

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICHARD HOOKWAY, :  
 :  
 Plaintiff, : CIVIL ACTION  
 :  
 vs. :  
 :  
 EAST VINCENT TOWNSHIP and :  
 THE BOROUGH OF SPRING CITY, :  
 :  
 Defendants. :  
 :

**COMPLAINT**

Plaintiff Richard Hookway alleges as follows:

**Introduction**

1. This case stems from three incidents involving Mr. Richard Hookway and members of the East Vincent Township and Spring City Police Departments.
2. Mr. Hookway, a concerned citizen and taxpayer, often observed his local police spending time outside their respective jurisdictions, and running personal errands while on-duty and in uniform.
3. Around November 2006, Mr. Hookway began traveling with a hand-held video camera to videotape his local police and their conduct in public places in an effort to document and record what he felt was inappropriate and wasteful conduct. He intended to report his concerns and observations to his local lawmakers.
4. Shortly after Mr. Hookway began videotaping the conduct of local police officers, the officers began to retaliate against him.

5. On three separate occasions, Mr. Hookway was detained and/or charged with crimes in the absence of probable cause, solely because he was exercising his right to monitor and record the public actions of government officials.

6. Mr. Hookway seeks declaratory relief and damages for these violations of his clearly established constitutional rights not to be unlawfully detained or subjected to retaliatory criminal charges and his right to observe and record actions of public officials on public property.

### **Parties**

7. Plaintiff Richard Hookway is an adult resident of Spring City, Pennsylvania, currently residing at 403 Bridge Street, Spring City, Pennsylvania.

8. Defendant Borough of Spring City is a Municipal Corporation and governmental subdivision of the Commonwealth of Pennsylvania. The Borough is responsible for the training and supervision of its officers in the conduct of their duties as officers with the Spring City Police Department. The acts of these officers were committed as a result of the Borough's policies and customs.

9. Defendant East Vincent Township is a Municipal Corporation and governmental subdivision of the Commonwealth of Pennsylvania. The Township is responsible for the training and supervision of its officers in the conduct of their duties as officers with the East Vincent Police Department. The acts of these officers were committed as a result of the Township's policies and customs.

10. At all times relevant herein, all acts performed by the identified officers were done under the color and pretense of the statutes, laws, ordinances, customs, and usages of the

Commonwealth of Pennsylvania and by the officers under the authority of their positions as police officers for the Borough of Spring City or East Vincent Township.

### **Jurisdiction and Venue**

11. This Court has original jurisdiction over the Plaintiff's federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

12. Venue is proper in this district because all of the acts alleged herein occurred within the Eastern District of Pennsylvania.

### **Facts**

13. Mr. Hookway was, at the time of these incidents, a resident of Spring City Pennsylvania, and a concerned taxpayer.

14. Around November 2006, Mr. Hookway began recording the activities of local, on-duty police officers, with a handheld video camera, due to his concerns about local police running personal errands and operating outside of their jurisdictions while in uniform and on duty.

15. Mr. Hookway intended to show his recordings to local officials to protest the misuse of police time and taxpayer resources.

16. At no time did Mr. Hookway ever record or attempt to record a police officer not in uniform or a police officer not in a public place.

17. On the afternoon of January 19, 2007, around 4:50 PM, Mr. Hookway was pulled over in his vehicle by Officer Stofflet on Hunsberger Road, in Spring City Pennsylvania.

18. Officer Stofflet informed Mr. Hookway that the reason for the stop was that he had observed Mr. Hookway recording him and his activities with a video camera.

19. After checking Mr. Hookway's license and registration, Officer Stofflet permitted Mr. Hookway to drive away.

20. Thereafter, Mr. Hookway received two citations in the mail, dated January 19, 2007, which were issued on January 24, 2007 by Spring City Borough.

21. These citations charged Mr. Hookway with harassment under 18 Pa. C.S.A. § 2709(2) (Citation P5182531-4) and disorderly conduct under 18 Pa. C.S.A. § 5503(a)(4) (Citation P518253-3).

22. These citations alleged that on January 19, 2007, Mr. Hookway followed Officer Stofflet in or about a public place and this action "served no legitimate purpose."

23. These two citations carried fines and court costs of \$271.00 and \$161.00 respectively.

24. Both of these citations were personally verified and signed by Chief Sherman, in her role as Chief of Police of the Borough of Spring City.

25. On the afternoon of February 1, 2007, around 4:40 PM, Mr. Hookway observed Officer Stofflet and Karl Jones, a Police Officer with East Vincent Township, performing a traffic stop in front of Gallagher's Tavern in Spring City, Pennsylvania.

26. Mr. Hookway, while parked in his car in a parking lot across the street, videotaped the activities of Officer Stofflet and Officer Jones.

27. After completing the traffic stop, Officer Stofflet and Officer Jones drove their police cruisers over to where Mr. Hookway was parked, and directly confronted him.

28. Officer Stofflet informed Mr. Hookway that videotaping police officers in the conduct of their duties on a public street is “against the law” and that his conduct was a public safety hazard, constituting harassment and disorderly conduct.

