

SPEIGHTS, sued in his individual and official)
capacity; WAYLAND RAWLS, sued in his)
individual and official capacity; JAMIE DIAZ, sued)
in his individual and official capacity; SHELLY)
PHELPS, sued in his individual and official capacity;)
DEMOND OLIVER, sued in his individual and)
official capacity; CRAIG LEATH, sued in his)
individual and official capacity; JAMES HOMMELL,)
sued in his individual and official capacity; Officer)
HIPPIE, sued in his individual and official capacity;)
R.T. BECK, sued in his individual and official)
capacity; MIKE BELL, sued in his individual and)
official capacity; GILBERT THOMPSON, sued in)
his individual and official capacity; SHAWN LIPPE,)
sued in his individual and official capacity; SEAN)
MCCARROLL, sued in his individual and official)
capacity; TIM SDULSER, sued in his individual and)
official capacity; JOE COY, sued in his individual)
and official capacity; MARK NOWELL, sued in his)
individual and official capacity; JUSTIN)
CARMICHAEL, sued in his individual and official)
capacity; ROGER MADDOX, sued in his individual)
and official capacity; GARY MCCULLY, sued in his)
individual and official capacity; DON ADAMS, sued)
in his individual and official capacity; Officer)
LUCAS, sued in his individual and official capacity;)
T. BREWER, sued in his individual and official)
capacity; VINCE ANGELE, sued in his individual)
and official capacity; STEVE MISTRICK, sued in his)
individual and official capacity; MIGUEL)
VASQUEZ, sued in his individual and official)
capacity; CARRIE CARMICHAEL, sued in his)
individual and official capacity; CHRIS HENSON,)
sued in his individual and official capacity; PAUL)
MUNSELL, sued in his individual and official)
capacity; HUGH CURRY, sued in his individual and)
official capacity; BARRY WIND, in his individual)
and official capacity; BOBBY MATHIS, in his)
individual and official capacity; and UNNAMED)
OFFICERS, sued in their individual and official)
capacities.)

Defendants.)
_____)
)
)
)

SECOND AMENDED COMPLAINT
FOR INJUNCTIVE RELIEF AND DAMAGES
AND JURY TRIAL

Plaintiffs bring this action on their own behalf and on behalf of two classes of individuals affected by drug sweeps in Hearne, Texas: (1) those who were arrested and charged, and (2) those who were detained without being formally arrested and charged. Plaintiffs, on information and belief, hereby allege:

I.

INTRODUCTION

1. For the past fifteen years, the South Central Texas Regional Narcotics Task Force (“Task Force”), with the participation and authorization of the City of Hearne (“City”) and of Limestone and Robertson Counties (“Counties”), has engaged in racially motivated and targeted “drug sweeps” of the African American community in Hearne, most recently resulting in the November 2000 arrest of fifteen percent of Hearne’s young black men (between the ages of 18 and 34). Each sweep results in the detention of virtually every member of an entire neighborhood, as well as the warrantless searches of many residents’ property and persons. Although the use and sales of narcotics in the neighboring white and Hispanic communities are equally prevalent and well-known to law enforcement officials, the Task Force, City and Counties, at the direction of and/or with the participation of each individually named defendant, have conducted these well-publicized and highly coordinated raids exclusively in the African American community in eastern Hearne. During the sweeps, the African American community is held in a state of lockdown, with officers of the Task Force, City and Counties, as well as officers employed by neighboring counties and cities, searching and detaining innocent residents, often in handcuffs, for lengthy periods of time without warrant or cause. These sweeps are jointly planned and coordinated by the City and the Counties. These race-based sweeps and

unwarranted detentions of innocent citizens (“Detainee Plaintiffs”) violate the Constitution’s protections against discrimination on the basis of race, unreasonable searches and seizures, and the deprivation of liberty without due process of law.

2. The most recent of these drug sweeps resulted in the arrest of approximately 28 innocent individuals. The arrests were based on nothing more than the word of an informant who had no history of reliability, who was coerced into acting as an informant, who was himself facing serious criminal charges, and who had a history of drug abuse and mental problems that were known to Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Bancroft, Yezak, Fisher, and other Task Force members. These arrests and subsequent incarcerations and prosecutions violate the Fourth and Fourteenth Amendment rights of the arrested individuals (“Arrestee Plaintiffs”).

II.

PARTIES

PLAINTIFFS

3. Plaintiff REGINA KELLY is an African American woman who resides in Hearne, Texas. She was arrested during the November 2000 sweeps and was incarcerated until late November 2000. The charges against her were dismissed on April 2, 2001.

4. Plaintiff CORVIAN WORKMAN is an African American man who resides in Hearne, Texas. He was arrested during the November 2000 sweeps and incarcerated for almost four months. Workman was the only person arrested in the November 2000 sweeps whose case went to trial. The trial ended with a hung jury of 11-1 in favor of acquittal and the charges against him were dismissed on April 2, 2001.

5. Plaintiff MILTON JEROME DUNN is an African American man who resides in Hearne, Texas. He was arrested during the November 2000 sweeps and was incarcerated for six

weeks prior to being released on bond. The charges against him were dismissed on April 2, 2001.

6. Plaintiff JOHNNY HAMMOND is an African American man who resides in Hearne, Texas. On or about November 2, 2000, he traveled to Houston and returned to Hearne in or about March 2001, at which time he was arrested. He was incarcerated for approximately thirty-six days. The charges against him were dismissed on April 2, 2001.

7. Plaintiff QUINCY HIGGINS is an African American man who resides in Houston, Texas. He was arrested during the November 2000 sweeps and was incarcerated for two weeks before being released on bond. The charges against him were dismissed on April 2, 2001.

8. Plaintiff MICHAEL WELLS is an African American man who resides in Hearne, Texas. He was arrested approximately one month after the November 2000 sweeps and was incarcerated until the charges against him were dismissed on April 2, 2001.

9. Plaintiff FREDERICK DWAIN SEYMORE is an African American man who resides in Hearne, Texas. He was arrested during the November 2000 sweeps and was incarcerated until the charges against him were dismissed on April 2, 2001.

10. Plaintiff DONAL EDDINGTON is an African American man who resides in Hearne, Texas. He was arrested during the November 2000 sweeps and was released on a \$50,000 bond after spending several nights in jail. The charges against him were dismissed on April 2, 2001.

11. Plaintiff DARREL DEWAYNE GRAY is an African American man who resides in Hearne, Texas. He was arrested on November 3, 2000, pursuant to the November 2000 sweeps, and was incarcerated until he was released on bond on February 14, 2001. The charges against him were dismissed on April 2, 2001.

12. Plaintiff CLIFFORD EUGENE RUNOALDS is an African American man who resides in Bryan, Texas. He was arrested in March 2001, pursuant to the November 2000

sweeps, while attending his daughter's funeral. He was incarcerated until the charges against him were dismissed on April 2, 2001.

13. Plaintiff CORNELIUS WORKMAN is an African American man who resides in Hearne, Texas. He was arrested during the November 2000 sweeps and was incarcerated for nearly five months. The charges against him were dismissed on April 2, 2001.

14. Plaintiff QUINTON SMITH is an African American man who resides in College Station, Texas. He was arrested shortly after the November 2000 sweeps and was incarcerated for nearly two months before being released on bond. The charges against him were dismissed on April 2, 2001.

15. Plaintiff DARIUS MOTEN is an African American man who resides in Hearne, Texas. He was arrested during the November 2000 sweeps and, after spending five months in jail and under the threat of up to four years of incarceration, he pled guilty to selling marijuana in a school zone. His court-appointed attorney never advised him of the possibility of dismissal based on the poor quality of the evidence against him. His guilty plea was made just two weeks before the charges against the other plaintiffs were dismissed. Moten is innocent of the crime charged.

16. Plaintiff CARLTON STEELS is an African American man who is currently incarcerated in Brazos County Jail. He was arrested during the November 2000 sweeps and, after spending months in jail, he pled guilty to avoid further time in jail. Steels is innocent of the crime charged.

17. Plaintiff ROBERT TAYLOR is an African American man who resides in Hearne, Texas. During the November 2000 sweeps, he was not formally arrested and charged, but he was detained at length by defendants. He was not named in any warrant or indictment. Defendants lacked any probable cause or reasonable suspicion to believe he would be or had been violating any law, nor did defendants have any reasonable basis to believe that he posed any danger or

threat. His only connection to the individuals arrested during the sweeps was the fact that he was visiting the neighborhood where some of the arrested individuals reside.

DEFENDANTS

18. Defendant JOHN PASCHALL is sued in his individual capacity and in his official capacity as project director of the Task Force and in his official capacity as the District Attorney for Robertson County. Paschall is or was, at all times relevant herein, delegated with final authority for the policies, practices, and/or customs of the Task Force until his resignation from the Task Force in or about February 2001. During the relevant period, he had final policymaking authority for screening, hiring, training, retention, supervision, discipline, counseling, and control of the Task Force employees, agents, and informants working under his command. Paschall is or was responsible for screening, hiring, training, retaining, supervising, disciplining, counseling, and controlling the Task Force employees, agents, and informants working under his command. Paschall is or was delegated with final policymaking authority for the Office of the District Attorney for Robertson County and is or was responsible, at all times relevant herein, for the policies, practices, and/or customs of the Office of the District Attorney for Robertson County.

19. Defendant SOUTH CENTRAL TEXAS REGIONAL NARCOTICS TASK FORCE (the "Task Force") is a law enforcement entity. Narcotics task forces in Texas are typically created by agreement among the counties (and sometimes the municipalities) within the jurisdiction of the task force. It is likely, though not yet known, that the Task Force here was created by agreement among Robertson County, Limestone County and the City of Hearne for the purpose of enforcing criminal laws concerning the use and distribution of controlled substances. The Task Force maintains its own staff comprised of both law enforcement officers and civilians.

20. Defendant BOARD OF DIRECTORS OF THE SOUTH CENTRAL REGIONAL

NARCOTICS TASK FORCE (the "Board") is a body comprised of officials of both Robertson and Limestone Counties that is charged with evaluating the effectiveness and productivity of the Task Force. It is also charged with making recommendations to the Task Force Commander regarding the direction and focus of investigations. It is or was delegated with final policymaking authority with respect to the activities of the Task Force. At all times, the Board knowingly approved of the activities of the Task Force alleged herein, including the coercion and use of unreliable confidential informants to fabricate evidence against African Americans and the use of sweeps exclusively executed against African Americans.

21. Defendant OFFICE OF THE DISTRICT ATTORNEY OF ROBERTSON COUNTY is a prosecutorial entity created for the purpose of bringing prosecutions of crimes that occur within Robertson County, Texas.

22. Defendant CITY OF HEARNE, TEXAS is a municipal entity created and authorized under the laws of the State of Texas. It is authorized under the laws of the State of Texas to maintain a police department, which acts as its agent in the area of law enforcement and for which it is ultimately responsible.

23. Defendant ROBERTSON COUNTY, TEXAS is a governmental entity created and authorized under the laws of the State of Texas. It is authorized under the laws of the State of Texas to maintain a sheriff's department, which acts as its agent in the area of law enforcement and for which it is ultimately responsible.

