

... In situations where law enforcement officers are justified in using force, **the utmost restraint should be exercised. The use of force should never be considered routine.** In determining to use force, the law enforcement officer shall be guided by the principle that **the degree of force employed in any situation should be only that reasonably necessary.** Law enforcement officers should exhaust all other reasonable means before resorting to the use of force. It is the policy of the State of New Jersey that law enforcement officers will use only that force which is objectively reasonable and necessary.

AG UFP at 1, par. 3 (bold added). The AG UFP also provides:

Deciding whether to utilize force when authorized in the conduct of official responsibilities is among the most critical decisions made by law enforcement officers. **It is a decision which can be irrevocable.** It is a decision which must be made quickly and under difficult, often unpredictable and unique circumstances. Sound judgment and the appropriate exercise of discretion will always be the foundation of police officer decision making in the broad range of possible use of force situations. It is not possible to entirely replace judgment and discretion with detailed policy provisions.

AG UFP at 2, par. 1 (bold added).

83. The AG UFP policy also imposes a duty upon other officers with respect to the use of excessive force. The policy:

... reinforces the responsibility of law enforcement officers to take those steps possible to prevent or stop the illegal or inappropriate use of force by other officers. Every law enforcement officer is expected and required to take appropriate action in any situation where that officer is clearly convinced that another officer is using force in violation of state law. Law enforcement officers are obligated to report all situations in which force is used illegally by anyone. This policy sends a clear message to law enforcement officers that they share an obligation beyond the requirements of the law.

AG UFP at 1-2, par. 4.

84. As demonstrated herein, and as specifically incorporated into the Second and Third Counts of this Amended Complaint, the Supervisory Defendants of the Millville Police Department failed to abide by their responsibilities to intervene to prevent and to report the excessive force used by Defendant Dixon on March 24, 2018 and at other times noted herein under the AG UFP and under the Millville Police Department's own Rules and Regulations, the

latter of which Defendant Dixon acknowledged that he had read and understood on August 28, 2012.

85. Joyce reserves the right to assert other violations of state and local guidelines and directives, as may be revealed in discovery and investigation.

86. Separate and apart from, and/or as a result of the violations of, the AG UFP, Millville Police Department Directives, and any police academy training he received, Defendant Dixon used excessive force against Plaintiff in effecting her arrest, resulting in a violation of her rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable searches and seizures.

87. Moreover, Defendant Dixon pleaded guilty to assaulting Joyce and to using excessive force against her.

88. And following Dixon's guilty plea on November 20, 2019, New Jersey's Attorney General announced that, "When officers use force that has no reasonable relationship to any resistance or threat they face, as Dixon did, they not only injure and traumatize those involved, they do a tremendous disservice to all of their fellow officers who uphold the highest law enforcement standards and work hard to secure the trust of the communities they serve."

89. Following Dixon's guilty plea, OPIA Director Thomas Eicher further announced: "Nobody is above the law, and if we have sufficient proof that an officer has committed a crime, we will prosecute that officer as we would any other individual. This former officer will rightly carry a felony record for the rest of his life."

90. Joyce further reserves the right to move to consolidate this action with the Capps litigation pursuant to Federal Rule of Civil Procedure 42(a).

WHEREFORE, Plaintiff Tanika Joyce respectfully requests that this Honorable Court enter judgment in her favor and against Defendants Joseph Dixon and John/Jane Doe(s) I and II, individually, jointly and severally, in an amount that would reasonably and properly compensate her in accordance with the law, together with punitive damages, prejudgment interest, costs of suit, reasonable attorney's fees pursuant to 42 U.S.C. section 1988, and such other relief as the Court deems just.

**SECOND COUNT**  
**Supervisory Liability Under 42 U.S.C. sec. 1983**

" ... I want to thank you for always having my back and being a great Chief."  
(October 19, 2019 Resignation Email From Joseph Dixon to Chief Jody Farabella)

91. Plaintiff incorporates the preceding paragraphs of this Amended Complaint as if set forth at length herein, and further applies and incorporates the allegations contained in this Second Count to the Third Count set forth herein.

