

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

JAMIE WILLIAM GRAHAM,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION No.: _____
	:	
	:	JURY TRIAL DEMANDED
THE CITY OF NEW MADRID, IOWA	:	
Madrid Chief of Police RICK TASLER,	:	
Officer NICK MILLSAP, and Officer	:	
NEAL COOLEY	:	
	:	
Defendants.	:	

VERIFIED COMPLAINT

PRELIMINARY STATEMENT

Plaintiff Jamie William Graham brings this civil rights lawsuit for a violation of rights guaranteed by the Fourth Amendment to the United States Constitution.

One of the cornerstones of our constitutional democracy is the right of citizens to be free from the unreasonable and unwarranted brutality of police officers whether in the course of making a lawful arrest or those officers who take exception when a citizen asserts their constitutional rights or refuses to comply with the officers unlawful or unreasonable commands. In addition, Mr. Graham has the right to expect that Madrid not be deliberately indifferent to his constitutional rights by hiring a police chief and other officers not only with objectively questionable judgment but with a history of violating the constitutional rights of others.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this Verified Complaint under the Fourth and Fourteenth Amendments to the United States Constitution and 28 U.S.C. § 1331

(federal question) and § 1343 (civil rights) and has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

2. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1402(b) because the acts at issue in this lawsuit occurred within the District.

PARTIES

3. Plaintiff Jamie William Graham (“Graham”) is a citizen of the United States and at all relevant times was a resident of Madrid, Boone County, Iowa.

4. Defendant Rick Tasler (“Tasler”) was at all times relevant to this Verified Complaint the Chief of Police of Madrid Iowa. In his capacity as Chief of Police, Defendant Madrid was a policymaker for the City of Madrid and had a legal obligation to act in conformity with the United States and Iowa Constitutions and other applicable federal and state laws. Defendant Tasler is sued in his individual capacity and at all times relevant to this Verified Complaint was acting within this scope and course of his employment with the City of Madrid and the City of Madrid Police Department. At all times relevant to this Verified Complaint he was acting under color of the laws of the State of Iowa and the City of Madrid.

5. Defendant Nick Millsap (“Millsap”) was at all times relevant to this Verified Complaint a Police Officer employed by the City of Madrid Police Department. In his capacity as a Police Officer for Madrid, Defendant Millsap had a legal obligation to act in conformity with the United States and Iowa Constitutions and other applicable federal and state laws. Defendant Millsap is sued in his individual capacity and at all times relevant to this Verified Complaint was acting within this scope and course of his employment with the City of Madrid Police Department. At all times relevant to this Verified Complaint he was acting under color of the laws of the State of Iowa and the City of Madrid.

6. Defendant Neal Cooney (“Cooney”) was at all times relevant to this Verified Complaint a Police Officer employed by the City of Madrid Police Department. In his capacity as a Police Officer for Madrid, Defendant Cooney had a legal obligation to act in conformity with the United States and Iowa Constitutions and other applicable federal and state laws. Defendant Cooney is sued in his individual capacity and at all times relevant to this Verified Complaint was acting within this scope and course of his employment with the City of Madrid Police Department. At all times relevant to this Verified Complaint, he was acting under color of the laws of the State of Iowa and the City of Madrid.

7. Defendant City of Madrid Police Department (“Police Department”) is a municipal corporation existing and operating pursuant to the laws of the State of Iowa. The City of Madrid Police Department is the public employer of the other Defendants in this matter and has a legal responsibility to operate according to the laws of the United States and the State of Iowa, including, but not limited to, the United States Constitution.

FACTUAL ALLEGATIONS

8. Plaintiff Graham is fifty-eight years old and is a long-time resident of Boone County, Iowa and the City of Madrid in particular.

9. Graham is self-employed and works as a welder and house framer in and around Madrid and central Iowa.

10. Off and on for years, Graham has affirmatively struggled with substance abuse problems and these problems have led to occasional runs in with law enforcement officials in Boone County.

11. Several of these encounters with law enforcement have included encounters with members of the City of Madrid Police Department, including the January 2015 encounter with

Chief Tasler and the other Defendants of the City of Madrid Police Department that is the subject of this Verified Complaint.

Madrid & The City of Madrid Police Department

12. Madrid, Iowa is a small former mining community located in the southeast corner of Boone County.

13. Madrid's total size is less than 1.2 square miles.

14. Incorporated in 1883, the population of Madrid was approximately 2,588 as of January 2015, the time frame of these events.

15. Madrid City Government consists of a mayor and six city council members, four (4) of which are elected by ward and two (2) of which are at-large members of the council.

