

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>DEBRA L. WILLIAMS,</b>	<b>: Civil Action No.: 1:13-CV-00675-JEJ</b>
<b>Plaintiff,</b>	<b>:</b>
	<b>: District Judge: John E. Jones, III</b>
<b>v.</b>	<b>:</b>
	<b>: CIVIL ACTION – LAW</b>
<b>CHAD R. MOYER;</b>	<b>:</b>
<b>GREGORY T. HADFIELD;</b>	<b>: JURY TRIAL DEMANDED</b>
<b>BRIAN ALU;</b>	<b>:</b>
<b>TODD R. KING;</b>	<b>:</b>
<b>DANIEL E. STUMP;</b>	<b>: (Electronically Filed)</b>
<b>DAVID C. ESHBACH;</b>	<b>:</b>
<b>SPRINGETTSBURY TOWNSHIP</b>	<b>:</b>
<b>POLICE DEPARTMENT;</b>	<b>:</b>
<b>SPRINGETTSBURY TOWNSHIP,</b>	<b>:</b>
<b>PENNSYLVANIA; and</b>	<b>:</b>
<b>YORK COUNTY, PENNSYLVANIA;</b>	<b>:</b>
<b>Defendants,</b>	<b>:</b>

**AMENDED COMPLAINT**

**AND NOW** comes Plaintiff, Debra L. Williams, by and through her undersigned counsel, Devon M. Jacob, Esquire, and the law firm of Boyle Litigation, and avers as follows:

**JURISDICTION AND VENUE**

1. This action is brought pursuant to 42 U.S.C. § 1983.
2. Jurisdiction is founded upon 28 U.S.C. § § 1331 and 1343.
3. Venue is proper in this Court, as all parties are located within the

Middle District of Pennsylvania, and the cause of action arose in the Middle District of Pennsylvania.

**PARTIES**

4. Plaintiff is Debra L. Williams, an adult individual who lives in Lebanon County, Pennsylvania.

5. Defendant, Chad R. Moyer, is an adult individual, who during all relevant times, was employed by the Springettsbury Township Police Department, as a police officer, with the rank of Patrolman. All of Defendant Moyer's actions or inactions were taken under color of state law. He is sued in his individual capacity.

6. Defendant, Gregory T. Hadfield, is an adult individual, who during all relevant times, was employed by the Springettsbury Township Police Department, as a police officer, with the rank of Patrolman. All of Defendant Hadfield's actions or inactions were taken under color of state law. He is sued in his individual capacity.

7. Defendant, Brian Alu, is an adult individual, who during all relevant times, was employed by the Springettsbury Township Police Department, as a police officer, with the rank of Corporal. All of Defendant Alu's actions or inactions were taken under color of state law. He is sued in his individual capacity.

8. Defendant, Todd R. King, is an adult individual, who during all relevant times, was employed by the Springettsbury Township Police Department, as a police officer, with the rank of Corporal. All of Defendant King's actions or inactions were taken under color of state law. He is sued in his individual capacity.

9. Defendant, Daniel E. Stump, is an adult individual, who during all relevant times, was employed by the Springettsbury Township Police Department, as a police officer, with the rank of Lieutenant. All of Defendant Stump's actions or inactions were taken under color of state law. He is sued in his individual capacity.

10. Defendant, David C. Eshbach, is an adult individual, who during all relevant times, was employed by the Springettsbury Township Police Department, as a police officer, with the rank of Chief of Police. All of Defendant Eshbach's actions or inactions were taken under color of state law. He is sued in his individual capacity.

11. Defendant, Springettsbury Township, Pennsylvania, which is located at 1501 Mount Zion Road in York, Pa. 17402, owns and operates Defendant Springettsbury Township Police Department.

12. Defendant York County, Pennsylvania, is located at 28 E. Market Street, York, PA 17401.

**FACTUAL BACKGROUND**

13. On April 2, 2011, Defendants, Chad R. Moyer and Gregory T. Hadfield, were employed by the Springettsbury Township Police Department, as police officers.

14. Defendants Moyer and Hadfield responded to a residence in Springettsbury Township, Pennsylvania, in full uniform, to investigate a report of a domestic dispute.

