

67. The New Jersey Attorney General's Use of Force Policy (revised June 2000) (the "AG UFP") provides that, among other things:

... 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).

68. 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).

69. The AG UFP further defines "physical force" as "contact with a subject beyond that which is generally utilized to effect an arrest or other law enforcement objective. Physical force is employed when necessary to overcome a subject's physical resistance to the exertion of the law enforcement officer's authority, or to protect persons or property. AG UFP at 3(C)(1).

70. Examples of physical force include "wrestling a resisting subject to the ground, using wrist locks or arm locks, striking with the hands or feet, or other similar methods of hand-to-hand confrontation." AG UFP at 3(C)(2).

71. By contrast, “deadly force” is “force which a law enforcement officer uses with the purpose of causing, or which the officer knows to create a substantial risk of causing, death or serious bodily harm.” AG UFP at 3(E)(1).

72. On the subject of restrictions on the use of deadly force, the AG UFP provides:

A law enforcement officer is under no obligation to retreat or desist when resistance is encountered or threatened. However, a law enforcement officer shall not resort to the use of deadly force if the officer reasonably believes that an alternative to the use of deadly force will avert or eliminate an imminent danger of death or serious bodily harm, and achieve the law enforcement purpose at no increased risk to the officer or another person.

AG UFP at 5(C)(1).

73. As described elsewhere in this Amended Complaint, Defendant Dixon’s use of force became routine.

74. And as demonstrated on the MVR footage, Defendant Dixon did not exercise the “utmost restraint” and did not employ only the level of force that was “reasonably necessary” in his encounter with Plaintiff Capps, a 50-year-old woman of slight build.

75. The MVR footage demonstrates that Defendant Dixon violated the AG UFP, as the amount and type of force used upon Plaintiff Capps was far out of proportion under the circumstances of the motor vehicle stop which occurred on February 25, 2018.

76. 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.

77. On the night of February 25, 2018, Defendant Orndorf failed to abide by his responsibility to intervene to prevent and thereafter to report the excessive force used by Defendant Dixon under the AG UFP and under section 4.1.5 of the Millville Police Department's own Rules and Regulations.

78. Instead, Defendant Officer Orndorf inflicted and/or compounded the injuries sustained by Plaintiff Capps as a result of Defendant Dixon's use of excessive force.

79. On the night of the Capps incident, Defendant Orndorf stood to the side of vehicle, and he moved in close proximity to Dixon.

80. Defendant Orndorf told the New Jersey Office of Attorney General's Office of Public Integrity and Accountability (hereinafter, the "OPIA"), in connection with a later criminal investigation into Dixon's conduct, that on the night of the Capps incident of February 25, 2018, he was working night shift with Dixon for about a year. He said that Dixon switched squads often, but Orndorf claimed that he was not sure of the exact reason for this.

81. Defendant Orndorf told OPIA that he remembered Capps complaining that she could not breathe, and she was placed in a police car. He said he did not remember if she asked to go to the hospital. He also told OPIA that he does not like to be seen on tape.

82. Among other possible reasons for not intervening and for not reporting Dixon that may be revealed in discovery and investigation, Defendant Orndorf knew Dixon for many years prior to Orndorf becoming a Millville police officer.



*(2) Officer Dixon Violated Basic Police Academy  
Training on The Use of Force.*

83. Police academy training which, upon information and belief, Defendant Officer Dixon received, further demonstrates that he failed to use a degree of force a reasonable police officer would use under the circumstances.

84. Effective in January 2009, and prior to Dixon becoming a Millville Police Officer in 2012, the New Jersey Police Training Commission put into effect a new Defensive Tactics Curriculum for police academy instructors teaching defensive tactics to student officers in the Basic Course for Police Officers (the "DTC").

85. In connection with the concept of "unarmed defense," the DTC differentiated between different types of resistance by a suspect, such as (1) "preventative resistance" which is defined as physical action that prevents an officer's control without attempting to harm the officer, such as a subject walking away or pulling away (resisting handcuffing), DTC pars. 3.4.1, 3.4.2, and (2) "active aggression," a physical assault/action on an officer using personal weapons of the body, other than deadly force, DTC 3.5.1.

86. As demonstrated by the MVR footage, Plaintiff Capps did not engage in "active aggression" against an officer, but rather engaged in "preventative resistance" by attempting to move away from Officer Dixon, who was trying to handcuff her.

