

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

TRAILBLAZHERS RUN CO., ABEO POWDER,
ELIZABETH ROCK, and FRANCES RAMIREZ,

Plaintiffs,

v.

BOSTON ATHLETIC ASSOCIATION, CITY OF
NEWTON, and JOHN F. CARMICHAEL JR., Chief
of Police of the Newton Police Department, in his
official capacity,

Defendants.

Civil Action No. 24-10950

COMPLAINT

1. The Boston Marathon would not be the Boston Marathon without spectators. Well-wishers line all 26.2 miles of the Marathon route to cheer on family, loved ones, friends, colleagues, and complete strangers. From the starting line in Hopkinton to the “Scream Tunnel” in Wellesley and Heartbreak Hill in Newton, the festive atmosphere created by spectators makes the race a signature event locally, regionally, and nationally. As the Boston Athletic Association (“BAA”), the race’s organizer, describes it, spectators “play a powerful role in fostering a sense of belonging and community for participants, volunteers, staff, and fellow spectators.”¹

2. The BAA, however, does not extend that same sense of belonging and community back to all spectators equally. On Marathon Day in 2023, acting in concert with the BAA, the Newton Police Department (“NPD”) singled out spectators from TrailblazHers Run Co. (“TrailblazHers”) and other running crews that serve primarily people of color, racially profiling,

¹ Boston Athletic Association, *Volunteer Code of Conduct*, available at <https://www.baa.org/get-involved/volunteer/code-conduct> (last visited April 11, 2024).

targeting, and harassing them. This culminated in NPD officers forming a human barricade to physically separate the running crews of color from the event. Similarly-situated white spectators received no such treatment. While white spectators viewed and enjoyed the event in peace, the people of color were racially profiled and discriminated against.

3. This discrimination and racial profiling harms TrailblazHers and other running crews of color in their efforts to increase diversity in the white-dominated running industry. For individual members, police profiling and scrutiny turns what should be a day of joy and festivity into one of pain, humiliation and trauma. It also perpetuates the harm and stigma of “running while Black.”²

4. By this civil action, Plaintiffs – the running group of color that was targeted by BAA and NPD, and individual crew members Abeo Powder, Elizabeth Rock, and Frances Ramirez seek to enjoin Defendants BAA and NPD from racially profiling and discriminating against them and seek damages to remedy past harms. Defendants’ conduct violated and – unless enjoined – will continue to violate, Plaintiffs’ rights under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution; 42 U.S.C. § 1985’s prohibition against conspiracies to deprive individuals of their civil rights; and M.G.L. c. 272 s. 98’s prohibition on discrimination in public accommodations.

² Notably, Ahmaud Arbery, a 25-year-old Black man and avid jogger, was killed while jogging through a residential neighborhood in Georgia. A viral video of the attack shows two white men trailing Arbery and firing a shotgun. Richard Fausset, *What We Know About the Shooting Death of Ahmaud Arbery*, New York Times (Aug. 8, 2022), <https://www.nytimes.com/article/ahmaud-arbery-shooting-georgia.html>. See Emilia Benton, *Why are Running Towns So White?*, Women’s Running Magazine (Oct. 7, 2021), <https://www.womensrunning.com/culture/diversity-in-running-towns-so-white/> (noting well-founded fear of hate crimes among runners of color); see also Lyndsey M. Hornbuckle, *Running While Black: A Distinctive Safety Concern and Barrier to Exercise in White Neighborhoods*, Preventive Medicine Reports (June 2021), available at <https://doi.org/10.1016/j.pmedr.2021.101378> (last visited April 10, 2024) (collecting experiences and discussing Black runners’ hypervigilance of not appearing threatening).

5. The Boston Marathon should be open to all on an equal basis – runners and spectators alike – without regard to race. Defendants’ failure to ensure that fundamental equality violates statutory and Constitutional law.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the federal claims under 28 U.S.C. §§ 1331 and 1343 and 42 U.S.C. § 1985(3). This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over the related claims under state law.

7. Venue is proper in this judicial district under 28 U.S.C. § 1391 because the events giving rise to this civil action occurred in this judicial district.

