

**EZRA MABLE**

833 [REDACTED]  
Baltimore, Maryland 21201

Plaintiff,

v.

**MAYOR AND CITY CONCIL  
OF BALTIMORE CITY**

100 North Holiday Street  
Baltimore, Maryland 21202

*Serve on:*

George Nilson  
100 North Holiday Street  
Baltimore, Maryland 21202

and

**THE BALTIMORE CITY  
POLICE DEPARTMENT**

601 East Fayette Street  
Baltimore, Maryland 21202

*Serve on:*

Chief, Legal Counsel  
242 West 29<sup>th</sup> Street  
Baltimore, Maryland 21211

and

**ED NORRIS**, Former Commissioner,  
in his individual capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**ANTHONY BATTS**, Commissioner,  
in his official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**WILLIAM RITZ**, Detective,  
in his individual and official capacity  
Baltimore City Police Department

IN THE UNITED STATES

DISTRICT COURT FOR

THE DISTRICT OF MARYLAND

601 East Fayette Street  
Baltimore, Maryland 21202

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and

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**HOMER PENNINGTON**, Detective,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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**JOSEPH PHELPS**, Detective,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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**KIRK HASTINGS**, Detective,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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**KENNETH JONES**, Warrant Task Force,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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**STANLEY REAVES**, Officer,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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**WILLIAM POHLER**, Officer,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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and

**MICHAEL COLEMAN**, Officer,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**D.T. RONEY**, Officer,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**SHU WALTMAYER**, Technician,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**KARL HARRIS**, Technician,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**JAMES WAGSTER**, Officer,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**MARK TAKACS**, Officer,  
in his individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

and

**ROSALIND BOWMAN**, Officer,

in her individual and official capacity,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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and

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**JOHN AND JANE DOES 1-20,**  
unknown Baltimore City Police Officers,  
in their individual and official capacities,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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and

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**RICHARD AND JANE ROES 1- 20,**  
unknown Baltimore City  
Police Department Supervisors,  
in their individual and official capacities,  
Baltimore City Police Department  
601 East Fayette Street  
Baltimore, Maryland 21202

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Defendants.

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Case Number: \_\_\_\_\_

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**COMPLAINT**

*I was eighteen. I was alone. I was scared. The people responsible for Kevin Dukes' cold-blooded murder are murderers – they kill. That is the type of people they are. I am not one of them and never have been. If you use their real names in this lawsuit, I fear that they will kill what little family I have left. So, tell the story exactly as it happened. Do not hold back any details. Make sure you use aliases. And don't worry about the police. They always have known who murdered Kevin Dukes. And they always knew it wasn't me.*

- Ezra Mable



### INTRODUCTION & NATURE OF THE ACTION

1. This action arises from one of the most shameful episodes of police misconduct in Baltimore City's history. The Plaintiff, Ezra Mable, an innocent man, was placed on *America's Most Wanted* and, thereafter, arrested for a cold-blooded murder that the Baltimore City Police Department knew from the outset he did not commit. There was clearly negligence involved – or at least a symphony of bumbling – and a deliberate conspiracy by which the events were laid at Mr. Mable's doorstep. There is even the strong suggestion that the Defendants knew that Edmond Eichelberger (*hereinafter*, "Eddie") was the cold-blooded murderer of Kevin Dukes and that they protected him to satisfy their own purposes, and, by circumstance alone, chose Mr. Mable to take the fall in Eddie's place. And that Mr. Mable did. He was sentenced to thirty years behind bars and served nearly a decade of his sentence before the Baltimore City State's Attorney's Office read his self-authored Petition for Post-Conviction Relief and joined him in moving the Circuit Court for Baltimore City for his release.

2. It is said that petitions for post-conviction relief are granted with the frequency of a solar eclipse; however, the evidence of the Defendants' misconduct is so overwhelming that even with a ninth grade education and, at best, a cursory knowledge of criminal law, Mr. Mable's Petition for Post-Conviction Relief was granted, coincidentally on the tenth anniversary of the murder.

3. Much like Mr. Mable's Petition for Post-Conviction Relief, this Complaint reflects the Defendants' web of intentional bungling and concealment of exculpatory evidence throughout all phases of their investigation, and throughout Mr. Mable's prosecution, conviction, and incarceration.

4. The Defendants' principal witnesses contradicted each other as to almost every detail of the incident they claimed to have observed, save the following; both stated that they did not get a good look at the shooter as he was exiting Kevin Dukes' motor vehicle (*hereinafter*, the "Vehicle"); both identified Eddie as the shooter; both were offered illegal deals by the Defendants, whereby the Defendants would not arrest them on serious drug charges in exchange for identifying someone from their photo-lineup; both accepted the Defendants' illegal deals; and both of their descriptions of the shooter arguably match Eddie, but undoubtedly match the description of the deceased, Mr. Dukes, all the way down to the clothing he was wearing when he was murdered.

5. Just as the Defendants' intentionally malicious and criminally negligent handling of the human part of the investigation as far as finding credible witnesses, competently interviewing them, and following up on leads was an abomination, their handling of physical evidence was equally careless and negligent, so much so that it is impossible to escape the conclusion that there was an intentionality about pinning Mr. Dukes' cold-blooded murder on an innocent party, or at least on someone other than Eddie, despite the vast demonstrable evidence that Eddie was the shooter. There were thirteen bullets recovered from Mr. Dukes' body, nine of which are still unaccounted for. Likewise, only eight cartridge casings

were recovered, some under floor mats, leaving at least five that are still unaccounted for. There was no evidence that any bullets exited the Vehicle. However, the Defendants nonetheless concluded that the Vehicle was the scene of the crime. Also, a Ziploc™ bag that had blood on the interior was found in the back seat of the Vehicle, further suggesting that Mr. Dukes was not murdered in the Vehicle, but rather transported there from where he was really murdered and covered in blood. In addition, the Defendants found blood under Mr. Dukes' fingernails and received numerous reports that Mr. Dukes scratched Eddie's neck just prior to Mr. Dukes' murder. The Defendants identified scratches on Eddie's neck that conformed to the reports they had received; however, they willfully refused to get a DNA sample from Eddie to compare against the sample recovered from under Mr. Dukes' fingernails.

6. As a direct result of the Defendants' intentional, willful, wanton, reckless, deliberately indifferent, and bad-faith acts and omissions, Mr. Mable sustained injuries and damages, including, among others, personal injuries, pain and suffering, severe mental anguish, emotional distress, loss of income, infliction of emotional illness, inadequate medical care, humiliation, indignities and embarrassment, degradation, injury to reputation, permanent loss of natural psychological development, and restrictions on all forms of personal freedom including, but not limited to, diet, sleep, personal contact, educational opportunity, vocational opportunity, personal fulfillment, sexual activity, family relations, other personal enjoyment, and expression.

7. Mr. Mable is seeking damages in the amount of thirty-five million dollars (\$35,000,000.00) from the Defendants. He believes that a jury of his peers will find that the Defendants, individually, in concert, and in confederation maliciously conspired to bring and continue charges including murder against him. He additionally believes that a jury will find that the Defendants knew that the charges levied against him were completely baseless and unsupported by probable cause, as time and again they were contradicted by investigative examination, forensic evidence, documentary evidence, and common sense. In their haste to hold someone other than Eddie accountable for Mr. Dukes' murder, the Defendants willfully ignored and were deliberately indifferent to the overwhelming evidence of Mr. Mable's actual innocence.

8. Mr. Mable is entitled to redress for the Defendants' acts that deprived him of his rights secured under federal law, including the United States Constitution, and the laws of the State of Maryland, including its Declaration of Rights. For the foregoing, but also because the Defendants intentionally and maliciously deceived the Circuit Court for Baltimore City and the Baltimore City State's Attorney's Office into continued prosecutions against Mr. Mable and otherwise intentionally refused to prevent such deprivations and denials, causing Mr. Mable to needlessly suffer at the hands of the Defendants, from which he will never truly recover, Mr. Mable hereby files this Complaint against the parties named hereafter.



9. The Defendants' investigation into Mr. Dukes' murder was a catastrophic failure from beginning to end, and the redress that Mr. Mable desires follows in this Complaint. Additionally, Mr. Mable hopes that the Dukes family finally gets the truth from the Baltimore City Police Department about Mr. Dukes' death and the corresponding closure that they have deserved since Mr. Dukes was murdered in cold blood.

10. As far as Eddie is concerned, the Baltimore City Police Department believes that he recently committed another murder. However, he is neither behind bars nor awaiting trial. As he has likely figured out, as long as the Baltimore City Police Department continues to willfully ignore demonstrable evidence of his guilt, he will continue to get away with murder.

### ***PARTIES***

#### **I. THE PLAINTIFF**

11. At all times herein pertinent, the Plaintiff, Ezra Mable, is and was a resident of the City of Baltimore, the State of Maryland, and a citizen of the United States of America.

#### **II. THE DEFENDANTS**

##### **A. THE CITY OF BALTIMORE**

12. At all times herein pertinent, the Defendant, Mayor and City Council of Baltimore City, is and was a municipal corporation, organized and existing under the laws of the State of Maryland. In this respect, the City of Baltimore acted through its agents, employees and servants, who were the policy makers for the Baltimore City Police Department, and held responsibility for the conduct of the police officers employed by the Baltimore City Police Department.

##### **B. THE BALTIMORE CITY POLICE DEPARTMENT**

13. At all times herein pertinent, the Defendant, Baltimore City Police Department, was and is an agency of the State of Maryland, but otherwise a local government under Maryland Code Annotated, Courts and Judicial Proceedings, § 5-301(d)(21) and is subject to suit under 42 U.S.C. § 1983.

14. The Defendant, Ed Norris, was a 20-year veteran of the New York Police Department, during which time he was selected by New York City's former Mayor, Rudolph Giuliani, to implement policing policies that focused on unconstitutionally arresting poor people in poor places. Thereafter, Defendant Norris served as the Commissioner of the Baltimore City Police Department under Governor O'Malley and then as Superintendent of the Maryland State Police. In late 2003, however, Defendant Norris was indicted on three criminal charges by U.S. Attorney Thomas DiBiagio. Two of the Counts charged that Defendant Norris had made illegal personal expenditures of over \$20,000.00 from the Baltimore City Police Department's supplemental account to pay for expensive gifts, personal expenses, and extramarital affairs with at least six women. The third Count charged that he had lied on a mortgage

application and on his taxes. On March 8, 2004, Defendant Norris pled guilty to federal corruption and tax charges and was sentenced to six months in federal prison, three years of supervised probation, and 500 hours of community service. Towards the end of his probation, on October 9, 2006, Defendant Norris admitted to illegally using the money from the Baltimore City Police Department's supplemental account to fund his extramarital affairs.

