

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 04-20707-CIV-ALTONAGA/Bandstra

**BENTLEY KILLMON, JARED ALDRICH,
PAUL BAME, STEFANO BLOCH, STEVEN
DIAMOND, COLLEEN FLYNN, FARAH
FOSSE, GAN GOLAN, ERNESTO LONGA,
MICHAEL McLEAN, DAVID MITCHELL,
JAMES MOORBY, MICHAEL PITULA,
LAUREL RIPPLE, CYNTHIA ROSIN, CALEB
SELMAN, AUSTIN STEWART, MIKEL STONE,
IVAN WELANDER, VICTORIA WELLE,
LARRY WINAWER,**

Plaintiffs,

v.

**CITY OF MIAMI, a municipal entity; JOHN
TIMONEY, in his official and individual capacity
as Chief of the Miami Police Department;
CARLOS ALVAREZ, in his individual capacity;
MIAMI-DADE COUNTY; KEN JENNE, in his
official and individual capacity as SHERIFF
BROWARD COUNTY; CITY OF HIALEAH, a
municipal entity; TOM RIDGE, in his official
capacity only as Secretary of the United States
Department of Homeland Security; JOHN
ASHCROFT, in his official capacity only as
Attorney General of the United States; FRANK G.
FERNANDEZ, in his official and individual
capacity as a Deputy Chief of the Miami Police
Department; LOUIS BATTLE, in his individual
and official capacity as a Major with the Miami-
Dade Police Department; JAMES O'DONNELL,
in his individual and official capacity as a Captain
with the Miami-Dade Police Department;
CARLOS ACIN, in his individual and official
capacity as an officer with the Miami-Dade Police
Department; PELHAM, in his individual and
official capacity as an officer with the Miami
Police Department; TOWNSEND, in his
individual and official capacity as an officer with
the Miami Police Department; SAYIH, in his
individual and official capacity as an officer with
the Miami Police Department; BALBUENA, in his
individual and official capacity as a sergeant with**

the Miami Police Department; ROMERO Badge #6097, in his individual and official capacity as an officer with the Miami Police Department; LT. ALVAREZ, in his individual and official capacity as a lieutenant with the Miami Police Department; J. GUERRA Badge #2600, in his individual and official capacity as an officer with the Miami Police Department; FERNANDO DURANTANO Badge #5830, in his individual and official capacity as an officer with the Miami Police Department; MERCED, in his individual and official capacity as an officer with the Miami Police Department; Badge #2976, in his individual and official capacity as an officer with the Miami Police Department; J. PASTOR Badge #5533, in his individual and official capacity as an officer with the Miami Police Department; ROMERO Badge #4508, in his individual and official capacity as an officer with the Miami-Dade Police Department; ESPINOSA Badge #4840, in his individual and official capacity as an officer with the Miami-Dade Police Department; L. PEREZ Badge #2436, in his individual and official capacity as an officer with the Miami-Dade Police Department; J. LEON Badge #4329, in his individual and official capacity as an officer with the Miami-Dade Police Department; C. MOON Badge #4335, in his individual and official capacity as an officer with the Miami-Dade Police Department; F. REYNOLDS Badge #4606, in his individual and official capacity as an officer with the Miami-Dade Police Department; ERDO BERMUDEZ, in his individual and official capacity as an officer with the Miami-Dade Police Department; FADREY, in his individual and official capacity as an officer with the Miami-Dade Police Department; E. TODORO, in his individual and official capacity as an officer with the Miami-Dade Police Department; J. DeARMAS Badge #4317, in his individual and official capacity as an officer with the Miami-Dade Police Department; RILEY Badge #3924, in his individual and official capacity as an officer with the Miami-Dade Police Department; T. WEVER Badge #4994, in his individual and official capacity as an officer with the Miami-Dade Police Department; M. ROMERO Badge #3935, in his individual and official capacity as an officer with the Miami-Dade Police Department; Det. R. DEAN, in his

individual and official capacity as an officer with the Miami-Dade Police Department; M. NEILLY Badge #6370, in his individual and official capacity as an officer with the Broward Sheriff's Office; BADGE #5345, in his individual and official capacity as an officer with the Broward Sheriff's Office; N. MANDERA Badge #8527, in her individual and official capacity as an employee with the Broward Sheriff's Office; R. RAHMING Badge #5861, in his individual and official capacity as an officer with the Broward Sheriff's Office; YAN PEREZ Badge #1176, in his individual and official capacity as an officer with the Hialeah Police Department; LUIS SEVILLA, in his individual and official capacity as an officer with the Hialeah Police Department; ORETEGA, in his individual and official capacity as an officer with the Hialeah Police Department; COSTANO, in his individual and official capacity as an officer with the Hialeah Police Department;

Defendants.

SECOND AMENDED COMPLAINT

CLASS ACTION - F.R.CIV.P. 23(b)(2)

JURY TRIAL DEMANDED

INTRODUCTION

1. This action is brought to challenge the policies of deliberate preemption and disruption of lawful expressive activity, mass false arrests, and unreasonable force against peaceful demonstrators during the protests of the Free Trade Area of the Americas (FTAA) ministerial meetings in November 2003 in Miami. Law enforcement coordinated an all out assault on the First Amendment, engaging in widespread political profiling, and swept the streets of anyone viewed as being an anti-FTAA activist, effectively suspending the Fourth Amendment in the city for approximately ten days. Pursuant to a joint federal and local operation plan developed under the

auspices of Homeland Security, the Miami Police Department “spearheaded” a multi-agency taskforce, including the Miami-Dade Police Department, the Broward County Sheriff, and 23 other local law enforcement agencies, seven state agencies and seven federal law enforcement agencies, in carrying out a deliberate plan to preempt political protest. Unabashedly, defendant **TIMONEY** announced that defendants’ actions were based on the policy that: “[t]he easiest way to prevent violence and disturbance at the FTAA Summit was to use a heavy police presence to limit protest.”

JURISDICTION AND VENUE

2. This action seeks injunctive relief and damages pursuant to 42 U.S.C. § 1983 for past, ongoing and threatened injury to the First and Fourth Amendment rights of plaintiffs. This Court has jurisdiction over plaintiffs’ claims pursuant to 28 U.S.C. §§ 1331 and 1343 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2201.

3. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 1391(b) as all of defendants reside in this district and all of the acts and omissions giving rise to this action occurred or will occur in the Southern District of Florida.

JURY TRIAL DEMAND

4. Plaintiffs demand a jury trial in this action.

THE PARTIES

PLAINTIFFS:

5. Plaintiff **BENTLEY KILLMON** is a 71-year-old retired airline pilot and Korean War veteran. He is a resident of the State of Florida. On November 20, 2003, he participated in the permitted AFL-CIO rally and march in conjunction with the FTAA meetings. He was accosted without warning by approximately 50 to 60 officers as he walked along the railroad tracks near NE 6th Street and North Miami Avenue with a group of 15 to 20 individuals, while trying to find his bus for the return trip to Ft. Myers.

He was forcibly shoved to the ground, handcuffed and arrested, without probable cause and with unreasonable force, by officers, who wore no visible identifiable agency or name information, but who are believed to be employees of the defendant **BROWARD SHERIFF'S OFFICE**, acting in coordination with supervisors and officers from the **MIAMI POLICE DEPARTMENT**. The officer who signed the arrest form for **KILLMON** was defendant **BSO** Deputy M. **NEILLY**, badge #6370; however, Deputy **NEILLY** could not and did not see **KILLMON** violate any law or engage in an unlawful assembly, as charged. **NEILLY** is believed to have acted with Defendant **MANDERA** and other presently unknown officers from **BSO** and other agencies in the arrest of, and use of excessive force against, **KILLMON**. Defendant **MANDERA** used such force in the process of handcuffing **KILLMON** that he suffered damage to his shoulder, requiring surgery. **KILLMON** was held for an excessive period of time, including for approximately five hours after all charges against him were dismissed and he was ordered released by the court. **KILLMON** was initially held in a makeshift detention facility, similar to dog kennels, where he was kept in handcuffs in the "kennel" cell for extended time, kept in handcuffs, denied access to food, water and bathroom facilities and denied the right to make a phone call in a timely manner. All charges against him were dismissed at the initial bond hearing. **KILLMON** wants to return to the Miami area to participate in other similar large-scale expressive activities, but fears that he will be subjected to arrest and prosecution without probable cause again and solely on the basis of some political and ideological profiling by the police, and that such information has and will be disseminated by all of the Defendants, including the federal defendants **RIDGE** and **ASHCROFT**, to law enforcement around the country, incorrectly labeling **KILLMON** as someone who is likely to break the law.

6. Plaintiff **JARED ALDRICH** is a resident of the State of California. He traveled to Miami to serve as a Street Medic during the protests of the FTAA meetings. **ALDRICH** arrived in Miami at approximately 2 p.m. on November 17, 2003, and, within minutes of arriving at the FTAA

demonstrators' Convergence Center, he observed that he and his friends were being filmed by plainclothes officers. A few hours later, **ALDRICH** was stopped, questioned, detained and photographed by approximately 15 bicycle officers with the **MPD**, and others who identified themselves as being with the "federal protective service," all without his consent and without reasonable suspicion or probable cause other than the fact that he was profiled as an FTAA protestor. He was detained, arrested, and subjected to an unlawful search on November 17, 2003, by officers with the **MIAMI POLICE DEPARTMENT ("MPD")**, all without probable cause or reasonable suspicion to believe he had or was about to commit a crime, while riding his bicycle on a public street, as he stopped to look at the temporary fence erected around the "secure zone," where the FTAA meetings were to be held. He was held for a period of time in the "kennel," and transported to the jail, from where he was taken to his first bail hearing in hand and leg shackles. He was kept in custody unlawfully by defendant **COUNTY OF MIAMI-DADE** until November 20th, and was not released until 9 hours after posting bail on the 19th. He was arrested for a second time by several officers with the **MIAMI-DADE POLICE DEPARTMENT ("M-DPD")**, including defendant Officer **ROMERO**, badge number 4508, on November 21, 2003, without probable cause and with unreasonable force, when he was surrounded by bicycle officers, ordered to the ground, kicked and arrested by officers with the **M-DPD** as he dispersed from a peaceful vigil outside the Dade County jail. He was charged with unlawful assembly, purportedly for failing to comply with an order given by command officers with the **MIAMI-DADE POLICE DEPARTMENT**, even though he had complied with all orders to disperse from the Dade County jail area and was, in fact, arrested by a group of 15-20 bicycle officers with the **M-DPD** while walking peacefully several blocks away from the site of the jail vigil. He was kicked in the back by an unidentified officer with the **M-DPD**, even as he complied with the unlawful arrest orders, and his bike was taken and never returned. After being

taken into custody, he was held for approximately six hours in the makeshift detention facility, fashioned like a “kennel,” where he was denied access to water and bathroom facilities and kept in tight handcuffs. Ultimately, he was released on his own recognizance. His charges were dismissed nolle prosequi on or about April 26, 2004. Plaintiff wants to return to Miami for future demonstrations, including those against the FTAA, but is fearful that, if he does so, he will again be subject to violations of his rights as set forth herein, and that information about his wrongful arrests has and will be disseminated by the Defendants, including defendant **RIDGE** and **ASHCROFT**, to law enforcement around the country, labeling him as a potential lawbreaker.

7. Plaintiff **PAUL BAME** is a 43-year-old software engineer from Fort Collins, Colorado. He came to Miami as a radio reporter for a non-commercial educational radio station in Fort Collins, where he volunteers in the news department. He also planned to participate in the November 20, 2003 permitted rally and march sponsored by the AFL-CIO. He was arrested without probable cause on November 15, 2003, by defendants **PELHAM**, **TOWNSEND** and **SAYIH**, all officers with the **MPD**, after he took photographs of the police detaining one of his friends while they were all standing on a public sidewalk during daylight hours in a retail area of downtown. When he was arrested, a **MPD** officer took the image card from Bame’s digital camera and erased the photographs before returning the camera, although Bame was later able to recover the images from the memory card. He was charged with obstructing a sidewalk even though he was not doing so. All charges against him were dismissed on May 27, 2004. **BAME** was held in custody for approximately 6 hours and then released with no bond hearing. While **BAME** was held in custody, he was subjected to a coerced interrogation about his political beliefs by individuals who identified themselves as agents with the FBI, an entity within the jurisdiction of the federal defendants. **BAME** was visited at his workplace in the summer of 2004 by agents from the FBI, an agency of the federal defendants, who sought to question him

about his involvement in future demonstrations. **BAME** is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

8. Plaintiff **STEFANO BLOCH** is a graduate student at the University of California, Los Angeles. He was present on the grassy knoll in Bayfront Park when the police opened fire on the group with less-lethal munitions and chemical weapons. He left the area immediately and began walking back to the Convergence Center at 23rd Street and North Miami Avenue. He was arrested on November 20, 2003 by officers with the **M-DPD**, without probable cause and with unreasonable force, as police from multiple agencies swept the downtown area near the FTAA demonstrator's Convergence Center. Although he complied with all orders by the police to get down on the ground, officers with the **M-DPD** used unwarranted and excessive force against him after he was on the ground and was clearly not resisting his unlawful arrest. His arrest form is signed by defendant **ESPINOSA**, whose badge number is believed to be either 4840 or 4810. At the time of his arrest, Bloch was sitting on private property, with the permission of the property residents, with three friends after the permitted AFL-CIO march. After being taken into custody, he was held in the makeshift detention facility, fashioned like a "kennel," where he was kept in handcuffs for much of the time, denied access to food, water and bathroom facilities. **BLOCH** was taken into custody at approximately 5:30 p.m. on November 20, 2003, was ordered released at his bail hearing at 10:00 a.m. on November 21, 2003, but was not released by defendant **M-DPD** for approximately half a day following his bond hearing, at which all of the charges against him were dismissed. **BLOCH** is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

9. Plaintiff **STEVEN DIAMOND** is a 28-year-old from Dover, New Hampshire. He is

a certified Emergency Medical Technician and Wilderness Emergency Medical Technician and is also trained as a Street Medic. He was detained by approximately a dozen bicycle officers from the **MIAMI POLICE DEPARTMENT** and an officer in a SWAT-like black jumpsuit, who is also believed to be with **MPD**, handcuffed, subjected to a nonconsensual search of his person and property, and arrested, without probable cause, while walking on the Flagler bridge in an eastbound direction toward the Amphitheater area on the morning of November 19, 2003. At the time, **DIAMOND** was almost a mile from Amphitheater. One of the officers, believed to be with the defendant **MPD**, who was involved in the unlawful detention, search and arrest of plaintiff **DIAMOND**, was defendant **DURANTANO**, badge #5830. Other officers, who arrived after the MPD detained and searched him, were wearing a lighter color uniform and are believed to be with the defendant **M-DPD**. **DIAMOND** was arrested by officers from the **M-DPD**, who responded to the unlawful stop for unknown reasons. The only basis for the initial stop of **DIAMOND** was political profiling on the ground that he was believed to be a demonstrator against the FTAA. While in police custody, **DIAMOND** was also subjected to non-consensual questioning by an Alcohol Tobacco and Firearms (ATF) agent, an employee of Defendant Ashcroft, about his political beliefs. He was held in custody for five days. His personal property taken at the time of arrest was never returned. He was originally charged with felony possession of “burglar” tools based on a small combination pocket knife/tool he had in his possession, as well as with a misdemeanor “unlawful assembly” charge. The charges were changed to giving a false name after arrest because he initially asserted his constitutional right to refuse to identify himself to the police since there was not even reasonable suspicion to stop him or believe he had, or was about to, commit a crime. **DIAMOND** was held in custody for approximately 13 hours after his bail was posted. The charges were reduced to a single misdemeanor count of resisting arrest without violence. All charges against him have now been dismissed. **DIAMOND** is fearful that

information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

10. Plaintiff **COLLEEN FLYNN** is a lawyer in California. She was at the grassy knoll outside Bayfront Park Amphitheater following the permitted AFL-CIO march when officers abruptly ordered the group to disperse, then tear gassed and used other force against the demonstrators. She was arrested on November 20, 2003 by officers from the **MIAMI-DADE POLICE DEPARTMENT**, including defendant **L. PEREZ**, badge number 2436, without probable cause and with unreasonable force, as police from multiple agencies swept the downtown area near the FTAA demonstrator's Convergence Center. At the time of her arrest, **FLYNN** was sitting with plaintiff **BLOCH** and two other friends on private property, with the permission of the property residents. She was charged with unlawful assembly and obstruction of justice. She was alleged to be with 200 other demonstrators who, according to the boilerplate language in the arrest form, failed to obey repeated orders to disperse. After being taken into custody, she was held in the makeshift detention facility, fashioned like a "kennel," where she was denied access to food, water and bathroom facilities. **FLYNN** was taken into custody at approximately 5:30 p.m. on November 20, 2003, was ordered released at her bail hearing at 10:00 a.m. on November 21, 2003, but was not released by defendant **M-DPD** for approximately half a day following the bond hearing, at which all of the charges against her were dismissed. **FLYNN** is fearful that information about this wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that she has been labeled as someone who is likely to break the law.