24. Defendant LIMESTONE COUNTY, TEXAS is a governmental entity created and authorized under the laws of the State of Texas. It is authorized under the laws of the State of Texas to maintain a sheriff's department, which acts as its agent in the area of law enforcement and for which it is ultimately responsible.

25. Defendant RON GARNEY is sued in his individual capacity and in his official

capacity as commander of the Task Force. Garney is or was, at all times relevant herein, delegated with final authority for the policies, practices, and/or customs of the Task Force until his resignation from the Task Force in or about February or March 2001. During the relevant period, he had final policymaking authority for screening, hiring, training, retention, supervision, discipline, counseling, and control of the Task Force employees, agents, and informants working under his command. During the relevant period, Garney was responsible for screening, hiring, training, retaining, supervising, disciplining, counseling, and controlling the Task Force employees, agents, and informants working under his command.

26. Defendant GERALD YEZAK is sued in his individual capacity and in his official capacity as Sheriff of Robertson County, Texas, and in his official capacity as project director of the Task Force. He is and has been delegated with final authority for the policies, practices, and/or customs of the Task Force. He is and has been delegated with final policymaking authority for screening, hiring, training, retention, supervision, discipline, counseling, and control of the Task Force employees, agents, and informants working under his command. Yezak is and has been responsible for screening, hiring, training, retaining, supervising, disciplining, counseling, and controlling the Task Force employees, agents, and informants working under his command. He is or has been responsible for screening, hiring, training, retention, supervision, discipline, counseling, and control of the employees of the Robertson County Sheriff's Office. Yezak is or was delegated with final policymaking authority for the Robertson County Sheriff's Office.

27. Defendant JOE DAVIS is sued only in his official capacity as commander of the Task Force. Davis is delegated with final authority for the policies, practices, and/or customs of the Task Force. He is delegated with final policymaking authority for screening, hiring, training, retention, supervision, discipline, counseling, and control of the Task Force employees, agents,

and informants working under his command. Davis is responsible for screening, hiring, training, retaining, supervising, disciplining, counseling, and controlling the Task Force employees, agents, and informants working under his command.

28. Defendant MICHAEL FISHER is sued in his individual capacity and in his official capacity as Chief of the Hearne Police Department. He is or was responsible for screening, hiring, training, retention, supervision, discipline, counseling, and control of the employees of the Hearne Police Department. Fisher is and has been delegated with final policymaking authority for the Hearne Police Department.

29. Defendant THOMAS HENDRIX is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. Hendrix is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein. Hendrix had responsibility for supervising, controlling, and directing the actions of the informant, Derrick Megress.

30. Defendant PHILLIP CROWELL is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. Crowell is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein. Crowell had responsibility for supervising, controlling, and directing the actions of the informant, Derrick Megress. Crowell was commonly known and referred to as "Red."

31. Defendant MURRAY AGNEW is or was, at all times relevant herein, an officer, employee, and agent of the Task Force and/or the Limestone County Sheriff's Department. Agnew is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his

actions during the time of the events related herein. Agnew had responsibility for supervising, controlling, and directing the actions of the informant, Derrick Megress.

32. Defendant MICHAEL BANCROFT is or was, at all times relevant herein, an officer, employee, and agent of the Task Force and/or the Robertson County or Limestone County Sheriff's Department. Bancroft is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein. Bancroft had responsibility for supervising, controlling, and directing the actions of the informant, Derrick Megress.

33. Defendant MARC VIVAS is or was, at all times relevant herein, an officer, employee, and agent of the Hearne Police Department. He worked in cooperation with the Task Force and may have been a member of it. Vivas is sued individually and in his official capacity as an employee of the Hearne Police Department and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

34. Defendant AL MCBRIDE, originally named in this action as "Officer McBride," is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. McBride is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

35. Defendant JAY KENNEDY, originally named in this action as Jack Kennedy, is or was, at all times relevant herein, an officer, employee, and agent of the Hearne Police Department. He worked in cooperation with the Task Force and may have been a member of it.

Kennedy is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

36. Defendant RENE FERRELL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Ferrell is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

37. Defendant Officer THOMAS, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force and/or the Robertson County Sheriff's Department or Hearne Police Department. He worked in cooperation with the Task Force and may have been a member of it. Thomas is sued individually and in his official capacity as a member of the Task Force and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

38. Defendant ROBERT WILSON, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Wilson is sued individually and in his official capacity as a member of the Task Force, as a member, officer, employee, or agent of the College Station Police Department, and as a member, officer, employee, or agent of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

39. Defendant ASHLEY BROCKETT, originally named in this action as a John Doe

defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it.

Brockett is sued individually and in his official capacity as a member of the Task Force, as a member, officer, employee, or agent of the Hearne Police Department, and as a member, officer, employee, or agent of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

40. Defendant BRANDON MALKEY, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Malkey is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Hearne Police Department, and as a member, officer, employee, or agent of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

41. Defendant TIM SKEIDE, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Skeide is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Leon County Sheriff's Office, and as a member, officer, employee, or agent of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

42. Defendant JAMES STRINGFELLOW, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Stringfellow is sued individually and in his official capacity as a member, officer, employee, or

agent of the Task Force, the Robertson County Sheriff's Office, and any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

43. Defendant TRACEY SPEIGHTS, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. Speights worked in cooperation with the Task Force and may have been a member of it. Speights is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Maddison County Sheriff's Office, and any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

44. Defendant WAYLAND RAWLS, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Rawls is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Bryan Police Department, and any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

45. Defendant JAMIE DIAZ, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Diaz is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

46. Defendant SHELLY PHELPS, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task

Force. Phelps worked in cooperation with the Task Force and may have been a member of it. Phelps is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Brazos County Constable Precinct 3, and any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

47. Defendant DEMOND OLIVER, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Oliver is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Bryan Police Department, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

48. Defendant CRAIG LEATH, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Leath is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Robertson County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

49. Defendant JAMES HOMMELL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Hommell is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Leon County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

50. Defendant Officer HIPPIE, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Hippie is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

51. Defendant R.T. BECK, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Beck is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Limestone County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

52. Defendant MIKE BELL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Bell is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Limestone County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

53. Defendant GILBERT THOMPSON, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Thompson is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Groesbeck Police Department, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related

herein.

54. Defendant SHAWN LIPPE, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Lippe is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

55. Defendant SEAN MCCARROLL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. McCarroll is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Brazos County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

56. Defendant TIM SDULSER, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Sdulser is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

57. Defendant JOE COY, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Coy is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the

Department of Public Safety (Waco), and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

58. Defendant MARK NOWELL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Nowell is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Cameron Police Department, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

59. Defendant JUSTIN CARMICHAEL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Carmichael is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Round Rock Police Department, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

60. Defendant ROGER MADDOX, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Maddox is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Robertson County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

61. Defendant GARY MCCULLY, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. McCully is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Department of Public Safety (Waco), and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

62. Defendant DON ADAMS, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Adams is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the STOP Task Force, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

63. Defendant LUCAS, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Lucas is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

64. Defendant T. BREWER, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Brewer is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force and of any other police agency which employed him or was otherwise accountable for his

actions during the time of the events related herein.

65. Defendant VINCE ANGELE, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Angele is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Robertson County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

66. Defendant STEVE MISTRICK, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Mistrick is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Robertson County Sheriff's Office, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

67. Defendant MIGUEL VASQUEZ, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Vaquez is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Hearne Police Department, the College Station Police Department, and of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

68. Defendant CARRIE CARMICHAEL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task

Force. He worked in cooperation with the Task Force and may have been a member of it. Carmichael is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Austin Police Department, and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

69. Defendant CHRIS HENSON, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Henson is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Limestone County Sheriff's Office, and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

70. Defendant PAUL MUNSELL, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Munsell is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Falls County Sheriff's Office, and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

71. Defendant HUGH CURRY, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Curry is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Groesbeck Police Department, and as a member of any other police agency which

employed him or was otherwise accountable for his actions during the time of the events related herein.

72. Defendant BARRY WIND, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Wind is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Department of Public Safety, and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

73. Defendant BOBBY MATHIS, originally named in this action as a John Doe defendant, is or was, at all times relevant herein, an officer, employee, and agent of the Task Force. He worked in cooperation with the Task Force and may have been a member of it. Mathis is sued individually and in his official capacity as a member, officer, employee, or agent of the Task Force, the Robertson County Sheriff's Office, and as a member of any other police agency which employed him or was otherwise accountable for his actions during the time of the events related herein.

74. Defendant UNNAMED OFFICERS ("Officers") are or were, at all times relevant herein, officers, employees, and agents of the Task Force, the Hearne Police Department, the Robertson County Sheriff's Department, and/or other law enforcement agencies whose employees formed part of or assisted with the work of the Task Force. They worked in cooperation with the Task Force and may have been a member of it. Defendant Officers are sued individually and in their official capacity as a member of the Task Force and/or member of any other police agency which employed the officer or was otherwise accountable for the officer's actions during the time of the events related herein.

CLASS ALLEGATIONS

75. In addition to suit maintained on his own behalf, plaintiff Robert Taylor brings this action on behalf of himself and all other persons similarly situated pursuant to Fed .R. Civ. P. 23(a) and (b)(3). The class (the “Detainee Class”), as proposed by plaintiffs, consists of: All persons who were not formally arrested and charged, but who were unlawfully detained and/or searched during law enforcement anti-drug operations in Hearne, Texas in or about November 2000, and all persons whose property or person was unlawfully searched during such operations.

76. Plaintiff Detainee Class members meet the requirements of Fed. R. Civ. P. 23(a) and (b)(3), as the persons contained in the class are so numerous that joinder of all members is impracticable; there are questions of law and fact common to each class member; the claims of the representative parties are typical of the claims of each class member; the representative parties will represent the interests of the class fairly and adequately as they are represented by counsel with extensive experience in class action litigation and constitutional litigation, including claims brought pursuant to the Fourth Amendment; the questions of law and fact common to the members of the class predominate over any questions affecting only individual members; and a class action is superior to other available methods for the fair and efficient adjudication of the controversy because, inter alia, individual class members have no interest in individually controlling the prosecution or defense of separate actions, no litigation has been commenced by or against any class members concerning this controversy, the Western District of Texas is only appropriate forum for litigation of these claims, and no foreseeable difficulties in managing this class action exist.

77. In addition to suit maintained on her own behalf, plaintiff Regina Kelly brings this action on behalf of herself and all other persons similarly situated pursuant to Fed .R. Civ. P. 23(a) and (b)(2). The class (the “Arrestee Class”), as proposed by plaintiffs, consists of: All

persons in the past or future who have been or will be arrested during anti-drug operations conducted by the law enforcement agencies operating in Hearne, Texas based on their race as African Americans or in circumstances where there exists no probable cause to believe that they have committed a crime.

78. Plaintiff class members meet the requirements of Fed. R. Civ. P. 23(a) and (b)(2), as the persons contained in the class are so numerous that joinder of all members is impracticable; there are questions of law and fact common to each class member; the claims of the representative parties are typical of the claims of each class member; the representative parties will represent the interests of the class fairly and adequately as they are represented by counsel with extensive experience in class action litigation and constitutional litigation, including claims brought pursuant to the Fourth Amendment; and the defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.

