

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

**MARYLAND STATE CONFERENCE OF NAACP  
BRANCHES, et al.,**

*Plaintiffs,*

v.

CASE NO. 06-1863 (CCB)

**BALTIMORE CITY POLICE DEPARTMENT, et al.,**

*Defendants.*

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*Proposed New Plaintiffs,*

**TIMOTHY JOHNSON**, 201 S. Main St., Bryan, TX 77803; **TAVIS CROCKETT**, 2909 W. Mosher St., Baltimore, MD 21216; **RAFFIC SCOTT**, 31 Saturn Ct., Parkville, MD 21234; **KERRELL K. WRIGHT**, 535 Rossiter St., Baltimore, MD 21212; **CAROL HIGGS**, 1601 Guilford Ave. Apt. 4 South, Baltimore, MD 21204; **ARMONDO HORSEY**, 103 E. Chase St., Baltimore, MD, 21202; **JONATHAN LINDSAY**, 4 Fountain Ridge, Parkville, MD 21234; **ERIN MARCUS**, 932 N. Charles St. Apt. 3R, Baltimore, MD 21201; and **JEFFREY CHAPMAN**, 3428 Dayta Drive, Baltimore, 21218.

*Existing Plaintiffs with updated information,*

**TYRONE BRAXTON**, 5007 Corley Road, Apt. C3, Baltimore, MD 21207; **AARON STONER**, 14241D Falling Waters Road, Williamsport, MD 21795,

*Proposed New Defendants,*

**SHEILA DIXON**, individually, and in her official capacity as Mayor, City of Baltimore, 100 North

*Holliday St., Baltimore, MD 21202; GARY D. MAYNARD*, individually, and in his official capacity as Secretary, Department of Public Safety and Correctional Services, *c/o Douglas F. Gansler, Attorney General of Maryland, 200 St. Paul Place, Baltimore, MD 21202; PIO HERON*, individually, and in his official capacity as a Police Officer, Baltimore City Police Department, *601 East Fayette St., Baltimore, MD 21202; PIO J. GREY*, individually, and in his official capacity as a Police Officer, Baltimore City Police Department, *601 East Fayette St., Baltimore, MD 21202; PIO JOSEPH CHIN*, individually, and in his official capacity as a Police Officer, Baltimore City Police Department, *601 East Fayette St., Baltimore, MD 21202; PIO SOUTHARD*, individually, and in his official capacity as a Police Officer, Baltimore City Police Department, *601 East Fayette St., Baltimore, MD 21202; PIO MICHAEL PINKOSZ*, individually, and in his official capacity as a Police Officer, Baltimore City Police Department, *601 East Fayette St., Baltimore, MD 21202; PIO LOLANDO L. HAMILTON*, individually, and in his official capacity as a Police Officer, Baltimore City Police Department, *601 East Fayette St., Baltimore, MD 21202; PIO RONALD S. MEALEY*, individually, and in his official capacity as a Police Officer, Baltimore City Police Department, *601 East Fayette St., Baltimore, MD 21202, and JOHN DOES F-R*, individually, and in their official capacity as Corrections Officers, Central Booking and Intake Center, *400 East Madison St., Baltimore, MD 21202.*

*Existing Defendants with updated information,*

**MARTIN O'MALLEY**, former Mayor of the City of Baltimore, individually, *100 State Circle, Annapolis, MD 21401; LEONARD HAMM*, former Commissioner, Baltimore City Police Department, individually, *Last Known Address: 601 East Fayette St., Baltimore, MD 21202; MARCUS L. BROWN*, former Deputy Commissioner of the Baltimore City Police Department, individually,

7201 Corporate Center, Hanover, MD 21076;  
**FREDERICK H. BEALEFELD III**, individually, and in his official capacity as Commissioner, Baltimore City Police Department, 601 East Fayette St., Baltimore, MD 21202; **MARY ANN SAAR**, former Secretary of the Department of Public Safety and Correctional Services, individually, c/o Douglas F. Gansler, Attorney General of Maryland, 200 St. Paul Place, Baltimore, MD 21202;

## **FIRST AMENDED COMPLAINT AND JURY DEMAND**

Plaintiffs Maryland State Conference of NAACP Branches and Baltimore City Branch of the NAACP (collectively, "NAACP") and Evan Howard, Tyrone Braxton, Donald Wilson, Robert Lowery, Aaron Stoner, Timothy Johnson, Tavis Crockett, Raffic Scott, Kerrell Wright, Armondo Horsey, Jonathan Lindsay, Erin Marcus, Jeffrey Chapman and Carol Higgs sue various state and local entities and individuals for violations of federal and state law and seek declaratory, injunctive, monetary, equitable, and all other relief to which they are entitled.

### **I. INTRODUCTION**

1. Under a pattern and practice set and enforced by city officials, Baltimore police officers arrest individuals without probable cause, in violation of the U.S. Constitution and the Maryland Declaration of Rights.

2. To encourage this pattern and practice, the Baltimore City Police Department ("Police Department") rewards police officers with more arrests and punishes officers with fewer arrests, regardless of the number or success of resulting prosecutions.

3. As a consequence, Baltimore prosecutors decided to drop the charges against approximately 30 percent of those arrested without a warrant in 2005 prior to any involvement by a defense attorney, and prior to review of the charges by a court commissioner.

4. The Maryland Central Booking and Intake Center ("CBIC") receives these arrestees for processing, and compounds the problem by conducting strip searches of male arrestees without probable cause or individualized suspicion that they are carrying weapons or contraband, in violation of the U.S. Constitution and the Maryland Declaration of Rights.

5. The volume of arrests by the Police Department has caused CBIC to detain many arrestees beyond the statutory time limit of 24 hours before presentment or release, in violation of Maryland Rule 4-212(f) and the Maryland Declaration of Rights. In some cases, the detentions have exceeded 48 hours, in violation of the U.S. Constitution.

6. These unconstitutional and illegal acts degrade, humiliate, and cause grave harm to their victims. Individuals who are arrested suffer unwarranted deprivation of personal liberty, sometimes for days. They may lose their jobs or be denied job opportunities in the future as a result of the permanent stigma of having a criminal charge on their record. They suffer the humiliation of being hauled away in handcuffs in front of friends, family, or neighbors. At CBIC, they are subjected to the degradation of strip searches—in many cases, visual body cavity searches—in front of other detainees. They are detained, sometimes for days at a time, in filthy, overcrowded conditions. Then, when the State's Attorney declines to prosecute, they are Released Without Charge (RWOC'd), though they have technically already been charged by the police—often because the police had no right to arrest them in the first place.

7. Despite the patently unconstitutional and illegal nature of this conduct and its detrimental effects on the Baltimore residents whom the laws are supposed to protect, city officials have refused to reform their practices. The time has come to rein in this abuse of power and stop these unconstitutional and illegal acts.

## **II. JURISDICTION AND VENUE**

8. This Court has jurisdiction over this case pursuant to 28 U.S.C. §1331.

9. Venue is proper as the events complained of occurred in the Northern Division of the District of Maryland, and the defendants carry out business therein.

10. This Court has personal jurisdiction over Defendants State of Maryland ("State"), the Mayor and City Council of the City of Baltimore ("City"), and the Police Department because they are entities consisting of or located within Maryland.

11. This Court also has personal jurisdiction over individual Defendants Maynard, Saar, Smith, Franks, Murphy, O'Malley, Dixon, Hamm, Brown, Bealefeld, Clark, Norris, Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, Officer Does A-R, and Officer Does 1-100. Upon information and belief, Maynard, Saar, Smith, Franks, Murphy, Dixon, O'Malley, Hamm, Brown, Bealefeld, Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, Officer Does A-R, and Officer Does 1-100 maintain domiciles within the State of Maryland. In addition, this Court has personal jurisdiction over all of the individual Defendants under Maryland's long-arm statute because (a) their tortious actions and omissions occurred and caused injury within Maryland and (b) they are (or were at the time

of the illegal acts) all employed within Maryland, thus performing a character of work or service within Maryland.

### **III. PRE-SUIT REQUIREMENTS**

12. Plaintiffs Howard, Lowery, Braxton, Stoner, Wilson, Johnson, Crockett, Horsey, Lindsay, Marcus, and Chapman have satisfied the necessary pre-suit prerequisites under the Maryland Tort Claims Act and the Local Government Tort Claims Act for each of the pertinent claims listed below in Section VIII; Plaintiff Higgs has satisfied the necessary prerequisites under the Local Government Tort Claims Act; and Plaintiffs Scott and Wright have satisfied the necessary prerequisites under the Maryland Tort Claims Act.

13. Evan Howard submitted notice of his claims to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested, on September 23, 2005. On September 29, 2005, the City notified Mr. Howard's counsel that the claim against the City had been referred to Michael Fry of the Baltimore City Police Department for attention and disposition. On October 4, 2005, the Maryland State Treasurer acknowledged receipt of Mr. Howard's claim. The Maryland State Treasurer failed to give Mr. Howard notice of a final decision within six months after the filing of his claim.

14. Tyrone Braxton submitted notice of his claims to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested, on September 23, 2005. On September 29, 2005, the City notified Mr. Braxton's counsel that the claim against the City had been referred to Michael Fry of the Baltimore City Police Department for attention and disposition. On October 11, 2005, the Maryland State Treasurer acknowledged receipt

of Mr. Braxton's claim. The Maryland State Treasurer failed to give Mr. Braxton notice of a final decision within six months after the filing of his claim.

15. Robert Lowery submitted notice of his claims to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested, on September 29, 2005. On October 5, 2005, the City notified Mr. Lowery's counsel that the claim against the City had been referred to Michael Fry of the Baltimore City Police Department for attention and disposition. On October 6, 2005, the Maryland State Treasurer acknowledged receipt of Mr. Lowery's claim. The Maryland State Treasurer failed to give Mr. Lowery notice of a final decision within six months after the filing of his claim.

16. Aaron Stoner submitted notice of his claims to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested, on September 29, 2005. On October 5, 2005, the City notified Mr. Stoner's counsel that the claim against the City had been referred to Michael Fry of the Baltimore City Police Department for attention and disposition. On October 6, 2005, the Maryland State Treasurer acknowledged receipt of Mr. Stoner's claim. The Maryland Treasurer failed to give Mr. Stoner notice of a final decision within six months after the filing of his claim.

17. Donald Wilson submitted notice of his claims arising from his April 10, 2006 arrest to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested on June 15, 2006. On June 19, 2006, the City notified Mr. Wilson's counsel that the claim against the City related to this arrest had been referred to Michael Fry of the Baltimore City Police Department for attention and disposition, and on the same date the Maryland State Treasurer acknowledged receipt of Mr. Wilson's claim. The Maryland

State Treasurer failed to give Mr. Wilson notice of a final decision within six months after the filing of his claim.