11. Plaintiff **FARAH FOSSE** is a research and communications consultant for non-profit organizations and a substitute teacher in the Washington, D.C. school system. On November 15, 2003, she was detained on a public sidewalk, during daylight hours while in a retail shopping area of

downtown. The basis for stopping **FOSSE** and her friends, including plaintiff **BAME**, was political profiling as anti-FTAA protestors. **FOSSE** was detained without any reasonable basis in the law for doing so by defendant Sgt. **BALBUENA** of the **MPD**. Her arrest form is signed by defendant **ROMERO**, **MPD** Badge #6097. **FOSSE** was subjected to interrogation, without reasonable suspicion to believe she had committed, or was about to commit a crime. She was physically restrained by officers with the **MPD** and questioned as to where she was from, how long she had been in town and how she [had traveled](#) to Miami. She was arrested by the **MPD** after a nonconsensual search of her property produced several FTAA-related flyers. While under arrest at the Miami police station, she was subjected to a coerced interrogation by a team of eight law enforcement officers, who stated they were part of a Joint Task Force, including several believed to be agents with the federal defendants. She was charged with “obstructing” a sidewalk, in violation of Miami Code §54-2. **FOSSE** was held in custody for approximately 6 hours and then released with no bond hearing. The charges were all dismissed on May 27, 2004. **FOSSE** is fearful that information about this wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that she has been labeled as someone who is likely to break the law.

12. Plaintiff **GAN GOLAN** is a graduate student in International Relations at the Massachusetts Institute of Technology. He was arrested on November 21, 2003 by officers with the **M-DPD**, without probable cause and unreasonable force, as he complied with unlawful police orders to disperse from a lawful assembly outside the Dade County Jail. He was part of a group of approximately 60 demonstrators who were trapped, beaten and sprayed with chemicals by unidentified officers with the **M-DPD**, as **GOLAN** and the others fully complied with police orders to disperse by walking on the public sidewalk. **GOLAN** was deliberately sprayed with chemical irritants at close range, in his face, and into orifices on his face and also had several abrasions on his back and a cut on

his head from officers dragging him on the ground. At the time that this occurred and prior to this time, **GOLAN** was not resisting arrest and had obeyed with all orders to disperse. His arrest form was signed by defendant **M-DPD** officer **J. LEON**, badge #4329. After his arrest, **GOLAN** was taken into a “hazmat” area, where the group was “decontaminated” by personnel in fully-sealed chemical protection suits and gas masks. **GOLAN**’s clothes were cut off of him and he was stripped naked, then sprayed all over his body with alleged decontaminants. **GOLAN** was held in custody for two nights and released on bail on November 23, 2003. He was charged with unlawful assembly, later reduced to failure to obey a lawful order, and resisting arrest peacefully. He received a directed judgment of acquittal at trial on January 28, 2004. Subsequent to his arrest, **GOLAN** was seen by physician for lack of sensation in his hand and was diagnosed with nerve damage. Personal property was also not returned to **GOLAN** upon his release from jail. **GOLAN** is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

13. Plaintiff **ERNESTO LONGA** is a third year-law student and served as a legal observer for the National Lawyers Guild during the FTAA protests. He is a resident of Hollywood, Florida. He was arrested by officers with defendant **M-DPD** on November 21, 2003, as he complied with unlawful police orders to disperse from a lawful assembly outside the Dade County Jail. His arrest form was signed by defendant **M-DPD** Officer **C. MOON**, badge # 4335, but defendant **MOON** is believed to have acted with other officers with the defendant **M-DPD** and with the knowledge and approval of command officers with defendant **M-DPD**. He was charged with unlawful assembly and resisting arrest without violence. **LONGA** was arrested at approximately 5 pm. on November 21, 2003 and released at approximately 2:30 a.m. on November 23, 2003. The charges were dismissed on February 9, 2004, after the Lieutenant who gave the defective dispersal order failed to appear for the

trial. The charges against **LONGA** were refiled after the filing of this action, and after the directed verdict of acquittal for plaintiff **GOLAN** in the same incident. **LONGA** wants to participate as a legal observer at large-scale First Amendment assemblies in Miami. He is unwilling to do so because of fear that he will again be subjected to arrest and prosecution without probable cause based on political and ideological profiling by defendants. **LONGA** is also fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

14. Plaintiff **MICHAEL McLEAN** is a resident of Mahwah, New Jersey. He was arrested on November 20, 2003, without probable cause and with unreasonable force, including being tackled and tasered, without provocation, as he waited in line to enter the Bayfront Park Amphitheater for the permitted AFL-CIO rally. **McLEAN** observed an officer, who is believed to be with defendant **MPD**, but who had no identifying information on his black jumpsuit, point to him and his friends. A phalanx of officers then pushed their way through to the group, tackled, tasered, handcuffed and arrested them, all without warning or provocation. The arrest form for **McLEAN** states that he was arrested by officers with the defendant **CITY OF HIALEAH POLICE DEPARTMENT (“HPD”)**. The arrest form was signed by Hialeah Officer **YAN PEREZ**, badge #1176. Officer **PEREZ** forcefully kned **McLEAN** in his back, while **PEREZ** and other officers, including **OFFICER LUIS SEVILLA** of **HPD SWAT**, repeatedly shot **McLEAN** in the back with a taser weapon. The sole criminal charge filed against **McLEAN** was “resisting an officer without violence.” Nonetheless, **McLEAN** was shot with the taser even though he was not resisting arrest and even after he was handcuffed by the officers. After **McLEAN** was handcuffed, he was lifted and carried away from the area in front of the Amphitheater. He was questioned by an officer in black riot gear and a black facemask, with no visible identification, who refused to provide **McLEAN** with the officer’s identity. **McLEAN** was

taken into custody by eight other officers, including defendants **ORETEGA** and **COSTANO**, both of whom are believed to be with the **HPD**. While in custody, **McLEAN** was subjected to repeated derogatory remarks and spitting by approximately 30-40 officers in brown and black riot gear, believed to be with the defendant **M-DPD**, who called him a “faggot,” and made other derogatory remarks, while laughing and spitting at him. The officers with the **HPD**, including defendants **ORETEGA** and **COSTANO**, held **McLEAN** in front of the **M-DPD** officers for a minute or more to permit the abusive treatment to continue, laughing all the time. **McLEAN** was then brought behind a white police van, where the officers from **HPD** emptied his pockets and searched his backpack, all without his consent. Two of the officers took personal pictures of themselves with **McLEAN**’s FTAA banner, which they had found in searching his backpack. Once placed in the van, the officers informed **McLEAN** that they needed to search his back pockets, although they had just done so. This was a pretext to permit the officers to assault **McLEAN** and expose him to further ridicule. They directed **McLEAN** to bend over and then **ORETEGA** pulled **McLEAN**’s pants down around his ankles and pulled **McLEAN**’s boxer shorts up over his handcuffs, exposing his genitals and squeezing them, all in public view. As plaintiff protested his treatment and the officers present laughed, one of the **HPD** officers, believed to be **ORETEGA** or **COSTANO**, yelled at **McLEAN** to “Shut the fuck up! You’re our fucking bitch!” The officers took plaintiff’s backpack from him and it was missing when he arrived at the detention facility. Approximately three hours after being taken into custody, **McLEAN** was brought to the makeshift detention facility, fashioned like a “kennel,” where he was denied access to food, water and bathroom facilities. His bail was originally set at \$10,000 for a felony, which was then reduced to a misdemeanor count of resisting arrest. **McLEAN** was also subjected to a non-consensual strip search after posting bond and immediately prior to his release from jail. The charges were dismissed nolle prosequi on May 17, 2004. Plaintiff is fearful that information about his

wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

15. Plaintiff **DAVID MITCHELL** is a student at the University of Michigan at East Lansing. He organized a bus of activists to travel to Miami for the FTAA protests, the costs of which were subsidized by the local AFL-CIO unions. In the early morning of November 20, 2003, he was walking in a group of approximately 100 persons toward the Bayfront Park Amphitheater, where the permitted AFL-CIO rally and march were to occur. The group was stopped by police and told they would have to proceed in smaller clusters or be “escorted” to buses to take them out of the area. Despite full compliance with this unlawful order, **MITCHELL** was among those herded, assaulted and arrested by a group of bicycle officers, all without probable cause and with unreasonable force. He was detained with several hundred people, all of whom were surrounded by **MPD** policemen on bicycles and in riot gear, in front of the Miami Police Department near the intersection of NW 2nd Avenue and NW 3rd Street. After about an hour of being surrounded and detained by the **MPD** at police headquarters, **MITCHELL** and the others were informed by the police that he and the other FTAA demonstrators could leave in small groups to the north on NW 2nd Avenue, away from the scheduled AFL-CIO rally site, or be escorted by the police to buses to take them out of the downtown Miami area. Almost as soon as **MITCHELL** left and headed north on NW 2nd Avenue in a small group of people, being certain to remain on the sidewalk on the east side of the road so as to not give the police any pretext to further detain him, two rows of police on bicycles began riding side by side up the same sidewalk on which **MITCHELL** was walking. The police in front, including defendant **LT. ALVAREZ**, ran into his legs several times with their bicycles, while yelling at **MITCHELL** to “stop kicking my bike,” which **MITCHELL** was not doing. Although the police appeared to be deliberately riding into him to provoke some type of response, **MITCHELL** did not respond and

attempted to get out of their way. Hedged by the two rows of bicycle cops on the sidewalk, there was not enough room for people to stay on the sidewalk. **MITCHELL** and the others were forced into the street at this point because the bicycle police had made it impossible to walk on the sidewalk since the police were riding in pairs on the sidewalk. **MITCHELL** was surrounded on all sides by the bicycle officers at NW 1st Place. **MITCHELL** was struck by an officer on a bike, knocking **MITCHELL** to the ground, who then alleged that **MITCHELL** had struck him. After **MITCHELL** was on the ground, defendant **LT. ALVAREZ** came up and patted him on the back and said, “that was fucking great wasn’t it.” **MITCHELL** was charged with a felony, which was reduced to a misdemeanor count of resisting arrest. **MITCHELL** was taken to the **MPD** Homicide Unit, where he was subjected to interrogation. When **MITCHELL** repeatedly asserted his right to counsel, an officer believed to be with the **MPD** responded: “we are all alone in here, what’s to stop me from beating the shit out of you?” **MITCHELL** was arrested by **MPD** Officer defendant **J. GUERRA**, badge #2600, and **MPD LT. ALVAREZ**, badge #6137 or 0317. His backpack and all of his personal property at the time of his arrest was taken from him and never booked or returned. After interrogation at the **MPD** Homicide Unit, **MITCHELL** was transported to the “kennel” makeshift detention center. While being transported from his holding cage to a processing table, he was subjected to a painful and excessive arm hold and then slammed by the officers into the concrete floor of the parking garage when he leaned forward to relieve the stress on his arms. He was kept in handcuffs for most of the almost 9 hours after his arrest. At his bond hearing, **MITCHELL** observed that the only defendants in handcuffs were those arrested as **FTAA** demonstrators. **MITCHELL** was never permitted to make a phone call the entire time he was held in custody. Although he was never placed in general population, **MITCHELL** was subjected to a physical body cavity search several hours after returning from his bond hearing when an officer of defendant **MIAMI-DADE COUNTY** ordered him to strip

and then inserted his finger in **MITCHELL**'s anus. There was no justification for the physical body cavity search in this instance. The personal property taken from **MITCHELL** at the time of his arrest was never returned. At his trial on June 7, 2004, **MITCHELL** was assigned community service as part of a pre-trial diversion, with a disposition of nolle prosequi to be entered upon the completion of community service.

