't believe that is one of their functions. They are not analysts, so they are not trying to analyze, but, yes,

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they are supposed to understand the trend,
the demographics trend in the city.

Q What does that mean, demographics trend? What's your understanding of that phrase?

A When the Demographics Unit started, it was started with, you know, terrorism in mind, post 9-11. At that point, nobody knew where the next attack was coming.

All we knew was, there had been people from countries of concern that committed this attack. In order to fight terrorism, we needed to know where people lived from countries of concern that could either recruit, hide or secrete themselves in these communities that were radicalized towards violence and we needed to know where they were, to identify those countries of concern, to find those people that were radicalized towards violence.

Q That's your understanding of the phrase demographic trends?

A Yes.

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Q That's what their function is?

A Yes.

Q Were members of the Demographics Unit also to conduct investigations and gather intelligence information as directed?

A Based on the Handschu Guidelines, the term investigations means the gathering of information. So, based on the Handschu Guidelines, I would say that that is correct. As far as the police department's terminology that I use in investigation, they do not conduct investigations, they gather information.

Q When you say the terminology that you use about investigations, what is in your terminology? What is an investigation?

A In traditional department terminology of what an investigation is, there's a crime or a person that is being investigated because a crime has been committed, and we have to find out who did this crime.

Or, we have information that the crime will be committed and we're going to

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conduct an investigation on that person or persons. That is what an investigation is. An investigation could be from a car accident. An investigator has to investigate how the car accident occurred.

That's how I understand the term of an investigation from traditional department terminology.

Q Do I understand you to be saying that using that terminology "Demographics Unit" was not to engage in investigations, as you just defined it?

A The Demographic Unit's responsibilities were to collect information on areas so that we can identify countries of concern, where there were people that were being radicalized towards violence, Islamists radicalized towards violence.

Q Was the function of the members of the force assigned to the Demographics Unit to make assessment regarding the potential for World events to impact upon local communities?

A I don't believe it's their job to

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make an assessment. However, through the rest of the Intelligence Division, we monitor World events.

If World events dictated that a particular area may become more of a concern, then the Demographics or Zone Assessment Unit would go to that general area.

Q Was it in connection with that activity that you just described? Was it their job to collect information about how World events were impacting local communities for the analyst to analyze?

A I would say that if there was an event in the world that resulted in some type of violence or disruption, anywhere in the World or within the States that was related to terrorism activity, yes, they would go.

They would basically see if it's going to have any implications in New York City.

Q Would it be fair to say that their job was to see whether people were

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talking about it and how people were talking about it?

MR. FARRELL: Objection.

A Their job was, if they hear people talking about it, you know, they should inform us. If what they're hearing is hostility towards the United States or to the general public at large, you know, as a result of these events, would something happen here as a result? Their job is to listen for that.

Q You used the word hostility towards the United States. I want to make sure that I don't misunderstand you.

A lot of people talk. They don't like what's going on, what this person is doing, they don't like what the United States is doing.

Are you talking as broadly as the hostility in the United States, in the sense of expressions of opinions that were contrary to the policies of the United States --

MR. FARRELL: Objection.

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Q -- or objected to the policies of the United States?

A I would say that it doesn't even have to involve the United States at all; its general policing to prevent violence.

There is plenty of strife in Pakistan where there's violence between Shia muslims and Sunni muslims.

When there's violence between these two sects of the religion. It could escalate and happen here. It doesn't have to necessarily relate to the United States itself.

It could affect just the general public or within that community itself. It's a Pakistani community. It could be among Pakistani to each other.

It's broader than hostility towards the United States, hostility in the community.

Q Were members of the force assigned to the Demographics Unit instructed to bring back information about expressions of opinion whether or not they related to

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violence or potential violence?

A Say the question again.

Q What I'm trying to find out is, were the instructions given to them to report back about what they were hearing broad enough?

For example, to call for them, to report back? Let me just give you an example about someone commenting to another person from his community about the state of the union message delivered by President Bush.

MR. FARRELL: Objection.

A I guess I would have to see that comment. I would have to see what that comment is to make a determination.

It's not something that they should bring to us. It depends on the context, it depends on the time, it depends on who is talking about it. I couldn't answer that question.

Q Fair enough. Since the instructions have to be given before going out, what I'm trying to get from you is

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whether the instructions were as broad as simply telling us what you hear, whatever it is or were they limited in any fashion by the instructions that came from you through the chain of command?

Were they limited in any fashion or were they, just to be clear, bringing back everything you hear?

MR. FARRELL: Objection.

A No, their instructions were not to go and bring back every conversation that they heard. That's not what their instructions were.

Q What was given to them in way of instructions to guide their judgement about what to bring back?

MR. FARRELL: Objection.

MR. EISENSTEIN: He says that for a reason, but it doesn't mean you should answer. He'll be very clear if it's something he doesn't want you to answer.

A A lot of conversation that has been brought back has value. On the

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surface, it may seem valuable. Overall conversation may relate to where people are from at that particular location, you know. To get a little bit deeper, I think that a conversation overheard by people in the Lebanese cafe may indicate to us that they are from South Lebanon or North Lebanon.

Although it may not seem important when you look at it, an analyst can understand that a particular town that was mentioned in a conversation may be in South Lebanon.

That may be an indicator of possibility that that is a sympathizer to Hezbollah because Southern Lebanon is dominated by Hezbollah.

Q I understand what you're saying. A lot of stuff can be a risk, useful information. What I'm trying to find out is, somehow or another, the people assigned to the Demographics Unit or the Zone Assessment Unit are being asked to distinguish between what they should report about and what they shouldn't be reporting

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about. They have to make some judgements about what to report about, correct?

A Yes. I would have to say they would make some judgments.

Q What are given by way of instructions to help guide their use of their judgement about what to report about?

A If we deployed them because of an event that took place in a particular part of the World, a drone attack, we would want to know and we would instruct them to find out if people are upset about this drone attack.

If they are, that's something that would be important for us to know, that would be something we would want to know. If they were talking about something that would help us identify what region or what type of people they are from the country of concern that we're trying to identify, that would be something that we would want them to report.

So, it's twofold. If there's a reaction to something or if it's going to

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help us, their main purpose is just to help us identify where in the city we would find people from some countries of concern, where Islamists radicalized towards violence would hide or recruit.

Q I understand what you're saying about telling us everything you hear about a drone attack, for example.

If there isn't a specific event that has occurred, are general instructions given to help guide their judgement about what information to bring back?

MR. FARRELL: Objection.

A Their main function is to catalogue those locations so we can understand what countries of concern they're from, their observations and overheard conversations.

When they are not deployed in relation to an event, should they hear an overheard conversation that I would consider, and I'll use the word alarming or aggressive, those kinds of conversations we would want them to bring back.

1 T. Galati

2 Q Was it part of the job of members
3 of the force assigned to the Demographics
4 Unit to analyze religious institutions,
5 locations or congregations?

6 MR. FARRELL: Objection.

7 A The Zone Assessment Unit/
8 Demographics Unit does not do any analytical
9 work when it comes to what their function
10 is. They have identified religious
11 institutions to the extent that we can
12 understand what country or countries of
13 concern would go to those particular
14 locations.

15 Q Have they identified those
16 locations by going to them?

17 MR. FARRELL: Objection.

18 A Yes. Are you asking me -- can
19 you rephrase the question?

20 Q Have members of the force, who
21 are assigned to what's now called the Zone
22 Assessment Unit, visited religious
23 institutions, congregations?

24 MR. FARRELL: Objection.

25 A Let me state that, since I'm here

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in 2006, members of the Demographics Unit, it is our practice and policy that they do not go into religious institutions unless there's a need to because we have to identify what type of institutions.

It's not always readily available from the outside. However, we prefer that they do it from the outside, if possible. However, when 9-11 happened and then this unit stood up and we had to understand a little bit more and gain knowledge, it was necessary to go inside those locations in order to determine what type of congregation it was and what people, from what countries of concern would be there.

So, for identification reasons early on, they did go into some of those locations. It is not their normal practice and it is not their practice today.

Q When you say early on, are you talking about things that occurred prior to your being in the Intelligence Division?

A Yes, I'm talking about early on when the Demographics Unit was first

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deployed.

Q Were those activities, religious institutions going on when you became commander of the Intelligence Division?

MR. FARRELL: Objection.

A As I stated, I came in 2006 and that is not our normal practice or policy. I cannot definitively tell you that it has never happened if it is a new location, a new mosque that we have never seen before.

That is not readily available based on signs. They may have. It is not our policy nor is it our practice to have them do that.

When I said early on, I am going back to the original starting point of the unit, when it was necessary to first really determine what kind of location it was.