16. Madrid is served by a volunteer Fire Department and a small Police Department.

17. Despite its small size, the Madrid Police Department has a Chief of Police and six (6) additional police officers.

18. Defendant Tasler is the Chief of the department, and Defendants Millsap and Cooley are two (2) of the additional six (6) officers than work under Tasler.

Rick "The Lawman" Tasler

19. Defendant Tasler is a native of Jefferson, Iowa, a 1995 graduate of Jefferson-Scranton High School, and earned a two-year law enforcement degree from Iowa Central Community College in Fort Dodge in 1998.

20. After earning his degree, Tasler was initially hired as a police officer in Gowrie, in Webster County.

21. Tasler then went on to become a patrol officer for the Boone Police Department where he was subsequently asked to resign from his position in lieu of being terminated for allegations of

misconduct while on the job, allegations which, upon information and believe, have to do with inappropriate actions or advances towards underage women.

22. While with the Boone Police Department and on duty, Tasler was quoted as saying that he was “fighting” with people every week.

23. As a young man, Tasler trained in martial arts, and in high school and college, he wrestled.

24. Starting in 2006, however, Tasler’s martial arts interest took on a more serious tone.

25. In addition to his continuing law enforcement duties, Tasler started participating in mixed-martial arts (“MMA”) fighting competitions or cage matches on a regional level, including fights in Iowa, Wisconsin and Minnesota.

26. Tasler went by the moniker, Rick “The Lawman” Tasler, promoting on the circuit that in addition to being an MMA fighter, he was also a trained law enforcement official.

27. Tasler even tattooed his police badge on his chest directly over his heart, a fact that was made obvious to anyone watching his MMA fights since participants in these matches fight without their shirts on.

28. Tasler apparently takes his fighting seriously, saying that he was born to do two things, “B.S. with anybody” and “fight with anybody.”

29. Prior to being hired as the Chief of Police in Madrid, Tasler was the Chief of Police in Scranton, Greene County for a very short period of time.

30. Also, prior to being hired as the Chief in Madrid, the Department and the Madrid City Council were aware of the circumstances surrounding Tasler’s being forced off the force in Boone.

31. In addition, the Department and Council were aware of Tasler's MMA career, nickname, and propensity for quickly resorting to uses of force in interactions with suspects and members of the public.

32. In fact, shortly after being hired as Chief in Madrid, Tasler was quoted in October of 2009, as saying, "You know, definitely, I go to hands-on right away" when referring to his interaction with suspects on the streets on Madrid and Boone County.

The Brammer MMA Video

33. The issue of Tasler's judgment and potential propensity for the use of force came to a head in January of 2010 when a video of Tasler and fellow MMA fighter Joe Brammer surfaced on the internet and in the news media.

34. The video was and is hosted on YouTube in multiple parts and is currently hosted on the site by someone who has the screen name madridchief500.

35. Tasler agreed to the video shoot of himself in his Madrid Police Department uniform as a way of promoting what had been touted as his final MMA cage match to be held at the Veterans Memorial Auditorium in Des Moines.

36. Part one of the video shows Tasler in his Chief's uniform sitting in his office and discussing his day-to-day routine as Chief of Police with Brammer, and when Brammer brandishes a semi-automatic weapon and says, I would take this with me everywhere as a police officer and then points it at an imaginary motorist and says, license and registration please, Tasler laughs and says, "yes, that would be the safest way to do it."

37. Tasler tells Brammer that he gets into "fist-a-cuffs" with individuals at least twice a day because "we are 15 minutes from everywhere" and the drug dealers stockpile here and "they

don't want to fight a Des Moines cop and "a little target like me, I get in fights all the time, just because."

38. Brammer and Tasler also discuss how you can tell someone's guilt just "by looking at them."

39. On part two of the video, Brammer plays a word association game with Tasler in which he tells Tasler to say the first word that comes to mind. Among others, Tasler says "protect and serve" when Brammer says "shotgun," and "mistake" when Brammer says "Barack Obama."

40. Next Tasler takes Brammer along to a Madrid bank where Tasler lets Brammer accompany himself and some bank employees into the vault to extract cash.

41. Tasler laughs when Brammer says that perhaps he should not be in the bank vault with his past stuff including "the bank robbery" and "child pornography" charges.

42. While the camera focuses in tightly on the bank employee spinning the combination lock open, Tasler and Brammer laugh about splitting the money five (5) ways, and Brammer says to Tasler, obviously, you know the combination, and Tasler just laughs.

