

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

DAVID MILLET,
1313 New York Ave NW
Washington, D.C. 20005

Plaintiff,

v.

THE DISTRICT OF COLUMBIA
c/o Mayor and Office of the Attorney General
for the District of Columbia
400 6th Street NW
Washington, D.C. 20001

And

PETER APOLLON, Badge No. 12371#2440
Metropolitan Police Department Officer
c/o Office of the Attorney General for the
District of Columbia
400 6th Street NW
Washington, D.C. 20001

And

DARRELL HARRIS, JR.,
Special Police Officer
SPO License No. 202163
8000 Sheriff Road, Hyattsville, MD 20785

AND

JOHN DOES 1-3
Special Police Officers
Identities unknown¹
c/o Security Assurance Management, Inc.
910 17th Street NW, Suite 220

Case No. 1:23-cv-572

**FIRST AMENDED COMPLAINT AND
JURY TRIAL DEMAND**

¹ The exact identities of these three Defendant JOHN DOES are unknown. The undersigned intend to confer with Defendant Security Assurance Management, Inc., and request their consent to limited expedited discovery to obtain the Doe Defendant's identities.

Washington, D.C. 20006

AND

Security Assurance Management, Inc.
910 17th Street NW, Suite 220
Washington, D.C. 20006

Defendants.

COMPLAINT FOR DAMAGES

1. MR. DAVID MILLET, Plaintiff, by and through his counsel, brings this action against Defendants: MPD Officer Peter Apollon (Badge No. 12371#2440) (“MPD Defendant” or “Defendant Apollon”); Special Police Officers (“SPOs”) Darrell Harris, Jr. (SPO License No. 202163), John Doe 1, John Doe 2, and John Doe 3 (“Individual SPO Defendants”); Security Assurance Management, Inc. (“SAM”); and the District of Columbia (“D.C.”), for unlawfully stopping, seizing, and arresting Mr. Millet without justification and with excessive force in violation of his federal constitutional rights and District of Columbia law. In support of the Complaint, Mr. Millet alleges the following:

NATURE OF THE ACTION

2. DAVID MILLET is an unhoused Black man who has spent the last few years living in various D.C. shelters as he awaits placement in long-term housing.²

3. On the freezing night of March 4, 2022, Mr. Millet was trying to fall asleep in the Trinidad Recreation Center (then serving as an overnight cold emergency shelter) by quietly playing music on his phone to drown out another guest’s yelling. The Individual SPO Defendants

² The lack of affordable housing in D.C. is at crisis levels. The D.C. Housing Authority’s affordable housing waitlist has 40,000 people waiting for housing vouchers, with voucher wait times as long as 15 years. See Annemarie Cuccia, *With 40,000 People On the D.C. Housing Authority Waitlist, D.C. Funds Only 20 New Vouchers for that List*, The DCist, June 24, 2022, at <https://tinyurl.com/vtr6vsty>.

asked Mr. Millet to leave the premises because of his music, and he complied. However, when Mr. Millet kicked a cot in frustration on the way out, the Individual SPO Defendants jumped Mr. Millet, taking him to the ground and punching him in the face over and over again. They then arrested him, placed him in handcuffs, and called the Metropolitan Police Department (“MPD”) to falsely report that Mr. Millet had assaulted an officer. When MPD Defendant Apollon arrived, he took Mr. Millet into custody and transported him to the hospital for his injuries, including a bleeding and split lip. He placed Mr. Millet in extremely tight handcuffs and laughed and refused to loosen or remove them when Mr. Millet asked him to.

4. After being treated at the hospital, Mr. Millet was detained an additional eight to twelve hours in Central Cell Block until his case was “no papered,” meaning dismissed at the prosecution’s direction.

5. Despite years of reported abuses by SPOs in D.C., there is effectively no civilian oversight over SPOs like those who assaulted Mr. Millet. “While the Department of Consumer and Regulatory Affairs is responsible for licensing special police officers, that department stated in response to a FOIA request from the [Washington Lawyers’] Committee that neither they, nor their Security Officers’ Management Branch, process complaints regarding special police officers.”³ When D.C. residents attempt to file complaints against SPOs with the MPD, they are turned away and informed that they should take it up with the private security company the SPO

³ *Testimony of Jacqueline Kutnik-Bauder, Deputy Legal Director, Washington Lawyers’ Committee for Civil Rights and Urban Affairs, Before the Council of the District of Columbia, Committee on the Judiciary and Public Safety and the Committee of the Whole Concerning Special Police Officers in the District of Columbia and Proposed Legislation, Feb. 17, 2022, at <https://tinyurl.com/2ne6a3bw>.*

works for instead.⁴ There is thus no meaningful accountability or oversight process for SPOs in the District.

6. Mr. Millet now asks this Court to enter a judgment confirming that the Defendants are not above the laws they enforce, and that they will be held accountable for abusing their authority.

PARTIES

7. MR. MILLET is a resident of Washington, D.C.

8. The Individual SPO Defendants Darrell Harris, Jr., and John Does 1–3 are Special Police Officers and were, at all times relevant to this complaint, employees of Security Assurance Management, Inc.