15. As Commissioner of the Baltimore City Police Department, Defendant Norris was charged with functioning as the Chief of Police and Executive Officer of the Baltimore City Police Department. In directing and supervising the operations and affairs of the Baltimore City Police Department, he was vested with all the powers, rights, and privileges attending the responsibility of management and could exercise the same, where appropriate, by rule, regulation, order or other departmental directive, which was binding on all members of the Baltimore City Police Department. The authority and responsibility vested in Defendant Norris included, but is not limited to: (1) appointing deputy commissioners to serve at his pleasure, and other ranks and positions above the rank of captain for the purpose of ensuring effective and efficient staffing and operation of the major functional subdivisions of the Baltimore City Police Department; (2) determining and establishing classifications of ranks, grades and positions for police officers within the Baltimore City Police Department; (3) determining and designating the authority, responsibility, duties, assignments, rights and privileges of each rank, grade or position, and establishing the order of succession to positions of command within the Baltimore City Police Department; (4) regulating attendance, conduct, training, discipline and procedure for all members of the Baltimore City Police Department and the making of other rules, regulations, and orders as were necessary for the good governance of the Baltimore City Police Department and its members; and (5) suspending, amending, rescinding, abrogating or canceling any rule, regulation, order or other departmental directive adopted by him or any former police commissioner, and adopting all other reasonable rules, regulations and orders as he deemed necessary to enable the Baltimore City Police Department to effectively discharge its duties. Defendant Norris is being sued in his individual capacity.

16. The Defendant, Commissioner Anthony Batts, is the Commissioner of the Baltimore City Police Department. As Commissioner, he is charged with functioning as the Chief of Police and Executive Officer of the Baltimore City Police Department. In directing and supervising the operations and affairs of the Baltimore City Police Department, the Commissioner is vested with all the powers, rights, and privileges attending the responsibility of management and may exercise the same, where appropriate, by rule, regulation, order or other departmental directive, which is binding on all members of the Baltimore City Police Department. The authority and responsibility vested in the Commissioner includes, but is not limited to: (1) appointing deputy commissioners to serve at his pleasure, and other



ranks and positions above the rank of captain for the purpose of ensuring effective and efficient staffing and operation of the major functional subdivisions of the Baltimore City Police Department; (2) determining and establishing classifications of ranks, grades and positions for police officers within the Baltimore City Police Department; (3) determining and designating the authority, responsibility, duties, assignments, rights and privileges of each rank, grade or position, and establishing the order of succession to positions of command within the Baltimore City Police Department; (4) regulating attendance, conduct, training, discipline and procedure for all members of the Baltimore City Police Department and to make other rules, regulations and orders as may be necessary for the good governance of the Baltimore City Police Department and its members; and (5) suspending, amending, rescinding, abrogating or canceling any rule, regulation, order or other departmental directive adopted by him or any former police commissioner, and to adopt all other reasonable rules, regulations and orders as he may deem necessary to enable the Baltimore City Police Department to effectively discharge its duties. Defendant Batts is being sued in his official capacity.

17. At all times herein pertinent, the Defendant, William Ritz, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Ritz acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Ritz is being sued in his individual and official capacity.

18. At all times herein pertinent, the Defendant, Homer Pennington, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Pennington acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Pennington is being sued in his individual and official capacity.

19. At all times herein pertinent, the Defendant, Joseph Phelps, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore

City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Phelps acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Phelps is being sued in his individual and official capacity.

20. At all times herein pertinent, the Defendant, Kirk Hastings, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Hastings acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Hastings is being sued in his individual and official capacity.

21. At all times herein pertinent, the Defendant, Kenneth Jones, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Jones acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Jones is being sued in his individual and official capacity.

22. At all times herein pertinent, the Defendant, Stanley Reaves, was and is a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Reaves acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Reaves is being sued in his individual and official capacity.



23. At all times herein pertinent, the Defendant, William Pohler, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Pohler acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Pohler is being sued in his individual and official capacity.

24. At all times herein pertinent, the Defendant, Michael Coleman, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Coleman acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Coleman is being sued in his individual and official capacity.

25. At all times herein pertinent, the Defendant, D.T. Roney, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Roney acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Roney is being sued in his individual and official capacity.

26. At all times herein pertinent, the Defendant, Shu Waltmeyer, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Waltmeyer acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his

authority as a police officer of the Baltimore City Police Department. Defendant Waltmeyer is being sued in his individual and official capacity.

27. At all times herein pertinent, the Defendant, Karl Harris, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Harris acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Harris is being sued in his individual and official capacity.

28. At all times herein pertinent, the Defendant, James Wagster, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Wagster acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Wagster is being sued in his individual and official capacity.

29. At all times herein pertinent, the Defendant, Mark Takacs, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant Takacs acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to his authority as a police officer of the Baltimore City Police Department. Defendant Takacs is being sued in his individual and official capacity.

30. At all times herein pertinent, the Defendant, Rosalind Bowman, was a police officer of the Baltimore City Police Department, and was acting in such a capacity as an agent, servant, and employee of the Baltimore City Police Department, and was acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, Defendant



Bowman acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to her authority as a police officer of the Baltimore City Police Department. Defendant Bowman is being sued in her individual and official capacity.

31. At all times herein pertinent, the Defendants, John and Jane Does 1-20, members of the Baltimore City Police Department, are being sued by fictitious names by virtue of the Plaintiff's current ignorance as to their true names. John and Jane Does 1-20, police officers of the Baltimore City Police Department, were acting in such a capacity as agents, servants, and employees of the Baltimore City Police Department, and were acting under the direction and control of the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the Baltimore City Police Department. Additionally, at all times referred to herein, John and Jane Does 1-20 acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to their authority as police officers' of the Baltimore City Police Department. Defendant John and Jane Does 1-20 are being sued in their individual and official capacities.

32. At all times herein pertinent, the Defendants, Richard and Jane Roes 1-20, supervisory officials of the Baltimore City Police Department and its officers, are being sued by fictitious names by virtue of the Plaintiff's current ignorance as to their true names. Richard and Jane Roes 1-20, supervisory officials, some within the Baltimore City Police Department, were acting in such a capacity as agents, servants, and employees of the State of Maryland, City of Baltimore, and/or the Baltimore City Police Department, and were acting under the direction and control of the State of Maryland, the City of Baltimore, and/or the Baltimore City Police Department, and pursuant to either official policy, or the custom, practice, and usage of the State of Maryland, the City of Baltimore, and/or the Baltimore City Police Department. Additionally, at all times referred to herein, Richard and Jane Roes 1-20 acted under the color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Maryland, the City of Baltimore, the Baltimore City Police Department, and pursuant to their authority as supervisors of the Baltimore City Police Department and its officers. Defendants Richard and Jane Roes 1-20 are being sued in their individual and official capacities.

***JURISDICTION AND VENUE***

33. This action arises under the Constitution of the United States; the Constitution of the State of Maryland; 42 U.S.C. § 1983, 42 U.S.C. § 1988(b); and Maryland common law.

34. This court has original jurisdiction over Mr. Mable's constitutional and federal law claims pursuant to 28 U.S.C. § 1943 and 28 U.S.C. § 1331. This court has supplemental jurisdiction over Mr. Mable's state law claims pursuant to 28 U.S.C. § 1367 because they are part of the same case and controversy described in Mr. Mable's federal claims.

35. Venue is proper in the Northern District of Maryland pursuant to 28 U.S.C. §1391(b)(1) and (2) because all of the Defendants in this action reside in Maryland, the action can be brought in a "judicial district where any defendant resides," and a substantial part of the events giving rise to Mr. Mable's claims occurred in the Northern District of Maryland.

***PRE-SUIT REQUIREMENTS***

36. Although the Plaintiff maintains that there is no applicable immunity for State of Maryland statutory or common law claims and/or those arising under Federal law, including United States Constitutional claims, this Complaint nonetheless complies with the Maryland Local Government Tort Claims Act (Maryland Code Annotated, Courts and Judicial Proceedings, §§ 5-301, *et seq.*). The Plaintiff submitted notice of his claims via United States Postal Service certified mail, return receipt requested, postage prepaid, to the Baltimore City Solicitor on November 8, 2010. The Plaintiff further asserts the City of Baltimore's good and sufficient actual and/or constructive prior notice of all claims.

***NON-WAIVER OF DEFENSES***

37. The Plaintiff's compliance with applicable State of Maryland and City of Baltimore notice requirements notwithstanding, the Plaintiff makes no waiver of defenses against applicable notice requirements for any State of Maryland statutory or common law tort claim brought forth in the United States District Court venue or for any claim arising under federal law.



**ALLEGATIONS COMMON TO ALL CLAIMS**

**I. GOVERNOR O'MALLEY'S CAMPAIGN FOR MAYOR OF BALTIMORE CITY PROVIDED A BLUEPRINT THAT DEFENDANT NORRIS SHOULD HAVE FOLLOWED TO AVOID CREATING PATTERNS, PRACTICES, AND/OR POLICIES AND CUSTOMS THAT ENCOURAGED AND REQUIRED POLICE MISCONDUCT.**

*The public safety of our people, the security of our people, I would argue, is the highest priority of any government at any level; municipal, county, state, national.*

38. Governor O'Malley made the above declaration during his September 9, 2009 presentation to the students at the University of Baltimore, titled "*DNA & A Government that Works.*" Ironically, Governor O'Malley's presentation came on the heels of the granting of Mr. Mable's Petition for Post-Conviction Relief. To understand the irony, one need only consider the presence of blood under Mr. Dukes' fingernails, the tips the Defendants received that Mr. Dukes scratched Eddie's neck just prior to Mr. Dukes' murder, the Defendants' confirmation that Eddie had scratches on his neck that were consistent with the tips they received, and the Defendants' refusal to order a DNA analysis comparing the blood collected from under Mr. Dukes' fingernails to a sample of Eddie's DNA. And while it was no doubt Governor O'Malley's highest priority to test DNA to ensure the safety of Baltimoreans, Defendant Norris' dramatic departure from Governor O'Malley's *Blueprint for Success*, as described hereinafter, illuminates many of the specific constitutional violations that plagued Baltimore City during Defendant Norris' tenure as Commissioner of the Baltimore City Police Department.

