

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JERRY YOUNGBEY)
1312 Queen Street, NE)
Washington, DC 20002)

RUBIN BUTLER)
1312 Queen Street, NE)
Washington, DC 20002)

Plaintiffs,)

v.)

No. 09-cv-0596 (JSG)

DISTRICT OF COLUMBIA)
1350 Pennsylvania Avenue, NW)
Washington, DC 20004)

Jury Trial Demanded

OFFICER JOSE ACOSTA)
(Badge No. 5411))
Special Operations Division)

OFFICER LONNIE BRUCE)
(Badge No. 2098))
Special Operations Division)

SERGEANT RAYMOND CHAMBERS)
(Badge No. S0930))
Special Operations Division)

OFFICER TIMOTHY DUMONTT)
(Badge No. 2772))
Special Operations Division)

OFFICER DUANE FOWLER)
(Badge No. 2941))
Special Operations Division)

DET. DARIN MARCH)
(Badge No. D21594))
Homicide Unit)

OFFICER SEAN MCLAUGHLIN)
(Badge No. 3889))
Special Operations Division)

OFFICER THOMAS MILLER)
 (Badge No. 5404))
 Special Operations Division)
)
 LIEUTENANT LARRY SCOTT)
 (Badge No. L-164))
 Special Operations Division)
)
 OFFICER CHRISTOPHER SMITH)
 (Badge No. 1780))
 Gun Recovery Unit)
)
 OFFICER DARRYL THOMPSON)
 (Badge No. 3809))
 Special Operations Division)
)
 SERGEANT CHARLES YARBAUGH)
 (Badge No. S0361))
 Special Operations Division)
)
 Defendants.)

SECOND AMENDED COMPLAINT

(Police Misconduct: Violation of rights under the Constitution of the United States and the statutes and common law of the District of Columbia)

NATURE OF THE ACTION

1. In the early morning hours of August 20, 2008, plaintiffs Jerry YoungBey and Rubin Butler were startled awake by the sounds of breaking glass, along with the sound of Mr. Butler’s two small dogs barking. They believed their home was being invaded by armed robbers, and Ms. YoungBey dialed 911 for emergency assistance. The invaders threw flash-bang grenades into the living room, jumped through the window, and rushed into the house, all while brandishing assault rifles. They did not identify themselves as officers of the Metropolitan Police Department (“MPD”) until they reached Ms. YoungBey’s second-floor bedroom door. Although the officers had a search warrant, the timing and methods of executing that warrant

made their actions unlawful. The officers acted pursuant to District of Columbia policies or customs of unlawfully executing warrants in the nighttime without judicial approval and unlawfully breaking into dwellings without first knocking and announcing their presence. Ms. YoungBey and Mr. Butler bring this action for damages and other appropriate relief for redress of these violations of their rights.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) because plaintiffs bring this action under 42 U.S.C. § 1983 to vindicate rights established by the United States Constitution. This Court has supplemental jurisdiction to adjudicate plaintiffs' claims under the laws of the District of Columbia under 28 U.S.C. § 1367 because those claims form part of the same case or controversy.

3. Venue is proper in this district under 28 U.S.C. § 1391(b) because the events or omissions giving rise to the plaintiffs' claims took place in this judicial district.

PARTIES

4. Plaintiffs Jerry YoungBey and Rubin Butler are adult residents of the District of Columbia. For approximately twenty years, Ms. YoungBey worked as a teacher's assistant for special education students at Cardozo High School. For more than 20 years, Ms. YoungBey has resided in a rowhouse at 1312 Queen Street, NE, Washington, DC, which she owns. For approximately fifteen years, Mr. Butler has worked for the B. Frank Joy, LLC, as a construction supervisor. During that time, he has resided at 1312 Queen Street, NE, as Ms. YoungBey's basement tenant.

5. Defendant District of Columbia operates and governs the MPD pursuant to the laws of the District of Columbia.

6. Defendant Det. Darin March is an MPD detective in the Homicide Unit. He applied for the search warrant in this case and participated in the planning of the search, including by requesting the use of Emergency Response Team (“ERT”) officers and ERT tactics, and consulting with ERT officers regarding the timing and manner of execution of the search. Det. March is sued in his individual capacity.