9. Defendant Peter Apollon is an officer of the Metropolitan Police Department.

10. At the time of the events at issue, the Individual SPO Defendants and MPD Defendant Apollon were acting within the scope of their employment and under color of D.C. law. They are sued in their individual capacities.

11. Defendant Security Assurance Management, Inc. (“SAM”) is an incorporated business with a business address registered with the Department of Consumer Regulatory Affairs of 910 17th Street NW, Suite 220, Washington, D.C. 20006.⁵ SAM’s registered agent is Russell A. Stephens at the same address. Defendant SAM employs SPOs, including former state and federal law enforcement officers and, on information and belief, at all relevant times, contracted with the District’s Department of Human Services (“DHS”) to provide security services at D.C.

⁴ See Jodie Fleischer, *D.C. Residents Say MPD Ignored Complaints Against Special Police Officer*, NBC Washington, Apr. 1, 2019, at <https://tinyurl.com/ye24p76u>.

⁵ See <http://samprotection.com> (last visited Mar. 14, 2023).

shelters for unhoused people. At the time of the incident at issue here, SAM also employed the Individual SPO Defendants.

12. Defendant District of Columbia is a municipal corporation and the local government of Washington, D.C. It operates and governs MPD and DHS, which are *non sui juris* entities, pursuant to the laws of the District of Columbia. In this case, the District acted through its agents, employees, and servants, including the MPD Defendant and the Individual SPO Defendants.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action presents federal questions. This Court also has jurisdiction under 28 U.S.C. § 1343 because the action seeks to redress the deprivation of rights under the Fourth Amendment to the U.S. Constitution, pursuant to 42 U.S.C. § 1983.

14. Plaintiff's claims under the law of the District of Columbia arise from the same events as the constitutional claims and are therefore within the Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

15. Venue is proper in this Court because the events that give rise to this action occurred in the District of Columbia.

16. This Court has personal jurisdiction over Defendants because they were employed or contracted by the District of Columbia during all times relevant to this Complaint, and they were engaged in the relevant conduct in the District of Columbia.

STATEMENT OF FACTS

17. DAVID MILLET is a 39-year-old unhoused Black man who has struggled to survive in D.C. and has sought safety in various D.C. shelters as he pursues stable housing.

18. On any given night, there are over 3,400 single persons experiencing homelessness in Washington, D.C.⁶

19. Evening temperatures in D.C. during the month of March often drop to near or below freezing. The weather on the evening of March 4, 2022, was reportedly 34 degrees Fahrenheit, near freezing.⁷

On March 4, 2022, Special Police Officers Serving as Overnight Shelter Security Jumped, Tackled, and Repeatedly Punched Mr. Millet.

20. As temperatures and darkness fell on the evening of March 4, 2022, Mr. Millet went to the Trinidad Recreation Center, an overnight cold emergency shelter.

21. After Mr. Millet was admitted to the shelter, he lay down on one of the military cots the shelter provides for guests.

22. Another shelter guest soon began shouting, but the SPOs on patrol did nothing to quiet him or address the noise.

23. The Individual SPO Defendants patrolled the property and surveyed the residents at the Trinidad Recreation Center with the authority to manage and expel any unwanted or unauthorized persons.

24. Trying to fall asleep, Mr. Millet quietly played music on his phone, placed next to his head, to drown out the shouting.

25. The Individual SPO Defendants patrolling the Trinidad Recreation Center that evening did nothing to quiet the shouting man in the Center.

26. Instead, the Individual SPO Defendants ordered Mr. Millet to turn his music down, which Mr. Millet did.

⁶ See The Community Partnership for the Prevention of Homelessness, *at* <https://tinyurl.com/yeysz72y>, last visited Feb. 14, 2023.

⁷ See World Weather, Weather in Washington, D.C. in Mar. 2022, <https://tinyurl.com/yuczjuvz>.

27. Despite the fact that Mr. Millet complied, shortly thereafter, around 9:00 pm or 10:00 pm, the Individual SPO Defendants told Mr. Millet that he had to leave.

28. Mr. Millet again complied with the SPOs' order and began leaving the premises.

29. As Mr. Millet was leaving the Center, he kicked an unoccupied military cot out of frustration.

30. The unoccupied cot landed on its side and did not hit anyone.

31. The cot itself was not damaged in any way.

32. Suddenly, unprovoked and untouched in any way, the four Individual SPO Defendants responded by attacking Mr. Millet, jumping on his back, shoving him to the ground and pushing their knees into his back.

33. For no reason, one Individual SPO Defendant then punched Mr. Millet several times in the face, splitting his lip.

34. The Individual SPO Defendants then arrested Mr. Millet and placed him in handcuffs.

35. The Individual SPO Defendants then detained Mr. Millet for approximately 25 minutes in those handcuffs and called MPD officers to falsely report that Mr. Millet had assaulted an officer.

