

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

LOUISE MILAN,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 3:13-cv-1
)	
CITY OF EVANSVILLE,)	
EVANSVILLE POLICE DEPARTMENT,)	
BILLY BOLIN, in his individual and)	
official Capacity as Evansville Police)	
Department Chief, and currently)	
UNKNOWN OFFICERS of the)	
Evansville Police Department and SWAT)	
Team in their individual capacities,)	
)	
Defendants.)	

COMPLAINT AND DEMAND FOR JURY TRIAL

1. The Plaintiff, Louise Milan (“Milan”), brings this action against the Defendants, City of Evansville, Evansville Police Department, Evansville Police Department Chief – Billy Bolin (“Bolin”) in his official and individual capacity and currently Unknown Officers of the Evansville Police Department and SWAT Team (“Officers”) in their official and individual capacities, pursuant to 42 U.S.C. § 1983, alleging that the Defendants violated her rights as protected by the Fourth and Fourteenth Amendments of the United States Constitution and the Defendants violated Indiana State law.

PARTIES

2. Milan is a resident of the State of Indiana. At all relevant times to this action, Milan resided within the Southern District of Indiana at all times relevant to this action.

3. The City of Evansville is a municipality located within the Southern District of Indiana.

4. The Evansville Police Department is a governmental entity located within the Southern District of Indiana.

5. Bolin was employed by the Evansville Police Department, as its Chief during the times relevant hereto. Bolin performed policy making, administrative and ministerial duties on behalf of the Evansville Police Department within the Southern District of Indiana at all times relevant to this action.

6. Officers were employed with the Evansville Police Department within the Southern District of Indiana at all times relevant to this action.

7. Milan's State law claims arise from the same common nucleus of operative facts as her federal law claims and all of her claims form a single case and controversy under Article III of the United States Constitution.

JURISDICTION AND VENUE

8. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331 and 42 U.S.C. § 1983.

9. Defendants, acting under color of State Law, intentionally and with reckless disregard, violated Milan's rights as protected by the Fourth and Fourteenth Amendments of the United States Constitution.

10. Bolin is a "person" within the meaning of 42 U.S.C. § 1983.

11. The individual Officers are – individually - a "person" within the meaning of 42 U.S.C. § 1983.

12. All facts, events, and transactions giving rise to this lawsuit occurred within the geographic environs of the Southern District of Indiana, thus, venue is proper in this Court.

FACTUAL ALLEGATIONS

13. On June 21, 2012, the Evansville Police Department (“EPD”) and Officers of the EPD and its SWAT Team executed a search warrant for computer devices and raided Milan’s residence with a local television news crew in tow to memorialize the raid.

14. The EPD and Officers were purportedly responding to anonymous on-line threats and targeted Milan’s residence based on an unverified computer IP address. The EPD and Officers failed to exercise any diligence and/or expertise to verify the computer IP address and if it had been hacked and/or pirated by some other person.

15. The EPD and Officers did not have the name of any specific suspect. The only people at the residence were Milan, who is sixty-eight (68) years old, and her eighteen (18) year old daughter, Stephanie Milan.

16. The Officers smashed Milan’s window and storm door and threw in two (2) flash bang grenades that created property damage in addition to the destroyed window and storm door. The Officers used flash bang grenades despite the fact that there were no threatening suspects visible.

17. Milan and her daughter were ordered on to the floor at gun point, handcuffed and paraded in front of their neighbors into police vehicles. Both were detained and questioned by the Officers.

18. The EPD confiscated Milan’s computer, Stephanie Milan’s computer and cellular phone. The anonymous suspect was not found nor was any other evidence associated with the on-line threats.

19. It was later determined that some person had remotely accessed Milan's wireless internet connection and the EPD had the wrong address. Milan and her daughter were in no way involved with the anonymous threats.

COUNT I: VIOLATIONS OF FOURTH AND FOURTEENTH AMENDMENTS

20. Milan hereby incorporates paragraphs one (1) through nineteen (19) of her Complaint.

21. Defendants violated Milan's rights as protected by the Fourth and Fourteenth Amendments of the United States Constitution by subjecting Milan to an unreasonable search and seizure of her person, property and home, by using unreasonable and/or excessive force to carry out the search and seizure and falsely arresting and/or wrongfully detaining Milan.

22. Defendants acted pursuant to an established policy, procedure or custom.

23. Defendant Officers actions were reckless, intentional, malicious and in bad faith.

COUNT II: NEGLIGENT TRAINING AND SUPERVISION

24. Milan hereby incorporates paragraphs one (1) through twenty-three (23) of her Complaint.

25. Defendant City of Evansville, by and through the Evansville Police Department and its various Officers including Chief Bolin, is responsible for establishing the policy, procedure and customs complained about herein.

26. Defendant City of Evansville had an obligation and duty to Milan to properly train and supervise the Officers of the Evansville Police Department including the Unknown Officer Defendants on the limits of their authority, probable cause prior to arrest/detainment and proper usage of flash bang grenades.