III.

JURISDICTION AND VENUE

79. This court has jurisdiction over all causes of action herein pursuant to 28 U.S.C. §§1331 and 1343. A cause of action for plaintiffs' claims is created by 42 U.S.C. §1983 and 42 U.S.C. § 1981(a).

80. Venue is proper in this court under 28 U.S.C. §1391.

IV.

FACTUAL BACKGROUND

A. History of Sweeps

81. Hearne, with a population of just under 5000 residents, is a quiet town in Robertson County, in east Texas. Although African Americans make up forty-four percent of the

population of Hearne, virtually all of the law enforcement and governing positions in Hearne and Robertson County are, and have been, held by whites. Law enforcement efforts, especially relating to drugs, have focused disproportionately and purposefully on African Americans.

82. Although drug crimes in the nearby white and Hispanic neighborhoods are well-known to law enforcement officials, Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Bancroft, and Fisher, as well as the final policymakers for the Task Force, the City, the Counties, the Board, and the Office of the District Attorney, and other law enforcement officers in Hearne and Robertson County have developed and executed a longstanding practice and policy of selectively targeting African American residents in Hearne using a law enforcement technique that intentionally and foreseeably has caused the arrest of innocent individuals. Specifically, these defendants, and the officers employed by them or acting under their direction, have for many years recruited confidential informants, facing criminal charges, by threatening them with extraordinarily lengthy prison terms unless they will implicate numerous named African American residents in drug sales. These defendants' decision to utilize this technique of coercion creates a high risk that the informant will fabricate evidence against the named individuals in order to avoid jail time. Although whites and Hispanics commit similar drug crimes at equally prevalent rates, the defendants named in this paragraph have directed the informants to implicate only African Americans. Pursuant to this practice or custom, in exchange for probation, these defendants have explicitly required confidential informants to implicate all of the identified African American residents named by these defendants prior to the commencement of an undercover operation. In such cases, these named defendants have told the informant that failure to implicate all of the named targets will result in not receiving any of the beneficial terms of the deal. That is, the informant is required to fulfill a large quota or else he faces lengthy imprisonment. When recruiting these informants, these defendants have not had any basis, such

as past successful performance, to believe that the informants would be reliable. To the contrary, these informants' reputations for corruption and criminal behavior, as well as the circumstances of the informants' recruitment, would lead any reasonable officer to foresee that evidence generated by them would lack a reliable foundation. However, these named defendants, as a matter of practice or policy, deliberately failed to accompany or verify many of these supposed sales with any surveillance or other reliable corroboration.

83. For the past fifteen years, this practice of recruiting and coercing unreliable confidential informants by Paschall, Garney, Yezak, Crowell, Hendrix, Agnew, and Bancroft, among others, to implicate a large number of innocent individuals has been used solely against African Americans, despite the equal numbers and rates of drug crimes by whites and Hispanics in Hearne and Robertson County. Every year, about 10-15% of the young black male population have been arrested and most of these individuals were "rounded up" in a mass arrest on a single night that was highly publicized on the television and in local newspapers. Given the well-publicized, mass arrests of a significant percentage of the African American community based solely on the word of these informants and the longstanding practice of using these informants, as well as the participation of the City and Counties and its employees, including each of the named individual defendants, in executing the arrests every year, it is well-known by all individual defendants, the Task Force, the Board, the Office of the District Attorney, the Counties and City that this practice of using unreliable informants to implicate numerous residents in drug crimes is used solely against African Americans in Hearne. These defendants have maintained and endorsed this well-known practice year after year.

84. The practice described in the previous two paragraphs was employed and executed for many years by Paschall, Garney, Fisher, Yezak, the Task Force (and its participating entities, including Limestone and Robertson Counties), the Board, the City, the Counties, the Office of the

District Attorney, Crowell, Hendrix, Agnew, Bancroft, and other defendants with full knowledge and intent to ensure that African Americans were arrested and incarcerated, despite their innocence of the crimes charged. These defendants knew that drug sweeps prior to November 2000, which were executed by and/or at the direction of these defendants, resulted in numerous arrests of innocent African Americans. For instance, they knew that plaintiff Johnny Hammond was arrested in 1999, based solely on the word of an informant who claimed that Hammond had sold him drugs on a specified date. In fact, Hammond had been incarcerated on other charges and remained in custody on that date. Despite his incontrovertible alibi, he was again arrested and remained incarcerated for approximately two weeks before dismissal of his charges. That this practice is unreliable and used to implicate only African Americans is well-known by law enforcement officers in Robertson County, including all defendants. Indeed, the selective nature of the investigations has been openly and publicly acknowledged, even celebrated, by Paschall and Garney.

85. For the past fifteen years, based on the uncorroborated tales of informants, officers employed by and/or at the direction and under the supervision of the Task Force, the City, the Office of the District Attorney, and the Counties (including each of the named and unnamed individual defendants) annually raid the African American community in eastern Hearne to arrest the residents identified by the confidential informants, resulting in the arrest and harassment of innocent citizens without cause. Countless citizens who have had the misfortune of encountering the employees of the defendant law enforcement agencies during the sweeps – whether these citizens are young, old, male or female – were detained for unduly lengthy periods of time without warrant or any basis whatsoever, often at gunpoint or in handcuffs. Officers often recognize the individuals they are detaining by sight, and know that the residents are not subject to any arrest, but nevertheless search and seize them at gunpoint. Citizens have submitted

numerous complaints about the unreasonable searches and seizures, and the excessive force used, during the sweeps. For example, in 1999, several Hearne police officers – including Officers Thomas, Ferrell, Vasquez – and several masked officers threw a fifteen year old male resident of Columbus Village riding his bicycle on the ground with such force that he required hospitalization for back injuries, placed a gun to his head, and placed him in handcuffs. Several other teenage boys, whose identities were known to the officers, were forced to lie on the ground in handcuffs. Officer Ferrell pointed a gun at a deaf and dumb woman, Margaret Burns, despite the fact that he knew her identity and his prior knowledge that she was deaf. Masked officers, as well as Officers Vivas, Malkey, Kennedy, and McBride, participated in several instances of holding innocent bystanders at gunpoint and in handcuffs during the sweep. Citizens and their homes were also routinely searched without warrant or cause, even when the officers were aware that these detained citizens were not the individuals whom the officers sought to arrest. These coordinated sweeps, and the lengthy detentions and invasive searches taken pursuant to the sweeps, were deliberately planned, authorized, and supervised by Paschall, Garney, Fisher, Yezak, the City, the Hearne Police Department, the Board, the Task Force, the Office of the District Attorney, Robertson and Limestone Counties, and the Sheriff's Office of Robertson County. Officers employed by the Task Force, City and Counties participate in executing the sweeps. Although defendants have arrested whites and Hispanics for various criminal violations, these defendants have chosen to execute this policy of paramilitary, widespread and indiscriminate searches and seizures only in the African American community in Hearne.

86. While planning each sweep every year over many years, Paschall, along with Garney and other defendants, publicly and openly joked about the sweeps, saying that it was “time to round up the niggers,” and laughed about watching African American residents run in fear during the sweeps. Paschall described the fleeing residents as cockroaches. Paschall and Garney spoke

of looking forward to seeing “the niggers shit in their pants” during the roundups. These descriptions were well known to law enforcement officers, including all defendants named herein.

B. Events Leading Up to Sweep on November 2-3, 2000

87. Beginning in or about the summer of 1999 and lasting until on or about April 2, 2001, defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Bancroft, and Fisher, as well as the final policymakers for the Task Force, the City, the Counties, the Board, and the Office of the District Attorney, all conspired to cause, and did cause, the unlawful arrest and prosecution of African American individuals whom the conspirators deliberately targeted because of their race and deliberately pursued using methods reasonably certain to result in the arrest and prosecution of innocent individuals. Set forth in detail below are some of the overt acts taken in furtherance of the conspiracy and the circumstances demonstrating that the conspirators had a meeting of the minds and thus reached an understanding to achieve the conspiracy’s objectives.

88. While fulfilling his official duties as the head of the Task Force and as District Attorney and within the scope of the conspiracy, John Paschall openly and regularly used racial epithets, including the word “nigger,” when referring to African American arrestees. He believed and expressly stated to other members of the conspiracy the opinion that Hearne would be a better place to live if its African American residents (whom he referred to by racial epithet), in particular the residents of Columbus Village (a predominantly African American housing complex), were removed from Hearne by incarceration or other means. Paschall stated, for instance, that Columbus Village should be “bombed” and “burned.” Paschall openly declared his racial animosity and his intention to target and eliminate African Americans from Hearne to law enforcement officials in Hearne and Robertson County, including specifically to Garney, Crowell, Hendrix, Agnew, Bancroft, and Yezak. Upon arrest of African American residents of

Columbus Village, Paschall would regularly declare that he got people "off my list." Many of the innocent individuals investigated and prosecuted by Paschall were targeted because of their race.

89. Paschall, in consultation with Garney, Hendrix, Crowell, Agnew, Bancroft, Yezak, and Fisher, compiled a list of approximately twenty African American residents in Hearne, deliberately selected on the basis of their race, whom they planned to target for arrest on drug charges. Paschall communicated to all other conspirators named in paragraph 87 the racial animus that motivated the compilation of the list of targets, including by use of racial epithets in describing the individuals on the list.

90. In conspiring to create the list of targets, Paschall, Garney, Hendrix, Crowell, Agnew, Bancroft, Yezak, and Fisher lacked specific cause, much less probable cause, to believe that these named individuals were engaged in illegal narcotics activity. Instead, the individuals' race and age, combined with defendant Paschall's openly expressed personal and racial animus, served as the primary factors for the inclusion of the names on the list.

91. As with the lists of targets in previous years, the list described in the previous two paragraphs was created with an express purpose to include only African Americans, despite the conspirators' knowledge of similar and equally prevalent drug crimes by whites and Hispanics in Hearne. At the time of the investigation, many of these targeted individuals lived or regularly visited family and friends in Columbus Village, the housing complex whose residents Paschall had declared should be removed from Hearne. All of the conspirators named in paragraph 87 knew of the racially motivated selection relied upon in their conspiracy to target African Americans for arrest and prosecution and continued to participate in the plan to arrest and prosecute plaintiffs.

92. The list resulting from the conspiracy existed in written form and included, among

others, the following names: the Workman boys (referring to Corvian Workman, Cornelius Workman, and other male relatives of Charles Workman, who served at that time as President of the local chapter of the NAACP), Quincy Higgins, Darius McNeal, Antron Smith, Monterius Smith, and Frederick Seymore.

93. Megress, recently returned to Hearne from serving a prison sentence, had been charged with burglary and was being held in the Robertson County jail in or about late 1999. At this time and within the scope of the conspiracy described in paragraph 87, Paschall, Garney, Hendrix, Crowell, Agnew, Bancroft, Yezak and approximately three unknown defendants who worked in or had access to the Robertson County jail coerced Derrick Megress, through threats of serious physical harm and other unlawful means, to act as a confidential informant against plaintiffs in a manner deliberately designed to ensure that the evidence Megress produced would be insufficiently reliable to serve as a legal basis for plaintiffs' arrest or prosecution. These defendants employed this technique intentionally to create a palpable danger that the informant would fabricate evidence against the identified targets and thereby cause their false arrest and prosecution.