39. To fully appreciate Governor O'Malley's blueprint for the Baltimore City Police Department's utilization of constitutional policing policies to clean up Baltimore's streets, it is necessary to travel back in time to 1996, during Governor O'Malley's tenure on the Baltimore City Council, where he gained public notoriety after accusing former Mayor of Baltimore City Kurt Schomoke of "cooking" the accounting of crime reduction rates.<sup>1</sup> At the same time, former Mayor of New York City, Rudolph Giuliani, was reporting that under his two-year reign, starting in 1994, New York City's serious crime rate had dramatically decreased.<sup>2</sup> However, it unfortunately cannot be escaped that according to numerous independent studies, Mayor Giuliani's policing policies disturbingly departed from a system that encouraged constitutional arrests and more closely resembled unconstitutional policing of poor people in poor places.<sup>3</sup> And those independent studies did not even scratch the surface of the unconstitutional stops by New York City police officers that victims never reported or the

<sup>1</sup> Van Smith, *Martin O'Malley's Failed Promise As Baltimore Mayor Will Stay With Him, No Matter Who Wins The Governor's Race*, Balt. City Paper, <http://www2.citypaper.com/news/story.asp?id=12855>.

<sup>2</sup> Martin O'Malley, *With Change There Is Hope: A Blueprint for Baltimore's Future*, pg. 7, 1999.

<sup>3</sup> Andy Newman, *Ruling in Street Crime Unit Case Could Expand List of Plaintiffs*, N.Y. Times, Jan. 26, 2001, at B6.

unconstitutional stops by New York City police officers where misconduct tainted arrestees' charging documentation.

40. In August of 1996, Governor O'Malley went on what he would later call a "fact finding mission" to Mayor Giuliani's New York City. Governor O'Malley later noted about his trip that "while Baltimore's murders had increased, New York City had gained national recognition for reducing serious crime by as much as 40% - just two years after its change in enforcement priorities to quality of life policing."<sup>4</sup>

41. Three short years later, on June 23, 1999, Governor O'Malley announced his campaign to become Mayor of Baltimore City on the street corner of what he considered a "high crime neighborhood," stating: "My name is Martin O'Malley. I believe I can turn Baltimore City around by making it a safer place..."<sup>5</sup> In the same speech, Governor O'Malley promised to make the "open-air drug market" he was standing in and nine others like it "things of Baltimore City's past" within six months of being elected and by his second term in office, twenty more.<sup>6</sup> What Governor O'Malley did not know is that while he was the superhero that could reclaim Baltimore City's streets, his soon-to-be second in command, Defendant Norris, would, unbeknownst to Governor O'Malley, abrogate Baltimoreans' well-settled constitutional rights through the intentional implementation of unconstitutional patterns, practices, and/or policies and customs within the Baltimore City Police Department.

42. As part of his campaign, Governor O'Malley authored a booklet made up of two parts – one bound with a green cover and the other bound with a blue cover – titled *With Change There Is Hope: A Blueprint for Baltimore's Future*. In the introduction to the green booklet, Governor O'Malley states that "it is time for a new mayor to change the way we police and reform the way our criminal justice system operates."<sup>7</sup> His solution was to cure "Broken Windows Syndrome."<sup>8</sup> He explained:

*Social psychologists and police officers tend to agree that if a window in a building is broken and left unrepaired, all the rest of the windows will soon be broken...one unrepaired window is a signal that no one cares, and so breaking more windows costs nothing.*

....  
*As Mayor, I will actively lead these efforts and use the power of the office to bring about long overdue reforms.*<sup>9</sup>

<sup>4</sup> *Id.*

<sup>5</sup> *With Change There Is Hope, supra*, at pg. 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.* at 6-7.

<sup>9</sup> *Id.* at pgs. 8, 12.



43. Governor O'Malley proposed five reforms to "improve the quality of life in Baltimore City:" 1) streamlining the booking and charging process; 2) expanding citation authority; 3) creating an arraignment court at Central Booking; 4) utilizing CompStat, a computer tracking system utilized in New York City for compiling statistics about crimes; and 5) using existing mandatory penalties to prosecute repeat violent offenders.<sup>10</sup> He added:

*While the City Council has had the power to spotlight these issues and make these recommendations, only the Mayor of Baltimore City has the power to actually order the change in enforcement priorities and thereby force reforms on a reluctant system.<sup>11</sup>*

Governor O'Malley elaborated, stating that "as Mayor, I will secure the support necessary to give our officers the flexibility they need...or I will have the City Council enact local ordinances."<sup>12</sup> He further elaborated that he would "increase funding for the State's Attorney's Office as long as it stays committed to the path of reform..."<sup>13</sup>

44. Governor O'Malley correctly noted that "there is nothing more harmful to law enforcement, and more devastating to the morale of law abiding citizens and law enforcement officers, than police misconduct."<sup>14</sup> Recognizing that some Baltimoreans were skeptical of his proposed policing policy, Governor O'Malley acknowledged, "from examples of other cities" that had implemented similar policing policies, that "when the police are encouraged to be more assertive, government must become more assertive and open in its policing of the police."<sup>15</sup> "[A]fter all," he stated, "[they] are only human."<sup>16</sup>

45. The logical check and balance on law enforcement, as the case may be, is a citizen review board. To that end, Governor O'Malley stated:

*A citizen review board will only have power if the Mayor of this City truly wants to root out police corruption and misconduct...we must open the Baltimore City Police Department's internal investigation process to assure the public that police problems are not being swept under the rug by colleagues' complacency.<sup>17</sup>*

As demonstrated hereinafter, Governor O'Malley's legitimate concerns about the enforcement of policing policies and his checks and balances to ensure that the Baltimore City Police Department was operating in observance of both the United States Constitution and the Constitution of the State of

<sup>10</sup> *Id.* at 15.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 17.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 22.

<sup>15</sup> *Id.* at 11.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 22.

Maryland provided a blueprint for what Defendant Norris should have done to at least give the appearance of attempting to ameliorate the horrific effects of the unconstitutional policing patterns, practices, and/or policies and customs that he imposed upon the Baltimore City Police Department.

**II. DEFENDANT NORRIS INTENTIONALLY CREATED PATTERNS, PRACTICES, AND/OR POLICIES AND CUSTOMS THAT ENCOURAGED AND REQUIRED BALTIMOREANS TO BE FALSELY ARRESTED AND IMPRISONED IN THE SAME MANNER THAT MR. MABLE WAS FALSELY ARRESTED AND IMPRISONED.**

46. Governor O'Malley was elected Mayor of Baltimore City in 1999 and took office on December 7<sup>th</sup> of the same year. Immediately, he took steps to implement policing policies that he not only believed would clean up the streets of Baltimore City, but also were, as he envisioned them, constitutional. His steps included firing the Commissioner of the Baltimore City Police Department, Ronald Daniel, within 60 days of taking office as Governor for disagreeing with him about the value of aggressive constitutional policing in Baltimore City. In Mr. Daniel's place, Governor O'Malley appointed Defendant Norris, a 20-year veteran of the New York City Police Department and one of the people at the helm of the implementation and continued enforcement of Mayor Giuliani's policing policies, which, as noted above, Governor O'Malley acknowledged would breed police misconduct if not monitored closely by the Commissioner of Police.

47. Armed with the brains behind New York City's policing policies and procedures, Governor O'Malley and Defendant Norris set into motion their "own radical brand of broken-windows policing."<sup>18</sup> However, Defendant Norris soon departed from Governor O'Malley's vision and "stacked his efforts on a distorted and unconstitutional application of policing theory...combining an extraordinarily aggressive arrest policy with a target on disadvantaged neighborhoods."<sup>19</sup> The emphasis of Defendant Norris' arrest policies were on arresting as many poor people as possible for anything they could pin on them because if there were less of "these people" on the street, there would, according to Defendant Norris, be a corresponding reduction in how many crimes were committed in the future.

48. As part of Defendant Norris' efforts to alter the patterns, practices, and/or policies and customs that were in effect when he became Commissioner of the Baltimore City Police Department, he had Baltimore City's police officers retrained. This training, at least in part, was conducted by Mayor Giuliani's New York City Police Department and Defendant Norris' former staff, and led Baltimore City's police officers to "prey upon the very people that they were sworn to protect," like Mr. Mable, a poor person in a poor place.<sup>20</sup> One such example of Defendant Norris' retraining that is relevant to the

<sup>18</sup> Reed Collins, *Strolling While Poor, : How Broken Windows Policing Created a New Crime in Baltimore*, 14 Geo. J. Poverty Law & Pol'y 419, 421 (2007).

<sup>19</sup> *Id.*

<sup>20</sup> Matthew Dolan, *Two City Police Officers Accused in Robbery, Extortion of Drug Suspects*, The Balt. Sun, March 15, 2006.



murder of Mr. Dukes came to light during the federal trial of former Baltimore City police officers William King and Antonio Murray, who were both tried in federal court after a lengthy investigation by the Federal Bureau of Investigation.<sup>21</sup> Pursuant to their training, Baltimore City police officers would “catch and release” drug dealers, robbing them of their drugs.<sup>22</sup> Then, the officers would illegally sell the drugs at a discount to distributors, never recording the transactions.<sup>23</sup> Officer King defended his drug enforcement strategy, claiming that it was condoned by the rank and file and that his actions were in accord with his training.<sup>24</sup> It is unfortunately not entirely improbable, based on the aforementioned training of the Baltimore City Police Department’s officers and the facts alleged hereinafter, that the Defendants played a bigger role in Mr. Dukes’ murder than anyone, including the author of this Complaint, would like to believe.

**III. DEFENDANT NORRIS WILLFULLY DISREGARDED GOVERNOR O’MALLEY’S BLUEPRINT OF PROCEDURES AND PERPETUATED PATTERNS, PRACTICES, AND/OR POLICIES AND CUSTOMS THAT ENCOURAGED AND REQUIRED POLICE MISCONDUCT, INCLUDING FALSE ARREST, FALSE IMPRISONMENT, AND MALICIOUS PROSECUTION.**

49. Again, going back in time, Governor O’Malley noted in his 1999 campaign for Mayor of Baltimore City that “officers are only human” and “when they are encouraged to be more assertive, government must police the police.”<sup>25</sup> Despite being acutely aware of this reality and being instructed by Governor O’Malley to police the police, Defendant Norris did not implement any of the policies identified by Governor O’Malley during his campaign or any others as necessary to control police misconduct. In fact, according to the former Chief of the Baltimore City Police Department Internal Disciplinary System, Joanne Branche, in the rare instances that officers were investigated, “there were back-door deals in punishment. There were instances where recommendations for punishment were not followed. There were cases that should have been punished that were dismissed.”<sup>26</sup> She further added that the “Baltimore City Police Department was not capable of policing itself.”<sup>27</sup> And, in order to ensure that the unconstitutional policing policies enacted and continued by Defendant Norris could be utilized, the Baltimore City Police Department did not police itself nor did Defendant Norris.

50. Governor O’Malley could not have been clearer than when he stated that if the Mayor of Baltimore City truly wants to root out police corruption and misconduct, they will permit a citizen

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at note 31.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> O’Malley, *supra*, at 22.