16. Plaintiff **JAMES MOORBY** is a student at St. Lawrence University in Canton, New York. He was arrested on November 21, 2003, without probable cause and with unreasonable force, as he complied with unlawful police orders to disperse a peaceful vigil outside the Dade County Jail. As **MOORBY** left on 14th Street, he observed a line of officers cross the traffic lanes from the opposite sidewalk to trap the group of 50 to 60 demonstrators walking ahead of **MOORBY**'s group. He saw the demonstrators shoved into and collapse the fence, and also heard them crying out in pain as the officers fired projectiles and sprayed the group with chemical. To avoid the police assault, **MOORBY** and his friends turned down a side street. A few blocks later, as they were walking in an orderly fashion on the sidewalk with approximately 30 other people, they were suddenly surrounded by approximately two dozen bicycle officers and ordered to get on the ground, face down. Once down on the ground, with rifles pointing at their heads, **MOORBY** and the others were forcibly handcuffed, which remained on them for hours, almost without interruption, even while they were detained in holding facilities at the makeshift detention center and at TGK. One person in **MOORBY**'s arrest group had loose handcuffs which had come undone. This seemed to annoy the police and they tightened everyone's cuffs before placing them in the van. **MOORBY** was arrested by **M-DPD** officer **F. REYNOLDS**, badge #4606. When the police were placing **MOORBY** in the van to transport him to the detention facility, they cut his backpack off of him and left it on the ground as they loaded him into the van. When **MOORBY** had his possessions returned to him on his release, several

items were missing. Before getting in the van, **MOORBY** was patted down by a female officer, who grabbed him inappropriately in his genital area. **MOORBY** was denied water or approximately 9 hours while in custody. **MOORBY** was taken in shackles along with other FTAA arrestees for a bail hearing and ordered released on \$40 bail at his arraignment, but was then held for nearly 14 hours after he was ordered released, without any opportunity to make a phone call for more than a day after his arrest. He was not released until approximately 10:00 p.m. on November 22, 2003, even though the judge at **MOORBY**'s bail hearing ordered that the \$40 in **MOORBY**'s possession was sufficient to post his bail at 10:00 a.m. that morning. Although he posted bail, at his probable cause hearing it was ordered returned after the judge determined that **MOORBY** and the other arrestees should have been released on their own recognizance pursuant to the usual practice for misdemeanor arrestees. He was originally charged with unlawful assembly, which was later changed to failure to obey an order. The charge against him was dismissed nolle prosequi on May 4, 2004. Plaintiff is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

17. Plaintiff **MICHAEL PITULA** is a resident of Illinois. He is a volunteer with Chicago Action Medical and serves as a Street Medic at demonstrations. He is certified in First Aid and Adult CPR by the American Red Cross. He was stopped, detained and arrested without probable cause on November 11, 2003, as he walked during daylight hours with another First Aid Responder toward the Convergence Center. The officers involved in his detention and arrest included defendant **M-DPD** Officer **ERDO BERMUDEZ**, defendant **M-DPD** Officer **FADREY**, defendant **MPD** Officer **MERCED**, and defendant **M-DPD** Officer **E. TODORO**. Some were wearing black uniforms, indicative of the **MPD**, while others were wearing brown uniforms, indicative of **M-DPD**, and some were in plain clothes. **PITULA** exercised his constitutional right not to respond to the officers as he

had not committed any crime and there was not even reasonable suspicion to support the stop. He was subjected to a pat-down search, which produced no evidence of weapons or illegal activity. His property was searched without his consent and he was then informed he was being detained. Several additional police cars arrived at this time until there were approximately seven officers from the **MPD** and **M-DPD**. Although none had visible name tags or badges, his arrest form was signed by defendant **M-DPD Det. R. DEAN**. He was held in handcuffs in a police car for approximately 5 hours, except for a brief period of time when he was interrogated about his political and ideological beliefs and associations. When **PITULA** refused to answer their questions, the police told him that the anti-FTAA activists would have their “asses-whipped” next week during the protests. They said that the activists would be beaten up and arrested by the police. **PITULA** was released on bond the next day. He was charged with a violation of Florida law prohibiting “loitering and prowling” and with “resisting arrest without violence.” **PITULA** was held in custody for approximately 15 hours. The charges against him were dismissed on March 23, 2004. When his property was returned to him after his release, several items were not returned, including his driver’s license, credit card, and bank card. Plaintiff is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

18. Plaintiff **LAUREL RIPPLE** is currently a resident of Grand Junction, Colorado, and in November 2003 was a student at Hampshire College, where she majored in Buddhist Studies. She was hired by the Sierra Club to organize students for lawful protests at the FTAA meetings. She was trapped and arrested by officers with defendant **M-DPD**, without probable cause and with unreasonable force, through the unconstitutional use of police lines and chemical weapons to block the orderly dispersal of plaintiff and others as they walked on a public sidewalk following driven

unwarranted and illegal order to disperse a lawful assembly across from the Dade County Jail. All of a sudden, without verbal warning, the North side of the line of riot police that had been spanning the width of the street swung around toward the crowd to cut off the dispersing demonstrators. They cut off the group and hemmed them in from the East. At the same time several lines of riot police approached the group of dispersing protestors West-bound, running on the sidewalk and in the street toward them. The force of the officers drove the demonstrators into each other and compressed them against a fence, which collapsed under their weight. **RIPPLE** sat down on the ground, as ordered by the police, with her back against a palm tree in between two friends. The police continued to push forward into the very tight crowd and began to pepper spray at very close range demonstrators peacefully sitting on the ground. **RIPPLE** was repeatedly pepper sprayed in the face and eyes at close range, arrested, and then stripped as part of a toxin decontamination process. So much chemical spray was directed at her and at such close range that it was dripping off her face. According to a use-of-force report disclosed in the Miami-Dade County Independent Review Panel report, **RIPPLE** was “pepper sprayed” by defendant **M-DPD** Sergeant **CARLOS ACIN**, even though she was not resisting arrest and even though alternative methods of control of **RIPPLE** to effectuate her arrest had not been exhausted, let alone attempted. After “pepper-spraying” her, defendant **ACIN** then picked her up off of the ground by her arms and slammed her back down onto the ground, twisting her left ankle severely. **RIPPLE** was unable to walk on her injured ankle and, so, defendant **ACIN** dragged her along the ground, handcuffed, while yelling at her that she was “resisting.” **RIPPLE** was struck in the stomach and back by unknown officers with the **M-DPD** when **RIPPLE** and others requested medical aid after being sprayed and then handcuffed tightly. **RIPPLE** still experiences swelling and pain in her ankle. **RIPPLE** was arrested by **M-DPD** Officer **J. DeARMAS**, badge #4317. She was taken to the “kennel” makeshift detention center. When she complained of tight handcuffs, an

unknown officer with the **M-DPD** deliberately twisted her arms above her head, causing her extreme pain as he replaced her handcuffs. Ultimately, **RIPPLE** was stripped naked by four male officers in hazmat suits. Her requests for female officers for the process were ignored. **RIPPLE** asked for medical treatment for her injured ankle, as well as other medical issues. **RIPPLE** remained in police custody for approximately ten hours, before her release on her own recognizance. She was handcuffed for six hours, denied a bathroom for four hours, denied food or water for at least six hours, and was never allowed to make a phone call despite multiple requests. She was charged with a single misdemeanor count of unlawful assembly. Her charges were dismissed on June 25, 2004. **RIPPLE** wants to return to Miami for future demonstrations, but is fearful that, if she does so, she will again be subject to arrest and prosecution without probable cause based on political and ideological profiling by the defendants. Plaintiff is also fearful that information about her wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that she has been labeled as someone who is likely to break the law.

19. Plaintiff **CYNTHIA ROSIN** is a resident of Rockaway, New York, where she is an elementary school teacher. She was in Miami with members of the New York City Independent Media Center (IMC) videography team to attend the FTAA protests and provide support for the IMC videographers. On the morning of November 20, 2003, as she marched from the Convergence Center to the scheduled AFL-CIO rally at the Amphitheater with approximately 100 lawful protestors, the group was stopped and surrounded by the police, then “escorted” them to the police station at NW 2d Avenue and NW 3rd Street, where the group was surrounded and detained by officers in riot gear for well over an hour. When they were finally permitted to leave to proceed to the Amphitheater area, their path was continually blocked by bicycle officers, who struck the demonstrators with their bicycles and herded them back and away from the Amphitheater. Ultimately, the group was tackled

by the police, thrown to the ground, and forcibly arrested as the IMC people videotaped the unlawful police action. The police then confiscated the IMC camera equipment and destroyed the videotape. **ROSIN** was arrested by **MPD Badge #2976**. **ROSIN** was held in custody for 40 hours, without a blanket in very cold temperatures, and with no appropriate food. **ROSIN** also never received several items of personal property from defendants following her arrest, including an orthopedic device. Initially charged with aggravated assault on an officer and resisting arrest without violence, her charge was reduced to disorderly conduct at her first court appearance, while her co-defendant's charges were dropped entirely. Her charges were dismissed nolle prosequi on April 27, 2004. Plaintiff is fearful that information about her wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that she has been labeled as someone who is likely to break the law.

20. Plaintiff **CALEB SELMAN** is a resident of the State of Florida, a student at Florida State University in Tallahassee, and a member of Students United for Peace and Justice. Three busloads of activists came from Tallahassee, arriving in the late morning on November 20, 2003 and went directly into the AFL-CIO sponsored rally at the Bayfront Park Amphitheater. When the rally ended, **SELMAN** participated in the permitted march, returning to the Amphitheater area in late afternoon. At approximately 4:00 p.m., he observed hundreds of police officers in full riot gear, with shields and various weapons. He was behind the police lines at Bayfront Park when they opened fire on a group of demonstrators with less-lethal munitions, chemical weapons, and tasers. When the police left the hill area, deliberately herding the demonstrators north on Biscayne Boulevard, **SELMAN** and his friends left, trying to find their bus for the ride back to Tallahassee. As **SELMAN** and 15 or 20 others walked peacefully more than a mile from Bayfront Park, along the old railroad tracks, they were suddenly accosted by approximately 40 to 50 officers, who shouted at them to get down and then forcibly handcuffed him. **SELMAN** was arrested by **BSO Officer LLOYD**, badge

#5345. **SELMAN** was held in custody for approximately 13 hours. He pled no contest at his bond hearing to a misdemeanor, with adjudication withheld, at his arraignment the following morning after being told that, if he had no money for bail, he could be held for up to three weeks in jail. **SELMAN** was also questioned in jail about his citizenship, without counsel present, by an individual who identified himself as an agent of the Immigration and Naturalization Service, an employee of Defendant **ASHCROFT**.

21. Plaintiff **AUSTIN STEWART** is a resident of the State of Colorado. He is a member of the Gunnison Valley Peace Initiative. He traveled to Miami with members of this group to protest the FTAA policies and their adverse effect on small farmers in the Midwest. He participated in the permitted AFL-CIO rally and march on November 20, 2003. He left the area of Biscayne Boulevard after the march when the police opened fire on the demonstrators with tear gas and other munitions. Because of police barricades at various intersections, he ended up at N. Miami Avenue and NE 14th Street, near the metro station, where he met up with Miami New Times reporter Celeste Fraser-Delgado. The group continued to walk north on North Miami Avenue, away from the heavy police presence in the downtown area, and toward the Convergence Center at North Miami Avenue and N.E. 23rd Street, when they were suddenly stopped by the police as they neared 19th Street and N. Miami Avenue at around 5 p.m., well more than a mile from the Bayfront Park Amphitheater. Without any probable cause, **STEWART** and the others were ordered to get on the ground, handcuffed, and physically and verbally abused by officers with no visible identification. **STEWART**'s arrest form was signed by defendant **M-DPD** Officer **RILEY**, badge #3924, who could not and did not see **STEWART** violate any law. **STEWART** was originally arrested on the allegation that he was "with a group of persons fitting description of those who were throwing rocks at FTAA event," and that he had been asked three times to stop but refused. Neither allegation was true and the charges were

dropped at **STEWART**'s arraignment. **STEWART** was held in custody for approximately 23 hours. Many of the possessions he had with him at the time of his arrest, including a camera, were never returned to him. Plaintiff is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

22. Plaintiff **MIKEL STONE** is a resident of the State of Colorado. He was subjected to the unconstitutional use of police lines to block passage to the Bayfront Park Amphitheater, where the AFL-CIO was scheduled to hold a permitted rally and march, and to push and knock lawful demonstrators to the ground. At approximately 9:00 a.m. on Thursday, November 20, 2003, he was standing on Biscayne Boulevard and SE 1st Street, where a crowd of demonstrators had assembled and a line of riot-gear clad police were standing across the width of Biscayne Boulevard. As **STONE** stood in this area, the line of police moved forward without warning, pushing the demonstrators with their shields. He observed a woman to his left being beaten by an officer with a baton. When **STONE** and two other individuals attempted to assist her, they were repeatedly struck by baton-wielding officers, including the one who had been beating the female demonstrator. **STONE** was grabbed by an officer and pulled behind the police line, where he was repeatedly beaten on his ribs and legs. He was handcuffed and his backpack was thrown into a trash canister by the police. **STONE** was arrested by defendant **BSO Officer R. RAHMING**, badge #5861. He was arrested, without probable cause and with unreasonable force, and charged with failing to disperse and being "part of an illegal assembly . . . that had exceeded the 30 minutes" allowed under Miami Code §54-6.1, a Miami public assembly ordinance, even though the plain language of the ordinance did not prohibit this conduct and could not reasonably be understood to make standing in a public place for 30 minutes a criminal offense. The charge was ultimately reduced to failure to obey a police officer. When **STONE** was

arrested, the police took his glasses and placed him in “the freezer,” a room maintained at a temperature of approximately 40 degrees. When released, he was told that there was no record of any property booked for him, including his glasses. **STONE** was held in custody for approximately 8 hours. His charges were dismissed nolle prosequi on April 27, 2004. Plaintiff is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

23. Plaintiff **IVAN WELANDER** is a resident of Madison, Wisconsin, where he works at a food cooperative. At around 10 a.m. on November 20th, he was near Bayfront Park when he observed the police deploying tear gas against some demonstrators. Fearful for his personal safety, **WELANDER** decided to avoid this area and walked over to stand in line to enter the Amphitheater for the permitted AFL-CIO march and rally. As he waited in line, he observed the police pointing him out to other officers, so he immediately left the area and returned to the Convergence Center, where he remained for most of the day because of the police presence on the streets. At around 6 p.m., he left the Center with his friends, walking on the public sidewalk on N. Miami Avenue. As they approached N.E. 19th Street, they came upon another small group of people walking near train tracks. Suddenly, the entire group was accosted by dozens of officers, without any visible agency or name identification, but who were believed to be with the **M-DPD**, shouted at **WELANDER** and ordered him to the ground, forced his face into the dirt as he complied, pointed rifle-type weapons at them and arrested them, all without probable cause and with unreasonable force. **WELANDER** was placed in plastic handcuffs with his hands behind his back. As he lay on the ground, he observed the officers pull his brother by his hair, strike him in the legs and in his face with a wooden baton, even though his brother was not resisting arrest and was complying with the police orders when he was hit. **WELANDER** was dragged backwards by his handcuffs, causing him extreme pain. **WELANDER**

was kept in handcuffs for an extended period of time, even while in custody at the “kennel” temporary detention facility. **WELANDER**’s arrest form was signed by **M-DPD T. WEVER**, badge #4994. **WELANDER** was informed by one of the **M-DPD** officers on the scene that officers on the street were being directed by radio command from law enforcement helicopters. He also overheard officers asking who should be listed as the arresting officer and what the charges should be. In response, an officer said: “I don’t know, as long as our asses are covered.” **WELANDER** was charged with resisting arrest without violence on the baseless allegation that he was “observed within a large group of protestors who were throwing rocks” at the police and that he had run away when ordered earlier in the day to stop. None of these allegations were true and they were based on political and ideological profiling, not any personal observance of the officers who detained and arrested **WELANDER**. His possessions were dumped into the street by defendants at the time of his arrest and were never returned to him. The only item of personal property he received back from the police after he was released from jail was a belt that he was wearing when he was arrested. **WELANDER** was held in custody for approximately for approximately three days, including for a full day after his second bond hearing on November 22, 2003. His charges were dismissed nolle prosequi on May 17, 2004. Plaintiff is fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

24. Plaintiff **VICTORIA WELLE** is a resident of the State of California. She was a legal observer at the FTAA-related demonstrations. She was trapped and arrested on November 21, 2003, without probable cause and with unreasonable force, through the unconstitutional use of police lines and chemical weapons to “herd” the demonstrators and block the orderly dispersal of plaintiff and others as they walked on a public sidewalk following the unwarranted and illegal order to disperse a

lawful assembly across from the Dade County Jail. **WELLE** was “herded” by officers pushing the demonstrators strenuously on three sides with their shields, trapping **WELLE** and the vigil participants and pushing them against a fence, until the fence behind the group of people collapsed. Officers with the **M-DPD** used chemical sprays against the demonstrators, even though they were not resisting. **WELLE** was subjected to the chemical irritants. **WELLE** was arrested and placed in very tight plastic handcuffs. **WELLE** heard one officer at the scene say that everyone should comply with orders or “I’ll kick your ass.” **M-DPD** Officer M. **ROMERO**, badge #3935, signed the arrest form for **WELLE**. She was kept in the tight handcuffs for several hours, first being held at the arrest scene, then transported to the “kennel” makeshift detention center. While in detention, she was questioned by defendants about her political beliefs and her interest in the FTAA. She was held in custody for two days. **WELLE** was originally charged with a single misdemeanor count of unlawful assembly, which was changed to “failure to obey” an order to disperse. The prosecution against her was pursued even though the charges against others arrested at the same time and place were dismissed, including by a directed verdict of acquittal for Plaintiff **GOLAN** and, after testimony by a **M-DPD Lieutenant** at the first case to go to trial that the police had attacked the demonstrators prior to the expiration of the dispersal time and that the demonstrators were, in fact, in compliance at the time of the police assault. **WELLE** was acquitted of this charge at trial. **WELLE** was held in custody for approximately 49 hours. Plaintiff is fearful that information about her wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that she has been labeled as someone who is likely to break the law.