43. Part two also shows Tasler taking Brammer to his MMA training gym and showing Brammer how he uses his MMA moves on suspects in the field.

44. As they enter the gym, Tasler laughs while Brammer looks at the camera and Tasler and says that when they are done, they need to go back to the bank because he needs some dough and Rick's going to help me out.

45. Tasler demonstrates how he physically takes down alleged suspects with his MMA moves and these demonstrations includes several instances of Tasler pulling his service weapon and pointing it directly at the head of his sparring partner.

46. This third part has a sequence where Tasler allows Bremmer to fire Madrid Police Department weapons, including an assault rifle, shotgun and handgun, outside on the edge of town while Tasler stands by Brammer's side.

47. The site was an open field somewhere near the edge of the City of Madrid and was not an official or unofficial shooting range.

48. Tasler can be seen laughing while Brammer shoots a 9 mm by holding his hand sideways and saying, "this is how they shoot in the hood."

Madrid's Response to Tasler's Video

49. This "promotional" video showing Tasler in his official uniform promoting his off-duty MMA career broke in the news media on Friday, January 15, 2010, and was immediately met with raised eyebrows and serious questions about Tasler's fitness to serve as Chief of Police.

50. The video quickly disappeared from YouTube as question where raised about Tasler's suitability for remaining chief of police in Madrid.

51. Two days later, however, even while these questions were swirling and he was facing an inquiry from the Madrid City Council, Tasler re-uploaded the video to YouTube under the screenname madridchief500.

52. Several experts asked by the news media, including KCCI and The Des Moines Register to opine about the appropriateness of the Tasler's video, raised serious concerns, including Penny Westfall, director of the Iowa Law Enforcement Academy who indicated that the academy would never train officers to act in the manner that Tasler acted in the video, especially pointing a handgun at a sparring partner's head.

53. At a regular Madrid City Council meeting on January 18, 2010, Madrid residents and other members of the general public were given the opportunity to voice their opinions about the Tasler video and what they believed City Council should do to Tasler as a result.

54. After listening to public comments and after listening to Tasler both apologize for the “mistakes” in the video and complain about how KCCI has “no regard for Madrid and just wants to create a news story out of this incident,” members of Madrid City Council met in closed session to decide, what, if any, discipline was appropriate.

55. Defendant City of Madrid had knowledge of all of Tasler’s harmful and unreasonable actions in the video and on the job, including:

- a. pointing his service revolver at an unarmed civilian’s head;
- b. allowing a civilian to fire police issued weapons in the open near city residents;
- c. his propensity for unreasonably laying his hands on alleged suspects;
- d. the unprofessional image the video presented of their police chief, force and the public confidence it undermined;
- e. Tasler using his status as Madrid Chief of Police to promote and profit in his personal career as an MMA fighter;
- f. Tasler had uploaded the video to YouTube and allowed it to remain on YouTube; and
- g. Tasler’s history of previous misconduct on as a police officer,

56. Despite this knowledge, the Madrid City Council unanimously decided not to terminate Tasler’s employment with the Department.

57. Instead, Madrid City Council suspended Tasler for five days without pay, required him to pay for and take a professional development course and placed a letter of reprimand in his file.

58. Also, despite his “apology” to city council for his actions in the video, Tasler never removed the video from YouTube where it can still be viewed for free by anyone with access to the internet.

59. Madrid City Council is aware that the video for which they “disciplined” Tasler is still available online and have taken no additional steps to have it removed and to discipline Tasler for not removing it.

60. Furthermore, City Council took no steps to supervise Tasler in the field, despite their knowledge that he was allegedly prone to “fighting” with or laying hands on members of the public “at least twice a day” while on the job.

The January 28, 2015 Incident

61. On Wednesday, January 28, 2015, Jamie Graham was driving his blue Chevrolet pick-up truck in a lawful manner in Madrid when he stopped near the intersection of 1st and State Street to visit a friend.

62. As Graham pulled to a stop, Tasler was driving his city-issued brown Ford cruiser with a push-bumper on the opposite side of State Street as Graham.

63. Defendants Millsap and Cooley were in the cruiser with Tasler as they passed Graham sitting on the shoulder.

64. Tasler was in riot gear that evening, while Millsap was in uniform and Cooley was dressed in street clothes.

65. After passing Graham, Tasler conducted a u-turn on State Street and without activating his cruiser lights, pulled onto the shoulder behind Graham.

66. This, in fact, was not the Defendants first encounter with Graham.

67. Graham had been arrested by Defendants Millsap and Cooley six months earlier on August 8, 2014, after a traffic stop outside Elmo's Bar in Madrid.