94. Even before the investigation began, Paschall, Garney, Hendrix, Crowell, Agnew, Bancroft, Yezak, Fisher, and other defendants were aware that Megress was inherently unreliable and not qualified to serve as a confidential informant who would execute controlled purchases of narcotics and handle large quantities of money. Specifically, these defendants knew that Megress had been placed in rehabilitation for a drug abuse problem and had repeatedly relapsed in his addiction. These defendants knew that Megress had repeatedly failed drug tests administered as part of his probation. And these defendants knew Megress had been hospitalized for serious mental illness as a juvenile – indeed, defendant Paschall had been instrumental in having Megress committed to a mental health institution.

95. In or about late 1999, defendant Paschall, then head of the Task Force, summoned Megress from the Robertson County jail to his office. Paschall threatened to incarcerate Megress for 60 to 99 years on the pending burglary charges and also threatened to arrest and prosecute members of his family, who were innocent of any wrongdoing. Paschall told Megress that he would ensure that during his incarceration, Megress would be placed in a cell with a prisoner who would rape him every day. Paschall said in a threatening manner that he “knew people” who were just a phone call away, implying that Paschall could enlist these people to injure or kill Megress. Defendants, including Garney, Hendrix, Crowell, Agnew, and Bancroft, were present when these threats were made or were subsequently made aware of these threats against Megress. When Hendrix and Agnew met with Megress to discuss his work for the Task Force, they expressly warned him that Paschall’s threats were credible. Yezak and Fisher were aware of Paschall’s threats, though perhaps not the precise content of his threats.

96. At a meeting in Paschall’s office, in the presence of Agnew and Hendrix, Paschall offered Megress probation, instead of a lengthy prison sentence, once Megress implicated at least twenty individuals according to Paschall’s specific instructions. Paschall stated that Megress was required to implicate all twenty individuals in order to avoid prison. Paschall further offered \$100 payment for any arrest beyond the twenty individuals. Megress was instructed to claim that any drug purchases took place in Columbus Village, a federally subsidized housing project located near an elementary school. Paschall, Hendrix and Agnew each explained that they wanted to be able to seek enhanced penalties for sales within a specified distance of a school. Finally, Megress was told to purchase at least four grams of cocaine per transaction, thus making the arrestees eligible for greater sentences. This last instruction was given despite the fact that none of the defendants had any reason to believe that drugs – especially powder cocaine – were commonly sold in such quantities, thus making Megress’s claim of purchasing such quantities of

powder cocaine from 20-30 individuals inherently implausible. As during the first meeting between Paschall and Megress, Paschall again threatened Megress that Megress had to fully comply with the terms of this agreement, including implicating all twenty of the individuals in transactions of powder cocaine involving four or more grams, or else he would ensure that Megress and members of his family would be incarcerated. In addition to Agnew and Hendrix, the following defendants also knew the terms of Paschall's oral instructions to Megress: Garney, Crowell, Bancroft, Yezak, Fisher, and unknown law enforcement officers. Some of the terms of Megress's agreement were written and signed by Agnew, Paschall and Megress.

97. Paschall, Hendrix and Agnew showed Megress the list of individuals he would be required to target. Paschall asked Megress if he knew these "black sons of bitches" and again referred to many of the individuals on the list as "niggers." Paschall, Hendrix, and Agnew expressed their strong desire that Megress implicate all of the listed individuals in drug crimes. Throughout the investigation, Paschall, Garney, Hendrix, Crowell, Agnew, Bancroft, Yezak and other defendants told Megress directly or through subordinate officers that Megress must implicate the individuals on the list or else face prison and serious bodily harm.

98. On multiple occasions during the investigation and while acting within the scope of the conspiracy described in paragraph 87, defendants Paschall, Crowell, and Hendrix threatened Megress with physical harm and incarceration if he failed to implicate the individuals identified by them. Defendants Yezak, Garney, Agnew, Bancroft, and other defendants were informed of the specific threats made by Hendrix, Crowell, and Paschall. Paschall, Garney, Hendrix, Crowell, Agnew, Bancroft, Yezak, Fisher and other defendants were aware of the coercion of the informant to implicate the named individuals on the list, the exact details of the agreement between Paschall and Megress, and the circumstances described above under which the deal was struck. Yet each knowingly and intentionally participated in the investigation and deliberately

permitted the informant to falsely accuse the plaintiffs of crimes they did not commit.

99. During the next several months, Megress was regularly summoned by Agnew, Crowell, Bancroft, and Hendrix, at which time these defendants would instruct him to attempt to conduct drug deals with specific African American residents in or near Columbus Village, including each of the Arrestee Plaintiffs. Agnew, Bancroft, Crowell, and Hendrix are all listed in case reports as the agents directly responsible for supervising Megress's actions in the field. In each instance, Agnew, Bancroft, Crowell and Hendrix acted at the instruction of Paschall, Garney, and Yezak. In each instance, Agnew, Bancroft, Crowell and Hendrix had the list and they identified the individual from the list whom Megress was to implicate that day. Agnew, Bancroft, Crowell and Hendrix provided Megress with \$300 to \$800 for each of his putative drug purchases. Agnew, Bancroft, Crowell and Hendrix also equipped him with a handheld tape recorder, but not a "body wire" which would remain attached to his person and which would accurately pick up conversations. Garney and Paschall authorized and approved the use of money and tape recorders during these incidents.

100. Acting within the scope of the conspiracy described in paragraph 87, Crowell, Hendrix and Paschall expressly instructed Megress, under threat of serious harm to himself and lengthy incarceration to him and to his family, that he was required to implicate every individual they identified on a particular day, regardless of whether Megress actually conducted a deal with him or any other identified target. Garney, Yezak, Agnew, and Bancroft knew of this instruction and coercion and, as part of the conspiracy described above, continued to permit Megress to act as an informant and fabricate evidence against plaintiffs. On multiple occasions within the scope of the conspiracy, Megress reported to Crowell and Hendrix that the target these officers identified from the list was not present on a particular day, yet they instructed him to claim that a deal had been made with the targeted individual. On one occasion, after Megress stated that the

target was not available, Hendrix told Megress that he had to make the case or else he would choke Megress; he also instructed Megress to lie on the tape and claim that the drugs were sold to him by the target. After this incident, Hendrix brought Megress to Paschall in his office. Paschall stated that Megress's inability to find the target from the list on that particular day constituted failure to comply with the agreement and Paschall again threatened Megress and his family with jail if he did not comply with the officers' precise instructions. Paschall also warned Megress that if he did not implicate the identified target as instructed by the officers, he would arrest some of the individuals already implicated by Megress, let them know that Megress was their accuser, and throw Megress into "the tank" with them. Crowell and Hendrix also both instructed Megress that he was never to return to them and tell him that a target was unavailable. Crowell and Hendrix both further coerced Megress to fabricate evidence by making specific threats to kill him and by use of their weapons – for example, brandishing their weapons, pointing their weapons at him, recounting stories about shooting suspects, and explicitly detailing the effects on the human body when shot with certain weapons. Because of the threats made against him and his family when he was unable to make a deal with the identified target, Megress fabricated evidence against plaintiffs. The conspirators named in paragraph 87 had knowledge of the threats and/or fabrication of evidence described in this paragraph, both due to specific communications from Paschall, Crowell and Hendrix and because the investigation and the conditions under which the informant was acting were discussed openly in the small, tight-knit law enforcement community in Robertson County.

101. Within the scope of the conspiracy and with the knowledge of the co-conspirators, Crowell and Hendrix regularly supplied small amounts of cocaine base (commonly known as "crack") to Megress so that Megress could mix the drugs with much larger quantity of a non-drug powder (like flour or baking soda). These defendants then instructed Megress to claim that the

drugs they had supplied had come instead from the identified target.

102. Within the scope of the conspiracy described in paragraph 87, the named conspirators deliberately decided not to supervise the informant's activities or to substantiate his accusations in any way, thereby ensuring that the evidence Megress produced would not be sufficiently reliable to serve as a basis for plaintiffs' lawful arrest and prosecution. Megress was out of sight of the Task Force and its officers responsible for supervising the transactions, including Hendrix, Agnew, Bancroft, Crowell, and other defendants, during his supposed transactions, thus allowing him further opportunities to fabricate evidence. Rather than purchasing cocaine, he would obtain a bag of non-drug powder (e.g., flour or baking soda), and then would mix in a small amount of crushed crack cocaine. He would often act out putative transactions on the tape recorder, imitating the voices of the targets at an inaudible volume. He would then return to the Task Force officer charged with supervising him, including Agnew, Hendrix, Crowell, and Bancroft, and give him the fabricated evidence and a tape recording with no intelligible voices other than those of Megress and the Task Force officer. For instance, the tape that supposedly recorded Megress's drug transaction with Plaintiff Regina Kelly contained no female voices whatsoever, much less a voice recognizable as that of Kelly. Megress was so poorly supervised by the Task Force and its officers named as conspirators that he could, and did, consume cocaine and marijuana while fabricating evidence against plaintiffs. Megress openly admitted to Paschall, Crowell, and Hendrix that he had consumed controlled substances throughout the investigation and, although the terms of his agreement expressly forbade use of any controlled substances and authorized them to require Megress to take a urinalysis test, Paschall, Crowell, and Hendrix deliberately chose not to do so.

103. Over the course of the nine month investigation, Megress implicated about twenty-eight African Americans in serious drug crimes. Virtually all of the transactions reported by

Megress allegedly took place in Columbus Village and involved four or more grams of powder cocaine, in full compliance with the detailed instructions of defendants named in paragraph 96.

104. Defendants Paschall, Garney, Crowell, Hendrix, Agnew, Bancroft, Yezak, and other defendants continued to allow Megress to conduct his fraudulent activities with virtually no supervision, despite the facts that his tape recordings never implicated any identifiable individual, that the bags of powder he produced were almost entirely made up of something other than a controlled substance, that their knowledge that his accusations were implausible given the number, type and quantity of drugs involved, and that they were directly aware that he was fabricating evidence. When Megress repeatedly returned to defendants with inaudible tapes of supposed transactions, defendants failed to provide him with adequate audio equipment or to conduct visual surveillance of him. The defendants named in this paragraph also failed to perform fingerprint tests on the packages that could have verified that plaintiffs did not participate in the transactions.

105. Due to the defendants' deliberate failure to supervise his activities, the only evidence that Megress purchased drugs from anyone during these months was his own self-serving word.

106. The conspirators named in paragraph 87, through threats of lengthy incarceration and physical harm and detailed instructions on the accusations to be made, as well as through their understanding of the coercion under which Megress acted and the lack of accountability for his actions, knowingly and intentionally encouraged and coerced Megress to fabricate evidence that they reasonably could foresee would result in the arrest and initiation of prosecution of plaintiffs by continuing to permit Megress to participate in the investigation and by supplying him with the means to fabricate evidence (i.e., the money and the tape recorder) under their supervision.

