

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

JOSEPH LOPEZ,)
)
Plaintiff,)
)
v.)
)
CITY OF CHICAGO, OFFICER GOMEZ and)
OTHER AS-YET-UNIDENTIFIED CHICAGO)
POLICE OFFICERS,)
)
Defendants.)

Judge Darrah

01 C 1823

RECORDED
NOV 13 2002

FILED

NOV 12 2002 10

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

NOTICE OF FILING

TO:

Darcy Proctor
Michael Tootooian
Ancel Glink Diamond Bush DiCianni & Rolek
140 South Dearborn, Suite 600
Chicago, IL 60603

Please take notice that on November 12, 2002, I filed the attached SECOND AMENDED COMPLAINT at the United States Courthouse, 219 South Dearborn, Chicago, IL.

M. Kanovitz
Attorney for Plaintiff

Michael Kanovitz
LOEVY & LOEVY
434 West Ontario, Ste. 400
Chicago, IL 60610

CERTIFICATE OF SERVICE

I, Michael Kanovitz, an attorney, certify that on November 12, 2002, I served by fax a copy of the attached SECOND AMENDED COMPLAINT and Notice on the above-named parties of record.

M. Kanovitz 609

FILED

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

NOV 12 2002 10

JOSEPH LOPEZ, on behalf of himself)
and a class of others similarly)
situated,)
Plaintiffs,)

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

v.)

Judge Darrah

CITY OF CHICAGO, DETECTIVE JAMES)
DELAFONT, DETECTIVE JENNIFER DeLUCIA,)
DETECTIVE HECTOR VERGARA, OFFICER JOSE)
GOMEZ, OFFICER DANIEL JACOBS and)
OFFICER ROBERT MYERS,)

01 C 1823

DUCKETED
NOV 13 2002

Defendants.)

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT

NOW COMES Plaintiff, JOSEPH LOPEZ, on behalf of himself and a class of others similarly situated (the putative "Class"), by counsel, and complaining of Defendants DETECTIVE JAMES DELAFONT, DETECTIVE JENNIFER DeLUCIA, DETECTIVE HECTOR VERGARA, OFFICER JOSE GOMEZ, OFFICER DANIEL JACOBS, OFFICER ROBERT MYERS (collectively, "Defendant Police Officers") and CITY OF CHICAGO, states as follows:

Introduction

1. This is an action pursuant to 42 U.S.C. Section 1983 and Fed. R. Civ. P. 23(b)(3). Plaintiff brings this action on behalf of himself and the Class to reform an unconstitutional police procedure known as the "hold past court call" procedure. This procedure allows police to continue investigating and interrogating recent arrestees without taking them before a judicial official for a determination of probable cause.

Plaintiff and the members of the Class are all persons who have

69

been detained at CPD police stations in excess of 48 hours under this procedure while the CPD continued its investigation of the crime for which they were arrested.

2. In addition to causing unlawful detentions in violation of the Fourth Amendment, the "hold" procedure as implemented by the CPD also violates arrestees' Fourteenth Amendment rights to minimally appropriate conditions of confinement. During the "hold" period, arrestees are forced to (attempt to) sleep on the floor of small interrogation rooms where they are held or on the standard four foot by ten inch metal benches within.

3. The CPD furnishes them no sleeping facility during this time (not even a mattress, blanket or pillow). The CPD maintains no such facilities to offer them because the investigatory hold, itself, is an exception to the standard CPD practice of releasing arrestees to the Cook County Department of Corrections, which entity takes them to the probable cause hearing and houses them in its jail facility.

4. As a result, arrestees detained under the hold past court call procedure are kept from disinterested judicial officials and are isolated for days in interrogation rooms and deprived of necessary sleep while police continue to interrogate them and build evidence against them; all raising the specter of torture, false confessions, and unlawful convictions.

5. Plaintiff and the Class seek a judgment which will remedy their injuries and reform this unconstitutional procedure.

Relevant CPD Procedures

6. In felony arrests, CPD practice and procedure prohibits the arrestee from being taken to court for a probable cause hearing until the State's Attorney's Office ("SAO") approves the charges being sought by the CPD. The CPD refers to this as the "felony review process".