15. Upon their arrival, Defendants Moyer and Hadfield observed the Plaintiff, Debra L. Williams, being restrained on the kitchen floor by a male.

16. Ms. Williams was visibly distraught, yelling profanities, and attempting to get up.

17. Defendant Hadfield told the male to get off of Ms. Williams.

18. Defendant Hadfield admitted in a police report that he then struck Ms. Williams in her right rib cage, with his right knee, causing her to fall to the ground.

19. When Defendant Hadfield kned Ms. Williams in the ribs, he caused her to suffer a rib injury.

20. Defendants Moyer and Hadfield then handcuffed Ms. Williams to the rear.

21. It should have been clear to Defendants Moyer and Hadfield that Ms. Williams was emotionally ill, as she yelled that she wanted to die, asked the officers to shoot her, and stated that she would kill herself.

22. At the time, Ms. Williams suffered from anxiety, depression, and a bipolar disorder.

23. When Ms. Williams, due to her emotional state and fear of Defendant Hadfield who had just injured her, did not cooperate in getting into the back of the patrol vehicle, Defendant Hadfield admitted in a police report that he drive-stunned her in the calf with a TASER.

24. When Ms. Williams kicked at the inside of the rear of the patrol vehicle, Defendants Moyer and Hadfield removed her from the vehicle and applied shackles.

25. After being shackled, a dash-cam video (**Exhibit A**) shows Defendant Hadfield pushing Ms. Williams into the rear driver's side of the patrol vehicle, punching her at least two times in the face and upper body, and grabbing her by the neck.

26. The video also shows Defendant Moyer entering the rear passenger side of the vehicle and punching and slapping Ms. Williams at least two times in the head and upper body.

27. Both Defendants Moyer and Hadfield had an opportunity to intervene to protect Ms. Williams from the unlawful use of force being committed by the other officer but failed to do so.

28. Defendants Moyer and Hadfield intentionally prepared and submitted false police incident reports to the Defendant Township.

29. As evidenced by the video of the incident, the incident reports were false in that they failed to properly detail the force used by Defendants Moyer and Hadfield, and Ms. Williams's actions.

30. Defendants Moyer and Hadfield filed, or permitted to be filed, a Criminal Complaint against Ms. Williams charging her with two counts of Aggravated Assault (F1), one count of Resisting Arrest (M2), and one count of Disorderly Conduct (M3), for conduct allegedly committed against Defendants Moyer and Hadfield.<sup>1</sup>

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<sup>1</sup> Defendants Moyer and Hadfield also issued Ms. Williams a Non-traffic Citation for Harassment (S) for conduct allegedly committed against the male actor who had been restraining her prior to the arrival of the police. The Information filed by the District Attorney added a charge of Simple Assault (M2) also for conduct allegedly

31. The affidavit attached to the Criminal Complaint contains false statements and omits material facts.

32. Specifically, the affidavit fails to disclose any of the force used by Defendant Moyer and fails to disclose the extent of the force used by Defendant Hadfield.

33. Moreover, the affidavit falsely states that Ms. Williams resisted arrest and assaulted Defendants Moyer and Hadfield.

34. Defendant Hadfield signed the Criminal Complaint verifying that the facts stated in the Complaint were true and correct subject to the penalties provided in Section 4904 of the Pa. Crimes Code relating to unsworn falsifications to law enforcement.

35. On June 8, 2012, the Aggravated Assault, Resisting Arrest, Disorderly Conduct, and Harassment charges against Ms. Williams were withdrawn.

36. On the same date, Ms. Williams pled guilty to a single count of Simple Assault (M2) related solely to conduct allegedly committed by Ms. Williams against the male actor who had been restraining her prior to the arrival of the police.

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committed against the male actor who had been restraining Ms. Williams prior to the arrival of the police.

**COUNT I**

**Plaintiff v. Defendants Moyer and Hadfield  
Fourth Amendment – Excessive Force  
Pursuant to 42 U.S.C. § 1983**

37. Paragraphs 1- 36 are stated herein by reference.

38. Pursuant to the Fourth Amendment of the U.S. Constitution, police officers enjoy a privilege to use objectively reasonable force to effect a lawful arrest.