25. Plaintiff **LARRY WINAWER** is the statewide Florida Field Organizer for the Alliance for Retired Americans (A.R.A.). He traveled by bus to Miami on November 20, 2003, with over 1000 senior citizens to participate in the permitted AFL-CIO march and rally at the Bayfront Park

Amphitheater. He was arrested, without probable cause and with unreasonable force, as he walked peacefully along a public way, assisting retiree and plaintiff **KILLMON** to locate his bus for the return trip to Ft. Myers. Without any warning, they were ordered to the ground and violently arrested by approximately 50 police in full riot gear. **WINAWER**'s arrest form was signed by **BSO** Officer **N. MANDERA**, badge #8527, even though she did not and could not have seen **WINAWER** engage in any conduct that would have supported his arrest. **WINAWER** was handcuffed for more than 12 hours, suffering nerve damage to both hands, deprived of food, water and access to counsel. He was originally charged with disorderly conduct, which was then reduced to a charge of "failure to obey." He rejected the State's offer of a diversion program and completion of a "values" class. His charges were dismissed nolle prosequi on April 28, 2004. Plaintiff wants to return to Miami for future demonstrations, including those against the FTAA, but is fearful that, if he does so, he will again be subject to violations of his rights as set forth herein solely because he advocates disfavored political and ideological views. Plaintiff is also fearful that information about his wrongful arrest has and will be disseminated by the defendants, including the federal defendants, and that he has been labeled as someone who is likely to break the law.

DEFENDANTS:

26. Defendant **CITY OF MIAMI (CITY)** is a municipal entity organized under the laws of the State of Florida, with the capacity to sue and be sued. The **CITY** enacted the municipal ordinances pursuant to which plaintiffs and others were deprived of their rights under the First Amendment to speak, assemble and petition. It is the legal and political governmental entity responsible for the actions of the **Miami Police Department (MPD)**, its officials, agents and employees. The **MPD** is a subdivision of the **CITY**. The **MPD** and the **CITY** coordinated the response of all federal, state and local law enforcement and prosecutorial agencies for the FTAA

meetings. Members of the **MPD**, acting according to the policies, practices and customs of the department, were responsible for the violations of rights plaintiffs and other suffered in November 2003 in opposing the policies of the FTAA. Members of the **MPD** enforced the challenged state and municipal laws to disrupt and terminate the lawful exercise of First Amendment rights and to search and seize plaintiffs and others without probable cause and in retaliation for the exercise of First Amendment rights. The **CITY** is sued in its own right and on the basis of the acts of its officials, agents and employees.

27. Defendant **JOHN TIMONEY (TIMONEY)** is, and at all times relevant to this action was, the Chief of Police of **MPD**. He is responsible for the policies, practices and customs of the **MPD**, including all policies, practices and customs challenged herein as unlawfully applied to the activities of lawful demonstrators in Miami opposing the policies of the FTAA in November 2003. **TIMONEY** has final policy-making authority for the **MPD**, including policies for arrests, use of force and training of officers. At all times relevant to this action, defendant **TIMONEY** was an employee of the defendant **CITY** and acting within the scope and course of his employment. **TIMONEY** was present at the site of the arrests, riding his bicycle and, at times, identifying specific demonstrators for officers to arrest. Pursuant to the After-Action Report issued by the **MPD**, defendant **TIMONEY** planned the law enforcement actions complained of herein, targeting plaintiffs and others based on their political ideology and/or their association with other demonstrators. **TIMONEY** was present in the streets and participated directly in the enforcement actions, both on his bicycle and on foot, directing individual arrests to be made without probable cause. **TIMONEY** also authorized, ratified and condoned the unlawful conduct of other officers as challenged herein. He is sued in his official and individual capacity for injunctive and declaratory relief, compensatory and punitive damages.

28. Defendant **CARLOS ALVAREZ** was the chief officer of the Miami-Dade County

Police Department (“**M-DPD**”) at the time of the FTAA protests in November 2003. He was the public official with final authority as a policy maker for the **M-DPD** and Defendant **MIAMI-DADE COUNTY**. He was responsible for the policies, practices and customs of the **M-DPD**, including all policies, practices and customs challenged herein as unlawfully applied to the activities of lawful demonstrators in Miami opposing the policies of the FTAA in November 2003. **ALVAREZ** had final policy-making authority for the **M-DPD**, including policies for arrests, use of force and training of officers. At all times relevant to this action, defendant **ALVAREZ** was an employee of the defendant **MIAMI-DADE COUNTY (“MIAMI-DADE”)** and acting within the scope and course of his employment. Pursuant to the Internal Review Panel (“**IRP**”) of **MIAMI-DADE COUNTY**, defendant **ALVAREZ** planned and approved the law enforcement actions complained of herein, targeting plaintiffs and others based on their political ideology and/or their association with other demonstrators. **ALVAREZ** was present in the streets and participated directly in the enforcement actions. **ALVAREZ** authorized, ratified and condoned the unlawful conduct of other officers as challenged herein. He is sued in his official and individual capacity for injunctive and declaratory relief, compensatory and punitive damages.

29. Defendant **MIAMI-DADE COUNTY (COUNTY)** is a political entity in the State of Florida, with the capacity to sue and be sued. The **COUNTY** enforced both state and **CITY** laws pursuant to which plaintiffs and others were deprived of their rights under the First Amendment to speak, assemble and petition. It is the legal and political entity responsible for the actions of the **MIAMI-DADE POLICE DEPARTMENT (M-DPD)**, its officials, agents and employees, and the **MIAMI-DADE COUNTY DEPARTMENT OF CORRECTIONS (“M-D DOC”)**. The **COUNTY** is sued in its own right and on the basis of the acts of its officials, agents and employees. Members of the **M-DPD** and the **M-D DOC**, acting according to the policies, practices and customs of the

department, were responsible for the violations of rights plaintiffs and other suffered in November 2003 in protesting the policies of the FTAA. Members of the **M-DPD** enforced the challenged state and municipal laws to disrupt and terminate the lawful exercise of First Amendment rights and to search and seize plaintiffs and others without probable cause and in retaliation for the exercise of First Amendment rights. Members of the **M-DPD** and the **M-D DOC** operated the detention facilities in which Plaintiffs were held following their arrest and were responsible for releasing Plaintiffs in a timely manner following the dismissal of their charges and/or approval of their release pending a hearing on the charges.

30. Defendant **KEN JENNE** is the **SHERIFF OF BROWARD COUNTY**. **JENNE** is the individual with final policy-making authority for the **BROWARD SHERIFF'S OFFICE (BSO)**, including policies for arrests, use of force and training of officers. **JENNE** participated in and/or ratified the BSO participation in the Joint Law Enforcement Command for the FTAA. **BSO** arrested and used unreasonable force against plaintiffs, all without probable cause. The actions of the BSO included the arrests of plaintiffs **KILLMON, SELMAN, STONE** and **WINAWER**, and others, as they were walking peacefully and lawfully in the City, as well as the unjustified and improper use of less lethal munitions against peaceful demonstrators on Biscayne Boulevard, including plaintiffs **BLOCH, FLYNN, SELMAN, STONE, KILLMON** and **WINAWER**. **JENNE** authorized, ratified and/or condoned the unlawful detention, arrest and use of force against plaintiffs. He is sued in his official and individual capacity for injunctive and declaratory relief, compensatory damages and punitive damages.

31. Defendant **TOM RIDGE** is the Secretary of the United States Department of Homeland Security for the federal government. The Department of Homeland Security is the federal agency, whose employees participated in the development and implementation of the "security plan"

for the FTAA meetings in Miami in November, 2003. Prior to the FTAA meetings in Miami, employees and agents of the federal agencies within the Department of Homeland Security provided local and state law enforcement, including those named in this action, with information concerning the plaintiffs and those with whom they associate. Agents of the Bureau of Immigration Control Enforcement (BICE) and the Office of Domestic Preparedness (OPD) participated in the interrogation of plaintiffs following their unlawful arrests, including the interrogations of plaintiffs. Information collected by these agents and the other defendants during the unlawful arrests and interrogations of plaintiffs and others has been entered into computer database maintained by the Department and/or given to other federal agencies that maintain such databases to monitor the lawful First Amendment activities of plaintiffs and others. Secretary **RIDGE** is sued in his official capacity only.

32. Defendant **JOHN ASHCROFT** is the Attorney General of the United States. He is sued in his official capacity only as the head of the Department of Justice, which includes, *inter alia*, the Federal Bureau of Investigation (FBI), and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Agents of the FBI and ATF participated in developing plans for, and, on information and belief, were present at, law enforcement operations for the FTAA ministerial meetings in Miami in November, 2003. Agents of the FBI and ATF participated in the interrogation of political activists at both the City of Miami Police Headquarters and at the Dade County Jail and TGK Facility. Information collected by all of the defendants from the unlawful interrogations and surveillance of each of the plaintiffs was provided to the central databases of the FBI and ATF, which have maintained and disseminated this information to monitor the lawful expressive activities of plaintiffs and others based on their political and ideological beliefs and associations.

33. Defendant **CITY OF HIALEAH (“HIALEAH”)** is a municipal entity in the State of Florida with the capacity to sue and be sued.. One department of **HIALEAH** is the **HIALEAH**

POLICE DEPARTMENT (“HPD”). The Defendant **CITY OF HIALEAH** is the employer of the individual defendants **YAN PEREZ, L. SEVILLA, ORETEGA, AND COSTANO**. Each of the officers was involved in the alleged violations of the rights of Plaintiff **McLEAN**. The acts complained of were done pursuant to the policies, practices and customs of the **HPD**, including all of those adopted as part of the Joint Plan developed and implemented by all defendants for the FTAA protests. **HIALEAH** is sued in its own right and on the basis of the acts of its officials, agents and employees.

34. Defendant **FRANK G. FERNANDEZ** is a Deputy Chief with the **MIAMI POLICE DEPARTMENT**. He was delegated by defendant **TIMONEY** as the Incident Commander for the FTAA and, in consultation with Defendant **TIMONEY**, was responsible for all decisions to disperse the demonstrators with force and then arrest individuals without probable cause as they dispersed on the afternoon of November 20, 2003, following the permitted rally and march sponsored by the AFL-CIO and the Association of Retired Americans. At all times, defendant was acting pursuant to the policies, practices or customs of the **MPD** and the Joint Plan developed and implement for the FTAA demonstrations. He is sued in his official and individual capacities.

35. Defendant **LOUIS BATTLE** is a Major with, and Commander of, the **MIAMI-DADE POLICE DEPARTMENT SPECIAL PATROL BUREAU**, a subdivision of the defendant **MIAMI-DADE COUNTY**. He is the official who directed the dispersal and arrest of the peaceful protestors outside the Dade County jail on November 21, 2003. **BATTLE** was the **M-DPD** official delegated with responsibility for the **M-DPD** response to demonstrators during the FTAA. He drafted the operational plan to train all **M-DPD** officers for the FTAA, established policy and procedures for the **M-DPD** response to the FTAA protests, and executed the operational plan. At all times, defendant was acting pursuant to the policies, practices or customs of the **M-DPD** and the Joint Plan developed

and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

36. Defendant **JAMES O'DONNELL** is a Captain with the **M-DPD**. **O'DONNELL** was the commander of the **M-DPD** officers at the jail vigil on November 21, 2003 and the official who directed the dispersal order be given, when the protest was peaceful and lawful, and who, ultimately, directed the assault and arrest of the jail vigil demonstrators as they complied with all orders to disperse. At all times, defendant was acting pursuant to the policies, practices or customs of the **M-DPD**. He is sued in his official and individual capacities.

37. Defendant **CARLOS ACIN** is a sworn employee with the **M-DPD**. He is the officer who repeatedly sprayed Plaintiffs **RIPPLE** and **GOLAN** based on political and ideological profiling as FTAA demonstrators, at close range and directly in their eyes and other parts of their faces with OC spray, purportedly, for the purpose of facilitating compliance from non-resisting demonstrators, who had complied with all orders to disperse, so that unlawful arrests could be effectuated by the **M-DPD**. **ACIN** “pepper-sprayed” **RIPPLE** and **GOLAN** for the purposes of injuring, disorienting and incapacitating them, without reasonable cause. **ACIN** committed the acts alleged without reasonable suspicion or probable cause to believe that **GOLAN** or **RIPPLE** were resisting their unlawful arrests when dispersing from the peaceful jail solidarity vigil. He was acting pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

38. Defendant **PELHAM** is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **BAME** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD** and the Joint Plan developed and implemented by all of the

defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

39. Defendant **TOWNSEND** is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **BAME** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

40. Defendant **SAYIH** is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **BAME** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

41. Defendant Sgt. **BALBUENA** is a supervisor with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **FOSSE** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

42. Defendant **ROMERO** badge #6097 is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **FOSSE** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD**. He is sued in his official and individual capacities.

43. Defendant Lt. **ALVAREZ** is a supervisor with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **MITCHELL** based on political and ideological

profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD**. He is sued in his official and individual capacities.

44. Defendant **GUERRA** is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **MITCHELL** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD**. He is sued in his official and individual capacities.

45. Defendant **BERMUDEZ** is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **PITULA** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD**. He is sued in his official and individual capacities.

46. Defendant **FADREY** is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **PITULA** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD**. He is sued in his official and individual capacities.

47. Defendant **MERCED** is an officer with the **MPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **MITCHELL** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD**. He is sued in his official and individual capacities.

48. Defendant **NEILLY** is an officer with the **BSO**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **KILLMON** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **BSO**. He is sued in his official and individual capacities.

49. Defendant **BSO BADGE #5345** is an officer with the **BSO**. He is one of the officers

who stopped, detained and then forcibly arrested Plaintiff **SELMAN** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **BSO**. He is sued in his official and individual capacities.

50. Defendant **MANDERA** is an employee of the **BSO**. She is one of the individuals who stopped, detained and then forcibly arrested Plaintiff **WINAWER** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **BSO**. She is also the individual officer who used excessive and unreasonable force in handcuffing Plaintiff **KILLMON**. She is sued in her official and individual capacities.

51. Defendant **ROMERO** is an officer with the **M-DPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **ALDRICH** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD**. He is sued in his official and individual capacities.

52. Defendant **ESPINOSA** is an officer with the **M-DPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **BLOCH** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD**. He is sued in his official and individual capacities.

53. Defendant **L. PEREZ** is a supervisor with the **M-DPD**. He is one of the officers who stopped, detained and then forcibly arrested Plaintiff **MITCHELL** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD**. He is sued in his official and individual capacities.

54. Defendant **Det. R. DEAN** is an officer with the **M-DPD**. He is the officer who, pursuant to the policy, practice or custom of the **M-DPD**, arrested Plaintiff **PITULA** with unjustified

force based on **PITULA**'s perceived political and ideological opposition to the FTAA, without reasonable suspicion or probable cause to believe that he was loitering and prowling, and without reasonable suspicion or probable cause to believe that **PITULA** was resisting arrest.