MR. EISENSTEIN: Can you mark this as Exhibit 3.

(Plaintiff's Exhibit 3, a document, was marked for identification, as of this date.)

Q I've handed you what's been

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marked as Plaintiff's Exhibit 3. My
question is, do you recognize this document?

MR. FARRELL: Off the record.

(A discussion was held off the
record.)

[REDACTED]

know.

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I guess my trouble with the question is, the deposition is about visiting public places and events under the same terms as the public.

The question is open-ended and you aren't putting it within that framework. To the extent that your answers call for something beyond that, that's where I have an objection and I'm instructing the witness not to answer.

MR. CHEVIGNY: Wouldn't mosques be considered places open to the public?

MR. FARRELL: I can consult with the witness to respond.

MR. EISENSTEIN: Let me make it clear. I understand what this deposition is about. I'm trying to find out whether using that power under the Handschu Guidelines as identified in VIII (A)(2), I'm trying to assess how

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many mosques have been visited and my way into that which is perfectly appropriate.

I haven't gone into anything that's outside the scope of what I was going to be asking about in my view.

MR. FARRELL: Hypothetically, there's a possibility that mosques were visited, not under VIII (A)(2), but pursuant to an authorized Handschu investigation.

To answer that question, it's not making a distinction.

MR. EISENSTEIN: You said it's hypothetical. To find out how that is so, ask the witness.

MR. FARRELL: I need to confer with the witness.

A The Demographics Unit has identified mosques throughout the city and the ethnic community or communities that would go to that mosque. What the exact number is, I couldn't tell you the exact number.

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Q Was the Demographics Unit tasked with identifying mosques around the city when the unit stood up, as you said?

A Yes.

Q Do you know when the Demographics Unit was formed?

A I don't have an exact date, I'm going to say early in 2003 sometime.

Q Did members of the Demographics Unit identify mosques and the community that they related to by visiting the mosques?

MR. FARRELL: Objection.

A The purpose of the Demographics Unit and the Zone Assessment Unit was to identify mosques, to identify the ethnic community that would be associated with the mosques.

If they could do it from the outside, they would do it from the outside. Often, they were unable to do that and they would then go inside. I'm talking early in the unit's existence.

If they needed to, they would go inside the location in order to determine

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what ethnic community, what signs to describe, what ethnic community would attend that particular mosque.

As I did say, that is not the practice and policy since I've been here in 2006, and I think I said earlier that unless for some reason there was no other way to determine that factor, I'm not saying definitively that's not the practice, since I'm assigned to the unit, that it has been done.

Q I think you indicated when there's a new mosque identified even today, it would be part of the job of the Demographics Unit to try to figure out who goes to that mosque; am I correct?

MR. FARRELL: Objection.

A If we became aware of a new mosque, we would want to know what ethnic community would attend that mosque.

Q If necessary, if you couldn't do it from the outside, the Demographics Unit would visit; is that correct?

A Are you asking me today?

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Q Today.

A If the Demographics Unit was unable to determine what kind of mosque it was, would they go inside?

Q Yes.

A I would want to know what kind of mosque, what kind of congregation it was, I would want to know. I would want to know if they exhausted all other means and that was the only way. I would say that they would, but they haven't.

It has not come up at least since I'm here. I can't recall instances where that has happened.

Q Have there been some number of mosques in New York City that have been identified by the NYPD as mosques of concern?

MR. FARRELL: Objection. I need to consult with the witness whether privilege applies.

I have my objection noted. You can answer the question.

THE WITNESS: Can you re-ask the

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question. Can I consult with you again?

MR. FARRELL: Sure.

(Recess taken).

A The Demographics Unit's job is not to identify mosques of concern. However, I can't tell you that when they identify mosques, that it may indicate that it's a mosque of concern.

That's not their function and that's not who identifies mosques of concern. Mosques of concern are identified under authorized Handschu investigations.

Q Okay. What is mosque of concern? Is it a phrase that's used by the NYPD? Is that correct, mosque of concern?

MR. FARRELL: Objection.

A I don't use the term mosque of concern nor do people in the Intelligence Division since 2006 use the word mosque of concern. I can't tell you that earlier on that terminology may have been used.

Q Is the expression mosques of interest used by the Intelligence Division?

MR. FARRELL: Objection. There

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has to be a way for us to continue. The question that is asked generally about Intelligence Division practices outside of section VIII(A)(2) of the Handschu Guidelines, the reality is that there are Intelligence Division operations that operate under other parts of the Handschu Guidelines, that's the difficulty that I have. I want you to understand the difficulty I'm having with the way the question is being phrased.

We'll have to continue to consult about privilege. I don't know if you can structure the questions to get us within the scope of VIII(A)(2).

If you recall the initial notice of deposition, it has the categories. It was limited to VIII(A)(2). It was not going to be about general intelligence practices or investigations, authorized Handschu investigations. You agreed then, you revised the categories limited to VIII

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(A)(2).

MR. EISENSTEIN: I'm aware of that and I'm asking questions that are geared to address specifically VIII (A)(2), but I need to get into that subject in some way.

Obviously, you're free to consult about law enforcement privilege. I need to ask the questions to get there. So far, the result of each of the consultations that you've had had been that you permitted the witness to answer.

If you need to do it again, do it again. I'm mindful, Peter, of the constraints of the deposition, that you have reserved the right to shut this deposition down.

I don't think I'm going beyond the bound. You don't have to warn me if I go beyond the bound. Let's take the question one at a time.

MR. FARRELL: I was trying to do it in a collegial way.

1 T. Galati

2 MR. EISENSTEIN: I appreciate
3 that. I don't think that I'm straining.
4 I've asked a preliminary question about
5 a term and I want to know about that
6 term, and then I'm going to ask whether
7 that term has any significance about
8 what this deposition is about.

9 Q Having said all those things, do
10 you remember the question?

11 MR. FARRELL: Can you restate
12 it?

13 Q Has the Intelligence Division
14 used the expression mosques of interest?

15 A Can you say it one more time?

16 Q Does the Intelligence Division
17 use the expression mosques of interest?

18 MR. FARRELL: You have my
19 objection.

20 A I believe that the term mosques
21 of interest or mosques of concern had been
22 used in the past. However, that's not a
23 determination that's made by the
24 Demographics Unit, but I'm not saying that
25 the term has not been used.

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Q In your understanding of the Handschu Guidelines, does the designation of a mosque as being of concern or of interest give the NYPD in and of itself authority?

MR. FARRELL: I'm going to object. I'm going to deem it outside the scope of the deposition.

MR. CHEVIGNY: You're not allowing him to answer?

MR. FARRELL: Yes.

Q When you've told me that the Demographics Unit does not designate any interest or concern, that that's not their job to designate --

MR. FARRELL: Objection.

A I did not state that. The Demographics Unit has used the term of concern or interest. However, the way I am interpreting concern, interest is related to stuff that's learned outside of VIII (A)(2) with authorized Handschu investigations.

Q Are you saying that that designation has not occurred as a result of a visit under VIII (A)(2)?

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MR. FARRELL: Objection.

A Under VIII (A)(2), where the Demographics Unit has visited other establishments, they will use a terminology that may be location of concern or a hotspot. So, in other documents or other identifiable locations, they used that terminology.

Q What I'm asking is, have they used that terminology as a result of information gained from a visit under VIII (A)(2)?

MR. FARRELL: Objection.

A Are we talking about commercial establishments?

Q Well, I will ask about that. Right now I'm asking you about mosques.

A I don't believe that they make that determination. Their function was to identify the mosques in the community, and what ethnicity that would go to the mosques. They don't make that determination if it's a mosque of concern or a mosque of interest. If the way I interpreted it --

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A [REDACTED]

However, I will tell you that Demographics visits mosques and identifies mosques.

Q Just so that we're clear, is it your understanding that those visits are authorized under VIII(A)(2) of the Handschu Guidelines?

MR. FARRELL: Objection. You're asking for a legal conclusion?

MR. EISENSTEIN: Anybody who has to apply a legal rule can be asked about

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their understanding of the rule. So
having said that, let me ask the
question again.

Q Is it your understanding that
those visits to the mosques by the
Demographics Unit are authorized under
section VIII(A)(2) of the Handschu
Guidelines?

MR. FARRELL: Objection.

A The Demographics Unit identifies
locations that would be frequented by
communities of countries of interest. By
identifying these locations, to help us
identify the communities, with the goal of
trying to detect or prevent terrorism
activity, by cataloguing those locations, to
include mosques is not investigating
political activity. So, I would say that
them visiting by itself does not fall into
investigating political activity.