18. Mr. Wilson submitted notice of his claims arising from his April 5, 2007 arrest to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested on August 2, 2007. On August 6, 2007, the City notified Mr. Wilson's counsel that the claim against the City related to this arrest had been referred to Michael Fry of the Baltimore City Police Department for attention and disposition.

19. Timothy Johnson submitted notice of his claims to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested on December 1, 2006. On January 4, 2007, the City notified Mr. Johnson's counsel that the claim against the City had been referred to Michael Fry of the Baltimore City Police Department for attention and disposition. On December 14, 2006, the Maryland State Treasurer acknowledged receipt of Mr. Johnson's claim. The Maryland State Treasurer failed to give Mr. Johnson notice of a final decision within six months after the filing of his claim.

20. Tavis Crockett submitted notice of his claims to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested, on January 4, 2007. On January 19, 2007, the City notified Mr. Crockett's counsel that the claim against the City had been referred to Ms. Sandra Holmes of the Baltimore Police Department for attention and disposition. On January 11, 2007, the Maryland State Treasurer acknowledged receipt of Mr. Crockett's claim. The Maryland State Treasurer failed to give Mr. Crockett notice of a final decision within six months after the filing of his claim.



21. Raffic Scott submitted his notice of his claims to the Maryland State Treasurer via certified mail, return receipt requested on May 25, 2007. On June 4, 2007, the Maryland State Treasurer acknowledged receipt of Mr. Scott's claim. On September 21, 2007, the state notified Mr. Scott that his claim had been denied. Mr. Scott asserts state causes of action (a) against city defendants only in their individual capacities, and (b) for injunctive and declaratory relief.

22. Kerrell Wright submitted his notice of his claims to the Maryland State Treasurer via certified mail, return receipt requested on May 25, 2007. On June 4, 2007, the Maryland State Treasurer acknowledged receipt of Mr. Wright's claim. On September 21, 2007, the state notified Mr. Wright that his claim had been denied. Mr. Wright at this time asserts state causes of action (a) against city defendants only in their individual capacities, and (b) for injunctive and declaratory relief.

23. Carol Higgs submitted notice of her claims to the Baltimore City Solicitor via certified mail, return receipt requested, on February 2, 2005. She received a notice dated March 2, 2005, from Richard M. Lane, Special Investigation Supervisor for the Department of Law – CBI, referring her claim to Michael Fry of the Baltimore City Police Department for attention and disposition. Ms. Higgs at this time asserts state causes of action for (a) damages against state defendants only in their individual capacities, and (b) injunctive and declaratory relief.

24. Armondo Horsey submitted notice of his claims to the Baltimore City Solicitor and the Maryland state treasurer via certified mail, return receipt requested, on December 17, 2007. While his tort notices are pending, Mr. Horsey at this time asserts state causes of

action for (a) damages against city and state defendants only in their individual capacities, and (b) injunctive and declaratory relief.

25. Jonathan Lindsay submitted notice of his claims to the Baltimore City Solicitor and the Maryland state treasurer via certified mail, return receipt requested, on December 17, 2007. While his tort notices are pending, Mr. Lindsay at this time asserts state causes of action for (a) damages against city and state defendants only in their individual capacities, and (b) injunctive and declaratory relief.

26. Erin Marcus submitted notice of her claims to the Baltimore City Solicitor and the Maryland State Treasurer via certified mail, return receipt requested, on December 17, 2007. While her tort notices are pending, Ms. Marcus asserts state causes of action for (a) damages against city and state defendants only in their individual capacities, and (b) injunctive and declaratory relief.

#### **IV. THE PARTIES**

##### **A. The Plaintiffs**

27. Plaintiff Evan Howard is a 20-year-old student in the engineering program at Morgan State University and a resident of Baltimore, Maryland. He is a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. With the exception of the arrest described below, Mr. Howard has never been arrested or convicted of a crime. As explained below, Mr. Howard has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

28. Plaintiff Tyrone Braxton is a 21-year-old graduate of Carver Vocational Technical High School and a resident of Baltimore, Maryland. He is a citizen of the United States and

the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. With the exception of the arrest described below, Mr. Braxton has never been arrested or convicted of a crime. As explained below, Mr. Braxton has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

29. Plaintiff Donald Wilson is a 23-year-old resident of Baltimore, Maryland. He is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. With the exception of the arrests described below, and a juvenile detention for disturbing the peace (which was never prosecuted), Mr. Wilson has not been arrested or convicted of a crime. As explained below, Mr. Wilson has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

30. Plaintiff Robert Lowery is a 29-year-old resident of Greencastle, Pennsylvania. He is a person and a citizen of the United States and the Commonwealth of Pennsylvania within the meaning of the constitutions of the United States and the Commonwealth of Pennsylvania. With the exception of the arrest described below, Mr. Lowery has never been arrested or convicted of a crime. As explained below, Mr. Lowery has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

31. Plaintiff Aaron Stoner is a 28-year-old resident of Williamsport, Maryland. He is a person and a citizen of the United States and the Commonwealth of Pennsylvania within the meaning of the constitutions of the United States and the Commonwealth of Pennsylvania. With the exception of the arrest described below, Mr. Stoner has never been arrested or

convicted of a crime. As explained below, Mr. Stoner has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

32. Plaintiff Timothy Johnson is a 43-year-old PhD candidate in neurobiology, a research fellow at Texas A&M University, and a resident of Bryan, Texas. He is a citizen of the United States and the State of Texas within the meaning of the constitutions of the United States and the State of Texas. With the exception of the arrest described below, Mr. Johnson has never been arrested or convicted of a crime. As explained below, Mr. Johnson has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

33. Plaintiff Tavis Crockett is a 19-year-old resident of Baltimore, Maryland, and a senior at Independent School Local 1. He is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. Prior to the arrests described below, Mr. Crockett had never been arrested or convicted of a crime. As explained below, Mr. Crockett has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

34. Plaintiff Raffic Scott is a 29-year-old resident of Parkville, Maryland. He is a member of the Israelite Church of God and Jesus Christ, in Baltimore, Maryland. He is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. As explained below, Mr. Scott has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

35. Plaintiff Kerrell Wright is a 24-year-old resident of Baltimore, Maryland, and a member of the Israelite Church of God and Jesus Christ, in Baltimore, Maryland. He is a

person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. As explained below, Mr. Wright has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

36. Plaintiff Carol Higgs is a 62-year-old resident of Baltimore, Maryland. She is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. As explained below, Ms. Higgs has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

37. Plaintiff Armondo Horsey is a 37-year-old architect and resident of Baltimore, Maryland. He is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. As explained below, Mr. Horsey has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

38. Plaintiff Jonathan Lindsay is a 36-year-old elementary school teacher and resident of Parkville, Maryland. He is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. As explained below, Mr. Lindsay has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

39. Plaintiff Erin Marcus is a 25-year-old resident of Baltimore, Maryland. She is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. As explained below, Ms. Marcus

has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

40. Plaintiff Jeffrey Chapman is a 51-year-old parking attendant at Camden Yards stadium and a resident of Baltimore, Maryland. He is a person and a citizen of the United States and the State of Maryland within the meaning of the constitutions of the United States and the State of Maryland. As explained below, Mr. Chapman has been injured and risks further harm as a result of the defendants' illegal acts and omissions.

41. Plaintiffs Maryland State Conference of NAACP Branches and Baltimore City Branch of the NAACP (collectively, "NAACP") are 501(c)(4) non-profit, membership organizations that advocate for civil rights, equality, and social justice. The NAACP sues for declaratory and injunctive relief on behalf of its Maryland resident members, who are likely to be subjected to future unconstitutional and illegal arrests, strip searches, and detentions under the policies and practices described herein.

## **B. Defendants**

### **1. Entities**

42. Defendant State of Maryland ("State") is a state government. The State has statutorily created, and is legally responsible for, the Department of Public Safety and Correctional Services ("Department"). The Division of Pretrial Detention and Services ("Pretrial Detention") is a division of the Department.

43. Defendant Mayor and City Council of the City of Baltimore ("City"), a municipal corporation, is a governmental entity within the meaning of the federal and state constitutions.

44. Defendant Baltimore City Police Department ("Police Department") is a government agency. The Mayor appoints the Commissioner of the Police Department with the advice and consent of the City Council. The City Council holds hearings on Police Department policy and sets the Police Department budget.

45. By virtue of being local governmental entities exercising power delegated by the State of Maryland, the City and the Police Department were acting under color of state law during all relevant times.

## **2. Officials**

46. Defendant Gary Maynard is Secretary of the Department of Public Safety and Correctional Services. As Secretary, he acts under color of state law and exercises authority over the policies and practices of the Pretrial Detention Division. He ultimately is responsible for the actions and policies of CBIC. Mr. Maynard is sued in his individual and official capacities.

47. Mary Ann Saar was, from February 26, 2003 to January 17, 2007, Secretary of the Department of Public Safety and Correctional Services. While Secretary, she acted under color of state law and exercised authority over the policies and practices of the Pretrial Detention Division. While Secretary, she ultimately was responsible for the actions and policies of CBIC. Ms. Saar is sued in her individual capacity.

48. Defendant William J. Smith is, and was at all times relevant hereto, Commissioner of Pretrial Detention. As such, Mr. Smith is responsible for the duties, discipline, and conduct of officers and other employees of units in the division, such as CBIC. Mr. Smith also is responsible for establishing policies regarding screening, hiring, training,

monitoring, and supervision of subordinate employees at CBIC. As Commissioner, he acts and has acted under color of state law. Mr. Smith is sued in his individual and official capacities.

49. Defendant Mitchell Franks is, and has been since July 6, 2005, the Warden of CBIC. As Warden, he acts and has acted under color of state law by screening, hiring, training, monitoring, and supervising subordinate employees at CBIC. Mr. Franks is sued in his individual and official capacities.

50. Defendant Susan Murphy was, from July 23, 2004, until her retirement on June 23, 2005, the Warden of CBIC. As Warden, Ms. Murphy acted under color of state law by screening, hiring, training, monitoring, and supervising subordinate employees at CBIC. Ms. Murphy is sued in her individual capacity.

51. Defendants John Does A-R were, at times relevant hereto, corrections officers employed by CBIC. Officer Does A and B conducted strip searches of Plaintiffs Howard and Braxton. Officer Does C, D, and L conducted the strip searches of Plaintiff Donald Wilson. Officer Does E and F conducted strip searches of Plaintiffs Stoner and Lowery. Officer Does G and H conducted the strip search of Plaintiff Johnson. Officer Does I, J, and M conducted the strip searches of Plaintiff Crockett. Officer Does K and N conducted the strip search of Plaintiff Raffic. Officer Doe O conducted the strip search of Plaintiff Wright. Officer Doe P conducted the strip search of Plaintiff Horsey. Officer Does Q and R conducted the strip search of Plaintiff Chapman. As corrections officers, Officer Does A-R acted within the scope of their duties and under color of state law. These defendants are sued in their individual and official capacities.