107. In stark contrast to Megress's unsubstantiated accusations, a number of the individuals who had supposedly sold drugs to Megress provided verifiable alibis for the dates and times that Megress claimed to have bought drugs from them. Quincy Higgins was working at Hearne Steel at the time of his supposed drug transaction with Megress. He verified his alibi with his time card and with a letter from his supervisor, John Mack, who also served as a member of the City Council. Michael Wells was working at a local convenience store at the time he supposedly sold drugs to Megress. He offered time cards to confirm his alibi. Donal Eddington was at work at a nursing home during his supposed drug transaction, and he verified his alibi with time cards and the statement of his co-worker. Monterious Smith was working at WalMart and corroborated his whereabouts with his employee time cards and store surveillance videos. Corvian Workman was attending a birthday party at his grandmother's house in the company of forty family members. Antron Smith was 170 miles away, in San Antonio, Texas. Frederick Seymore demonstrated with receipts that his jeep was in a repair shop at the time that Megress claims to have bought drugs that were in Seymore's jeep. Megress also claimed that two individuals, James Smith and Calvin Hinnegan, were present during his drug transaction with Seymore; in fact, both Smith and Hinnegan were incarcerated at the time of the supposed transaction. One woman, Detra Tindle, whom Megress identified as having been at the scene of one of his drug buys, was giving birth in the local hospital at the time of the alleged transaction. Despite being notified of a number of these verifiable alibis, and despite knowledge of the history of numerous false accusations by former confidential informants, none of the conspirators named in paragraph 87 investigated plaintiffs' alibis or sought to substantiate Megress's accusations.

108. Despite the availability of this strongly exculpatory evidence and their knowledge that the evidence produced by Megress was fabricated, defendants Paschall, Hendrix, Garney, Crowell, Bancroft, Agnew, Yezak, or officers under their supervision and at their direction,

tendered the evidence that they knew Megress had fabricated to prosecutors and/or the grand jury in order to secure the indictments against Plaintiff Arrestees. These defendants (or their subordinate officers at their direction) made intentional or reckless misstatements or omissions of strong exculpatory evidence to prosecutors and the grand jury, including the fact of Megress's coercion, his history of drug abuse and mental problems, that he had been instructed on which individuals to target, and that he had been encouraged and directly threatened to fabricate evidence against plaintiffs, in order to obtain indictments and arrest warrants. These defendants thereby caused the arrest and extended incarceration of the named residents and the execution of one of their trademark sweeps through the African American section of Hearne, based solely on Megress's coerced and patently unreliable version of the events and evidence that defendants knew had been fabricated.

C. The Roundup in November, 2000

109. In or about October or November 2000, defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Bancroft, Fisher, Kennedy, McBride, Ferrell, Vivas, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell and unknown officers named as Doe defendants, as well as the final policymakers for the Task Force, the City, the Counties, the Board, and the Office of the District Attorney, all conspired to cause the indiscriminate, warrantless and unlawful arrests, seizures, and searches of numerous African American residents and their property whom the conspirators deliberately targeted because of their race. The conspirators named in this paragraph deliberately planned and directed officers to conduct this paramilitary sweep, or agreed to and participated in the sweep pursuant to the announced instructions,

utilizing the same unlawful technique of blanket searches and seizures that had characterized the well-publicized annual sweeps in previous years. Given the notoriety of the past sweeps, the conspirators named in this paragraph were each aware that the paramilitary-style sweeps were targeted only against African Americans and each had knowledge of the crude and race-based jokes about the residents during the sweep made by Garney and Paschall described above. Every individual defendant named in this complaint either directly participated in the many searches and detentions that took place or instructed and permitted their subordinate officers to perform such seizures and detentions.

110. On or about November 2, 2000, the conspirators named in paragraph 109 assembled in order to carry out their annual round up of African American residents. Task Force officers Paschall, Garney, Agnew, Hendrix, Crowell, and Bancroft, along with Sheriff Yezak and Police Chief Fisher, led a group of approximately 30-40 law enforcement officers employed by the City and Counties as they prepared to enter Columbus Village, including Kennedy, McBride, Ferrell, Vivas, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, Mccully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell and unknown officers named as Doe defendants. Most of the Task Force members and some other officers were clad in black, with masks covering their faces and, in many instances, carried assault rifles or shotguns. In previous sweeps, a helicopter had hovered overhead, and some residents report that this occurred in 2000 as well.

111. In accordance to the well-established practice of the Task Force, City and Counties used in previous years, the officers named as conspirators in paragraph 109 fanned out through the housing complex, accosting every person they encountered. The officers detained almost the

entire African American community in Hearne, without provocation or cause, and demanded identification from the residents regardless of whether they remotely matched the gender, age, or physical description of those named by Megress. Young children playing on the street, individuals sitting in their cars, and elderly residents relaxing on their porches were all directed to remain still by defendants wielding guns. Each of the individual defendants possessed the names and addresses of the individuals whom they sought to arrest. Nonetheless, after demanding identification, the officers continued to detain many individuals who did not appear on their arrest list.

112. Defendant officers whose identities are not yet known threw one young man who suffers from Downs syndrome, Cory Miles, onto the ground, handcuffed him, and forced him to lie immobile. They never asked him for his name or identification during his entire detention.

113. Two masked defendant officers pointed a gun at the head of Anthony Robinson, a young man who happened to be repairing his car, searched him, and forced him to remain leaning against the car. When one of the masked officers suggested letting him go, Hearne police officer Vivas, who knew Robinson, interceded and told them to keep him detained at gunpoint. Although it was clear that Robinson was not one of the men they were looking for, the officers continued to detain Robinson at Vivas' command.

114. Other defendant officers whose identities are not known required others residents of Columbus Village not on the arrest list, such as Robert Taylor, to "assume the position," placing their hands on the hood of a car and remaining in place for the duration of the operation.

115. Other defendant officers whose identities are not known forced a female teenager and her father to remain seated on the curb outside of her house, amidst the frightening raid, instead of being permitted to enter her home located immediately behind them.

116. Other defendant officers whose identities are not known placed other individuals not

on the arrest list in handcuffs.

117. Defendant officers whose identities are not known forcefully entered, without warrants or consent, the homes of many residents of Columbus Village.

118. In addition to the widespread and prolonged detention of residents, the defendants named in paragraph 109 ultimately arrested many of the people implicated by Megress. Upon completion of the sweep, Paschall declared that he had gotten many of the people off of his list. Others, whom defendants were unable to locate during the November sweep, were subsequently arrested. For instance, these defendants arrested Clifford Runoalds as he arrived to attend the funeral of his 18 month-old daughter. Runoalds was led away in handcuffs, unable to see his daughter buried. Regina Kelly, who had never before been arrested for any reason, was arrested at her place of employment. She felt particularly panicked during the initial 48 hours of her two-month incarceration, as she waited in jail still wearing her waitress uniform without being able to learn the reason for her arrest.

119. As part of the conspiracy alleged in paragraph 87, defendants Paschall, Garney, Yezak, Fisher and their subordinates and employees working under their direction, arrested the plaintiff Arrestees, despite each defendant's knowledge that the evidence against plaintiffs was fabricated and despite their participation in the conspiracy that produced the fabricated evidence.

D. Sweeps Generate Controversy

120. The November 2000 arrests immediately created controversy within Hearne's African American community. The arrestees included individuals with no plausible connection to the world of drug dealers. Many of them had verifiable alibis. Still, Paschall, Garney, and Yezak insisted on their continued incarceration. As the weeks and months passed, a plea offer carrying no prison time became irresistible to some of the arrestees for whom months in jail

awaiting trial were unbearable.

121. The Task Force's pattern of selectively targeting African American citizens based on their race garnered intense media scrutiny. Numerous newspaper reports, in Texas and across the nation, decried the Task Force's practice of arresting scores of African American residents solely on the basis of false information supplied by a confidential informant solicited by defendants.

122. In response to the selective enforcement of the drug laws against African Americans, the City Council of Hearne took the extraordinary step of effectively firing its own police force. The City Council voted to replace the Task Force with ShadowGuard International, a private security firm, for the purposes of enforcing drug laws. According to the Council's resolution passed on February 26, 2001, one of the major reasons for the Council's approval of the \$390,000 expenditure was to "assist in providing fair and equal treatment from our Police Department and stop the [racial] profiling." In addition, ShadowGuard would be responsible for training police officers how to enforce the drug laws effectively and to employ paramilitary measures to eradicate drug usage among communities of all races in Hearne. After being informed that a private security firm could not arrest or exercise many other police powers, council members voted again and reversed its decision.

123. In the wake of the public exposure of the Task Force's racially targeted policies and a scandal involving the misappropriation of funds from the Task Force, Paschall was forced to resign as the head of the Task Force.

E. Under Intense Pressure, Defendants Finally Dismiss All Charges Against Arrestees

124. In February 2001, after plaintiffs had been jailed for over three months without any activity by the District Attorney's Office, Judge Robert Stem ordered trials to begin by the end of that month. Corvian Workman was the first and only plaintiff to be tried.

125. Within the scope of the conspiracy alleged above in paragraph 87 and in order to secure the continued unlawful detention and the unlawful prosecution of plaintiff Arrestees, defendants Paschall, Crowell, Hendrix, and Garney coached Megress prior to Workman's trial to perjure his testimony to ensure that Workman would be convicted. The coaching included how to describe the details of the specific transaction (despite their knowledge that the transaction had not occurred) and to deny having used cocaine during the investigation (despite their knowledge that he had used cocaine). Paschall explained to Megress that it was necessary to deny the use of cocaine because, while jurors were likely to overlook the use of marijuana, they would not believe him if they thought he used crack.

126. Within the scope of the conspiracy alleged above in paragraph 87 and in order to secure the continued and unlawful prosecution of plaintiff Arrestees, defendants Crowell and Hendrix, at the direction of Paschall and Garney, required Megress to take a polygraph test. When Megress protested, reminding Crowell, Hendrix and Garney that he would not be able to pass the test, Crowell, Garney and Hendrix assured him that whether he passed did not matter; they only needed to be able to say that they had given him a polygraph.

127. Within the scope of the conspiracy alleged above in paragraph 87 and in order to secure the continued unlawful detention and the unlawful prosecution of plaintiff Arrestees, defendant Paschall also sought to secure false testimony against Corvian Workman from Clifford Runoalds. He accused Runoalds of helping Workman with the drug transaction, and he threatened to indict Runoalds for delivery of a controlled substance unless he implicated Workman. Runoalds stated that he would be willing to testify in Workman's trial, but the truth was that he had no knowledge of Workman selling drugs. Paschall again threatened Runoalds, saying that if he did not testify as Paschall required, then Paschall would "burn your [Runoalds's] ass too."