Q Am I correct that what you're
saying in your understanding is the visits
to the mosques aren't even covered by the
Handschu Guidelines?

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MR. FARRELL: Objection.

A I'm saying the cataloguing of mosques does not necessarily fall under the investigation of political activity.

Q I'm a little concerned. I think we're talking slightly past each other. What I'm hearing you say is that the visits to mosques for the purpose of cataloguing them is not gathering information about political activity so you don't even get to the Handschu Guidelines? Is that what you're saying?

In other words, you don't have to identify a provision of the Handschu Guidelines that would authorize it because it's not even covered by the Handschu Guidelines?

MR. FARRELL: Objection.

A No. What I'm saying is that their function by itself by just cataloguing may or may not fall into that depending on what the result of that visit is. But, the basic identification of locations and cataloguing by itself is not the

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investigation of political activity.

Q So that, a demographics member of the force assigned to the Demographics Unit who goes to a mosque for the purpose of finding out what kind of a mosque it is and what community goes there is not using the authority that is granted under this section?

I'm going to quote, "For the purpose of detecting or preventing terrorist activity, the NYPD is authorized to visit anyplace and attend any event that is open to the public on the same terms and conditions as members of the public generally.

No information obtained from such visits shall be retained unless it relates to potential unlawful or terrorist activity."

My question is, are you saying that, in your understanding, when a member of the Demographics Unit goes to a mosque for the purpose of finding out who goes there, what community goes there, what

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community it's related to, that member of the force assigned to the Demographics Unit is not using the authority granted by the section?

MR. FARRELL: Objection. I'm objecting. It calls for a legal conclusion.

You can answer the question.

A That section applies to a broader goal within the Handschu Guidelines. VIII (A)(2) is one part of a broader guideline, the Handschu Guidelines, and the Handschu Guidelines describe the main function of the investigation of political activity.

What I'm saying is, by itself there are levels that can and cannot take it into VIII (A)(2).

By itself, cataloguing locations, to know the ethnicity of the community is not investigating political activity.

Q Let's just take a member of the force assigned to the demographics community who goes into a mosque.

Are you saying that whether it's

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covered by the guidelines depends on what that member of the force brings away? In other words, if he only brings away information about the ethnicity of the people at that mosque, it's not covered by the Handschu Guidelines at all?

Is that an example of what you're saying or have I got it wrong?

MR. FARRELL: Objection.

A I think by identifying locations and cataloguing them, finding out the ethnicity by itself, is not investigating political activity.

Q Do you know what instructions have been given to members of the force assigned to the Demographics Unit who are deployed to visit mosques? Do you want to hear that question back?

A That question may be different at different times. I can't give you a direct answer. I did answer a question earlier that we tell the officers to try and make observations that can help us identify a location with the goal of trying to find out

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what country of concern may go there, should we need to identify an Islamist that's Radicalized towards violence, maybe hiding there for police action, should it arise.

Q Are members of the force assigned to the Zone Assessment or Demographics Unit, who are deployed to go into mosques, given instructions about section VIII (A)(2) of the Handschu Guidelines?

In other words, are they told that information obtained on the visits is not to be retained unless it's related to potential, unlawful or terrorist activity?

MR. FARRELL: Objection.

A You stated that members of the unit are being sent into mosques. I didn't state that. I stated to you that the goal is for them to identify the mosque and the community, countries of interest that may be associated with that mosque.

However, the Demographics Unit does receive instructions on VIII (A)(2), so they do know what VIII(A)(2) is.

Q Is that instruction something

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that's given on a regular basis, had been given once? What's the drill in relation to instructions about VIII(A)(2) to members of the Demographics Unit or Zone Assessment Unit going into the community?

A I think that we instruct all members of the Demographics Unit on VIII (A)(2) as part of a broader training that we do on all of Handschu, and I will state that they receive training early on. Every member that's assigned to the division received training. I'm aware of counsel giving personal training on the matter at some point.

Every year, every member of the division comes back to training, and then, issues that arise during the course of daily events we have meetings and we bring people in, and if they need to be trained on a particular area there, we'll address it like that. We do many, many things to make sure that everybody understands the entire guideline, not just the VIII(A)(2).

MR. EISENSTEIN: Can I have this

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T. Galati

marked as Exhibit 4.

(Plaintiff's Exhibit 4, a document, was marked for identification, as of this date.)

Q I've put in front of you what's been marked as Exhibit 4. My first question is, have you seen this document before?

A I have seen this document as one of the documents I reviewed that was released by the AP Articles.

Q Do you know whether the statement of particular speakers at particular mosques that are reproduced in Exhibit 4 were gathered by the Demographics Unit, whether all or any of them were gathered by the Demographics Unit?

A I would say that none of this information was gathered by the Demographics Unit.

Q What is the basis for that statement?

A Can I consult?

Q Sure.

A This information is gathered

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T. Galati

based on authorized Handschu investigation.

Q The date of this document, Exhibit 4, is before you took command of the Intelligence Division, correct?

A Correct.

Q You or someone under your direction reviewed those compiled statements and determined that they were all as a result of authorized investigations?

A Yes.

Q Did you make that determination yourself or did you have someone review this document and determine that?

THE WITNESS: Can I consult you?

MR. FARRELL: Sure.

A I know most of these personally with my own knowledge, and the few that I was unaware of, I did have checked.

Q I want to direct your attention to an entry on the third page relating to mosque Jade, J-A-D-E, M-A-S-J-I-D, D-A-W-U-D-I on February 6, 2006.

Are you able to tell me whether that was one you knew about yourself?

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T. Galati

A That is not one that I know about myself.

Q Are you able to tell me what level of investigation under the Handschu Guidelines these reports come from?

In other words, were they from preliminary investigations?

MR. FARRELL: Objection. I'm going to instruct the witness not to answer. That's not within the scope of this deposition.

Q Does the NYPD use the term rhetoric? Does the Intelligence Division use the term rhetoric?

MR. FARRELL: Objection.

A That's a term that's been used.

Q Is the determination of whether a person is or a place of interest based in part on what the NYPD refers to as rhetoric?

MR. FARRELL: Objection.

A It could.

Q What is meant by the term rhetoric?

MR. FARRELL: Objection. I need

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T. Galati

to consult with the witness.

(Recess at 2:00).

Q That's the pending question.
What is meant in that setting by the term
rhetoric?

A I would say that rhetoric is
overheard conversation which would be
inciting somebody or encouraging somebody to
commit an unlawful act.

Q Is that something that's the
subject of a written standard? What
constitutes rhetoric that would cause
someone or some place to be of interest?

A Can you rephrase it?

Q Sure. You just gave an answer of
inciting, of someone committing an unlawful
act. I'm asking if that's a definition of a
subject of written standard anywhere?

A I don't believe that's a written
standard.

Q In VIII (A)(2) of the Handschu
Guidelines, there's a reference to
information: "No information obtained from
such visits shall be retained unless it

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T. Galati

relates to potential unlawful or terrorist activity."

Would you say that as applied in VIII (A)(2), the same definition that you had just given me of rhetoric applies? In other words, that rhetoric wouldn't pertain or relate to potential unlawful or terrorist activity unless it involves someone saying to someone else or advocating that someone committed an unlawful act?

MR. FARRELL: Objection.

A Is your question that --

Q I'll ask it again. It's an after lunch question. You have to forgive me.

Does any other unit besides the Demographics Unit within the Intelligence Division engage in the activity that are described and authorized in VIII (A)(2)?

A No, the Demographics Unit is the only unit.

Q Are members of the force assigned to the Demographics Unit instructed to report back about certain kinds of rhetoric?

MR. FARRELL: Objection.

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T. Galati

Q If they hear it.

MR. FARRELL: Objection.

A What I would say is, the function of the Demographics Unit is to go out, catalog locations. There are times when there are World events, and during the times of World events, then they would be going out looking to gauge, I guess gauge the feeling or the sentiment of the situation related to it. It's a reaction area. That would be the Demographics Unit that would go into the location to gauge that sentiment. It's based often on a World event or could be based on an event.

Q Taking that as an example, in that reaction situation, are the members of the force assigned to the Demographics Unit instructed to report back about what they hear on that subject, on the subject of the event?

A I guess it would depend on what they heard about that subject. I would say that they are to report if they have overheard a conversation which would be a

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T. Galati

reaction. We're looking for a reaction.

Q You're looking for what the reaction is to that World event, correct?

A I would like to say the reaction to determine if it has any implications for New York City for that particular community or anything. So, is this Global event going to have an adverse reaction in a particular area, community, particular people that may cause the police department to have to react to it?