MPD Officer Apollon Arrests Mr. Millet, Cuffs Him Too Tightly, and Laughs at His Pain and Injuries

36. Around 10:00 pm Defendant Apollon arrived.

37. Defendant Apollon spoke to the Individual SPO Defendants but did not at any point interview or ask any questions of Mr. Millet.

38. He kept Mr. Millet in handcuffs for approximately 15 minutes before he called an ambulance.

39. When the ambulance arrived 15 minutes later, Defendant Apollon then took Mr. Millet, still in handcuffs, to the hospital to receive treatment for his bleeding lip.

40. In the ambulance, Defendant Apollon removed the SPO handcuffs and put on different handcuffs, but these handcuffs were too small for Mr. Millet and thus too tight.

41. Mr. Millet complained that his cuffs were too tight and asked Defendant Apollon to loosen them, but Defendant Apollon did not loosen or remove them. Instead, he laughed at Mr. Millet as he lay there cuffed and bleeding.

42. Once at the hospital, Defendant Apollon kept Mr. Millet in handcuffs for an additional hour before removing them so that hospital staff could medically examine Mr. Millet.

43. Defendant Apollon arrested Mr. Millet for assault on a police officer.

44. After being treated at the hospital, Mr. Millet was detained an additional eight to twelve hours in Central Cell Block until his case was “no papered,” meaning later dismissed at the prosecution’s direction.⁸

45. Mr. Millet was never taken to court to face any charges because the prosecution declined to prosecute him.

46. Mr. Millet felt pain in his wrists, back, neck, and legs long after the incident.

Mr. Millet’s Ongoing Physical Injuries and Suffering

47. As a result of the abuse inflicted by the Individual SPO Defendants and Defendant Apollon, Mr. Millet suffers ongoing harm.

48. Three adult male Individual SPO Defendants put their full body weight on Mr. Millet’s back, pressing their knees into him as he lay on the ground.

⁸ “If an arrest charge(s) is ‘no papered,’ it means that the USAO or OAG has decided not to prosecute and the defendant is released if that defendant has no other pending matters. In C-10, each defendant whose arrest charge(s) has been ‘no papered’ will receive an information sheet that explains “no papering” more fully.” See <http://dccourts.gov/node/559>.

49. A fourth Individual SPO Defendant repeatedly punched Mr. Millet in the face while he was pinned down by the three other Individual SPO Defendants, splitting Mr. Millet's lip.

50. Mr. Millet experienced immediate and severe pain in his neck, back, and wrists during the incident.

51. At the hospital, Mr. Millet required several stitches for his split lip.

52. Defendant Apollon subjected Mr. Millet to additional pain by putting him in handcuffs that were too small and too tight.

53. For days after the incident, Mr. Millet could not feel his hands.

54. Weeks after the incident, Mr. Millet's wrists ached and began to swell. The swelling spread to his entire forearm.

55. For weeks afterwards, Mr. Millet had to wear a wrist brace.

56. As a result of the excessive force used, Mr. Millet suffered pain in his wrists, back, and face both during and for several months after the incident.

57. To this day, Mr. Millet has difficulty turning his head and lifting anything heavy.

58. To this day, Mr. Millet is unable to work in construction due to his injuries.

59. To this day, Mr. Millet's neck, back, and wrists ache.

60. To this day, in the cold weather, Mr. Millet's aches increase, often leading to sharp pains.

61. To this day, Mr. Millet experiences pain in his back every time he attempts to lift a heavy object or when he places pressure on his wrists.

Mr. Millet Also Suffered and Continues to Suffer Financial and Emotional Injuries.

62. Mr. Millet's primary line of work is hard physical labor doing construction.

63. Although Mr. Millet wanted to return to work, he has been unable to work in construction since the incident due to his physical injuries.

64. Mr. Millet has resorted to donating blood plasma to financially provide for his two sons, ages five and seven, despite his fear of needles.

65. Mr. Millet has experienced emotional distress as a result of this incident. The incident was so traumatizing that it is painful for Mr. Millet to discuss it.

66. Mr. Millet still experiences fear and anxiety living in shelters and encountering their security staff.

67. It upsets Mr. Millet that he still cannot provide much financially to his two young sons.

68. Mr. Millet still uses the D.C. shelter system.

69. Since the March 4, 2022 incident, Mr. Millet has seen at least one of the Individual SPO Defendants working in another shelter and felt extremely fearful upon seeing him.

BACKGROUND ON SPECIAL POLICE OFFICERS IN THE DISTRICT OF COLUMBIA

70. SPOs are empowered by the District of Columbia under D.C. Code § 23-582(a) with “the same powers as law enforcement officers to arrest without warrant for offenses committed within premises to which [their] jurisdiction extends.”

71. SPOs are appointed by the Mayor under D.C. Code § 5-129.02(a) to patrol a property of a corporation or individual.

72. Applications for the appointments of SPOs, under D.C. Municipal Regulation (“DCMR”) 6-A1105.1 are made jointly in the names of the prospective SPOs and the names of the persons or corporations in connection with whose property of business the appointment is sought.

