

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

TRACI FRANKS, :

JOSEPH TEDESCHI :

ELIZABETH WEILL GREENBERG, :

and :

NATHAN ACKERMAN :

v. :

THE CITY OF PHILADELPHIA, :

CIVIL ACTION

**JOHN STREET, MAYOR OF THE
CITY OF PHILADELPHIA,** :

**JOHN TIMONEY, CHIEF OF POLICE
FOR THE CITY OF PHILADELPHIA,** :

NO. _____

**SYLVESTER JOHNSON, DEPUTY
COMMISSIONER OF POLICE,
PHILADELPHIA POLICE
DEPARTMENT,** :

JURY TRIAL DEMANDED

**LIEUTENANT FRANK POWELL,
BADGE NO. 176, NORTHEAST
DETECTIVES , PHILADELPHIA
POLICE DEPARTMENT,** :

**DETECTIVE MICHAEL FOX,
BADGE NO. 9053, NORTHEAST
DETECTIVES, PHILADELPHIA
POLICE DEPARTMENT,** :

**EDWARD MCLAUGHLIN,
COMMISSIONER OF
LICENSES AND INSPECTIONS AND** :

**DOMINIC VERDI, DEPUTY
COMMISSIONER OF LICENSES
AND INSPECTIONS** :

COMPLAINT

I. INTRODUCTION

Traci Franks, Elizabeth Weill Greenberg and Joseph Tedeschi bring this civil action for declaratory relief and damages under 42 U.S.C. 1983 alleging that defendants committed under color of state law, violations of their First, Fourth and Fourteenth Amendment Rights of the Constitution of the United States, Article 1, Section 8 of the Pennsylvania Constitution and common law claims, for the false arrest, false imprisonment, malicious prosecution, assault and battery by the City of Philadelphia and its agents and employees during the Republican National Convention in July and August, 2000. The named plaintiffs and Nathan Ackerman additionally seek declaratory relief and damages for the destruction of personal and First Amendment protected property located at 4100 Haverford Avenue, by the City of Philadelphia and its agents and employees or after July 31, 2000.

II. JURISDICTION

Jurisdiction is founded on 28 U.S.C. §§ 1343 (3) and (4), this being an action to redress the deprivation under color of any State law, statute, ordinance, regulation or immunity secured by the Constitution of the United States of America providing for equal rights of all persons within the United States and to recover damages under any Act of Congress providing for the protection of civil rights. Jurisdiction over the state law claims is under the doctrine of supplemental jurisdiction.

III. VENUE

Venue is appropriate in this District since at all times relevant hereto all the action complained of occurred in the area encompassed by the United States District Court for the Eastern District of Pennsylvania.

Pursuant to Local Civil Rule 5.1 regarding pleading claims for unliquidated damages, as more specifically stated herein, plaintiff seeks compensatory and punitive damages in excess of the amount which is within the level of arbitration and as such this matter is not subject to arbitration under Local Civil Rule 53.2.

IV. PARTIES

A. PLAINTIFFS

Traci Franks, plaintiff, is a adult person residing in New Jersey, where she attends graduate school. At all times relevant hereto, Ms. Franks was in Philadelphia PA seeking to exercise her First Amendment Rights to Free Speech and to participate in the American political process.

Elizabeth Weill Greenberg, is an adult person residing in New Jersey where she attends college. At all times relevant hereto, Ms. Weill Greenberg was in Philadelphia PA seeking to exercise her First Amendment Rights to Free Speech and to participate in the American political process.

Joseph Tedeschi, plaintiff, is an adult person residing in New Jersey, where he attends college. At all times relevant hereto, Mr. Tedeschi was in Philadelphia PA seeking to exercise his First Amendment Rights to Free Speech and to participate in the American political process.

Nathan Ackerman, plaintiff, is an adult person residing in Washington D.C. Mr. Ackerman was the owner of First Amendment protected material located in 4100 Haverford Avenue, Philadelphia PA. The purpose of this material was to communicate political messages

during the Republican National Convention. This material was destroyed by agents of the City of Philadelphia.

B. DEFENDANTS

John Street is Mayor of the City of Philadelphia and at all times relevant hereto a chief decision maker with respect to the actions taken against the plaintiffs.