52. Defendant Martin O'Malley was, from December 7, 1999 to January 17, 2007, the Mayor of the City of Baltimore. As Mayor, he acted under color of state law by appointing the Commissioner of the Police Department, overseeing the operation of the Police Department, and introducing "The Mayor's Plan to Drastically Reduce Crime in Baltimore" and other policies that encourage the unconstitutional police practices, and failing to act to ensure the unconstitutional practices ceased. Mr. O'Malley is sued in his individual capacity.

53. Defendant Sheila Dixon is, and has been since January 18, 2007, the Mayor of the City of Baltimore. As Mayor, she has acted under color of state law by overseeing the operation of the Police Department, and maintaining policies that encourage the unconstitutional police practices, and failing to act to ensure the unconstitutional practices ceased. Ms. Dixon is sued in her individual and official capacities.

54. Defendant Leonard Hamm served as Commissioner of the Police Department from March 14, 2005 until July 19, 2007. Mr. Hamm also served as Interim Commissioner of the Police Department from November 10, 2004, until March 14, 2005. In each position, Mr. Hamm acted under color of state law by exercising final policy-making authority for the Police Department, establishing the duties, conduct, and discipline of officers and other employees, and establishing policies regarding screening, hiring, training, monitoring, and supervision of subordinates. Mr. Hamm is sued in his individual capacity.

55. Defendant Marcus L. Brown was, from January 21, 2006 to January 26, 2007, the Deputy Commissioner of the Police Department. In that position, Mr. Brown acted under color of state law by exercising policy-making authority for the Police Department, establishing the duties, conduct, and discipline of officers and other employees, and

establishing policies regarding screening, hiring, training, monitoring, and supervision of subordinates. Mr. Brown is sued in his individual capacity.

56. Defendant Frederick H. Bealefeld III is, and has been since November 19, 2007, the Commissioner of the Police Department. Mr. Bealefeld also served as Interim Commissioner of the Police Department from July 19, 2007 until November 19, 2007. In each position, Mr. Bealefeld has acted and continues to act under color of state law by exercising policy-making authority for the Police Department, establishing the duties, conduct, and discipline of officers and other employees, and establishing policies regarding screening, hiring, training, monitoring, and supervision of subordinates. Mr. Bealefeld is sued in his individual and official capacities.

57. Defendant Kevin Clark was, from January 23, 2003, until November 10, 2004, the Commissioner of the Police Department. As Commissioner, Mr. Clark acted under color of state law by exercising final policy-making authority for the Police Department, establishing the duties, conduct, and discipline of officers and other employees, and establishing policies regarding screening, hiring, training, monitoring, and supervision of subordinates. Mr. Clark is sued in his individual capacity.

58. Defendant Edward T. Norris was, from May 2002 until January 23, 2003, the Commissioner of the Police Department. As Commissioner, Mr. Norris acted under color of state law by exercising final policy-making authority for the Police Department, establishing the duties, conduct, and discipline of officers and other employees, and establishing policies regarding screening, hiring, training, monitoring, and supervision of subordinates. Mr. Norris is sued in his individual capacity.

59. Defendant Jemini Jones is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Jones is sued in his individual and official capacities. Jemini Jones participated in the arrests of Plaintiff Tyrone Braxton and Timothy Howard on April 15, 2005.

60. Defendant David A. Crites, Jr., is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Crites is sued in his individual and official capacities. Mr. Crites participated in the arrest of Plaintiff Donald Wilson on April 10, 2006.

61. Defendant Sgt. Erik Pecha is, and was at times relevant hereto, a Police Department police officer wearing Badge No. F327. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Pecha is sued in his individual and official capacities. Mr. Pecha participated in the arrest of Plaintiff Donald Wilson on April 10, 2006.

62. Defendant Benjamin Newkirk is, and was at times relevant hereto, a Police Department police officer wearing Badge No. F110. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Newkirk is sued in his individual and official capacities. Mr. Newkirk participated in the arrests of Plaintiffs Robert Lowery and Aaron Stoner on May 8, 2005.

63. Defendant Arnold Jones is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Jones is sued in both his individual and official capacities.

Arnold Jones participated in the arrests of Plaintiffs Robert Lowery and Aaron Stoner on May 8, 2005.

64. Defendant Heron is, and was at times relevant hereto, a Police Department police officer wearing Badge No. H307. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Heron is sued in his individual and official capacities. Mr. Heron participated in the arrest of Timothy Johnson on June 25, 2006.

65. Defendant J. Grey is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Grey is sued in both his individual and official capacities. Mr. Grey participated in the arrest of Plaintiff Tavis Crockett on July 23, 2006.

66. Defendant Joseph Chin is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Chin is sued in both his individual and official capacities. Mr. Chin participated in the arrests of Plaintiffs Raffic Scott and Kerrell Wright on October 31, 2006.

67. Defendant Michael Pinkosz is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Pinkosz is sued in both his individual and official capacities. Mr. Pinkosz participated in the arrest of Plaintiff Carol Higgs on March 2, 2004.

68. Defendant Southard is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment

and under color of state law. Mr. Southard is sued in both his individual and official capacities. Mr. Southard participated in the arrests of Plaintiffs Raffic Scott and Kerrell Wright on August 30, 2006.

69. Defendant Lolando L. Hamilton is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Hamilton is sued in both his individual and official capacities. Mr. Hamilton participated in the arrest of Plaintiff Erin Marcus on October 13, 2007.

70. Defendant Ronald S. Mealey is, and was at times relevant hereto, a Police Department police officer. As a police officer, he acts and has acted within the scope of his employment and under color of state law. Mr. Mealey is sued in both his individual and official capacities. Mr. Mealey participated in the arrests of Plaintiffs Armondo Horsey and Jonathan Lindsay on July 22, 2007.

71. Defendants John Does 1-100 are, and were at times relevant hereto, Baltimore Police Department officers who participated in the illegal arrests of one or more Plaintiffs. As police officers, Officer Does 1-100 act and have acted within the scope of their employment and under color of state law. These defendants are sued in their individual and official capacities.

72. By virtue of their employment by Maryland state or local agencies, all of the individual Defendants were acting under color of state law during all relevant times.

## **V. ALLEGATIONS OF FACT**

### **A. The Experiences of the Individual Plaintiffs**

#### **1. The Illegal Arrests and Searches of Plaintiffs Howard and Braxton**

73. At approximately 8:30 p.m. on Friday, April 15, 2005, Plaintiff Evan Howard was standing on the sidewalk that runs past his home on Poplar Grove Street in Baltimore, about a block away from his front door, engaging in conversation with Plaintiff Tyrone Braxton and another friend, Correy Alexander.

74. After a few minutes, Defendant Officers Jemini Jones and Doe 1 pulled up behind Braxton's car in an unmarked police cruiser. The plainclothes officers approached the three friends and asked if they had any information about a recent homicide.

75. The officers then asked Howard, Braxton, and Alexander their ages. After revealing that he was a minor, Alexander was ordered to go home, which he did.

76. Then, without explanation, probable cause, or any legal justification, the officers conducted pat-down searches of Howard and Braxton and placed them under arrest. The arrests were purportedly for loitering and impeding the flow of pedestrian traffic, even though neither Howard nor Braxton had been loitering and the officers had not ordered them to disperse.

77. Officer Jemini Jones tightly bound the young men's hands with plastic handcuffs and placed Howard and Braxton in a vehicle for transport to CBIC.

78. Howard and Braxton arrived at CBIC at about 10:00 p.m., where they waited for approximately an hour to begin the booking process. Upon entering CBIC, they were screened with a metal detector, which showed that neither carried any weapons.

79. At approximately 11:00 p.m., Howard and Braxton were subjected to humiliating public strip searches by Defendant Officers Doe A and Doe B. Howard, Braxton, and two other detainees were placed in a holding cell, ordered to remove all of their clothing down to their underpants, face the wall, pull their underpants down to expose their buttocks, and submit to a visual body cavity search.

80. The searches were conducted without probable cause or individualized suspicion that either Howard or Braxton was carrying weapons, drugs, or contraband.

81. Indeed, no contraband was found in the possession of either Howard or Braxton during the search.

82. After the strip search, Howard and Braxton were taken to a small, filthy, and overcrowded cell, where they stayed with about ten other detainees through the night. The cell had no bathroom and was so overcrowded that both Howard and Braxton were forced to sit in uncomfortable positions on filthy floors for long periods of time.

83. At approximately 8:00 a.m. on Saturday, April 16, Howard and Braxton were taken to a slightly larger cell containing about 15 other detainees. This cell was also filthy and unsanitary. Throughout the day, the number of people in the cell fluctuated, frequently swelling to nearly 20. Once again, both Howard and Braxton were forced to sit in uncomfortable positions on filthy floors for long periods of time.

84. During their confinement, Howard and Braxton were provided "meals" in their cells three times each day. The meals principally consisted of two slices of bread covering shiny and slimy meat, which Howard and Braxton believed to be spoiled bologna.

85. Braxton was finally released on Sunday, April 17, at 10:00 a.m., after being held at CBIC for 36 hours.

86. Howard was finally released on Monday, April 18, at 4:00 a.m., after being held at CBIC for 54 hours. Howard, far from home and unable to contact anyone to pick him up from CBIC, was forced to walk back to his home in the dark at a dangerous hour of night through unfamiliar streets.

87. Neither Howard nor Braxton was ever prosecuted for any crime or ever brought before a court commissioner.

## **2. The Illegal Arrests and Searches of Plaintiff Wilson**

88. On April 10, 2006, Plaintiff Donald Wilson was sitting on the front steps of a residence in which his girlfriend and toddler son live. He was visiting them and waiting for his younger brother, Darrell.

89. While Mr. Wilson was sitting on the steps with two friends, an unmarked police Subaru raced down the street in pursuit of a dirt bike. A crowd of approximately 15 neighbors gathered along the block to watch the chase.

90. Failing to catch the bicyclist, the maroon police Subaru pulled up to the residence and Officer Crites and Sergeant Pecha exited the vehicle. Officer Crites yelled, "Everybody sit the f\*\*k down!" Everyone in the area obeyed. Wilson, at the time, was already sitting down.

91. The officers began questioning the group of people, asking them where they lived and what they were doing there. Most were patted down and asked to show identification. Wilson provided his identification when requested.



92. Crites questioned Wilson and asked whether Wilson lived there. When Wilson firmly responded in the affirmative, Crites took offense and, in a low tone of voice, threatened to "f\*\*k [him] up."

93. When Wilson responded to this threat, by observing that Crites had whispered his threat rather than stating it aloud in front of witnesses, Crites immediately ordered Wilson to stand up. Wilson asked why, and Crites responded, "Don't f\*\*king say nothing to me," and ordered Wilson to stand up and put his hands behind his back.

94. Wilson complied and asked why he was being arrested. Crites responded, "Don't worry about it. You're going to jail."

95. Wilson asked Crites for his name and badge number. Crites replied, "911."

96. Crites placed metal handcuffs on Wilson and ordered him to sit on the ground. At that time, two marked police cruisers arrived at the scene, and two additional officers exited those vehicles.