7. Defendants Sgt. Raymond Chambers, Sgt. Charles Yarbaugh, and Officers Jose Acosta, Lonnie Bruce, Timothy Dumontt, Duane Fowler, Sean McLaughlin, Thomas Miller, and Darryl Thompson are MPD officers who were members of the MPD’s Emergency Response Team in August of 2008 and participated in the execution of the search warrant at issue in this case. As ERT members, they were the first to enter the house. Their responsibility was to secure the house so that it was safe for members of the Gun Recovery Unit and the Homicide Unit to enter the house and conduct the search. These defendants are sued in their individual capacities.

8. Lieutenant Larry Scott was the ERT Lieutenant at the time of the search. He was responsible for approving the plan for the execution of this search warrant. Lieutenant Scott was also present at the scene. He is sued in his individual capacity.

9. Officer Christopher Smith was a member of the MPD Gun Recovery Unit in August of 2008. After ERT cleared the house, Oofficer Smith helped conduct the search for weapons and other property authorized by the search warrant. He is sued in his individual capacity.

10. At all times relevant to this complaint, each of the defendant officers acted under color of law, statute, regulation, custom or usage of the District of Columbia.

11. At all times relevant to this complaint, each of the defendant officers acted within the scope of his employment as an MPD officer and acted on behalf of, and in the interest of, his employer.

FACTS

Planning the Execution of the Warrant

12. The August 20, 2008, search of plaintiffs' home was authorized by search warrant 2008 CRWSLD 3070, issued by the D.C. Superior Court on August 13, 2008, seeking "Firearms, ammunition, holsters, cleaning equipment, receipts, photographs, papers that document criminal activity and that link the defendant to the address."

13. Although the warrant itself does not identify the "defendant" whose property was being sought, the supporting affidavit makes clear that the "defendant" is John YoungBey, who is Ms. YoungBey's adult son.

14. Based on inaccurate information that John YoungBey lived with his mother, Det. March applied for this search warrant for 1312 Queen Street. On August 18, 2008, Det. March requested that ERT serve the warrant. ERT agreed.

15. Sgt. Chambers headed the team responsible for writing the plan for warrant execution and he was also the person in charge inside the home. Prior to executing the warrant, Sgt. Chambers and members of his team, ERT Officers Dumontt, Fowler and Bruce, consulted with Det. March and reviewed the warrant and supporting affidavit. They drove by the plaintiffs' home at 1312 Queen Street to scout the location and decide how to make entry into the home. After compiling this information, they wrote an operational plan for service of the warrant. The plan was approved by Sgt. Chambers and Lt. Scott. Each of the defendants named in this paragraph, having reviewed the warrant, agreed that the warrant would be executed during the night of August 20, 2008.

The Events of August 20, 2008

16. At approximately four o'clock in the morning on August 20, 2008, Ms. YoungBey and Mr. Butler were asleep at home, with Ms. YoungBey in her upstairs bedroom and Mr. Butler in his basement apartment. The lights in the house were turned off except for a single, dim stove light in the kitchen, which is located on the first floor of the house.

17. The sounds of breaking glass on the first floor, along with the sound of Mr. Butler's two small dogs barking, startled Ms. YoungBey and Mr. Butler awake. They believed their home was being invaded by armed robbers. Ms. YoungBey dialed 911 for emergency assistance.

18. In fact, their home was being invaded by officers of the Metropolitan Police Department executing search warrant 2008 CRWSLD 3070. Officers Miller and Thompson had been assigned the duty of knocking and announcing and forcing entry if necessary. As soon as Officers Miller and Thompson stepped onto the porch, they attempted to pry open the metal security door with a halligan bar and a battering ram. When that failed, Officer Miller broke a living room window, sending glass flying into the house. Officer Dumontt then threw flash-bang grenades into the house and the ERT officers entered the home by climbing through the broken window. The flash-bang grenades caused some of the living room furniture to catch on fire.

19. Officers Miller and Thompson neither knocked on the door nor identified themselves as police officers before they forced entry into the house. The only "knocking" that Officers Miller and Thompson conducted was ramming the halligan bar into the door and banging it with the battering ram. Nor did any other officer knock and announce before Officers Miller and Thompson broke into the house. The officers did not identify themselves as police until they arrived at Ms. YoungBey's bedroom door.

20. Knocking and announcing would not have been futile. Plaintiffs would have opened the door for the police had they been given an opportunity to do so. Knocking and announcing would not have created a risk of physical violence. No exigent circumstances existed that would have justified a no-knock entry. Officers Miller and Thompson were neither actually nor constructively refused admittance to the house before they forced entry.

