IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-01362

TIMOTHY OLSON;
MARY ANN LOMBARDI;
CRYSTAL DEGUZMAN;
MICHAEL HANCE;
ENRIQUE NUNEZ;
DENISE BURKE;
MARCI STRANDBERG;
IAN STRANDBERG, a minor by & through his natural mother & next friend, Marci Strandberg;
CHLOE STRANDBERG, a minor by & through her natural mother & next friend, Marci Strandberg;
QUINTEN TWEED;
SARA LOMBARD;
TONY TWEED, a minor by & through his natural mother & next friend, Sara Lombard;
TYSON TWEED, a minor by & through his natural mother & next friend, Sara Lombard;
NESIAH TWEED, a minor by & through her natural mother & next friend, Sara Lombard,

Plaintiffs,

v.

CITY OF AURORA, COLORADO, a municipality;
DANIEL J. OATES, Aurora Police Chief, in his official capacity;
CHRISTEN LERTCH, in his official and individual capacities;
KRISTOPHER MCDOWELL, in his official and individual capacities;
LUKE J. BARKER, in his official and individual capacities;
RICHARD RAY, in his official and individual capacities;
BRANDT A. SMITH, in his official and individual capacities;
MICHAEL DAVID PRINCE, in his official and individual capacities; and
A. TODD CHANOS, in his official and individual capacities,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiffs, by and through their attorneys, David A. Lane and Danielle C. Jefferis of KILLMER, LANE & NEWMAN, LLP, respectfully allege for their Complaint and Jury Demand as follows:

I. INTRODUCTION

1. This case is about the more-than-two-hour mass roundup of innocent men, women, and children at a traffic intersection while members of the Aurora Police Department attempted to locate a bank robber for which they had only a general physical description and no description of a vehicle. It is about, in United States Supreme Court Justice Robert Jackson's words, the Fourth Amendment's "indispensable freedom" to be secure against unreasonable searches and seizures. Ultimately, this case embodies that against which Justice Jackson cautioned:

> Among deprivations of rights, none is so effective in cowing a population, crushing the spirit of the individual and putting terror in every heart [than the deprivation of the right to be free from unreasonable searches and seizures]. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government.

Brinegar v. United States, 338 U.S. 160, 180 (1949) (Jackson, J., dissenting).

2. On June 2, 2012, a man robbed a Wells Fargo branch in Aurora, Colorado. He fled with stacks of currency, one of which contained an embedded transmitter. Deploying a GPS-tracking device, the Aurora Police Department ("APD") dispatcher immediately began tracking the transmitter's location. Within minutes, the dispatcher broadcasted to all APD officers that the transmitter was stationary at the intersection of Iliff Avenue and Buckley Road in southeast Aurora.

3. Hearing this over the radio, APD officers in the area immediately surrounded and barricaded all nineteen vehicles stopped at the red light at that intersection. The officers had no description of the vehicle in which the robber fled and just a general physical description of the robber. The GPS-tracking device — the only tracking device within the APD's possession — could track the transmitter only to within a vague perimeter of thirty-to-forty feet — roughly the zone of the entire intersection. Therefore, APD officers had no reasonable suspicion that any one of the individuals in the nineteen vehicles they rounded up at the intersection was involved in the robbery. They could not even pinpoint from which vehicle the transmitter's signal was emitted.

4. Nonetheless, the officers demanded that all vehicle occupants hold their arms up and outside of their vehicle windows. They brandished ballistic shields and pointed assault rifles directly at innocent citizens, including children under ten years old. Officers with police dogs were at the ready. No one was free to leave.

5. APD officers requested from a completely separate agency (the Federal Bureau of Investigation) a device capable of tracking more precisely the transmitter's location. But more than an hour later the device had not arrived on scene. APD officers then ordered all occupants to exit their vehicles, upon which they patted down most of the individuals for weapons and handcuffed them. They commanded that every individual sit on the curb for yet another hour, still handcuffed. They searched each vehicle without consent.

6. This all occurred despite the fact that the officers had removed and handcuffed a single individual — Christian Paetsch — from his vehicle just thirty minutes after the initial stop. And it occurred despite the fact that approximately an hour later, officers discovered a money

band in the vehicle from which they had removed Paetsch. Officers continued to detain, remove, search, and restrain every individual at the intersection. Paetsch was eventually charged with the robbery.

7. Plaintiffs were among the twenty-eight individuals whom the Aurora Police Department rounded up, detained, removed, searched, restrained — and terrified — at the intersection that day. The APD officers had no reasonable suspicion, let alone probable cause, to believe that Plaintiffs had committed any offense. Throughout the more-than-two-hour roundup, Plaintiffs were fully compliant with the officers' demands. As detailed below, Defendants' actions exceeded all objective bounds of reasonability.