John Timoney is Chief of Police of the City of Philadelphia and at all times relevant hereto a chief decision maker with respect to the actions taken against the plaintiffs.

Sylvester Johnson is Deputy Commissioner of Police of the City of Philadelphia and at all times relevant hereto a chief decision maker with respect to the actions taken against the plaintiffs, including but not limited to the highest level supervisor at 4100 Haverford Avenue during the false arrest of the plaintiffs and directly responsible therefor.

Lieutenant Frank Powell, Badge No. 176, Northeast Detectives , Philadelphia Police Department, is a member of the Philadelphia Police Department and at all times relevant hereto was the affiant for the search warrant which alleged that the plaintiffs were believed to have committed crimes.

Detective Michael Fox, Badge No. 9053, Northeast Detectives, Philadelphia Police Department, is a member of the Philadelphia Police Department and at all times relevant hereto was the affiant for the search warrant which alleged that the plaintiffs were believed to have committed crimes.

Edward McLaughlin, Commissioner of Licenses And Inspections is the Chief executive of the Department of Licenses and Inspection, City of Philadelphia and is responsible for the administration of this department including but not limited to the actions of Licenses and

Inspection employees or agents regarding the destruction of the personal and collective First Amendment protected property of the plaintiffs and others located in 4100 Haverford Avenue on or about August 1, 2000 by unknown employees of the City of Philadelphia.

Dominic Verdi, is or was in August, 2000 Deputy Commissioner Of Licenses And Inspections and was responsible for the actions of unknown agents or employees of the Department of Licenses and Inspections and other City of Philadelphia Departments regarding including the destruction of the personal and collective First Amendment protected property of the plaintiffs and others located in 4100 Haverford Avenue on or about July 31, 2000.

The actions of all defendants were taken under color of state law.

IV. FACTUAL ALLEGATIONS

A. SPECIFIC FACTS OF THE PLAINTIFFS

Plaintiff, Traci Franks, is a graduate student attending school in New Jersey.

Ms. Franks is a person of sincere and deeply felt belief that the current political system does not fairly represent the interest of all citizens and issues related thereto.

Pursuant to those deeply held convictions and beliefs she travelled to Philadelphia in or around July 31, 2000 to engage in First Amendment Activity during the Republican National Convention.

On or about July 31, 2000 she was present at 4100 Haverford Avenue, Philadelphia, PA when she was falsely arrested and maliciously prosecuted in violation of her Federal and State Constitutional Rights.

Plaintiff, Elizabeth Weill Greenberg is a student attending school in New Jersey.

Ms. Weill Greenberg is a person of sincere and deeply felt belief that the current political system does not fairly represent the interest of all citizens and issues related thereto.

Pursuant to those deeply held convictions and beliefs she travelled to Philadelphia in or around July 31, 2000 to engage in First Amendment Activity during the Republican National Convention.

On or about July 31, 2000 she was present at 4100 Haverford Avenue, Philadelphia, PA when she was falsely arrested and maliciously prosecuted in violation of her Federal and State Constitutional Rights.

Plaintiff, Joseph Tedeschi, is a student attending school in New Jersey.

Mr. Tedeschi, is a person of sincere and deeply felt belief that the current political system does not fairly represent the interest of all citizens and issues related thereto.

Pursuant to those deeply held convictions and beliefs he travelled to Philadelphia in or around July 31, 2000 to engage in First Amendment Activity during the Republican National Convention.

On or about July 31, 2000 he was present at 4100 Haverford Avenue, Philadelphia, PA when he was falsely arrested and maliciously prosecuted in violation of his Federal and State Constitutional Rights.

Nathan Ackerman is a person of sincere and deeply felt belief that the current political system does not fairly represent the interests of all citizens and issues related thereto.

In order to communicate these political ideas, Mr. Ackerman prepared various First Amendment protected communications and manufactured publication devices for communicating ideas protected by the First Amendment .

These communications and publication devices were present in 4100 Haverford Avenue on July 31, 2000 and were subsequently destroyed after the illegal arrests of the persons therein.