7. In cases where the evidence known to the CPD at the time of the arrest is insufficient in the SAO's opinion to decide whether charges should be approved or denied, the arrestee is neither taken to court nor released. Rather, CPD officers are permitted to continue their investigation to develop more evidence to support the charges.

8. Normal CPD procedure is that recent arrestees are automatically transferred out of the various CPD police station "lock-ups" (bare cells with no accommodations for extended detentions) to the custody of the Cook County Department of Corrections ("Cook County") either immediately prior to or at the time of the arrestee's probable cause hearing.

9. Thus, in the normal course, Cook County would either transport the arrestee directly from CPD custody to the scheduled court call or would receive the arrestee from the CPD at that hearing. If probable cause is found, Cook County then takes the prisoner for housing at its jail facility.

10. To prevent this series of events from automatically taking place, when a police officer or detective is unable to obtain felony approval from the SAO, the officer can place a written "hold" on the arrestee. This is known as the hold past court call procedure. The hold procedure prevents the arrestee from being taken to court or transferred to the custody of Cook County.

11. The hold is required by CPD policy that the arrestee may not be taken for a probable cause hearing until felony charges are approved. During the period of the hold, the officers or detectives continue gathering evidence to support the charges sought, as by interrogating the arrestee, interviewing witnesses and conducting line-ups.

12. The hold is continued until the investigating officers or detectives have developed sufficient evidence to obtain approval of charges from the SAO or until the SAO exercises its discretion to refuse to charge. In most cases, when the SAO finally states that charges are being denied, the Assistant Deputy Superintendent may override and approve charges. Otherwise, the arrestee must be released. In homicide cases, no override may be exercised.

13. Only after felony approval is obtained will an arrestee held under the procedure finally be taken to court for a probable cause hearing, where evidence developed during the hold

period is presented. Such investigatory holds routinely last in excess of 48 hours.

14. The hold past court call procedure violates Fourth Amendment requirements for a prompt post-arrest judicial determination of whether there is probable cause to detain the arrestee. The Supreme Court has held that police may not unreasonably delay presenting an arrestee for a probable cause hearing following a warrantless arrest, that it is unreasonable to delay for purposes of continuing to develop evidence after the arrest, and that a delay which exceeds 48 hours is presumptively unreasonable regardless of the purpose for the delay.

15. This very CPD procedure has already been declared unconstitutional as violating the Fourth Amendment in the case of Robinson v. Chicago, 638 F.Supp. 186 (N.D.Ill. 1986), rev'd on other grounds, 868 F.2d 959 (7th Cir. 1989). In appealing, that decision, the CPD represented to the Seventh Circuit that it had abolished the hold past court call procedure. However, the procedure is alive and well and still in use throughout the CPD.

16. As implemented by the CPD, the hold past court Call procedure also violates arrestees' rights under the Fourteenth Amendment to be free of torture. The CPD does not maintain any facilities designed to house arrestees in its custody and in particular it does not provide them even minimally appropriate facilities for sleeping.

17. Rather, during the duration of the investigatory "hold," usually amounting to more than 48 hours and often days longer, the arrestee is kept in a small interrogation room (an "interview room" in CPD parlance) which is not designed for housing prisoners and which furnishes them no facility for sleeping.

18. The CPD maintains no sleeping facilities because, absent a "hold," arrestees are routinely transferred to the custody of the Cook County Department of Corrections which maintains a jail for housing prisoners, including bunks for sleeping.

19. By contrast, the interrogation rooms contain no amenities. The sole furnishing is a small metal bench four feet in length and ten inches in width. No mattresses, no blankets and no pillows are furnished by the CPD to those in its custody. Arrestees may also be kept in a police station lock-up during part of the "hold" period, however, the lock-up has no sleeping facility either.

20. As a result, arrestees detained under the hold past court call procedure are routinely deprived of meaningful sleep in a manner which has long been recognized as torturous and unconstitutional.

21. In totality, the procedure allows CPD officers and detectives to deprive arrestees, who have not even received a judicial determination of probable cause, of necessary sleep

while continuing to interrogate them, all in a manner that raises the specter of false confessions due to coercion and exhaustion.