68. Like Tasler, Defendant Cooley has a checkered history in law enforcement and had been forced out of this previous job in Boone County law enforcement for allegations of misconduct related to excessive force, a fact that Defendant City of Madrid was well aware prior to making the decision to hire Cooley as a police Officer for the City of Madrid.

69. During this encounter, Defendants Millsap and Cooley arrested Graham for interference with officials acts under Iowa Code Section 719.1 when Graham exercised his constitutional rights under the First and Fourth Amendments to the United States Constitution and verbally objected to the Defendants attempting to search his vehicle.

70. Defendants physically man-handled Graham and threw him onto the hood of his truck and then the ground before placing him in handcuffs when he continued to object to the Defendants efforts to search his vehicle.

71. Defendants also hit and kicked Graham when he refused to comply with their orders to allow them to search his vehicle.

72. This interference with official acts charge was later dismissed, a dismissal which angered the Defendant officers.

73. In fact, after the dismissal, but prior to the January 28, 2015, incident, Tasler had threatened to beat Graham for resisting his officers, a threat that occurred in front of several witnesses.

74. On the night of January 28, 2015, the Defendants once again pulled behind where Graham was parked on the shoulder.

75. Graham exited his vehicle and began to walk up the sidewalk to his friend's house.

76. At this point, Defendant Tasler shined his headlights onto Graham as he stood at this friend's front gate and asked Tasler asked Graham what he was doing "in the dark."

77. After his previous encounter with the Defendants and after Tasler's direct threat to "beat" him, Graham was fearful for his safety and afraid of false charges and so pulled out his cell phone and placed a call to his brother, John Graham.

78. Graham asked his brother to join him at the scene as soon as possible.

79. Graham's brother informed him that he was just up State Street from them and could actually see Graham and the Defendants as they were speaking.

80. Overhearing the conversation, Tasler asked Graham to get off the phone and come towards him and he verbally warned Graham that if his brother arrived on scene, they would both be arrested.

81. Graham ignored Tasler's unreasonable command and asked that his brother get closer as soon as possible.

82. At this point, Tasler walked towards Graham and his truck and said out loud, "I smell ether, arrest him."

83. There was no ether present on Graham or in present in Graham's vehicle and no ether was ever found.

84. Graham said to Tasler that there was no way he could smell ether because "there's no ether in that truck."

85. Millsap stated that since Graham was being smart, they were going to detain him.

86. Tasler approached Jamie while Graham's brother and his friend Jodi Zander watched from across the street.

87. Tasler instructed Millsap and Cooley to take Graham to the ground.

88. Standing between his car and his friend's front gate, Graham was tackled hard to the ground.

89. Graham had been standing quietly with one hand at his side and the other on his cell phone when the Defendants unreasonably took him to the ground.

90. Despite having been standing quietly and now being on the ground with the Defendant Officers on top of him, Defendants yelled for Graham to stop resisting.

91. Graham was not resisting and was, in fact, being physically restrained by the Defendants.

92. While Tasler and Cooley held his arms, Defendant Millsap elbowed Graham multiple times in the head.

93. These elbow strikes left his left ear so deeply bruised that several days later it was swollen and deep royal purple in color.

94. The crown of Graham's head was also covered in red welts from Millsap's elbow strikes.

95. While they were holding his arms, Tasler and Cooley struck Graham several times in the ribs with knee strikes.

96. Fearful of arrest and of placing their safety in jeopardy, Graham's brother and Jodi Zander continued to watch the beating from across State Street.

97. Finally, Tasler stood Graham up, placed him in handcuffs and transported him to the Boone County Jail.

98. Graham spent three nights in the Boone County Jail as a result of being falsely arrested that night and was only released after his wife paid a bondsman to secure Graham's release.

99. Graham was once again charged by Defendant Millsap with interference with official acts under Iowa Code Section 719.1(1).

100. Also, once again, these “contempt of cop” charges were dismissed on July 29, 2015.

101. As a direct and proximate result of the said acts of the Defendant Officers, including the Defendants use of force against Graham, and Defendant City of Madrid’s hiring of Tasler and Cooley in spite of their past history of deliberate indifference to citizen’s constitutional rights, and Defendant City of Madrid’s refusal to properly train and supervise Tasler and Cooley, Graham suffered the following injuries and damages:

- a. Physical pain and suffering and emotional distress, trauma and suffering, requiring the expenditure of money for treatment;
- b. Attorney’s fees and expense and the payment of a surety bond; and
- c. Continuing unwarranted and unconstitutional harassment from Defendant Officers, including another interference with official acts arrest in September of 2016 by Defendant Millsap which was also dismissed.