87. The DTC material further recognized five "takedown techniques," including: (1) the straight arm takedown; (2) the wrist turnout takedown; (3) the bar hammer takedown; (4) a chest grab to the inside; and (5) a chest grab to the outside.

88. As demonstrated by the MVR footage, and in response to Plaintiff Capps's "preventative resistance" of attempting to avoid being handcuffed, Dixon did not use the standard DTC takedown maneuvers.

89. Section 4.10.1 ("Courtesy") of the Millville Police Department's own Rules and Regulations further requires officers to, among other things, "always remain calm regardless of provocation."

90. Instead of remaining calm in the face of Plaintiff Capps's preventative resistance, Defendant Dixon abandoned the standard DTC takedown maneuvers taught in police academy training, and instead applied a whirling headlock takedown maneuver on a much smaller suspect.

91. With his whirling headlock takedown maneuver, Dixon knew or should have known that he was placing Capps in a situation that would create a substantial risk of causing her death and/or causing her serious bodily harm.

92. This is because the 2009 DTC material described numerous vulnerable parts of the human body, including the temples and the neck.

93. Dixon's whirling headlock takedown maneuver, aside from putting pressure on Plaintiff's temples about her head, could have broken her neck.

94. And by lifting a subject off of the ground, with more room to fall before hitting a hard surface on the way down, Dixon's whirling headlock takedown of Capps increased the likelihood of serious bodily injury.

95. Neither Defendant Officer Dixon nor Defendant Officer Orndorf acted as reasonable officers under the circumstances in connection with their use of force.

96. Separate and apart from, and/or as a result of the violations of the AG UFP, Millville Police Department Directives, and police academy training, Defendant Officers Dixon and Orndorf used excessive force against Capps 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.

97. Defendants' "irrevocable" decision to use excessive force against Plaintiff Capps resulted in very serious and permanent injuries, as described more fully below.

*(3) Defendants Violated Additional Millville Police Department Policies*

98. Defendant Officer Dixon wrote in his investigation report regarding the February 25, 2018 incident that he asked Plaintiff Capps if she needed EMS to respond.

99. Yet Officer Dixon's report did not completely and accurately detail Plaintiff Capps's statements and requests for medical attention immediately after being slammed to the pavement at the Clark's Liquor Store parking lot:

Capps was picked up from the ground and walked into the back of my patrol vehicle. Capps stated that I had to call her husband as she could not breathe. Capps appeared to breathing [sic] fine at this time. Capps stated she needed to go to the hospital. Capps then stated she wanted to call her husband. Capps was advised she could call her husband once we were at the Police Department. [bracketed material added].

100. Noticeably absent from Dixon's report, and which was clear from the MVR footage, was Plaintiff Capps's statement that her rib was broken.

101. The fact that Plaintiff Capps knew immediately that her rib was broken and promptly said something about it lends credence to her complaint about not being able to breathe.

102. But Dixon ignored Plaintiff's complaint that her rib was broken, and left it out of his report.

103. Dixon also falsely did not mark the box on the standard Use of Force ("UOF") form he filled out on February 25, 2018 that Plaintiff Capps sustained injury.

104. Defendant Dixon's ignoring of Plaintiff Capps's pleas that she needed to go to the hospital, that she could not breathe, and that her rib was broken, was in violation of the Millville Police Department's own Use of Force policy, which, upon information and belief, provided that:



... Any person requesting and/or deemed in need of medical attention shall be transported to Regional Medical Center (Vineland) or nearest available emergency medical treatment center or hospital. Personnel shall contact EMS to request such transportation assistance. [emphasis added]

105. Under the circumstances presented, and the injury and breathing difficulty she reported, Plaintiff Capps's request for medical attention would trigger a trip to the hospital under this policy directive.

106. In contrast to the MPD's policy directives on medical care, Defendant Orndorf told OPIA that typically if someone is injured, the person is brought back to the police station, processed, and then EMS is called to respond to the station, unless it is a serious injury. He further told OPIA that it would be up to the arresting officer to make this call.

107. Moreover, Millville's Use of Force policy, upon information and belief, also contained additional reporting and investigatory requirements:

... The extent of the injury and the treatment offered/provided shall be documented in the body of the Investigation Report.