Jurisdiction and Venue

22. This Court has jurisdiction of the action pursuant to 28 U.S.C. § 1331. Venue is proper under 28 U.S.C. § 1391(b). On information and belief, all parties reside in this judicial district, and the events giving rise to the claims asserted herein all occurred within district.

Class Action Allegations

23. Each of the foregoing Paragraphs are incorporated herein by reference.

24. The named Plaintiff, Joseph Lopez, brings this action on his own behalf, and on behalf of a class of persons under Rule 23(a) and 23(b) (3) of the Federal Rules of Civil Procedure.

25. The named Plaintiff seeks to represent a class of the following individuals:

All persons arrested by the Chicago Police Department without an arrest warrant and who were detained in excess of 48 hours pending approval of felony charges by the State's Attorney at any time from March 15, 1999 to the present day (the "Class Period").

26. The individuals in the Class are so numerous that joinder of all members is impracticable. The named Plaintiff estimates that the Class numbers in at least the thousands.

a. On information and belief, approximately 200,000 persons have been arrested by the CPD in each year of the Class

Period. In the year 1999 alone, the Chicago Police Department arrested over 268,000 persons. Many of these were held over awaiting trial; and

b. Chicago police personnel, testifying as representatives of the CPD and the CITY OF CHICAGO, have stated under oath that most CPD felony arrests take in excess of 48 hours to obtain SAO approval of the charges and that all those arrestees would be detained in the manner described above during that time;

c. Chicago police personnel, testifying as representatives of the CPD and the CITY OF CHICAGO, have stated under oath that the hold past court call procedure is invoked routinely and often and that the CPD maintains computerized forms for this procedure; and

d. Chicago police personnel, testifying as representatives of the Chicago Police Department and the CITY OF CHICAGO, have stated under oath that there is no policy or practice of the CPD which limits the length of time an arrestee can be held in an interview room, making it likely that this unconstitutional condition of detention occurs again and again.

27. There are questions of law and fact common to the Class. Among these common questions are:

a. Whether the hold past court call procedure violates arrestees' Fourth Amendment rights in a manner which is actionable under 42 U.S.C. § 1983;

b. Whether the CPD's practice of housing arrestees in excess of 24 hours without furnishing them any sleeping facilities violates the Fourteenth Amendment in a manner which is actionable under 42 U.S.C. § 1983; and

c. Whether the City of Chicago maintains policies and/or practices that are the moving force behind the challenged conduct.

28. Named Plaintiff Lopez' unlawful detention and torture claims are typical of the claims of the Class. Mr. Lopez alleges, *inter alia*, that he was detained in excess of 48 hours based on CPD policy which prevents felony arrestees from receiving a probable cause hearing until the SAO approves charges and the hold past court call procedure and for purposes of continuing the investigation against him; that he was denied any facility for sleeping during that time; and that he has suffered damages as result.

29. Named Plaintiff Lopez will fairly and adequately represent the interests of the Class. Mr. Lopez has retained skilled counsel with experience in constitutional and class action litigation to represent the Class in this litigation.

30. The questions of law and fact common to the Class, as described in paragraph 27 above, predominate over individual issues.

Plaintiff Lopez' Individual Allegations

31. On or about July 19, 2000, in the Humbolt Park neighborhood on the West side of Chicago, 27-year-old Miguel Figueroa stood in the sunroof of a moving Pontiac Bonneville and fired shots from a .38-caliber weapon at rival gang members.

32. A stray bullet struck a nearby 12-year old boy, killing him.

33. Within a week, Miguel Figueroa confessed to the murder on videotape. He presently faces the death penalty for his crime.

34. At the time of the shooting Plaintiff, Joseph Lopez, was an 18-year-old resident of the Humbolt Park neighborhood.

35. The day following the shooting, Plaintiff was talking to a friend on the street when the two of them were approached by several Chicago police officers.

36. One of the officers was Officer Gomez, an officer known in Plaintiff's neighborhood as a dangerous and violent man.

37. Without any probable cause to believe Plaintiff had committed any wrongdoing, the officers handcuffed Plaintiff and placed him in their squad car.

38. The officers drove Plaintiff to a nearby alley. Following a brief interrogation, Officer Gomez punched Plaintiff in the face.

39. The officers told Plaintiff they believed he was a witness to the shooting. Plaintiff was then taken to the police station.