<sup>26</sup> *Former City Official: Police Dept. Full of Corruption*, <http://www.wbalte.com/news/19931461/detail.html>.

<sup>27</sup> *Id.*

review board to have power.<sup>28</sup> He added that “the internal investigation process must be open to the public to ensure that police problems would not be swept under the rug by colleagues’ complacency.”<sup>29</sup> It would, however, surprise very few people to learn that Defendant Norris prevented a citizen review board in Baltimore City from coming into being and closed off internal investigations to the public.

51. As the saying goes, small things grow in the right contextual soil. Borrowing from the theories of Broken Windows Policing, as advanced by Governor O’Malley during his campaign for Mayor of Baltimore City, the project of moving toward order rests on the premise that units of disorder, left alone, undisturbed or even worse condoned, will generate big negative results. Miscreants feel at least empowered, and perhaps inspired, to make trouble when they see signs of disorder. Because breaking windows “has always been fun,” communities that want to foster order need the deterrence message that intact windows deliver. Applying these principals to Defendant Norris’ unconstitutional policing policies and the corresponding massive number of false arrests, false imprisonments, and malicious prosecutions that occurred every day under his reign, civil rights violations to poor minorities like Mr. Mable that may have appeared to be trivial to Defendant Norris are comparable to broken windows. Both may be deemed destructive, and thus, intolerable; just as a broken window might deserve the attention of law enforcement efforts, civil rights violations in the Baltimore City Police Department also warranted Defendant Norris’ repair. However, Defendant Norris did not even give them so much as a quick fix. In fact, he was the one who cast the first stone.

#### **IV. THE BALTIMORE CITY POLICE DEPARTMENT’S PROHIBITED QUOTA SYSTEM.**

##### *Prohibited*

A law enforcement agency may not:

- (1) establish a formal or informal quota for the law enforcement agency or law enforcement officers of the agency; or
- (2) use the number of arrests made or citations issued by a law enforcement officer as the sole or primary criterion for promotion, demotion, dismissal, or transfer of the officer.

Maryland Code, Public Safety, § 3-504.

52. Instead of encouraging constitutional arrests, the rank and file all the way up to the Commissioner of the Baltimore City Police Department, Defendant Norris, gave formal and informal quotas designed to increase arrest numbers even further, all the while knowing that the result would be that more innocent Baltimoreans like Mr. Mable would be falsely arrested, falsely imprisoned, and

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<sup>28</sup> O’Malley, *supra*, at 22.

<sup>29</sup> *Id.*



maliciously prosecuted. In so doing, the quotas rewarded officers irrespective of whether there was probable cause to make an arrest or not, i.e. quantity not quality. One such system that was implemented was characterized by the Baltimore City Police Officer's Union as being a "punishment" to any officers that did not emphasize quantity over quality. This system was described as follows:

*All patrol officers...were required to tally their enforcement statistics – from parking citations to felony arrests. The officer's numbers are compared with averages from their squads and shifts. [On a typical day] the program was enforced...the 27 lowest performing officers - three from each district were reassigned...*

53. At around the same time, an internal memorandum was intercepted from within the Baltimore City Police Department, stating:

*You have officers competing with each other, officers worrying about their arrest numbers. There's going to be pressure to make arrests arbitrarily just to get your numbers up.*

54. These statements were echoed by former State's Attorney Patricia Jessamy, who commented at a legislative hearing that "the [Baltimore City Police Department] was increasingly arresting people for crimes without probable cause."<sup>30</sup> She explained that she "took an oath to see that justice be done" and that she would not be a party to "tram[ing] the Constitution."<sup>31</sup>

55. Countless Baltimoreans, including Mr. Mable, were needlessly falsely arrested, falsely imprisoned, and maliciously prosecuted pursuant to Defendant Norris' unconstitutional policing patterns, practices, and/or policies and customs. This Complaint demands redress for Mr. Mable's experience with Defendant Norris' unconstitutional policing patterns, practices, and/or policies and customs and hopefully will aid in the capture and prosecution of Mr. Dukes' real cold-blooded killers. The author of this Complaint believes, as do many of the people interviewed by the Baltimore City Police Department in connection with Mr. Dukes' murder, that while Eddie was in all probability the shooter, he likely had help, at least with the transportation of Mr. Dukes' body from wherever he was really murdered to the Vehicle.

#### **V. KEVIN DUKES AND HIS DRUG DEALING ENTERPRISE.**

56. Mr. Dukes' story begins approximately a year before his murder and six months before Defendant Norris became Commissioner of the Baltimore City Police Department. At that time, Mr. Dukes had just started distributing drugs to street dealers in the Cherry Hill area of Baltimore City.

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<sup>30</sup> Edwin Ericson, Jr., *City State's Attorney Patricia Jessamy Asserts At Hearing That Police Arrest Tactics Are Unconstitutional*, Balt. City Paper, <http://ww2.citypaper.com/news/story.asp?id=11331>.

<sup>31</sup> *Id.*

57. Mr. Dukes had weekly meetings with his drug dealers; Eddie, Edrin, and "Special K," wherein he replenished their stock of his drugs to sell in the upcoming week and he collected his cut of the prior week's sales.

58. Drug sales in the Cherry Hill area have traditionally taken place on corners or in drug houses. Mr. Dukes, however, personally sold drugs on the fly, leaving his drug dealers to employ the "corner sales" method, which means just that: Eddie, Edrin, and Special K would stand on corners and sell drugs to passersby, neighborhood residents, or people who would drive through Cherry Hill with the sole intention of procuring drugs.

59. Before long, Mr. Dukes had earned himself a reputation in the Cherry Hill area for providing quality, potent drugs. And his thriving drug enterprise relied on the repeat business and referrals from customers who favored the quality that he had painstakingly established that his drugs would provide.

60. After about eleven months of supplying his dealers in the Cherry Hill area, however, Mr. Dukes discovered that Eddie had been cutting the drugs down prior to their sale, which not only decreased their potency, but also enabled Eddie to secretly sell an unreported quantity of Mr. Dukes' drugs every week and keep the proceeds for himself. It was also around this time that Mr. Dukes discovered that Eddie planned to try to kill him for his supply of potent drugs.

61. Soon thereafter, in a weekly meeting with his drug dealers, Mr. Dukes discovered that Eddie had sold the entirety of the drugs that he had been given the previous week and kept all the money for himself. In an effort to prevent his death or to at least delay a physical altercation with Eddie, Mr. Dukes continued to furnish Eddie with his regular weekly allotment of drugs.

62. Mr. Dukes, thereafter, informed his friends that he was trying to procure a gun for protection because "Eddie was going to kill him for his drugs."

63. On the day of Mr. Dukes' cold-blooded murder, he met up with his drug dealers for their weekly meeting. Immediately thereafter, Eddie was seen getting into Mr. Dukes' motor vehicle where Mr. Dukes was found soon after, dead, shot multiple times at close range.

#### **VI. THE BLOODY AFTERMATH OF MURDER.**

64. Shortly before 6:00 p.m. on August 30, 2000, Defendant Reaves arrived at the 3300 block of Round Road in the Cherry Hill area of Baltimore City to witness the aftermath of Mr. Dukes' cold-blooded murder. By virtue of the fact that Defendant Reaves was the first police officer to respond and arrive on the scene, he was designated as the temporary primary investigator.

65. Earlier, at exactly 5:54 p.m., an anonymous phone call had come into 911 dispatch, wherein the caller stated that she heard what sounded like gunshots and could see a person leaning in a gold vehicle in the 3300 block of Round Road. She further stated that the suspect was wearing a white t-



shirt, blue jeans, and had a small bush haircut. As explained more fully hereafter, the 911 caller's description most closely resembles Mr. Dukes, the deceased. She added that the suspect was headed north toward Spellman Road.

67. Then, at exactly 5:56 p.m., another anonymous phone call came into 911 dispatch, wherein the caller stated that a man was just shot in a gold vehicle. There was no further information provided because the 911 dispatcher informed the caller that a call to 911 dispatch had already been received in reference to the same incident and terminated the call.

68. Back to the 3300 block of Round Road.

69. As Defendant Reaves approached the crime scene, he found a crowd of approximately fifty people standing around the Vehicle, which was parked alone on the southbound side of the 3300 block of Round Road. Observers directed Defendant Reaves to the Vehicle and upon opening the driver's side door, Defendant Reaves found a black male that had been shot multiple times, sitting in the driver's seat, slouched over the console toward the passenger side.

#### ***COPS GALORE***

70. Very soon the area was flooded with cops.

71. Supervising the investigation of the crime scene and, thereafter, the balance of the investigation into Mr. Dukes' cold-blooded murder, were Defendant Ritz and Defendant Hastings, who were both directly responsible for the actions and inactions of their subordinate police officers, which included, but were not limited to, Defendant Pennington, Defendant Phelps, Defendant Jones, Defendant Reaves, Defendant Pohler, Defendant Coleman, Defendant Roney, Defendant Waltmeyer, Defendant Harris, Defendant Wagster, Defendant Takacs, and Defendant Bowman.

72. At around 6:20 p.m., Defendant Ritz and Defendant Hastings relieved Defendant Reaves of his responsibility as the temporary primary investigator. Defendant Ritz and Defendant Hastings then began their preliminary investigation. The laboratory technicians also arrived.

73. Defendant Ritz and Defendant Hastings hastily decided that the crime scene was confined to the Vehicle and the laboratory technicians observed that Mr. Dukes was found deceased and fully clothed, seated in a semi-upright position, with his head slumped over to the right, resting between the driver and passenger seats.

74. The Vehicle was processed for physical evidence by Defendant Ritz, Defendant Hastings, their subordinates, and the laboratory technicians. Miscellaneous ballistic evidence was recovered that was in plain view on the right front passenger seat, in the right front floor area, and on the right rear passenger seat. Six 9mm cartridge cases were recovered; one from the rear passenger seat, two from the front passenger seat, and three from the front passenger floor. One 9mm bullet and one bullet fragment were recovered from the dashboard in front of the driver's seat. Mysteriously, as the report

would have been written before ballistic analysis of the casings and bullets, Defendant Reaves' report specifically states that a 9mm automatic handgun was used. It was later discovered that this was the same handgun that had been used in two other murders the same week in the Cherry Hill area. If Defendant Reaves had such intimate knowledge of the type of gun used before ballistic analysis was even completed, perhaps he knew more about the shooter too?

75. A cursory examination was done of Mr. Dukes, which revealed that he had sustained multiple gunshots to his head, chest, and leg areas.

