

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

RECEIVED  
U.S. DISTRICT COURT  
EAST DISTRICT OF LA

2007 JUN 13 AM 9:44

STEVEN ELLOIE

Plaintiff,

VERSUS

CITY OF NEW ORLEANS, WARREN J. RILEY, in his official capacity as Superintendent of Police, New Orleans Police Department, STEVEN NICHOLAS, in his official capacity as Assistant Superintendent, New Orleans Police Department, ROBERT BARDY, in his official capacity as Commander, 6th District, New Orleans Police Department, JOHN SMITH I, individually, and in his official capacity as the highest-ranking officer of the New Orleans Police Department Special Operations Division, JOHN SMITH II, individually, and in his official capacity as the highest-ranking officer of the New Orleans Police Department Special Weapons and Tactics team, MARLON DEFILLO, individually, and in his official capacity as Captain, New Orleans Police Department, Public Integrity Bureau, SGT. STAMP, individually, and in his official capacity an officer of the New Orleans Police Department Public Integrity Bureau, SGT. GANFITHER, individually, and in his official capacity as an officer of the New Orleans Police Department, C. GAGNON, J. SAMUEL, S. KELLER, O. BALDASSARO, and JOHN DOE, individually, and in their official capacities as officers of the New Orleans Police Department, and JAMES DOE, individually, and in their official capacities as ranking officers of the New Orleans Police Department with supervisory authority

Defendants.

CIVIL ACTION NUMBER: \_\_\_\_\_  
JUDGE: \_\_\_\_\_ CLERK  
MAGISTRATE:

JURY DEMAND

07 - 3231

SECT. F MAG. 5

## COMPLAINT

NOW INTO COURT, through undersigned counsel, comes Plaintiff, STEVEN ELLOIE, who respectfully represents:

### I. JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343, 2201 and 2202, and 42 U.S.C. §§ 1983, 1985, 1986, and 1988. This action is further instituted pursuant to the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution. Supplemental jurisdiction is invoked as to matters cognizable under the Constitution and laws of the state of Louisiana, particularly, but not exclusively, La. Civ. Code Ann. arts. 2315, 2316, and 2320, and La. Rev. Stat. Ann. sec. 44:1 *et seq.*

### II. PARTIES

2. Plaintiff herein is STEVEN ELLOIE, a person of full age of majority and domiciled in the city of New Orleans, parish of Orleans, state of Louisiana.

3. Defendants herein are:

- a. CITY OF NEW ORLEANS, a body corporate and political subdivision of the state of Louisiana; it is able to sue and be sued in its own name.
- b. WARREN J. RILEY is, and at all times relevant hereto, was, the duly appointed Superintendent of Police, New Orleans Police Department. He is sued in his official capacity.
- c. STEVEN NICHOLAS is, and at all times relevant hereto, was, the duly appointed Assistant Superintendent of Police, New Orleans Police Department. He is sued in his official capacity.
- d. ROBERT BARDY is, and at all times relevant hereto, was, the duly appointed Commander of the 6th District, New Orleans Police Department. He is sued in his official capacity.
- e. JOHN SMITH I is an unknown, but identifiable, person(s) of full

age of majority who, at all times relevant hereto, was the highest-ranking officer of the New Orleans Police Department Special Operations Division. He is sued individually and in his official capacity.

- f. JOHN SMITH II is an unknown, but identifiable, person(s) of full age of majority who, at all times relevant hereto, was the highest-ranking officer of the New Orleans Police Department Special Weapons and Tactics unit. He is sued individually and in his official capacity.
- g. MARLON DEFILLO is, and at all times relevant hereto, was, Deputy Chief in charge of the Public Integrity Bureau (PIB) of the New Orleans Police Department. He is intimately involved in the day-to-day operations of and determinations of policy for the PIB, and supervision of same. He is sued individually and in his official capacity.
- h. [FNU] STAMP is a person of full age of majority who, at all times relevant hereto, was employed by the New Orleans Police Department, Public Integrity Bureau (PIB), and whose first name and precise surname is unknown, but identifiable. Upon information and belief, Stamp was assigned to process and investigate Plaintiff's PIB complaint against Defendants. He is sued individually and in his official capacity.
- i. [FNU] GANFITHER is a person of full age of majority who, at all times relevant hereto, was employed with the New Orleans Police Department, and whose first name and precise surname is unknown, but identifiable. He was on the scene and participated in the incident at 2433 Dryades Street described herein. He is sued individually and in his official capacity.
- j. O. BALDASSARO is a person of full age of majority who, at all times relevant hereto, was employed with the New Orleans Police Department, and whose first name and precise surname are unknown, but identifiable. He was on the scene and participated in the incident at 2433 Dryades Street described herein. He is sued individually and in his official capacity.
- k. C. GAGNON, J. SAMUEL, and S. KELLER are persons of full age of majority who, at all times relevant hereto, were employed with the New Orleans Police Department, and whose first names and precise surnames are unknown, but identifiable. They were on the scene and participated in the incident at 2433 Dryades Street described herein. They are sued individually and in their official