55. Defendant **LEON** is an officer with the **M-DPD**. He is one of the officers who assaulted and then forcibly arrested Plaintiff **GOLAN** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

56. Defendant **MOON** is an officer with the **M-DPD**. He is one of the officers who assaulted and then forcibly arrested NLG legal observer Plaintiff **LONGA** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

57. Defendant **REYNOLDS** is an officer with the **M-DPD**. He is one of the officers who assaulted and then forcibly arrested Plaintiff **MOORBY** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

58. Defendant **BADGE #2976** is an officer with the **MPD**. He is one of the officers who detained and then forcibly arrested Plaintiff **ROSIN**, who was present with the New York Indymedia videographers, but who was targeted based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or

custom of the **MPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

59. Defendant **J. PASTOR Badge #5533** is an officer with the **MPD**. He is one of the officers who detained and then forcibly arrested Plaintiff **BAME** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **MPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

60. Defendant **TODORO** is an officer with the **M-DPD**. He is one of the officers who detained and then forcibly arrested Plaintiff **PITULA** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

61. Defendant **RILEY** is an officer with the **M-DPD**. He is one of the officers who assaulted and then forcibly arrested Plaintiff **STEWART** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

62. Defendant **WEVER** is an officer with the **M-DPD**. He is one of the officers who assaulted and then forcibly arrested Plaintiff **WELANDER** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

63. Defendant **ROMERO** is an officer with the **M-DPD**. He is one of the officers who

assaulted and then forcibly arrested Plaintiff **WELLE** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

64. Defendant **YAN PEREZ** is an officer with the **HPD**. He is one of the officers who assaulted Plaintiff **McLEAN** with a taser weapon, even after he was handcuffed and even though he did not resist the officers, and then arrested him based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **HPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

65. Defendant **L. SEVILLA** is an officer with the **HPD**. He is one of the officers who assaulted and then forcibly arrested Plaintiff **McLEAN**, including use of a taser weapon before and after **McLEAN** was handcuffed and even though he did not resist the officers, based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **HPD** and the Joint Plan developed and implemented by all of the defendants for the FTAA demonstrations. He is sued in his official and individual capacities.

66. Defendant **ORTEGA** is an officer with the **HPD**. He is one of the officers who assaulted and then forcibly arrested Plaintiff **McLEAN** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause and with excessive force, and pursuant to the policy, practice or custom of the **HPD**. He is sued in his official and individual capacities.

67. Defendant **COSTANO** is an officer with the **HPD**. He is one of the officers who

assaulted and then forcibly arrested Plaintiff **McLEAN** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause and with excessive force, and pursuant to the policy, practice or custom of the **HPD**. He is sued in his official and individual capacities.

68. Defendant **FERNANDO DURANTANO (Badge #5830)** is an officer with Defendant **MPD**. He is the officer who signed the arrest form for, and one of the officers who unlawfully detained, searched and arrested, Plaintiff **DIAMOND**, based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause and with excessive force, and pursuant to the policy, practice or custom of the **MPD**. He is sued in his official and individual capacities.

69. Defendant **J. DeARMAS (Badge #4317)**, is an officer with Defendant **M-DPD**. He is the officer who signed the arrest form for, and one of the officers who arrested, Plaintiff **RIPPLE** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause, and pursuant to the policy, practice or custom of the **M-DPD**. He is sued in his official and individual capacities.

70. Defendant **RAHMING** is an officer with the Defendant **BSO**. He is the officer who signed the arrest form for, and one of the officers who arrested, Plaintiff **STONE** based on political and ideological profiling as an FTAA demonstrator, without reasonable suspicion or probable cause and with excessive force, and pursuant to the policy, practice or custom of the **BSO**. He is sued in his official and individual capacities.

71. The acts complained of herein were part of a deliberate and pervasive plan and pattern of intimidation by [all](#) defendants through the enforcement of laws in an unconstitutional manner, all aimed at preempting and suppressing plaintiffs' First and Fourth Amendment rights. Each of the acts

complained of herein was taken, and each violation of plaintiffs' rights occurred, pursuant to the policies, practices and/or customs of the named, and the as yet unidentified, law enforcement agencies and other defendants that joined in the plan to "police" the FTAA demonstrations by preventing expression in advance of its occurrence and by subjecting plaintiffs and others to detention, search, arrest and unreasonable force without probable cause. Each act complained of was approved, condoned and/or ratified by persons of authority with the defendants **CITY OF MIAMI, MIAMI-DADE COUNTY, BSO, HOMELAND SECURITY, and FBI and ATF and CITY OF HIALEAH** and those as yet unidentified local governmental entities who participated in the Joint Plan and whose actions violated plaintiffs' constitutional rights.

72. In doing each of the violations of law complained of herein, defendants, their officials, agents and employees, were acting under color of law. The acts complained of were willful, wanton and malicious and displayed a conscious disregard for, and deliberate indifference to, plaintiffs' constitutional rights and reflect, as well, the failure of defendants to train their officers and agents so as to avoid the violations of rights that have occurred in this instance. At all times mentioned herein, defendants, their officers, employees, and agents have acted pursuant to the official policies and customs of the defendant county and municipal governmental entities. These policies and customs have been approved of, ratified, and/or enforced by the persons and/or entities with the authority to set policy for each of the non-federal government defendants. This includes, without limitation, the authorization and/or ratification by defendants of repeated violations of stated policy on the use of so-called "less lethal" munitions, batons, tasers, chemical weapons and other use of force against plaintiffs, as well as the deliberate limitation and disruption of lawful expressive activity. Defendants have announced that they view the events of November 2003 with the FTAA protests as a "model" for law enforcement actions at future demonstrations and that they intend to employ the same tactics in the future. Thus, the policies, practices and customs challenged herein remain in place and in full

force and Defendants have every intention to employ the same policies in the future against Plaintiffs and others who seek to exercise their First Amendment rights in the City of Miami.

CLASS ALLEGATIONS

Definition of the Class:

73. Plaintiffs seek to certify a class pursuant to F.R.Civ.P. 23(b)(2) for injunctive relief only. The class include all those individuals who were or would be subject to one or more of the defendants' unconstitutional policies, practices, or customs challenged by this action, including:

- a. disruption of lawful protest activities through the use of mobile police lines to block access to public fora and to "trap and arrest" demonstrators;
- b. unlawful detention, search, and arrest as a preemptive tactic;
- c. interrogation, collection and dissemination of arrest information through multiple criminal databases;
- d. excessive force to limit lawful expressive activities and to disperse non-violent demonstrators;
- e. retaliatory prosecution for the exercise of First Amendment rights;
- f. the discharge of "less-lethal" mechanical and chemical weapons for illegitimate purposes and in violation of reasonable use-of-force guidelines; and,
- g. extended custodial detention in Guantanamo-style wire and razor "kennels," in handcuffs, without access to food, water, bathroom facilities or legal counsel.

The Numerosity of the Class:

74. Several thousand demonstrators participated in the demonstrations in Miami in November 2003, opposing the FTAA meetings. Of that number, 283 were taken into custody during the FTAA protests in November 2003, and 232 were, ultimately, charged with some criminal violations, almost all for failure to obey, unlawful assembly, obstructing a sidewalk, loitering and prowling, or resisting without violence. Several hundred lawful protestors were shot with less-lethal munitions and chemical weapons for completely arbitrary and capricious reasons as they peacefully assembled in the City during the FTAA protests. Thousands of additional persons are likely to engage in similar lawful protest activities in Miami in the future. The class is so numerous that joinder of all members is impractical.

Common Questions of Law and Fact:

75. The common questions of law to be determined in this instance are whether defendants' policies, practices and customs are unconstitutional and violate plaintiffs' rights under the First, Fourth and Fifth Amendments to the U.S. Constitution. These questions of law are common to all members of each of the proposed class and predominate over any question affecting individual class members. The violations of the rights of the class members arise from a common set of facts and a common and deliberate plan of defendants to "limit" and disrupt political protest as a preemptive measure.

Typicality:

76. The claims of the representative parties are typical of the claims of the class members. **DEFENDANTS'** policies or practices will affect all members of the proposed class in the same way, thereby making injunctive and declaratory relief appropriate to the class as a whole. The representative parties will fairly and adequately represent the interests of the class.

77. The class representatives know of no conflict of interest among class members. The conflicts, if any, would only arise in respect to damages claims, if any, which are being pursued on an

individual basis for those plaintiffs who are entitled to damages according to law.

Adequacy of Class Counsel:

78. Plaintiffs are represented by the attorneys shown on the signature page of this complaint, all of whom are experienced civil rights attorneys, who will vigorously prosecute this action. Almost all of the counsel for plaintiffs are experienced in class action litigation and at least three of the counsel have successfully brought class action litigation for injunctive relief in recent cases alleging police violations of First and Fourth Amendment rights.

GENERAL FACTUAL ALLEGATIONS

The “Security Plan” to Limit Protest

79. Defendant **TIMONEY** characterized the “security plan” for the FTAA meetings as “the largest collaborative law enforcement operation in the history of Florida and perhaps in the country.” This plan required the multiple agencies involved to “submit to a single plan and a single command,” with defendants **CITY** and **TIMONEY** in a “primary leadership role.” The defendant **CITY** and **MPD**, together with the FTAA Legal Training Committee (Legal Committee), developed Rules of Engagement each agency was required to follow. The command structure for the FTAA consisted of two separate, but integrated, elements: the Miami Police Department Steering Committee and the Joint Law Enforcement Command. According to the After-Action Report issued by the City of Miami, the Joint Law Enforcement Command consisted of the heads of the agencies, or their delegated representatives, who were assigned “a major role or specific function for the security of the FTAA Ministerial.” On information and belief, Plaintiffs allege that those individual defendants who delegated another command staff member to participate on their behalf in the Joint Law Enforcement Command, personally ratified, condoned and/or authorized his or her agencies participation, including the unlawful application of the challenged ordinances and the arrests without probable cause, during

the course of the FTAA Ministerial meetings. Again according the Miami After-Action Report, each of these agencies was given an “equal voice” in the decision making process and were directed by the Joint Law Enforcement Operations Center during the FTAA meetings. Each of the named law enforcement defendants was a member of the Joint Law Enforcement Command. According to the same report, during the events at issue herein, these agencies “put aside their independence for one week and operated largely as a single entity,” including explicitly in the agree-upon use of force and arrest protocols.

80. Prior to the FTAA meetings, defendants met with representatives of nearly 40 other government agencies on the federal, state and local level to create a Legal Committee, which was composed of police commanders, representatives of the State Attorney’s Office, FBI, ATF, U.S. Attorney’s Office, Dade County Clerk’s Office and the Police Legal Counsels from the defendants **MPD**, **M-DPD**, **BSO**, as well as the Miami Beach Police Department, the Miami-Dade County Corrections and Rehabilitation Department, and the Florida Department of Law Enforcement. The **MPD** After-Action Report reported that, during the FTAA event, members of the Legal Committee were present, including “on-scene at demonstrations,” to provide legal advice to commanders “in an instant.”

The Pre-FTAA Surveillance

81. Almost nine months before the FTAA meetings in Miami, a Planning and Intelligence Committee began meeting on a regular basis. As part of this early stage, officers from various of the defendant entities worked undercover to gather “intelligence” for defendants. The so-called “intelligence” was so incorrect that it was, most likely, the deliberate work of *agent provocateurs* to rationalize the use of force employed to limit the protests. The Miami-Dade After Action Report noted that 80,000 demonstrators were expected in Miami for the FTAA protests and that “intelligence”

sources reported “that protestors would endeavor to overrun and occupy government buildings in an attempt to disrupt normal operations and free demonstrators.” Based on this patent misinformation, defendants were able to get the courts to agree to “stagger bond hearings and releases so that arrestees were not able to return to the conference site.” In addition to these types of institutional abuses, defendants began a campaign to demonize the demonstrators in the press and with local businesses. A Power Point presentation, created with the assistance of the federal defendants, showed incidents of alleged protestor violence at other locations to create a climate of fear in Miami. The Power Point presentation, shown by Asst. Chief **FERNANDEZ** of the Miami Police Department, divided prospective protestors at the FTAA into three groups: the “Green Group,” who were classified as non-violent and union-based; the “Yellow Group,” who were classified as largely non-violent, but with “fringe” elements; and the “Red Group,” who were labeled anti-government and anti-establishment. In addition, the Power Point presentation highlighted the role of the National Lawyers Guild’s legal observers, identified by their bright-green caps. The police characterized the NLG Legal Observers as being there to “antagonize police.” Thus, it was no accident that at least 15% of the legal observers in Miami at the FTAA, including plaintiffs **LONGA, WELLE** and others, were targeted for arrest and physical abuse for in retaliation for doing nothing more than standing in public fora and observing police abuse of demonstrators. As part of their pre-protest demonization and targeting of the demonstrators, the police presentations also singled out Street Medics who provide first aid to protesters. With buzz words such as “anarchist” and images of widespread property destruction, defendants laid the groundwork for their plan to “limit” protest through arbitrary police actions, unconstitutional police lines, the use of extraordinary violence against the demonstrators.

82. A key element of the plan was the use of unreasonable force and preemptive arrests based on political and ideological profiling, without any probable cause to believe that criminal conduct

was imminent or had occurred. Defendants conducted unlawful stops and interrogations of individuals throughout the City, randomly detaining people on public sidewalks and pulling over vehicles based solely on the belief those targeted by these surveillance actions were in Miami to protest the FTAA meetings. During these stops, defendants questioned anyone who fit the “FTAA protestor” profile as to who they were, where they were from, and their viewpoint on the FTAA. Several people were arrested as a result of these unlawful stops and charged with violating a City ordinance barring “obstructing” sidewalks that has since been repealed as a result of post-FTAA litigation brought against the City. *See Lake Worth for Global Justice, Inc. v. City of Miami*, CASE NO. 04-20262-CIV-GRAHAM.

83. As the protestors began to arrive in Miami, a primary focus of defendants’ surveillance was the area around the Convergence Center, a building at N.E. 23rd and N. Miami that was used by the anti-FTAA protestors as a central organizing location. Defendants stopped individuals in the area and demanded they produce identification based on nothing more than perceived ideological associations. These stops were made by officers from the **MPD** and the **M-DPD**, with the participation of agents of the federal defendants on several occasions. Lacking any legitimate basis for arresting them, defendants charged several individuals with “loitering and prowling” under factual circumstances that have repeatedly been held to be insufficient as a matter of law by Florida courts. Many of those charges were dropped at bond hearings and arraignments.

The Implementation of the Plan during the FTAA Meetings

84. Once the FTAA meetings began on November 20th, defendants escalated the plan to limit protest by targeting and intimidating ideological demonstrators. Defendants deployed mobile police lines to interfere with freedom of association; encircled protestors with lines of riot-gear clad officers with weapons drawn; dispersed lawful assemblies; unlawfully detained, searched and arrested

those opposed to the FTAA without probable cause; and used unprecedented brutal force and various chemical toxins against peaceful demonstrators. In effect, defendants became judge and jury on the street, meting out severe punishment for the lawful exercise of First Amendment rights to send a message to the demonstrators that violence would not be tolerated in Miami. But the only violence was by the police against demonstrators.