Q I don't have any copies of this. The record should reflect that there are five looseleaf binders on the table that contain pages one through 1260, bates numbered documents that were produced for us to inspect.

Since I don't have copies, I'm going to show to Chief Galati the page that's been marked as page 804.

Since I don't have it, would you mind, chief, just reading out loud the paragraph about a conversation between two [REDACTED] men in [REDACTED]?

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Q Am I correct that this is

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contained in a Zone Assessment Unit report

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about a visit to a commercial establishment?

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A Yes.

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Q My question is, was this an

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activity that was undertaken by the member

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T. Galati

of the force assigned to the Zone Assessment Unit covered by VIII (A)(2) of the Handschu Guidelines?

A Just say the question one more time.

Q That's okay. Is this document, bates stamped 904, part of a report of a member of the force assigned to the Zone Assessment Unit conducting a visit pursuant to section VIII (A)(2) of the Handschu Guidelines?

A Yes.

Q Under section VIII (A)(2) of the Handschu Guidelines, as you understand the guidelines, is it permissible to record the information about this conversation given the restriction that says no information retained from such visits shall be retained unless it relates to potential unlawful or terrorist activity?

MR. FARRELL: Objection.

A The main purpose of the Demographics Unit/Zone Assessment Unit helps us identify locations if we're faced with a

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T. Galati

threat that's coming from a country of concern and we're looking to find a terrorist that's likely to commit a terrorist attack.

The police department needs to know where we should go and look for that particular terrorist. A lot of information that the Zone Assessment Unit captures helps us identify locations that we should look or not look for.

In this document, it's clear that speaking in Urdu officers indicate they are Pakistani. It does have value to us for potential terrorist or unlawful activity in the sense that it's telling us, in this particular location at [REDACTED], we would be able to find -- that's a location where we would possibly find -- I'm not telling you that would be a Pakistani location and we're going to find someone that speaks Urdu, a terrorist from a particular region in Pakistan where they speak Urdu or if we're looking for an Urdu Pakistani male that would commit a terrorist

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T. Galati

attack. This piece of information would be very valuable to us.

We retain that information because although it may seem like minutia, the fact that they speak Pakistani and Urdu is something that I find useful in my quest.

Q You comment speaking in Urdu and Pakistani.

A Yes.

Q From the point of view of what you just described and I'm not seeking to argue with you, isn't the information that this is a location where we could find Pakistanis who speak Urdu -- let me ask the question in a different way.

How is the police function advanced or aided by the content of this conversation in which one person is complaining to the other about [REDACTED] [REDACTED] worker who supposedly burned the quran was rehired?

Does that information relate to potential unlawful activity or terrorist activity?

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T. Galati

A I would say we're not looking for Pakistanis that speak Urdu. That's not what we're looking for. The goal of the information collected is so that when we're looking for a terrorist, Islamist radicalized towards violence, that we have threat information that has come in and we need to start looking for that person. We have information that indicates that this person is Pakistani, speaks Urdu or may even to some extent based on Urdu give us a particular region where they might be from.

That information is very valuable when we're faced with an imminent threat and we have to look for it.

My point is that the conversation is indicating that these males who speak Urdu is valuable to us in detecting or preventing a terrorist activity.

Q That's really what I'm focusing on, is the fact that these two men at that location, [REDACTED] speaking [REDACTED] are angry about what happened to someone who burned the quran. Is that of value? Is that

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T. Galati

useful?

The phrase in VIII (A)(2) information relates to potential unlawful activity, not their ethnicity, not their language, not the region they're from?

A The particular grievance they were exchanging about, it's the information that's contained in the conversation that's of value. We're not identifying these people. It may not be Pakistani. It's frequented by a Pakistani individual that speaks Urdu. That's an important part. It's the information contained in the conversation that would help us when we have to start looking.

This is something that we can turn to. We can start saying, where should we be looking for a terrorist who's planning or recruiting for a potential attack in New York City and we know that that person is Pakistani and Urdu.

Based on the language that would be important to us, I would say, not necessarily the content, but everything

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T. Galati

contained in it, the information that the conversation has that I consider of value.

Q I'm focusing on the content and on the specific provision of VIII (A)(2) because, in fact, in this report the content was retained. In other words, this is a document from -- I don't remember if it's 2010 or 2011. It's relatively the last couple of years. What I'm trying to find out is whether from your vantage point as Commander of the Intelligence Division, in terms of instructing these people of the force who are doing the work of the Zone Assessment Unit, do you understand the retention of the content?

What I mean by the content is the expressed grievance about this [REDACTED] [REDACTED] workers, the retention of that content. Is that consistent with VIII (A)(2) saying no information shall be retained unless it relates to potential unlawful or terrorist activity?

MR. FARRELL: Objection.

A What I'm saying is that as a

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T. Galati

[REDACTED]

Q In relation to the content of that conversation, from your vantage point as commander of the Intelligence Division, is the information, the content, not the fact that these are Pakistani males, not the fact that they were conversing in Urdu, but the content of their conversation, is it authorized under VIII(A)(2) to retain that?

Does that information relate to unlawful potential activity or terrorism?

A I have to state that in these conversations, when they indicate signals to us that we can use as far as identifying people from countries of concern, it is of value.

I can't take the content without

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taking the description and the Urdu in it.
I would say that it does have value to us.

And under VIII (A)(2), I would state that we could retain that.

Q Can you articulate how it has value? What is the thought process that leads you to conclude that the phrase is no information obtained from such visits shall be retained unless it relates to potential unlawful or terrorist activity?

If you could, tell us how you would express what the value is?

A I think I did explain it in the last example, but I will explain it again. The purpose of the demographics Unit is to catalog in these locations, collecting information at these locations are for the police department to respond to a threat that they may be facing.

When we are faced with a threat or we have information about a threat that is present and we need to go out and we need to try and mitigate that threat, we have to be able to, at our fingertips, find what is

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T. Galati

the most likely location that that terrorist is going to go to and hide out amongst other people from the same country.

But, this is the person that is going to commit a terrorist attack. To value what's in here, that I know if I'm looking for a terrorist who is Pakistani, from a region in Pakistan who speaks Urdu, I'm not going to waste my time in a restaurant where they speak Arabic.

I want to know where the restaurant is that are going to be Pakistanis. Most likely, a Pashtun that's speaking Urdu. So that's of value to me to prevent or detect terrorism that I'm now facing the threat.

I know where it's coming from. I want to go to these locations so I can either find somebody that's hiding in these locations, recruiting in these locations. That's the value of it.

Q Would you agree that there are a number of locations that have been mapped by the Zone Assessment Unit where Pakistani

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T. Galati

people speaking Urdu congregate?

A I believe that they have identified numerous locations where people speak Urdu.

Q The question that I'm asking is, are you saying that the fact that two people at a particular location complained about [REDACTED] in the manner that is described in that conversation makes that place more likely to be a haven for someone engaging in a terrorist act and therefore, that information relates to potential terrorist activity?

MR. FARRELL: Objection.

Q Do you understand my question?

A I understand the question. I would say no, I am not telling you that this place is more likely than another place where they speak Urdu. What I'm saying is that, depending on what threat we're facing, we need to be able to look at what information we have collected so we could properly deploy and try to find the threat

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T. Galati

or the potential terrorist and the tension that are going to help us in the information contained.

The fact that it's Pakistani, Urdu is a very important factor. It doesn't mean that there's more of a chance that he's going to be in this particular one. It's important for me to know this is one of the locations where we're going to have a Pakistani community that speaks Urdu where a person that is radicalized towards violence could either try to either hide or recruit.

Q I understand what you're saying. This is the question. What I'm asking you is about VIII (A)(2). Correct me if I'm wrong, a part of the Handschu rule that places some restriction on what information can be retained, right?

A Yes.

Q And the guidelines for what information can be retained are captured in the words related to potential unlawful or terrorist activity, right? That's where the limitation resides, so to spoke?

1 T. Galati

2 A Yes.

3 Q Let's take this page 834 or 6,
4 whatever it is.

5 A 836.

6 Q There's certain information at
7 this place, Pakistanis who speak Urdu
8 congregate and talk to each other. That's
9 one set of information. Okay? You've told
10 me that that's extremely valuable for you to
11 know about if you're addressing a threat,
12 right?

13 A Yes.

14 Q I'm apologizing for taxing you
15 about this. I'm focused on whether the
16 retention of the specific conversation for
17 another word complaining about the threat of
18 these [REDACTED].

19 You told me that that piece of
20 information that there are two guys there
21 complaining about the [REDACTED]
22 [REDACTED] does not make it more likely
23 that a terrorist would go, am I correct so
24 far?