**A. Acquiescence on Dixon's Repeated Use of Force,  
Failing to See the Warning Signs, and an  
Ineffective Random MVR Review System.**

92. In the early days of Dixon's employment with the Millville Police Department, his employer and/or supervisors suspended him for three days in October 2013 and required him to attend re-training on vehicular pursuit because he attempted a maneuver in violation of New Jersey Attorney General and MPD pursuit policies. At various other times, Dixon received discipline or counseling for, among other things, not properly submitting evidence and for missing court proceedings. But when it came to incidents involving the use of excessive force as they were occurring, and as Dixon was filling out his 80 UOF reports along the way, Defendant Chief Farabella and the other individual Supervisory Defendants had his back, and failed to act in the face of mounting documentary and video evidence that Dixon was a problem waiting to happen.

93. Moreover, upon information and belief, the Supervisory Defendants named herein either failed to notice or looked the other way when, as it was reported by NJ.com in connection with The Force Report in late 2018, Dixon had posted thoughts and memes to his public Facebook account to defend how other police officers have used force, and to disparage critics of police tactics.

94. Upon information and belief, and as further reported by NJ.com, approximately three weeks after NJ.com reached out to Dixon about his posts, the privacy settings on Dixon's Facebook account were changed, and the posts are no longer visible.

95. Upon further information and belief, and as reported by NJ.com, Dixon in 2016 posted a video of a peaceful Florida arrest and wrote: "You don't get shot or 'assaulted' when you shut your mouth and use your ears and comply."

96. Guardian Tracking System entries for Dixon prior to the Capps and Joyce incidents showed that he was disciplined or counseled for non-force related infractions.

97. By August 27, 2014, after only being employed by the MPD for two years, Dixon had accumulated 13 use of force incidents. On only one of those 13 cases did Defendant Lt. Colon have concerns, and as of that August 27, 2014 entry, Dixon was to be "monitored for any further incidents." As discussed elsewhere herein, that monitoring was insufficient.

98. As part of the MPD's process of evaluating its officers, a supervisor would perform an evaluation on approximately an annual basis.

99. The City of Millville's own documents on the selection of MVR footage involving Dixon for purposes of evaluation and training revealed that supervisors did not review use of force incidents. Rather, supervisors' reviews of MVRs involving Dixon were selected at

"random" and were not "incident specific," even though there was a box right on the evaluation template form which contemplated the possibility of a review for specific incidents.

100. Upon information and belief, the practice of reviewing "random" incidents for training and evaluation purposes was not designed to catch those officers who might be using excessive force too frequently. Instead, the practice of "random" MVR reviews for evaluation purposes proved to be a means of studiously avoiding the actual review of use of force incidents, something that might expose a municipality to liability.

101. Defendant Sgt. Carl Heger provided the evaluation for Dixon for the period of November 1, 2017 through October 7, 2018, the period covering the Capps and Joyce incidents. Heger's evaluation forms make note of Dixon's traffic stops, pedestrian stops, arrests, and summonses, but not incidents involving the use of force.

102. Defendant Sgt. Redden prepared the evaluation of Dixon from January 1, 2017 through November 1, 2017. He noted the number of traffic summonses, arrests and reports, but no numbers about excessive force incidents. Quite strikingly, the relatively positive evaluation provided by Defendant Sgt. Redden covered the time period encompassed by the Barry Cottman jaywalking assault which was captured on video and published by a Philadelphia news station in June of 2017. Nevertheless, Sgt. Redden provided a positive evaluation for Dixon, despite noting that he claimed at that time that he had limited interaction with him on his current unit.

103. Defendant Sgt. Cindi Zadroga evaluated Dixon for the period covering January 1, 2016 through October 1, 2016. While describing some of Dixon's good qualities, she noted "unacceptable" ratings in completing tasks in a timely manner and in overall attitude. Dixon's numbers on arrests, pedestrian stops, motor vehicle summonses and other categories were noted, including nine use of force incidents.

