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Lawyer Wins Bid to View Part of Internal Nassau Police Report

Andrew Keshner, New York Law Journal

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A portion of an internal Nassau County police report on a fatal domestic violence incident must be turned over to an attorney arguing in a separate matter that police are deliberately indifferent to intimate partner violence.

Eastern District [Magistrate Judge Gary Brown](#) said Mariel LaSasso of LaSasso Law Group in Manhattan could see on an "attorney's eyes-only" basis the first 51 pages of a 700-page Nassau County Police Department Internal Affairs Unit report.

Nassau County argued that there was "no justifiable basis" for LaSasso to see the report connected to the 2009 murder of Jo'Anna Bird by her ex-boyfriend, as LaSasso pressed a civil action involving Diane Parker-Reed's 2013 death at the hands of her estranged husband.

Brown, after inspecting the report in chambers, ordered the county's limited production. He said it was clear the topics discussed in the report had bearing on the municipal liability claims LaSasso was advancing on behalf of her client, N'Daya Lee, the daughter of the murdered woman.

In [Lee v. Village of Hempstead](#), 14-cv-2853, Brown said, "the incidents, practices, and procedures explored in the [Internal Affairs Unit] report, as well as the witnesses identified, may well establish whether and to what extent plaintiff's injuries resulted from the policies and practices of the county regarding its domestic violence response."

Brown, sitting in Central Islip, said LaSasso could not make any further use of the report without court permission. He said she could make future applications for additional disclosure "upon demonstration that what has been provided is insufficient."

Brown's ruling Monday adds LaSasso to a small group of people who will have seen the report, which has been a source of litigation for years.

The police department created the report after Leonardo Valdez-Cruz violated multiple protection orders and killed Bird. Valdez-Cruz is serving a life sentence.

Frederick Brewington of Hempstead, who represented Bird's mother in the civil action against Nassau County, obtained the report during discovery. In December 2010, shortly after getting the report, Brewington announced he would hold a news conference and release its contents.

The county obtained a temporary restraining order and Eastern District [Magistrate Judge A. Kathleen Tomlinson](#) barred Brewington from disclosing the report ([NYLJ, Jan. 19, 2011](#)). She put it under a protective order, and Eastern District [Judge Arthur Spatt](#) affirmed her decision.

Media organizations sued for disclosure, but Spatt denied their bids ([NYLJ, Aug. 10, 2011](#)).

In 2012, the county approved a \$7.7 million settlement in the Bird case, *Dorsett v. County of Nassau*, 10-cv-1258. Spatt permitted county lawmakers to examine the report before voting on the settlement.

Peter Schmitt, then-presiding officer of the Nassau County legislature, discussed the report in a television interview as the session progressed. Spatt hit him with a \$2,500 contempt fine.

About a year later, Parker-Reed was stabbed and shot multiple times. Her husband, Leonard Reed, was convicted of murdering her and trying to kill a Hempstead Village police officer who responded to the scene.

Reed is serving two consecutive 25-year to life sentences and is appealing.

LaSasso noted the Bird case in her suit against Hempstead, Nassau County and police officers from both municipalities. She said the village and county officers knew of Reed's capacity for violence and his access to guns, but made no meaningful efforts to protect Parker-Reed or Lee.

LaSasso subpoenaed Brewington for the report in November. Brewington informed the county of the subpoena and said he intended to comply with its demands.

The county filed a quash motion in *Lee* and sought a restraining order in *Dorsett*. Brewington said pending resolution of the matter, he would heed the court rules against disclosure ([NYLJ, Dec. 4, 2015](#)).

Brown said he encouraged LaSasso and the county to negotiate an arrangement giving the report to LaSasso on a limited basis. But the county filed papers saying LaSasso failed to show how the privileged report was relevant to her case.

In his decision, Brown quashed the subpoena on Brewington and told the county to produce the report's summary. He said the county failed to "articulate or justify an assertion of privilege."



Magistrate Judge Brown

Still, he said his own review "suggests that there are numerous potential privilege issues, including privacy interests, law enforcement privilege, and deliberative process privilege."

By giving LaSasso the report's summary, Brown said he struck a balance between those concerns and LaSasso's need for discovery to build her pattern and practice claim.

LaSasso said in a statement that the report "which the county zealously guards against disclosure, contains critical information concerning the interplay between the preventable death of Diane Parker and the county's unconstitutional policies and practices regarding its domestic violence response."

In an interview, Brewington said he was "pleased to see the court has loosened its stranglehold on this information to allow the pursuit of justice."

Nassau County Attorney Carnell Foskey declined to comment because litigation was pending.

Deputy County Attorneys Liora Ben-Sorek and John Hanley appeared for the county.

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