21. Officers Miller and Thompson acted with reckless indifference to and deliberate disregard for the plaintiffs' constitutional rights when they failed to knock and announce and wait a reasonable period of time before breaking and entering plaintiffs' home.

22. Upon entering the house, a group of officers including Sgt. Yarbaugh and Officer Acosta ascended the stairs to Ms. YoungBey's bedroom. Upon reaching her closed bedroom door, the officers shouted, "Open up, police!" But before giving Ms. YoungBey an opportunity to open the door they began to batter her bedroom door with a hard object. In response, Ms. YoungBey, who was clad in a shirt but no other clothing, immediately opened the door.

23. Ms. YoungBey's bedroom consists of a 12-foot by 11-foot room and a walk-in closet measuring 7 feet, 7 inches by 14 feet. There are no doors or other obstructions that could hide a person or make it difficult for someone searching her room to find a person in the main bedroom area or in the closet. It would take no more than a few seconds for a group of police officers to ensure that no one else was present.

24. As Ms. YoungBey opened her bedroom door, Officer Acosta pointed an assault rifle directly at Ms. YoungBey's face at close range, entered the room, and ordered her to get down on the floor. Ms. YoungBey immediately complied. Multiple officers rushed into her bedroom and searched the area. For approximately 5 to 10 minutes, Officer Acosta held Ms. YoungBey at

gunpoint, half-naked on the floor, while multiple male officers were in her bedroom. Sgt. Yarbaugh was also present in the room and joined in holding Ms. YoungBey on the floor.

25. Subsequently, Ms. YoungBey was permitted to get up and cover herself with a bathrobe. Officers handcuffed Ms. YoungBey on her bed and questioned her in her bedroom.

26. As the first group of officers was ascending the stairs to Ms. YoungBey's bedroom, Mr. Butler came upstairs from his basement bedroom and encountered a different group of officers in the kitchen. They did not verbally identify themselves as police officers, but he recognized them as police officers by reading the word "POLICE" on their vests. Officers pointed their assault rifles at Mr. Butler and threatened to shoot him if he did not get down on the floor. Mr. Butler immediately complied. Officer Fowler then handcuffed Mr. Butler. Both of Mr. Butler's dogs had already run downstairs to hide underneath his bed. Mr. Butler remained handcuffed on the floor for approximately thirty minutes. During the entire time that Mr. Butler was handcuffed on the kitchen floor, while the ERT secured the premises and afterward when the Gun Recovery Unit and Homicide Unit entered the premises to search, Officer McLaughlin, Fowler or Smith kept a gun aimed directly at Mr. Butler.

27. As Mr. Butler lay handcuffed on the kitchen floor, he overheard one officer order another officer to knock down the security door. Mr. Butler promptly and repeatedly stated that they did not need to destroy the door and told them that the key was hanging on the wall near the door. Officer Dumontt nevertheless proceeded to use a battering ram to batter down the security door from the inside, which Mr. Butler estimates took approximately five minutes of continued ramming and severely damaged the door frame. Additional officers then entered the house through the broken door.

28. After approximately 20 minutes, the initial ERT officers withdrew and officers of the Homicide Unit and the Gun Recovery Unit entered the house to search. The officers brought Ms. YoungBey and Mr. Butler to the living room and sat them on the couch. They continued to detain Ms. YoungBey and Mr. Butler handcuffed on the couch for approximately thirty to forty-five minutes. At one point, several officers with guns drawn accompanied Mr. Butler to the basement to recover his two small dogs, which were still hiding underneath Mr. Butler's bed. After they found the dogs and put them outside, defendant officers continued to detain Mr. Butler and Ms. YoungBey by requiring them to remain immobile on the living room couch, which was covered with glass shards from the broken living room window, for the remainder of the search. Ms. YoungBey could feel the glass shards on the couch underneath her, but did not complain because she was scared and in shock.

29. Officers continued to search the house after releasing Mr. Butler and Ms. YoungBey from their handcuffs, until about 6 a.m. They found no evidence of any crime.

Unlawful Nighttime Execution of the Search Warrant

30. Both the Constitution and District of Columbia law (D.C. Code § 23-523) require express judicial authorization for the nighttime execution of a search warrant. Warrant 2008 CRWSLD 3070 did not authorize execution in the nighttime. The supporting affidavit sworn to by Det. March does not state that the warrant could not be executed during the hours of daylight, does not state that the property sought was likely to be removed or destroyed if not seized forthwith, and does not state that the property sought was unlikely to be found except at certain times or in certain circumstances. D.C. Code § 23-522 requires a request for a nighttime warrant be supported by probable cause as to one of these three conditions.