73. Although appointed by the Mayor, under D.C. Code § 5-129.02(a), SPOs are to be “paid wholly by the corporation or person on whose account their appointments are made.”

74. The agencies and employers that employ SPOs have an affirmative duty under DCMR6-A1106.2 to supervise special police officers in their employ.

75. Organizations that employ SPOs may receive a registration certificate for firearms under D.C. Code § 7-2502.01.

76. The Individual SPO Defendants were, at all times relevant to this Complaint, SPOs employed by Security Assurance Management and appointed to patrol the Trinidad Recreation Center.

BACKGROUND ON SHELTER SERVICES IN THE DISTRICT

77. The District’s Department of Human Services (“DHS”) is responsible for caring for the unhoused people that rely on its shelter services. Despite DHS’s mandate, the agency has repeatedly been accused by shelter guests and advocacy groups of turning a blind eye to inhumane shelter conditions as well as abusive treatment by shelter staff and security contractors.⁹

78. Under D.C. Code Section 4–754.11, all DHS shelter guests have “the right to at all times be treated by providers and [DHS] with dignity and respect” and to “access services...free from verbal, emotional, sexual, financial, and physical abuse and exploitation.”

79. DHS’s Homeless Services Monitoring Unit—within the Office of Program Review, Monitoring and Investigation (OPRMI)—is responsible for “monitor[ing] shelters and services provided by the District and its contractors to its unhoused clients.” D.C. Code § 4–754.51. This monitoring is supposed to include attention to the health, safety, and cleanliness of shelters as well

⁹ See DHS Homeless and Homelessness Prevention Services, at <https://tinyurl.com/3xjcauhx>; see also Justin Jouvenal, Robert Samuels and DeNeen L. Brown, *D.C. Family Homeless Shelter Beset by Dysfunction, Decay*, The Wash. Post, July 12, 2014, at <https://tinyurl.com/yc35mx6z>; Will Lennon, *Protesters to Bowser: Reform the Department of Human Services*, Street Sense Media, Aug. 28, 2020, at <https://tinyurl.com/45f4dr4n>; Athiyah Azeem, *Low-Barrier Shelter Residents Say Staff Abuse Them Amid ‘Terrible’ Conditions During COVID-19*, Street Sense Media, Oct. 15, 2020, at <https://tinyurl.com/2p8f9v33>.

as contractors' compliance with the provider standards established by D.C. Code Sections 4-754.21 through 4-754.25.

80. OPRMI accepts and is obligated to investigate "unusual incident reports" about its contractors and providers through an online "Incident Report Form" and hotline.¹⁰

81. According to the District's 2022 Winter Plan, "DHS monitors shelter operations year-round to ensure that clients are being served well and to note any corrective actions that must be taken. When corrective actions are required, these actions must be accomplished within a given time, and DHS will confirm that they have been completed."¹¹

82. On information and belief and at all relevant times, Defendant District of Columbia, by and through its agency DHS, managed the operation of Trinidad Recreation Center as an overnight cold emergency shelter.¹²

83. On information and belief and at all relevant times, Defendant District of Columbia contracted with SAM to provide SPOs to patrol the Trinidad Recreation Center property, including the Individual SPO Defendants.

84. On information and belief, DHS actively directed SAM SPOs assigned to the Trinidad Recreation Center, including directing them to certain locations on the property and directing them to address various security issues and incidents.

85. On information and belief, DHS staff actively directed SAM SPOs to identify and investigate incidents, report incidents and individuals to DHS staff, and report which individuals

¹⁰ See DHS Incident Report Form, at <https://tinyurl.com/5n85rhn4>, last visited Mar. 1, 2023; DC DHS website, at <https://tinyurl.com/2p9ucvf2>, last visited Mar 1, 2023.

¹¹ See D.C. Interagency Council on Homelessness, *District of Columbia, FY22 Winter Plan*, Oct. 12, 2021, at <https://tinyurl.com/5n7pn4b8>.

¹² See Council of the District of Columbia, at <https://tinyurl.com/ybe8w7nv> (documenting contractual relationship between DHS and SAM for SAM to provide security at various D.C. shelters).

should be barred or expelled from the property by patrolling the property and individuals on the property.

86. On information and belief, DHS actively directed SAM SPOs to forcibly evict, if necessary, any individual the SPOs determined to be unwanted, a security threat, or otherwise unauthorized to be on the premises.

COMPLIANCE WITH D.C. CODE § 12-309

87. Plaintiff has satisfied the requirements of D.C. Code § 12-309.

88. Regarding the March 4, 2022 incident, on September 8, 2022, Plaintiff, by and through counsel, notified and filed claim number GL-22-005222 with the District of Columbia's Office of Risk Management, informing the District of the approximate time, place, cause, and circumstances of the injuries and damages that Plaintiff suffered and continue to suffer. ORM acknowledged receipt of the complaint on September 9, 2022, but denied the claim on February 9, 2023.

89. D.C. Code § 12-309 states that “[a] report in writing” by MPD “in regular course of duty” constitutes “sufficient notice” under this provision. As such, on information and belief, such a record was made for the March 4, 2022 incident and constitutes sufficient notice for the purposes of D.C. Code § 12-309.