39. The force used by Defendants Moyer and Hadfield was not for the purpose of effecting a lawful arrest; rather, the force used by Defendants Moyer and Hadfield was for the sole purpose of inflicting pain and physical injury, torture, and punishment.

40. As a direct and proximate cause of Defendant Moyer's and Hadfield's actions, Ms. Williams suffered immense physical pain, emotional and physical injuries, fear, embarrassment, and financial loss.

**COUNT II**

**Plaintiff v. Defendants Moyer and Hadfield  
Fourth Amendment – Malicious Prosecution  
Pursuant to 42 U.S.C. § 1983**

41. Paragraphs 1-40 are stated herein by reference.

42. Probable cause did not exist to arrest or prosecute Ms. Williams for



Aggravated Assault or Resisting Arrest.

43. Defendants Moyer and Hadfield, however, either charged or caused Ms. Williams to be charged, with these crimes.

44. The criminal charges were filed against Ms. Williams for a reason other than for bringing her to justice on the crimes charged.

45. Rather, the charges were filed against Ms. Williams for the purpose of attempting to cover up and/or justify the unlawful use of force against her.

46. As a result of being maliciously prosecuted for these crimes, Plaintiff suffered fear, embarrassment, emotional distress, and financial loss.

### **COUNT III**

**Plaintiff v. Defendants Alu, King, Stump & Eshbach  
Fourth & Fourteenth Amendment – Supervisor Liability  
Pursuant to 42 U.S.C. § 1983**

47. Paragraphs 1-46 are stated herein by reference.

48. Defendants Alu, King, Stump & Eshbach, as supervisors of the Springettsbury Township Police Department, had knowledge of and acquiesced in the unlawful conduct of their subordinates, Defendants Moyer and Hadfield.

49. Defendant Alu was the on-scene supervisor of the incident involving Ms. Williams and notified Defendant Stump of the incident.

50. Defendant King is noted on the incident report as having approved the report.

51. Defendants King, Stump, and Eshbach, signed the Use of Force report.

52. Defendants Alu, King, Stump, and Eshbach, as supervisors and policymakers for the Township, were aware of Defendants Moyer's and Hadfield's use of force against Ms. Williams.

53. Defendants Alu, King, Stump, and Eshbach, as supervisors and policymakers for the Township, were on notice that the incident report noted that Ms. Williams was (a) kned in the ribs by Defendant Hadfield, (b) drive-stunned by a TASER in the calf while handcuffed to the rear, and (c) struck in the face by Defendant Hadfield while handcuffed to the rear and shackled.

54. Defendants Alu, King, Stump, and Eshbach, as supervisors and policymakers for the Township, were aware that Defendant Hadfield's admitted use of force did not comport with the standard use of force in the law enforcement industry.

55. If Defendants Alu, King, Stump, and Eshbach, as supervisors and policymakers for the Township, had performed their supervisory duties, after reviewing the available incident reports, they would have reviewed the video of the

incident and noted Defendant Moyer's and Hadfield's unlawful use of force and discovered the malicious prosecution of Ms. Williams.

56. It is believed and therefore averred that Defendants Alu, King, Stump, and Eshbach, as supervisors and policymakers for the Township, approved of and ratified the unlawful conduct of Defendants Moyer and Hadfield by failing to initiate an internal affairs investigation to investigate their conduct.

57. It is believed and therefore averred that Defendants Alu, King, Stump, and Eshbach, as supervisors and policymakers for the Township, routinely permitted and did not investigate the use of unlawful force by subordinate officers, including Defendants Moyer and Hadfield.

58. As a result of Defendants Alu's, King's, Stump's, and Eshbach's, failure to properly supervise subordinate officers and to initiate internal affairs investigations when appropriate, the Defendant officers were permitted to engage in and did engage in unlawful conduct, including the conduct discussed herein.

59. As a direct and proximate cause of Defendants Alu's, King's, Stump's, and Eshbach's, actions, Ms. Williams suffered immense physical pain, emotional and physical injuries, fear, embarrassment, and financial loss.