97. Wilson asked his girlfriend to call his mother, and then he remained calm and quiet.

98. The police began to tell people to leave. After about 15 minutes, Wilson's mother arrived. She politely asked who the officer in charge was. Sgt. Pecha responded that he was in charge. Wilson's mother asked what her son was being detained for. Pecha asked for Wilson's age, and when his mother said, "21," Pecha stated that he did not have to give her any information because Wilson was not a minor. Upon further questioning, Pecha continued to refuse to explain why Wilson was arrested.

99. Wilson's mother therefore went to talk with her son, who explained what had happened. After about two minutes, Pecha came over and told her that she had to leave or she would be arrested. When she asked for Pecha's name and badge number, Pecha ignored her.

100. Crites and Pecha did not have nametags on and their badges were tucked inside their shirts to hide identifying information.

101. Crites put Wilson in the police car and transported him to CBIC at approximately 9:15 p.m.

102. At CBIC, Wilson was taken to a waiting room, where he was ordered to strip down to his boxers and searched by Officer Does C-D. A Latino man next to him in the same room was completely naked.

103. The search was conducted without probable cause or individualized suspicion that Wilson was carrying weapons, drugs, or contraband. Indeed, no contraband was found in his possession.

104. Wilson was finally released from CBIC at around 2:00 a.m. the next day. He was not allowed to use a phone at CBIC, so he walked to the nearest pay phone to call his mother.

105. Wilson was never prosecuted for any crime or brought before a court commissioner.

106. On April 5, 2007 in the late afternoon, Donald Wilson visited a friend on Abbottston Road. After some time at the friend's house, Wilson and his friend left to return to

Wilson's house. The friend's mother called her son back in just as the two men were leaving the house. Wilson stood outside waiting for his friend to rejoin him.

107. As Wilson was waiting for this friend and was tying his shoe with his foot on the stoop of the neighboring property, two uniformed officers and a plain-clothes officer approached him. The officers demanded to know why he was standing where he was. Wilson explained that he was waiting for his friend.

108. Unsatisfied, the officers interrogated Wilson as to whether he had drugs on him, where his friends were, and other subjects. The officers searched Wilson, patting him down and searching his pockets. No weapons, drugs or contraband were found by this search. Wilson told the officers that he was not carrying drugs, and indicated that he was offended that they seemed to assume that he was a drug dealer. A uniformed officer took Wilson's identification.

109. Several minutes after the police arrived, Wilson's friend came out of his house and asked the officers what was going on. The officers told him to go back into his house, which he did. Wilson's friend watched the arrest from his window.

110. After Wilson was searched, the plain-clothes officer handcuffed Wilson, telling him that he was being arrested for "getting smart."

111. In fact, Wilson was charged with trespass on posted property, but at all times relevant hereto, the property was not posted with any no-trespassing signs.

112. Wilson asked the arresting officer for his name, but the officer ignored the request.

113. Wilson was transported to the Eastern District police station in a paddy wagon, where he was interrogated by a police detective concerning gangs and shootings. Wilson had no information related to the detective's questions and told him so.

114. Wilson was then taken to Central Booking, arriving at approximately 6:00 p.m.

115. He asked the intake officer for the arresting officer's name but the request was refused.

116. Wilson was then subjected to a humiliating strip search by Officer Doe L. In front of another prisoner, who had been forced to undress completely, Wilson was forced to pull his pants down to his ankles and to allow the officer to look inside his underwear waistband. He was also made to lift his shirt for the officer.

117. Officer Doe L told Wilson that his arrest was part of the BPD's "low tolerance" policy.

118. The searches were conducted without probable cause or individualized suspicion that Wilson was carrying weapons, drugs, or contraband. No contraband was found in this search.

119. Wilson was then confined at CIBC. He shuttled between four different cells, which were so crowded that Wilson was often forced to sit or lie on the concrete floor.

120. Wilson was released at approximately 3:30 a.m. on April 6, 2007, after being detained for approximately nine and one half hours.

121. Wilson was never prosecuted for any crime or brought before a court commissioner.

### **3. The Illegal Arrests and Searches of Plaintiffs Stoner and Lowery**

122. On May 7, 2005, Plaintiff Aaron Stoner, Plaintiff Robert Lowery, Walter Medina, Jr., and four other friends and co-workers visited the city of Baltimore to celebrate Stoner's upcoming wedding. After visiting the Inner Harbor, the group of friends left on foot in the early morning hours of May 8 to return to their hotel.

123. While walking back to their hotel, a marked police car containing Defendant Officers Newkirk and Arnold Jones drove past. Newkirk instructed the group to "keep moving," even though the group had not actually paused during the journey. They obeyed and continued to walk back to their hotel.

124. About two minutes later, the same patrol car drove past the group. Medina was the first to see the approaching car, and remarked to Stoner, "Here comes that cop again."

125. Officer Newkirk pulled the car to the side, stopped the car, and exited. Newkirk confronted Medina, the only African-American in the group, demanding, "What did you say, boy?" Before Medina could answer, Newkirk pushed him against a wall.

126. After Newkirk pushed Medina against the wall and began to aggressively question him, Stoner verbally protested. Newkirk then turned toward Stoner and ran at him with his baton fortifying his raised forearm. Defendant Newkirk hit Stoner with such force as to knock Stoner off of his feet.

127. Newkirk then instructed Stoner and the other five men to "keep walking." Stoner obeyed by getting up and walking to the rest of the group.

128. Newkirk then issued a warning citation for loitering to Medina.

129. Lowery, upset at the police harassment and brutality he had witnessed, then left the group, approached Officers Newkirk and Arnold Jones, and asked for Newkirk's name and badge number.

130. Newkirk refused to answer Lowery's question, but Defendant Arnold Jones responded by placing Lowery under arrest, purportedly for "failure to obey" an order to cease loitering. This arrest was made without probable cause or legal justification.

131. Officers Newkirk and Arnold Jones then drove Lowery down the block to where Stoner, having obeyed Newkirk's earlier order to "keep walking," was walking with his party. The officers then arrested Stoner as well.

132. Stoner's arrest was also purportedly for "failure to obey" an order to cease loitering. This arrest was made without probable cause or legal justification.

133. Stoner and Lowery were both subjected to pat-down searches, which revealed they were carrying no contraband or weapons.

134. Medina, who had been issued a warning citation for loitering, and the other four members of the original group were permitted to continue walking back to the hotel.

135. Stoner and Lowery were transported to CBIC, where they were processed and subjected to another pat-down search that revealed them to be free of contraband and weapons.

136. Despite the negative results of the searches, Defendant Corrections Officers Doe E and Doe F subjected Stoner and Lowery to humiliating public strip searches at CBIC.

137. Stoner and Lowery, along with two other detainees, were ordered to strip to their underpants while the officers conducted the search.

138. The searches were conducted without probable cause or individualized suspicion that either Stoner or Lowery was carrying weapons, drugs, or contraband.

139. Indeed, no contraband was found in the possession of either Stoner or Lowery during the search.

140. Both Stoner and Lowery were held in small, filthy, and overcrowded cells that were packed with other detainees. Both Stoner and Lowery were forced to sit or crouch in uncomfortable positions on filthy floors for long periods of time because of the overcrowded conditions.

141. Stoner and Lowery were released from CBIC at approximately 8:00 p.m. on May 8, after being detained for 17 hours.

142. Neither Stoner nor Lowery was ever prosecuted for any crime or brought before a court commissioner.

#### **4. The Illegal Arrest and Search of Timothy Johnson**

143. In the early morning hours of June 25, 2006, Timothy Johnson and three acquaintances were walking down the street towards their hotel, the Baltimore Waterfront Marriott.

144. Johnson and his three colleagues were in Baltimore to attend the Annual Scientific Meeting of the Research Society on Alcoholism.

145. While walking down the street, Johnson and his acquaintances encountered a woman whom they did not know, who was walking in the same direction. Because they were traveling in the same direction, the five pedestrians would have appeared to be a single group.

146. Concerned that the woman should not be walking alone late at night in the area, and assuming that she was a fellow attendee at the conference, one of Johnson's colleagues told the woman that they were walking back to the hotel and asked if she wanted to walk with them.

147. A marked police cruiser then drove up and stopped near the group, and one officer asked if everything was okay. Some members of the group responded, "Yes."

148. The officer then asked, referring to the woman who had just joined the group, "Is she with you?" One of Johnson's acquaintances informed the officer that the woman had just joined them.

149. The officer then began questioning the woman, who responded to his questions while continuing to walk. The officer exited his vehicle, ordered the woman to stop, and then directed Johnson and his friends to keep walking.

150. The group continued walking, although they were concerned for the well-being of the woman, who kept saying that she just wanted to go back to the hotel.

151. At the end of the block, Johnson turned around to see the officer handcuffing the woman.

152. While Johnson was waiting to cross the street, the officer yelled for Johnson to come back, and Johnson complied.

153. Johnson had not said a word to the officer, nor had he said anything loudly about the officer or about the situation. He assumed that he would be questioned about the woman or would be a witness to the arrest.



154. At that time, another uniformed officer and two plainclothes officers arrived on the scene. They ordered Johnson to stop, subjected him to a pat-down search, and asked him to sit down on the curb.

155. No contraband was found during the pat-down search.

156. The first officer then told the other officers that "these people were hindering" and that they hadn't moved fast enough. The officers also joked that they were going to deliver the woman "back to her boyfriend in chains."

157. Johnson was then placed under arrest, subjected to a second pat-down search, and placed in a vehicle bound for Central Booking. Once again, no contraband was found.

158. Johnson was then transported to CBIC, where he was booked and fingerprinted.

159. Despite the negative results of the previous pat-down searches, Mr. Johnson was subjected to a humiliating strip search by Officer Does G and H, during which he was required to remove all of his clothing except a T-shirt.

160. The search was conducted without probable cause or individualized suspicion that Johnson was carrying weapons, drugs, or contraband.

161. Indeed, no contraband was found in Johnson's possession during the search.

162. After the illegal strip search, Johnson was held with two other men in a small, filthy cell designed for only one detainee. He was released at 8:30 a.m., after being in custody for approximately six hours.

163. Johnson's release came a mere thirty minutes before he was scheduled to give a presentation at the Annual Scientific Meeting of the Research Society on Alcoholism, the reason for his trip to Baltimore.

164. Johnson was never prosecuted for any crime or brought before a court commissioner.

#### **5. The Illegal Arrests and Searches of Tavis Crockett**

165. At approximately 5:45 p.m. on July 23, 2006, Tavis Crockett and approximately six other young men from his neighborhood were sitting on the front steps of a friend's building, getting ready to watch a neighborhood game of basketball.

166. As the group began to get up and move toward the basketball courts, a number of police cruisers pulled up and Officer Grey exited his cruiser.