29. Officer Jones told Mr. Hookway, “You want to bother me, I’m going to bother you,” and informed Mr. Hookway that he would be receiving a citation for harassment and disorderly conduct in the mail.

30. Mr. Hookway subsequently received two citations in the mail signed by Officer Jones. Citation P1848499-2 charged Mr. Hookway with harassment under 18 Pa.C.S.A. § 2709(2), and Citation P1848498-1-3 charged Mr. Hookway with disorderly conduct under 18 Pa.C.S.A. § 5503(a)(4).

31. These citations charged Mr. Hookway with following Officer Jones around a public place – an act which “served no legal [or legitimate] purpose.”

32. The two citations carried fines and court costs of \$221.00 and \$110.00 respectively.

33. On the evening of February 19, 2007, at approximately 8:00 PM, Mr. Hookway observed Officer Smythe on Main Street in Spring City, Pennsylvania.

34. Mr. Hookway, from his parked car, videotaped Officer Smythe from approximately 200 feet away as he performed a traffic stop on a public road outside the Turkey Hill / Spring-Ford Knitting Outlet store in Spring City, Pennsylvania.

35. After completing the traffic stop, Officer Smythe drove over to Mr. Hookway’s parked car and ordered him to get out of his car.

36. Officer Smythe then handcuffed Mr. Hookway, placed him in the back of his patrol car and called his dispatcher for backup.

37. Officer Smythe told Mr. Hookway that he intended to charge him for videotaping him, but he was calling the District Attorney's Office to "make sure he could make these charges stick."

38. Officer Smythe kept Mr. Hookway handcuffed in the back of his patrol car for over an hour. During this time, Officer Smythe cursed at Mr. Hookway, threatened to confiscate his car and his video camera, and otherwise taunted him.

39. During this period, police officers from other jurisdictions appeared on the scene, including Officer Jones of the East Vincent Police Department as well as an unidentified police officer from East Coventry.

40. Upon his arrival on the scene, Officer Jones commented to Officer Smythe that he was pleased to see "my friend Mr. Hookway in your car."

41. Officer Smythe stated that he was "tired of people videotaping them" and that he was going to do something about it.

42. While Mr. Hookway was detained in the police car, Officer Smythe searched Mr. Hookway's car twice without seeking or obtaining any permission from Mr. Hookway to do so and without any reasonable suspicion of wrongdoing to justify such a search.

43. After Mr. Hookway had been forcibly detained in the back of Officer Smythe's police car for more than an hour, Officer Smythe received a phone call and thereafter released Mr. Hookway without charges.

44. Mr. Hookway retained legal counsel to challenge the four citations issued from the January 19<sup>th</sup> and February 1<sup>st</sup> incidents in court.

45. Mr. Hookway incurred legal fees of \$2,250.00 and missed two days of work, incurring \$233.36 in lost wages, to contest the January 19, 2007 and February 1, 2007 citations.

46. All charges against Mr. Hookway were withdrawn on May 15, 2007.

### COUNT ONE

#### **42 U.S.C. § 1983 – Violation of Plaintiff’s Rights Under the First, Fourth and Fourteenth Amendments of the United States Constitution Arising From the January 19, 2007 Incident (Against the Borough of Spring City)**

47. The allegations contained in the preceding paragraphs are incorporated by reference as if set forth fully herein.

48. Mr. Hookway has a clearly established right under the First Amendment to express his concern about the performance of public employees and officials, such as Officer Stofflet, to the appropriate governmental agencies or officials, whether his expression takes the form of speech or conduct.

49. Mr. Hookway’s videotaping of uniformed police officers in the conduct of their duties on public streets and in public places is a legitimate means of gathering information for public dissemination.

50. Accordingly, there can be no doubt that the free speech clause of the Constitution protected Mr. Hookway as he videotaped Officer Stofflet in the performance of his public duties on January 19, 2007.

51. By instructing Mr. Hookway to stop videotaping the conduct of uniformed police officers in public places and issuing citations for videotaping the conduct of uniformed police officers in public places, Officers Stofflet and Sherman unlawfully interfered with Mr. Hookway's constitutionally protected rights.

52. Mr. Hookway also has a clearly established right under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable seizure of his person, a right that Officer Stofflet violated by pulling him over and detaining him without reasonable suspicion of any wrongdoing to justify his seizure.

53. The actions of Officers Stofflet and Sherman were taken in retaliation for Mr. Hookway's exercise of his clearly established right under the First and Fourteenth Amendments to the United States Constitution to gather information about what public officials do on public property, and specifically, the right to record matters of public interest such as police activity occurring on a public street. These actions violated Mr. Hookway's clearly established right to be free from retaliation by public officials for his exercise of his First Amendment rights.

54. Defendant Borough of Spring City is responsible for these constitutional violations carried out pursuant to a formal government policy of the Borough that was instituted and/or ratified by Officer Sherman in her capacity as the Chief of the Spring City Police Department.