capacities.

- i.** JOHN DOE are all other persons, unknown but identifiable, of full age of majority who, at all times relevant hereto, were employed with the New Orleans Police Department and planned, participated in, ratified, or condoned the activities described herein and/or were present in or around the building at 2433 Dryades Street at the time of the incident at 2433 Dryades Street described herein. They include, but are not limited to, the officers operating New Orleans Police Department vehicles #01245, #03114, and #01080 on the night of June 23, 2006. They include, but are not limited to, officers of the Sixth District of the New Orleans Police Department and officers of the New Orleans Police Department Special Weapons and Tactics team. They are sued individually and in their official capacities.
- m.** JAMES DOE, are unknown but identifiable, persons of full age of majority and, at all times relevant hereto, were employed with the New Orleans Police Department as supervisors of Defendants Ganfither, Gagnon, Samuel, Keller, Baldassarro, and John Doe, and planned, directed, supervised, had knowledge of, or were involved in the activities described herein. They include, but are not limited to, officers of the sixth District of the New Orleans Police Department and officers of the New Orleans Police Department Special Weapons and Tactics team. They are sued individually and in their official capacities.

### **III. FACTS**

3. Steven Elloie was born on July 3, 1979 in the city of New Orleans, Louisiana. He resides in New Orleans.

4. The "Sportsman's Corner" is a family owned and operated bar located at 2433 Dryades Street in New Orleans. The bar is listed in the name of Louis Elloie, aged 75. It is a neighborhood establishment in a predominantly African-American neighborhood with a largely working-class, middle-aged clientele. Steven Elloie, Plaintiff, is the grandson of Louis Elloie and has managed Sportsman's Corner for several years.

5. On or about June 22, 2006, Defendants Riley, Nicholas, and Bardy, separately and in their official capacities as officers of the New Orleans Police Department, announced and

reported on a plan to deploy extra police officers in Central City. These officers, including members of the Special Weapons and Tactics team, were part of an effort by the New Orleans Police Department to be “very aggressive” in Central City and other “hot spots.” Rather than simply responding to crimes, these police officers would proactively seek out potential offenders and disrupt activity that they considered suspicious. The first of these officers were deployed on June 23, 2006. On information and belief, on or prior to June 22, 2006, Defendants Riley, Nicholas, Bardy, Smith I, and Smith II instructed police officers to be more aggressive and “proactive” when operating in Central City and when dealing with potential suspects, or took actions and/or made statements implying that they should do so.

6. On information and belief, on or prior to June 22, 2006, Defendants were aware or should have been aware that policies and practices similar to those described had led and were likely to lead some New Orleans police officers to stop and question people without probable cause, and abuse, insult, and arrest people on trumped up charges. Over the course of the weekend beginning June 23, the New Orleans Police Department arrested nearly three times as many “suspected felons” as on a normal weekend.

7. On the evening of June 23, 2006, Mr. Elloie was at work, wearing a black T-shirt emblazoned with the Sportsman's Corner logo.

8. At approximately 9 p.m. on June 23, 2006, six to ten uniformed New Orleans police officers, Defendants herein, entered the bar in an aggressive and belligerent manner. Approximately sixteen patrons were in the bar at this time. Defendants announced that they were in pursuit of two young African American men wearing blue jeans and white T-shirts. The patrons informed Defendants that no one fitting that description had entered building.