8. This Court has personal jurisdiction over: Defendant Boston Athletic Association (“BAA”) because its principal place of business is the Commonwealth of Massachusetts; Defendant City of Newton because it is a municipality duly organized and existing under the laws of the Commonwealth of Massachusetts; and Defendant Carmichael because he resides in the Commonwealth of Massachusetts and is employed by the City of Newton.

PARTIES

TrailblazHers Run Co.

9. Plaintiff TrailblazHers Run Co. is an all-female run crew and community organization in Greater Boston dedicated to providing a supportive space for women, particularly women who identify as Black, Indigenous, and/or People of Color (“BIPOC”), emphasizing holistic well-being. TrailblazHers was founded in 2020 by three women of color, including Plaintiffs Abeo Powder, Elizabeth Rock, and Frances Ramirez, and today has over 2,000 members. Beyond running, TrailblazHers offers monthly workshops and events to its members to support women's mental, emotional, and spiritual development. TrailblazHers also holds weekly running sessions for its members called “Follow the LeadHer.” Additionally, TrailblazHers hosts an annual

run and fundraiser called “Take Back the Night,” intended to celebrate International Women’s Day and to reclaim the safety narrative for female runners. Take Back the Night raises funds for various charitable causes, including supporting recently arrived migrants and survivors of domestic violence.

Individual Plaintiffs

10. Abeo Powder is a Black woman and a founding member of TrailblazHers. She resides in Boston, MA.

11. Elizabeth Rock is a Black woman and a founding member of TrailblazHers. She resides in Randolph, MA.

12. Frances Ramirez is a Black Latinx woman and a founding member of TrailblazHers. She resides in Everett, MA.

Boston Athletic Association

13. The Boston Athletic Association (“BAA”) is a non-profit organization established in 1887 dedicated to promoting a healthy lifestyle through sports, especially running. The BAA hosts and organizes the Boston Marathon, among other races.

City of Newton Defendants

14. Defendant City of Newton is a municipality duly organized and existing under the laws of the Commonwealth of Massachusetts.

15. Defendant Chief John F. Carmichael Jr. is an employee of the City of Newton and serves as the Chief of Police for the Newton Police Department. At all relevant times, he acted as an agent, servant, and employee of the City of Newton. This action asserts claims against Defendant Carmichael in his official capacity.

FACTUAL ALLEGATIONS

The Lack of Racial Diversity in the Sport of Running

16. Leadership within the running industry is overwhelmingly white,³ and runners of color frequently express concerns about safety and inclusivity in the sport.⁴ While many of the world's fastest and most elite runners are Black,⁵ the running industry as a whole lags in diversity.

17. The Boston Marathon, renowned as the world's oldest annual marathon and among one of the world's most prestigious road racing events, is not immune to these racial dynamics. It is notoriously exclusive and difficult to enter.⁶ Selective criteria act as gatekeeping measures, privileging runners who have the resources to meet professional standards, or have access to the BAA, or a strong enough network to raise required funds. The exclusivity of the Boston Marathon reflects societal inequalities, particularly the racial disparities prevalent in Greater Boston.⁷

18. This unequal landscape underscores the core mission, purpose, and significance of the Plaintiff organization. TrailblazHers' goal is to foster a safe and inclusive running community that mirrors the diversity of Boston's neighborhoods, welcoming runners of all skill levels and paces. One does not need to be a professional athlete to be a member of TrailblazHers.

³ See Emilia Benton, *New Study Highlights Critical Steps Toward Equity in the Running Industry*, Run (Aug. 11, 2023), <https://run.outsideonline.com/news/equity-in-the-running-industry/> (citing studies showing that only 1% of senior executives within the running industry are Black).

⁴ See *supra* note 2.

⁵ See Wayne Sterling, *Double delight for Kenya as Evans Chebet and Hellen Obiri win men's and women's Boston Marathon races*, CNN (April 18, 2023), <https://www.cnn.com/2023/04/17/sport/evans-chebet-wins-boston-marathon-spt-intl/index.html>.