When necessary, especially in a deadly force incident, notify the appropriate support staff, e.g., Detective Bureau, Cumberland County Prosecutor's Office, and/or Cumberland County Sheriff's Office, who should respond to the scene and cause the appropriate level of investigative and support services, including, but not limited to: photographs, measurements, diagrams, statements, etc. When an injury or complaint of pain exists, supervisors should obtain photographic documentation to the extent possible (person upon which force was used and any affected officer)

Any employee [w]hose action(s) or use of force in an official capacity results in death or serious bodily injury to any person shall be removed from line-duty assignment pending a meaningful review.

The Chief of Police or designee and the Cumberland County Prosecutor's Office shall be immediately notified when the use of physical, mechanical, or deadly force results in death or serious bodily injury, or when an injury of any degree results from the use of a firearm by agency personnel. [emphasis added]

108. Upon information and belief, neither Dixon, Orndorf, Chief Farabella, nor the John/Jane Doe Defendants, abided by the various requirements of this departmental policy in connection with the February 25, 2018 Capps incident.

109. Whether the force used could be characterized as “physical force” or “deadly force,” this was clearly a case involving serious bodily injury – as can be seen from the actions taken by Dixon and Orndorf, and as can be heard in the statements and complaints made by Plaintiff Capps, all captured on MVR footage.

110. However, Defendant Sgt. Redden of the MPD told OPIA that he did not know the standard operating procedure when a person is injured, but he said that EMS is usually called when someone is injured, with EMS meeting the person at the station or at the scene. Redden stated that the policy left the officer little to no discretion about when EMS should be called.

111. Defendant Redden was Dixon’s supervisor on the night of the Capps incident. In his OPIA interview, Redden stated that he was under the impression that the arrest was a normal DWI but nothing out of the ordinary. Redden claimed that he watched the MVR – without specifying when he reviewed it – and claimed that Dixon just reacted to Capps.

112. As to Dixon’s failure to mark the box on the standard UOF form that Capps was injured, Defendant Sgt. Redden told OPIA that Dixon should have checked the box for “injured” on that form. Redden further informed OPIA that Sgt. Ayars did the first review on Dixon’s UOF form and that 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. Redden further 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.



113. Defendant Chief Farabella further described to OPIA that if an arrestee is injured or complains of pain, EMS must be called no matter what, and that it was not up to the officer to determine if anyone should or should not receive medical attention. Defendants Dixon and Orndorf did not comply with this directive. Instead, they decided what was or was not medically necessary.

114. Finally, Defendants Dixon and Orndorf, in using excessive force, and in failing to attend to Plaintiff Capps's expressed medical needs in light of the severity of her injury, and in not properly documenting the extent of her injury, violated Millville Police Department Rules and Regulations, including but not limited to 4.1.11 (Use of Force), 4.3.3 (Reports), 4.10.1 (Courtesy), and 4.12.6 (Truthfulness), among other Rules and Regulations and/or departmental directives which may be revealed in discovery.

115. 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 February 25, 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.

**3. The Aftermath of the Capps Takedown and the Severity of Her Injuries.**

116. After Defendants refused to take her to the hospital, or properly attend to her medical needs when requested, and after being processed at the Millville Police Department, Plaintiff Capps presented to the hospital on February 25, 2018 and again on February 26, 2018 with

shortness of breath, pain located primarily at the left lateral chest wall, and, as Plaintiff Capps reported, a "rib sticking out."

117. Initial hospital diagnoses included a chest wall contusion (which Plaintiff Capps knew immediately was not correct), and alternatively of one left side rib fracture.

118. Imaging studies, however, later revealed healing fractures of the left *third through eighth* ribs, meaning that the force of Dixon slamming Capps to the pavement, and/or of Orndorf applying his knee to her back, and/or the application of Dixon's and Orndorf's weight, resulted in Capps sustaining multiple broken ribs.

119. Plaintiff Capps treated regularly, but the injuries did not heal properly, resulting in a "nonunion" of certain of her ribs.

120. Plaintiff Capps, diagnosed at the time with intercostal neuropathy, underwent a left T5 through T8 intercostal block procedure on October 31, 2018, which resulted in no pain relief.

121. Plaintiff thereafter had left chest wall reconstruction surgery on or about January 16, 2019.

122. Among other things, that surgery resulted in the removal of one of Plaintiff Capps's ribs, and nerve blocks being placed on multiple other ribs in an effort to relieve her pain.