B. BACKGROUND TO THE ARRESTS AND THE

DESTR

In or around May, 2000, agents of the United States of America, the Pennsylvania State Police, the Philadelphia Police Department and other law enforcement agencies met in or around Philadelphia.

Upon information and belief the purpose of this meeting was to form an implicit or explicit agreement by and among the aforesaid participants and or to plan and conspire to intimidate, frustrate and restrain the legitimate, lawful exercise of First Amendment Rights by persons who wished to exercise the aforesaid rights in opposition to the Republican National Convention and the mainstream political views espoused therein.

Included in this implicit or explicit agreement by and between the aforesaid parties was the agreement that the Pennsylvania State Police would infiltrate any all groups of persons who were or would be present in Philadelphia during the Republican National Convention, who the participants at the aforesaid meeting determined were not mainstream political entities.

Pursuant to this implicit or explicit agreement and in pursuit thereof, John Street and other officers and officials of the City of Philadelphia , officers and officials of the Philadelphia Police Department and other agencies City of Philadelphia and other law enforcement agencies instituted a program in or around the County of Philadelphia of surveillance of persons whom they arbitrarily and without legally sufficient cause determined would exercise First Amendment activity, without legally sufficient cause, in violation of the privacy rights of such citizens.

Pursuant to this implicit or explicit agreement a number of agents or employees of the Pennsylvania State Police undertook undercover, surveillance operations in Philadelphia, with the goal of transmitting to the Philadelphia Police information about the activities of such persons or groups infiltrated or subject to surveillance.

On or about July 25, 2000, four (4) such employees of the Pennsylvania State Police entered an undercover operation at 4100 Haverford Avenue, Philadelphia, PA, a location in the city and county of Philadelphia.

4100 Haverford Avenue is a large, open warehouse, which at that time housed a legitimate contracting business owned and operated by Michael Graves.

A portion of the warehouse space had been rented by Mr. Graves to a group of performance artists and political organizers, who intended to use large self constructed puppets, banners and floats for the communication of political ideas and concepts to the public.

All such communications were speech and/or symbolic speech as protected by the First Amendment to the Constitution of the United States.

The four operatives represented themselves to be union carpenters who were interested in assisting the activity.

Thereafter up and until the late morning of July 31, 2000, the aforesaid operatives assisted in the construction of a number of large puppets and floats all designed to carry specific First Amendment messages.

During this period a large number of persons in excess of one hundred (100) were present at 4100 Haverford Avenue at various times, some engaging in the building of the puppets, banners and floats and others engaged in meetings and activities discussing the method by which the First Amendment messages and communications would be published to the public.

The aforesaid State Police operatives engaged in a pattern of provocative activity with the overall intent of entrapping persons situate in 4100 Haverford Avenue to engage in actions which would give the operatives legal cause to secure a search or arrest warrant for the persons residing therein. This activity included but was not limited to falsely misrepresenting their political ideology and sympathies, pretending to have interest in non-violent civil defense training, requesting that the operatives be included in "street actions", encouraging persons in the warehouse to commit such activities, advising others present in the warehouse that the operatives wanted to participate in illegal activities with the intent to "raise hell".

During this period, the operatives had conversations with three or four persons regarding "street action" activities.

The operatives had no specific contact or conversations with the remainder of the over one hundred persons in 4100 Haverford Avenue, including the named plaintiffs in this action.

The operatives had no specific information or factual basis to conclude that the other persons located at 4100 Haverford Avenue, were aware, agreed with the conversation that the operatives had with the aforesaid three or four persons or had any intention to engage in activities not protected by the First Amendment.

Except for interaction with three or four specific persons, the operatives did not observe or identify any persons engaged in activities which were not protected by the First Amendment.

With respect to the plaintiffs in this action, Traci Franks, Elizabeth Weill Greenberg and Joseph Tedeschi, the aforesaid operatives had no conversations or interactions with Ms. Franks, Ms. Weill Greenberg or Mr. Tedeschi which would or could reasonably have permitted a conclusion that the instant plaintiffs were aware, agreed with the conversation that the operatives had with the aforesaid three or four persons or had any intention to engage in activities not protected by the First Amendment.