9. Defendants nonetheless aggressively searched the building, forcefully opening or

attempting to open doors. Defendants presented no warrant to search the premises and received no permission from the employees present, particularly Plaintiff, to conduct the search. Plaintiff at this time was in a back room of the bar, taking inventory.

10. Plaintiff, hearing the disturbance, went to the main room to investigate. One Defendant officer demanded, "did you see two guys in white T-shirts?" Plaintiff replied in the negative. Plaintiff saw another Defendant officer violently attempting to open a storage room door. Plaintiff, in a subdued manner, asked Defendant not to force the door open. He identified himself as the manager of the bar, advised Defendant that he had a key to the door, and offered to open it for him. The Defendant officers responded, "We don't give a fuck who you are," or words to that effect. One Defendant officer then grabbed Plaintiff, stating that he was going to jail.

11. Four or five Defendant officers converged on Plaintiff, threw him against a wall, and began striking him. Defendants severely beat Plaintiff until he fell to the ground, where Defendants continued to beat and kick Plaintiff. Defendants handcuffed Plaintiff and then "tasered" Plaintiff with an electric stun gun, incapacitating Plaintiff and causing him to cry out in pain. Plaintiff lay on the floor, in severe pain, handcuffed and incapacitated by the beating and taser. Nonetheless, Defendants tasered Plaintiff a second time while he lay on the ground.

12. Defendants then instructed Plaintiff to stand up and walk outside. Plaintiff responded that the taser had rendered him incapable of walking. One Defendant officer instructed the others to, "Drag his motherfucking ass out of here," or words to that effect. Defendants dragged Plaintiff towards the front door and dropped him again. One Defendant officer told Plaintiff, "You're taking this ass whipping like a bitch. Get the fuck up," or words to that effect. Plaintiff repeated that he was incapable of walking. Defendants then dragged Plaintiff

outside and forced him against a police car. Defendants instructed Plaintiff again to walk into the police vehicle, and Plaintiff stated that he was still physically incapable of walking. Defendants dropped the Plaintiff onto the ground and dragged Plaintiff into the police vehicle.

13. At no time did Plaintiff act, move, or speak in an aggressive, threatening, or violent manner. At no time did Plaintiff attempt to obstruct or interfere with Defendant's activities. Plaintiff values peace and tranquility in his family's establishment, and therefore attempted to cooperate with Defendants. Other than being a young African-American male, Plaintiff, garbed in a black Sportsman's Corner uniform T-shirt, in no way matched the description of the two men wearing white T-shirts that Defendants were reportedly pursuing. Sportsman's Corner is a quiet establishment that caters to an older clientele. At no time could Defendants reasonably have believed that they were at risk of physical harm from Plaintiff. At no time did Defendants attempt to prevent each one another from performing these acts.

14. At some point during the acts described in paragraphs 10 and 11, one or more Defendants drew their firearms and pointed them at the patrons and employees in the tavern. At least one of these firearms was a rifle, a shotgun, or similar weapon. Defendants did not permit any patrons or employees to leave the building during this time. Defendants instructed the patrons to "shut up and sit the fuck down," "put down your fucking phones," and other similar instructions. Patrons and employees complied with the demands of Defendants. At no time could Defendants reasonably believe that they were at risk of physical harm from the patrons or employees.

15. As Defendants left the building, one Defendant officer, in an unprofessional manner and tone, told the patrons to "have a nice day." After Defendants had left the building, one Defendant officer returned inside, and asked to speak to the owner of the establishment.

Patrons and employees told Defendant that the owner was the Plaintiff currently in police custody.

16. Plaintiff and/or bystanders informed Defendants that Plaintiff suffered from hypertension, and requested that he be taken to the hospital. In spite of Defendants' awareness of Plaintiff's medical condition and of his exposure to two serious electrical shocks, and in spite of his visible and serious injuries, Defendants chose to deliberately ignore Plaintiff's medical needs and instead took him directly to Orleans Parish Prison. Attendants at Orleans Parish Prison refused to accept Plaintiff due to his injured state and insisted that Defendants take Plaintiff to nearby Charity Hospital. Hospital staff and physicians observed and treated injuries to Plaintiff's head, body, and extremities, multiple bruises and abrasions, paresthesias, elevated heart rate, and elevated blood pressure.

17. Defendants were aware of, or should have been aware of, the serious risk to health from application of an electric stun gun and the need for treatment and monitoring at a medical facility immediately after such exposure.