⁶ Participation is limited to four avenues: (1) meeting specific time standards based on age and gender; (2) qualifying at a prior marathon with a competitive time; (3) fundraising at least \$5,000 for a qualifying non-profit organization; or (4) securing an invitational bid from a marathon sponsor or the BAA. BAA, *Qualify for the Boston Marathon*, available at <https://www.baa.org/races/boston-marathon/qualify> (last visited April 11, 2024) (noting that "achieving one's qualifying standard does not guarantee entry into the event, but simply the opportunity to submit a registration application").

⁷ See, e.g., Ana Patricia Muñoz, et al., *The Color of Wealth in Boston*, Federal Reserve Bank of Boston (March 25, 2015), <https://www.bostonfed.org/publications/one-time-pubs/color-of-wealth.aspx> ("While white households have a median wealth of \$247,500, Dominicans and U.S. Blacks have a median wealth of close to zero").

19. The BAA is also cognizant of the lack of diversity in the sport of running.⁸ In recognition of the need for greater diversity and inclusivity in the Boston running community, in January 2022, the BAA launched the Boston Running Collaborative, an initiative that is supposed to help address this issue.⁹

Plaintiffs' Participation In The Boston Marathon

20. For the last four years, TrailblazHers, along with other running crews of color, have established a “cheer zone” at Mile 21 on the Boston Marathon route in Newton. Their purpose is to show solidarity, particularly for members of their clubs who are running the marathon.

21. In marathon culture, including at the Boston Marathon, spectators frequently cheer loudly and boisterously, and it is not uncommon for spectators to enter onto the course briefly to express solidarity and support. While crowds are typically aware of the need to not impede the path of race participants, spectators may run a short distance alongside their loved ones when they see them come into view; children may dart onto the course to offer oranges or other refreshments to runners; and family members may step into the street to offer hugs or kisses. This heartwarming tradition is evident not only in the Boston Marathon but also in other marathons.¹⁰

⁸ BAA, *Commitment to Racial Justice*, available at <https://www.baa.org/commitment-racial-justice> (last visited April 11, 2024).

⁹ BAA, Press Release: BAA Announces Boston Running Collaborative to Broaden Access to the Sport of Running Across Greater Boston (Sept. 10, 2021, available at <https://www.baa.org/baa-announces-boston-running-collaborative-broaden-access-sport-running-across-greater-boston> (last visited April 11, 2024).

¹⁰ See CBS Boston, *Crowds Support Boston Marathon Runners At Heartbreak Hill*, YouTube (2023), available at <https://www.youtube.com/watch?v=6ADdKASpHhI> (last visited April 11, 2024) (video of a white reporter doing an interview on the course of the 2023 Boston Marathon); Tony James, *My Boston Marathon 2023 Experience: From Start to Finish*, YouTube (2023), available at <https://www.youtube.com/watch?v=s4jiDmHH2ow> (last visited April 11, 2024) (video of white photographer in the course of the 2023 Boston Marathon, specifically at the 10:35 minute mark); Runner's World, *Couple Starts Boston Marathon as Fiancés, Finish As Husband and Wife*, YouTube (2019), available at <https://www.youtube.com/watch?v=TPNYRei93ug> (last visited April 11, 2024) (a video of a white couple getting married at Mile 20 with non-marathon participants entering course as wedding attendees); John Volkman, *Proposal at Boston Marathon 2014*, YouTube (2015), available at https://www.youtube.com/watch?v=m0ur_hM614 (last visited April 11, 2024) (video of a white reporter in the middle of the course filming white couple getting engaged in 2014); Run4Papa, *Boston Marathon| Boston Strong | Boston Course and Route | Boston, MA*, YouTube (2015), available at <https://www.youtube.com/watch?v=oPs131V8vkY> (last visited April 11, 2024) (video of white individuals hugging a runner and taking photos on the course during 2014 Boston Marathon).

22. Like numerous other groups—such as the hundreds of Wellesley College students who gather every year at the “Scream Tunnel” to cheer “and maybe even snag a kiss from runners”¹¹ and the spectators who gather on Boylston Street to cheer runners on the last stretch of the marathon—TrailblazHers has for years traditionally gathered at Mile 21 to cheer on their members. This is part of marathon tradition and culture.