27. These actions and omissions by the City of Evansville, through the Evansville Police Department and its various agencies and policy making officials, demonstrates a callous indifference to the rights of Plaintiff and other individuals who are harmed by police conduct; and such consequence is reasonably foreseeable by the Defendant City of Evansville and Defendant Evansville Police Department. Such failure to train, supervise, and later to investigate and discipline the Officers involved reflects a deliberate and conscious indifference by the Defendant City of Evansville and Defendant Evansville Police Department.

28. Defendant City of Evansville and Defendant Evansville Police Department, by virtue of its policies, practices and procedures knew or should have reasonably known of the continuing and the serious frequency of the failure to have probable cause prior to search and arrest and unreasonable/excessive use of flash bang grenades often violates the constitutional rights of individuals so that the need for further training must have been plainly obvious and their failure to undertake adequate training demonstrates a deliberate indifference to Milan's Constitutional Rights.

COUNT III: VIOLATIONS OF THE INDIANA CONSTITUTION

29. Milan hereby incorporates paragraphs one (1) through twenty-eight (28) of her Complaint.

30. Defendant Officers, without probable cause and by negligently using the information they did have, subjected Milan to unreasonable search and seizure, wrongfully arrested and unlawfully detained Milan in violation of Article 1, Sections 11 and 23 of the Indiana Constitution.

31. The wrongful conduct of Defendant Officers was the direct and proximate cause of the injuries sustained by Milan.

32. Defendant Officers are liable to Milan for their wrongful conduct within the scope of their employment and when working in furtherance of the Defendant City of Evansville and Defendant Evansville Police Department at the time of the conduct.

33. The individual acts of Defendant Officers are deemed to be acts of the employer under the principle of *respondeat superior*.

34. Defendant Officers, Defendant City of Evansville and Defendant Evansville Police Department are joint and severally liable for the injuries received by Milan.

COUNT IV: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

35. Milan hereby incorporates paragraphs one (1) through thirty-four (34) of her Complaint.

36. The actions taken by Defendant Officers on June 21, 2012, were done with malicious intent to cause severe mental and emotional distress to Milan.

37. As a result of the actions taken by Defendant Officers on June 21, 2012, Milan has suffered and continues to suffer severe mental anguish and emotional distress.

38. Defendant Officers are liable to Milan for their wrongful conduct within the scope of their employment and when working in furtherance of the Defendant City of Evansville and Defendant Evansville Police Department at the time of the conduct.

39. The individual acts of Defendant Officers are deemed to be acts of the employer under the principle of *respondeat superior*.

40. Defendant Officers, Defendant City of Evansville and Defendant Evansville Police Department are joint and severally liable for the injuries received by Milan.

COUNT V: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

41. Milan hereby incorporates paragraphs one (1) through forty (40) of her Complaint.

42. The actions taken by Defendant Officers on June 21, 2012, were done negligently and with reckless disregard for Milan.

43. As a result of the actions taken by Defendant Officers on June 21, 2012, Milan has suffered and continues to suffer severe mental anguish and emotional distress.

44. Defendant Officers are liable to Milan for their wrongful conduct within the scope of their employment and when working in furtherance of the Defendant City of Evansville and Defendant Evansville Police Department at the time of the conduct.

45. The individual acts of Defendant Officers are deemed to be acts of the employer under the principle of *respondeat superior*.

46. Defendant Officers, Defendant City of Evansville and Defendant Evansville Police Department are joint and severally liable for the injuries received by Milan.

REQUESTED RELIEF

WHEREFORE, Plaintiff, Louise Milan, by counsel, respectfully requests that this Court find for Plaintiff and order that the Defendants:

1. Pay to Plaintiff compensatory, exemplary and punitive damages;
2. Award actual damages to Plaintiff to adequately compensate her for her injuries;

3. To declare the conduct and practices of the Defendants unlawful and to enjoin them from similar conduct;
4. Pay to Plaintiff consequential damages;
5. Pay to Plaintiff pre- and post-judgment interest;
6. Pay Plaintiff's costs and attorney fees incurred in litigating this action; and,
7. Pay to Plaintiff any and all other legal and/or equitable damages this Court sees fit to grant.

Respectfully submitted,

s/Kyle F. Biesecker

Kyle F. Biesecker, Attorney No. 24095-49
BIESECKER DUTKANYCH & MACER, LLC
411 Main Street
Evansville, Indiana 47708
Telephone: (812) 424-1001
Facsimile: (812) 424-1005
E-Mail: kfb@bdlegal.com

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

The Plaintiff, Louise Milan, by counsel, respectfully requests a jury trial as to all issues deemed so triable.

Respectfully submitted,

s/Kyle F. Biesecker

Kyle F. Biesecker, Attorney No. 24095-49
BIESECKER DUTKANYCH & MACER, LLC
411 Main Street
Evansville, Indiana 47708
Telephone: (812) 424-1001
Facsimile: (812) 424-1005
E-Mail: kfb@bdlegal.com

Attorneys for Plaintiff