8. This is an action for damages and other relief against Defendants for violating Plaintiffs' rights under the Fourth and Fourteenth Amendments to the United States Constitution. Plaintiffs allege that Defendants violated their constitutional rights to be free from false arrests/unlawful seizures, excessive force, and unlawful searches. Defendants were acting under the color of state law and directly and/or proximately caused the deprivation of Plaintiffs' federally protected rights, as well as other injuries and damages. The individual defendants' actions were taken pursuant to Defendant City of Aurora's official custom, practice, and/or policy of conducting traffic stops and otherwise trailing bank robbery suspects that far exceed the Fourth Amendment's bounds of reasonability.

II. JURISDICTION AND VENUE

9. This action arises under the Constitution and laws of the United States, including Article III, Section 1 of the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is

conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343. Jurisdiction supporting Plaintiffs' claims for attorneys fees is conferred by 42 U.S.C. § 1988.

10. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391(b). All of the events alleged herein occurred within the State of Colorado, and all of the parties were residents of the State of Colorado at all relevant times.

III. PARTIES

11. At all times relevant to this Complaint, Plaintiffs were residents of and domiciled in the State of Colorado. They bring this action for themselves.

12. Plaintiff Strandberg is the natural mother of Ian Strandberg and Chloe Strandberg and, therefore, qualified to act as their next friend. She also brings this action accordingly.

13. Plaintiff Lombard is the natural mother of Tony Tweed, Tyson Tweed, and Nesiah Tweed and, therefore, qualified to act as their next friend. She also brings this action accordingly.

14. At all times relevant to this Complaint, the individual defendants were employed as law enforcement officers by the City of Aurora and acting under the color of state law.

15. At all times relevant to this Complaint, Defendant Daniel J. Oates was the Chief of the Aurora Police and acting under the color of state law.

16. Defendant City of Aurora is a political subdivision of the State of Colorado and is responsible for the supervision, training, official policies, customs, and actual practices of its agents, the Aurora Police Department and its police officers. At all times relevant to this complaint, the City of Aurora and all of its agents and employees were acting within the scope of their official duties and employment under the color of state law.

IV. FACTUAL ALLEGATIONS

Allegations Common to all Plaintiffs

17. Around 4:00 p.m. on Saturday, June 2, 2012, a hot summer day, Plaintiffs found themselves in the wrong place at the wrong time. Some were heading home. Others were traveling to work, to run errands, or to simply enjoy the afternoon with their families. But each stopped at the intersection of Iliff Avenue and Buckley Road in Aurora, Colorado around the same time and waited for the stoplight to turn green.

18. Iliff Avenue and Buckley Road is a major intersection in Aurora. On that Saturday afternoon, traffic in the area was moderate to heavy.

19. Unbeknownst to Plaintiffs, a lone gunman had robbed a nearby Wells Fargo bank branch just minutes before they reached the intersection. An individual at the bank described to the emergency dispatcher that the robber was a white male in his twenties or thirties, approximately 5'6", 130 pounds, and wearing a beehive mask, a dark green hooded jacket, and dark pants. The individual stated also that the robber yelled repeatedly, "Get down!" while inside the bank.

20. The robber fled with a stack of currency that contained a hidden location transmitter. When the transmitter was lifted from its base plate in the cashier's drawer, it began sending signals regarding its location to the Aurora Police Department.

21. As soon as the robber left the bank, the APD dispatcher began live monitoring the transmitter's movements via a GPS-tracking device. The dispatcher broadcasted the transmitter's position to all officers every few seconds. Officers not dispatched to the bank were instructed to follow the transmitter's movements.

22. There was, however, no hot pursuit or chase or otherwise exigent circumstance surrounding the robber's flight from the bank.

23. Defendant Kristopher McDowell was following the dispatcher's live reports of the transmitter's movements. When he heard that the transmitter was stationary at Iliff Avenue and Buckley Road, he jumped out of his patrol vehicle and ordered all of the vehicles to remain where they were.

24. Within seconds, additional APD officers in the area arrived and stormed from their patrol vehicles with weapons drawn, ballistic shields wielded, and K9s ready. They screamed at every occupant of every vehicle at the intersection — twenty-eight occupants, including children, in nineteen vehicles — to look straight ahead, put their hands in the air, and hold their arms out of their windows.

25. The officers would not permit anyone to shut off their vehicle's ignition, put their vehicle in park, or lift their parking brakes.

26. No one was free to leave the intersection.

27. At least sixteen patrol vehicles surrounded the intersection.

28. Defendant Christen Lertch heard Defendant McDowell report over the radio that McDowell had stopped all traffic at the intersection. Defendant Lertch arrived at the intersection just minutes after the initial roundup.

29. Defendant Lertch, a lieutenant, was the highest-ranking commanding officer on scene.

30. Although they were tracking its location and movements, none of the officers knew which vehicle contained the stolen transmitter because the GPS tracker could only pinpoint the transmitter's location to within thirty-to-forty feet — the zone of the entire intersection.

31. A more accurate type of tracking device — a handheld beacon — was necessary to home in on the near-exact location of the transmitter.

32. The only agency within the entire Denver metropolitan area to possess this sort of handheld beacon was the FBI, which held the beacon in its Safe Streets Task Force office located in downtown Denver. The Safe Streets office is closed on Saturdays.