23. For the 2023 Boston Marathon, Plaintiffs again organized a cheer zone in Newton at Mile 21. Plaintiffs extended invitations to other BIPOC running crews to show solidarity and support for fellow BIPOC runners. The cheer zone was comprised of more than one hundred people, mostly people of color.

24. The cheer zone in Newton at Mile 21 holds immense significance for Plaintiffs, as it stands as a key place where runners of color are acknowledged and celebrated. Given that the cities and towns along the Boston Marathon route are predominantly white communities, runners of color who reach Mile 21 receive deeply validating cheers from Plaintiffs. This is a powerful and affirming experience for runners of color who see that they truly belong in the prestigious race and running community.

25. Plaintiffs arrived at Mile 21 at approximately 5:30 A.M. on April 17, 2023, to set up tents, including one for the DJ, prepared cheering materials such as pompoms and confetti cannons, and arranged grills for food. As more members joined, the atmosphere became vibrant with support for their fellow runners.

26. Around 12:30 P.M., a spectator of color joyfully celebrated by launching a confetti cannon as a known runner passed the Mile 21 cheer zone. In response, an NPD officer, Paul Boyle,

¹¹ Chris McLaughlin, *Wellesley College Students at “Scream Tunnel” Cheer On, Kiss Boston Marathon Runners*, MassLive (April 17, 2023), <https://www.masslive.com/news/2023/04/wellesley-college-students-cheer-on-kiss-boston-marathon-runners-at-scream-tunnel.html>.

immediately approached. The officer fisted the front of the spectator's shirt, demanded identification, and threatened an arrest for allegedly running in the course. The spectator remained calm and explained to the officer that he was not obstructing any runners. The incident heightened tensions among many members of Plaintiffs' running crew who observed the police misconduct. Plaintiffs and other members were also confused by the NPD police reaction, as it is not uncommon for marathon spectators to briefly enter onto the course in moments of excitement.

27. Approximately fifteen minutes later, Plaintiffs noticed NPD officers continuing to yell and instruct spectators in TrailblazHers' Mile 21 cheer zone to move back, even though no one was obstructing runners. Plaintiffs did not observe Officer Boyle, or any other NPD officer, instructing white spectators in nearby cheer areas to move back.

28. NPD's presence and conduct was creating apprehension, fear, and tension. NPD officers continued to harass and hassle this specific Black cheer area. Many of TrailblazHers' members became upset and cried out of frustration as they observed only their section get penalized for celebrating and demonstrating excitement. Many asked themselves, "why us?" NPD's actions made Plaintiffs and their members feel unsafe and unwelcomed, both in the neighborhood and at the marathon.

29. Examples abound of Defendants not treating other similarly-situated white spectators in the same manner. For example, just before reaching Mile 21, around Mile 15, a Wellesley family¹² hosted a block party for runners, featuring a 10-foot blue and yellow balloon arch placed within the course for runners to pass through. In contrast to Plaintiffs' cheer section, this area, comprising mostly of white spectators, lacked police presence or instructions to stay off

¹² Vivi Smilgius, *Boston Marathon Block Party Awaits Runners at Mile 15*, Boston.com (April 7, 2023), <https://www.boston.com/real-estate/boston-marathon/2023/04/07/boston-marathon-block-party-wellesley/>.

the course. No one threatened or intimidated the white spectators to remove the obstructing balloon arch.





30. In another instance, as seen in a viral Tik Tok video, a white male spectator offered a doughnut to runners, and then ran alongside the man who finally accepted it. Yet no BAA officials or police officers intervened.



31. TrailblazHers' members and guests observed a white woman and her child at Mile 21 in Newton, who appeared to be loved ones of a runner, crossing the street into the course to hug a participant, without any intervention from BAA officials or NPD officers.

32. Witnessing running crew members becoming upset and tearful at the officers' actions made Plaintiff Powder, Rock, and Ramirez anxious, fearing a potential escalation. As Black women who have experienced past negative encounters with law enforcement, they were acutely aware of the risks of escalation when people of color are surrounded by police.