40. Upon his arrival at the police station, Defendants took Plaintiff to the "Area 5" detective division where he was placed in a small "interview room" and shackled to the wall with handcuffs.

41. Plaintiff Lopez was kept in this room for the approximately five days. The room contained no facility for sleeping. The room contained only a small metal bench of four feet in length and ten inches in width. At no time was Plaintiff furnished a mattress, blanket or pillow.

42. At no time during this approximately five day period was Plaintiff taken to court for a probable cause hearing. Rather, Plaintiff was kept from court pursuant to CPD policy which prevents felony arrestees from receiving a probable cause hearing or being transferred to the Cook County jail facility until the SAO approves charges against them. During this period of time several "hold forms" were issued to prevent Mr. Lopez from being transferred to the custody of Cook County or from receiving a probable cause hearing.

43. During virtually this entire period, Plaintiff remained in a small room/cell with his wrist handcuffed to a ring on the wall. The only human contact permitted Plaintiff was when

he was interrogated by various Defendant Police Officers who attempted to coerce him into confessing to the murder.

44. Under these conditions of confinement, Plaintiff was unable to obtain proper sleep.

45. During this approximately five day period, the Defendant officers and the CPD continued to investigate and develop evidence purportedly linking Mr. Lopez with the shooting.

46. During this time, Defendants also denied Plaintiff access to an attorney despite his requests to speak with an attorney.

47. Plaintiff's faculties were overcome by sleep deprivation and the unconstitutional and torturous tactics being used on him. Plaintiff at one point made an inculpatory statement indicating that he shot the boy. However, the facts of the statement conflicted with the true facts of the shooting. Upon being told that his facts were incorrect, Plaintiff recanted his statement.

48. After five days, the SAO approved the charge of capital murder against Mr. Lopez. Mr. Lopez, then only 18 years old, was informed that the death penalty would be sought against him. The CPD also announced to the public media that Plaintiff was the murderer.

49. Approximately one hour after prosecutors stated they were seeking the death penalty against Plaintiff, police

arrested Miguel Figueroa for the crime Plaintiff allegedly committed.

50. Thereafter, Figueroa (then age 28) gave a videotaped confession to the Chicago Police regarding the shooting.

51. Thereafter, Plaintiff was released and the wrongful charges against him were dismissed.

52. Notwithstanding the decision to initiate and pursue Plaintiff's prosecution, the Defendant Police Officers had actual knowledge that Plaintiff was not the killer.

53. Some of the eye-witnesses to the shooting told the Defendant Police Officers that Lopez was not the man who shot DeLaRosa. The shooter had a different complexion than Plaintiff and longer hair. Plaintiff's head was shaved at the time.

54. The Defendant Police Officers intentionally and without justification ignored these eyewitnesses who attested to Plaintiff's innocence, and instead claimed to have relied upon the purported identification of Plaintiff by several gang members hostile to Plaintiff.

55. This line-up conducted by the Defendant Police Officers, supposedly resulting in the positive identification of Plaintiff who was bald and ten years younger than the longer-haired shooter, was deeply flawed. The Defendant Police Officers intentionally chose to ignore the eyewitnesses who claimed Plaintiff was innocent and instead only attempted line-up identifications from gang members hostile to Plaintiff.

56. The Defendant Police Officers' actions referenced above were all taken intentionally to frame Plaintiff for a murder he did not commit.

**COUNT I - 42 U.S.C. § 1983:
Unlawful Detention Claim Of Plaintiff and The Class
Against Defendant City of Chicago**

57. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

58. As described more fully above, Plaintiff and the members of the Class have been detained without being afforded a prompt post-arrest probable cause hearings, all in a manner which violates the Fourth Amendment of the United States Constitution. This deprivation of Plaintiff and the Class members' constitutional rights was effected under color of law, and Plaintiff and the members of the Class have been damages as a result.