25 A You'd have to repeat that.

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Q I think you've told me that the fact that at this particular location where there are Pakistanis speaking Urdu, the Zone Assessment Unit heard two men complaining about [REDACTED]

[REDACTED] That fact alone, their complaint expressed to each other doesn't make it more likely that this is a place where a terrorist would go?

A It doesn't make it more likely or less likely. It's a tool for us to look for a person that has that same characteristic that's going to hide or recruit within a place that he or she is comfortable in.

For a terrorist person that may be trying to secrete themselves in this particular community, I can't tell you it's more likely or less likely. It's a tool for us to look in the right place.

Q If it's neither more likely or less likely, the specific conversation about the [REDACTED], how does that piece of information relate to potential unlawful or terrorist activity?

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T. Galati

A I'm taking the conversation as a whole. I'm looking at that conversation. I'm seeing Urdu. I'm seeing them identify the individuals involved in that are Pakistani.

I'm using that information for me to determine that this would be a kind of place that a terrorist would be comfortable in and I'm retaining that for the fact that I can retain it, if it's going to help me detect or prevent a potential unlawful or terrorist attack.

So, a potential terrorist could hide in here and that piece of information is important for me to know. That this is where I'm going to find somebody that speaks Urdu. And again, I'll go far beyond Pakistan. Most Urdu speakers from that region would be of concern, so that's why it's important to me.

Q The fact that these two guys are aggrieved about something that happened in the U.S., is that of importance to you?

A That is less important to me than

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the fact that they are Pakistanis and that they are speaking Urdu.

Within this, this is the important pieces that I'm looking for.

Q Is the fact that these two guys are aggrieved about something, is that something that happened in the U.S., does that fact relate to potential unlawful or terrorist activity, the fact alone that they are aggrieved about something that happened?

A Say your question one more time.

Q I understand what you said about Pakistani, probably Pashtun, Urdu speaking, all of the specification of ethnicity.

Putting that aside, I'm asking about the fact that these two guys are aggrieved about something that happened in the U.S. is that fact related to potential terrorist or unlawful activity?

A I can't separate the conversation based out of the value that I see in the conversation, what their grievance is. It's not what I'm focused on. I'm focused on the identification that I'm getting out of the

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T. Galati

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conversation.

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Q I'm showing you now what's been

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Bates stamped as page two in the document

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production. There's a conversation in

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boldface, [REDACTED]. Could you read

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what the customer said?

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A [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

Q Am I correct that this page two from the Bates stamped two is part of, I guess, Demographics Unit report of a visit to a location conducted by the Demographics Unit under the authority of section VIII (A)(2) of the Handschu Guidelines? Am I correct that that's what this represents?

MR. FARRELL: Objection.

A This is a report I believe that we call a weekly report of numerous locations that were visited.

Q These visits were conducted under section VIII (A)(2) of the Handschu Guidelines?

MR. FARRELL: Objection.

A The visits and cataloguing alone are not. However, there are a spectrum of

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things that may in fact fall under VIII
(A)(2).

Q What are the things that fall in
VIII (A)(2)?

A You're asking me about this whole
entire document, so, there are numerous
locations.

Q Just focusing on the section that
I asked you to read, does that part of the
report fall under VIII (A)(2)?

A I would say, yes.

Q I just want to understand and
bear with me with this question, and tell me
if you don't understand it. A member of the
force assigned to the Demographics Unit goes
into a location. At the moment he goes in,
I understand you to be saying that that's
not necessarily covered by VIII (A)(2). Not
necessarily doesn't necessarily have to be
authorized by VIII (A)(2).

Before he hears a word just going
into the location, he's been assigned to go
to the location. He steps in the door. I
want to try to break it down in some way.

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This won't be useful, but I'll try.

A When we go out and try to catalogue locations so that we could determine what country of concern would go to that location, the simple fact that we're cataloguing locations does not necessarily fall under 8(a)(2). However, the authority that we go out and go to these locations and at times have these overheard conversations does fall within VIII (A)(2), and the reason why we retain them is because we have value in the statements which would help us prevent or detect terrorism activity.

Q Thank you. You got a little ahead of me. That visit to [REDACTED] and [REDACTED], what is it that made it subject to VIII (A)(2)?

A Say it again.

Q Maybe I need to back up.

MR. FARRELL: I want to put on the record, you had asked a question about what the witness has said. It may be confusing as to what it may fall under, but we'll look at it in the

1 T. Galati

2 review process.

3 MR. EISENSTEIN: So noted that
4 you noted it.

5 Q Just focusing on the portion of
6 the report that relates to what the
7 reporting officer saw and heard at [REDACTED]
8 [REDACTED], is that section of the
9 report subject to section VIII (A)(2) of the
10 Handschu Guidelines covered by VIII (A)(2)?

11 MR. FARRELL: The part that he
12 just read into the record?

13 MR. EISENSTEIN: Correct.

14 A I would say yes.

15 Q What is it about that section of
16 the report that in your understanding makes
17 it subject to that rule, the VIII (A)(2)?

18 A Information contained within
19 there, which has given us other information
20 that could be helpful in the purpose of
21 preventing terrorist activity.

22 Q What is the information contained
23 in what you read that I'm going to use the
24 phrase from VIII (A)(2) that relates to
25 potential unlawful or terrorist activity?

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T. Galati

A Well, the fact that they are speaking in [REDACTED] is a factor that I would want to know. Being that it's a [REDACTED] [REDACTED], I would want to know that. There are things in here that has helped me identify who would go and visit this store. So those factors tell me something that I consider of value.

Q Am I correct that if they simply reported a location where they speak [REDACTED] and [REDACTED] and they are from a certain region, that's all they wrote down from your understanding, that would not involve VIII (A)(2)? That's just a mapping function, correct?

A No, it would help us. Mapping is telling us where the places are. Some of these observations and overheard conversations just give us more information, so it goes beyond the simple just cataloguing of a location.

Q I understand that, chief. What I'm asking you about is everything gives you more information. In other words, every

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word that they write gives you more information about that location, correct?

A Correct.

Q But, there's a limitation in the Handschu rules about what information you can retain, right?

A Correct.

Q Isn't the retention of a conversation in which one [REDACTED] customer says to the guy behind the counter, that [REDACTED] is correct and the [REDACTED] government is not corrupt the way third world countries are corrupt? I'm sorry for the double negative. Isn't that information that does not relate to potential unlawful or terrorist activity?

MR. FARRELL: Objection.

A I am taking the conversation as a whole and I'm reading about two [REDACTED] people that are speaking in [REDACTED] in a meat store. I find value in that for several reasons. This information is solely used for the purpose of being able to identify a location where I should face a

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threat, where I'm facing a threat of a terrorist and that terrorist is [REDACTED].

This piece of information would be valuable to me. I take it as a whole. I take it as the conversation. I take it as [REDACTED] and that's what I feel is of value. The sole purpose is for identifying a location where I would find somebody that was hiding who is a terrorist from [REDACTED].

MR. EISENSTEIN: I need to take a bathroom break.

(Recess taken at 3:15 p.m.)

A I just want to clarify some of the information: When the information is collected, it is taken back and looked at by an analyst. Analysts make determinations of the information contained in conversations.

To the extent of that, what is the community's reaction to let's say events or things. Also, I think what's important for us is, if the conversations indicate support for let's say Osama Bin Laden or Iran or depends on a particular conversation, it's important for us to know

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because that might be a place that a terrorist could recruit from.

So, the content of the conversations may give us an idea of the place that a terrorist would be comfortable being in, so he could recruit from a location like that. I think also the fact that current events would tell us if the community's upset, if that's going to have any implication within the city.

So, there is a little more in those conversations.

Q Who are the analysts that make the kind of determination or assessment that you've just been talking about? What their names are, where do they fit in the structure of the Intelligence Division?

A The analysts are non-police officers. They are not police officers that are hired there. They look at whatever they look at, World events.

They look at local events. They look at information that comes in from many different parts of the Intelligence

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Division, and it's their job to make an assessment on whether or not there's an issue of concern that we must address.

Q Are they under your command? Are they within the chain of command of the Investigations Unit, Intelligence Unit?

A Yes.

Q If they make an assessment of what's being brought in, warrants, some action, does that indicate that an investigation has commenced?

MR. FARRELL: Objection.

A Related to Demographics, I can tell you that information that has come in has not commenced an investigation.

Q You're saying that based on what has occurred during your tenure, correct?

A Yes.

Q Do you know whether that was also the case before you took over the Intelligence Division?

A I think that prior to me, there had been indication that there was one place that was visited, that later on became

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subject of an investigation.