167. Officer Grey asked the group where Brandon was. Upon information and belief, Brandon is a young man in the neighborhood that the police believe to be a drug dealer.

168. Brandon was not present, although the young men had seen him walk by earlier in the day.

169. Upon learning that Brandon was not present, Officer Grey told all seven young men that they were being arrested for loitering.

170. Officer Grey and approximately ten other police officers then took all seven young men into custody. All seven boys were subjected to pat-down searches, which revealed no weapons, drugs, or contraband.

171. The arrests were not preceded by a warning that the young men were loitering, or by a directive to move along.

172. When the young men arrived at the police station, three of them were let go because they were juveniles. Crockett and the other three non-minors were transported to CBIC.

173. At CBIC, Defendant Corrections Officers Doe I and Doe J subjected Crockett to a humiliating public strip search.

174. Crockett, along with another detainee, was ordered to strip to his underpants while the officers conducted the search.

175. The search was conducted without probable cause or individualized suspicion that Crockett was carrying weapons, drugs, or contraband.

176. Indeed, no contraband was found in the possession of Crockett during the search.

177. Crockett was held in small, filthy, and overcrowded cells that were packed with other detainees.

178. Crockett was released from CBIC at approximately 8:00 a.m. on July 24, after being detained for 14 hours.

179. Crockett was never prosecuted for any crime or brought before a court commissioner.

180. On August 22, 2006, at about 8:50 p.m., Crockett was walking from his Aunt's house to a nearby convenience store near Carey Street and Riggs Avenue in Baltimore, a distance of approximately one block.

181. As Crockett walked to the convenience store he was stopped by four plain-clothes police officers.

182. One of the officers told Crockett, "Come on, you're going downtown with us." Crockett asked the officer why he was being arrested. The officer told Crockett that he had littered.

183. Crockett told the officer that he was not aware that he had dropped anything, and offered to pick up a food wrapper the officer claimed Crockett had dropped. The officer did not let Crockett pick up the wrapper.

184. Crockett was searched on the sidewalk, and then taken to the Western District station, where he was held in a cell with two other detainees. He remained in this cell for four hours. The police denied Crockett's request to call his mother.

185. At approximately midnight, Crockett was transported to CBIC, handcuffed, in a paddy wagon.

186. Inside CBIC, Crockett was subjected to a humiliating strip search. A female officer, Doe M, made Crockett strip to his boxers in front of two other officers and another detainee.

187. This strip search was conducted without probable cause or individualized suspicion that Crockett was carrying weapons, drugs, or contraband.

188. No contraband was found in the possession of Crockett during the search.

189. Crockett was then confined to a cell with ten other detainees where he remained for four hours. After being fingerprinted and photographed, he was confined again in another cell.

190. At approximately 8:15 a.m. on August 23, 2006, Crockett was finally released, after being held for approximately eleven and one half hours. He did not arrive home until 9:00 a.m., after a 45-minute public bus trip from CBIC.

191. Crockett was never prosecuted for any crime or brought before a court commissioner.

## **6. The Illegal Arrests and Searches of Raffic Scott and Kerrell Wright**

192. At approximately 10:00 p.m. on August 30, 2006 Raffic Scott, Kerrell Wright and approximately five fellow members of their church, the Israelite Church of God and Jesus Christ, were handing out religious literature on a sidewalk on Belair Road and Erdman Avenue in Baltimore. The church members periodically engage in sidewalk proselytizing to spread their religious message. When doing so, they generally wear distinctive robes that signify their church membership.

193. Officers Chin and Southard approached the group in a squad car and demanded to know what they were doing. Scott responded that he and his group were handing out religious literature.

194. When the police approached, Wright began videotaping the encounter, as is the Church's practice due to frequent police harassment.

195. After demanding that Wright cease video recording, and claiming that it was illegal to videotape police officers without permission from the officer or from police headquarters, Officer Chin demanded that Wright produce identification. In order to do so, Wright passed the video camera to Scott.

196. An officer then told Mr. Scott that he had to cease filming. When Scott refused, Officer Chin told Scott to put his hands on this head and pushed Scott against a wall.

197. Officer Chin forcibly removed Scott's religious clothing, throwing his headpiece, robe and belt to the ground.

198. Scott was searched on the scene. This search revealed no drugs, weapons, or contraband.

199. Wright was also arrested. He was thrown to the ground and had his religious clothing removed and also thrown to the ground.

200. Wright was searched on the scene. This search revealed no drugs, weapons, or contraband.

201. As Scott and Wright were being arrested, approximately eight officers arrived on the scene in several squad cars, blocking the adjacent intersection.

202. During or before their arrests, neither Scott, Wright, nor any other member of their group was told by the police that any of them was loitering or was instructed to move on.

203. Scott was transported to the Northern District precinct. During his confinement there Scott was verbally abused by police officers on the subject of his religious beliefs.

204. Scott was then transported to the CBIC, where he was subjected to a humiliating and gratuitously invasive strip search by Defendant Corrections Officers Doe K and Doe N. In the presence of another detainee, who was also being strip searched at the same time, Scott was forced to strip to his underwear. He was made to squat in front of Officers Doe K and Doe N, while they looked inside of Scott's underwear.

205. After his arrest, Wright was also taken to CBIC. At CBIC, Wright was also subjected to a humiliating strip search. In the presence of two jail administrators, Officer Doe O forced Wright to remove his shirt and jeans.

206. The strip searches of Scott and of Wright were conducted without probable cause or individualized suspicion that either Scott or Wright was carrying weapons, drugs, or contraband. These searches revealed no drugs, weapons or contraband.

207. Scott was released at approximately 6:00 a.m. on August 31, 2006 after being held for eight hours. Wright was held for approximately 20 hours, until he was released on his own recognizance at approximately 6:00 p.m. the next day.

208. Both Scott and Wright were charged with disorderly conduct and loitering. On September 29, 2006 the State's Attorney *nolle prossed* all charges against Scott. On October 20, 2006, the State's Attorney *nolle prossed* all charges against Wright.

## **7 The Illegal Arrest of Carol Higgs**

209. At approximately 9:00 a.m. on March 2, 2004, primary election day in Maryland, Carol Higgs was posting election signs and handing out campaign leaflets.

210. Higgs posted her signs and stood near Chase House, a designated polling place for the primary.

211. She stood outside the area near Chase House, marked by signs posted by election officials, where no electioneering was permitted that day. An election judge had confirmed to Higgs that she was in compliance with election regulations regarding proximity to a polling place.

212. Officer Pinkosz arrived at Chase House in a squad car. He approached Ms. Higgs and asked her why she was picketing. She said that she was not picketing but rather handing out campaign literature for her candidate.

213. Officer Pinkosz left Higgs and went inside the polling place. He reemerged and told Ms. Higgs that her campaigning was illegal.

214. When Higgs pointed out that she stood outside the "no electioneering" signs and was thus in compliance with the law, Officer Pinkosz removed the sign from where it was planted, and without taking any measurements, moved it significantly farther than 100 feet away from the polling place.

215. Higgs then moved, to remain outside the boundary of another sign setting campaigning boundaries. She also asked Officer Pinkosz for his name and badge number.

216. At this point, Officer Pinkosz demanded her identification.

217. Higgs asked Officer Pinkosz whether she was free to go. Officer Pinkosz said that she was free to go. As Higgs gathered her literature, Officer Pinkosz handcuffed her. He told her that she was being arrested for loitering.

218. Higgs was never prosecuted for any crime or brought before a court commissioner.

**8. The Illegal Arrest and Search of Armondo Horsey, and the Illegal Arrest of Jonathan Lindsay**

219. On July 22, 2007, after a late night out, Armondo Horsey, Jonathan Lindsay, and Horsey's brother had ordered a pizza at a pizza shop in the Canton section of Baltimore.



220. While eating, Horsey, Lindsay, and Horsey's brother noticed Baltimore Police Department officers detaining a man on a nearby corner. They observed five officers forcefully restraining a man in handcuffs who was lying on the ground.

221. Lindsay moved closer to the scene and pulled out his cell phone as if to film the arrest, because he believed the officers were using excessive force. Two officers at the scene observed him with his phone, and told him that he was not allowed to take photographs.

222. When Horsey observed Lindsay speaking with the officers, he was concerned that Lindsay was protesting the officers' use of force, and told him not to get into an argument, but just to get the officers' names and badge numbers.

223. A Baltimore Police Department officer who overheard Horsey's comment singled him out from among the crowd of onlookers and told him that he was going to jail with the man being restrained.

224. Horsey was then forcefully handcuffed behind his back and pulled backward toward a police van.

225. Horsey was searched at the scene of his arrest. The search revealed no drugs, contraband or weapons.

226. When Lindsay, standing nearby, then called out that Horsey "didn't even do anything," a Baltimore Police Department officer singled Lindsay out from among the crowd of onlookers and placed him in handcuffs. While in handcuffs an officer searched Lindsay's pockets, pulled out his cell phone, and opened it up and scrolled through it to see whether there were any photographs or film of the scene captured on it.

227. Horsey, Lindsay, and the man who was being restrained on the ground were then placed in a police van and transported to CBIC. A police officer told Lindsay that he shouldn't worry about being arrested because he would be released in a few hours.

228. At CBIC, Horsey and Lindsay were shuffled among numerous overcrowded jail cells with open toilets reeking of excrement.

229. At CBIC Officer Doe P strip searched Horsey. Horsey was made to remove his pants, and Officer Doe P had Horsey open his waistband and looked into Horsey's underwear. The strip search was conducted without probable cause or individualized suspicion that Horsey was carrying weapons, drugs, or contraband. The strip search revealed no drugs, weapons or contraband.

230. Horsey and Lindsay were both held at CBIC for about six hours.

231. Neither Horsey nor Lindsay was ever prosecuted for any crime or brought before a court commissioner. Horsey and Lindsay later learned that Officer Mealey had charged them with failure to obey.

## **9. The Illegal Arrest of Erin Marcus**

232. On October 12, 2007, Erin Marcus, along with seven other members of the Baltimore Animal Rights Coalition (BARC), arrived at Salt Restaurant in Baltimore City to stage a peaceful protest regarding the restaurant's use of *foie gras*.

233. The members arrived outside of the restaurant at approximately 7:30 p.m. They stood clear of the entrance, and did not obstruct the walkway in front of the restaurant.

234. Approximately fifteen to twenty minutes after their arrival two Baltimore Police Department officers arrived at the scene. The officers told the BARC members that if they did not cross the street they would be subject to arrest.

235. A BARC member then spoke with police officers and explained that he had contacted the Office of Licensing and Permits and was told that the group did not need a permit to protest. Another BARC member attempted to review the Baltimore City loitering ordinance with the officers, including a shift commander who arrived on the scene, in order to establish their legal right to be there. The officers were not persuaded and again told all BARC members to cross the street or face arrest.

236. All but three BARC members crossed the street and continued protesting on the other side of the street. Marcus and the other protesters who did not cross the street were arrested.