**COUNT IV**

**Plaintiff v. Defendants Springettsbury Township  
Police Department and Springettsbury Township, Pa.  
Title II of the Americans with Disabilities Act of 1990  
and Section 504 of the Rehabilitation Act of 1973**

60. Paragraphs 1-59 are stated herein by reference.

61. Defendants Springettsbury Township Police Department and Springettsbury Township, Pa., violated Ms. William's right to be free from discrimination on the basis of her disability pursuant to Title II of the ADA and § 504 of the RA.

62. Specifically, Defendants Springettsbury Township Police Department and Springettsbury Township, Pa., failed to properly train police officers to have peaceful encounters with mentally and physically disabled persons, and failed to establish a proper policy for handling such encounters, which resulted in the discrimination against Ms. Williams that caused her to suffer the injuries described herein.

63. Title II of the ADA provides, in relevant part, that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities by a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. §

12132.

64. Similarly, pursuant to § 504 of the RA, “[n]o otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency[.] 29 U.S.C. § 794.

65. In order to state a claim under either statute, a Plaintiff must prove that she (1) is disabled, (2) is otherwise qualified for the services, programs or activities sought or would be qualified if the defendant had made reasonable modifications to the services, programs or activities, and (3) was discriminated against solely on the basis of his disability. *See Wagner v. Fair Acres Geriatric Ctr.*, 49 F.3d 1002, 1009 (3d Cir.1995).

66. It is believed and therefore averred that Defendant Springettsbury Township Police Department is a public entity that receives or benefits from federal funding.

67. Ms. Williams suffered from qualifying disabilities of anxiety, depression, and a bipolar disorder.

68. At the time of the incident, Ms. Williams was suicidal.

69. Moreover, Defendants Moyer, Hadfield, and Alu, regarded Ms. Williams as being disabled.

70. Ms. Williams was entitled to the same law enforcement services that Defendant Springettsbury Township Police Department provides to other non disabled persons.

71. Specifically, Ms. Williams was entitled to the benefit of a lawful exercise of police powers, including the right not to be subjected to an unlawful use of force.

72. Defendants Springettsbury Township Police Department and Springettsbury Township, Pa., discriminated against Ms. Williams solely because of her disabilities.

73. As a direct and proximate cause of Defendants Springettsbury Township Police Department's and Springettsbury Township, Pa.'s, actions, Ms. Williams suffered immense physical pain, emotional and physical injuries, fear, embarrassment, and financial loss.

**COUNT V**

**Plaintiff v. Defendants Springettsbury Township, Pa.; and York County, Pa.  
Fourth and Fourteenth Amendment—Municipal Liability  
Pursuant to 42 U.S.C. § 1983**

74. Paragraphs 1-73 are stated herein by reference.

75. The Defendants Township and County maintained policies, practices, and customs, which were the moving force that resulted in Ms. Williams' constitutional and statutory rights being violated.

76. Moreover, the Defendant Township was on notice of a need for further training related to the issues discussed herein but failed to provide the training, which resulted in Ms. Williams' constitutional and statutory rights being violated.

77. It is believed that discovery will reveal, and therefore averred, that the Defendant Township failed to implement a policy, enforce a policy, or train officers on the Fourth or Fourteenth Amendments to the U.S. Constitution, ADA & Rehabilitation Act.

78. It is believed that discovery will reveal, and therefore averred, that the Defendant Township failed to implement a policy of proper safeguards to ensure that disabled persons are not harassed or physically tortured.

79. It is believed that discovery will reveal, and therefore averred, that the

Defendant Township failed to implement an effective process to ensure that policies and training of the Defendant Township are followed by its police officers.

80. It is believed that discovery will reveal, and therefore averred, that when it has been determined that officers have violated the constitutional or statutory rights of persons, or used unlawful force against persons, or when police officers have been named in citizen complaints, or when the Defendant Township has settled civil lawsuits, the Defendant Township has not required police officers to receive corrective or additional training.

81. It is believed that discovery will reveal, and therefore averred, that the Defendant Township did not follow its internal affairs policy and investigate, discipline, or retrain the Individual Defendants for the conduct discussed in this Amended Complaint.