However, I have not been able to determine that. That case involved a prosecution, but I have not been able to definitively say that it was because of Demographics.

I believe it was because of the Handschu investigation.

Q After Demographics provided whatever information, it provided an analyst go over it. If the analyst doesn't find anything that signals a threat or concern, are the reports retained in any event?

In other words, are the Demographics reports, whatever they contain or the zone Assessment reports, whatever they contain after they have gone to the analyst, retained? Whether or not they are contained, anything that was specifically useful or specifically worth analyzing?

MR. FARRELL: Objection.

A The information in the Demographics reports does have value. So, yes, it is retained because the report

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itself contains a lot of bits and pieces of value, of intelligence value.

Q What is your understanding of the meaning of the phrase investigation of political activity?

A It's in relation to persons or people or groups that want to exercise their right to try and effect change or maintain government or social status. That's what political activity means.

Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q I understand that that document, page one of the bates stamped documents was prior to your watch, so to speak, right?

A Yes.

Q Are locations selected quotations to be investigated where the zone assessment

1 T. Galati

2 based on rhetoric --

3 MR. FARRELL: Objection.

4 A They are not selected based on
5 rhetoric. To go to a location, it's not
6 based on rhetoric.

7 Q Was that a change or are you
8 saying that that change doesn't mean that
9 that location or selected based on rhetoric?
10 Am I making myself clear?

11 A What I believe in this report
12 here is he's indicating that he listed these
13 locations due to rhetoric or event flyers.

14 Q You're saying, he went to a
15 larger group of places, but listed these
16 either because of rhetoric that was
17 overheard there or event flyers that he saw?

18 A That's how I understand it.

19 Q Under your command, are locations
20 visited or revisited by the Zone Assessment
21 Unit based on rhetoric heard at those
22 locations?

23 MR. FARRELL: Objection.

24 A I think when we're looking for a
25 reaction because of a World event, locations

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are picked because those locations have characteristics that would make it easier for them to gauge that reaction.

So, we would be looking for a place that would be more populated than less populated, so that's what I would say about how we would deploy for a reaction.

Q There's a reference in there. I'll find it if I need to do a place investigated as part of a [REDACTED] operation.

Do you know what a [REDACTED] operation is? I'm representing to you that there's a reference. I'll tell you what page it is.

MR. FARRELL: In the document.

Q In the document that you --

MR. FARRELL: This particular document in front of him?

Q Yes, it is in that volume somewhere.

MR. FARRELL: You can pose your question.

Q Have you heard that phrase?

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A We use the word [REDACTED], yes.

Q Can you tell me what that means?

A [REDACTED] is a listening post based on an event. So if something happened, they would deploy so they can hear the reaction to what happened.

Q I need to put a couple of books in front of you.

MR. EISENSTEIN: Peter, would you write down these numbers? 281, 512, 709, 898.

Q If you look at these three tabbed pages, just focusing on them --

MR. FARRELL: You want him to read the whole thing or a particular part?

Q Let me say what I'm looking for. I'm representing to you and you'll see whether I'm right or not, that a place in [REDACTED] called [REDACTED] was visited by the Zone Assessment Unit on January 5, 2010, January, 14, 2010 and January 21, 2010.

After you've looked at it, in

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terms of the purposes that you've described to me of the Demographics Unit or of the Zone Assessment Unit, what is the purpose in going back to this location three times of a period in 11 days or 15 days? The question is, why is the Zone Assessment Unit for going back to a location three times in a short period of time?

A I can't tell you exactly the reason why we went to these three locations in a short period of time. I can tell you that there are times when we work in a particular area and that may be the reason why they went to it. To give you a definite -- I can't tell you why they went to that location.

Q I mean, are there multiple teams operating? Is it possible that they are just going back because they don't know if another team was there?

A I don't want to guess on something. I don't know the answer to that. I don't want to guess on it.

Q Putting aside the specification

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and you don't know why that happened, is there a reason? I can give you other examples, but you probably will tell me you don't know the specifics of that.

But, there are several places where their reports of visits over a short period of time. Without going to the specifics of any particular one, and again focusing on the function of the Zone Assessment Unit, if they have established that a place is owned by and patronized by Pakistanis from a particular region who speak Urdu and Pashtun, what are they doing?

In general, why would Zone Assessment Unit teams be going back to such a location repeatedly in a short period of time? Let me add one factor to this. These three situations, there's no reason to some World event that it went on any specific reaction activity, correct? Just using that as an example. So, I'm focusing on that situation where they are not reacting, not seeking reaction to a particular World event.

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Can you think of a reason in terms of the functions of the Zone Assessment Unit for going back to a location multiple times in a short period of time?

A Well, I can tell you that Zone Assessment Unit does not monitor locations, so they are not going there because they are concerned or have conducted an investigation on the location. That's not their duty and responsibility. Zone Assessment people are deployed by us and then help us identify locations for places where people from countries of concern may shop or gather. They frequently go back to locations to make sure the locations haven't changed often. I see even on this, this is a new location that just recently reopened.

Part of their duties and responsibilities is to make sure that they update their information, so that's a reason why they do go back.

Another thing that they do is identify places that may be better suited to go to in the event of a World event, where

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they have to hear an overheard conversation.

Similar to what I said, it would be better to go to a location, to go to a location that has more people than less. That's why they would go to a particular location if it was based on a reaction, community, sometimes they are small. So if they are trying to gauge reaction in a particular community, that doesn't have many places and many different parts of the city.

They could be in that particular area. Those are some of the reasons why they could go to a location more than once.

However, I can't tell you why in this case, in these other instances -- I don't know what this span is, a week, a month, two months. I can't comment on those.

Q Take a look please at page 101 to 105. I'm going to also ask you about 96 through 100. If you would look at both of those and let me know when you're done so I can ask you questions.

A You said 101?

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2 Q Yes, and then 101 to 105. First
3 question, one of those are two [REDACTED]
4 locations. One a [REDACTED] another one
5 a [REDACTED], right?

6 A Yes.

7 Q The officer assigned the Zone
8 Assessment Unit, officer described the
9 [REDACTED] or check location of concern for
10 the [REDACTED] and did not check location of
11 concern for the [REDACTED].

12 A Yes.

13 Q First question: Are the
14 reporting officers making that judgement or
15 are they simply checking off what they have
16 been told already?

17 In other words, are they
18 assessing these places as locations of
19 concern or not locations of concern based on
20 what they are going out and seeing or are
21 they going because it's already a location
22 of concern or maybe there's a third
23 alternative?

24 A We do not tell the demographics
25 officers to go into a location that is part

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of some other Handschu investigation. They have no idea whether anybody in the division thinks it is or is not a place of concern.

When they reference a location of concern, they reference it in a way that, if there's an incident related to the [REDACTED] community, this is an identifiable location that they would be able to go into and that they would hear conversations.

If you look at the [REDACTED] and you look at the [REDACTED], it's exactly for that reason that you see a [REDACTED] isn't going to be filled with people that are going to have conversations.

They wouldn't be able to gauge community reaction to overseas or local events. In a [REDACTED], you would have more people. When they check it as a location of concern, concern is not necessarily indicating that that's a place that there's an investigation or should be an investigation.

A concern is their way of saying

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this is a place that we could go back to if we need to find someone within the [REDACTED] community.

Q Of concern, that phrase or of interest or whatever it is, let's say of concern, is that phrase used differently in relation to commercial establishment say in relation to mosques?

MR. FARRELL: Objection.

A I believe that we make locations of concern for commercial establishments. It's not our policy to make locations of concern religious establishments. That being said, I can't tell you that that term has never been used for a mosque.

But, it is not the practice or the policy nor do I recall that being on any document that I've seen related to a religious institution. I have for commercial establishments.

Q Take a look at 164 actually. Let me give you a different one. Take a look at 149. Does that relate to location 919?

A Yes.

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Q [REDACTED] ?

A Yes.

Q Here is a restaurant, a [REDACTED] restaurant. It's been checked as not a location of concern, right?

A Yes.

Q My question is, is the Zone Assessment Unit assigned officers making a judgement here? Two [REDACTED], both [REDACTED], in the same time frame, January, 2010 and they are saying -- I'm comparing it to 101. The one that I showed you before, page 101?

A Yes.

Q Location 493.

A Yes.

Q Here, in January of 2010, two [REDACTED]. They are saying one is a location of concern, the other one is not a location of concern. Are the officers making a judgement about whether a place is a location of concern based on the visit that they make, the Zone Assessment officers?

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A Again, I will go back to the term of concern. The term location of concern is a place that we can go to that if there's an event and we needed to overhear something or get the feeling of community reaction to an event, overseas that had happened or occurred here, where would we go to hear or get a reaction or a feel for what's going on?