CLAIMS FOR RELIEF

90. As to each claim below, Plaintiff realleges and incorporates by reference the preceding allegations in this Complaint as if fully set forth herein.

COUNT ONE

Violation of the Fourth Amendment: Unlawful Seizure

Against the Individual SPO Defendants

91. Mr. Millet asserts this count under 42 U.S.C. § 1983 against the Individual SPO Defendants.

92. The Individual SPO Defendants are jointly and severally liable for arresting and detaining Mr. Millet without probable cause.

93. The Individual SPO Defendants were at all relevant times state actors and persons acting under color of state law within the meaning of Section 1983: they are commissioned by the D.C. government to exercise police powers, and were at all relevant times acting within the scope of their official duties as well as exercising police powers afforded to them by law. Furthermore, they were actively involved in the constitutional violations alleged herein. *See Woodward & Lothrop v. Hillary*, 598 A.2d 1142, 1145 (D.C. 1991).

94. When the Individual SPO Defendants approached Mr. Millet in uniform, violently seized and assaulted him, and placed him in handcuffs, they seized Mr. Millet under the color of law. The Individual SPO Defendants had no legal, articulable basis to suspect that Mr. Millet had committed, was committing, or was about to commit any crime, but rather seized Mr. Millet in response to him kicking an unoccupied military cot which was undamaged and which did not in any way touch, nearly touch, or threaten any of the officers or fellow shelter residents.

95. The Individual SPO Defendants cuffed him and then unlawfully detained him for approximately 25 minutes while waiting for MPD to arrive.

96. The Individual SPO Defendants knew that they did not have a legal basis to detain Mr. Millet, but did so anyway.

97. The Individual SPO Defendants' conduct occurred under color of law and violated Mr. Millet's rights under the Fourth Amendment.

COUNT TWO

Failure to Intervene Regarding Violation of the Fourth Amendment: Unlawful Seizure

In the Alternative to Count One Against the Individual SPO Defendants

98. Mr. Millet asserts this count under 42 U.S.C. § 1983 in the alternative to Count One against the Individual SPO Defendants.

99. The Individual SPO Defendants were at all relevant times state actors and persons acting under color of state law within the meaning of Section 1983 because they are commissioned by the D.C. government to exercise police powers, and were at all relevant times acting within the scope of their official duties as well as exercising police powers afforded to them by law. Furthermore, they were actively involved in the constitutional violations alleged herein. *See Woodward*, 598 A.2d at 1145.

100. The Individual SPO Defendants were at all times present in uniform while Mr. Millet was unlawfully and unreasonably stopped and seized.

101. To the extent any of the Individual SPO Defendants did not participate in the unlawful and unreasonable seizure of Mr. Millet, they witnessed their fellow SPOs seize Mr. Millet in violation of his Fourth Amendment rights, knew or had reason to know that their fellow SPOs were committing a Constitutional violation, had a reasonable opportunity to prevent the unlawful and unreasonable seizure by intervening to protect Mr. Millet, and failed to do so.

102. The conduct of the Individual SPO Defendants occurred under color of law and violated Mr. Millet's rights under the Fourth Amendment.

COUNT THREE

Violation of the Fourth Amendment: Excessive Force

Against the Individual SPO Defendants

103. Mr. Millet asserts this count under 42 U.S.C. § 1983 against the Individual SPO Defendants.

104. The Individual SPO Defendants are jointly and severally liable for using excessive force against Mr. Millet.

105. The Individual SPO Defendants were at all relevant times state actors and persons acting under color of state law within the meaning of Section 1983 because they are commissioned by the D.C. government to exercise police powers, and were at all relevant times acting within the scope of their official duties as well as exercising police powers afforded to them by law. Furthermore, they were actively involved in the constitutional violations alleged herein. *See Woodward*, 598 A.2d at 1145.

106. The Individual SPO Defendants, in uniform, jumped on Mr. Millet's back, tackled him to the ground, shoved their knees and weight on Mr. Millet while he was on the ground, punched him several times in the face, splitting his lip, and cuffed him.

107. Mr. Millet did not engage in any criminal conduct.

108. Mr. Millet was not a threat to the safety of the SPOs, himself nor others.

109. Mr. Millet had a clearly established constitutional right under the Fourth Amendment to be secure in his person from unreasonable seizure through the excessive force of being knocked to the ground, punched in the face several times while not resisting and while being pinned on the ground by three SPOs pressing their knees into his back.

110. The Individual SPO Defendants' actions and use of force were objectively unreasonable in light of the facts and circumstances.

111. After the incident, Mr. Millet could not feel his hands for days, and his wrists ached and swelled weeks after and required a wrist brace. Mr. Millet suffered pain in his wrists, back and face both during and for several months after the incident. To this day, Mr. Millet's neck, back and wrists ache, and he has difficulty lifting anything heavy, thus preventing him from working in construction.