104. Defendant Dixon's supervisors who are listed as reviewing Dixon's 80 UOF reports from March 23, 2013 to the times of the Capps and Joyce incidents in early 2018 were Defendants Lt. Colon, Sgt. Mulford, Sgt. Hoffman, Chief Farabella, Sgt. Duffield, Lt. Zadroga, Lt. McLaughlin, Sgt. Zadroga, Sgt. Redden, Lt. Heger, and Sgt. Ayars. Some of these UOF forms do not list a supervisor reviewing the form and one even lists Dixon in the supervisory block on the UOF form.

105. City of Millville records show that in 2014, some of Dixon's own supervisors, Defendants Lt. Zadroga, Sgt. Redden and Sgt. Duffield, had sustained findings and various punishments against them under the category of "failure to supervise."

**B. Lieutenant McLaughlin's OPIA Interview.**

106. Defendant Lt. McLaughlin told OPIA's investigators that it was the responsibility of the patrol sergeant to review all UOF reports and investigation reports.

107. But he described in his July 2019 OPIA interview in connection with the Dixon criminal probe that recently that year there was a change to the August 2016 updated Use of Force policy to review UOF reports.

108. Under the new 2019 policy, Defendant Lt. McLaughlin said, every UOF report must have a two-tier comprehensive review done by both the sergeant and the lieutenant. This review includes reviewing not only an investigation report but also any MVR and 9-1-1 recordings in reference to a call. The review is then added to what is known as the Guardian Tracking System by the sergeant and the lieutenant. However, prior to this 2019 policy change, the sergeant would only check the UOF report for accuracy and completeness, but the sergeant did not do any audio or video review.

109. The prior policy outlined by Defendant Lt. McLaughlin could not, as described, be meaningful or geared toward catching officers like Dixon engaging in the improper use of force. That is because a standard UOF report is a one-page template that is filled in by the officer involved in a particular incident. Since a supervisor reviewing such a document more likely than not would not be expected to be out at the scene of the incident, or have firsthand knowledge of the incident, a supervisor would have no way of actually knowing that a UOF form was accurate and complete just by looking at the document prepared by the submitting officer.

110. When OPIA asked Defendant Lt. McLaughlin why the review policy changed in 2019, he told OPIA he was not sure, but he believed it was because of OPIA's investigation and the release of The Force Report. This demonstrates that the MPD only changed its policy in favor of additional audio and video review of a use of force incident when it was exposed in public by the media and when one of its own officers was the subject of a criminal investigation.

111. Defendant Lt. McLaughlin also told OPIA about an additional use of force incident occurring on May 2, 2019, when Dixon was still on the police force, and which McLaughlin described in a May 20, 2019 letter. McLaughlin told OPIA that after his review of the 9-1-1 tape, Dixon should have been aware he was responding to a mentally disturbed individual, and that he should not have used a closed fist strike to gain compliance. He said OC spray should have been used.

112. Defendant Lt. McLaughlin claimed in his OPIA interview that he did not pay attention to the news, but he was aware of The Force Report and possibly recalled looking at the numbers for his officers. He claimed that he did not read any of the articles.

113. Defendant Lt. McLaughlin told OPIA that he has not worked with Dixon and did not believe he has ever directly supervised him. In fact, however, Defendant Lt. McLaughlin did review three of Dixon's UOF reports.

**C. Sgt. Redden's OPIA Interview and Dixon's  
"Glass Hands" and Reputation for Punching People.**

114. Defendant Sgt. John Redden, in his interview in July of 2019, also told OPIA that approximately six months prior the UOF policy changed. Before the change, it was his responsibility to check for completeness and compare a UOF report to the investigation report.

115. Defendant Sgt. Redden described the 2019 use of force policy change in somewhat different terms from the description provided by Defendant Lt. McLaughlin. Redden said that under the new 2019 policy, if there is any complaint of pain, there must be a full investigation done of the incident, including review of MVR footage, speaking to the injured individual, and responding to the scene. After the completion of this investigation, it must be entered into the Guardian Tracking System, stating if the use of force was justified or not.