55. Additionally, Defendant Borough of Spring City caused these constitutional violations through its deliberate indifference in failing to properly train, supervise, and discipline police officers, including Officers Stofflet and Sherman, to prevent them from interfering with or retaliating against members of the public who seek to exercise their constitutionally protected right to observe and record police activity occurring on a public street.

56. Mr. Hookway has been harmed by the deprivation of his constitutional rights by Officers Stofflet, Sherman, and the Borough of Spring City, and is entitled to redress for those violations.

## **COUNT TWO**

### **42 U.S.C. § 1983 – Violation of Plaintiff’s Rights Under the First and Fourteenth Amendments of the United States Constitution Arising From the February 1, 2007 Incident (Against the Borough of Spring City and the Borough of East Vincent)**

57. The allegations contained in the preceding paragraphs are incorporated by reference as if set forth fully herein.

58. Mr. Hookway had a clearly established right to videotape Officer Stofflet and Officer Jones in the performance of their public duties on February 1, 2007.

59. By instructing Mr. Hookway to stop videotaping the conduct of uniformed police officers in public places and issuing citations for videotaping the conduct of uniformed police officers in public places, Officer Stofflet and Officer Jones unlawfully interfered with Mr. Hookway’s constitutionally protected rights.

60. The actions of Officer Stofflet and Officer Jones were taken in retaliation for Mr. Hookway’s exercise of his clearly established right under the First and Fourteenth Amendments to the United States Constitution to gather information about what public officials do on public property, and specifically, the right to record matters of public interest such as police activity occurring on a public street. These actions violated Mr. Hookway’s clearly established right to be free from retaliation by public officials for his exercise of his First Amendment rights.

61. Defendant Borough of Spring City is responsible for these constitutional violations carried out pursuant to a formal government policy of the Borough that was instituted

and/or ratified by Officer Sherman in her capacity as the Chief of the Spring City Police Department.

62. Additionally, Defendant Borough of Spring City caused these constitutional violations through its deliberate indifference in failing to properly train, supervise, and discipline police officers, including Officer Stofflet, to prevent them from interfering with or retaliating against members of the public who seek to exercise their constitutionally protected right to observe and record police activity occurring on a public street.

63. Upon information and belief, Defendant East Vincent Township caused these constitutional violations through its deliberate indifference in failing to properly train, supervise, and discipline police officers, including Officer Jones, to prevent them from interfering with or retaliating against members of the public who seek to exercise their constitutionally protected right to observe and record police activity occurring on a public street.

64. Mr. Hookway has been harmed by the deprivation of his constitutional rights by Officers Stofflet, the Borough of Spring City, and East Vincent Township, and is entitled to redress for those violations.

### **COUNT THREE**

#### **42 U.S.C. § 1983 – Violation of Plaintiff’s Rights Under the First, Fourth and Fourteenth Amendments of the United States Constitution Arising From the February 19, 2007 Incident**

#### **(Against the Borough of Spring City)**

65. The allegations contained in the preceding paragraphs are incorporated by reference as if set forth fully herein.

66. Mr. Hookway had a clearly established right to videotape Officer Smythe in the performance of his public duties on February 19, 2007.

67. By instructing Mr. Hookway to stop videotaping the conduct of uniformed police officers in public places Officer Smythe unlawfully interfered with Mr. Hookway's constitutionally protected rights.

68. Mr. Hookway also has a clearly established right under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable seizure of his person and unreasonable searches of his property, a right that Officer Smythe violated by handcuffing and detaining Mr. Hookway, and by searching his vehicle without probable cause or reasonable belief to believe that Mr. Hookway was committing any crime.

69. Officer Smythe acted in retaliation for Mr. Hookway's exercise of his clearly established right under the First and Fourteenth Amendments to the United States Constitution to gather information about what public officials do on public property, and specifically, the right to record matters of public interest such as police activity occurring on a public street. These actions violated Mr. Hookway's clearly established right to be free from retaliation by public officials for his exercise of his First Amendment rights.

70. Upon information and belief, Defendant Borough of Spring City is responsible for these constitutional violations carried out pursuant to a formal government policy of the Borough that was instituted and/or ratified by Officer Sherman in her capacity as the Chief of the Spring City Police Department.

71. Additionally, upon information and belief, the Defendant Borough of Spring City caused these constitutional violations through its deliberate indifference in failing to train, supervise, and discipline police officers, including Officer Smythe, to prevent them from

interfering with or retaliating against in seeking to prevent members of the public from exercising their constitutionally protected right to observe and record police activity occurring on a public street.

72. Mr. Hookway has been harmed by the deprivation of his constitutional rights by Officers Smythe and the Borough of Spring City, and is entitled to redress for those violations.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff requests that this Court grant him the following relief on each count above:

1. A declaration that Defendants' actions violated Plaintiff's rights under the First, Fourth, and Fourteenth Amendments of the United States Constitution;
2. Compensatory damages;
3. Reasonable attorneys' fees and costs under 42 U.S.C. § 1988; and
4. Such other and further relief as this Court deems just.

Respectfully submitted,

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