112. The Individual SPO Defendants' conduct occurred under color of law and violated Mr. Millet's rights under the Fourth Amendment.

COUNT FOUR

Failure to Intervene Regarding Violation of Fourth Amendment: Excessive Force

In the Alternative to Count Three Against the Individual SPO Defendants

113. Mr. Millet asserts this count under 42 U.S.C. § 1983 in the alternative to Count Three against the Individual SPO Defendants.

114. The Individual SPO Defendants were at all relevant times state actors and persons acting under color of state law within the meaning of Section 1983: because they are commissioned by the D.C. government to exercise police powers, and were at all relevant times acting within the scope of their official duties as well as exercising police powers afforded to them by law. Furthermore, they were actively involved in the constitutional violations alleged herein. *See Woodward*, 598 A.2d at 1145.

115. The Individual SPO Defendants were at all times present in uniform while Mr. Millet was subjected to excessive force.

116. To the extent any of the Individual SPO Defendants did not participate in the excessive force used against Mr. Millet, they witnessed their fellow officers exercise excessive force against Mr. Millet in violation of his Fourth Amendment rights, knew or had reason to know

that their fellow officers were committing a Constitutional violation, had a reasonable opportunity to prevent the excessive force by intervening to protect Mr. Millet, and failed to do so.

117. The conduct of the Individual SPO Defendants occurred under color of law and violated Mr. Millet's rights under the Fourth Amendment.

COUNT FIVE

Violation of the Fourth Amendment: Excessive Force

Against the MPD Defendant

118. Mr. Millet asserts this count under 42 U.S.C. § 1983 against Defendant Apollon.

119. Defendant Apollon, in uniform and armed, seized Mr. Millet and replaced his existing cuffs with new cuffs that were too tight, refused to loosen or remove them, and laughed at Mr. Millet while he was bleeding and in pain.

120. Mr. Millet did not engage in any criminal conduct.

121. Mr. Millet was not a threat to the safety of Defendant Apollon, himself nor others.

122. Mr. Millet had a clearly established constitutional right under the Fourth Amendment to be secure in his person from unreasonable seizure through excessive force.

123. Defendant Apollon's actions and use of force were objectively unreasonable in light of the facts and circumstances.

124. After the incident, Mr. Millet could not feel his hands for days, and his wrists ached and swelled weeks after and required a wrist brace. Mr. Millet suffered pain in his wrists, back and face both during and for several months after the incident. To this day, Mr. Millet's neck, back and wrists ache, and he has difficulty lifting anything heavy, thus preventing him from working in construction.

125. Defendant Apollon's conduct occurred under color of law and violated Mr. Millet's rights under the Fourth Amendment.

COUNT SIX

Violation of D.C. Common Law: Assault and Battery

Against the Individual SPO Defendants, the District of Columbia, and SAM

126. Mr. Millet asserts this count under D.C. common law against the Individual SPO Defendants, the District of Columbia, and SAM.

127. The Individual SPO Defendants, the District of Columbia, and SAM are jointly and severally liable for the assault and battery committed on Mr. Millet through both word and act.

128. Unprovoked, the Individual SPO Defendants intentionally tackled, punched, knelt with their knees on, and handcuffed Mr. Millet.

129. As a result of this assault, Mr. Millet suffered substantial harm, including but not limited to mental and emotional distress.

130. At all relevant times during the circumstances described in this Complaint, the Individual SPO Defendants were acting within the scope of their duty as SPOs appointed pursuant to D.C. Code § 5-129.02 and employed by SAM.

131. SAM is liable under the doctrine of *respondeat superior* for the actions of its agents, including the Individual SPO Defendants, who acted within the scope of their employment as SPOs and on behalf of and in the interests of their employer.

132. On information and belief, SAM was contracted by the District (through its agency, DHS) to keep shelter guests and staff at Trinidad Recreation Center safe and secure.

133. The District has and exercises the power to control the conduct of the SPOs employed SAM, placing the SPOs in an agent-principle or master-servant relationship with the District.

134. In the alternative, the District is liable under the doctrine of apparent agency, because the District represents to the public that shelter SPOs, including the Individual SPO Defendants, are its agents and that they are trained, screened, and managed accordingly.

135. In the alternative, the District retains liability over the acts of its independent contractor, SAM, and its agents, because the SPOs' work at Trinidad Recreation Center implicates DHS's non-delegable duties to its shelter guests.

COUNT SEVEN

Violation of D.C. Common Law: Assault and Battery

Against the Individual MPD Defendant and the District of Columbia

136. Mr. Millet asserts this count under D.C. common law against Defendant Apollon and against the District of Columbia under the doctrine of *respondeat superior*.

137. Defendant Apollon intentionally handcuffed Mr. Millet's wrists too tightly, refused to loosen or remove the cuffs when Mr. Millet told him they were too tight, and laughed at him while he was bleeding and in pain.

138. As a result of this assault, Mr. Millet suffered substantial harm, including but not limited to mental and emotional distress.