116. Defendant Sgt. Redden told OPIA that he supervised Dixon for a few months prior to Dixon's involvement in a police-involved shooting, and at another occasion during Dixon's career. Redden told OPIA that Dixon left Redden's squad to go to another squad to work with a friend. It can be assumed that this friend was Officer Bryan Orndorf, a co-defendant in the Capps litigation, as Orndorf apparently knew Dixon for 11-12 years before Orndorf joined the MPD.

117. Defendant Sgt. Redden described Dixon as wanting to be proactive and aggressive, and noted that because of this Dixon caused more work for him and for other supervisors.

118. Remarkably, Defendant Sgt. Redden told OPIA that Dixon punches people in the face, and that he addressed his actions. In fact, Sgt. Redden referred to Dixon with the nickname of "glass hands," because Dixon broke his hand on numerous occasions.

119. Defendant Sgt. Redden also related to OPIA that he told Dixon that the use of force gives the public a poor perception of the police.

120. Dixon's response to this was, "If I'm justified to use force, I'm going to use force." Dixon's attitude about the use of force stands in contrast to the Attorney General's Use of Force Policy, which states that an officer should use the "utmost restraint" in connection with the use of force, even though it may be "justified."

121. In fact, Defendant Sgt. Redden told OPIA that he was not aware if Dixon received any formal training aside from the police academy on defensive tactics. But he knew that since Dixon was assigned to dispatch, he watched UFC fights.

122. Importantly, Defendant Sgt. Redden was Dixon's supervisor on the night of the Capps incident. (He is also listed as the supervisory officer on the UOF form for the Joyce incident on March 24, 2018.) In his OPIA interview, Defendant Sgt. Redden stated that he was under the impression that the Capps arrest was a normal DWI but nothing out of the ordinary. Defendant Sgt. Redden claimed that he watched the MVR – without specifying when he reviewed it – and claimed that Dixon just reacted to Capps. He told OPIA quite remarkably that he was glad that Dixon did not punch Capps because Dixon is known for punching people. Despite the fact that Redden knew Dixon was known for punching people, and gave Dixon the nickname of "glass hands," Dixon remained on the police force.

123. During his OPIA interview, Defendant Sgt. Redden was shown that Dixon did not mark the box on the standard UOF report that Capps was injured on February 25, 2018.

Defendant Sgt. Redden told OPIA that Dixon should have checked the box for “injured” on the form.

124. Defendant Sgt. Redden further informed OPIA that Defendant Sgt. Ayars did the first review on that UOF form and that Defendant Sgt. Ayars only checked for completeness. Yet Sgt. Ayars’s name appears nowhere on the Dixon UOF form relating to the February 25, 2018 Capps incident.

125. Defendant Sgt. Redden conceded that on the bottom of the UOF report in Box E he never read that block prior to the OPIA investigator pointing it out to him. Defendant Sgt. Redden claimed he never had formal training on how to check the UOF report until the policy change, which did not take place until 2019. This demonstrates a lack of training on, and attention being paid to, UOF reports.

**D. Chief Farabella’s OPIA Interview and “Always Having” Dixon’s Back.**

126. The OPIA also interviewed Defendant Chief Farabella in September 2019 as part of its criminal probe into Dixon’s conduct. Farabella told OPIA that the recent Use of Force policy change occurred as a result of the “ACLU or Star Ledger” report that came out and also from talking to other area chiefs of police.

127. Defendant Chief Farabella said that under the new policy, a UOF form would go from the sergeant to the lieutenant for review, after which it would not be seen by him unless an internal affairs investigation is generated. Furthermore, under the new policy, on all use of force incidents, an MVR review must be done. Supervisors are told to inform Internal Affairs if any excessive use of force is observed.