59. The City of Chicago caused this deprivation of rights and is liable for Plaintiff's and the Class Members' damages, *inter alia*, because:

a. The City of Chicago maintains an unjustified and unconstitutional policy preventing arrestees from obtaining a probable cause hearing until the SAO has completed a felony review process. The policy makes no exception for instances when the SAO does not complete its review within 48 hours. Indeed, the City Of Chicago maintains the hold past court call procedure

which is designed to prevent an arrestee from obtaining a probable cause hearing while CPD gather additional evidence;

b. The City of Chicago fails to adequately train its officers on the constitutional requirements for affording prompt probable cause hearings, and fails to supervise and control its officers' activities in this area, and is thereby the moving force behind the very type of misconduct at issue here, and its failure to do so manifests deliberate indifference;

c. As a matter of both policy and practice, the Chicago Police Department facilitates the very type of misconduct at issue here by failing to adequately punish and discipline prior instances of similar misconduct, thereby leading Chicago Police Officers to believe their actions will never be scrutinized and, in that way, directly encouraging future abuses such as those affecting Plaintiff and the members of the Class; and

d. The City of Chicago has failed to act to remedy the patterns of misconduct described in the preceding sub-paragraphs, despite actual knowledge of the same, thereby causing the types of injuries alleged here.

WHEREFORE, the named Plaintiff, JOSEPH LOPEZ, on behalf of himself and a class of others similarly situated, respectfully requests that the Court certify the Class defined herein and enter judgment against Defendant CITY OF CHICAGO, awarding appropriate compensatory damages, establish a common fund with

all of these monies to award Plaintiff a portion thereof for his attorneys fees, award statutory attorneys' fees, and award any other relief this Court deems just and appropriate.

**COUNT II - 42 U.S.C. § 1983:
Fourteenth Amendment Claim Of Plaintiff and The Class
Against Defendant City of Chicago**

60. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

61. As described more fully above, Plaintiff and the members of the Class have been subjected to torturous conditions of confinement while being held in the custody of the CPD including being deprived of even minimally proper facilities for sleeping, all in a manner which violates the Fourteenth Amendment of the United States Constitution. The deprivation of Plaintiff and the Class members' constitutional rights was under color of law, and Plaintiff and the members of the Class have been damaged as a result.

62. The City of Chicago caused this deprivation of rights and is liable for Plaintiff's and the Class Members' damages, *inter alia*, because:

a. The City of Chicago maintains an unjustified and unconstitutional policy discussed above which prevents arrestees from being transferred to the Cook County jail for extended periods of time in order to prevent them from being transported to court for a probable cause hearing. This policy causes arrestees to remain in CPD custody for extended periods of

time, but yet the City of Chicago fails to provide any facility designed for housing arrestees for such duration and in particular for affording them minimally appropriate facilities for sleeping. The need for appropriate sleeping facilities while being detained for extended periods by the CPD is so obvious that the failure to provide them while continuing to maintain this policy manifests deliberate indifference;

b. The City of Chicago maintains no policies regarding furnishing proper sleeping facilities to arrestees, nor does it maintain any policies regarding the maximum duration for which an arrestee may be kept in an interview room. The failure to maintain such policies is likely to result in the unconstitutional use of such rooms to house arrestees that it manifests deliberate indifference;

c. The City of Chicago fails to adequately train its officers on the constitutional requirements for affording proper care for persons detained in its custody for extended periods, and fails to supervise and control its officers activities regarding care for arrestees needs during such detentions, and is thereby the moving force behind, the very type of misconduct at issue here, and its failure to do so manifests deliberate indifference;

d. As a matter of both policy and practice, the Chicago Police Department facilitates the very type of deprivation at issue here by failing to adequately punish and

discipline officers involved in prior instances of similar deprivations, thereby leading Chicago Police Officers to believe their actions will never be scrutinized and, in that way, directly encourages abuses such as those affecting Plaintiff and the members of the Class; and

e. The City of Chicago has failed to act to remedy the patterns of deprivation described in the preceding sub-paragraphs, despite actual knowledge of the same, thereby causing the types of injuries alleged here.

WHEREFORE, the named Plaintiff, JOSEPH LOPEZ, on behalf of himself and a class of others similarly situated, respectfully requests that the Court certify the Class defined herein and enter judgment against Defendant CITY OF CHICAGO, awarding appropriate compensatory damages, establish a common fund with all of these monies to award Plaintiff a portion thereof for his attorneys fees, award statutory attorneys' fees, and award any other relief this Court deems just and appropriate.