On or about the late night of July 30 and the early morning of July 31, 2000, operatives and employees of the Pennsylvania State Police prepared a multi-page document which contained "background" information which the preparer of the document knew or should have known was either factually inaccurate, misleading, false and or based on sources which were not reliable.

The intent and purpose of this "background" information was to create a untrue and prejudicial picture of the activities of persons and groups in Philadelphia, including but not limited to the persons situate at 4100 Haverford Avenue, Philadelphia, PA.

This "background information" was supplemented by information transmitted to the State Police from the operatives who had been located in 4100 Haverford Avenue, regarding their observations during the hours of 2:00 A.M. on July 31, 2000.

The background information and the supplemental information was transmitted to persons employed by the Philadelphia Police Department and used to prepare a search warrant for 4100 Haverford Avenue signed by defendants Powell and Fox.

The prepared affidavit failed to include pertinent information, which if disclosed, would have permitted the authority reading the affidavit to conclude that there was insufficient legal basis for the issuance of the warrant, including but not limited to:

that the alleged instruments of crime which are detailed in the affidavit as having been seen in 4100 Haverford Avenue were removed from the location in the early morning of July 31, 2000 and were not present in the warehouse at the time the warrant was executed.

That these operative had left 4100 Haverford Avenue at or about 2:00 A.M. on July 31, 2000 and had no factual information, that any

To the contrary, the affidavit recklessly and without any factual or legal basis therefor, alleged that all persons in 4100 Haverford Avenue, including the plaintiffs herein, were involved in a conspiracy to engage in a course of illegal activity.

If the preparers of the affidavit had exercised reasonable care to investigate the allegations contained therein they would have learned that the factual assertions in the affidavit were false, misleading, inaccurate and otherwise without a proper basis.

Specifically, with a reasonable investigation, as previously averred, the preparers of the affidavit could have learned the State Police Operatives were no longer present in 4100 Haverford Avenue, but had been out of the building for many hours. They would have also

learned that one such operative had entered a van had been stopped and detained by the State Police and the Philadelphia Police along with other persons on a Center City exit to the Schuylkill Expressway, several miles from Haverford Avenue. The preparers of the affidavit would have learned that the State police operatives had no reasonable cause to believe that all the persons in 4100 Haverford Avenue were conspirators with or had knowledge of the activities of the persons arrested in the aforementioned van.

Notwithstanding the fact that the operatives were and had been outside 4100 Haverford Avenue for many hours, the Philadelphia Police presented the affidavit based on the aforementioned stale information and secured a search warrant for that location.

Upon information and belief, the preparers of the affidavit, the Philadelphia Police Department and the City of Philadelphia implicitly or explicitly issued the affidavit for the purpose committing a prior restraint on the First Amendment activities of the persons situate at 4100 Haverford Avenue.

In or around the early afternoon of July 31, 2000, a large group of armed Philadelphia Police Officers, supervised and directed by defendant Sylvester Johnson, arrived at 4100 Haverford Avenue, demanding entrance pursuant to the issued search warrant.

At that time, as more fully alleged herein, the Philadelphia Police had no factual or legally sufficient basis to conclude that persons situate at 4100 Haverford Avenue were engaged directly, indirectly or in conspiracy to commit any illegal activity with any other persons outside 4100 Haverford Avenue.

At that time, as more fully alleged herein, the Philadelphia Police had no factual or legally sufficient basis to conclude that any material, other than that within the scope and protection of the First Amendment was located in 4100 Haverford Avenue.

From approximately 2:00 P.M. until late afternoon, on July 31, 2000 the Philadelphia Police Department through armed officers John Doe and Richard Roe and others unknown, surrounded the building situated at 4100 Haverford Avenue, a closed building which permitted the persons located therein with no avenue of exit.

During this period, the Police Department propelled invasive and noxious chemicals into the location, including but not limited to pepper spray, seeking to force the residents including the plaintiffs therein to leave the building.

This conduct caused the occupants of 4100 Haverford Avenue, including the plaintiffs herein, significant physical discomfort and emotional distress.