139. Defendant District of Columbia is liable under the doctrine of *respondeat superior* for the actions of its agents, including Defendant Apollon, who acted within the scope of his employment as an MPD officer and on behalf of and in the interests of his employer.

COUNT EIGHT

Violation of D.C. Common Law: False Imprisonment

Against the Individual SPO Defendants, District of Columbia, and SAM

140. Mr. Millet asserts this count under D.C. common law against the Individual SPO Defendants, the District of Columbia, and SAM.

141. The Individual SPO Defendants are jointly and severally liable for falsely imprisoning Mr. Millet by tackling him to the ground as he was leaving the Trinidad Recreation Center, handcuffing him and detaining him, all with no valid basis or warrant.

142. Mr. Millet was held against his will by the Individual SPO Defendants until MPD arrived and was detained and handcuffed in total for approximately 25 minutes due to the Individual SPO Defendants' unlawful actions.

143. As a result of this false imprisonment, Mr. Millet suffered substantial harm, including but not limited to emotional distress.

144. SAM is liable under the doctrine of *respondeat superior* for the actions of its agents, including the Individual SPO Defendants, who acted within the scope of their employment as SPOs and on behalf of and in the interests of their employer.

145. On information and belief, SAM was contracted by the District (through its agency, DHS) to keep shelter guests and staff at Trinidad Recreation Center safe and secure.

146. The District has and exercises the power to control the conduct of the SPOs employed by SAM, placing the SPOs in an agent-principle or master-servant relationship with the District.

147. In the alternative, the District is liable under the doctrine of apparent agency, because the District represents to the public that shelter SPOs, including the Individual SPO Defendants, are its agents and that they are trained, screened, and managed accordingly.

148. 187. In the alternative, the District retains liability over the acts of its independent contractor, SAM, and its agents, because the SPOs' work at Trinidad Recreation Center implicates DHS's non-delegable duties to its shelter guests.

COUNT NINE

Intentional Infliction Of Emotional Distress

Against the Individual SPO Defendants, District of Columbia, and SAM

149. Mr. Millet asserts this count under D.C. common law against the Individual SPO Defendants, the District of Columbia, and SAM.

150. The Individual SPO Defendants are jointly and severally liable for their intentional and/or reckless, extreme, and outrageous conduct. By violently attacking Mr. Millet unprovoked, tackling him to the ground, pushing their knees into his back, punching him repeatedly in the face splitting his lip, and cuffing him, the Individual SPO Defendants intended to cause or recklessly caused Mr. Millet to fear for his safety. Their conduct was extreme and outrageous by any standard of decency.

151. As a result of the Individual SPO Defendants' intentional or reckless acts, Mr. Millet suffered and continues to suffer severe emotional distress. Mr. Millet must still use the D.C. shelter system. On one occasion he saw one of the Individual SPO Defendants at another shelter and felt very afraid. Mr. Millet now becomes incredibly fearful and anxious seeing any SPOs in the shelters he visits, and he still experiences humiliation from the violent incident.

152. SAM is liable under the doctrine of *respondeat superior* for the actions of its agents, including the Individual SPO Defendants, who acted within the scope of their employment as SPOs and on behalf of and in the interests of their employer.

153. On information and belief, SAM was contracted by the District (through its agency, DHS) to keep shelter guests and staff at Trinidad Recreation Center safe and secure.

154. The District has and exercises the power to control the conduct of the SPOs employed by SAM, placing the SPOs in an agent-principle or master-servant relationship with the District.

155. In the alternative, the District is liable under the doctrine of apparent agency, because the District represents to the public that shelter SPOs, including the Individual SPO Defendants, are its agents and that they are trained, screened, and managed accordingly.

156. 187. In the alternative, the District retains liability over the acts of its independent contractor, SAM, and its agents, because the SPOs' work at Trinidad Recreation Center implicates DHS's non-delegable duties to its shelter guests.

COUNT TEN

Intentional Infliction Of Emotional Distress

Against the Individual MPD Defendant and the District of Columbia

157. Mr. Millet asserts this count under D.C. common law against Defendant Apollon and against the District of Columbia under the doctrine of *respondeat superior*.

158. Defendant Apollon intentionally or recklessly engaged in extreme and outrageous conduct by handcuffing Mr. Millet too tightly, refusing to loosen or remove them at Mr. Millet's request, and laughing at Mr. Millet while he was in pain and bleeding. This conduct caused Mr. Millet to fear for his safety.

159. As a result of Defendant Apollon's intentional or reckless acts, Mr. Millet suffered and continues to suffer severe emotional distress. Mr. Millet now becomes incredibly fearful and anxious seeing MPD Officers, and he still experiences humiliation from the incident.

160. Defendant District of Columbia is liable under the doctrine of *respondeat superior* for the actions of its agents, including Defendant Apollon, who acted within the scope of his employment as an MPD officer and on behalf of and in the interests of his employer.

COUNT ELEVEN

Negligent Infliction Of Emotional Distress

In the Alternative to Count Nine Against the Individual SPO Defendants, the District of Columbia, and SAM

161. Mr. Millet asserts this count under D.C. common law against the Individual SPO Defendants, the District of Columbia, and SAM.