76. Defendant Ritz and Defendant Hastings' reports reflect that:

Based on the crime scene and evidence located within the vehicle, it is believed that the victim was shot inside the vehicle. This evidence indicated that the victim was shot by an assailant that would have been seated in the right front passenger seat of the vehicle.

77. Mr. Dukes' remains were taken to the Office of the Chief Medical Examiner, where an autopsy was scheduled to be performed the next day.

#### ***A BIZARRE PHENOMENON***

78. Despite the apparent impulses of Defendant Ritz and Defendant Hastings, their subordinates, and the laboratory technicians to declare that Mr. Dukes was murdered in the Vehicle, and despite the presence of Mr. Dukes' body in the Vehicle, there were a multitude of gunshots to which Mr. Dukes' body was subjected, yet very little blood present in the Vehicle, and a Ziploc™ bag that was recovered from the back seat of the Vehicle was later identified as having blood inside.

79. Additionally, there was no broken glass where bullets could have exited the Vehicle through a window and the only ballistic evidence Defendant Ritz and Defendant Hastings, their subordinates, and the laboratory technicians were able to identify as possibly being bullets were located in the dashboard area in front of Mr. Dukes, in a place that would have been impossible to hit even if the shooter was recklessly aiming at someone positioned in the driver's seat of the Vehicle from any angle.

#### ***THE SEARCH FOR WITNESSES***

80. The Defendants began interviewing people in the crowd that had assembled around the Vehicle with negative results.

81. Defendant Coleman, thereafter, knocked on several doors in the neighborhood, reaching Beverly Harris of 3315 Round Road, who stated that she was at home at the time of the murder, but did not see or hear anything, and Natela Ellis of 3323 Round Road, who also did not see or hear anything.

82. By 9:15 p.m., however, Defendant Reaves had located Joella Graves of 841 Bethune Road, Ms. Graves stated that she saw a black male wearing blue jean shorts and a white t-shirt get out of the Vehicle and walk towards Spellman Road. She added that she didn't think that it was strange for someone to get out of a car in the Cherry Hill area, likely because she was so accustomed to seeing drug



deals that were made on the fly. Roughly twenty minutes later, she noticed that Mr. Dukes was slumped over in his car, the same way the Defendants found him. Importantly, Ms. Graves never heard any gunshots.

83. This is the first whiff that there might be something seriously amiss with some of the witnesses' stories. While Ms. Graves' story is substantially in league with the story of the first 911 caller insofar as the direction that the shooter traveled and the clothes that the shooter was wearing, Ms. Graves not only did not hear any gunshots, much like Ms. Harris and Ms. Ellis, but also provided that the shooter was *walking* towards Spellman Road and that twenty minutes elapsed between when the man reportedly seen by the 911 callers alighted from the Vehicle and when Ms. Graves discovered Mr. Dukes slumped over. The time between when the 911 callers stated that Mr. Dukes was shot and when Defendant Reaves claims to have responded was just under five minutes.

#### **VII. THE BALTIMORE SUN REPORTS THE BASIC FACTS OF KEVIN DUKES' MURDER.**

##### *Anne Arundel Man Fatally Shot Inside Car in Cherry Hill*

An Anne Arundel County man was fatally shot yesterday inside a car in the Cherry Hill section of southern Baltimore.

Kevin Dukes, 28, of the 6400 block of Miami Avenue in Glen Burnie was found about 6 p.m. [on August 30, 2000] by officers responding to a report of gunshots in the 3300 block of Round Road, said Detective Bill Ritz. He said Dukes, who died at the scene, had been shot more than once and was slumped behind the steering wheel of a gold-colored 1991 Acura.

- *The Baltimore Sun*  
August 31, 2000

#### **VIII. THE DEFENDANTS RECEIVED MULTIPLE TIPS THAT EDDIE WAS THE SHOOTER.**

84. In the days following Mr. Dukes' murder, Defendant Ritz and Defendant Hastings, as well as their subordinates, received multiple tips and reports that Eddie was Mr. Dukes' shooter, and did not receive any tips naming anyone other than Eddie as the shooter.

##### ***FEMALE CALLER IDENTIFIES EDDIE AS THE SHOOTER***

85. On August 31, 2000, the day after Mr. Dukes' murder, 911 dispatch received a call from an unidentified female caller that stated: "I know who shot someone in Cherry Hill and his name is Eddie." The Baltimore City Police Department's Southern District sent a detective to the Crown™ station, where 911 dispatch determined that the call had been placed from a payphone. However, the

caller was never located because seventeen minutes had elapsed between when she placed the call and when the information she communicated was dispatched to the Baltimore City Police Department's Southern District for investigation.

***DUKES' FAMILY MEMBERS IDENTIFY EDDIE AS THE SHOOTER***

86. On September 4, 2000, the Dukes family informed the Defendants that a person named Eddie, who was known to frequent the Cherry Hill area, was responsible for Mr. Dukes' cold-blooded murder.

***MR. DUKES BELIEVED THAT EDDIE WAS GOING TO KILL HIM***

87. As communicated above, the Defendants were informed that in the days just prior to Mr. Dukes' cold-blooded murder, he informed his friends that he was trying to procure a handgun because "Eddie was going to kill him for his drugs." Among the people who communicated this information to the Defendants were Mary Spriggs and Mr. Dukes' good friend, Prunell Carter.

***EDDIE WAS BRAGGING ABOUT MURDERING MR. DUKES***

88. On September 5, 2000, Defendant Banks was patrolling the Cherry Hill area in 2700 block of Spellman Road, when he came upon a person known to him as Jessie Moody. Defendant Banks' police report reflects that "Ms. Moody stated that a person known as Eddie had been bragging about murdering Kevin Dukes."

89. Ms. Spriggs also communicated to the Defendants that her son, Keith Spriggs, heard Eddie bragging about murdering Mr. Dukes.

***MR. DUKES' FRIEND CONFRONTS EDDIE ABOUT THE MURDER***

90. Mr. Dukes' good friend, Brian George, communicated to the Defendants that he believed that Eddie was responsible for the cold-blooded murder of Mr. Dukes and that he had confronted Eddie about the incident.

***EDDIE'S NECK WAS SCRATCHED BY MR. DUKES***

91. It was reported to the Defendants by numerous sources that Eddie's neck was scratched in an altercation with Mr. Dukes just prior to when Eddie murdered him in cold blood.



**IX. LABORATORY REPORTS CONFIRMED THAT THERE WAS BLOOD UNDER MR. DUKES' FINGERNAILS, CONSISTENT WITH THE REPORT THAT MR. DUKES HAD SCRATCHED EDDIE'S NECK JUST PRIOR TO WHEN EDDIE MURDERED HIM.**

92. In a laboratory report directed to Defendant Ritz, Defendant Bowman of the Baltimore City Police Department's Trace Analysis Unit communicated that she retained the following evidence from Mr. Dukes' body:

- a) a sample of Mr. Dukes' blood;
- b) eleven fingernail clippings from Mr. Dukes' left hand;
- c) ten fingernail clippings from Mr. Dukes' right hand; and
- d) a "Generation" silver and black watch.

93. Defendant Bowman's examination results, contained in the same laboratory report, were as follows:

- a) human blood was identified in a small area of brown substance on the tip edge of the underside of three of the nails from Mr. Dukes' left hand;
- b) human blood was identified on two of the fingernail clippings from Mr. Dukes' right hand;
- c) human blood was identified on the crystal of Mr. Dukes' watch face; and
- d) human blood was identified on the backside of Mr. Dukes' watch.

94. Despite the possibility that the blood recovered by Defendant Bowman might have belonged Mr. Dukes' shooter, there were no samples retained from Mr. Dukes' watch face, the underside of his watch, or the fingernail clippings from his right hand.

95. The human blood samples from the tip edge of the underside of the three fingernails from Mr. Dukes' left hand, however, were submitted to the Evidence Control Section of the Baltimore City Police Department for safe keeping in anticipation of a DNA test.

96. It is highly probable that the blood samples retained from the underside of Mr. Dukes' fingernails on his left hand were not from incidental splatter of his own blood when he was shot, but rather from an altercation on the evening he was murdered, in which he used his fingernails to scratch an assailant. And, as communicated above, the Defendants had been informed by numerous sources that Eddie had sustained such an injury from Mr. Dukes just prior to shooting him.

**X. TWO ADDITIONAL CARTRIDGE CASINGS WERE RECOVERED FROM THE VEHICLE AT THE BALTIMORE CITY POLICE DEPARTMENT'S HEADQUARTERS.**

97. As communicated above, the ballistic evidence recovered from the Vehicle when it was parked on Round Road included six cartridge casings, one projectile, and one suspected bullet fragment.

98. Two additional 9mm cartridge casings were recovered during a more rigorous and thorough processing of the Vehicle at the Baltimore City Police Department's headquarters, one on the interior dashboard near the passenger side door and one on the front driver's side under a floor mat.

99. Together, the search of the Vehicle for ballistic evidence when it was on Round Road and the subsequent search that was performed at the Baltimore City Police Department's headquarters yielded the recovery of eight cartridge casings from 9mm bullets, one 9mm bullet, and one suspected bullet fragment. How ballistic evidence managed to get under the driver's side floormat of the Vehicle if Mr. Dukes was executed while seated in the driver's side of the Vehicle is a feat that no one has been able to explain. And with good reason; because it isn't possible.

**XI. THE MEDICAL EXAMINER'S REPORT.**

100. An autopsy was performed on Mr. Dukes' body at the Office of the Chief Medical Examiner, wherein it was preliminarily noted that Mr. Dukes' body was that of a well-developed, well-nourished, black male, fully clad in a white t-shirt, blue jean shorts, a brown leather belt, blue-grey boxer-type underwear, white socks, brown work shoes, and a black nylon cap (commonly referred to as a "skull cap"). Importantly, and as noted above, this is the same description given by all the witnesses claiming to have seen Mr. Dukes' shooter, all the way down to the clothes Mr. Dukes was wearing when his body was discovered.