31. When the affidavit for a search warrant does not meet the requirements of D.C. Code § 23-522 for nighttime execution and the warrant does not authorize nighttime execution on its face, conducting the search at night violates both the statute and the Constitution. A reasonable police officer with knowledge of the warrant and supporting affidavit would know that Warrant 2008 CRWSLD 3070 could not lawfully be executed at night.

32. At no time did the defendant officers have lawful authorization to execute this warrant at night. Lt. Scott, Det. March, Sgt. Chambers, and officers Dumontt, Fowler and Bruce acted with reckless indifference to and deliberate disregard for the plaintiffs' statutory and constitutional rights when they planned and executed the warrant at night.

**The District of Columbia's Policy or Custom of
Unlawful Nighttime Execution of Search Warrants**

33. In planning the execution of Warrant 2008 CRWSLD 3070 in the nighttime, and in executing that warrant at approximately 4:00 a.m., the defendant officers were acting pursuant to a District of Columbia policy, custom, usage or practice of executing warrants at night without express judicial approval for a nighttime search.

34. As of August 2008, it was common practice for MPD ERT officers to conduct nighttime searches of dwellings based on warrants that did not expressly authorize nighttime searches. Seven officers testified at deposition that a warrant that does not expressly authorize a nighttime search can be executed at night. At least three officers, a sergeant, and a lieutenant approved the execution of Warrant 2008 CRWSLD 3070 at night. One officer testified that of the warrants for which he was responsible for writing the operations plan, at least ten to fifteen had been served at night without express authorization. Another officer testified that his superior officers taught him this practice when he arrived at ERT. The District of Columbia knew or should have known of this policy, custom, usage or practice.

35. As of August 2008, the District of Columbia had not provided adequate training or supervision to MPD officers regarding the proper execution of search warrants that did not expressly authorize nighttime searches, although the need for such training and supervision, to avoid constitutional violations, was obvious. Five officers testified at deposition that they could not recall any training on this topic.

36. The District of Columbia's policy, custom, usage or practice described above, including its inadequate training or supervision, reflected deliberate indifference to the constitutional and statutory rights of the plaintiffs.

37. As of August 2008, it was clearly established, as a matter of both District of Columbia and federal law, that search warrants cannot be executed at night absent express judicial authorization.

**The District of Columbia's Policy or Custom of
Unlawful Failure to Knock and Announce**

38. The Fourth Amendment requires that when executing a search warrant, the police knock and announce their presence before breaking and entering, absent exigent circumstances. D.C. Code § 23-524, referencing 18 U.S.C. § 3109, codifies this requirement, authorizing an officer to break a door or window to enter a house to execute a search warrant only upon being refused admittance after announcing his authority and purpose and waiting a reasonable time for a response.

39. Police must knock and announce to allow the subjects of search warrants a chance to open their doors, to save their homes from destruction and damage. Knocking and announcing is also required to save the occupants of a home from needless shock, embarrassment, and violence.

40. The search of 1312 Queen Street, NE, on August 20, 2008, involved no exigent circumstances. At no time did the defendant officers have a constitutionally or statutorily adequate reason to execute this warrant without knocking and announcing.

41. A “knock” with a halligan bar and battering ram does not meet the requirements of the knock and announce rule. In this case, the officers failed to announce that they were police officers until after they had entered the house, and thus failed to knock and announce entirely.

42. It is the policy, custom, usage or practice of the District of Columbia for ERT officers who are executing a warrant to announce that they are police only after they have begun to break down the door of a home, even in the absence of exigent circumstances. It is the District of Columbia’s policy, custom, usage or practice for ERT officers not to give the persons inside a home a reasonable opportunity to open the door before breaking and entering.

43. In planning and executing Warrant 2008 CRWSLD 3070, the defendant officers acted pursuant to the District of Columbia’s policy, custom, usage or practice of executing search warrants without knocking and announcing.

44. As of August 2008, it was common practice for MPD ERT officers to execute search warrants at dwellings without knocking and announcing before beginning to break down the door, regardless of whether exigent circumstances existed. Five ERT officers testified at deposition that it is standard procedure to “knock” by beginning to break down the door by inserting the halligan bar and banging it with a battering ram. Several MPD sergeants and a lieutenant were present at this search where this common practice was utilized. The District of Columbia knew or should have known of this policy, custom, usage or practice.