18. Upon return to Orleans Parish Prison, Plaintiff was charged with resisting arrest and battery on Defendant Baldassarro. Plaintiff was arraigned on June 24, 2006 and pled not guilty on June 26, 2006. After Defendant officers, including the officer allegedly battered, failed to appear before the court for the third time, the charges against Plaintiff were dropped, on March 8, 2007.

19. Plaintiff walked with a limp the following day and for several days thereafter. Plaintiff's injuries, including a black eye, deep bruises on his wrists from being dragged by the handcuffs, black marks on his body from being dragged, and bruises and abrasions of varying severity, were plainly visible when he was released the next day and continued to be visible for



several days thereafter. Plaintiff's wrists were severely swollen. Plaintiff continues to require medical treatment for his injuries and continues to experience numbness and pain in his arm and pain in his back. The marks on Plaintiff's wrists remain visible today. Plaintiff incurred significant medical expenses in treating his injuries.

20. In mid-July, Plaintiff filed a complaint with Defendant New Orleans Police Department's Public Integrity Bureau (PIB). Plaintiff provided a list of witnesses to the incident, along with contact information for each witness, medical records, photographs related to the incident, and signed a release for PIB to access his medical records. Defendant Stamp, in his official capacity as an officer of PIB, refused to examine the evidence or take measures to further an investigation of the complaint unless Plaintiff gave a taped statement about the incident. Plaintiff objected to this requirement out of concern that such statements could be taken out of context, and, combined with the false testimony of Defendants, prove harmful to his defense in his criminal case. Nonetheless, he provided the taped statement as he believed that he had no other legal options to pursue this complaint.

21. In late February or early March 2007, it came to Plaintiff's attention that PIB classified his allegations against Defendant officers as "not sustained." Plaintiff made repeated requests for information regarding the PIB investigation to PIB and Defendant Stamp, including requests for a copy of the original complaint filed by Plaintiff. Defendant Stamp claimed that Plaintiff did not have a right to any of this information. On information and belief, Plaintiff represents that Defendant Stamp knew or should have known that under the Louisiana Public Records Act, La. Rev. Stat. Ann. sec. 44:1 *et. seq.*, Plaintiff is entitled to this information. On March 13, 2007, Plaintiff repeated his request, in writing, to Defendant Defillo, and to the City Attorney, to remind Defendants of this law. To date, Defendants have not provided Plaintiff with

the records requested. However, on March 30, Plaintiff received a letter from Defendants Riley and Defillo stating that his allegations were not sustained. On information and belief, Plaintiff represents that PIB did not substantively investigate the complaint until forced to act by public pressure in March 2007, and that said the investigation was a sham, or that it was performed and concluded in an inefficient and biased manner.

22. On information and belief, Plaintiff represents that Defendant PIB officers have an official policy of requiring a taped statement from any person who complains of police misconduct before such accusations are investigated and that PIB does not and cannot prevent such statements from being used as evidence in a criminal prosecution related to the incident complained of. In the alternative to that, Plaintiff represents, on information and belief, that PIB does not have an official policy of requiring a taped statements from a complainant before such accusations are investigated but that when they are provided with such statements, PIB does not prevent such statements from being used as evidence against complainant in a criminal prosecution related to the incident complained of, and that the time period during which PIB is willing to investigate a complaint is potentially shorter than the duration of a criminal trial.

23. On information and belief, Plaintiff represents that PIB maintains policies, practices, procedures, and customs insufficient to properly and objectively investigate complaints. On information and belief, Plaintiff further represents that PIB maintains policies insufficient to protect the anonymity or safety of complainants, or that PIB maintains policies which suggest to potential complainants that their policies are insufficient to protect the anonymity or safety of complainants, and that these policies and the policies alleged in paragraph 20, above, tend to discourage legitimate complainants from reporting abuse by New Orleans police officers.

24. At all times relevant hereto, Defendants Ganfither, Gagnon, Samuel, Keller,

Baldassaro, Stamp, and John Doe were law enforcement officers employed with the City of New Orleans, acting within the course and scope of their employment.

25. At the time of the acts herein complained of, it was contrary to the Constitution and laws of the United States, as well of the state of Louisiana, to subject a person to excessive force and cruel and unusual punishment, unreasonable search or seizure, false arrest and malicious prosecution.