***EVIDENCE OF MR. DUKES' EXECUTION***

101. Mr. Dukes sustained thirteen gunshots to his body and limbs, most of which were fired at a distance of greater than two feet:

a) *Gunshot Wound to the Head:*

There was an entrance gunshot wound on the right temporal scalp, above the right ear. A large caliber, deformed, copper-jacketed bullet and separate fragments of copper jacket and lead were recovered from the wound path. The path of the wound was right to left, back to front, and downward. Sparse gunpowder stippling was present on the skin surrounding the entrance wound concentrically up to ¾" in diameter.

b) *Gunshot Wound to the Right Upper Back:*

There was an entrance gunshot wound present on the right upper back. The bullet exited the left lateral chest in the medial axillary line. No



bullet or bullet fragments were recovered. Sparse gunpowder stippling up to 2 ½" in diameter surrounded the entrance wound.

c) *Gunshot Wound to the Right Upper Chest:*

There was an entrance gunshot wound on the right anterior upper chest. A deformed, large caliber, copper-jacketed bullet was recovered. The path of the wound was right to left, front to back, and downward. There was no soot deposition or gunpowder stippling present on the skin surrounding the entrance wound.

d) *Gunshot Wound to the Left Upper Back:*

There was an entrance gunshot wound on the left upper back. Fragments of a large caliber, copper-jacketed bullet were recovered from the left arm. The wound path was from right to left, back to front, and downward. An ovoid area of gunpowder stippling and soot deposition was present on the skin laterally to the entrance wound, which measured 1 1/8" x 3/4".

e) *Gunshot to the Left Upper Chest:*

There was an entrance wound on the left upper chest, located 10 7/8" from the top of the head. No bullet or bullet fragments were recovered. The wound path was slightly right to left and downward. No gunpowder stippling or soot depositions were present on the skin surrounding the entrance wound.

f) *Gunshot Wound to the Right Upper Chest:*

There was a superficially perforating gunshot wound on the right upper chest, located 14 ¼" below the top of the head. Fragments of lead were recovered from the chest wall. There was no evidence of gunpowder stippling or soot deposition around either wound.

g) *Gunshot Wound to the Right Arm:*

There was an entrance gunshot wound to the right anterior upper arm. No bullet or bullet fragments were recovered. The wound path was from right to left, back to front, and upward. Sparse gunpowder stippling was present up to 1 ¾" from the entrance of the wound.

h) *Gunshot Wound to the Left Forearm:*

There was an entrance gunshot wound on the left posterior forearm (radial side). No bullet or bullet fragments were recovered. The wound path was left to right, back to front, and upward. There was no evidence of soot deposition or gunpowder stippling on the skin surrounding the entrance wound.

i) *Gunshot Wound to the Left Thigh:*

There was an atypical gunshot wound on the left upper thigh, located 25" above the left heel. No bullet or bullet fragments were recovered. The wound path was right to left, front to back, and upward. There was no evidence of soot deposition or gunpowder stippling on the skin surrounding the entrance wound.

j) *Gunshot Wound to the Medial Left Thigh:*

There was an entrance gunshot wound located on the medial upper thigh, 29 1/2" above the left heel. No bullet or bullet fragments were recovered. The wound path was front to back and right to left. There was no soot deposition or gunpowder stippling present on the skin surrounding the entrance wound.

k) *Gunshot Wound to the Posterior Left Calf:*

There was an entrance gunshot wound present on the posterior-lateral surface of the left calf, 10" above the left heel. No bullet or bullet fragments were recovered. The wound path was right to left and downward. There was no soot deposition or gunpowder stippling present on the skin surrounding the entrance wound.

l) *Gunshot Wound to the Distal Right 5<sup>th</sup> Finger:*

There was a transverse gunshot wound on the distal surface of the 5<sup>th</sup> right finger, which injured the base of the fingernail and fractured the distal phalanx. No bullet or bullet fragments were recovered. There was no soot deposition or gunpowder stippling on the skin surrounding the wound.

m) *Gunshot Wound to the Palm of the Left Hand:*

There was a grazing gunshot wound to the thenar region of the left hand (anterior surface), measuring 1 7/8" in length. No bullet or bullet fragments were recovered. The gunshot wound was left to right, slightly back to front and downward. There was no soot deposition or gunpowder stippling present on the skin surrounding the wound.

102. Importantly, of the thirteen bullets that contacted Mr. Dukes' body and limbs, one was recovered by the Defendants when they examined the Vehicle on Round Road, along with possible fragments of one other, and two bullets were recovered by the Office of the Chief Medical Examiner, leaving nine of the thirteen bullets unaccounted for, more if the bullet and fragments recovered from the Vehicle never contacted Mr. Dukes' body or limbs. Also of importance, all of the bullets that contacted Mr. Dukes were fired from his right side and most of them, based on the absence of soot deposition and gunpowder stippling, were likely fired from a distance greater than two feet from Mr. Dukes' body. This



undisputedly proves that if shots were fired at Mr. Dukes while he was in the Vehicle, they were all fired from the passenger side and likely by someone who was not seated inside the Vehicle.

**XII. PATROL OFFICERS WERE INSTRUCTED BY DEFENDANT RITZ TO RELEASE EDDIE AFTER INVOLUNTARILY DETAINING HIM FOR QUESTIONING AFTER NOTING FOR DEFENDANT RITZ THAT EDDIE HAD SCARS ON HIS NECK THAT WERE LIKELY INFLICTED DURING THE PHYSICAL ALTERCATION HE HAD WITH MR. DUKES JUST PRIOR TO MR. DUKES' MURDER.**

103. On September 16, 2000, Defendant Roney and Defendant Banks were in the area of the 800 block of Bethune Road when they observed a black male wearing a long-sleeved black t-shirt and black pants sitting on the steps of 861 Bethune Road.

104. Defendant Roney recognized Eddie as the man that the Baltimore City Police Department believed murdered Mr. Dukes.

105. Defendant Roney approached Eddie to conduct a field interview, at which time Eddie advised that his name was "Lamont Smith." Another officer was contacted by Defendant Roney with a request to verify Eddie's identity. Minutes later, the officer arrived with a picture of Eddie and was able to verify his identity. Eddie, thereafter, stated: "I know what this is for...and my sister told me not to come down here because the police were looking for me."

106. Eddie was transported to the Baltimore City Police Department's Southern District where Defendant Roney spoke with his superiors, who advised him that Eddie was not wanted as a suspect. Defendant Ritz was contacted and advised that Eddie had scars on his neck consistent with the reports the Defendants had received that Eddie was scratched on his neck just prior to murdering Mr. Dukes. However, Defendant Ritz, after acknowledging that there was a witness that stated that Eddie was scratched in the neck by Mr. Dukes just prior to the shooting, advised Defendant Roney to release Eddie. Eddie was never questioned and there was never any DNA test ordered.

**XIII. THE DEFENDANTS CONSPIRED WITH CRIME LAB TECHNICIANS TO ENSURE THAT DNA FOUND UNDERNEATH MR. DUKES' FINGERNAILS AND EDDIE'S DNA WERE NEVER TESTED.**

107. On September 27, 2008, Justin Fenton of the Baltimore Sun Newspaper broke a story that in at least nine homicide, sexual assault, and burglary cases, "Baltimore police detectives instructed crime lab technicians not to follow up on DNA found on evidence at crime scenes." It is believed that the instructions were given to technicians in an effort to hide the fact that the wrong person had been arrested. This also correspondingly means that Baltimore City Police Department detectives were knowingly and intentionally arresting innocent people for the most serious crimes chargeable under Maryland law and thereafter subjecting them to false imprisonment.

108. The crimes at issue match, which makes it probable that the Defendants similarly conspired with the crime lab technicians to ensure that they would not test the DNA samples taken from under Mr. Dukes' fingernails. The fact that the DNA sample was never identified or pursued is a clear demonstration of the presence of the same misconduct that plagued the crime lab being present in this case.

109. Upon information and belief, the Defendants were aware of the aforementioned conspiracy and misconduct at the crime lab and that the DNA profile collected from under Mr. Dukes' fingernails was also not followed up on, yet willfully ignored and/or were deliberately indifferent to this exculpatory evidence.

### **XIII. THE DEFENDANTS HATCHED A PLAN.**

110. Despite the numerous reports that Eddie was the shooter, the confirmation that Eddie had scars on his neck that were consistent with the scars witnesses reported that Eddie sustained in an altercation with Mr. Dukes just prior to murdering him in cold blood, and the complete lack of evidence that anyone else could be a suspect, the Defendants willfully, intentionally, and for their own ulterior purposes refused to investigate Eddie and the numerous statements that he was the person who murdered Mr. Dukes.

111. Recognizing that they had no evidence linking anyone to Mr. Dukes' murder other than Eddie - no eyewitness, no physical evidence, no confession, and no motive - the Defendants, with the support of Defendant Norris, turned to the use of coercion to encourage identifications from two new witnesses, two and a half months after Mr. Dukes' murder. But as fate would have it, the only person that was positively identified was Eddie.

### **XIV. THE DEFENDANTS DISREGARDED THE OFFICIAL POLICY AND PROCEDURE FOR THE PRESENTATION OF MUG BOOKS AND CONSPIRED TO MANUFACTURE A FALSE IDENTIFICATION.**

112. As evidenced by Maryland Code, Public Safety, § 3-506, the Baltimore City Police Department has a written policy relating to eyewitness identification that complies with the United States Department of Justice standards for obtaining accurate eyewitness identifications, which provides in pertinent part:

#### ***Section II. Mug Books and Composites***

##### ***A. Preparing Mug Books***

***Note:*** "Mug books" (i.e., collections of photos of previously arrested persons) may be used in cases in which a suspect has not yet been determined and other reliable sources have been exhausted. This technique may provide investigative leads, but results should be evaluated with caution.



**Principle:** Non-suggestive composition of a mug book may enable the witness to provide a lead in a case in which no suspect has been determined and other reliable sources have been exhausted.

**Policy:** The investigator/mug book preparer shall compose the mug book in such a manner that individual photos are not suggestive.

....

**Summary:** Mug books must be objectively compiled to yield investigative leads that will be admissible in court.

“Eyewitness Evidence: A Guide for Law Enforcement.” October 1999, United States Department of Justice.

113. As communicated hereinafter, the Defendants completely disregarded the Baltimore City Police Departments’ written policy and the United States Department of Justice Standards of obtaining accurate eyewitness identifications in favor of the patterns, practices, and/or procedures and customs instituted by the rank and file and supervising officers, including Defendant Norris, which encouraged suggestive identification procedures and outright coercion of falsely positive identifications.

**XV. THE DEFENDANTS PULLED OVER [REDACTED] FRAZIER’S MOTOR VEHICLE IN THE DEAD OF NIGHT AND MADE HER AN ILLEGAL OFFER SHE COULDN’T REFUSE.**

114. In furtherance of the Defendants’ conspiracy to pin Mr. Dukes’ murder on someone other than Eddie, the Defendants sought out people in the Cherry Hill area that they could coerce into making an identification of Mr. Dukes’ shooter, even if any identification of anyone other than Eddie would have all the indicators of being clearly, absolutely, and undeniably false.

115. Early on in the investigation, Mary Spriggs informed the Defendants that [REDACTED] Frazier might have some information about Mr. Dukes’ shooter. Two and a half months later, the Defendants contacted Ms. Frazier, but she was not interested in meeting with them.

116. In the days that followed, the Defendants repeatedly phoned Ms. Frazier and, when it became clear that Ms. Frazier was ignoring the Defendants’ attempts, they began to stakeout her residence.