45. The District of Columbia’s policy, custom, usage or practice described above reflected deliberate indifference to the constitutional and statutory rights of the plaintiffs.

46. As of August 2008, it was clearly established as a matter of both District of Columbia and federal law that the government cannot execute warrants without knocking and announcing, absent exigent circumstances.

47. As of August 2008, it was clearly established as a matter of law that the noise made by beginning to break down a door does not satisfy the constitutional knock and announce requirement.

Harm to Plaintiffs

48. As a direct and proximate result of defendants' actions, Ms. YoungBey and Mr. Butler each suffered numerous injuries and damages, including physical pain and suffering, loss of liberty, emotional distress, shame and humiliation.

49. As a direct and proximate result of defendants' actions, Ms. YoungBey and Mr. Butler have lost their trust in the police and they no longer feel safe or secure in their home.

50. Defendant's actions caused extreme psychological harm to Ms. YoungBey. As a direct and proximate result of the actions of the defendants, Ms. YoungBey now suffers from Major Depressive Disorder and Post-Traumatic Stress Disorder. The psychological impact of defendants' home invasion has had a pervasive effect on her daily life activities, occupation, education, and social functioning. She suffers from recurring nightmares and persistently re-experiences the event via recurrent, intrusive distressing recollections that are triggered by external cues such as loud sounds and seeing police officers.

51. This psychological harm has affected Ms. YoungBey's education. Before the events of August 20, 2008, Ms. YoungBey was attending Catholic University and was seven classes away from completing her Bachelor's degree in psychology. Afterward, she was forced to take a

medical withdrawal from school for an extended period of time because of forgetfulness and inability to focus caused by defendants' actions.

52. This psychological harm has also affected Ms. YoungBey's employment. As a result of the psychological harms she suffered, Ms. YoungBey missed significant time at work, and was transferred to non-classroom duties because the invasive search affected her ability to function in the classroom. Additionally, as a result of these harms, Ms. YoungBey received an unsatisfactory personnel evaluation for the first time in her long career. Shortly after this evaluation, she lost her job due to a reduction in force.

Notice to the District of Columbia

53. The notice requirement of D.C. Code § 12-309 has been satisfied by a timely letter sent by counsel (acknowledged and assigned claim number 0801091-000/001 on December 22, 2008) and, on information and belief, by reports and records of the MPD and an investigation by the Office of Police Complaints (complaint numbers 08-0588 and 08-534).

CLAIMS FOR RELIEF

CLAIM I. - VIOLATION OF FOURTH AMENDMENT RIGHTS (Defendants Acosta, Bruce, Chambers, Dumontt, Fowler, March, McLaughlin, Miller, Thompson, Scott, Smith, and Yarbaugh)

54. Defendants conducted an unauthorized nighttime search of plaintiffs' home in violation of the Fourth Amendment.

55. By their direct, personal involvement in the planning of this nighttime search, defendants Fowler, Bruce, Chambers, Dumontt, March and Scott violated plaintiffs' rights under the Fourth Amendment.

56. By failing to knock and announce, Officers Miller and Thompson violated plaintiffs' rights under the Fourth Amendment.

57. The actions of the officers conducting the search, including pointing guns at the plaintiffs' heads for unnecessarily long amounts of time and forcing Ms. YoungBey to lie half-naked on the floor for 5-10 minutes, violated plaintiffs' rights under the Fourth Amendment.

58. By failing properly to supervise this search, Lt. Scott and Sgt. Chambers proximately caused these violations of plaintiffs' rights under the Fourth Amendment.

59. These claims are actionable under 42 U.S.C. § 1983.

CLAIM II. - ASSAULT
(Defendants Acosta, Fowler, McLaughlin, Smith, Yarbaugh, and the District of Columbia)

60. The actions of defendants Acosta, Fowler, McLaughlin, Smith, and Yarbaugh in pointing a gun at Ms. YoungBey's head for 5-10 minutes, forcing her to lie half-naked on the floor after it was clear there was no security risk, and forcing Mr. Butler to lie on the kitchen floor with a gun aimed at his head for 30 minutes, constituted an assault. Through these actions, these defendants intentionally threatened to cause harmful or offensive contact to the plaintiffs. These officers' actions caused plaintiffs an imminent apprehension of harmful, offensive, and excessive contact. These assaults violated plaintiffs' rights under District of Columbia law. The District of Columbia is liable for these violations under the doctrine of *respondeat superior*.