26. At the time of the acts here and complained of, Defendants knew or should have known that their actions described herein were contrary to the Constitution and laws of the United States, as well of the state of Louisiana.

#### **IV. STATEMENT OF THE CLAIM**

27. Defendant officers violated the Fourth, Eighth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983 and La. Civ. Code Ann. arts. 2315 and 2316 by using excessive force on Plaintiff, far in excess of that required under the circumstances, and inflicting cruel and unusual punishment upon him.

28. Defendant officers violated the Fourth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983, and La. Civ. Code Ann. art. 2315 by failing to prevent each other from violating Plaintiff's constitutional and statutory rights.

29. Defendants violated 42 U.S.C. §§ 1985 and 1986 by conspiring to deprive Plaintiff of his civil rights and failing to prevent said conspiracy, deprivation and the damages resulting therefrom, respectively.

30. Defendants violated La. Civ. Code Ann. arts. 2315 and 2316 by injuring Plaintiff knowingly, intentionally, recklessly, or negligently.

31. Defendants violated Plaintiff's rights under state law, including the rights to be

free from assault and battery, false imprisonment, and malicious prosecution.

32. Defendants violated the Fifth Amendment of the Constitution as applied to the states through the Fourteenth Amendment, and the equal protection clause of the Fourteenth Amendment by requiring Plaintiff to provide a taped statement to the New Orleans Police Department regarding the incident during which he was arrested and criminally charged before affording Plaintiff the protections of a Public Integrity Bureau investigation into the incident, or in the alternative, by causing Plaintiff to reasonably believe that this was required.

33. Specifically, Defendants Ganfither, Gagnon, Samuel, Keller, Baldassaro, and John Doe:

- a. knowingly, intentionally, recklessly, or negligently deprived Plaintiff of his liberty under color of law with no valid justification;
- b. knowingly, intentionally, recklessly, or negligently used force in a situation and under circumstances not requiring the use of force, bringing about the injuries sustained by Plaintiff;
- c. knowingly, intentionally, recklessly, or negligently caused Plaintiff to suffer, both physically and psychologically;
- d. knowingly, intentionally, recklessly, or negligently orchestrated, conducted, condoned, ratified and/or participated in the application of excessive force and the infliction of cruel and unusual punishment on Plaintiff;
- e. knowingly, intentionally, recklessly, or negligently endangered Plaintiff's life and aggravated his injuries by bringing Plaintiff directly to Orleans Parish Prison without first giving him appropriate medical treatment for his injuries, including monitoring after repeated application of an electric stun gun. Defendants knew or should have known that in so doing, they

endangered Plaintiff's life and aggravated his injuries. In so doing, Defendants exhibited a deliberate indifference towards Plaintiff's serious medical needs;

e. knowingly, intentionally, recklessly, or negligently gave false versions of the facts and circumstances surrounding the beating and arrest, including, but not limited to, the allegations that Defendants had probable cause for arrest, that Plaintiff resisted arrest, that Plaintiff committed a battery on Defendant, and that Plaintiff attempted to fight with Defendants in Plaintiff's place of business. In so doing, they subjected Plaintiff to false arrest and malicious prosecution;

f. knowingly, intentionally, recklessly, or negligently gave false versions for the facts and circumstances surrounding the beating and arrest, Defendants conspired to and did in fact attempt to cover up the facts and circumstances surrounding the arrest and beating. In so doing, Defendants conspired to and did in fact attempt to cover up the facts and circumstances surrounding the arrest, prosecution, and beating;

g. each had an affirmative duty to prevent each other from violating Plaintiff's constitutional and statutory rights. In failing to do so, they violated Plaintiff's rights pursuant to 42 U.S.C. § 1983, La. Civ. Code Ann. art. 2315, and the Fourth and Fourteenth Amendments to the United States Constitution.

