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Naugatuck chief on defense as lawyer looks into practices

Clisham contradicts past testimony about shift openings, evaluations

By Ray Burton

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NEW HAVEN — Under pointed questioning during most of his four hours on the stand Tuesday, Police Chief Dennis Clisham contradicted several previous statements he'd made under oath in the gender discrimination case brought by a former Naugatuck police officer.

Clisham was questioned by Merrie Hawley, the attorney for former officer Caroline O'Bar, who is suing the borough, Clisham and Deputy Chief

Thomas Hunt in U.S. District Court.

O'Bar filed the suit in May 2001, five months after leaving the department. The suit claims O'Bar's departure was a constructive discharge — that police officials made the last 18 months of her tenure so unbearable that she had no choice but to leave. Of the nearly 50 incidents outlined in her complaint, O'Bar claims most are retaliation for complaining about gender discrimination that began after she returned from maternity leave in June 1999.

The defense has argued that every

situation O'Bar has raised is explainable.

Beyond the jury verdict for or against O'Bar, the trial is an important one because it allows the public to get a sense of how and why decisions are made in the management of the police department. The trial marks the first time in recent memory that department leaders have had to testify in open court under oath about departmental practices and policies.



Clisham

Please turn to 10A, TRIAL

TRIAL: CHRO minutes, deposition contested

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Over the years, the department has been subject to criticism about its policies, which many inside and outside it are reluctant to discuss in public. The department has been the subject of many lawsuits, but most have been settled out of court and include confidentiality clauses. That prevents those involved from discussing the cases. Currently, Clisham and the borough are being sued by two other former officers.

On Tuesday, Hawley used transcripts from an August 2000 state Commission on Human Rights and Opportunities hearing; Clisham's March 2002 deposition; and an affidavit he signed in April 2002 to challenge a half-dozen statements Clisham made during his testimony.

Through it all, members of the jury watched, brows crinkled as they adjusted their glasses, rubbed their chins and listened to the exchanges in the trial's seventh day.

Hawley grilled Clisham about an October 1999 evaluation that rated O'Bar's attendance as unsatisfactory because she used 52 sick days. Those 52 days were her maternity leave.

She and another officer, who was penalized for use of sick days for paternity leave and gall bladder surgery, filed a grievance.

Capt. James Fortin testified Friday he watched the chief seal the negative evaluations in an envelope until the grievance was settled. Both O'Bar and the other officer testified last week, that despite winning the grievance, the negative evaluations were in their personnel files months later.

On Tuesday, Clisham said he didn't think any of the negative evaluations were placed in anyone's personnel files. But Hawley showed him an affidavit he signed in April 2002 that stated, "(the negative) evaluation was removed from her personnel file."

A second seemingly contradictory statement Tuesday was Clisham's explanation of how Officer Jennifer Wilmot was placed on the day shift in April 2000. Under the union contract, shift openings are posted so officers can bid on them. The most senior — longest serving — officer to bid on the opening gets it.

When asked whether he posted the day shift opening offered to Wilmot, Clisham said, "One, I don't remember if I offered Jennifer Wilmot the shift," he said. "Two, not all the positions

need to be posted."

A few minutes later, he said, "I don't think I offered her that position, I don't recall how she got on there."

Showing him a transcript of his testimony in the CHRO hearing, Hawley asked him if he remembered.

"You stated you went to her (Wilmot) and said, 'There's an opening on days and I'll place you on days?'" Hawley asked.

"That's what it says," Clisham replied.

"Doesn't it also say, 'If anyone from the union complains, I'll have to take you out?'"

"Yes."

The tough questions started within minutes of taking the stand shortly before 11 a.m., with Hawley asking Clisham why he left police work from 1988 to 1993.

Defense counsel immediately objected.

After a brief sidebar, Hawley moved on.

The jury never heard about Clisham's 1987 suspension without pay; his firing in 1989 during the administration of former Mayor Terry Buckmiller; or Clisham's state Supreme Court appeal in which he won back his job. Clisham, who had been a full-time officer since 1968 and chief since 1984 before his suspension, sued the borough, eventually settling for \$550,000.

When questioned by Patty Swan, who is defending the borough, and Michael Farrell, who is representing Clisham and Hunt, Clisham, in a blue suit, white shirt and maroon tie, relaxed, softening his tone and trying to explain his answers.

He denied saying he didn't assign O'Bar to certain jobs because she was "a working mother with two kids" and couldn't be flexible with her work schedule, as O'Bar testified last week.

He described offering her a different schedule — 5:30 p.m. to 1:30 a.m. — because she was bringing her children to the department when she came to work at 2:30 p.m. to give them to her husband — also a police officer — who ended work at 2:30.

Clisham also testified, that in 1999 he changed the date of the sergeant's promotional exam because it was scheduled for the same day O'Bar was expecting to deliver her second child.

"I asked the union president," Clisham said. "He said no, but I explained it was the right thing to do

for one of his union members. Eventually they agreed."

Even with his own attorneys, Clisham said he was confused by the multitude of events and details he was asked to recall.

At the end of court Tuesday, Hawley said she was finished presenting witnesses and would formally rest her case when the jury returned today.

But the jury may not have the chance to render a verdict. Immediately after Hawley's statement, attorneys Swan and Farrell

moved for a dismissal as a matter of law, arguing the testimony already offered was insufficient to win O'Bar's case.

Senior U.S. District Court Judge Ellen Bree Burns listened to 45 minutes of argument before adjourning for the day.

The dismissal motion hearing was expected to be convened this morning after a 9:15 conference with attorneys and Burns.

After the motion hearing, if the case is not dismissed, the defense begins calling witnesses.