33. As the law enforcement response unfolded, NPD officers stated that they were responding to a complaint from the BAA. To address this matter, Plaintiffs' guest contacted Suzanna Walmsley, BAA's Director of Community Engagement and a leader on the Running Collaborative Steering Committee, and expressed concerns about NPD officers surrounding the running crews. Walmsley was asked to call them off.

34. After a few minutes, NPD officers left the scene briefly. However, Plaintiffs' peace was again disrupted moments later when an even larger group of approximately twenty NPD officers on bikes reappeared and formed a human barricade along the course, physically separating the Plaintiffs and their members from runners, obstructing their view, and preventing them from seeing passing runners in order to cheer them on. Additional NPD officers on motorcycles stationed themselves on the street behind the Plaintiffs' cheer zone, effectively surrounding and penning in the people in the cheer zone of color.



35. Plaintiffs were taken aback by the substantial police presence and show of force. They feared for the safety of their members who were spectating, and also for the safety of those running. Many BIPOC runners were shocked to see police officers concentrated at the only section of the marathon route with many spectators of color.



36. Despite efforts by several TrailblazHers' leaders to deescalate the situation with the officers, the officers remained unresponsive and unwilling to engage.



37. On information and belief, BAA did not direct a similar police response, and NPD did not engage in a similar police response, to other similarly-situated groups of non-Black spectators.

38. The NPD officers' actions inflicted significant emotional distress and lasting damage to the dignity of Plaintiffs. Plaintiffs Powder, Rock, and Ramirez struggled to sleep the nights following the incident, affecting their daily life and performance at work. The incident dominated Plaintiffs' mental health for months, highlighting its profound impact.

39. Plaintiffs remained in the cheer zone until the last few runners finished, and NPD officers remained until close to 4:30P.M.

40. Defendants' actions have hindered TrailblazHers' mission of fostering equity, diversity, and inclusivity in the running community, particularly for BIPOC runners. Following the unlawful actions of NPD officers at the 2023 marathon, Plaintiffs took responsive and healing measures within TrailblazHers, including conducting thorough one-on-one meetings to ensure that every member felt heard, valued, and secure within the organization and running community. They also organized a special run and sound bath healing workshop to provide much-needed support for members affected by the incident. These initiatives were trauma-informed to address the deeply harmful effects of racial profiling and over policing, including the threat of arrest and specter of violence.

41. Due to Defendants' conduct, Plaintiffs have spent dozens of hours preparing for and participated in ten separate meetings with the BAA, including many hours of discussion regarding the unlawful actions of NPD and brainstorming for additional safety measures for BIPOC participants and spectators at future marathons. Additionally, Plaintiffs actively participated in numerous meetings with other officials, such as the Mayor's Office for the City of

Newton. TrailblazHers also held monthly coordination sessions with another running crew of color to coordinate efforts for these meetings. For instance, in preparation for the initial meeting with the BAA, TrailblazHers took several hours to prepare a comprehensive PowerPoint presentation featuring member testimonials and photos from the day of the marathon. In total, Plaintiffs spend over forty hours preparing for meetings and engagements with the above-mentioned parties seeking redress and healing. Defendants' misconduct forced Plaintiffs to spend time and resources that they otherwise would have devoted to their usual activities, such as organizing runs and workshops.

42. In the end, however, neither the BAA nor NPD enacted any meaningful reforms to prevent racial profiling and harassment from happening again. Indeed, on information and belief, BAA secretly apologized to NPD—sanctioning, ratifying, and effectively condoning NPD's misconduct at the 2023 marathon in discriminating and targeting Plaintiffs at Mile 21.¹³ BAA President and CEO Jack Fleming stated, "I apologized to the police for the position that they were put in, that I put the police in."¹⁴

43. Plaintiffs plan to continue setting up a cheer zone at future marathons, as they have traditionally done, but fear that doing so will cause Defendants to racially profile them and discriminate against them again.

¹³Matt Stout, *A Year Later, BAA Head Says Officer 'Followed Police Protocol' Amid Interaction With Racially Diverse Run Club*, Boston Globe (March 27, 2024), <https://www.bostonglobe.com/2024/03/27/metro/boston-athletic-association-police-boston-marathon-apology/>.