237. Marcus was asked for identification by two female officers. She showed the officers her driver's license. One of the female officers frisked Marcus and checked her bag. No weapons, contraband or drugs were found in this search.

238. Marcus was then put in plastic cuffs and placed in the police van with the two other BARC members who were arrested. Marcus was transported to CBIC, arriving about 45 minutes after her initial encounter with the police.

239. Marcus was then taken to a filthy, crowded cell where some inmates were forced to sit on the floor.

240. Marcus was charged with failure to obey, and released on her own recognizance at about 8:00 a.m. on October 13, 2007 after being held at CBIC for about 13 hours.

241. The State's Attorney *nolle prossed* all charges against Marcus on October 16, 2007.

#### **10. The Illegal Search of Jeffrey Chapman**

242. On or about October 13, 2005, at approximately 6:00 p.m., Jeffrey Chapman was walking on Marion Street in Baltimore eating a snack.

243. Baltimore Police Department Officer Willie N. Kennedy Jr. stopped his bicycle in front of Chapman. Kennedy arrested Chapman for littering, claiming that Chapman had dropped a packet of sweet and sour sauce on the sidewalk.

244. Officer Kennedy walked Chapman to a nearby police substation and placed Chapman in a makeshift cell, which appeared previously to have been a walk-in freezer. Chapman was told that he had been arrested for littering.

245. Approximately one hour later, Chapman was transferred to CBIC, arriving at approximately 8:00 p.m.

246. At CBIC, in the presence of eight to ten other detainees, Chapman was subjected to a humiliating and non-private strip search by Officer Does Q and R. Chapman was forced to remove all clothing except his underwear.

247. This strip search was conducted despite the lack of probable cause or individualized suspicion that Chapman posed a threat to the security of the facility. This search revealed no drugs, weapons or contraband.

248. After this strip search, Chapman was confined to a small filthy cell with more than ten other detainees with an open toilet and a single bench.

249. Chapman was released at approximately 6:00 a.m. the next day.

250. Unable to sleep in the crowded cell with no where to lie except the cement floor, and fearing for his safety should he fall asleep, Chapman was unable to work the next day.

251. Chapman was never prosecuted for any crime or brought before a court commissioner.

## **B. The Police Department's Illegal Practices**

252. The experiences of these individual plaintiffs are not unique. They stem from a broader policy and practice by the Police Department of arresting persons without probable cause in order to satisfy performance goals and to show progress in fighting crime by means of high arrest numbers.

253. Under the direction and oversight of the Commissioner and Deputy Commissioner, the Police Department has used a "performance evaluation system" that demands that officers make a large number of arrests, regardless of the number or success of resulting prosecutions. Each patrol officer is required to tally his enforcement statistics,

including citations and arrests. These numbers are then compared to averages from that officer's squad and shift. The three officers in each district with the lowest scores are subject to reassignment to other districts.

254. Police officers generally disfavor reassignment because it can greatly disrupt their personal and professional lives.

255. Upon information and belief, the Police Department has a policy by which no automatic disciplinary action is taken against a police officer if a plaintiff succeeds in a civil case challenging the conduct of the officer.

256. Upon information and belief, the Police Department has no practice of reviewing arrests to see whether they result in successful prosecutions, nor of reviewing arrest reports in those cases that are not prosecuted to determine whether officers had sufficient probable cause for the arrest or charge.

257. These policies create perverse incentives for police officers by rewarding those officers who arrest innocent bystanders and punishing those who respect their obligations to the City and the public.

258. These perverse incentives are unavoidable because, under the "performance evaluation system," all arrests are counted—***even those made with no basis for probable cause***. Furthermore, the Police Department does not punish officers for excessive numbers of arrests without probable cause.

259. Thus, under this system, an officer will not be reassigned even if every single one of his arrests is made without probable cause, so long as his volume of arrests is not

among the three lowest in his district. By contrast, a different officer whose volume of arrests is the third lowest in his district will be reassigned even if all of his arrestees were convicted.

260. The system therefore encourages all officers to make as many arrests as possible, regardless of their justification, to avoid transfer.

261. As confirmation, State's Attorney Patricia Jessamy stated at a public legislative hearing on January 4, 2006, that the Police Department routinely and increasingly arrests people without probable cause.

262. To exacerbate matters, the Police Department, its Commissioner, Mr. Hamm, its Deputy Commissioner, the Mayor, Mr. O'Malley, and the City—though they all are or were, at times relevant to this lawsuit, aware of the Police Department's pattern and practice of illegal arrests—have failed to take adequate steps to abate the pattern and practice, despite their authority to do so. They have failed to train and supervise police officers adequately. They have not properly encouraged arrests based on probable cause. They have affirmatively encouraged overly aggressive and unlawful police tactics, by directing supervisors to ensure that officers keep arrest numbers up, in the belief that a high number of arrests will keep the crime rate down, regardless of the quality of those arrests. In short, they have made the unconstitutional and illegal conduct worse.

### **C. Grading the Police Department**

263. Due to the policies and practices described above, the Baltimore Police Department has severe police accountability problems.

264. Baltimore City State's Attorney's Office Annual Statistical Reports indicate that, in 2005, the Police Department arrested 76,497 individuals without warrants. Prosecutors

declined to charge 25,293 of the arrestees. Thus, during 2005, ***three out of every ten people arrested without warrants in Baltimore City were not prosecuted***, based solely on a review of the charging documents by the State's Attorney, prior to any involvement by a defense attorney or any decision by a court commissioner or judge. The State's Attorney has publicly stated that prosecutors declined to charge about 30% of the arrestees in 2005 because, in the State's view, the case was "legally insufficient."

265. In 2005, prosecutors indicated that they could not prove charges against 7,510 people arrested for loitering, impeding, or obstructing pedestrian traffic during that year. Those arrests account for nearly 10% of ***all*** warrantless arrests in Baltimore for that year.

266. During 2005, prosecutors indicated that they could not prove charges against 1,832 persons arrested for trespassing and 1,650 persons arrested for disorderly conduct, failure to obey, or disturbing the peace. Together, these arrests account for nearly another 5% of all warrantless arrests in Baltimore for that year.

267. Thus, prosecutors indicated that they could not prove charges against those persons arrested for often vague "quality of life" offenses in 2005, which amounted to nearly 15 percent of the persons arrested without a warrant during that year.

#### **D. The Effects of the Police Department's Arrest Policy on CBIC**

268. The Police Department's pattern and practice of encouraging large numbers of illegal arrests causes a backlog at CBIC that leads CBIC to perform unconstitutional strip searches and to subject arrestees to overcrowded conditions and extended detentions.

269. CBIC was designed to handle about 60,000 bookings each year and to accommodate 895 arrestees at any one time. Because of the Police Department's arrest



policies, it now handles more than 100,000 bookings each year and regularly holds more than 1,200 arrestees at any one time. Defendant Smith has characterized the problems at CBIC as a "systems overload." The overcrowding at CBIC has led to two distinct problems.

270. First, CBIC regularly subjects all male arrestees to public strip searches, without individualized suspicion and regardless of the arrestees' charges. Often, these strip searches are humiliating, non-private body cavity searches. Most of these searches are not reasonably related to any legitimate security interest or to any reasonable suspicion of concealed contraband.

271. Second, the backlog causes CBIC to delay, in some cases, presentment of arrestees beyond the twenty-four hour maximum established in Maryland Rule 4-212(f). In some cases, detainees have been held at CBIC for more than forty-eight hours before presentment. CBIC makes no adequate effort to structure its systems so that it can timely process all detainees even though CBIC officials are aware of its deficiencies. Indeed, a consultant's report to the State in October 2005 stated that "no one [is] in charge" of ensuring the prompt processing of detainees at CBIC.

272. The Warden, Commissioner of Pretrial Services, Secretary, and State condone, affirmatively encourage, or knowingly fail to address these two policies and practices at CBIC, despite their responsibility to address them through proper training, supervising, monitoring, and disciplining of staff or through the formulating, implementing, and executing of appropriate policies.

#### **E. The Effects of the Police Department's Arrest Policy on the Arrestees**

273. These illegal arrests, searches, and detentions traumatize arrestees.

274. Individuals who are illegally arrested suffer humiliation and degradation when they are being dragged away in handcuffs in front of their friends, family, or neighbors. The stigma of being illegally arrested can follow an arrestee for years, in part because those who know an arrestee are unlikely to forget the sight of the arrestee being hauled away in handcuffs in the back of a police car.

275. At CBIC, innocent arrestees are subjected to dehumanizing and humiliating public strip searches that involve stripping down to underwear, pulling down the underwear, and—often—submitting to a visual body cavity search. The searches are performed in public view and alongside other detainees. The victims of such unwarranted invasions of privacy are humiliated, degraded, and stigmatized.

276. An individual who is arrested is often physically harmed or threatened while detained at CBIC. And the threat does not come just from other arrestees. In May 2005, a detainee was beaten to death by guards at the CBIC. In the wake of that incident, eight CBIC guards were fired and the FBI has opened an investigation. The detainee's death was classified as a homicide.

277. While detained at CBIC, an arrestee is held in filthy and overcrowded conditions with numerous other arrestees. Cells are often so crowded that arrestees are forced to sleep on the floor. In some cases, the cells are so crowded that inmates must sit or crouch in uncomfortable positions on unsanitary floors for hours at a time. The "meals" are inedible.

278. An individual who is illegally arrested also suffers the loss of his liberty for hours or days. Such detention can result in a detainee losing his job when he fails to

appear at work and may also harm relations with family if an individual is unable to meet family obligations while illegally detained.

279. The presence of an arrest record, even if the arrestee is "released without charge," can follow an individual for years, making it difficult to obtain jobs, housing, or any other opportunity that may require a criminal background check.

280. For confirmed criminals, the prospect of spending hours or days in Central Booking, while unpleasant, is a cost of doing business, and does nothing to deter them from their unlawful behavior or to make Baltimore safer. For innocent victims of these arrest practices, however, being unlawfully arrested can be a life-changing event.

#### **F. The City's and the Police Department's Response**

281. Despite these stories and statistics, the City and Police Department make no apologies.

282. In response to repeated and persistent complaints by public officials, Baltimore community leaders, and community groups with regard to this ongoing pattern of unlawful arrests, the City and the Police Department have consistently refused to acknowledge that a problem exists.

283. Moreover, former Mayor and Defendant O'Malley consistently refused to acknowledge that such a problem exists.

284. At a community forum designed to address police practices on January 4, 2006, then-Mayor and Defendant O'Malley proposed eliminating oversight by the State's Attorney's Office of individuals arrested by the Police Department.

285. Eliminating the oversight by the State's Attorney's Office would obviously fail to have any effect on the number of illegal arrests. Such a proposal would succeed at one thing, however, it would hide from the public the thousands of illegal arrests made by the Police Department without probable cause.