In late afternoon, as a direct and proximate cause of the aforesaid forcible detention and the intimidation by the Philadelphia Police Department, the residents of 4100 Haverford Avenue agreed to vacate the building for the purpose of permitting a search.

The occupants of the building, including the plaintiffs herein, were placed in restraints and in detention as they exited the building by Officers John Doe, Richard Roe, other unknown officers all under the supervision and direction of defendant Sylvester Johnson.

At or about the time that said persons were placed in detention, none of the arresting officers or defendant Sylvester Johnson had any factual or legal basis to conclude that those persons, including the plaintiffs herein, had committed or intended to commit any act which are or were in violation of the laws of the Commonwealth of Pennsylvania.

Thereafter, various presently unknown agents of the City of Philadelphia took control of the building at 4100 Haverford Avenue for purposes of a search of the building.

During the period when the building was in control of the aforesaid agents of the defendants items of which the defendants knew or should have known to have First Amendment protection, including large puppets, figurines, posters, banners, signs and other items containing symbolic speech messages were believed to be destroyed.

During this period,, items of which the defendants knew or should have known to be the personal property of the plaintiffs and the persons situate at 4100 Haverford Avenue were believed to be destroyed or lost including back-packs and the personal items contained therein , wallets, identifications, checks, money, cards, coats and other sundry items.

No specific items outlawed by or made criminal to possess by the laws of this Commonwealth were located as a result of this search. To the contrary, the only items located were items which were of reasonable use in the building of puppets and banners or used in the legitimate business of the owner of 4100 Haverford Avenue. Mr. Graves.

After the search of the premises and despite the fact that no specifically illegal incriminating items were located at 4100 Haverford Avenue and the absence of any facts which supported a conclusion that there was legally sufficient cause to charge them, plaintiffs Franks, Weill Greenberg and Tedeschi and the other persons were arrested and transported to holding cells in conditions which agents of the Philadelphia Police and the City of Philadelphia knew or should have reasonably known or in callous disregard thereof were unsafe, harmful and otherwise illegal at law.

Upon information and belief it is averred that the agents of the City of Philadelphia identified herein who participated in the arrests of the plaintiffs and the other persons situated at

4100 Haverford Avenue, made those arrests without legal cause and in reckless disregard of the rights of the plaintiffs and all other persons.

The reason for the arrests was not because there was a legally sufficient belief as to whether there were violations of the criminal laws of this Commonwealth, but due to a implicit or explicit conspiracy by and between agents and employees of the City of Philadelphia to retrain the legitimate First Amendment Activity of the plaintiffs herein and the persons situate at 4100 Haverford Avenue.

The persons situated in 4100 Haverford Avenue, including plaintiffs Franks, Weill Greenberg and Tedeschi, were transported to the Police Administration Building at 8th and Race Streets, Philadelphia Pa. A number of the persons transported were placed in restraints despite the fact that they did not present a threat to any person.

A number of hours after being illegally arrested, placed in restraints and loaded on the buses, these persons, including the aforesaid named plaintiffs were incarcerated at the 8th and Race Street location in holding cells designed for far fewer numbers than the persons incarcerated therein. They remained in those cells for several days, until arraigned and charged with violations of the law.

On July 31, 2000, the plaintiffs and the others in 4100 Haverford Avenue, had personal property located therein and collective First Amendment symbolic property, including puppets, banners and signs.

Included in this property were First Amendment protected material owned by plaintiff Nathan Ackerman. This material was intended to be use to communicate protected speech to the public for the purpose of education on various social and political issues.

On or after July 31, 2000, agents of the City Department of Licenses and Inspections or other City of Philadelphia departments or agencies under the supervision and/or direction of defendant Verdi or other persons currently unknown removed and, it is believed and therefore averred, destroyed the personal and collective property of the plaintiffs and the persons situate at 4100 Haverford Avenue.

Upon information and belief said personal and collective property was placed in City of Philadelphia trash trucks by City employees and then discarded or destroyed.

Neither the plaintiffs or any persons who had an ownership interest in that property were given notice of this action or any process related thereto.

Said destruction of this property has caused the plaintiffs and the persons situate at 4100 Haverford Avenue on that date economic losses related thereto.