¹⁴Craig LeMoult, *Boston Marathon Will Have More Barricades Following Incident in Newton Last Year*, GBH (April 5, 2024), <https://www.wgbh.org/news/local/2024-04-05/boston-marathon-will-have-more-barricades-following-incident-in-newton-last-year>.

CAUSES OF ACTION

**First Cause of Action
(Violation of Fourteenth Amendment; Equal Protection, 42 U.S.C. § 1983)**

44. Plaintiffs re-allege and incorporate each and every allegation made in the preceding paragraphs as if fully set forth herein.

45. At all relevant times, Defendants acted “under the color of law” within the meaning of 42 U.S.C. § 1983.

46. Defendants unjustly subjected and targeted Plaintiffs to treatment described above because of their race.

47. As a direct and proximate cause of their acts, Defendants violated 42 U.S.C. § 1983 by violating Plaintiffs’ Fourteenth Amendment right to equal protection under the laws.

**Second Cause of Action
(Violation of 42 U.S.C. § 1985(3); Civil Rights Conspiracy)**

48. Plaintiffs re-allege and incorporate each and every allegation made in the preceding paragraphs as if fully set forth herein.

49. Defendants agreed to participate in a common scheme to deprive Plaintiffs of their civil rights, including but not limited to equal protection of the laws based on their race.

50. Defendant BAA organizes the Boston Marathon every year. This requires the BAA and the law enforcement agencies in jurisdictions across the 26.2 miles of the course, including the NPD, to jointly and actively collaborate before and during the day of the marathon.

51. During the 2023 marathon, Defendants BAA and NPD jointly and actively engaged in approaching, surveilling, threatening, intimidating, and surrounding Plaintiffs and their BIPOC members at Mile 21. The NPD reported to Plaintiffs’ members and to news outlets that in engaging in their conduct against Plaintiffs they were responding to multiple complaints from the BAA on

the day of the marathon, instructing them to surveil and target Plaintiffs and their BIPOC members for law enforcement.

52. Upon information and belief, Defendants BAA and NPD did not treat similarly-situated white spectators in the same manner, despite there being numerous instances of white spectators entering the course near Plaintiffs' cheer zone and along the marathon route.

53. Defendants BAA and NPD targeted Plaintiffs because of their race and conspired to deprive them of their civil rights, including equal protection of the laws.

54. Plaintiffs have been harmed as a direct and proximate result of Defendants' conspiracy.

**Third Cause of Action
(Violation of the M.G.L. c. 272 s. 98; Public Accommodations Law)**

55. Plaintiffs re-allege and incorporate each and every allegation made in the preceding paragraphs as if fully set forth herein.

56. The Boston Marathon is a place of public accommodation, as defined by M.G.L. c. 272 s. 98, as it is a place which is open to and accepts or solicits the patronage of the general public.

57. Defendant BAA is the host and organizer of the annual Boston Marathon.

58. Defendant BAA and the NPD unjustly subjected and targeted Plaintiffs to the treatment described above because of their race.

59. As a direct and proximate cause of their acts, Defendant violated M.G.L. c. 272 s. 98 by denying Plaintiffs' the same terms and conditions as other spectators at the 2023 Boston Marathon.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. Declare that Defendants' conduct in racial profiling and discriminating against Plaintiffs and their members during the 2023 Boston Marathon violated their rights under the Equal Protection Clause of the U.S. Constitution; under 42 U.S.C. § 1985; and under M.G.L. c. 272 s. 98's prohibition on discrimination in public accommodations.
- b. Preliminarily and permanently enjoin Defendants, and each of them, from discriminating against Plaintiffs and their members and depriving them of equal opportunity to participate as spectators of the Boston Marathon;
- c. Award compensatory, punitive, and nominal damages to Plaintiffs against Defendants;
- d. Award the cost of this action, including reasonable attorney's fees; and
- e. Award such other relief as this Court may deem necessary and appropriate.

JURY DEMAND

Plaintiffs demand a jury trial on all counts so triable.

Dated: April 11, 2024

Respectfully submitted,

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