85. November 20, 2003, was the first day of the FTAA meetings. The AFL-CIO had a permit to hold a rally at Bayfront Park Amphitheater, with a march scheduled to follow. The Amphitheater is located between Bayfront Park and the Hotel Intercontinental, where the FTAA meetings were being held. On the morning of November 20, 2003, as protestors walked toward the Bayfront Park Amphitheater, they found their passage impeded by police at virtually every turn. Squads of police lined the streets and blocked intersections. Through this tactic, defendants “herded” the demonstrators into one location and then surrounded them. A large group of demonstrators, that had grown to approximately 100 as people walked in an orderly and peaceful manner along the sidewalk from the Convergence Center, was “herded” so that, eventually, they were forced to the police station, where they were completely surrounded and detained by the police for more than an hour. Ultimately, the demonstrators were told they could not walk on public sidewalks together and would only be allowed to continue to the Amphitheater in smaller groups. Coupled with this unlawful condition was the threat that, if they did not agree with the capricious police order, the demonstrators would be “escorted” to buses and driven out of the downtown area. None of the demonstrators had violated any law and no permit could lawfully be required for them to walk on a public sidewalk while obeying all traffic regulations.

86. Even as the demonstrators complied with police orders and left for Bayfront Park in smaller groups, taking different routes, they were immediately targeted by the police. One group was

accosted by bicycle officers, who deliberately struck the protestors on the sidewalk with their bicycles, blatantly trying to provoke a response to justify demonstrators' arrests. The activists attempted to avoid the bicycle officers and kept walking, but the bicycle police persisted in their deliberate provocation, both physically and verbally, ultimately forcing the demonstrators off the sidewalk and into the street. The police then "herded" the demonstrators into a waiting line of officers in the vicinity of NW 1st Place. Once trapped, the demonstrators were repeatedly assaulted by the officers with their bicycles, knocking several protestors to the ground, then handcuffed and arrested them. Several individuals from the New York City Independent Media Center (NYC IMC) videotaped the incident and were then arrested. Their cameras were taken and film footage destroyed. This pattern was repeated throughout downtown in a calculated plan to prevent people from reaching the Amphitheater as even small groups of two or three people walking on the public sidewalks, were stopped, searched and arrested, all without probable cause.

87. Defendants also targeted the permitted AFL-CIO rally and march. As people waited in line to be admitted to the Amphitheater, uniformed and undercover officers from defendants **MPD, M-DPD, BSO** and **HPD**, among other law enforcement agencies, identified several of the young people standing in line as targets for arrest on the erroneous belief that they looked like someone who was alleged to have been part of an incident between police and demonstrators earlier in the morning in which the defendants alleged that some of the demonstrators threw objects at them when defendants unlawfully blocked their passage. Some of the people so identified in the line at the Amphitheater were not even in Miami at the time, or at the earlier incident. Nonetheless, without warning or provocation, defendants simply charged people standing in line, grabbed, beat, tasered, pepper-sprayed and arrested these youths.

88. Following the AFL-CIO rally, the permitted march was held, leaving from the

Amphitheater, marching through downtown Miami, and returning to the Amphitheater. After the march ended, a number of demonstrators remained on a grassy knoll in Bayshore Park, near the Amphitheater. Some members of this group began chanting at a line of police standing nearby. After approximately ten minutes, a police representative informed the group that they could remain assembled there so long as the group remained peaceful, but within barely a minute of this announcement, officers opened fire on the demonstrators with so-called “less lethal” munitions and “tear gas,” converting the entire area into a “no-protest” zone. As defendants began to chase the protestors, many of those in the area, including the retirees and students who had come by bus for the day to attend the AFL-CIO rally, left down side streets to avoid any conflict.

89. Without warning, officers from **MPD, M-DPD, BSO and HPD**, among other agencies, began marching slowly, shoulder-to-shoulder, northbound on Biscayne Blvd., firing rubber bullets, pepper-spray beanbags, tear gas-filled projectiles and other weapons at unarmed demonstrators. Although the only admission to the use of “less-lethals” was two uses by the **M-DPD** on November 21, 2003, on November 20, 2003, the above-named Defendants continued to chase the demonstrators for several blocks from Biscayne Boulevard after the AFL-CIO event, shooting at them with “tear-gas” filled projectiles and other less-lethal munitions. In one especially egregious incident, officers from several of the defendants chased a woman who was bleeding from a head wound. She had been shot at close range with a less-lethal projectile while kneeling, alone, in prayer on the grassy knoll after police opened fire on the demonstrators. She was pursued to the Wellness Center on North Miami, a drop-in medical clinic. Unidentified officers with Defendants’ agencies viciously assaulted everyone outside the Wellness Center with batons and pepper-spray, without provocation and without knowing whether any of these people had even been at the Amphitheater earlier in the day. One of the street medics, who was treating people with head wounds from defendants’ assault on demonstrators at the

Amphitheater, was pepper-sprayed in the face and eyes and beaten with a baton. Another was hit in the shoulder by what appeared to be a pepper spray bullet. Defendants also sprayed the outside walls and door, pulled open the door of the Wellness Center, and sprayed the interior with a type of tear-gas, directly hitting at least one person and contaminating the area where injured people were being treated. Other officers set out in vans, sweeping an area of at least two miles from the Amphitheater to the Convergence Center, with riot-clad officers indiscriminately stopping anyone in the area who looked to be a demonstrator and, with weapons drawn, forcibly arresting them.

90. The total lawlessness of defendants' actions is apparent by the arrests of several of the plaintiffs near the railroad tracks. Plaintiffs **KILLMON**, a 71-year-old retiree, and **WINAWER**, an employee of the retiree association to which **KILLMON** belongs, were trying to find their bus for the return trip to Ft. Myers after defendants blocked all chartered buses from picking up passengers at the Amphitheater. As a result of unconstitutional police lines blocking streets in downtown **KILLMON** and **WINAWER** were "herded" to an area along old railroad tracks. Along with more than a dozen others walking in the same area, they were arrested, without warning and with unreasonable force, well more than a mile from the Amphitheater location. The arrests were made by officers who could not and did not witness any unlawful activity by these individuals and, so, lacked any probable cause.

The Jail Solidarity Vigil and the Arrests of November 21, 2003

91. On November 21, 2003, approximately 200 demonstrators assembled in a public parking lot adjacent to the State Attorney's Office, across from the Gerstein Court and the Pre-Detention Center, to protest the arrests and detentions of the previous day. The protestors referred to this gathering as "The Jail Solidarity Vigil." Almost from the outset, several hundred officers, who were under the direction of defendant **M-DPD**, were present in riot gear, monitoring the vigil. The group engaged in peaceful chanting for several hours. Shortly before 5 p.m., they were told by command officers with

the **M-DPD**, that the demonstrators would have to disperse, despite the fact that the vigil had been peaceful and without incident. By the time that this initial dispersal order was given, an estimated 500 officers, most, if not all, of whom were with the **M-DPD**, had assumed positions in the streets on three sides of the assembly, with the State Attorney's office building backing the demonstration. Because the officers had blocked off all the streets, the only possible exit was a small opening on the northeast corner of the parking lot.

92. As the protestors left in compliance with the order, they were caught between lines of riot-gear clad officers from the **M-DPD**. When defendants gave an order to disperse, instructing the demonstrators that they would have two minutes to get on the sidewalk and leave east on 14th Street, the demonstrators fully complied, as several of the defendants have already testified in the criminal trials of some of the plaintiffs. Nonetheless, defendants trapped the dispersing demonstrators before the two minutes had expired and completely surrounded approximately 60 of the demonstrators on the sidewalk at 11th Street. Defendants shoved the group with their shields and clubbed them with batons, forcing them into each other and against a wire fence, that collapsed under the weight of the demonstrators. Surrounded by defendants in riot gear and forced down on the ground, many of the demonstrators raised their hands in peace signs as a last attempt to deescalate the police violence. Despite the fact that there was no violence or resistance on the part of the demonstrators, the officers began beating them with batons and pepper-spraying the group with toxic chemicals in the eyes and face at close range, in some cases pulling their hands away so that the officers could spray them with the chemicals directly and repeatedly in their eyes.

93. While the first group of 60 demonstrators was being assaulted, several smaller groups of demonstrators, who witnessed the police entrapment and assault, turned down other streets to avoid any confrontation with the police. They continued walking, peacefully and lawfully, for several blocks

on the public sidewalk without incident. Nonetheless, defendants with the **M-DPD**, on foot and on bicycles, pursued the dispersing demonstrators, trapped, and arrested them with unreasonable force. In all, approximately two dozen demonstrators were arrested in smaller clusters when they were several blocks to almost a mile away from the County jail, the point of the original dispersal order, and several blocks away from where the larger group of demonstrators was suddenly surrounded and arrested on 14th Street.

94. Although defendants plan was executed under the guise of preventing violence and averting “terrorism,” in fact, law enforcement deliberately and maliciously prevented lawful expressive activity from taking place in the first instance. In the course of the FTAA meetings, the police swept up hundreds of demonstrators and subjected them to meritless criminal charges and prosecutions in retaliation for lawful expressive activity. Those opposing the FTAA were arrested for alleged misdemeanor violations of the City’s unconstitutional public assembly laws and various Florida criminal statutes, including “loitering and prowling,” unlawful assembly, and failure to disperse. For days, time after time, the police targeted demonstrators and supporters of the protestors, including street medical providers and legal observers, and subjected them to unwarranted custodial detentions, illegal searches and false arrest under factual circumstances that no reasonable officer would believe was permitted under the First and Fourth Amendments.

95. Defendants established an undefined and floating “no-protest zone” by making downtown Miami and the area surrounding it off limits to political dissent during the FTAA meetings unless the various law enforcement personnel decided to permit expression, and, even then, only for as long as law enforcement allowed peaceful demonstrators to remain in traditional public fora. Repeatedly, demonstrators were deliberately ensnared when they assembled with explicit police agreement to allow them to gather at a particular location, only to have the police arbitrarily and almost

immediately revoke this “permission” and order the group to disperse on the pretext that the demonstrators were violating state and municipal public assembly laws.

Use of Force and Other Factors

96. The common factors in all of these actions was the use of force to intimidate and stifle dissent, coupled with the absence of any probable cause to disperse or arrest those assembled or simply walking on a public way. In some instances, the police utilized arrest forms, which were partially filled out in advance, requiring only the entry of names, height, weight and other individual identifiers to supplement the boilerplate and generic descriptions of the supposed unlawful activity. Arrests were made without arresting officers even knowing what law had been violated. It was sufficient that the individual detained was believed to be protesting against the FTAA, the worst type of “guilt by and for association.” The actions of the defendants in violating the rights of the demonstrators were so egregious that one state criminal court judge who happened to be in the area during the demonstrations stated in open court that he witnessed “no less than 20 felonies committed by police officers.” The judge characterized the actions of law enforcement as “pretty disgraceful” and said that he would have also been arrested while walking on Biscayne Boulevard but for the fact that one of the police officers recognized him from court.

97. The use of force by defendants was particularly malicious, with defendants uncontrollably beating and shooting people, who 1) had violated no law, or, at worst, had only committed a minor criminal offense, 2) posed no threat to the safety of officer or others, and 3) were not evading arrest. Moreover, the completely unrestrained use of force in this instance, even if some force might have been warranted in isolated instances to effectuate a lawful arrest, was far outside the bounds of any possible permissible force as it involved potentially “lethal” force, including, but not

limited to baton strikes to the head of demonstrators, shooting less-lethal munitions and projectiles at close range and at the heads and upper torsos of demonstrators, and repeatedly spraying pepper spray and other chemical irritants directly into the eyes, noses and mouths of non-violent protestors who were trapped by police. Defendant **TIMONEY** has stated publicly that the police intended to use the challenged tactics described above as a prophylactic measure to prevent possible violence, even where no violence was threatened, and that law enforcement believed it was lawful and proper to prevent speech because some persons in the assembly might engage in unlawful conduct. The response to the FTAA protest was nothing short of a police riot. Knowing in advance that they would engage in such wholesale and deliberate violations of the FTAA protestors' First and Fourth Amendments, the officers obscured their identities behind riot gear and generic uniforms with no visible badges or name tags.

98. Those arrested on November 20 and 21, 2003, were taken to makeshift detention areas similar to dog kennels at the Earlington Heights Metrorail station, set up specifically to detain FTAA protestors, operated jointly by the **MPD** and the **M-DPD**, where most were kept for hours in the wire "kennels," without food, water, bathroom facilities, or access to counsel. Defendant **MPD** processed all of those arrested by its partner agencies, except the defendant **M-DPD**. They were denied the opportunity to make a phone call for lengthy periods of time after their probable cause hearings and were denied access to counsel. They were held in custody for excessive amounts of time and required to post bail in cases where the usual practice would have been to release a misdemeanor defendant on his or her own recognizance. Even when the charges were dropped for a complete lack of probable cause, or where bail was granted, plaintiffs still were not released because of the deliberate plan of defendants to keep anyone arrested in conjunction with the FTAA meetings in custody so that s/he could not return to the site of the FTAA meetings. For many, their property was thrown away by police at the site, left for community residents to take. Some residents even reported that the police had

expressly told them it was okay to steal the possessions of the demonstrators. Photographic equipment, in particular, was destroyed, with film and digital images of the police misconduct deliberately ruined by officers as the demonstrators watched.

99. In all, approximately 283 people were arrested and 231 were formally charged. Of those formally charged, 203 were for misdemeanors and 28 for felonies. Eighty percent of the felonies were reduced to misdemeanors. To date, every case that has gone to trial has resulted in an acquittal. Despite the fact that the retaliatory criminal charges against plaintiffs were baseless, prosecutions were and are being pursued and most of the plaintiffs have been required to post bond, retain counsel, take time off from work and school, incur expenses to return to Miami for trial, and similar costs related to defending against these meritless criminal charges, all because they sought to engage in lawful protest concerning an issue with national and global social, economic and political import.

100. Those arrested were also subjected to extensive interrogation about their political beliefs and activities. This, too, was part of the plan developed in coordination between the federal and local law enforcement agencies to use unlawful and unwarranted mass political arrests as a mean to collect information about political activists and their associations. Agents from the FBI of and the BICE were present and participated in the interrogation of those demonstrators who were unlawfully arrested. These federal agencies, together with other federal agencies, collect such “intelligence” and, on information and belief, disseminate and make such personal information available to other entities, including local law enforcement. Some of the information collected as a result of these unlawful arrests and interrogations has already been disseminated by defendants to law enforcement databases, including those operated by the federal defendants, and used to detain and question in New York state the college student brother of an individual who participated in the FTAA demonstrations in Miami.

101. The conduct challenged herein was neither aberrational nor the consequence of

overzealous, but well-intentioned, law enforcement. It was the implementation of a pre-designed plan to engage in unconstitutional preemptive arrests intended to be a back-door way to coerce information for federal and local government databases on lawful First Amendment activity, to disrupt lawful expressive activities in advance of their occurrence and round up political activists and lock them up in the absence of probable cause. The government uses these mass unconstitutional false arrests to secure as a primary or incidental benefit the collection of data to which it may not have access otherwise except solely through a coordinated plan of constitutional misconduct. The FBI and other federal agencies use the massive false arrests to interrogate certain of those falsely arrested and to ascertain the identity information and associations of all arrested in mass political sweeps. Derogatory (false) “arrest records” and derivative records are maintained and disseminated by the federal defendants.

102. It is the policy and practice of the federal government to designate these mass demonstrations of national or international political significance as “National Special Security Events,” which thereby creates the authorization and framework for the centrally planned and coordinated joint state-federal action that is a fundamental characteristic of National Security Special Events. Such events happen on a recurring basis in major cities across the country, triggering the execution of the recurring joint federal-local operational and disruption plans that were manifest during the FTAA meeting. At these events, which recur many times per year, there has been a manifestation of the preemptive and disruptive joint federal-local misconduct that is challenged herein.