The only judgement that they are making is that this is a location where we may be able to hear something.

This is not -- one location is in [REDACTED] which may or may not be in the middle of a [REDACTED] area and one area is in a more densely [REDACTED] area.

Their judgement is, if we need to -- this would be a better place for us to hear. It has nothing to do with investigation, just where would we deploy if we needed to get a reaction, if we needed to get a reaction to a [REDACTED] issue.

MR. FARRELL: Where?

A The first one is 101. I would

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like to add to that last conversation. If you look at the occupancy, the occupancy of the location that is not of concern has seating for 10 to 15 customers where the location that they have has seating for a capacity of 60 to 65 people.

Q Take a look at 639. You see there's a notation that the owner is a known member of the [REDACTED] ?

A Yes.

Q Is that something that was furnished to the assigned officer in way of information when the assignment was made?

A No.

Q Would you say that that's something that the assigned officer would know based on his personal history?

MR. FARRELL: Objection.

MR. EISENSTEIN: It's a stupid question. Let me ask it a different way.

Q Is that personal knowledge that that assigned officer is bringing to the report?

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MR. FARRELL: Objection.

A The officers assigned to the Demographics Unit, Zone Assessment Unit, they have language skills. Maybe some of them are also born in these countries. They speak the language, they can determine things that maybe I can't determine.

This officer who, I believe, is [REDACTED], knew that this guy was a known member of the [REDACTED]

Q Is there an indication that this was the third visit in a couple of weeks? Do you see that? If you can't find it, I'll find it: Sometimes it says first visit, last visit.

MR. FARRELL: 639 is the one you have?

MR. EISENSTEIN: Yes.

MR. FARRELL: It's my notes comparing documents to each other.

Q If you look at 639 and 411, but as you may recall, I don't have copies of these.

MR. FARRELL: Can you pass us

1 T. Galati

2 back 639?

3 MR. EISENSTEIN: Certainly.

4 Q According to my reading of these
5 documents, this place [REDACTED] was
6 visited by the Zone Assessment Unit on
7 January 5, 2010, January 8, 2010 and again
8 on January 19, 2010.

9 A What was January 8th?

10 Q In the 411, there's a reference
11 to two reported ID's and it says visited
12 1/5, and 1/8, maybe in the narrative. So
13 here's the location: It's [REDACTED], it's
14 [REDACTED] It's a [REDACTED]. It's relatively
15 large, so it's clearly a place where people
16 would gather. All of that is known or
17 knowable in the visit of January 5th.

18 My question is, for what reason
19 is the Zone Assessment Unit going back to
20 this particular place three times within
21 two weeks?

22 A I can't give you a definite
23 answer why they went back three times. I
24 would say, it's not their job to monitor
25 locations. Their job is to go when we tell

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them to go for community reaction and I can't definitively tell you.

It may have been an issue related to a [REDACTED] event. They wanted to go to a [REDACTED] location to overhear something.

They may have gone to numerous [REDACTED] locations. They may have been working on that particular events.

I will tell you definitively they are not monitoring locations. They are not going back to locations because they are monitoring those locations.

Q Do you see any reference in any of the reports about that particular location, any of these three reports to any specific World event or local event?

A I do not see reference to it, but it does not mean they weren't deployed based on that. There are events that are big events and we decide to make -- I decide to make them go to a particular area because of the event that involves a particular community.

There are times when there are

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smaller events that officers from [REDACTED]
or [REDACTED] that might pick up local
things. What I mean, local from that
country that they say, hey, this happened in
[REDACTED], maybe we should go to a [REDACTED]
area.

A sergeant may make that decision
and he would deploy them because the
sergeant does have the discretion unless he
gets a specific assignment from me to go to
a particular region to check on locations,
to make sure they haven't changed. So they
follow their own current events that
happened in the World and you the sergeant
says "Today we're going to go to an area
that has [REDACTED] community."

I can't tell you why they were in
this place three times. I can tell you they
are not monitoring these locations.

Q I take it that it doesn't relate
to the fact that the proprietaries of the
places identified as a known member of the

[REDACTED]

A [REDACTED] is not a

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designated terrorist organization as far as I know. I think that it has some value to tell you where from [REDACTED] he's from.

But, that is not the basis of why they would be deployed.

Q Have members of the force assigned to the Zone Assessment Unit ever been deployed to visit functions of any Muslim student association?

MR. FARRELL: I'm sorry, can you have that read back?

A No, the Zone Assessment Demographics Unit has never been deployed to a Muslim student association events.

Q Have officers assigned to the Zone Assessment Unit ever been deployed to visit locations outside of the confines of New York City?

A Yes.

Q Does that continue to occur up to the present time?

A They have not been deployed recently outside the confines of the city.

MR. EISENSTEIN: Mark

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Plaintiff's Exhibit 5.

(Plaintiff's Exhibit 5, a document, was marked for identification, as of this date.)

Q Chief, I'm showing you what had been marked as Exhibit 5. Have you seen that document before?

MR. FARRELL: Do you have a copy for me?

MR. EISENSTEIN: Sorry, I don't have a copy of that one.

A I have seen this document as a document that was looked at through the AP. That was the first time that I seen that document.

Q Is the activity described in that document something that would be assigned to the Zone Assessment Unit that is going to a mosque and recorded license plates of cars that came there?

A The Zone Assessment Unit has never, to my knowledge, recorded license plates.

MR. EISENSTEIN: Mark six

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please.

(Plaintiff's Exhibit 6, a document, was marked for identification, as of this date).

Q Outside of an authorized investigation, has any unit of the Intelligence Division recorded license plates of people attending a mosque?

A Outside of an authorized investigation, to the best of my knowledge, no. I would like to also clarify an answer that I gave earlier. It's not meant to be funny.

Sometimes these officers, when they go, they go to places that they may like the food and go back for that reason, and I know that that has happened. So multiple visits might indicate such an event.

Q There are charges particularly on the DD five's for cover and concealment. Is that reimbursement for buying food at the establishment that's been visited?

A Yes.

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Q Do the officers assigned to the Zone Assessment Unit go to the locations in uniform or in plain clothes?

A They go in plain clothes.

Q Are the officers of the Zone Assessment Unit who are deployed to those locations in their communities, instructed that they are not affiliated with the NYPD?

A Yes.

Q So, that we might find some of the repeated places where the food is good?

A I'm not telling you that's the reason. I am telling you that the reality is that I have talked to people that they have indicated that this is a place that they like to eat. So a repeated visit may be indicative of the like for food.

Q I'm showing you what had been marked as Exhibit 6. Have you seen that document before?

A I've seen it in relation to the AP Articles.

Q If you would take a look at the tab two, tab pages where I put the sticker

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on. Do you see a reference in one to rhetoric, level one and then the other one there's a rhetoric level two?

MR. FARRELL: Can we identify the document for the record? The title of it says Albanian locations of concern report.

Q Do you see the rhetoric level one and rhetoric level two?

A Yes.

Q Have you seen what those categories are used before?

A This is prior to my assignment. However, I have heard of level of rhetoric that was used for a short period of time.

Q Were there some written guidelines about rhetoric levels?

A I'm not sure if there's written guidelines or not. We presently do not use and have not used it since I'm here.

Q Are you able to tell me where you've seen it used other than Exhibit 6?

A I believe during my prep, there was discussion that I asked a question about

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this, where I was told that at one point there were levels of rhetoric that they used.

Q Do you know who told you that?

A Sergeant Mehta, M-E-H-T-A.

Q Is Sergeant Mehta still assigned to the Intelligence Division?

A Yes.

MR. EISENSTEIN: Mark that as seven.

(Plaintiff's Exhibit 7, a document, was marked for identification, as of this date.)

Q I want you to take a look at Exhibit 7. My question is going to be whether any of the activities reported on Exhibit 7 are activities of officers assigned to the Zone Assessment Unit?

A None of this is from the Zone Assessment Unit. This is all from authorized Handschu investigations. Can I clarify one thing about this report?

Rhetoric, that was used very early on when the unit first started and it

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was stopped at some point. I think it's important on this document that you're showing me and I don't know what the date is. It says 2006 here.

This information was not necessarily collected in 2006. This information most likely was collected in 2003. So, I just want to make sure that everybody understands that this is not necessarily a 2006 or whenever this document here was produced. This is older.

MR. FARRELL: So the record is clear, the witness was referring to Exhibit 6, not Exhibit 7.

MR. EISENSTEIN: Right. Good point.