Said destruction of this property has caused the plaintiffs and the persons situate at 4100 Haverford Avenue on that date, losses including but not limited to the inability to communicate the important political messages contained therein.

From July 31, 2000 and for several days thereafter, the plaintiffs Franks, Weill Greenberg and Tedeschi and the other persons arrested at 4100 Haverford Avenue were required to suffer conditions of custody and restraint at 8th and Race Streets, which were punitive, without that permitted by law and in violation of rights guaranteed by the United States and Pennsylvania Constitutions.

At that time the plaintiffs Franks, Weill-Greenberg and Tedeschi and the other persons situated at 4100 Haverford Avenue, including the owner Mr. Graves were placed under bail which was not reasonably related to the crimes charged or permitted by the United States Constitution, the Pennsylvania Constitution or the laws of this Commonwealth.

Upon information and belief the purpose of the long pre-arraignment delay, high, disproportionate bail was to preventively detain the instant plaintiffs and the other persons situated at 4100 Haverford Avenue so as to prevent and restrain them from exercising their First Amendment Rights during the Republican National Convention.

Plaintiffs Franks, Weill Greenberg and Tedeschi were charged by the agents and employees of the defendants City of Philadelphia, Police Department, under the direction and control of defendants Street and Timoney, with numerous violations of the PA Criminal Code, including, but not limited to :

- a. possession of instruments of a crime and/or conspiracy to possess instruments of crime.
- b. reckless endangering of a person and conspiracy to reckless endanger a person.
- c. obstructing a lawful government function.
- d. obstructing justice and conspiracy to obstruct justice.
- e. disorderly conduct and conspiracy to commit disorderly conduct.
- f. obstructing a highway or public passageway or conspiracy to obstruct a highway or a public

The City of Philadelphia, its agents and employees and defendants Street and Timoney knew or should have known and acted in reckless disregard for the truth thereof that there was no factual and legal basis for the prosecution of these charges.

The plaintiffs Franks, Weill-Greenberg and Tedeschi were then transferred to the Philadelphia County correctional facility on State Road and held there for approximately ten (10) days, until a reasonable bail was set by the Common Pleas Quarter Sessions Court Judge.

Ms. Weill-Greenberg was held for this period and released at an excessive bail, notwithstanding the fact that she co-operated with the agents of the defendant by providing her name, address and identification, was not a flight risk and had no record of being a flight risk.

At the initial court hearings, the City of Philadelphia offered most persons arrested at 4100 Haverford Avenue, the opportunity to participate in the Accelerated Rehabilitation Diversionary Program (ARD).

The ARD program is a diversionary program to the criminal justice process whereby if the defendant agrees to its conditions, the City agrees that the matter be expunged from the defendant's record.

In this matter the City conditioned acceptance in this program on agreement to pay a "supervision fee" or "restitution" in the amount of \$300.00.

This restitution was effectively a non-negotiable fine for this matter.

Plaintiffs Elizabeth-Weill Greenberg and Joseph Tedeschi, are conscientious students with the intention to have a professional career, possibly in the law or other social service fields.

After counsel explained to them that a conviction on the charges might affect their future admittance to and licensing and there would be significant costs related to the defense of this action, Elizabeth Weill-Greenberg and Joseph Tedeschi elected to accept entrance to the ARD program.

Pursuant thereto they paid to the City and County of Philadelphia, \$300.00 and/or the Quarter Sessions Court, \$35.00 and the matters related thereto are or will be expunged from their records.

The agreement to enter the ARD program is not considered a guilty plea under law and is not an admission that they engaged in the activity charged in the Commonwealth's prosecution herein.

Ms. Franks refused ARD and was subjected to prosecution for the aforementioned charges.

In or around December, 2000, all charges were dismissed against the plaintiff, Traci Franks, after the undercover State Police Officers could not identify her as engaging in any non-protected First Amendment activity.

As a direct and proximate result of the incarceration described herein the plaintiffs suffered considerable physical pain and discomfort and psychological distress. The injuries resulted in a disruption of plaintiffs' daily occupations and activities.

As a result of the prosecution of the aforementioned criminal complaint the plaintiffs were caused to expend monies for the defense of said complaint and/or become responsible for the payment of the aforementioned fines as well as the psychological distress related thereto.