34. Specifically, Defendants City of New Orleans, Riley, Nicholas, Bardy, Smith I, and Smith II:

a. had and presently have customs, policies, practices and procedures of negligently and inadequately hiring, training, supervising and retaining police officers, particularly Defendants herein, Ganfither, Gagnon, Samuel, Keller, Baldassaro, John Doe, and James Doe. Said negligent and inadequate hiring, training, supervision and retention of said Defendants gave

rise to the constitutional and statutory violations set forth herein;

- b. condoned, ratified, approved and/or otherwise acquiesced in the abuse of Plaintiff;
- c. condoned, ratified, approved and/or otherwise acquiesced in the cover-up of the facts and circumstances surrounding the abuse and arrest of Plaintiff;
- d. condoned, ratified, approved and/or otherwise acquiesced in the malicious prosecution of Plaintiff;
- e. maintained and currently maintain an atmosphere within the New Orleans Police Department and/or their respective divisions thereof, which encourages “official lawlessness” among the police officers, the kind of which is directly responsible for the abuse and arrest of Plaintiff;
- f. are liable for the actions of Defendants Ganfither, Gagnon, Samuel, Keller, Baldassaro, John Doe, and James Doe under the principle of “respondeat superior.”

35. Specifically, the James Doe Defendants:

- a. Failed to train, supervise and discipline Defendants Ganfither, Gagnon, Samuel, Keller, Baldassaro, and John Doe – the failure which gave rise to the abuse, arrest, and malicious prosecution of Plaintiff;
- b. condoned, ratified, approved and/or otherwise acquiesced in the abuse of Plaintiff;
- c. conspired to and did in fact cover-up or condoned, ratified, approved and/or otherwise acquiesced in the cover-up of the facts and circumstances surrounding abuse, arrest, and malicious prosecution of Plaintiff;

36. Specifically, Defendant Stamp:

- a. Intentionally, knowingly and recklessly failed to accurately inform Plaintiff of his rights with regards to the PIB investigation, contributing to prolongation of the malicious

prosecution, and causing Plaintiff to incur additional expense in clarifying and exercising Plaintiff legal rights;

b. Intentionally failed to investigate Plaintiff's complaint in a timely, thorough, and unbiased manner, contributing to prolongation of the malicious prosecution, and causing Plaintiff to incur additional expense in clarifying and exercising Plaintiff legal rights.

37. Specifically, Defendants City of New Orleans, Riley, Nicholas, and Defillo:

a. had and presently have customs, policies, practices and procedures that substantially discourage citizen allegations of police abuse, and thus encourage "official lawlessness" among New Orleans Police Department officers, and particularly among the sixth District, the Special Weapons and Tactics units, and Defendants Riley, Nicholas, Bardy, John Smith I, John Smith II, Defillo, Stamp, Ganfither, Gagnon, Samuel, Keller, Baldassaro, John Doe, and James Doe, and gave rise to the abuse, arrest, and prosecution of Plaintiff;

b. had and presently have customs, policies, practices and procedures that encourage false arrests and malicious prosecutions by significantly reducing the likelihood that a police officer who unjustifiably abuses a citizen will be held accountable by PIB when the police officer arrests and charges the individual he has abused for resisting arrest or battery on an officer. Said customs, policies, practices and procedures gave incentives to Defendant police officers to arrest and maliciously prosecute Plaintiff after abusing him and led Defendant police officers to do so;

c. had and presently have customs, policies, practices and procedures that prevented a timely and unbiased PIB investigation into these allegations, and thus unnecessarily prolonged the malicious prosecution against Plaintiff;

d. had and presently have customs, policies, practices and procedures that require

potential complainants to provide a taped statements detailing the same events at issue in an ongoing criminal prosecution of complainant before Plaintiff is given the protections of a PIB investigation, or in the alternative, had customs, policies, practices, and procedures that create a reasonable belief in potential complainants that the same is true. Said customs, policies, practices, and procedures violated Plaintiff's Fifth Amendment right to non-self-incrimination, and Plaintiff's Fourteenth Amendment right to equal protections of the law;

e. in the alternative, Defendants City of New Orleans, Riley, Nicholas, and Defillo had and presently have customs, policies, practices and procedures of negligently and inadequately hiring, training, supervising and retaining police officers in the PIB, particularly Defendant Stamp. Said negligent and inadequate hiring, training, supervision and retention of said Defendant gave rise to the constitutional and statutory violations set forth herein;

f. in the alternative, Defendants are liable for the actions of Defendant Stamp under the principle of "respondeat superior."