128. Defendant Chief Farabella did not issue his memorandum regarding the new use of force policy change until March 15, 2019. A new General Order on the Use of Force became

effective on June 4, 2019. This was, unfortunately, too little too late to prevent what happened to Barry Cottman, Audra Capps and Plaintiff Tanika Joyce.

129. When the use of force article came out – meaning The Force Report – (in late 2018) Defendant Chief Farabella said that Officer Dixon had the most use of force in the state.

130. Defendant Chief Farabella told OPIA in September 2019 that when the Capps arrest video was released to the public, he had concerns with Dixon using excessive force. He did not feel that Dixon's hip throw would have been the force he would have used in the same scenario.

131. Following Dixon's participation in an officer-involved shooting in April 2018, a captain at the time said that Defendant Chief Farabella should write a letter of valor for Dixon's actions. Defendant Chief Farabella confirmed to OPIA that he wrote this letter and that if Dixon were selected, he would have had an opportunity to meet the President of the United States.

132. Even when The Force Report came out, and Dixon knew he was the highest ranking officer, Dixon was still using force, according to Defendant Chief Farabella's interview with OPIA. Defendant Chief Farabella further stated that, since becoming aware of Dixon's use of force, he did not agree with a lot of the use of force actions Dixon performed, and said he believed that many were excessive.

133. Importantly, however, Defendant Chief Farabella also told OPIA that he spoke to Dixon a few times about his use of force and told Dixon that using the type of force he used was not the image of a police officer.

134. In a strongly worded rebuke to Detective/Sgt. Brian Starcher on October 1, 2015 regarding the seeking of outside legal opinions, Defendant Chief Farabella took complete responsibility for the management of the MPD and of the Internal Affairs Unit, saying: "Please understand that I am the Chief of Police and I run the day to day operations of this department,

including the Internal Affairs Unit that you are currently assigned to. It is my responsibility to make sure this department is run correctly and if there is a problem with any employee, it should be brought to my attention without delay.”

135. Despite this acknowledgement of responsibility for the running of the MPD, in spite of the broadcast of the Barry Cottman video in 2017, in spite of the Capps incident on February 25, 2018, and despite telling Dixon that the type of force he used was not the image of a police officer, Defendant Chief Farabella and the other Supervisory Defendants allowed Dixon to remain employed as Millville police officer long enough to encounter Plaintiff Tanika Joyce on March 24, 2018 and well beyond that date.

136. These Defendants, Chief Farabella, Lt. Colon, Sgt. Mulford, Sgt. Hoffman, Sgt. Duffield, Lt. Zadroga, Lt. McLaughlin, Sgt. Zadroga, Sgt. Redden, Lt. Heger, and Sgt. Ayars and/or John/Jane Doe(s) II (collectively, in this Second Count “the Supervisory Defendants”), knew or should have known from the 80 accumulating UOF reports they reviewed, and for other reasons detailed herein, about the violent tendencies of Dixon and/or other Millville officers, and in their roles as policymakers and/or supervisors for the Defendant, City of Millville, and with deliberate indifference to the consequences, established and maintained policies, practices or customs identified elsewhere herein, and as may be further revealed in discovery and investigation, which directly caused the constitutional harm which resulted to Plaintiff Joyce and which resulted to other known plaintiffs.

137. The Supervisory Defendants failed to employ those practices and policies identified elsewhere herein, and such practices and policies which further may be revealed in discovery and investigation.

138. In the alternative, and as described in detail in this Count, the policies or procedures with regard to officer evaluation, training and oversight and/or with respect to internal affairs procedures as more fully described in Count III, in effect at the time of the injuries alleged herein, created an unreasonable risk of a constitutional violation.

139. Upon information and belief, the Supervisory Defendants were aware that the policies or practices created an unreasonable risk of a constitutional violation.

140. The Supervisory Defendants, having knowledge of the violent tendencies of Dixon and of other Millville police officers, were indifferent to the risk.

141. In addition, and in the alternative, the constitutional injury alleged herein and as alleged in other litigation was caused by the Supervisory Defendants' failure to implement appropriate supervisory practices or procedures that were likely to catch and/or prevent the use of excessive force in Dixon and in other officers.