128. Within the scope of the conspiracy alleged above and in order to secure the continued unlawful detention and the unlawful prosecution of plaintiff Arrestees, defendant Paschall sought through unlawful means to prevent exculpatory testimony of Carlton Steels in the trial of Corvian Workman. Steels appeared at Workman's trial pursuant to subpoena. Steels was prepared to testify that the informant, Derrick Megress, had revealed to him in detail the plan for fabricating evidence against Workman and others. Prior to delivering his testimony, Steels encountered Paschall in the hallway as he waited to testify. Paschall told Steels that Steels would face indictment and lengthy prison time if he truthfully testified about the details of Megress's operations. Steels then decided to limit his testimony to general information that he thought would not provoke Paschall's wrath.

129. Within the scope of the conspiracy alleged above and in order to secure the continued unlawful detention and the unlawful prosecution of plaintiff Arrestees, defendant Crowell also sought to intimidate Megress and members of his family prior to trial by making harassing phone calls to his home and by passing in front of his house in his truck on a regular basis.

130. During the Workman trial, Megress's own credibility was undermined by his inability to account for aspects of his operation and his admission of failing to comply with the terms of his agreement with the government, i.e., he had agreed to refrain from drug use but admitted that he had used marijuana during the period when he served as an informant. The jury returned a hung verdict in favor of acquittal by eleven votes to one.

131. Several days later, the ACLU Foundation filed complaints with the Civil Rights Division of the Department of Justice and with the Texas Attorney General, documenting the Task Force's discriminatory practice of racially targeting African Americans for arrest and detention without probable cause or reasonable suspicion that they had committed a crime. One

week after the complaint was filed, the prosecutor dismissed the charges against Corvian Workman and the remaining sixteen arrestees.

V.

SUPERVISORY AND MUNICIPAL RESPONSIBILITY

132. Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Sheriff Yezak, Bancroft, and Police Chief Fisher, and any other defendants responsible for supervising the actions of the informant, Derrick Megress, knew that the conditions under which the informant was acting created a high risk that he would fabricate evidence, deliberately and knowingly permitted and/or encouraged the informant to fabricate evidence against plaintiffs, and/or intentionally failed to take any preventative or remedial measures, such as training, instructing, supervising or disciplining their subordinate officers or agents, to guard against the conduct of the informant or the officers under their supervision. Had they taken such measures, plaintiffs would not have suffered the deprivation of rights as set forth herein. These defendants assumed responsibility for the supervision and monitoring of Megress, who was acting as a paid agent for the Task Force under their direction.

133. Paschall, Garney, Yezak, Fisher, Hendrix, Crowell, Bancroft, Agnew, and other defendants had knowledge that Megress was engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to citizens like the plaintiffs. Given the history of false accusations made by confidential informants in previous investigations, these defendants had notice of the unreasonable risks posed by relying solely on the word of a confidential informant required to implicate large numbers of identified targets. These defendants also had notice of this particular informant's lack of reliability and incentives to fabricate evidence (including the coercion under which he was acting) and were aware of several instances in which Megress fabricated evidence; the risk that he was likely to repeat such fabrication during the course of the

investigation was patently obvious. In addition, given the paucity of evidence suggesting that powder cocaine was sold in substantial quantities in these neighborhoods, the sheer number of allegations of sales of powder cocaine in significant quantities, which Megress made only after defendants directed him to find such amounts of powder cocaine, was sufficient to place defendants named in this paragraph on notice that his accusations were implausible. Despite this knowledge, these defendants encouraged and authorized him to continue in his fraudulent activities, provided him with the money, tape recorder, and drugs that enabled him to fabricate evidence, and proceeded to cause the arrest and prosecution of Plaintiff Arrestees. These defendants also failed to adequately train, supervise or monitor the informant and, as described in paragraphs 102-104, failed to take any steps to substantiate the authenticity of his accusations. Their supervision of Megress was so inadequate that it amounted to deliberate indifference to or tacit authorization of the illegal actions which directly caused the deprivations suffered by plaintiffs.

134. Defendants Paschall, Garney, Yezak, and Fisher failed to train, instruct, supervise, and discipline their subordinate officers, including Hendrix, Crowell, Agnew, and Bancroft, in the proper use of confidential informants. Subordinate officers of each of these supervisors had been involved in past investigations with confidential informants which produced numerous and verifiably false accusations against innocent African Americans. Because of this history of false accusations by confidential informants, especially by those who had been required to fulfill large quotas of accusations, the need to train these officers to protect against the fabrication of evidence by informants was patently clear. Yet Paschall, Garney, Yezak, and Fisher deliberately failed to train, instruct, supervise, and discipline their subordinate officers, whose main job responsibility was to monitor the activities of the informants, in the prevention of fabrication of evidence and the proper protocol for supervising the activities of confidential informants. Such

standard protocols include requiring substantiation of the accusations made by the informants and investigating verifiable alibis. Had the supervisors required corroboration of Megress's accusations, it would have become readily apparent that the evidence had been fabricated. As a result of this failure to train and supervise, Paschall, Garney, Yezak, and Fisher actively encouraged and/or tacitly authorized their subordinate officers to continue to allow the informant to fabricate evidence against plaintiffs. The failure of Paschall, Garney, Yezak and Fisher to train their subordinate officers amounted to gross negligence, deliberate indifference, or deliberate misconduct which directly caused the deprivations suffered by plaintiffs.

135. Given the knowledge by Paschall, Garney, Yezak and Fisher that their subordinate officers were actively encouraging and coercing the informant to fabricate evidence against each of the Arrestee Plaintiffs, the need to discipline, closely supervise, or remove these subordinate officers from the investigation was patently clear.

136. Defendants Paschall, Garney, Yezak, Fisher, and any other defendants responsible for monitoring, supervising, training, and disciplining the officers who participated in the sweep in November 2000 deliberately and knowingly permitted the officers to perform indiscriminate and warrantless searches and seizures of citizens and their homes and failed to take any preventative or remedial measures to guard against the conduct of individuals under their supervision, such as training, instructing, supervising, and disciplining their subordinate officers and/or agents, and had they taken such measures, plaintiffs would not have suffered the deprivation of rights as set forth herein. The manner in which these paramilitary and highly coordinated sweeps were performed was at the direction and under the supervision of the defendants named in this paragraph. Given the complaints generated from the many unconstitutional searches and seizures executed during sweeps prior to November 2000, these defendants had knowledge that their subordinates and/or agents had been engaged in conduct that

posed a pervasive and unreasonable risk of constitutional injury to citizens like the plaintiffs. In planning and preparing for the November 2000 sweep, the response by these defendants to that knowledge was so inadequate that it amounted to deliberate indifference to or tacit authorization of the illegal actions taken by their subordinates during the November 2000 sweep. This is especially true where the defendants named in this paragraph permitted officers, such as Thomas, Ferrell, and Vivas, to participate in the sweep without any disciplinary action or further training, despite complaints that had been filed for their conduct during past sweeps. Paschall, Garney, Yezak, Fisher, and any other defendants responsible for monitoring, supervising, training, and disciplining the officers who participated in the sweep in November 2000, made no attempt to instruct officers to seek to arrest only the targets of the sweep, not to search innocent residents whom they simply happened to meet on the street, not to handcuff or brandish weapons at residents whom they had no reason to believe were the targets of arrest, and not to search persons or property without cause and without warrants. Rather, these defendants chose to instruct or tacitly authorize their officers to execute the sweep in a nearly identical fashion as all prior sweeps. As a result, their subordinate officers executed the sweep as they had in the past, detaining innocent bystanders at gunpoint and in handcuffs and searching nearly everyone they encountered. These defendants failed to train, instruct, supervise, and discipline their subordinate officers and/or agents, and said failure caused plaintiffs' damages.

137. Defendants Paschall and the Office of the District Attorney for Robertson County, acting in their investigatory and administrative capacities, caused the unlawful arrest and incarceration of plaintiffs by their deliberate, intentional, and unconstitutional actions as alleged herein, as well as a matter of official policy, practice and custom, and as a result of the conduct of Paschall who, at all relevant times, acted as the final policymaker for the Office of the District Attorney. Such policies, practices, and customs include: (1) selectively targeting African

Americans on the basis of their race for false arrest, unlawful incarceration and malicious prosecutions; (2) the recruitment of unreliable confidential informants; (3) the coercion of confidential informants through means including, but not limited to, threatening them with lengthy terms of imprisonment and/or physical harm; (4) creating an unreasonable risk that informants will fabricate evidence by insisting that the informants meet a quota of implicating all of the numerous named targets; (5) creating an unreasonable risk that informants will fabricate evidence by instructing the informant to implicate numerous targets for sale of a quantity and type of drug that is generally not sold in Hearne; (6) the failure to substantiate or corroborate any of informants' accusations; (7) the failure to monitor or adequately supervise the informants' activities; (8) the failure to train, instruct, supervise, and discipline their subordinate officers who were responsible for handling of informants; (9) fabricating evidence through means including, but not limited to, supplying drugs to an informant and instructing informants to lie; (10) failure to investigate credible alibis of individuals arrested based on an informant's unsubstantiated word; (11) deliberately withholding or encouraging others to withhold exculpatory information from grand jurors and counsel for individuals arrested based on an informant's unsubstantiated word; (12) affirmatively misrepresenting or encouraging others to misrepresent evidence to grand jurors, petit jurors, courts, and counsel for individuals arrested based on an informant's unsubstantiated word; (13) selective targeting African Americans in Hearne for annual sweeps based on the racial composition of the neighborhood; (14) forcibly detaining almost all residents during the annual sweeps without warrant or cause; (15) searching individuals without warrants or cause during the annual sweeps; (16) searching residents' homes without warrants or cause during the annual sweeps; and (17) applying the policies set forth in this paragraph only against African American targets.

138. As fully described throughout the complaint, Paschall and the Office of the District

Attorney had notice that the investigatory technique of recruiting unreliable confidential informants through threats of lengthy imprisonment and threats to physical safety unless he implicated a large quota of identified African Americans was selectively used against African Americans and had resulted in numerous, well-publicized instances of false accusations, false arrests, and malicious prosecutions; had notice that this particular informant had incentives to, and did in fact, fabricate evidence during the investigation yet permitted him to continue with the investigation; knew that the prosecutions of plaintiffs were motivated by racial animus and were part of a longstanding tradition of racially targeting African Americans for drug offenses; knew that similar uses of confidential informants would result in instances of false arrests, malicious prosecutions, and racially targeted prosecutions for drug offenses race-based arrests; and that the failure to properly supervise, train or monitor the actions of the informants and subordinate officers would frequently cause the deprivation of constitutional rights. Given the numerous complaints regarding unconstitutional searches and seizures executed during past annual sweeps, Paschall and the Office of the District Attorney were on notice that the sweep in November 2000 was likely to result in similar deprivations by Detainee Plaintiffs.