## VI. CAUSES OF ACTION

### A. **Count I: Facial and As Applied Challenge to the Loitering Ordinance under the First, Fourth, and Fourteenth Amendments to the U.S. Constitution and Articles 19, 26, and 40 of the Maryland Declaration of Rights**

286. This Count incorporates all of the other allegations in this Complaint.

287. This Count is brought by the individual Plaintiffs Howard, Braxton, Lowery, Stoner, Scott, Wright, Higgs, Marcus, Horsey, Lindsay, and Crockett and the NAACP against the City, the Police Department and defendants O'Malley, Dixon, Hamm, Bealefeld, Brown, Clark, Norris, and Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Pinkosz, Hamilton, Mealey, and Does 1-100.

288. This is an "as applied" challenge to the enforcement of the Loitering Ordinance, Baltimore, Md., Police Ordinances art. 19, § 25-1 (2005). In the alternative, it is a facial challenge to the Loitering Ordinance itself.

289. The Police Department has interpreted the Loitering Ordinance incorrectly to allow arrests of persons engaged in no wrongdoing merely for standing on the public sidewalks. By arresting persons merely for standing, the Police Department has effectuated a policy of arrests without probable cause that a violation of the Loitering Ordinance has occurred in violation of the Fourth Amendment to the U.S. Constitution and Article 26 of the Maryland Declaration of Rights.

290. In the alternative, if the Police Department correctly interprets the Loitering Ordinance to permit an arrest when an innocent bystander merely is standing on a public sidewalk, the Loitering Ordinance is unconstitutional on its face as a violation of the First and Fourteenth Amendments to the U.S. Constitution, and Articles 19 and 40 of the Maryland Declaration of Rights.

**B. Count II: Fourth and Fourteenth Amendment Violations for Unconstitutional Arrests under Section 1983**

291. This Count incorporates all of the other allegations in this Complaint.

292. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Lowery, Stoner, Johnson, Crockett, Scott, Wright, Higgs, Marcus, Horsey and Lindsay, and the NAACP against the City, the Police Department and defendants O'Malley, Dixon, Hamm, Bealefeld, Brown, Clark, Norris, and Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Pinkosz, Hamilton, Mealey, and Does 1-100..

293. Defendants the City, the Police Department, O'Malley, Dixon, Hamm, Bealefeld, Brown, Clark, Norris, Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Officer Does 1-100 are "persons" within the meaning of 42 U.S.C. § 1983.

294. The Defendants violated or caused the violation of the constitutional rights of the individual Plaintiffs.

295. Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Officer Does 1-100 directly violated the

constitutional rights of the individual Plaintiffs by arresting them without probable cause and under an illegal pattern and practice.

296. The City, O'Malley, Mayor Dixon, the Police Department, Hamm, Commissioner Bealefeld, Brown, Clark, and Norris caused these and other similar constitutional violations by implementing, following, or failing to remedy the illegal pattern or practice.

297. The City, Mayor Dixon, the Police Department, and Commissioner Bealefeld will continue to cause similar constitutional violations by implementing, following, or failing to remedy the illegal pattern or practice in the future.

298. It is clearly established now and was clearly established at the time of their actions that the conduct, patterns, and practices of the Defendants violated and continue to violate the Fourth and Fourteenth Amendments to the U.S. Constitution.

299. As an actual and proximate result of Defendants' conduct, patterns, and practices, individual Plaintiffs suffered damages.

300. In addition, because the conduct, patterns, and practices are ongoing, it is likely that Plaintiffs and NAACP members will suffer damages as an actual and proximate result of similar unconstitutional conduct, patterns, and practices in the future.

**C. Count III: Fourth and Fourteenth Amendment Violations for Unconstitutional Strip Searches under Section 1983**

301. This Count incorporates all of the other allegations in this Complaint.

302. This Count is brought by individual Plaintiffs Howard, Braxton, Wilson, Lowery, Stoner, Johnson, Crockett, Scott, Horsey, Chapman and Wright, and the NAACP against Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, Murphy, and

Officer Does A-R in their individual capacities. In addition, Defendants Maynard, Smith, and Franks are sued in their official capacity for declaratory and prospective injunctive relief. These defendants are therefore "persons" within the meaning of 42 U.S.C. § 1983.

303. The Defendants violated or caused the violation of the constitutional rights of the individual Plaintiffs.

304. Officer Does A-R directly violated the constitutional rights of the individual Plaintiffs by conducting indiscriminate, non-private, visual strip searches of them, without probable cause or individualized suspicion to believe they possessed weapons or contraband.

305. The policy of strip searching, without individualized suspicion, every person arrested for loitering or other "quality of life" offenses is not necessary to protect officer safety, to preserve evidence, or to ensure prison security.

306. Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy, with deliberate indifference to the individual Plaintiffs' legal rights, established, implemented, enforced, or failed to remedy an illegal and unconstitutional policy and practice at CBIC of conducting indiscriminate, non-private, visual strip searches of persons temporarily detained at the center, without probable cause or individualized suspicion to believe the detainees possessed weapons or contraband.

307. It is clearly established now and was clearly established at the time of their actions that the conduct, patterns, and practices of the Defendants violated and continue to violate the Fourth and Fourteenth Amendments to the U.S. Constitution.

308. As an actual and proximate result of Defendants' conduct, patterns, and practices, the individual Plaintiffs suffered damages.

309. In addition, because the conduct, patterns, and practices are ongoing, it is likely that the individual Plaintiffs and NAACP members will suffer damages as an actual and proximate result of similar unconstitutional conduct, patterns, and practices in the future.

**D. Count IV: Fourth and Fourteenth Amendment Violations for Unconstitutional Overdetentions under Section 1983**

310. This Count incorporates all of the other allegations in this Complaint.

311. This Count is brought by Plaintiffs Howard and Braxton against Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy. In this Count, these Defendants are sued in their individual capacities only. They are therefore "persons" within the meaning of 42 U.S.C. § 1983.

312. The Defendants violated or caused the violation of the constitutional rights of Plaintiffs Howard and Braxton.

313. Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy, with deliberate indifference to Howard's and Braxton's legal rights, established, implemented, enforced, condoned, and failed to remedy the conduct, pattern, and practice at CBIC of holding detainees for more than twenty-four hours without charges, presentment, or release.

314. It was clearly established at the time of their actions that such conduct, patterns, and practices violated the Fourth and Fourteenth Amendments to the U.S. Constitution.



315. As an actual and proximate result of Defendants' conduct, pattern, and practice, Plaintiffs Howard and Braxton suffered damages.

**E. Court V: Common Law Claim for Violations of Article 26 of the Maryland Declaration of Rights for Unconstitutional Arrests**

316. This Count incorporates all of the other allegations in this Complaint.

317. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Crockett, Scott, Wright, Horsey, Lindsay, Marcus and Higgs, and the NAACP against the City, the Police Department and defendants Mayor Dixon, O'Malley, Hamm, Commissioner Bealefeld, Brown, Clark, Norris, and Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Does 1-100.

318. A common-law private cause of action exists to remedy Maryland constitutional violations through both injunctive relief and money damages.

319. Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Officer Does 1-100 directly violated the constitutional rights of the individual Plaintiffs by arresting them without probable cause and under an illegal pattern and practice.

320. The City, the Police Department, and defendants Mayor Dixon, O'Malley, Hamm, Commissioner Bealefeld, Brown, Clark, and Norris caused these and other similar constitutional violations by implementing, following, or failing to remedy the illegal pattern or practice.

321. The City, the Police Department, and defendants Mayor Dixon, the Police Department, and Commissioner Bealefeld will continue to cause similar constitutional violations by implementing, following, or failing to remedy the illegal pattern or practice in the future.

322. The Defendants' conduct, patterns, and practices violate Article 26 of the Maryland Declaration of Rights.

323. Their conduct, patterns, and practices were made with malice, ill will, improper motive, and/or gross negligence.

324. As an actual and proximate result of Defendants' conduct, patterns, and practices, the individual Plaintiffs suffered damages.

325. In addition, because the conduct, patterns, and practices are ongoing, it is likely that the individual Plaintiffs and NAACP members will suffer harm as an actual and proximate result of similar unconstitutional conduct, patterns, and practices in the future.

**F. Count VI: Common Law Claim for Violations of Article 26 of the Maryland Declaration of Rights for Unconstitutional Strip Searches**

326. This Count incorporates all of the other allegations in this Complaint.

327. This Count is brought by individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Crockett, Scott, Horsey, Chapman and Wright, and the NAACP against the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, Murphy, and Officer Does A-R.

328. Officer Does A-R directly violated the constitutional rights of the individual Plaintiffs by conducting indiscriminate, non-private, visual strip searches of them, without

probable cause or individualized suspicion to believe they possessed weapons or contraband.

329. The State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy, with deliberate indifference to the legal rights of Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Crockett, Scott, Horsey, and Wright established, implemented, enforced, or failed to remedy an illegal and unconstitutional policy and practice at CBIC of conducting indiscriminate, non-private, visual strip searches of persons temporarily detained at the center, without probable cause or individualized suspicion to believe the detainees possessed weapons or contraband.

330. The conduct, patterns, and practices of strip searching without individualized suspicion every arrestee brought to CBIC is not necessary to protect officer safety, to preserve evidence, or to ensure prison security.

331. The Defendants' conduct, patterns, and practices were made with malice, ill will, improper motive, and gross negligence.

332. Such conduct, patterns, and practices violate Article 26 of the Maryland Declaration of Rights.

333. As an actual and proximate result of Defendants' conduct, patterns, and practices, the individual Plaintiffs suffered damages.

334. In addition, because the conduct, patterns, and practices are ongoing, it is likely that the Plaintiffs and NAACP members will suffer harm as an actual and proximate result of similar unconstitutional conduct, patterns, and practices in the future.

**G. Count VII: Common Law Claim for Violations of Article 24 of the Maryland Declaration of Rights for Unconstitutional Overdetentions**

335. This Count incorporates all of the other allegations in this Complaint.

336. This Count is brought by Plaintiffs Howard and Braxton against the State, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy.

337. A common-law private cause of action exists to remedy Maryland constitutional violations through both injunctive relief and money damages.

338. The Defendants violated or caused the violation of the constitutional rights of Plaintiffs Howard and Braxton.

339. The State, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy, with deliberate indifference to Howard's and Braxton's legal rights, established, implemented, enforced, or failed to remedy the illegal and unconstitutional conduct of holding detainees for more than 24 hours at CBIC without charges, presentment, or release.

340. The Defendants acted with malice, ill will, improper motive, and gross negligence.

341. Such conduct violated Rule 4-212(f) and Article 24 of the Maryland Declaration of Rights.

342. As an actual and proximate result of Defendants' conduct, Plaintiffs Howard and Braxton suffered damages.

**H. Count VIII: Common Law Claim for False Imprisonment and False Arrest**

343. This Count incorporates all of the other allegations in this Complaint.

344. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Higgs, Scott, Wright, Wilson, Horsey, Lindsay, Marcus and

Crockett, and the NAACP against the State, the City, the Police Department and defendants Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, Murphy, Mayor Dixon, O'Malley, Hamm, Commissioner Bealefeld, Brown, Clark, Norris, and Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Officer Does 1-100.