Upon information and belief, the City of Philadelphia and the Philadelphia Police Department created an illegal de facto policy of "profiling" or stereotyping under which all groups or persons in Philadelphia on or about July 31, 2000 supporting non-traditional, non-mainstream political causes were presumed to be engaged in illegal activities and adopted a policy of prior restraint of any such activities.

At all times relevant hereto, in pursuit of this policy, the high policy officials and the agents and employees of the City of Philadelphia acted with deliberate or reckless indifference, callous disregard, or in an arbitrary and abusive manner as the rights of persons holding such non-traditional or mainstream political views, as to shock the conscience.

The conduct of named defendants, their agents, servants and employees toward the plaintiffs were extreme, wanton, malicious and outrageous, warranting the imposition of exemplary damages.

At no time relevant to the time that the search warrant was executed did the named plaintiffs act in a manner which supported a conclusion that there was reasonable suspicion or probable cause to believe that they were engaged in activity not protected by the First Amendment.

At all times relevant hereto all actions taken by the municipal defendant and all persons employed thereby against the plaintiffs were performed under color of state law.

At no time relevant hereto did the plaintiff implicitly or explicitly consent or agree to the conduct of the employees, servants or agents of defendant City of Philadelphia or named defendants herein.

VI. LEGAL CLAIMS

A. FIRST LEGAL CLAIM (MONELL CLAIM)

(v. City of Philadelphia under 42 U.S.C. § 1983- all plaintiffs - Monell claim))

The City of Philadelphia, by and through its chief decision makers, adopted an implicit or explicit policy to deny the plaintiffs the exercise of their First Amendment Rights by use of an unconstitutional program of prior restraint, which included but was not limited to the false arrest, illegal detention and destruction of the personal, First Amendment and collective property of the plaintiffs.

By adopting this illegal policy and/or by failing to have adequate policies, practices, regulations, supervision and training related to the actions stated heretofore and permitting or condoning the practice of such prior restraint, the City of Philadelphia acted, under color of state law, in violation of rights guaranteed by the First, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States and Article 1, Section 8 of the Pennsylvania Constitution .

By adopting this implicit or explicit policy and/or by failing to have adequate policies, practices, regulations, supervision and training related to the actions stated heretofore the City of Philadelphia, by and through its chief decision makers acted with deliberate or reckless indifference, callous disregard, or in an arbitrary and abusive manner as to shock the conscience.

As a direct and proximate cause adopting the aforesaid policy and the plaintiffs were caused significant pain, discomfort and physical distress and psychological trauma, the destruction of their personal and collective property and damages as heretofore alleged as a proximate result of this conduct .

B. SECOND LEGAL CLAIM

(42 U.S.C. § 1983 v. City , and named Defendants- all plaintiffs)

By obtaining a search warrant without legal cause therefor, by arresting detaining plaintiffs Franks, Tedeschi and Weill Greenberg, by prosecuting these plaintiffs and destroying their personal, First Amendment, the property of Nathan Ackerman and collective property when there was no legally adequate basis to believe that they were or had been in violation of the law of this Commonwealth the named defendants, acted, under color of state law in violation of rights guaranteed by the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and Article 1, Section 8 of the Pennsylvania Constitution.

The arrests, detention and filing of criminal charges against plaintiffs Franks, Tedeschi and Weill Greenberg and destroying their personal, the property of Nathan Ackerman and any collective First Amendment property when there was no legally adequate basis to believe that they were or had was taken under color of state law in violation of the aforementioned rights.

The plaintiffs were caused significant pain, discomfort, physical distress, psychological trauma and other damages as heretofore alleged as a proximate result of this conduct .

C. THIRD LEGAL CLAIM (42 U.S.C. § 1983 (CONSPIRACY - all

The named defendants including, unknown agents and employees of defendant City of Philadelphia acted in direct or implied concert and agreement against the plaintiffs, in the illegal search, the false arrest, the filing of criminal charges, the institution of unreasonable bail and detention and the destruction of personal, First Amendment and collective property, when there was no legally adequate basis to believe that the plaintiffs were or had been in violation of the law of this Commonwealth and as such the defendants, conspired to act, under color of state law in violation of rights guaranteed by the Constitution of the United States.