162. In the alternative to a finding of intentional infliction of emotional distress, the Individual SPO Defendants are jointly and severally liable for their negligent infliction of emotional distress upon Mr. Millet.

163. By violently attacking Mr. Millet unprovoked, tackling him to the ground, pushing their knees into his back, punching him repeatedly in the face, splitting his lip, and cuffing, the Individual SPO Defendants negligently caused Mr. Millet to fear for his safety.

164. As a result of the Individual SPO Defendants' negligence, Mr. Millet suffered and continues to suffer severe emotional distress. Mr. Millet must still use the D.C. shelter system. On one occasion he saw one of the Individual SPO Defendants at another shelter and felt very afraid. Mr. Millet now becomes incredibly fearful and anxious seeing SPOs, and he still experiences humiliation from the violent incident.

165. SAM is liable under the doctrine of *respondeat superior* for the actions of its agents, including the Individual SPO Defendants, who acted within the scope of their employment as SPOs and on behalf of and in the interests of their employer.

166. On information and belief, SAM was contracted by the District (through its agency, DHS) to keep shelter guests and staff at Trinidad Recreation Center safe and secure.

167. The District has and exercises the power to control the conduct of the SPOs employed by SAM, placing the SPOs in an agent-principle or master-servant relationship with the District.

168. In the alternative, the District is liable under the doctrine of apparent agency, because the District represents to the public that shelter SPOs, including the Individual SPO Defendants, are its agents and that they are trained, screened, and managed accordingly.

169. 187. In the alternative, DHS retains liability over the acts of its independent contractor, SAM, and its agents, because the SPOs' work at Trinidad Recreation Center implicates DHS's non-delegable duties to its shelter guests.

COUNT TWELVE

Negligent Infliction Of Emotional Distress

In the Alternative to Count Ten Against the Individual MPD Defendant and the District of Columbia

170. Mr. Millet asserts this count under D.C. common law against Defendant Apollon and against the District of Columbia under the doctrine of *respondeat superior*.

171. In the alternative to a finding of intentional infliction of emotional distress, Defendant Apollon is jointly and severally liable for his negligent infliction of emotional distress upon Mr. Millet.

172. By cuffing him too tightly, refusing to loosen or remove the cuffs, and laughing at Mr. Millet while he the Individual MPD Defendant negligently caused Mr. Millet to fear for his safety.

173. As a result of Defendant Apollon's negligence, Mr. Millet suffered and continues to suffer severe emotional distress. Mr. Millet now becomes incredibly fearful and anxious seeing MPDs, and still experiences humiliation from the incident.

174. Defendant District of Columbia is liable under the doctrine of *respondeat superior* for the actions of its agents, including the Individual MPD Defendant, who acted within the scope of his employment as an MPD officer and on behalf of and in the interests of his employer.

REQUEST FOR RELIEF

175. Defendants' flagrant disregard for their professional obligations, the rule of law, and Mr. Millet's basic dignity led to pain, fear, and material costs for Mr. Millet. Mr. Millet now asks the Court to enter a judgment confirming that Defendants are not above the laws they enforce and that they will be held accountable for abusing their authority.

176. WHEREFORE, on the basis of the foregoing, Plaintiff demands a jury trial for all issues so triable pursuant to the Seventh Amendment of the United States Constitution and Federal Rules of Civil Procedure, and requests that this Court issue the following relief:

- a. Declare that Defendants violated Mr. Millet's constitutional rights and rights under D.C. law;
- b. Award compensatory damages against Defendants in an amount to be determined by a jury at trial, for the emotional distress, fear, embarrassment, humiliation, reputational damage, inconvenience, loss of income, and physical pain that Mr. Millet has suffered and continues to suffer as a result of these incidents;
- c. Award punitive damages against Defendants for their willful and egregious violations of the law in an amount to be determined by a jury at trial;
- d. Award reasonable attorneys' fees, expenses, and costs of litigation pursuant to 42 U.S.C. § 1988 and other applicable law;
- e. Enter an appropriate injunction enjoining the Defendants from further deprivations of Mr. Millet's constitutional rights and rights under the District of Columbia law and enjoining District of Columbia and SAM from deploying SPOs in a similar manner at the Trinidad Recreation Center; and
- f. Award such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

March 22, 2023

Respectfully submitted,

/s/ Bina Ahmad

Bina Ahmad (D.C. Bar No. 502839)*

Brittany Francis (D.C. Bar No. 90008960)*

Civil Rights Corps

1601 Connecticut Ave. NW, Ste 800

Washington, D.C. 20009

bina@civilrightscorps.org

brittany@civilrightscorps.org

/s/ Robert Baldwin III

Robert Baldwin III (D.C. Bar No. 90002020)*

Virtue Law Group

1250 Connecticut Ave., Suite 700

Washington, District of Columbia 20036

robert@virtuelawgroup.com

Counsel for Plaintiff

* Appearing before this Court without compensation from clients, pursuant to Local Civil Rule 83.2(f).