CAUSES OF ACTION
Count I
Fourth Amendment (42 U.S.C. § 1983)
(Excessive Force)
Plaintiff v. All Defendants

102. Plaintiff incorporates by reference the allegations in the paragraphs above as if thoroughly set forth here.

103. The actions of Defendants Tasler, Millsap and Cooley in unreasonably taking Graham to the ground, restraining him, and elbowing him about the head and kneeling him in the ribs violated Graham’s clearly established right to be free from the use of excessive,

unreasonable and unjustified force against his person under the Fourth Amendment to the United States Constitution.

104. The Defendants failing to intervene to prevent the other officers use of force as described in the preceding paragraph violated Graham's clearly established right to be free from the use of excessive, unreasonable and unjustified force against his person under the Fourth Amendment to the United States Constitution.

105. Defendant City of Madrid showed deliberate indifference to Graham's clearly established right to be free from excessive force under the Fourth Amendment by hiring Defendant's Tasler and Cooley despite their past history of misconduct and excessive force, facts of which the City was aware prior to hiring Defendant's Tasler and Cooley.

106. In addition, Defendant City of Madrid showed deliberate indifference to Graham's clearly established right to be free from excessive force under the Fourth Amendment by failing to properly train and/or supervise Tasler and Cooley despite their knowledge that both Tasler and Cooley has a propensity for fighting and the use of unreasonable and excessive force against members of the general public.

Count II
First Amendment (42 U.S.C. § 1983)
First Amendment Retaliation
Plaintiff v. Defendants Tasler, Millsap & Cooley

107. Plaintiff incorporates by reference the allegations in the paragraphs above as if thoroughly set forth here.

108. The actions of Defendant Officers Millsap and Cooley in subjecting Graham to unreasonable and excessive force and arrest when Graham asserted his Fourth Amendment rights to be free from and unconstitutional search of his vehicle by the Defendants violated Graham's First Amendment right to be free from retaliation for the exercise of his constitutional rights.

109. Likewise, the actions of Defendant Tasler in threatening to subject Graham to unreasonable force and then actually subjecting Graham to unreasonable and excessive force and false arrest violated Graham's right to be free from retaliation for the exercise of his constitutional rights.

Count III
Negligent Hiring, Retention & Supervision
Plaintiff v. Defendant City of Madrid

110. Plaintiff incorporates by reference the allegations in the paragraphs above as if thoroughly set forth here.

111. Defendant City of Madrid hired, retained and failed to properly supervise Defendants Tasler and Cooley despite their knowledge of their past misdeeds at other departments.

112. In addition it was negligent or reckless of Defendant City of Madrid to fail to terminate and/or properly supervise Defendant Tasler after the January 2010 video surfaced of Tasler and after statements Tasler made about being quick to "lay hands on" members of the public, especially in light of the fact that Defendants Tasler, Millsap and Cooley later assaulted Graham.

113. Without the City of Madrid's negligent or reckless conduct in hiring, retaining and failing to supervise Defendants Tasler and Cooley, Graham would not have suffered the assault at the hands of City of Madrid employees and would not have been injured as a result.

Count IV
Assault & Battery
Plaintiff v. Defendants Tasler, Millsap & Cooley

114. Plaintiff incorporates by reference the allegations in the paragraphs above as if thoroughly set forth here.

115. In effectuating the arrest of Graham, Defendants Tasler, Millsap and Cooley committed assault & battery upon Graham.

116. Graham suffered physical injuries, humiliation, emotional distress, pain and suffering, and medical expenses as the sole proximate result of the assault and battery committed by Defendants Tasler, Millsap and Cooley.

117. The acts of Defendants Tasler, Millsap and Cooley in committing assault and battery were willful, wanton and reckless and Graham is entitled to the recovery of punitive damages.

118. The willful, wanton and reckless conduct of Defendants Tasler, Millsap and Cooley were directed at Graham as an individual.

WHEREFORE, Plaintiffs respectfully request:

- a. Compensatory damages;
- b. Punitive damages;
- c. Reasonable attorney's fees and costs; and
- d. Such other and further relief as may appear just and appropriate.

Plaintiffs hereby demand a jury trial as to all claims stated in this Verified Complaint.

Saturday, January 28, 2017

Respectfully submitted,

s/Glen S. Downey

Glen S. Downey

AT0012428

s/Nathan A. Mundy

Nathan A. Mundy

AT0009065

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