38. Specifically, Defendants Riley, Nicholas, Bardy, Smith I, and Smith II:

a. gave instructions or enacted policies and procedures on or about June 22, 2006 and prior to 9 p.m. on June 23, 2006, that encouraged police officers, and particularly subordinate Defendant police officers, to act more aggressively in the Central City area, to engage citizens in these areas more aggressively, and to seek out, engage, and incarcerate potential criminals proactively, rather than waiting for a crime to occur. Defendants knew or should have known that abuses of the kind inflicted upon Plaintiff were likely to result from such encouragement, if not accompanied by adequate training or supervision. Defendants failure to adequately train, monitor, or supervise subordinate Defendant police officers gave rise to the abuse, arrest, and prosecution of Plaintiff.



39. Additionally, Defendants violated the Louisiana Public Records Act, La. Rev. Stat. Ann. sec. 44:1 *et. seq.*, by denying Plaintiff access to files that he has a legal right to access.

40. Specifically, Defendants, City of New Orleans, Riley, and Defillo:

a. had and presently have customs, policies, practices and procedures that violate La. Rev. Stat. Ann. sec. 44:1 *et. seq.*, and incorrectly inform citizens of their rights, which caused Plaintiff to be illegally denied access to these records.

b. Or in the alternative, Defendants had and presently have customs, policies, practices and procedures of negligently and inadequately hiring, training, supervising and retaining police officers, particularly Defendant Stamp. Said negligent and inadequate hiring, training, supervision and retention of said Defendant gave rise to the constitutional and statutory violations set forth herein.

c. Defendants are liable for the actions of Defendant Stamp under the principle of “*respondeat superior.*”

41. Specifically, Defendants Riley and Nicholas :

a. had and presently have customs, policies, practices and procedures of negligently and inadequately hiring, training, supervising and retaining police officers, particularly Defendant Defillo. Said negligent and inadequate hiring, training, supervision and retention of said Defendant gave rise to the constitutional and statutory violations set forth herein.

b. are liable for the actions of Defendant Defillo under the principle of “*respondeat superior.*”

## V. RELIEF

42. WHEREFORE, Plaintiff prays that the Court:

a. Enter a declaratory judgment that the aforementioned facts and

practices of Defendants are in violation of the Constitution and the laws United States of America and the state of Louisiana.

b. Enter judgment herein in favor of Plaintiff, and against Defendants, awarding him special, general, punitive and nominal damages in an amount deemed fair and equitable.

c. Enter judgment herein in favor of Plaintiff, and against Defendants, awarding him civil penalties as provided for in La. Rev. Stat. Ann. sec. 44:1 *et. seq.*

d. Enter judgment herein permanently enjoining the aforementioned policies and practices of Defendants as violative of the Constitution, the laws United States of America and the laws of the state of Louisiana and requiring Defendants to immediately take steps to remediate the aforementioned facts and customs.

e. Award Plaintiff the cost of this litigation, together with reasonable attorney's fees pursuant to 42 U.S.C. § 1988.

## **VI. TRIAL BY JURY**

43. Plaintiff requests a trial by jury as to all issues so triable.

Respectfully submitted:

**RONALD L. WILSON (#13575)**  
**Trial Attorney**  
**New Orleans, Louisiana 70112**

**Cooperating Attorney for the**  
**American Civil Liberties Union**  
**Foundation of Louisiana**

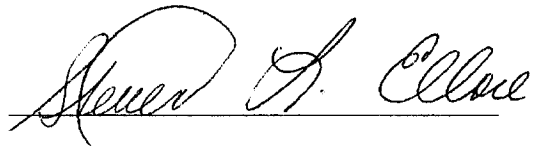
  
KATIE SCHWARTZMANN (#30295)

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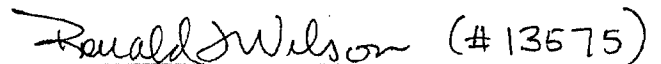
Staff Attorney for the American Civil  
Liberties Union Foundation of  
Louisiana

VERIFICATION

I, Steven Elloie, Plaintiff in the within action, have read the facts contained in the complaint and affirm that they are true to the best of my information and belief.

  
\_\_\_\_\_

Sworn to and before me, Notary, this  
8th day of June, 2007.

  
\_\_\_\_\_  
RONALD L. WILSON