The intent of the express or implied agreement was to deprive the plaintiffs of their constitutional rights, including but not limited to their First Amendment Rights and their civil rights as guaranteed by law and was manifested by defendants employees, agents and servants animus towards the plaintiff due to their political beliefs.

The plaintiffs suffered an actual deprivation of their constitutional rights resulting from this implied or express agreement,

The plaintiffs were caused significant pain, discomfort, physical distress, psychological trauma and other damages as heretofore alleged as a proximate result of this conduct

D. FOURTH LEGAL CLAIM (City and all defendants - destruction of property without due p

As part of the aforementioned actions, the defendants destroyed property which the plaintiffs had a legal interest, including not limited to their personally owned property, the Ackerman First Amendment property and the collective First Amendment protected Symbolic Speech property located in 4100 Haverford Avenue.

This property was destroyed without notice to the plaintiffs and without any lawful process in violation of rights guaranteed by the Federal Constitution and the First, Fifth and Fourteenth Amendments.

E. FIFTH LEGAL CLAIM
(v. named Defendants State Law -false arrest/false imprisonment, plaintiffs
Franks, Weill-Greenberg, Tedeschi)

Plaintiffs Franks, Weill-Greenberg and Tedeschi were arrested, detained and incarcerated in a county facility by agents of the defendants and employees of the City of Philadelphia under the direction and control of defendants Street, Timoney and Johnson.

The arrest and detention of the plaintiffs Franks, Weill Greenberg and Tedeschi for alleged violations of the Criminal Code of the Commonwealth of Pennsylvania by defendants was without probable cause and without any legal basis therefor.

The plaintiffs were caused significant pain, discomfort, physical distress, psychological trauma and other damages as heretofore alleged as a proximate result of this conduct. **F.SIXTH LEGAL CLAIM**

(v. named defendants.- State law, assault and battery -- plaintiffs Franks, Weill-Greenberg, Tedeschi)

,Plaintiffs Franks, Weill-Greenberg and Tedeschi were subjected to physical touching by agents of the defendants and employees of the City of Philadelphia under the direction and control of defendants Street, Timoney and Johnson during the arrest, detention and incarceration in a county facility.

Any such touching was not consensual but compelled by the actions of the aforesaid agents or the defendants.

The physical touching of the plaintiffs Franks, Weill-Greenberg and Tedeschi by said employees and agents caused these plaintiffs anguish, physical discomfort, apprehension and distress which was without reasonable basis in law therefor.

The plaintiffs was caused significant pain, discomfort, physical distress, psychological trauma, economic loss and other damages heretofore alleged as a proximate result of this conduct.

G. SEVENTH CLAIM

Weill- (State law - malicious prosecution, v. named defendants - plaintiffs Franks, Greenberg, Tedeschi)

The instigation of criminal charges by the aforesaid defendants in the course or scope of the employment duties of said agents or employees against the plaintiffs Franks, Weill-Greenberg

and Tedeschi when there was no legally adequate basis to believe that they were or had been in violation of the law of this Commonwealth was without adequate probable or other legal cause and with malicious intent to injure the plaintiff.

The prosecutions were terminated favorably to the plaintiffs without any adjudication of guilt or the establishment of probable cause therefor.

The plaintiffs were caused significant pain, discomfort, physical distress, psychological trauma and other damages as heretofore alleged as a proximate result of this conduct.

DEMAND FOR A JURY TRIAL

The plaintiffs hereby demand a jury trial for all legal claims set forth in this action.

PRAYER FOR RELIEF

1. This court take jurisdiction over this case and grant them trial by jury on all claims;
2. This court award them compensatory damages against all defendants in an amount which will compensate them for all losses.
3. This Court award the plaintiff punitive damages against the named, individual defendants as permitted by law on all claims as set forth herein..
4. This court award such injunctive or declaratory relief as may be necessary.
5. This court award the plaintiff reasonable attorney fees as permitted by law.
6. This court award such other relief as deemed fitting and just.

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