**COUNT III - 42 U.S.C. § 1983:
Individual Excessive Force Claim Of The Plaintiff**

63. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

64. As a result of Officer Gomez's unjustified and excessive use of force, Plaintiff suffered pain and injury, as well as emotional distress.

65. As a result of the failure of Officer Myers, Officer Gomez's partner, to intervene to prevent Officer Gomez's

excessive use of force, Plaintiff suffered pain and injury, as well as emotional distress. Officer Myers had a reasonable opportunity to prevent the harm had he been so inclined, but failed to do so.

66. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

67. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

68. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in that:

a. As a matter of both policy and practice, the Chicago Police Department directly encourages, and is thereby the moving force behind, the very type of excessive force at issue here by failing to adequately train, supervise and control its officers, such that its failure to do so manifests deliberate indifference;

b. As a matter of both policy and practice, the Chicago Police Department facilitates the very type of excessive force at issue here by failing to adequately punish and discipline prior instances of misconduct, thereby leading Chicago Police Officers to believe their actions will never be

scrutinized and, in that way, directly encouraging future abuses such as those affecting Plaintiff;

c. Generally, as a matter of widespread practice so prevalent as to comprise municipal policy, officers of the Chicago Police Department use excessive force against citizens in a manner similar to that alleged by Plaintiff in this Court on a frequent basis, yet the Chicago Police Department makes findings of wrongdoing in a disproportionately small number of cases;

d. Municipal policy-makers are aware of (and condone and facilitate by their inaction) a "code of silence" in the Chicago Police Department, by which officers fail to report misconduct committed by other officers, such as the misconduct at issue in this case; and

e. The City of Chicago has failed to act to remedy the patterns of abuse describe in the preceding sub-paragraphs, despite actual knowledge of the same, thereby causing the types of injuries alleged here.

WHEREFORE, Plaintiff, JOSEPH LOPEZ, respectfully requests that the Court enter judgment in his favor and against Defendants, CITY OF CHICAGO, OFFICER JOSE GOMEZ and OFFICER ROBERT MYERS, awarding compensatory damages and attorneys' fees, along with punitive damages against Defendants OFFICER JOSE GOMEZ and OFFICER ROBERT MYERS in their individual capacities, and any other relief this Court deems just.

**COUNT IV - State Law Claim:
Plaintiff's Individual Claim For Assault and Battery**

69. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

70. As described more fully in the preceding paragraphs, Plaintiff was attacked by Defendant Officer Gomez without justification or provocation.

71. The actions of Defendant Officer Gomez constituted an offensive physical contact, undertaken willfully and wantonly, proximately causing Plaintiff's injuries.

72. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

73. As a result of the offensive touching, Plaintiff sustained bodily injuries, including but not limited to a reasonable apprehension of great bodily harm.

WHEREFORE, Plaintiff, JOSEPH LOPEZ, respectfully requests that the Court enter judgment in his favor and against Defendant, OFFICER JOSE GOMEZ, awarding compensatory damages and punitive damages, as well as any other relief this Court deems just and appropriate under the circumstances.

**COUNT V - State Law Claim:
Plaintiff's Individual Claim For
Intentional Infliction of Emotional Distress**

74. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

75. As described more fully in the preceding paragraphs, the Defendant Police Officers engaged in extreme and outrageous conduct with respect to Plaintiff, to wit, the Defendants used violence, torture and unlawful methods to attempt to coerce Plaintiff into confessing to a murder he did not commit.

76. The misconduct described in this Count was undertaken with intent, knowledge or callous disregard for the fact that there was a high probability that the conduct would inflict severe emotional distress on Plaintiff.

77. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

78. As a proximate result of this misconduct, Plaintiff suffered severe emotional distress and anguish.

WHEREFORE, Plaintiff, JOSEPH LOPEZ, respectfully requests that the Court enter judgment in his favor and against the DETECTIVE JAMES, DELAFONT, DETECTIVE JENNIFER DeLUCIA, DETECTIVE HECTOR VERGARA, OFFICER JOSE GOMEZ, OFFICER DANIEL JACOBS and OFFICER ROBERT MYERS, awarding compensatory damages, punitive damages, and any other relief this Court deems just and appropriate under the circumstances.