CLAIM III. - FALSE ARREST
(Defendants Bruce, Chambers, Dumontt, Fowler, March, Scott, and the District of Columbia)

61. Defendants Bruce, Chambers, Dumontt, Fowler, March, and Scott engaged in an unprivileged and wrongful confinement of plaintiffs for the duration of their unlawful search. This false arrest violated plaintiffs' rights under District of Columbia law. The District of Columbia is liable for this violation under the doctrine of *respondeat superior*.

**CLAIM IV. - TRESPASS TO CHATTELS AND CONVERSION
(Defendants Chambers, Dumontt, Miller, Thompson, and the District of Columbia)**

62. Defendants Chambers, Dumontt, Miller, and Thompson intentionally interfered with plaintiff YoungBey's lawful possession of her personal property, including living room furniture, by damaging or destroying said property. These acts violated plaintiff YoungBey's rights under District of Columbia law. The District of Columbia is liable for this violation under the doctrine of *respondeat superior*.

**CLAIM V. - TRESPASS
(Defendants Chambers, Dumontt, Miller, Thompson, and the District of Columbia)**

63. Defendants Chambers, Dumontt, Miller, and Thompson intentionally interfered with plaintiff YoungBey's lawful possession of her real property, including the windows and security door of her home, by damaging or destroying said property. These acts violated plaintiff YoungBey's rights under District of Columbia law. The District of Columbia is liable for this violation under the doctrine of *respondeat superior*.

**CLAIM VI. - NEGLIGENCE *PER SE*
(Defendants Bruce, Chambers, Dumontt, Fowler, March, Scott, and the District of Columbia)**

64. By planning and executing a nighttime search without the authorization required by D.C. Code § 23-523, defendants Bruce, Chambers, Dumontt, Fowler, March, and Scott violated a statutory duty owed to plaintiffs and brought about the very harms that § 23-523 seeks to prevent. This *per se* negligence violated plaintiffs' rights under District of Columbia law. The District of Columbia is liable for this violation under the doctrine of *respondeat superior*.

**CLAIM VII. - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Defendants Acosta, Dumontt, Miller, Thompson, Yarbaugh and the District of Columbia)**

65. By executing the search under the circumstances and in the manner described, defendants Acosta, Dumontt, Miller, Thompson, and Yarbaugh engaged in extreme and

outrageous conduct that intentionally or recklessly caused plaintiff YoungBey to suffer severe emotional distress. These actions violated plaintiff YoungBey's rights under District of Columbia law. The District of Columbia is liable for this violation under the doctrine of *respondeat superior*.

**CLAIM VIII.
VIOLATION OF FOURTH AMENDMENT RIGHTS - NIGHTTIME ENTRY
(Defendant District of Columbia)**

66. The District of Columbia is directly responsible for the violation of plaintiffs' Fourth Amendment rights committed by the defendant officers executing a search warrant at plaintiffs' home at night because that action was pursuant to District of Columbia policy, custom, usage or practice, and because of the District of Columbia's failure adequately to train or supervise the defendant officers in the legal requirements for executing search warrants at night, amounting to deliberate indifference on the part of the District of Columbia to the constitutional rights of people whose residences are subject to search warrants. This claim is actionable under 42 U.S.C. § 1983.

**CLAIM IX.
VIOLATION OF FOURTH AMENDMENT RIGHTS - FAILURE TO KNOCK AND
ANNOUNCE
(Defendant District of Columbia)**

67. The District of Columbia is directly responsible for the violation of plaintiffs' Fourth Amendment rights committed by the defendant officers entering plaintiffs' home without knocking and announcing because that entry was pursuant to District of Columbia policy or custom, which evidences deliberate indifference on the part of the District of Columbia to the constitutional rights of people whose residences are subject to search warrants. The District of Columbia had actual or constructive knowledge of this custom or policy of beginning to break

down the door before knocking and announcing. This claim is actionable under 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court:

(a) ENTER JUDGMENT holding the appropriate defendants jointly and/or severally liable to the plaintiffs for compensatory damages in an amount appropriate to the proof adduced at trial;

(b) ENTER JUDGMENT holding the appropriate defendants (other than the District of Columbia) jointly and/or severally liable to the plaintiffs for punitive damages in an amount appropriate to the proof adduced at trial;

(c) AWARD to plaintiffs their costs and reasonable attorneys' fees; and

(d) GRANT such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs request that their claims be tried by a jury.

Respectfully submitted,

/s/ Arthur B. Spitzer

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