345. The City, Mayor Dixon, Martin O'Malley, the Police Department, former Commissioner Hamm, Commissioner Bealefeld, Marcus Brown, Clark, Norris, and Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Pinkosz, Southard, Hamilton, Mealey, and Officer Does 1-100 have deprived these individual Plaintiffs of liberty without consent or legal justification by causing them to be arrested without probable cause.

346. In addition, the State, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy have deprived Plaintiffs Howard and Braxton of liberty without consent or legal justification by causing them to be detained at CBIC for longer than 24 hours without presentment, charges, or release.

347. The individual Defendants acted with actual malice, ill will, improper motive, and gross negligence.

348. As an actual and proximate result of Defendants' conduct, the individual Plaintiffs suffered damages.

349. In addition, because the conduct, patterns, and practices of illegal arrests are ongoing, it is likely that the individual Plaintiffs and NAACP members will suffer damages as an actual and proximate result of similar conduct, patterns, and practices in the future.

I. **Count IX: Assault and Battery for the Illegal Arrests**

350. This Count incorporates all of the other allegations in this Complaint.

351. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Higgs, Scott, Wright, Johnson, Horsey, Lindsay, Marcus and Crockett, and the NAACP against the City, the Police Department, and defendants Mayor Dixon, O'Malley, Hamm, Commissioner Bealefeld, Brown, Clark, Norris, and Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Joseph Chin, Michael Pinkosz, Southard, Hamilton, Mealey, and Officer Does 1-100.

352. Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Pinkosz, Southard, Hamilton, Mealey, and Officer Does 1-100 unlawfully attempted to cause, and succeeded in causing, harmful or offensive contacts with the individual Plaintiffs by using physical force to illegally arrest them.

353. Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Pinkosz, Southard, Hamilton, Mealey, and Officer Does 1-100 acted with actual malice, ill will, and improper motive towards the individual Plaintiffs.

354. The City, Mayor Dixon, O'Malley, the Police Department, Hamm, Commissioner Bealefeld, Brown, Clark, and Norris are vicariously liable for the officers' tortious conduct.

355. In addition, by facilitating or failing to abate the known pattern and practice of illegal arrests without probable cause, the City, Mayor Dixon, O'Malley, the Police Department, Hamm, Commissioner Bealefeld, Brown, and Clark have attempted to cause, and succeeded in causing, a harmful or offensive contact with the individual Plaintiffs and NAACP members, namely, the use of physical force to illegally arrest them.

356. Mayor Dixon's, O'Malley's, Hamm's, Commissioner Bealefeld's, Brown's, Clark's, and Norris's actions or omissions were made with malice, ill-will, improper motive, and gross negligence.

357. As an actual and proximate result of Defendants' conduct, the individual Plaintiffs suffered damages.

358. In addition, because the conduct, patterns, and practices of illegal arrests are ongoing, it is likely that the individual Plaintiffs and NAACP members will suffer damages as an actual and proximate result of similar conduct, patterns, and practices in the future.

**J. Count X: Assault and Battery for Illegal Strip Searches**

359. This Count incorporates all of the other allegations in this Complaint.

360. This Count is brought by individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Scott, Wright, Horsey, Chapman and Crockett, against the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, Murphy, and Officer Does A-R.

361. Officer Does A-R unlawfully attempted to cause, and succeeded in causing, harmful or offensive contacts with the individual Plaintiffs by using physical force to conduct suspicionless strip searches of them at CBIC.

362. Officer Does A-R acted with actual malice, ill will, and improper motive towards the individual Plaintiffs.

363. The State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy are vicariously liable for the acts and omissions of their employees.

364. In addition, by facilitating or failing to abate the known pattern and practice of illegal arrests without probable cause, the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy have attempted to cause, and succeeded in causing, harmful or offensive contacts with the individual Plaintiffs, namely, the use of physical force to conduct suspicionless strip searches of them at CBIC.

365. Maynard's, Saar's, Smith's, Franks's, and Murphy's actions or omissions were made with malice, ill will, improper motive, and gross negligence.

366. As an actual and proximate result of Defendants' conduct, patterns, and practices, individual Plaintiffs suffered damages.

**K. Count XI: Negligence for Illegal Strip Searches**

367. This Count incorporates all of the other allegations in this Complaint.

368. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Wright, Scott, Wright, Horsey, Chapman and Crockett, against the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, Murphy, and Officer Does A-R.

369. Officer Does A and B owed a duty of care to Plaintiffs Howard and Braxton. Officer Does C, D, and L owed a duty of care to Plaintiff Wilson. Officer Does E and F owed a duty of care to Plaintiffs Stoner and Lowery. Officer Does G and H owed a duty of care to Plaintiff Johnson. Officer Does I, J, and O owed a duty of care to Plaintiff Crockett. Officer Does K and N owed a duty of care to Plaintiff Raffic. Officer Doe O owed a duty of care to Plaintiff Wright. Officer Doe P owed a duty of care to Plaintiff Horsey. Officer Does Q and R owed a duty of care to Plaintiff Chapman.



370. Officer Does A-R breached their duty of care by conducting suspicionless strip searches of the individual Plaintiffs at CBIC.

371. Officer Does A-R also acted with gross negligence towards the individual Plaintiffs.

372. The State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy are vicariously liable for the negligence or gross negligence of their employees.

373. In addition, by facilitating or failing to abate the known pattern and practice of illegal strip searches without individualized suspicion at CBIC, the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy have breached a duty of care, which they owed to the individual Plaintiffs.

374. As an actual and proximate result of Defendants' negligence, the individual Plaintiffs suffered damages.

**L. Count XII: Invasion of Privacy for the Illegal Arrests**

375. This Count incorporates all of the other allegations in this Complaint.

376. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Wright, Scott, Higgs, Horsey, Lindsay, Marcus and Crockett, and the NAACP against the Police Department, the City, Mayor Dixon, O'Malley, Hamm, Commissioner Bealefeld, Brown, Clark, Norris, Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Officer Does 1-100.

377. Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Officer Does 1-100 intentionally and unreasonably intruded upon the person of the individual Plaintiffs by illegally arresting them and using physical force against them without probable cause.

378. Officers Jemini Jones, Crites, Pecha, Newkirk, Arnold Jones, Heron, Grey, Chin, Southard, Pinkosz, Hamilton, Mealey, and Officer Does 1-100 also acted with actual malice, ill will, improper motive, and gross negligence towards the individual Plaintiffs.

379. The Police Department, City, Mayor Dixon, O'Malley, Hamm, Commissioner Bealefeld, Brown, Clark, and Norris are vicariously liable for the tortious conduct of their employees.

380. In addition, by purposefully facilitating or failing to abate the known pattern and practice of illegal arrests without probable cause, the Police Department, City, Mayor Dixon, O'Malley, Hamm, Commissioner Bealefeld, Brown, Clark, and Norris have intentionally and unreasonably intruded upon the seclusion of the individual Plaintiffs.

381. Mayor Dixon, O'Malley's, Hamm's, Brown's, Clark's, and Norris's actions or omissions were made with malice, ill-will, improper motive, and gross negligence.

382. As an actual and proximate result of Defendants' tortious conduct, the individual Plaintiffs suffered damages.

383. In addition, because the conduct, patterns, and practices of illegal arrests are ongoing, it is likely that the individual Plaintiffs and NAACP members will suffer damages as an actual and proximate result of similar conduct, patterns, and practices in the future.

**M. Count XIII: Invasion of Privacy for the Illegal Strip Searches**

384. This Count incorporates all of the other allegations in this Complaint.

385. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Wright, Scott, Horsey and Crockett, against the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, Murphy, and Officer Does A-R.

386. Officer Does A-R intentionally and unreasonably intruded upon the seclusion of the individual Plaintiffs by conducting suspicionless strip searches of them at CBIC.

387. Officer Does A-R also acted with actual malice, ill will, improper motive, and gross negligence towards the individual Plaintiffs.

388. The State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy are vicariously liable for the tortious conduct of their employees.

389. In addition, by purposefully facilitating or failing to abate the known pattern and practice of illegal strip searches without individualized suspicion at CBIC, the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy have intentionally and unreasonably intruded upon the seclusion of the individual Plaintiffs.

390. Saar's, Smith's, Franks's, and Murphy's actions or omissions were made with malice, ill will, improper motive, and gross negligence.

391. As an actual and proximate result of Defendants' tortious conduct, the individual Plaintiffs suffered damages.

**N. Count XIV: Negligent Supervision and Training for the Illegal Strip Searches**

392. This Count incorporates all of the other allegations in this Complaint.

393. This Count is brought by the individual Plaintiffs Howard, Braxton, Wilson, Stoner, Lowery, Johnson, Wright, Scott, Horsey, Chapman and Crockett, against the State, Secretary Maynard, Mary Ann Saar, Commissioner Smith, Warden Franks, and Murphy.

394. The State, Maynard, Saar, Smith, Franks, and Murphy owed a duty to the individual Plaintiffs to properly supervise and train their employee corrections officers not to strip search detainees without individualized suspicion.

395. However, by purposefully facilitating or failing to abate the known pattern and practice of routine strip searches of male detainees, the State, Maynard, Saar, Smith, Franks, and Murphy knew or should have known that their employee corrections officers would conduct such strip searches without individualized suspicion.

396. This conduct constituted and continues to constitute negligence or gross negligence.

397. As an actual and proximate result of Defendants' negligence, the individual Plaintiffs suffered damages.

## **VII. JURY DEMAND**

398. Plaintiffs demand a jury trial on all such triable issues.

## **VIII. RELIEF**

WHEREFORE, on Counts I through XIV, the Plaintiffs respectfully request that this Court grant the following relief:

- A. Declare that Defendants' acts alleged above violate the Fourth and the Fourteenth Amendments to the U.S. Constitution;

- B. Declare that the Baltimore anti-loitering ordinance is unconstitutional on its face and as applied, pursuant to the First, Fourth, and Fourteenth Amendments to the U.S. Constitution and Articles 24, 26, and 40 of the Maryland Declaration of Rights;
- C. Declare that Defendants' acts alleged above violate Articles 24 and 26 of the Maryland Declaration of Rights;
- D. Permanently enjoin Defendants from pursuing the course of conduct complained of herein;
- E. Award the individual Plaintiffs compensatory and consequential damages in an amount to be determined by a jury;
- F. Award the individual Plaintiffs punitive damages against the individual defendants in their individual capacities only in an amount to be determined by a jury;
- G. Order the expungement of arrest the records of the individual Plaintiffs;
- H. Award all Plaintiffs attorneys' fees and costs incurred in bringing this action pursuant to 42 U.S.C. § 1988; and
- I. Grant such other relief as this Court deems just and proper.

Respectfully Submitted,

Dated: December 18, 2007

/s/

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Deborah A. Jeon  
David R. Rocah

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