82. To the contrary, it is believed that discovery will reveal, and therefore averred, that the Defendant Township has instead promoted Defendant Hadfield.

83. If it is ultimately determined that an internal affairs investigation occurred, it is believed that discovery will reveal, and therefore averred, that the investigation was triggered as a result of the instant litigation (so as to be a defense to the litigation), as opposed to when the Defendant Township first learned of the



incident discussed herein.

84. The Defendant County has a stated policy and practice of not conducting criminal investigations in use of force incidents that the Defendant County has notice of unless requested by the police department to do so.

85. Essentially, after the Defendant County refers the matter back to the Defendant Township for an internal affairs investigation, it is believed that discovery will reveal, and therefore averred, that the Defendant County takes no further action to ensure that the internal affairs investigation occurred, or to inquire as to why the Defendant Township has not referred the matter back to the Defendant County for a criminal investigation.

86. The Defendant County knew of two videos of two incidents where Defendants Moyer, Hadfield, and/or Springettsbury Township Police Officer William Polizzotto, Jr., used excessive and unlawful force against at least two persons.

87. The videos were of enough concern that a policymaker for the Defendant County has publicly stated that the videos were sent back to the Defendant Township for the Defendant Township to conduct an internal-affairs investigation.

88. The purpose of an internal-affairs investigation, however, is to investigate whether or not a police officer followed the municipality's policies and practices.

89. The purpose of an internal-affairs investigation is not to determine whether or not a police officer should be criminally charged.

90. Pursuant to the Defendant County's stated policy and practice, if the police department does not refer the matter back to the Defendant County for a criminal investigation, the Defendant County will not conduct a criminal investigation.

91. Moreover, pursuant to the Defendant County's stated policies and practices, officers who the Defendant County is on notice of using excessive and unlawful force are permitted to continue to have contact with the public in their official capacities as police officers, thereby providing the opportunity to offend again.

92. The Defendant County has a stated policy and practice when civil litigation is filed to wait to see how the civil litigation plays out before deciding whether or not to conduct a criminal investigation.

93. Civil claims, however, prosecute matters that differ from criminal

statutes.

94. Moreover, the Defendant County often does not know whether or not civil litigation will ever be filed, and even if civil litigation is filed, it is often not filed until approximately two years after the incident in question.

95. Regardless, pursuant to the Defendant County's stated policy, once civil litigation is filed, the Defendant County will not conduct a criminal investigation until after the civil litigation is completed, which often takes two to three years.

96. The Defendant Township's and County's policies and practices caused Ms. Williams to suffer the constitutional injuries described herein.

97. Moreover, it is believed that discovery will reveal, and therefore it is averred, that the Defendant Township's and County's policies and practices caused other persons to suffer constitutional injuries.

98. Despite the irrefutable video evidence that Defendants Moyer, Hadfield, and Officer Polizzotto violated the civil rights of Ms. Williams and/or others, the Defendant Township has not suspended or terminated the employment of these police officers, and continues to compensate these police officers.

99. As a direct and proximate result of the Defendants' conduct, Ms.

Williams has suffered and will continue to suffer embarrassment, humiliation, emotional distress, physical and psychological injury, pain and suffering, and financial harm, some or all of which may be permanent.

100. Furthermore, as a direct and proximate result of Defendants' conduct, Ms. Williams has incurred attorneys' fees and other costs.

**WHEREFORE**, Plaintiff, Debra L. Williams, respectfully requests the following relief:

- A. That the Court provide the Plaintiff with a jury trial;
- B. That judgment be entered in favor of the Plaintiff and against the Defendants;
- C. That the Court declare that the Defendants' actions violated the Plaintiff's constitutional rights;
- D. That the Court award the Plaintiff compensatory damages;
- E. That the Court award the Plaintiff punitive damages (except against the Municipal Defendant);
- F. That the Court award the Plaintiff reasonable attorney's fees, costs and interest; and
- G. That the Court award such other financial or equitable relief as is

reasonable and just.

**RESPECTFULLY SUBMITTED,**

**BOYLE LITIGATION**

***/s/ Devon M. Jacob***

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Dated: March 21, 2013

Counsel For: Plaintiff Debra L. Williams