**Count VI - 42 U.S.C. § 1983:
Individual Claim for Unlawful Detention By The Defendant Officers**

79. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

80. As described more fully above, Defendants held Plaintiff without affording him a probable cause hearing in a manner which violated the Fourth Amendment.

81. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

82. As a result of this misconduct, Plaintiff sustained damages.

83. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully above.

WHEREFORE, Plaintiff, JOSEPH LOPEZ, respectfully requests that the Court enter judgment in his favor and against Defendants, awarding compensatory damages, punitive damages against DETECTIVE JAMES, DELAFONT, DETECTIVE JENNIFER DeLUCIA, DETECTIVE HECTOR VERGARA, OFFICER JOSE GOMEZ, OFFICER DANIEL JACOBS and OFFICER ROBERT MYERS in their individual capacities, and any other relief this Court deems just and appropriate under the circumstances.

Count VII - 42 U.S.C. § 1983
Individual Claim For Police Torture By Defendant Officers

84. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

85. In attempting unlawfully to coerce Plaintiff to confess to a murder he did not commit, the Defendants employed such inhuman methods as shackling Plaintiff's wrist to the wall for excessive amounts of hours and intentionally depriving Plaintiff of sleep.

86. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

87. As a result of this misconduct, Plaintiff sustained physical and emotional injuries.

88. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully above.

WHEREFORE, Plaintiff, JOSEPH LOPEZ, respectfully requests that the Court enter judgment in his favor and against the Defendants, awarding compensatory damages, punitive damages against the DETECTIVE JAMES, DELAFONT, DETECTIVE JENNIFER DeLUCIA, DETECTIVE HECTOR VERGARA, OFFICER JOSE GOMEZ, OFFICER DANIEL JACOBS and OFFICER ROBERT MYERS in their individual capacities, and any other relief this Court deems just and appropriate under the circumstances.

**Count VIII - State Law Claim:
Individual Claim For Respondeat Superior**

89. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

90. In committing the acts alleged in the preceding paragraphs, the Defendant Police Officers were members of, and agents of, the Chicago Police Department acting at all relevant times within the scope of their employment.

91. Defendant CITY OF CHICAGO is liable as principal for all torts committed by its agent.

WHEREFORE, Plaintiff, JOSEPH LOPEZ, respectfully requests that the Court enter judgment in his favor and against Defendant, CITY OF CHICAGO, in an amount equal to any award against the Defendant Police Officers, as well as any other relief this Court deems just and appropriate under the circumstances.

**COUNT IX - State Law Claim:
Individual Claim Based On Indemnification Statute**

92. Plaintiff realleges each of the forgoing paragraphs as if fully stated herein.

93. Illinois law, 735 ILCS 10/9-102, provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

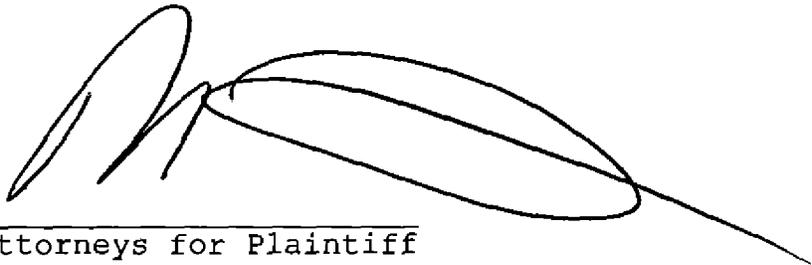
94. The Defendant Police Officers are or were employees of the City of Chicago who acted within the scope of their employment in committing the misconduct described herein.

WHEREFORE, Plaintiff, JOSEPH LOPEZ, respectfully requests that the Court enter judgment in his favor and against Defendant CITY OF CHICAGO in the amounts awarded to Plaintiffs against Defendant Police Officers as compensatory damages, attorneys' fees, punitive damages, and any other relief this Court deems just and appropriate under the circumstances.

JURY DEMAND

Plaintiff, JOSEPH LOPEZ, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED,



Attorneys for Plaintiff

Arthur Loevy
Michael Kanovitz
Jon Loevy
Jon Rosenblatt
LOEVY & LOEVY
312 North May St.
Suite 100
Chicago, IL 60607
(312) 243-5900