MR. EISENSTEIN: We're talking about the information that was checked in Exhibit 6. Exhibit 7 was checked in 2008 or is dated in 2008.

Q To your knowledge, did any kind of written guidelines about rhetoric replace the level one/level two system that you've told us was used early on?

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A Early on, I couldn't tell you definitely that there was guidelines on rhetoric policy. I know we don't have it now. I'm unaware that it exists prior, but I can't definitively tell you that there isn't a document.

Q There isn't one at the present time that defines, for example, what kind of rhetoric is considered actionable, so to speak?

MR. FARRELL: Objection.

A I don't know what you mean by rhetoric is considered actionable.

Q That rhetoric would be considered a basis for moving something into the realm of investigation?

MR. FARRELL: Objection.

A If there was something that was recorded by the Demographics Unit that raised to the level that it needed to be brought to the attention of the front office. It would be looked at by the analytical shop and then it would be brought to the attention of the front office, and I

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would make a decision on whether or not we would make a lead on this.

I could tell you that I have never made a lead from rhetoric that came from a Demographics report and I'm here since 2006. I don't recall other ones prior to my arrival. Again, that's always a possibility. I am not aware of any.

Q Where and in what form are the reports that are generated by the Zone Assessment Unit maintained? In other words, are they at some physical location and are they in paper form, electronic form, both? Those are the questions that I'm asking.

A Presently?

Q Yes.

A Presently, when the zone assessment officers do their reports, they do an electronic report that is electronically held in our database which is a server database.

In addition, there's a standalone computer where information is inputted for the purpose of generating reports related to

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2 demographic areas and so on.

3 Q Does that mean that the reports
4 are in electronic form? One in the
5 standalone computer and the other one in the
6 database on the server?

7 MR. FARRELL: Objection. Go
8 ahead.

9 A Yes, they are produced and held
10 on the server and they also input the
11 information into a standalone for the
12 generation of reports.

13 This is the Zone Assessment Unit.
14 They put it into the zone assessment
15 database for generating special reports,
16 requested reports.

17 Q The Zone Assessment Unit has its
18 own database? That's a question. Does the
19 Zone Assessment Unit have its own database?

20 A Yes, it does.

21 Q There's also a larger
22 Intelligence Division database?

23 A Yes.

24 Q If you'll give us 5 minutes, I
25 want to make sure what's covered had been

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2 covered. Off the record.

3 (Recess taken).

4 Q At the present time, what is the
5 procedure for members of the force assigned
6 to the Zone Assessment Unit in terms of
7 writing up what they have observed?

8 Do they do it everyday? Do they
9 do it on a weekly basis?

10 A When they get back to their
11 office, they prepare an electronic what we
12 call a DD five form, what they did for the
13 day, for the visit.

14 Q They do that each day now?

15 A Yes.

16 Q Do they work steady day tours or
17 do they work around the clock?

18 MR. FARRELL: I'm going to
19 confer about privilege.

20 A I would say for the most part,
21 they do daytime deployments, but we moved
22 them periodically so we can understand
23 different locations at different times.

24 Q To your knowledge, has any
25 supervisor ever eliminated material from a

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report prepared by a zone and assessment unit officer because it was not related to potential, unlawful activity of terrorism?

A To my knowledge, I am not aware of that, but I can't say that that hasn't happened. I'm not aware of that.

Q Do the supervisors in the Zone Assessment Unit have any instructions based on relating to section VIII(A)(2) of the Handschu Guidelines?

In other words, let me ask it in a different way. Are the supervisors instructed to look out for the retention of material, retention of information that's not related to potential unlawful or terrorist activity?

A The supervisors are aware of the procedure, the VIII(A)(2) and they're aware of the Handschu Guidelines in VIII(A)(2).

We have a review process that we use where the reports get looked at, and if there's an issue related to that, it would be addressed in a training session.

Q Who conducts the review in that

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review process?

A One of the people that review it is our legal staff.

Q That's the legal staff of the Intelligence Division?

A Yes.

Q Are they civilian employees or members of the force?

A Both.

Q To your knowledge, has the legal staff of the Intelligence Division ever directed or caused the removal of material from a Zone Assessment Unit report because it was not related to potential unlawful or terrorist activity?

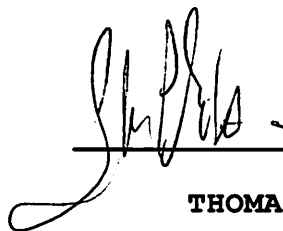
A The review process that they have is done after the report is prepared. So, if they saw something that they felt should be addressed, it would be addressed in a training. I can't tell you that the report would be changed. We have not changed reports once they are finalized.

MR. EISENSTEIN: I have no further questions. Thank you for your

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patience and I'm done.

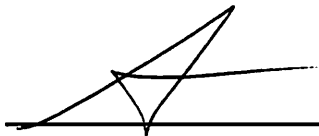
(At 5:30 p.m., the Examination
of this Witness was concluded.)



THOMAS GALATI

Subscribed and sworn to before me this 21
day of January, 2013

Notary Public
State of New York
Steven Joseph Colon, Esq.
Registration # 02CO6140735
Commission Expires on
February 6, 2014



NOTARY PUBLIC

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E X H I B I T S

PLAINTIFF'S EXHIBITS:

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	PAGE
1	Document	15
2	Document	16
3	Document	40
4	Document	63
5	Document	117
6	Document	118
7	Document	121

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I N D E X

EXAMINATION BY	PAGE
Mr. Eisenstein	10-129

INFORMATION AND/OR DOCUMENTS REQUESTED	PAGE
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C E R T I F I C A T E

STATE OF NEW YORK)

: SS.:

COUNTY OF KINGS)

AYELET RUSSO, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not related
to any of the parties to this action by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 27th day of September, 2012.



AYELET RUSSO

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ERRATA SHEET

PAGE/LINE

CORRECTION

SEE NEXT PAGE

Errata Sheet for the Corrected Transcript of Chief Galati's deposition on 06/28/2012

Handschu v. Special Services, 71 CV 2203

Page Number	Line Number	Change This	To
13	22	municipal, I guess.	municipal, a Senior Executive in State and Local Government.
23	4-5	Official is not the word I'm looking for	Official is not the word I would use
29	19	radicalized towards violence	radicalized towards violence could try and secrete themselves or recruit others to assist them.
35	15	possibility that that is	the possibility that that is a place one might look to find
36	20	type of people they are from the	-delete-
37	19	conversations	conversations about a specific event
39	11	stood up	started
40	11	before.	before and are trying to determine which countries of concern visit the mosque
41	9-11	I recognize it as an Intelligence Division document	-delete-
47	9-12	I'm not saying definitively that's not the practice, since I'm assigned to the unit, that it has been done.	I can't definitely tell you that they do not go into mosques. What I can say is that since I have been assigned to the division, it is not the practice to do so, nor has it happened to my knowledge.
61:25	62:5	location with the goal of trying to find out what country of concern may go there, should we need to identify an Islamist that's Radicalized towards violence, maybe hiding there for police action, should it arise	location with the goal of trying to find out where an Islamist radicalized towards violence from a country of concern would go to hide, should the need arise for police action
64	25	is	was
65	2	investigation	investigations
77	3	that I	is what I
80	18	are for the	so that the
83	2-4	and the tension that are going to help us in the information contained.	-delete-
83	7	he's	a terrorist is

83	8	one	place.
83	9	this is one	this place is one
83	13	either try to either	try to
85	16	person	-delete-
86	8-10	would be a kind of place that a terrorist would be comfortable in	could be a kind of place that a terrorist sharing those same characteristics would be comfortable in
86	20-21	region would be of concern, so that's why it's important to me	region would be Pashtun so that's why the detail is important to me
87:21	88:2	I can't separate the conversation based out of the value that I see in the conversation, what their grievance is. It's not what I'm focused on. I'm focused on the identification that I'm getting out of the conversation	I can't separate the content of the conversation from the fact that they are speaking Urdu. What their grievance is, I am not focused on. I'm focused on the fact that they are speaking Urdu
91	12	have	see
96	19:21	The analysts are non-police officers. They are not police officers that are hired there.	The analysts are mostly civilians.
103	4	in	of
103	5	of	in
103	6	in	of
105:25	106:2	where they have to hear an overheard conversation	where they are more likely to hear a reaction
115	9	events	event
120	10	Yes	They are instructed not to reveal the fact that they are NYPD officers


 THOMAS GALATI

Signed and subscribed to me before this 24 day of January, 2013.


 NOTARY PUBLIC

Notary Public
 State of New York
 Steven Joseph Colon, Esq.
 Registration # 02CO6140735
 Commission Expires on
 February 6, 2014