117. Eventually, staking out Ms. Frazier’s residence, the Defendants were able to pull her motor vehicle over to the side of the road on a cold, pitch-black, mid-November night. Upon information and belief, they searched it for any incriminating evidence and recovered a quantity of illegal narcotics. It is, however, unclear whether the quantity of narcotics belonged to Ms. Frazier or whether the Defendants planted them in her motor vehicle during their illegal search.

118. On the side of the road, as the night was quickly turning into the next day, Ms. Frazier was presented with mug shots in a photo book full of black and white copies of black men’s faces. She

was given a choice, either she could identify someone in the photo book as Mr. Dukes' shooter or she would be arrested for the possession of illegal narcotics recovered from her motor vehicle. Upon information and belief, Ms. Frazier also had her children in her motor vehicle, which the Defendants seized upon by warning her that if she were arrested, the Department of Social Services would be notified and would take the children away from her.

119. The Defendants' coercion directed at Ms. Frazier was answered when she affixed her name above the chubby black face of Mr. Mable, who had short hair. That was at 10:59 p.m. on November 14, 2000. However, she signed the picture of another black man ten minutes later, who was noticeably lighter, was not chubby, had hair that extended beyond his ears, and was approximately ten years older than Mr. Mable. That second man was Eddie and she was sure he was the shooter.

120. The next day, Ms. Frazier made a recorded statement to the Baltimore City Police Department that was described by the police officer taking notes as "very coached." The same police officer went on to comment that Ms. Frazier was very talkative, slow to answer, then indecisive. In fact, Ms. Frazier's stated recollections were so basic that anyone who knew even the most minuscule amount about Mr. Dukes' murder could have come up with her story.

121. Ms. Frazier stated that on August 20, 2000, she was driving down the 3300 block of Round Road when she observed a black male, 5'7", medium complexion, wearing blue jean shorts and a white t-shirt, running toward the playground on the hill in the 3300 block of Round Road. Here we see another witness who gave Mr. Dukes' description as the description of the shooter, right down to his clothing. Ms. Frazier further stated that the suspect was running from the Vehicle. Ms. Frazier described the Vehicle as drifting down a hill before coming to a stop. She then stated that: "I saw the shooter get out of the passenger side of a gold vehicle but didn't get a good look."

122. Ms. Frazier stated that: "they, other dealers in the area, named a guy named Eddie as being responsible for Mr. Dukes' murder." She continued, "I heard he got locked up and he was interviewed and stuff and they let him go." She agrees with the author of this Complaint that: "It had to be more than one person to do this robbery." Somehow, Ms. Frazier was able to add that: "they robbed him of his weed and not his money. The police retrieved money off him when the police got there," suggesting a possible connection to the training of Baltimore City's police officers, referenced herein above and in Officer King's testimony during his own criminal trial, to rob dealers of their drugs.

123. The Defendants intentionally, maliciously, and with reckless disregard for and complete indifference to the rights of Mr. Mable or anyone else, chose not to conduct any investigation to confirm or verify Ms. Frazier's story. In fact, any statements that were exculpatory to any notion that Mr. Mable might be the shooter were ignored and concealed from the State's Attorney's Office, the Circuit Court for Baltimore City, and Mr. Mable's attorney. For example, Defendant Ritz testified before a grand jury



that two witnesses had identified Mr. Mable, one of which was Ms. Frazier. However, not only did Ms. Frazier not make a positive identification of Mr. Mable, but rather she stated that she didn't get a good look at the shooter and identified Eddie nonetheless. These three exculpatory statements and others made by Ms. Frazier were never disclosed to the State's Attorney's Office, the Circuit Court for Baltimore City, or Mr. Mable's attorney.

124. Ms. Frazier crafted her story under the guidance of the Defendants, who knew or were deliberately indifferent in not knowing, that if Ms. Frazier were able to identify someone other than Eddie, it would be false, unreliable, and the product of the Defendants' secret arrangement to not arrest Ms. Frazier for possession of illegal narcotics in exchange for an identification they could present to the Circuit Court for Baltimore City and the State's Attorney's Office, pinning Mr. Mable as the shooter.

125. Ms. Frazier was not the only witness the Defendants attempted to coerce into making an identification, despite knowing that the identification would be motivated by a desire to avoid going to jail. As part of this pattern and practice of using coerced witnesses, the Defendants used the testimony of [REDACTED] Taylor, as described hereinafter. As was done with respect to Ms. Taylor, the Defendants withheld from Mr. Mable's attorney the details of Ms. Frazier's identification of Eddie, the other exculpatory information arising out of their communications with Ms. Frazier, and the details of their illegal coercion of Ms. Frazier to illegally compel her to make an identification.

126. It is recognized as basic law enforcement practice that police officers should not engage in tactics that coerce a witness to identify an individual in a photographic or a live lineup. In basic law enforcement training, police officers are taught that showing a single photograph of an individual to a witness, or likewise questioning their identification of a suspect, are improper tactics that can bias the witness and result in a false identification.

127. The Defendants knew or were deliberately indifferent in not knowing that the results of coercing an identification from Ms. Frazier, to say the least, tainted the identification process and were contrary to standard police practice, which would have resulted in a false identification of anyone other than Eddie. The Defendants knew that Ms. Frazier's description of Mr. Dukes' killer was really a description of Mr. Dukes. Nevertheless, the Defendants intentionally ignored the multitude of problems with Ms. Frazier's account and chose not to investigate Ms. Frazier's recollection of what she claimed to have seen on the evening of Mr. Dukes' murder and when exactly she claimed to have witnessed the events she described in her recorded statement. Instead of following standard police procedures and subjecting Ms. Frazier's recollections to aggressive analysis, the Defendants manufactured Ms. Frazier's recollections of Mr. Dukes' murder and made these false statements the centerpiece of their case, only against Mr. Mable, despite the fact that neither Ms. Frazier nor Ms. Taylor were able to positively him and both positively identified Eddie.

**XVI. THE DEFENDANTS LIKEWISE MADE [REDACTED] TAYLOR AN ILLEGAL OFFER SHE COULDN'T REFUSE.**

128. After coercing a positive identification from Ms. Frazier, which unfortunately for the Defendants was of Eddie and not Mr. Mable, the Defendants interviewed Lachelle Taylor and offered her a deal similar to the one they had offered to Ms. Frazier. In fact, the offer likewise included the promise that the Defendants would not arrest her for the possession of illegal narcotics if she made an identification. However, unlike Ms. Frazier, who Ms. Spriggs had indicated might know something about Mr. Dukes' murder, the Defendants did not have any information that even so much as hinted that Ms. Taylor might have witnessed Mr. Dukes' murder. She was just a woman in the Cherry Hill area with a drug addiction that was getting the best of her, and the Defendants seized upon it. In so doing, the Defendants briefed Ms. Taylor on the basic facts of their theory of the case so that she herself was not shooting entirely in the dark.

129. The Defendants orchestrated a recorded interview with Ms. Taylor, and questioned her about her recollection of the evening of Mr. Dukes' murder. Ms. Taylor stated that she was at a friend's house, but had trouble indicating where it was, which could be explained by the comment of the police officer taking notes on her recorded interview, who stated that when Ms. Taylor was shown a photo array minutes before her recorded statement, her speech was slurred. He speculated that she was a possible drunk. It is also possible that she was high.

130. Ms. Taylor's story started out with her looking out a window. Then, her story changed to her looking out a screen door that faced north on Round Road. She stated that she observed someone parking Mr. Dukes' motor vehicle on Round Road and not drifting down a hill as was stated by Ms. Frazier. Then, Ms. Taylor stated that she left the screen door. Less than a minute later, she claimed to have heard a series of gunshots, which made her return to the screen door "and that is when [she] saw the guy in those pictures [she] had identified running away from the car." She further commented that there were a lot of people outside before the shooting, but after, the streets were clear.

131. Ms. Taylor stated that after she saw the man get out of Mr. Dukes' motor vehicle, "it was a real long time before the police arrived." She then speculated that Mr. Dukes might still have been breathing if the police responded in a timely manner and estimated that it was approximately forty-five minutes before the police responded. As noted above, Ms. Graves also provided that there was likely a lapse in time between Mr. Dukes' murder and when the Defendants arrived, but all other statements reflect that the Defendants arrived at the Vehicle in under five minutes.

132. Ms. Taylor was asked by the Defendants whether she was close enough to see what color gun the shooter was brandishing. She replied: "No, I wasn't that close. I was close enough to see when his arms were swinging and see the gun in his hand." So, like Ms. Frazier, Ms. Taylor did not



claim to have a good view of the shooter at all. She was, however, adamant that the shooter exited Mr. Dukes' motor vehicle through the driver's side door, which would have required the impossible task of climbing over Mr. Dukes, who was seated in the driver's seat of the Vehicle, slumped over to the passenger side. In stark contrast, Ms. Frazier was sure that the shooter exited from the passenger side of the Vehicle.

133. At this point, Ms. Taylor's identification of the shooter from the photo array should not be a surprise: "Mr. Dukes was killed, supplied him, the guy I just identified the photo of, Eddie, and the other dudes be on Bethune Road selling weed." In response, the Defendants set out to further coerce Ms. Taylor and pressure her to falsify an identification of Mr. Mable, to which she was clear: "Eddie and [Mr. Mable] are two different people."

134. When Ms. Taylor still maintained that she did not see Mr. Mable exit Mr. Dukes' motor vehicle, but rather Eddie, the Defendants resumed threatening Ms. Taylor with arrest and prosecution for the possession of illegal narcotics. The Defendants again suggested that Ms. Taylor could avoid arrest by saying that she had seen Mr. Mable with a gun exiting Mr. Dukes' motor vehicle. When she repeatedly told the Defendants that she never saw Mr. Mable with a gun or at all, the Defendants continued to badger and threaten her, and became angry.

135. With a total disregard for the truth, the Defendants reported that Ms. Taylor told them that she did in fact see Mr. Mable exit Mr. Dukes' motor vehicle with a gun. The Defendants deliberately suppressed the fact that they had apprehended her, had lied to her to get her to say that she had seen Mr. Dukes' shooter, had pressured and coerced her to make an identification of the shooter, which unfortunately for the Defendants happened to be Eddie, and lied in their report that Ms. Taylor positively identified Mr. Mable.