103. By way of examples, at the April 2000 International Monetary Fund / World Bank (IMF/WB) annual meeting in Washington, D.C., which was a NSSE, federal and local authorities engaged in a massive coordinated effort to preempt lawful dissent, including arresting on April 16, 2000 over 600 persons, with no ensuing convictions for any unlawful conduct. At the September, 2002

IMF/WB in Washington, D.C., also designated a NSSE, there was a massive joint local-federal “security” effort - - much as occurred in connection with the Miami FTAA meetings - - and over 500 false arrests, with no ensuing convictions. At the recent August, 2004, Republican National Convention in New York City, also declared a NSSE - with concomitant joint-federal security - there were hundreds of such “preemptive” and unlawful arrests.

104. At such events, the federal government, including the FBI and the new Office of Domestic Preparedness train local law enforcement in counter-protest activity. In connection with the FTAA, local law enforcement command officials were trained in a 40- hour federal, Office of Domestic Preparedness course entitled Managing Civil Actions in Threat Incidents. The commanders, in turn, trained their subordinates in tactics derived from the ODP course, including according to the Miami After Action Report, training and instruction on “rapid deployment, line formations, verbal and hand commands, squad movements, equipment familiarity, arrest techniques and use of the baton.” These formations and arrest tactics are challenged herein as part of a massive and preemptive disruption of FTAA protest activity. Acting within the NSSE framework, in connection with the FTAA, representatives from the State Attorney’s Office, FBI, ATF, US Attorney’s Office, Dade County Clerk’s Office, Miami Police Department, Miami Beach Police Department, Miami-Dade Police Department, Dade County Corrections, Broward County Sheriff’s Office, and the Florida Department of Law Enforcement jointly determined policy and practice towards protestors, specifically including arrest and mass arrest protocols and “protestor rights to free speech and assembly,” or the deprivation thereof as alleged.

105. Often, as is the case with Miami law enforcement, local policing agencies will implement, adopt or continue such disruptive misconduct as their own ongoing practice in response to anticipate mass dissent. According to the June 18, 2004 edition of the *Miami Sun Post*, the Miami

Police Department refused to produce its operations plan to lawyers for the Civilian Investigative Panel on the basis that the Operational Plan *is not FTAA protest specific* and that the tactics described therein used at the FTAA would be employed in the future. South Florida is currently expected to be the site in June 2005 of the General Assembly of the Organization of American States (OAS), and its related events. That meeting is, or will be, declared a NSSE. There will be First Amendment protected protest activity in Miami in connection with *that* prominent assembly, just as there will be recurring expressive activity in connection with other large political events when they occur in Miami or vicinity. The customs and practices challenged herein will be executed again at these recurring events by defendants, unless there is equitable relief to prevent a recurrence of the sweeping violations that occurred in connection with the FTAA meeting.

INJUNCTIVE RELIEF

106. Plaintiffs reallege and incorporate by reference, as though fully set forth here, the allegations set forth in the preceding paragraphs 1 through 100.

107. Defendants have engaged in a course of unlawful conduct aimed at intimidating plaintiffs and deterring them from the exercise of their protected constitutional rights of speech, association, assembly and petition. Defendants have carried out their unlawful behavior by, among other means, enforcing patently unconstitutional laws and applying constitutional laws in an unlawful manner, all for the aim of imposing a “limit” on protest, surveilling plaintiffs on the basis of their presumed political and ideological beliefs, prohibiting plaintiffs and others from assembling together, using unconstitutional police lines to block plaintiffs’ access to traditional public fora, dispersing lawful assemblies, and using unjustified force – including police horses, batons, so-called less-lethal munitions, taser weapons, and various nerve agents and chemical irritants – to intimidate lawful protestors, to disperse lawful assemblies and to arrest non-violent demonstrators, without probable

cause.

108. Plaintiffs intend to continue to protest the policies of the FTAA, the police abuse to which they were subjected based on their political opposition to the FTAA, as well as a variety of other political and social issues, as they have done in the past. They fear they will suffer the same violations of their rights when they do so and that others will be discouraged from participating with them in public because of fear that they, too, will be prevented from exercising their rights and will be shot, clubbed, tasered, pepper-sprayed and/or arrested by the police.

109. Plaintiffs have suffered harm and, absent extraordinary relief from this Court, plaintiffs will continue to suffer irreparable harm through being subjected to coerced investigations and unlawful arrests, with the information obtained through these unlawful tactics collected in and disseminated by defendants through criminal databases. As a result, plaintiffs have suffered and continue to suffer unwarranted restrictions on their First Amendment rights of speech, association, assembly and petition. Damages will not be an adequate remedy at law because, although plaintiffs have suffered injury, including physical injury as a consequence of defendants' unlawful acts, damages cannot adequately compensate plaintiffs for the loss of their First Amendment rights.

FIRST CLAIM FOR RELIEF

Restriction and Disruption of Lawful Expressive Activity

42 U.S.C. § 1983 and First, Fourth and Fourteenth Amendments

**By All Plaintiffs Against Defendants CITY OF MIAMI, MIAMI-DADE COUNTY,
JENNE, BROWARD SHERIFF'S OFFICE, CITY OF HIALEAH, TIMONEY,
ALVAREZ, FERNANDEZ, O' DONNELL, and BATTLE**

110. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1, 5-30, 33-72, 79-90, 94-101, 105, as if they were fully set forth here.

111. Acting pursuant to the Joint Plan developed and implemented by all defendants to limit

lawful protest to preempt wholly speculative violence, the above-named defendants violated plaintiffs' First Amendment rights to assembly, speech and association by targeting them for police actions based on plaintiffs' perceived political and ideological opposition to the FTAA, including denying plaintiffs the right to assemble lawfully in public fora; terminating lawful assemblies; targeting plaintiffs for arrest; maliciously prosecuting plaintiffs based on their political beliefs and to deter the exercise of First Amendment rights; deploying officers to surveill, infiltrate and disrupt plaintiffs' lawful expressive First Amendment activities; subjecting plaintiffs to coerced interrogations concerning their political beliefs and lawful political activities; collecting and disseminating information concerning plaintiffs in a manner that has stigmatized them as lawbreakers.

112. Defendants arrested plaintiffs without reasonable suspicion or probable cause in retaliation for the exercise of their First Amendment rights to express their opposition to the FTAA policies and to associate and assemble with others who also were in opposition to the FTAA.

113. Defendants unlawful actions were done willfully, knowingly and with the specific intent to deprive plaintiffs of their constitutional rights based on political and ideological profiling, guilt by association and guilt for association.

114. As a consequence of defendants' actions, plaintiffs suffered violations of their First and Fourteenth Amendment rights to free speech and equal protection of the laws, and to their Fourth Amendment rights to be free from unlawful search and seizure in retaliation for their perceived political and ideological beliefs and associations. Plaintiffs are reluctant to participate in lawful expressive activities, and/or do so with fear and apprehension that they will, again, be subject to similar unlawful acts by defendants done for the purpose of "limiting" plaintiffs' expressive activities in advance of their occurrence.

115. As a direct and proximate result of defendants' unlawful actions, plaintiffs have suffered

damages, as set forth in the Prayer for Relief.

SECOND CLAIM FOR RELIEF

First Amendment

By All Plaintiffs Against Defendants RIDGE and ASHCROFT

116. Plaintiffs repeat and reallege the allegations set forth in paragraphs 5-25, 31, 32, 71, 100-105, 106-109, as if they were fully set forth here.

117. Acting pursuant to the Joint Plan developed and implemented by all defendants to limit lawful protest and to collect information on the political and ideological beliefs of those perceived to be FTAA demonstrators, agents and employees of the federal defendants, including individuals who identified themselves as being with the FBI, Homeland Security, BICE, and the ATF, interrogated the plaintiffs by detaining them on the streets and interrogating them while they were held in custody by the named defendant county and municipal law enforcement, including questioning Plaintiffs **KILLMON, ALDRICH, BAME, DIAMOND, FOSSE, SELMAN**, among others. The federal defendants collected the information obtained through their own interrogation of Plaintiffs and through the arrests without reasonable suspicion or probable cause by the named defendant county and municipal law enforcement.

118. As a result of the federal defendants' actions, the information obtained from Plaintiffs and from their wrongful arrests has been collected, maintained and disseminated to law enforcement around the country, stigmatizing Plaintiffs as lawbreakers. The use and dissemination of such (false) arrest and derivative records, secured solely through widespread civil rights violations, subjects those arrested to risk of personal, professional, educational, financial, reputational and other forms of irreparable harm. These intelligence agencies do not merely create a subjective chill, rather they rely and incorporate massive civil rights violations as an essential element of data collection, consequently causing widespread concrete harm. The policies, practices and customs challenged herein remain in

existence and come into operation where there are large prominent events of significance that engender, or are anticipated to cause, mass demonstration activity.

119. It is the policy and practice of the of the federal government to designate such events of national or international political significance as “National Special Security Events,” which thereby creates the authorization and framework for the centrally planned and coordinated joint state-federal action that is a fundamental characteristic of National Security Special Events. Such events happen on a recurring basis in major cities across the country, triggering the execution of the recurring joint federal-local operational and disruption plans that were manifest during the FTAA meeting.

Unless enjoined by this Court, and unless the information is expunged from all criminal databases maintained by the federal defendants, Plaintiffs will continue to suffer injury as set forth more fully in the Prayer for Relief.

THIRD CLAIM FOR RELIEF

Wrongful Arrest and Malicious Prosecution

42 U.S.C. § 1983 and First, Fourth and Fourteenth Amendments

**By Plaintiffs ALDRICH, BAME, DIAMOND, FOSSE, MITCHELL, PITULA and ROSIN
Against the CITY OF MIAMI, DEFENDANTS TIMONEY, FERNANDEZ and the Named
Defendant Individual Officers of the MIAMI POLICE DEPARTMENT**

120. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1, 6, 7, 9, 11, 15, 17, 19, 26, 27, 34, 38-47, 58, 59, 68, 69, 71, 72, 79-89, 96-101, 105-109, as if they were fully set forth here.

121. The **MPD**, and the individually named defendants employed by the **MPD**, including defendants **PELHAM, TOWNSEND, SAYIH, BALBUENA, ROMERO (Badge #6097), Lt. ALVAREZ, J. GUERRA (Badge #2600), DURANTANO (Badge #5830), MERCED, and BADGE #2976, J. PASTOR (Badge #5533)**, violated plaintiffs’ First, Fourth and Fourteenth Amendment rights by, among other tactics: seizing and detaining plaintiffs to prevent lawful assembly, arresting them with excessive force and without probable cause, assaulting them, subjecting them to nonconsensual searches of their persons and property, confining Plaintiffs in a “kennel” without adequate water, food,

or bathroom facilities and in handcuffs; imprisoning and maliciously prosecuting plaintiffs; requiring them to post bond for misdemeanor criminal charges when misdemeanor citations were generally released on their own recognizance without a bail hearing; all without probable cause or reasonable suspicion to believe that plaintiffs had violated the law.

122. Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive plaintiffs of their constitutional rights based on political and ideological profiling, guilt by association and guilt for association.

123. The prosecution by the above-named defendants of each of the foregoing plaintiffs, except **MITCHELL**, constituted malicious prosecution in that there was no basis for the plaintiffs' arrest, yet defendants continued with the prosecution, which were resolved in plaintiffs' favor.

124. As a consequence of defendants' actions, plaintiffs are reluctant to associate with others who have been similarly subjected to political and ideological profiling by defendants, and plaintiffs are reluctant to participate in large-scale lawful expressive activities, or do so with fear and apprehension that they will, again, be subject to similar unlawful acts by defendants, including the use of unreasonable force done for the purpose of "limiting" plaintiffs' lawful expressive activities.

125. As a direct and proximate result of defendants' unlawful actions, plaintiffs have suffered loss of their liberty, physical pain, mental suffering, embarrassment, anguish, costs of defense to the criminal charges, loss of property and other losses.

FOURTH CLAIM FOR RELIEF

Wrongful Arrest and Malicious Prosecution

42 U.S.C. §1983 and First, Fourth and Fourteenth Amendment

**By Plaintiffs ALDRICH, BLOCH, FLYNN, DIAMOND, GOLAN, LONGA, MOORBY,
PITULA, RIPPLE, STEWART, WELANDER, and WELLE Against Defendant
MIAMI-DADE COUNTY, ALVAREZ, BATTLE and the Named Individual Officers
Employed by Defendant MIAMI-DADE COUNTY**

126. Plaintiff realleges the allegations of paragraphs 1, 6, 8-10, 12, 13, 16-18, 21, 23, 24, 28, 29, 35-37, 51-58, 61-63, 69, as though fully set forth here.

127. Defendant **M-DPD**, and the individually named defendants employed by the **M-DPD**, including defendants **BATTLE, O'DONNELL, ACIN, ROMERO (Badge #4508), ESPINOSA (Badge #4840), L. PEREZ (Badge #2436), J. LEON (Badge #4329), C. MOON (Badge #4335), F. REYNOLDS (Badge #4606), ERDO BERMUDEZ, FADREY, E. TODORO, J. DeARMAS (Badge #4317), RILEY (Badge #3924), T. WEVER (Badge #4994), M. ROMERO (Badge #3935), and Det. R. DEAN**, violated plaintiffs' First, Fourth and Fourteenth Amendment rights by, among other tactics: seizing and detaining plaintiffs to prevent lawful assembly; arresting them with excessive force and without probable cause; assaulting them; subjecting them to nonconsensual searches of their persons and property; confining Plaintiffs in a "kennel" without adequate water, food, or bathroom facilities and in handcuffs; imprisoning and maliciously prosecuting plaintiffs; requiring them to post bond for misdemeanor criminal charges when misdemeanor citations were generally released on their own recognizance without a bail hearing; all without probable cause or reasonable suspicion to believe that plaintiffs had violated the law.

128. Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive Plaintiffs of their constitutional rights based on political and ideological profiling, guilt by association and guilt for association.

129. The prosecution by the Defendant **M-DPD** of each of the foregoing plaintiffs constituted malicious prosecution in that there was no basis for the plaintiffs' arrest and defendants so knew, yet they continued with the prosecution, which was resolved in favor of each of the plaintiffs.

130. As a consequence of defendants' actions, plaintiffs are reluctant to associate with others who have been similarly subjected to political and ideological profiling by defendants, and plaintiff is reluctant to participate in large-scale lawful expressive activities, and/or does so with fear and apprehension that he will, again, be subject to similar unlawful acts by defendants, including the use of unwarranted detention and arrest for the purpose of "limiting" plaintiff's lawful expressive activities.

131. As a direct and proximate result of defendants' unlawful actions, plaintiffs suffered loss of their liberty, physical pain, mental pain and suffering, embarrassment, anguish, costs of defense to the criminal charges, loss of property and other losses.

FIFTH CLAIM FOR RELIEF

42 U.S.C. §1983 and First, Fourth and Fourteenth Amendment

Wrongful Arrest and Malicious Prosecution

By Plaintiffs KILLMON, SELMAN, STONE and WELANDER Against Defendant JENNE, the BROWARD SHERIFF'S OFFICE and the Named Individual Defendants Employed by Defendant BROWARD SHERIFF'S OFFICE

132. Plaintiff realleges the allegations of paragraphs 1, 5, 20, 22, 25, 30, 48, 49, 50, 70-72, 79, 80, 87-90, as though fully set forth here.