142. As may be applicable and appropriate to this Count, and based on the facts recited in Counts, I, II, and III, which are incorporated herein by reference, these Defendants are liable as supervisors under 42 U.S.C. sec. 1983. See A.M. v. Luzerne Cty. Juvenile Detention Ctr., 372 F.3d 572, 585-586 (3d Cir. 2004) (citations omitted); Barkes v. First Correctional Medical, Inc., 766 F.3d 307, 317-320 (3d Cir. 2014), rev'd on other grounds, Taylor v. Barkes, 135 S.Ct. 2042 (2015), as cited in Raheem Jacobs v. Cumberland Cty., et al., Civil Action No. 1:16-cv-01523-JHR-AMD (D.N.J.).

143. The Supervisory Defendants may be held personally liable under 42 U.S.C. sec. 1983, as persons in charge, by acquiescing in their subordinates' violations, and in such other ways as may be revealed in discovery and investigation.

144. As evidence of this acquiescence, and just by way of example, Defendant Chief Farabella, instead of simply declining to comment in the face of NJ.com's damning reporting about Dixon's use of force numbers, went out of his way to defend Dixon by calling him "an example of a fine officer," and by making other reported comments to excuse or to justify Dixon's conduct.

145. Accordingly, when Dixon resigned his employment from the City of Millville in an October 19, 2019 email, he told Defendant Chief Farabella: "... As we last spoke about my current in going [sic] the deal offered to me is much worse than I could have imagined. **I want to thank you for always having my back** and being a great Chief" (bold and underlining added).

146. In addition to the pleaded facts set forth in Counts I, II and III of this Amended Complaint, which are hereby incorporated by reference, and as additionally may be revealed in discovery and investigation, the Supervisory Defendants, upon information and belief, implemented and/or allowed improper policies or procedures to exist and/or acquiesced in the violations of their subordinates, in that they:

- (1) knew or should have known about the frequency of their own departmental use of force reports which were filled out by their officers, including but not limited to Defendant Dixon;
- (2) knew or should have known that their training and evaluation programs were ineffective in stemming the tide of unconstitutional uses of excessive force by their officers;
- (3) knew or should have known that state and departmental guidelines regarding the use of force were not being adhered to;

- (4) knew or should have known that appropriate procedures regarding the conduct of internal affairs investigations and officer discipline for the use of excessive force were not being followed and/or misused to create biased outcomes, with the ultimate result that dangerous officers were being permitted to remain employed, undisciplined and unpunished, to the detriment of the public and Plaintiff in this case and in other cases, as more fully discussed in the Third Count;
- (5) knew or should have known that the high frequency of certain officers' (including, but not limited to, Dixon) use of force reports was evidence of a larger problem which was not being addressed and/or which was being overlooked in an effort to support the officers of the Millville Police Department; and/or
- (6) knew or should have known, based on previous instances of Dixon's use of force, and at least as early as the June 27, 2017 incident in the Cottman case and the February 25, 2018 incident in the Capps case, that Dixon exhibited the propensity to use excessive force, such that he should not have been permitted to remain on duty prior to the March 24, 2018 incident involving Plaintiff Joyce.

WHEREFORE, Plaintiff Tanika Joyce respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, Chief Jody Farabella, Lt. Michael Colon, Sgt. Lawrence Mulford, Sgt. Ross Hoffman, Sgt. Harold Duffield, Jr., Lt. Edward Zadroga, Lt. Kevin McLaughlin, Sgt. Cindi Zadroga, Sgt. John Redden, III, Lt. Carl Heger, Sgt. Dan Ayars, and/or John/Jane Doe(s) II, individually, jointly and severally, in an amount that would reasonably and properly compensate her in accordance with the law, together with punitive damages as may be permitted by law, prejudgment interest, reasonable attorney's fees pursuant to 42 U.S.C. section 1988, costs of suit, and such other relief as the Court deems just.