136. The Defendants knew that any reference to an identification by Ms. Taylor that Mr. Mable was involved in Mr. Dukes' murder was false and untrustworthy. Defendants were aware of the high possibility that Ms. Taylor not only did not witness the shooting at all and, if she had, that she had nonetheless identified Eddie as the shooter. Defendants also knew that Ms. Taylor was either drunk or high during their interactions with her and that it was probable that she was in the same condition on the evening of the shooting. The Defendants also knew of and condoned each other to assist in the deliberate efforts to coerce, suggest, and alter Ms. Taylor's recollection of the evening of Mr. Dukes' murder by apprehending her, instructing her that she saw Mr. Dukes' shooter by providing her with details of the murder and the Vehicle, and by threatening her with arrest for the possession of illegal narcotics if she did not make a positive identification of Mr. Mable. The Defendants knew or should have known that this conduct would render Ms. Taylor's identification of anyone other than Eddie unreliable and false. Any reasonable, prudent, and well-trained investigator would know that the Defendants' conduct was

unlawful and that any resulting statement about Mr. Mable or anyone other than Eddie was utterly worthless. However, in their rush to “solve” Mr. Dukes’ murder with someone other than Eddie, the Defendants picked two women that positively identified him. Yet, the Defendants nonetheless resolved to focus entirely on Mr. Mable and did not attempt to determine the actual truth in their investigation or to develop a case based on truthful facts. Motivated by a desire to quickly solve Mr. Dukes’ murder and make an arrest in this highly publicized case, the Defendants adopted a theory, and then abused their investigation and authority to construct a case to fit it. The most important criteria for this was that Eddie not be prosecuted and, up until the filing of this Complaint, in that respect they have been successful.

**XVII. THE DEFENDANTS RESPONDED WITH FURTHER MISCONDUCT AFTER THEY REALIZED THAT THE COERCED STATEMENTS OF BOTH MS. FRAZIER AND MS. TAYLOR WERE INCONSISTENT WITH BOTH THE FACTS OF THE CASE AND EACH OTHER.**

137. Quickly after focusing their investigation exclusively on Mr. Mable, the Defendants realized that they had a critical flaw with their theory of the case: both Ms. Frazier and Ms. Taylor had materially disagreed about most of the facts of the case, except for their positive identifications of Eddie. Nonetheless, any objective and competent investigator would have reevaluated Eddie as a suspect given that both Ms. Frazier and Ms. Taylor identified him as the shooter. However, the Defendants not only intentionally ignored this exculpatory and key evidence, they set out to deliberately misrepresent and fabricate evidence concerning Ms. Frazier and Ms. Taylor’s positive identifications of Eddie by manufacturing identifications of Mr. Mable to secure his arrest and conviction.

138. Despite Ms. Frazier and Ms. Taylor’s positive identifications of Eddie as the shooter and their other statements that were materially different, the Defendants purposefully contorted Ms. Frazier and Ms. Taylor’s descriptions and reported that they both made positive identifications of Mr. Mable as the shooter. This intentional manipulation of key evidence was a deliberate attempt to twist and fabricate evidence to frame Mr. Mable. This deliberate and false alteration of Ms. Frazier and Ms. Taylor’s identifications would become central to the Defendants’ investigation and the State’s Attorney’s case at trial.

139. The Defendants then suppressed any and all exculpatory evidence from the Circuit Court for Baltimore City, the State’s Attorney’s Office, and Mr. Mable’s attorney, including the multitude of statements made that expressly implicated Eddie as the shooter, the evidence that Eddie had been scratched on the neck, the DNA evidence found under Mr. Dukes’ fingernails, and the reports that Eddie’s neck had been scratched by Mr. Dukes just prior to Eddie killing him.

140. The Defendants continued the intentional fabrication and manipulation of Ms. Frazier and Ms. Taylor’s positive identifications of the shooter and suppressed the exculpatory evidence described herein this Complaint from the Circuit Court for Baltimore City, the State’s Attorney’s Office,



and Mr. Mable's attorney throughout the arrest, charging, detention, prosecution, conviction, sentencing, and imprisonment of Mr. Mable.

## CAUSES OF ACTION

### *Federal Claims*

#### COUNT ONE

#### **Violation and Conspiracy to Violate Fourth and Fourteenth Amendment Rights under 42 U.S.C. § 1983 - Malicious Prosecution**

(Against all Defendants except the Mayor and City Council and the Baltimore City Police Department)  
*In their individual and official capacities*

141. Each of the paragraphs of this Complaint is incorporated by the Plaintiff as if restated fully herein.

142. The Count One Defendants are "persons," as that term is used in the text of 42 U.S.C. § 1983.

143. The Count One Defendants conspired by entering into express and/or implied agreements, understandings, or meetings of the minds among themselves for the purpose of initiating and continuing criminal prosecutions against the Plaintiff on charges that included murder. The Count One Defendants did in fact, under the color of law, initiate and continue criminal prosecutions against the Plaintiff on charges including murder.

144. The Count One Defendants commenced and continued the criminal proceedings against the Plaintiff without any belief that he was guilty of the crimes for which he was charged. Additionally, the criminal prosecutions against the Plaintiff were instituted for a purpose other than bringing him to justice or securing the conviction of a guilty person.

145. There was no probable cause for any of the criminal prosecutions the Count One Defendants initiated and continued against the Plaintiff and all the charges levied against him were terminated in his favor.

146. The Count One Defendants acted intentionally, with actual malice and ill will, and without legal justification, knowingly, willfully, and wantonly evidencing a complete and utter disregard for the truth in instituting legal proceedings against the Plaintiff and evidenced a reckless and callous disregard for, and deliberate indifference to the Plaintiff's constitutional rights.

147. The Count One Defendants were motivated in the pursuit of criminal charges against the Plaintiff, not by a belief that the charges had any factual or legal merit or that probable cause existed, but for improper, illegal, and unconstitutional purposes including, but not limited to, those outlined more specifically in the body of this Complaint.

148. Upon information and belief, the Count One Defendants intimidated Ms. Taylor and Ms. Frazier in an attempt to convince them to offer perjured testimony at the Plaintiff's prospective criminal trial.

149. The Count One Defendants falsified their official reports and offered perjured testimony to obtain warrants in an attempt to secure the Plaintiff's arrest.

150. The conduct of the Count One Defendants as aforescribed caused the Plaintiff to suffer deprivations to his liberty, including post-arraignment and post-conviction deprivations, as his liberty relates to the concept of seizure and violated the Plaintiff's right to be free of unreasonable and unlawful seizure, secured by the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

*State Claims*

**COUNT TWO**

**State of Maryland Claim of Malicious Prosecution and Conspiracy to Maliciously Prosecute**  
(Against all Defendants except the Mayor and City Council and the Baltimore City Police Department)  
*In their individual and official capacities*

151. Each of the paragraphs of this Complaint is incorporated by the Plaintiff as if restated fully herein.

152. That the Count Two Defendants acted intentionally, in concert, and in confederation by agreement and understanding to maliciously prosecute the Plaintiff as alleged more specifically in the body of this Complaint.

153. That the Count Two Defendants, within the scope of their employment and without probable cause, legal justification, or excuse and in an attempt to inflict injury, instituted and continued criminal proceedings against the Plaintiff with actual malice, improper motivations, ill will and for a purpose other than bringing the Plaintiff to justice. All of the criminal proceedings have terminated in favor of the Plaintiff.

154. As alleged more specifically in the body of this Complaint, there was no probable cause to arrest the Plaintiff and the Count Two Defendants were in a unique position that they abused by maliciously instituting and/or continuing the criminal proceedings against the Plaintiff in the Circuit Court of Maryland for Baltimore City. Further, it was a direct and foreseeable consequence of the Defendants' conduct that the Plaintiff was unreasonably and undeservingly subjected to indictment, arrest, prosecution, conviction, and incarceration.

155. That the prosecution of the Plaintiff was instituted with malice or for a purpose other than bringing the Plaintiff to justice. To-wit, the Count Two Defendants demonstrated actual malice, spite, ill-will, and wonton disregard for the Plaintiff's rights by conspiring to manufacture and



manipulate evidence that was false and misleading as alleged more specifically in the body of this Complaint, with the knowledge that the false and misleading evidence would be used to advance and perpetuate the criminal process against the Plaintiff, leading to his conviction and incarceration.

156. The Count Two Defendants' actual malice and improper motives further included efforts to cover up and/or conceal their misconduct and rush to the Plaintiff's judgment, as alleged more fully in the body of this Complaint, and to compromise the Plaintiff's legal rights as stated above.

157. The Count Two Defendants instituted and maintained prosecutions against the Plaintiff for a purpose other than to bring him to justice and knew that there was no proper basis or probable cause for initiating and maintaining the charges against him and that the charges were false when made and maintained.

#### **CLAIMS, DAMAGES AND JURY DAMAGES**

158. The actions of the Defendants deprived Mr. Mable of his civil rights under Maryland and federal law, including Articles 24 and 26 of the Maryland Declaration of Rights and the Fourth and Fourteenth Amendments of the United States Constitution, respectively.

159. The unlawful and reckless acts of the Defendants constituted violations of Mr. Mable's rights under the Maryland Declaration of Rights and under Maryland statutory and common law, including any innominate tort theory encompassed by the facts pleaded herein.

160. The unlawful and reckless actions of the Defendants caused Mr. Mable severe emotional distress, humiliation, and embarrassment, pain and suffering and other damages, including without limitation, damages for lost wages, for which he is entitled monetary relief.

161. All acts committed by the Defendants described herein for which liability is claimed were done intentionally, unlawfully, maliciously, wantonly, and/or recklessly and said acts meet all of the standards for imposition of punitive damages.

162. As a result of these acts, the Plaintiff suffered damages including, among others, the following: personal injuries; pain and suffering; severe mental anguish; emotional distress; loss of income; infliction of physical illness; inadequate medical care; humiliation; indignities and severe embarrassment; degradation; injury to reputation; permanent loss of natural psychological development; restrictions of all forms of personal freedom including, but not limited to, diet, sleep, personal contact, educational opportunity, vocational and professional opportunity, athletic opportunity, personal fulfillment, sexual activity, family relations, reading, television, movies, travel, enjoyment and expression.

**WHEREFORE**, Ezra Mable prays as follows:

- A. That the Court award compensatory damages to him and against the Defendants, jointly and/or severally, in the amount of Thirty-Five Million Dollars (\$35,000,000.00), which exceeds any and all jurisdictional requirements of this court that may exist, and that Defendant Mayor and City Council be held liable for the wrongful acts of its employees wherein appropriate;
- B. That the Court award punitive damages to Mr. Mable, and against the Defendants, jointly and/or severally, that will deter such conduct by the Defendants and members of the Baltimore City Police Department in the future;
- C. For a trial by jury;
- D. For interest on said judgment, recovery of Mr. Mable's costs, including any and all allowable attorney's fees; and
- E. For any and all other relief to which Mr. Mable may be entitled.

Dated: February 27, 2013

Respectfully Submitted,

/s/

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