133. Defendant JENNE, BSO, and the individually named defendants employed by the BSO, including defendants NEILLY, MANDERA, BADGE #5345, and RAHMING, violated plaintiffs' First, Fourth and Fourteenth Amendment rights by, among other tactics: seizing and detaining plaintiffs to prevent lawful assembly; arresting them with excessive force and without probable cause; assaulting them; subjecting them to nonconsensual searches of their persons and property; confining Plaintiffs in a "kennel" without adequate water, food, or bathroom facilities and in handcuffs; imprisoning and maliciously prosecuting plaintiffs; requiring them to go through a bond hearing for misdemeanor criminal charges when misdemeanor citations were generally released on their own recognizance without a bail hearing; all without probable cause or reasonable suspicion to believe that plaintiffs had

violated the law.

134. Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive plaintiff of her constitutional rights based on political and ideological profiling, guilt by association and guilt for association.

135. As a consequence of defendants' actions, plaintiff is reluctant to associate with others who have been similarly subjected to political and ideological profiling by defendants, and plaintiff is reluctant to participate in large-scale lawful expressive activities, and/or does so with fear and apprehension that she will, again, be subject to similar unlawful acts by defendants, including the use of unwarranted detention and arrest for the purpose of "limiting" plaintiff's lawful expressive activities.

136. As a direct and proximate result of defendants' unlawful actions, plaintiff has suffered and/or continues to suffer physical pain, mental pain and suffering, embarrassment, anguish, costs of defense to the criminal charges, and other losses.

SIXTH CLAIM FOR RELIEF

42 U.S.C. §1983 and Fourth, Fifth and Fourteenth Amendment

Right to Due Process and Equal Protection

**By Plaintiffs KILLMON, McLEAN, SELMAN, STEWART, STONE, and WINAWER
Against Defendants CITY OF MIAMI and TIMONEY**

137. Plaintiff realleges the allegations of paragraphs 1, 5, 14, 20-22, 25, 26, 27, 71, 72, 98, 99, 100, as though fully set forth here.

138. Plaintiffs were incarcerated in the makeshift detention center by the **MPD** pursuant to the Plan instituted for arrests of individuals identified through political and ideological profiling as FTAA demonstrators. The conditions of confinement in this facility violated the above-named plaintiffs' rights to due process and equal protection by incarcerating them for unreasonably long periods of time in a jointly-operated makeshift detention centers where plaintiffs were kept handcuffed and imprisoned in "kennel" cells, denied water, food and access to bathroom facilities.

139. Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive plaintiffs of their constitutional rights based on political and ideological profiling, guilt by association and guilt for association.

140. As a direct and proximate result of defendants' unlawful actions, the above-named plaintiffs suffered loss of liberty, physical pain, mental pain and suffering, embarrassment, anguish.

SEVENTH CLAIM FOR RELIEF

Unlawful Strip Search

42 U.S.C. §1983 and Fourth and Fourteenth Amendment

By Plaintiffs McLEAN and MITCHELL Against Defendant MIAMI-DADE COUNTY

141. Plaintiffs reallege and incorporate paragraphs 14, 15 as though fully set forth here.

142. Plaintiff **McLEAN** and **MITCHELL** were strip-searched while detained in the TGK and, in the case of **MITCHELL** subjected to a physical body-cavity search without any lawful justification as neither was ever placed in the general population and both strip-searches were conducted long after each was admitted to the TGK and there was no legitimate basis for believing that either individual had come into contact with any type of contraband.

143. Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive plaintiffs of their constitutional rights based on political and ideological profiling, guilt by association and guilt for association.

144. As a direct and proximate result of defendants' unlawful actions, the above-named plaintiffs suffered loss of liberty, physical pain, mental pain and suffering, embarrassment, anguish.

EIGHTH CLAIM FOR RELIEF
42 U.S.C. §1983 Fourth and Fourteenth Amendment
By Plaintiff McLEAN Against the HIALEAH Defendants

145. Plaintiff realleges and incorporates paragraphs 14, 33, 64-67, 71, 72, 87-89, as though fully set forth here.

146. Plaintiff **McLEAN** was arrested by Defendants based on political and ideological, without reasonable suspicion or probable cause and through the application of excessive force, including the repeated use of a taser gun, even when he was not resisting arrest and after he was handcuffed. He was sexually assaulted and stripped in public for the purpose of humiliation and embarrassment by the **HPD** officers.

147. Defendants' unlawful actions were done willfully, knowingly and with the specific intent to deprive plaintiff of his constitutional rights based on political and ideological profiling, guilt by association and guilt for association.

148. As a direct and proximate result of defendants' unlawful actions, the above-named plaintiff suffered loss of liberty, physical pain, mental pain and suffering, embarrassment, anguish.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray for relief as follows:

A. By All Plaintiffs Against Defendants CITY OF MIAMI, MIAMI-DADE COUNTY, TOM RIDGE. JOHN ASCROFT:

1. For declarations that the defendants' conduct violated the First, Fourth, and Fourteenth amendments to the U.S. Constitution in the manners alleged herein, upon consideration of the evidence adduced at trial or otherwise;

2 For a mandatory injunction requiring that all identified defendants possessing arrest records or information derivative from the mass and widespread unconstitutional and false arrests: shall collect and deliver to the plaintiffs all such records; expunge or delete all such information from their records; identify all persons/entities/nations which have had access to such information or to which such information has been disseminated; undertake all efforts to retrieve from third parties any such disseminated information; and forward to all recipients of such information that the data contained therein may be misleading or inaccurate;

3. For a prohibitory injunction enjoining defendants, acting individually or in joint action with others, from planning or engaging in conduct to preempt or disrupt lawful demonstration activity;

4. For a prohibitory injunction requiring that, should future mass arrests occur in the context of demonstration or assembly activity, that all arrest records and records or summaries of interrogations of such arrestees be segregated and precluded from dissemination until such time when a judicial officer has reviewed the circumstances and authorized such use of the segregated information or imposed appropriate restrictions or prohibitions;

B. By All Plaintiffs Against All Municipal and County Entity Defendants:

____5. For a prohibitory injunction precluding the use of police lines to unconstitutionally divert protestors from their intended site of lawful assembly or procession;

6. For a prohibitory injunction precluding use of police lines to surround, trap and arrest a group(s) of protestors in the absence of probable cause to arrest the demonstration group(s) as a whole;

C. By All Plaintiffs Against Defendants City of Miami, Miami-Dade County and BSO

7. For a prohibitory injunction precluding the dispersal of lawful protest or assembly,

unless the protest as a whole is substantially infected with violence or unlawful obstruction;

8. For a mandatory injunction requiring that, in the instance of constitutionally allowable dispersal that no arrest for failure to obey or comply with a dispersal order be effected of an individual unless that individual has been given actual notice of the dispersal order, an avenue(s) of exit, and meaningful opportunity to comply;

9. For a prohibitory injunction precluding the use of less-lethal munitions, batons, nerve agents and other force against lawful and peaceful demonstrators;

10. For a mandatory injunction requiring that, within 30 days of the issuance of the above-referenced relief or portions thereof, each defendant be required to provide actual notice of the injunctive provisions to all officers and persons with duties related to policing demonstration activities, and to report to the Court in writing when this requirement has been satisfied; to ensure that such future officers, deputies and persons also receive actual notice of the referenced relief; and that defendants shall be required, whenever engaged in joint action or joint planning or preparation for inter-agency conduct towards protestors, to ensure that actual notice of the referenced provisions be given to all agencies and officers involved in such planning, preparation or joint action, absent exigent circumstances that objectively prevent the communication of such information due to circumstances beyond defendants' control;

D. Additional Prayer By Plaintiffs KILLMON, ALDRICH, BLOCH, FLYNN, GOLAN, LONGA, McLEAN, MITCHELL, MOORBY, PITULA, RIPPLE, ROSIN, SELMAN, STEWART, STONE, WELANDER, WELLE and WINAWER Against the City of Miami:

11. For compensatory damages, including emotional distress, any medical expenses, lost property, all recompensable costs related to their criminal defenses, all damages related to the conditions of pre-trial detention in the "kennel," and any other compensatory damages as permitted by

law and according to proof at trial;

E. Additional Prayer By Plaintiffs KILLMON, ALDRICH, BLOCH, FLYNN, GOLAN, LONGA, McLEAN, MITCHELL, MOORBY, PITULA, RIPPLE, ROSIN, SELMAN, STEWART, STONE, WELANDER, WELLE and WINAWER Against MIAMI-DADE COUNTY:

12. For compensatory damages for the conditions of pre-trial detention in the “kennel” and TKG, including emotional distress, any medical expenses, lost property, and other compensatory damages as permitted by law and according to proof at trial;

F. By Plaintiffs ALDRICH, BAME, DIAMOND, FOSSE, MITCHELL, PITULA, and ROSIN Against the CITY OF MIAMI and Defendant TIMONEY:

13. For compensatory damages, including emotional distress, lost property, all recompensable costs resulting from their wrongful arrest and related to their criminal defense, and any other damages as permitted by law and according to proof at trial;

G. By Plaintiff BAME against Defendants PELHAM, TOWNSEND, PASTOR and SAYIH:

14. For compensatory damages, including emotional distress, lost property, all recompensable costs related to their criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages, costs of suit and attorneys fees;

H. By Plaintiff FOSSE against Defendants BALBUENA and ROMERO Badge #6097:

15. For compensatory damages, including emotional distress, lost property, all recompensable costs related to their criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages, costs of suit and attorneys fees;

I. By Plaintiff McLEAN against Defendant CITY OF MIAMI:

16. For compensatory damages, including emotional distress, lost property, all recompensable costs related to their criminal defense, and any other damages as permitted by law and

according to proof at trial, costs of suit and attorneys fees;

J. By Plaintiff MITCHELL against Defendants GUERRA and LT. ALVAREZ:

17. For compensatory damages, including emotional distress, lost property, all recompensable costs related to their criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages.

K. By Plaintiff PITULA against Defendants BERMUDEZ, FADREY and MERCED:

18. For compensatory damages, including emotional distress, lost property, all recompensable costs related to their criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages.

By Plaintiff ROSIN against Defendant MPD Badge #2976:

L. 19. For compensatory damages, including emotional distress, lost property, all recompensable costs related to her criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

M. By Plaintiffs KILLMON, SELMAN, STONE and WINAWER Against Defendants JENNE the BROWARD COUNTY SHERIFF'S DEPARTMENT:

20. For compensatory damages, including emotional distress, all recompensable costs related to the criminal defense, lost property, medical expenses and any other damages as permitted by law and according to proof at trial;

N. By Plaintiff KILLMON against Defendants NEILLY and MANDERA:

21. For compensatory damages, including emotional distress, medical expenses and any other damages as permitted by law and according to proof at trial, including punitive damages;

By Plaintiff SELMAN against Defendant BSO Badge #5345:

O. 22. For compensatory damages, including emotional distress, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages.

P. By Plaintiff STONE against Defendant RAHMING:

23. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages.

Q. By Plaintiff WINAWER against Defendant MANDERA:

24. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages.

R. By Plaintiffs ALDRICH, BLOCH, FLYNN, GOLAN, LONGA, MOORBY, PITULA, RIPPLE, STEWART, WELANDER and WELLE against MIAMI-DADE COUNTY and CARLOS ALVAREZ:

S. 25. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, medical expenses, and any other damages as permitted by law and according to proof at trial;

T. By Plaintiff ALDRICH against Defendant ROMERO:

26. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

U. By Plaintiff BLOCH against Defendant ESPINOSA:

27. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

By Plaintiff FLYNN against Defendant L. PEREZ:

V. 28. For compensatory damages, including emotional distress, lost property, all recompensable costs related to her criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

W. By Plaintiff GOLAN against Defendants ACIN and LEON:

29. For compensatory damages, including emotional distress, medical expenses, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

X. By Plaintiff LONGA against Defendant MOON:

30. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

Y. By Plaintiff MOORBY against Defendant REYNOLDS:

31. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

Z. By Plaintiff PITULA against Defendants BERMUDEZ, FADREY, DEAN, MERCED and TODORO:

32. For compensatory damages, including emotional distress, lost property, all

recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;_

AA. By Plaintiff RIPPLE against Defendant ACIN and DeARMAS:

33. For compensatory damages, including emotional distress, lost property, all recompensable costs related to her criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

BB. By Plaintiff STEWART against Defendant RILEY:

34. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

CC. By Plaintiff WELANDER against Defendant WEVER:

35. For compensatory damages, including emotional distress, lost property, all recompensable costs related to his criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

DD. By Plaintiff WELLE against Defendant ROMERO:

36. For compensatory damages, including emotional distress, lost property, all recompensable costs related to her criminal defense, and any other damages as permitted by law and according to proof at trial, including punitive damages;

EE. By Plaintiff McLEAN Against Defendant CITY OF HIALEAH and Officers Y. PEREZ, L. SEVILLA, ORETEGA and COSTANO:

37. For compensatory damages, including emotional distress, all recompensable costs related to McLEAN's wrongful arrest, sexual assault, use of excessive force, criminal defense, lost

property, and any other damages as permitted by law and according to proof at trial against each of these defendants and punitive damages against the individual officers.

FF. By Plaintiff McLEAN Against Defendant MIAMI-DADE COUNTY:

38. For compensatory damages for the unlawful strip-search, including emotional distress, as permitted by law and according to proof at trial.

GG. By Plaintiff DIAMOND Against Defendant DURANTANO:

39. For compensatory damages, including emotional distress, all recompensable costs related to **DIAMOND**'s wrongful arrest, use of excessive force, criminal defense, lost property, and any other damages as permitted by law and according to proof at trial, including punitive damages against the individual officer.

HH. By All Plaintiffs Against All Defendants in the Prayer:

40. For costs of suit pursuant to 42 U.S.C. §§ 1920 and 1988;

41. For attorneys fees pursuant to 42 U.S.C. § 1988;

42. For such other relief as this Court deems just and proper.

DATED: November 1, 2004

Respectfully submitted,

ROBERT W. ROSS, JR., FBN 921660
LAW OFFICES OF ROBERT W. ROSS, JR.
601 South Federal Highway
Lake Worth, Florida 33460
T. 561 251-4896; F. 561-241-2790
NATIONAL LAWYERS GUILD
MASS DEFENSE COMMITTEE

By: CAROL A. SOBEL (Pro Hac Vice)
LAW OFFICE OF CAROL A. SOBEL
429 Santa Monica Boulevard, Suite 550
Santa Monica, California 90401
T. 310 393-3055; F. 310 393-3605
NATIONAL LAWYERS GUILD
MASS DEFENSE COMMITTEE

ANDREA COSTELLO FBN 532991
ALICE K. NELSON FBN 211771
SOUTHERN LEGAL COUNSEL, INC.
1229 N.W. 12th Avenue
Gainesville, Florida 32601
T. 352 271-8890; F. 352 271-8357

MARA VERHEYDEN-HILLIARD (Pro Hac Vice)
CARL MESSINEO (Pro Hac Vice)
PARTNERSHIP FOR CIVIL JUSTICE, INC.
1901 Pennsylvania Avenue, NW
Washington, D.C. 20006
T. 202 530-5630; F. 202 530-5634
NATIONAL LAWYERS GUILD
MASS DEFENSE COMMITTEE

JONATHAN MOORE (Pro Hac Vice)
MOORE & GOODMAN, LLP
740 Broadway at Astor Place
New York, New York 10007
T. 212 353-9587; F. 212 674-4614
NATIONAL LAWYERS GUILD
MASS DEFENSE COMMITTEE