123. On or about March 22, 2019, Plaintiff received a steroid pain injection, which had little to no effect.

124. On April 17, 2019, Plaintiff underwent surgery again, for what was to be major chest wall reconstruction.

125. The April 17, 2019 surgery revealed the full extent of this gruesome injury.

126. Rather than Plaintiff's initial thought that she had another rib sticking out, the April 17, 2019 surgery revealed that cartilage had been ripped away from her bones, and nerves were tangled around the cartilage, causing severe pain to Plaintiff Capps.

127. As part of the April 17, 2019 surgery, the surgeon had to cut the nerves completely, and cut cartilage as well.

128. As a result of the two surgeries Plaintiff Capps endured, she received scarring about her back and torso, which added an unfortunate element of significant cosmetic injury.

129. Plaintiff Capps presently cannot lift anything over three pounds.

130. Plaintiff Capps had a follow-up appointment with her doctor on May 1, 2019.

131. Plaintiff Capps thereafter underwent pain injections and physical therapy for her injuries, with little or no relief for her symptoms.

132. As such, more than two years after Defendants' assault on her on February 25, 2018, Plaintiff is still receiving treatment for her permanent physical injuries.

133. As a result of the excessive force inflicted upon her, Plaintiff Capps also experienced and continues to experience emotional trauma, including but not limited to a fear of driving, fear whenever she sees a police officer or an emergency vehicle, and nightmares, and Plaintiff Capps is undergoing treatment for the same.

134. The numerous doctor visits, surgical procedures, and the damaged state of her physical and mental health, which is believed to be permanent, likewise caused stress and anxiety in the marriage of the Plaintiffs.

135. Plaintiff Capps lost time from her employment, sustained a loss of wages, lost vacation and sick time due to doctor visits, surgeries, hospital stays and recovery time, incurred



medical expenses unreimbursed by insurance, and had to discontinue her employment at multiple jobs. She is currently able to be employed in jobs which require no physical activity.

**C. The March 24, 2018 Joyce Incident.**

136. Merely one month after Dixon's whirling headlock takedown maneuver of Plaintiff Capps, Defendant Dixon on March 24, 2018 responded to a Shop Rite store, located at 2130 North Second Street in Millville, Cumberland County, New Jersey, in response to an alleged shoplifting complaint.

137. Upon information and belief, upon Dixon's arrival at the Shop Rite in Millville, there was a juvenile in custody for allegedly opening food items inside the store and eating the items without paying.

138. Upon information and belief, the juvenile's mother, Tanika Joyce, allegedly refused to provide identification to another Millville officer.

139. The second Millville officer, upon further information and belief, did not wish to charge the juvenile, but claimed that he needed Joyce's identification in order to release the juvenile to her.

140. While at the Millville Shop Rite, Dixon asked Joyce for identification. She told him that she did not have it, and Dixon then threatened her with being placed under arrest for not providing identification.

141. Dixon then told Joyce she was under arrest and grabbed her arm. She pulled away and asked why she was being arrested because she paid for her groceries, and there were no store items removed from her person.

142. At that time, Dixon slammed Joyce to the ground, causing her to land on her hip and hit her head on the floor. Dixon employed OC spray against Joyce.

143. Joyce's daughter, who was present at the Shop Rite, tried to record the incident, but an officer prevented her from doing so.

144. Joyce complained that she could not breathe, and that her hip was injured.

145. Dixon and Millville Police Officer Albert Chard got on her back and handcuffed her. The officers placed Joyce in the rear of a patrol car, and she asked for medical attention.

146. Officers transported Joyce to the police station, and EMS personnel met her outside and transported her to the hospital.

147. After this incident, Joyce received treatment at Inspira Hospital in Vineland, New Jersey.

148. Millville Police Officer Albert Chard later told OPIA as part of its criminal investigation into Dixon's conduct that the maneuver Dixon used to take Plaintiff to the ground was a "hip toss." Chard said that he learned this maneuver through jiu jitsu.

149. According to OPIA's investigation, Defendant Sgt. Redden told Dixon to retrieve the Shop Rite store surveillance video in connection with the Joyce incident, so that Dixon would be justified in using force.

150. On January 31, 2020, Joyce filed suit against Dixon and others, in a case captioned as Tanika Joyce v. Joseph Dixon, City of Millville, Chief Jody Farabella, and John/Jane Doe(s) I-IV, Civil Action No. 1:20-cv-01118-RMB-AMD (D.N.J.). This is the third known and pending lawsuit arising from Dixon's use of excessive force.

151. Plaintiffs herein further reserve the right to move to consolidate this action with the Joyce litigation pursuant to Federal Rule of Civil Procedure 42(a).