139. As described fully in the complaint, Paschall, as final policymaker of the Office of the District Attorney and Robertson County, abused the powers inherent in the office of District Attorney by conspiring with, among others, Garney, Yezak, Crowell, Agnew, Hendrix, Bancroft, and Fisher, to cause, and did cause, the unlawful arrest and prosecution of African American individuals whom the conspirators deliberately targeted because of their race and deliberately pursued using methods reasonably certain to result in the arrest and prosecution of innocent individuals. Acts constituting his abuse of the powers of his office are set forth above, and they include, but are not limited to, the creation of the list of African Americans to target based on their race and without any specific cause, his development of the policy of selectively targeting

African Americans for serious drug crimes by using and coercing unreliable confidential informants, his personal participation in making threats against the liberty and physical safety of the informant and his family members and express instructions to the informant to implicate an identified target, even when the target had not actually performed a deal with the informant, and his encouragement of the informant to submit perjured testimony and fabricated evidence to a trial jury in his efforts to secure false arrests and malicious prosecutions of plaintiffs. In addition, Paschall personally authorized and planned the sweeps that were deliberately designed to annually result in unconstitutional searches and seizures, including the sweep on or about November 2, 2000.

140. As fully detailed in the complaint, these policies, customs, and practices of the Office of the District Attorney were a cause in fact of the deprivation of rights described herein, namely, the false arrest, unlawful incarceration, and malicious prosecution of Plaintiff Arrestees. Specifically, the policies identified above resulted in deprivation of the rights of and injury to the Plaintiff Arrestees in specific instances that include, but are not limited to, the following: Megress predictably fabricated evidence against plaintiffs to avoid prison and physical harm; these defendants failed to investigate the strong and verifiable alibis that negated probable cause; these defendants failed to substantiate the unreliable accusations and evidence offered by Megress; these defendants recklessly omitted and misrepresented, or encouraged others to omit or misrepresent, material evidence to the prosecutors and grand jury; these defendants caused Plaintiff Arrestees to be indicted, arrested, and unlawfully incarcerated; these defendants failed to train or supervise subordinate officers, resulting in their allowing and assisting the informant's fabrication of evidence; these defendants selectively targeted African Americans for arrest and prosecution, resulting in the arrest of Plaintiff Arrestees, all of whom are African American, and who constitute 15% of the young black male population of Hearne.

141. As fully detailed in the complaint, these policies, customs and practices of the Office of the District Attorney were a cause in fact of the deprivation of rights described herein, namely, the false arrest, unlawful incarceration, and malicious prosecution of Plaintiff Detainees. Specifically, the policies identified above resulted in deprivation of the rights of and injury to the Plaintiff Detainees in specific instances that include, but are not limited to, the following: the selective targeting of the African American neighborhoods for a paramilitary sweep in November 2000; the unlawful searches and seizures of Plaintiff Detainees and their residences.

142. Acting under color of law, by and through the policymakers of the Task Force, City of Hearne and Robertson and Limestone Counties, and pursuant to official policy or custom or practice, the Task Force, City of Hearne and Robertson and Limestone Counties intentionally, knowingly, recklessly, or with deliberate indifference caused unlawful searches, seizures, arrests, and prosecutions of plaintiffs. Such policies, practices, or customs include: (1) selectively targeting African Americans on the basis of their race for false arrest, unlawful incarceration and malicious prosecutions; (2) the recruitment of unreliable confidential informants; (3) the coercion of confidential informants through means including, but not limited to, threatening them with lengthy terms of imprisonment and/or physical harm; (4) creating an unreasonable risk that informants will fabricate evidence by insisting that the informants meet a quota of implicating all of the numerous named targets; (5) creating an unreasonable risk that informants will fabricate evidence by instructing the informant to implicate numerous targets for sale of a quantity and type of drug that is generally not sold in Hearne; (6) the failure to substantiate or corroborate any of informants' accusations; (7) the failure to monitor or adequately supervise the informants' activities; (8) the failure to train, instruct, supervise, and discipline their subordinate officers who were responsible for handling of informants; (9) fabricating evidence through means including, but not limited to, supplying drugs to an informant and instructing informants to lie; (10) failure

to investigate credible alibis of individuals arrested based on an informant's unsubstantiated word; (11) deliberately withholding or encouraging others to withhold exculpatory information from prosecutors, grand jurors and counsel for individuals arrested based on an informant's unsubstantiated word; (12) affirmatively misrepresenting or encouraging others to misrepresent evidence to prosecutors, grand jurors, petit jurors, courts, and counsel for individuals arrested based on an informant's unsubstantiated word; (13) selective targeting African Americans in Hearne for annual sweeps based on the racial composition of the neighborhood; (14) forcibly detaining almost all residents during the annual sweeps without warrant or cause; (15) searching individuals without warrants or cause during the annual sweeps; (16) searching residents' homes without warrants or cause during the annual sweeps; and (17) applying the policies set forth in this paragraph only against African American targets.

143. As fully described throughout the complaint, the Task Force, City and Counties had notice that the investigatory technique of recruiting unreliable confidential informants through threats of lengthy imprisonment and threats to physical safety unless he implicated a large quota of identified African Americans was selectively used against African Americans and had resulted in numerous, well-publicized instances of false accusations, false arrests, and malicious prosecutions; had notice that this particular informant had incentives to, and did in fact, fabricate evidence during the investigation yet permitted him to continue with the investigation; knew that the prosecutions of plaintiffs were motivated by racial animus and were part of a longstanding tradition of racially targeting African Americans for drug offenses; knew that similar uses of confidential informants would result in instances of false arrests, malicious prosecutions, and racially targeted prosecutions for drug offenses race-based arrests; and that the failure to properly supervise, train or monitor the actions of the informants and subordinate officers would frequently cause the deprivation of constitutional rights. Given the numerous complaints

regarding past annual sweeps, the Task Force, the City and the Counties were on notice that the sweep in November 2000 was likely to result in similar deprivations by Detainee Plaintiffs.

144. As described fully in the complaint, Yezak, as final policymaker of law enforcement in Robertson County, abused the powers inherent in his office as Sheriff by conspiring with, among others, Paschall, Garney, Crowell, Agnew, Hendrix, Bancroft, and Fisher, to cause, and did cause, the unlawful arrest and prosecution of African American individuals whom the conspirators deliberately targeted because of their race and deliberately pursued using methods reasonably certain to result in the arrest and prosecution of innocent individuals. Acts constituting his abuse of the powers of his office as part of the conspiracy are set forth above, and they include, but are not limited to, the creation of the list of African Americans to target based on their race and without any specific cause, his development of the policy of selectively targeting African Americans for serious drug crimes by using and coercing unreliable confidential informants, and the coercion of the informant to implicate all of the named targets, even when the target had not actually performed a deal with the informant. In addition, Yezak authorized the use of County personnel and planned the sweeps that were deliberately designed to annually result in unconstitutional searches and seizures, including the sweep on or about November 2, 2000.

145. As described fully in the complaint, Fisher, as final policymaker of law enforcement in the City, abused the powers inherent in his office as Chief by conspiring with, among others, Paschall, Garney, Crowell, Agnew, Hendrix, Bancroft, and Yezak, to cause, and did cause, the unlawful arrest and prosecution of African American individuals whom the conspirators deliberately targeted because of their race and deliberately pursued using methods reasonably certain to result in the arrest and prosecution of innocent individuals. Acts constituting his abuse of the powers of his office as part of the conspiracy are set forth above, and they include, but are

not limited to, the creation of the list of African Americans to target based on their race and without any specific cause, his development of the policy of selectively targeting African Americans for serious drug crimes by using and coercing unreliable confidential informants, his knowledge and tacit authorization of the coercion of the informant to implicate all of the named targets. In addition, Fisher authorized the use of City personnel and planned the sweeps that were deliberately designed to annually result in unconstitutional searches and seizures, including the sweep on or about November 2, 2000.

146. As fully detailed in the complaint, these policies, customs and practices of the Task Force, City and Counties were a cause in fact of the deprivation of rights described herein, namely, the false arrest, unlawful incarceration, and malicious prosecution of Plaintiff Arrestees. Specifically, the policies identified above resulted in deprivation of the rights of and injury to the Plaintiff Arrestees in specific instances that include, but are not limited to, the following:

Megress predictably fabricated evidence against plaintiffs to avoid prison and physical harm; these defendants failed to investigate the strong and verifiable alibis that negated probable cause; these defendants failed to substantiate the unreliable accusations and evidence offered by Megress; these defendants recklessly omitted and misrepresented, or encouraged others to omit or misrepresent, material evidence to the prosecutors and grand jury; these defendants caused Plaintiff Arrestees to be indicted, arrested, and unlawfully incarcerated; these defendants failed to train or supervise subordinate officers, resulting in their allowing and assisting the informant's fabrication of evidence; these defendants selectively targeted African Americans for arrest and prosecution, resulting in the arrest of Plaintiff Arrestees, all of whom are African American, and who constitute 15% of the young black male population of Hearne.

147. As fully detailed in the complaint, these policies, customs and practices of the Task Force, City and Counties were a cause in fact of the deprivation of rights described herein,

namely, the selective targeting of the African American neighborhoods for a paramilitary sweep in November 2000 and the unlawful searches and seizures of Plaintiff Detainees and their residences. Specifically, the policies identified above resulted in deprivation of the rights of and injury to the Plaintiff Detainees in specific instances that include, but are not limited to, the following: the selective targeting of the African American neighborhoods for a paramilitary sweep in November 2000; the unlawful searches and seizures of Plaintiff Detainees and their residences. Despite their knowledge that the policy of conducting sweeps led to unconstitutional searches and seizures of innocent bystanders, the Task Force, City, and Counties endorsed these activities and continued to provide personnel to execute the sweeps in November 2000.

148. The existence of the Task Force is dependent upon the express approval and authorization of each of its participating entities, i.e., the City and the Counties. The Task Force's authority to conduct drug investigations is strictly limited to the jurisdictional boundaries of the entities that expressly consent to its authority. Each participating entity is also required to pay funds and provide resources to the Task Force in order to become a participating entity. These funds and resources are essential to the continued functioning of the Task Force. The City and Counties' decision to create the Task Force and authorize its activities within their specific jurisdictions is not required by law and is completely voluntary and independent of the decisions of the other participating entities. Each entity could have independently decided to remove itself from the Task Force at any time, thereby dissolving the authority of the Task Force. The decision to remain a member of the Task Force is subject to renewal by each entity on an annual basis.

149. As described above, the City and Counties and their respective final policymakers were all aware of the Task Force's well-publicized history of engaging in racially motivated investigations against African Americans who were innocent of the crimes charged against them

and of the annual sweeps led by the Task Force resulting in the warrantless and indiscriminate searches and seizures of innocent African Americans and their property. Despite this knowledge, the City and Counties expressly chose every year to maintain the existence of the Task Force, by continuing to fund the Task Force and to authorize activities of the Task Force. Such approval and funding not only constitutes affirmative approval of the unconstitutional activities of the Task Force by the City and Counties, but enabled the Task Force to exist, thereby permitting its members to commit the unconstitutional acts alleged against them. Without the express approval by the City and the Counties, the Task Force would have lacked any authority to conduct the investigations in Hearne that resulted in the unconstitutional acts alleged in this complaint.

VI.

CLAIMS FOR RELIEF

Count I

150. Plaintiffs hereby incorporate by reference paragraphs 1 through 149 of this Complaint as if fully set forth herein.

151. The Fourteenth Amendment to the U.S. Constitution provides, in relevant part: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

152. Paschall, the Task Force, the Board, Office of the District Attorney, the City, Robertson County, Limestone County, Garney, Yezak, Davis, Fisher, Hendrix, Crowell, Bancroft, Kennedy, McBride, Ferrell, Vivas, Agnew, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippiie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell, and Unnamed Officers selected Detainee Plaintiffs for seizures and searches based on their race as African Americans through the orchestration and execution of annual drug

sweeps based on the race of residents of the targeted neighborhood.

153. Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Davis, Bancroft, Fisher, the Task Force, the City, the Counties, the Board, the Office of the District Attorney, and Unnamed Officers selected Arrestees Plaintiffs for false arrest and malicious prosecution based on the race as African Americans.

Count II

154. Plaintiffs hereby incorporate by reference paragraphs 1 through 149 of this Complaint as if fully set forth herein.

155. The Fourth Amendment to the U.S. Constitution provides, in relevant part: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.”

156. Paschall, the Task Force, the Board, Office of the District Attorney, the City, Robertson County, Limestone County, Garney, Yezak, Davis, Fisher, Hendrix, Crowell, Bancroft, Kennedy, McBride, Ferrell, Vivas, Agnew, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell, and Unnamed Officers unreasonably and without a warrant seized and detained, or caused the seizure and detention of, the Detainee Plaintiffs and the members of the class they represent, all in violation of the Fourth and Fourteenth Amendments.

157. Paschall, the Task Force, the Board, Office of the District Attorney, the City, Robertson County, Limestone County, Garney, Yezak, Davis, Fisher, Hendrix, Crowell, Bancroft, Kennedy, McBride, Ferrell, Vivas, Agnew, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie,

Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell, and Unnamed Officers unreasonably and without a warrant searched, or caused the search of, the persons, homes and property of members of the Detainee Plaintiff class, all in violation of the Fourth and Fourteenth Amendments.

Count III

158. Plaintiffs hereby incorporate by reference paragraphs 1 through 149 of this Complaint as if fully set forth herein.

159. The Fourteenth Amendment to the U.S. Constitution provides, in relevant part: “nor shall any State deprive any person of life, liberty, or property without due process of law.”

160. Paschall, the Task Force, the Board, Office of the District Attorney, the City, Robertson County, Limestone County, Garney, Yezak, Davis, Fisher, Hendrix, Crowell, Bancroft, Kennedy, McBride, Ferrell, Vivas, Agnew, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell, and Unnamed Officers deprived the Detainee Plaintiffs and the members of the class they represent of their liberty without due process of law, all in violation of the Fourteenth Amendment.

Count IV

161. Plaintiffs hereby incorporate by reference paragraphs 1 through 149 of this Complaint as if fully set forth herein.

162. The laws of the State of Texas prohibit the false imprisonment of any person.

163. Paschall, the Task Force, the Board, Office of the District Attorney, the City,

Robertson County, Limestone County, Garney, Yezak, Davis, Fisher, Hendrix, Crowell, Bancroft, Kennedy, McBride, Ferrell, Vivas, Agnew, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell, and Unnamed Officers falsely imprisoned Detainee Plaintiffs by executing the willful detention of Detainee Plaintiffs and the members of the class they represent against their consent and without authority of law, all in violation of the laws of Texas.

Count V

164. Plaintiffs hereby incorporate by reference paragraphs 1 through 149 of this Complaint as if fully set forth herein.

165. Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Davis, Fisher, Bancroft, the Task Force, the City, the Counties, the Board, the Office of the District Attorney, and Unnamed Officers falsely arrested Arrestee Plaintiffs without probable cause and with express knowledge that plaintiffs had committed no crime, and they conspired to do the same, and they conspired to secure a basis for such arrest by fabricating and providing incomplete, misleading or false information all in violation of the Fourth and Fourteenth Amendments.

166. Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Davis, Fisher, Bancroft, the Task Force, the City, the Counties, the Board, the Office of the District Attorney, and Unnamed Officers maliciously prosecuted Plaintiff Arrestees, even when they possessed actual evidence of each plaintiffs' innocence, and they conspired to do the same, by commencing or causing to be commenced a criminal action against Arrestee Plaintiffs with malice and without probable cause, all in violation of the Fourth and Fourteenth Amendments. Arrestee Plaintiffs are innocent the crimes charged.

167. Defendants Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Davis, Fisher, Bancroft, the Task Force, the City, the Counties, the Board, the Office of the District Attorney, and Unnamed Officers intentionally deprived plaintiffs of their liberty and due process of law by knowingly and intentionally fabricating and providing evidence to secure the arrest and prosecution of plaintiffs, all in violation of the Fourteenth Amendment.

Count VI

168. Plaintiffs hereby incorporate by reference paragraphs 1 through 149 of this Complaint as if fully set forth herein.

169. Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Davis, Fisher, Bancroft, the Task Force, the City, the Counties, the Board, the Office of the District Attorney, and Unnamed Officers falsely arrested Arrestee Plaintiffs by executing the willful arrest of Plaintiff Arrestees without authority of law, all in violation of the laws of Texas.

170. Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Davis, Fisher, Bancroft, the Task Force, the City, the Counties, the Board, the Office of the District Attorney, and Unnamed Officers maliciously prosecuted Arrestee Plaintiffs, even when they possessed actual evidence of each plaintiff's innocence, and they conspired to do the same, by commencing or causing to be commenced a criminal action against Arrestee Plaintiffs with malice and without probable cause, all in violation of the laws of Texas. Arrestee Plaintiffs are innocent of the crimes charged.

Count VII

171. Plaintiffs hereby incorporate by reference paragraphs 1 through 149 of this Complaint as if fully set forth herein.

172. 42 U.S.C. § 1981 provides, in relevant part, "All persons within the jurisdiction of the United States shall have the same right in every State and Territory . . . to the full and equal

benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens”

173. Defendants Paschall, Garney, Agnew, Hendrix, Crowell, Yezak, Davis, Fisher, Bancroft, the Task Force, the City, the Counties, the Board, the Office of the District Attorney, and Unnamed Officers selected plaintiffs for unlawful arrest and prosecution based on their race as African Americans.

174. Paschall, the Task Force, the Board, Office of the District Attorney, the City, Robertson County, Limestone County, Garney, Yezak, Davis, Fisher, Hendrix, Crowell, Bancroft, Kennedy, McBride, Ferrell, Vivas, Agnew, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell, and Unnamed Officers orchestrated and executed annual drug sweeps based on race of residents of the targeted neighborhood, and they conspired to do the same.

VI.

IRREPARABLE HARM

175. Plaintiffs have suffered, and will continue to suffer, irreparable harm due to the defendants Paschall, the Task Force, the Board, Office of the District Attorney, the City, Robertson County, Limestone County, Garney, Yezak, Davis, Fisher, Hendrix, Crowell, Bancroft, Kennedy, McBride, Ferrell, Vivas, Agnew, Officer Thomas, Wilson, Brockett, Malkey, Henson, Skeide, Stringfellow, Speights, Rawls, Diaz, Phelps, Oliver, Leath, Hommell, Hippie, Beck, Bell, Thompson, Lippe, McCarroll, Sdulser, Coy, Nowell, Justin Carmichael, Maddox, McCully, Adams, Lucas, Brewer, Angele, Mistrick, Vasquez, Carrie Carmichael, Wind, Mathis, Curry, Munsell, and Unnamed Officers’ enforcement of a policy of subjecting the African

American residents to annual drugs sweeps based on their race and a policy of annually subjecting a significant percentage of the young African American community in Hearne to false arrest and malicious prosecution.

176. Plaintiffs have a right to be free from unreasonable searches and seizures and a right to be free from discrimination based on their race. The denial of these rights constitute per se irreparable harm.

VII.

PRAYER FOR RELIEF

Plaintiffs accordingly pray for the following relief:

177. Certification of two classes as defined herein.

178. A permanent injunction enjoining defendants, their agents, employees, assigns, and all persons acting in concert or participating with them from conducting or permitting to be conducted drug "sweeps" targeted at African American residents in Hearne, as well enjoining said persons from arresting or permitting the arrest of any individual where there exists no probable cause to believe the individual has committed a crime.

179. For each violation of a right guaranteed to the Detainee Plaintiffs and each member of the class as set forth above, each Detainee Plaintiff and class member sues each defendant for his or her actual damages. For each violation of a right guaranteed to the Arrestee Plaintiffs as set forth above, each Arrestee Plaintiff sues each defendant for his or her actual damages. Such damages are in compensation for injuries and harm, including the following:

(a) As a direct and proximate result of the acts described above, each individual plaintiff has suffered severe emotional distress and trauma, mental pain and suffering, and will continue to suffer the same in the future.

(b) Each Arrestee Plaintiff sustained a loss in earning capacity as he or she was unable to

earn a living while incarcerated or was terminated from employment while incarcerated.

The loss in earning capacity is ongoing.

(c) Each Arrestee Plaintiff sustained a permanent damage to his or her reputation as a result of his or her arrest.

180. Plaintiffs would show that the conduct in this matter by defendants was so egregious, intentional, and wanton that punitive damages should be awarded by the trier of fact.

181. Allow Plaintiffs their reasonable attorneys' fees and costs; and

182. Such other and further relief as this court may deem necessary and proper.

DEMAND FOR JURY TRIAL

Plaintiffs respectfully demand a jury trial.

DEMAND FOR JURY TRIAL

Plaintiffs respectfully demand a jury trial.

Dated: May 14, 2003

Respectfully submitted,

GRAHAM BOYD, CT Bar #18419
American Civil Liberties Union Foundation
Drug Policy Litigation Project
85 Willow Street
New Haven, CT 06511
Telephone: (203) 787-4188
Facsimile: (203) 787-4199

RICHARD S. FISCHER, TX Bar #07043100
Cooperating Attorney for the ACLU of Texas
The Law Offices of Richard S. Fischer
114 South Pecan Street
Nacogdoches, Texas 75961
Telephone: (936) 564-2222
Facsimile: (936) 564-1346

By: 

Graham Boyd

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

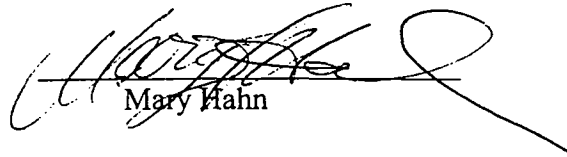
I hereby certify that a true and correct copy of the above and foregoing Second Amended Complaint for Injunctive Relief and Damages was served upon the following persons on the 14th day of May, 2003, by facsimile and by depositing same, postage prepaid, in any official depository of the U.S. Postal Service properly addressed as follows:

Mr. Arthur L. Walker
WALKER, BRIGHT & LEWIS, P.C.
1609 Schoal Creek Blvd., Suite 300
Austin, TX 78701
Fax: (512) 708-1500

Mr. Douglas M. Becker
GRAY & BECKER
900 West Avenue
Austin, TX 78701
Fax: (512) 482-0924

Mr. Michael W. Dixon
Haley & Davis, P.C.
Triangle Tower, Suite 600
510 North Valley Mills Drive
Waco, Texas 76710
Fax: (254) 776-6823

Keith Dorsett
P.O. Box 7575
Waco, Texas 76714-7575
Fax: 254-776-8555


Mary Hahn