33. Banks throughout Aurora are open on Saturdays and, thus, could be robbed on Saturdays.

34. Despite this possibility, Defendant Daniel J. Oates, Chief of the Aurora Police Department, did not procure for the Department its own handheld beacon so that APD officers could track more accurately and with more precision bank robbers who flee with embedded transmitters.

35. Instead, Defendant Oates relied on the FBI's Safe Streets Task Force to provide the handheld beacon, knowing that the task force's office is a substantial distance from many points in Aurora and, unlike the Aurora Police Department, may be closed at times when APD officers need the beacon.

36. Because the Aurora Police Department did not possess the more-precise handheld beacon, Defendant Lertch requested via dispatch that an FBI Safe Streets Task Force officer bring one of their handheld beacons to the scene. At 4:15 p.m., the dispatcher informed Lertch

that a Task Force officer was "en route" with the beacon and would arrive in twenty to thirty minutes.

37. Defendant Lertch ordered the officers on scene to maintain their positions and await the arrival of the Task Ford office with the beacon.

38. Despite having the general description of the robber — a white male in his twenties or thirties, approximately 5'6" and 130 pounds — Defendant Lertch also ordered the officers to identify anyone in the stopped vehicles who appeared "overly nervous or anxious" or refused to raise their hands and arms.

39. Officers, weapons still drawn, proceeded to each vehicle. They pointed assault rifles and other weapons at close range and brandished ballistic shields toward innocent drivers and passengers, including children, as depicted in the following photographs:

40. At 4:20 p.m., the dispatcher informed Defendant Lertch that the Task Force officer was still "10 minutes from I70/I25." This meant that the officer was at least an additional twenty-five minutes from the scene of the roundup.

41. Thirty minutes after the initial roundup, the Task Force officer still had not arrived with the handheld beacon. Plaintiffs were still holding their arms outside of their vehicle windows. The drivers were still applying the brake pedal to their still-running vehicles. Officers were still pointing rifles at them.

42. Around that same time, approximately thirty minutes after the initial roundup, officers observed an individual in a vehicle near the rear of the intersection who appeared overly

nervous and was perspiring heavily. Based on his behavior, officers ordered him out of his vehicle. He complied. Officers handcuffed him and ordered him to sit on the nearby curb.

43. At 4:37 p.m., the dispatcher advised Defendant Lertch that it would take the Task Force officer yet another twenty or thirty minutes to arrive to the scene. The officer had to travel to the Safe Streets office in downtown Denver to obtain the beacon (because the office was closed that day) and transport it to the scene of the roundup in southeast Aurora.

44. Defendant Lertch waited another twenty to thirty minutes. He then asked the dispatcher to instruct the Task Force officer to contact him via his cell phone. The Task Force officer did so and advised Lertch that he was (still) en route.

45. The Task Force officer did not arrive with the handheld beacon until nearly one hour after the initial roundup.

46. Defendant Lertch urged the officer who arrived with the device to act quickly. The officer attempted to activate the device but, as Lertch soon realized, the officer did not actually know how to properly use it.

47. At this point, APD officers had held Plaintiffs in that terrifying, hostile state for an hour while Lertch waited for an officer to bring a device from the other side of the metropolitan area — a device that the Aurora Police Department could have, but did not, possess — only to discover that the officer did not know how to use the device. APD officers still could not pinpoint precisely which vehicle contained the transmitter — one hour after the initial roundup and one hour after Plaintiffs were first ordered to put their arms up and outside of their vehicle windows. Nonetheless, the APD officers, and Lertch specifically, did not permit Plaintiffs to leave.

48. Defendant Lertch then ordered the APD officers to remove every person from every vehicle. Lertch ordered the officers to do this despite having no probable cause or reasonable suspicion that any particular individual had committed any offense. Most individuals did not even resemble the robber's description — a white male in his twenties or thirties, 5'6" and 130 pounds.

49. Officers removed vehicle occupants with varying degrees of force, as detailed below.

50. Officers then forced everyone at the intersection to sit on the curb for another hour. Still, no one was free to leave, and many were handcuffed, as depicted in the following photograph:

51. At 5:28 p.m. — nearly ninety minutes after the initial roundup — an officer broadcasted over his radio that he observed a money band in the passenger seat of the fourth vehicle back from the front of one of the intersection's turning lanes.

52. A second FBI agent finally arrived on the scene. He knew how to operate the handheld beacon and, nearly immediately, received a strong signal from the vehicle in which the officer observed the money band. This was the same vehicle from which the nervous, perspiring individual had been removed one hour before.

53. The nervous individual was Christian Paetsch — the man later charged with the bank robbery.

54. In other words, officers removed and secured the robbery suspect approximately thirty minutes after the initial roundup but continued to prohibit everyone else from leaving the scene for an additional two hours.

55. If the Aurora Police Department had possessed its own handheld beacon, an APD officer could have brought it to the scene immediately and, within minutes of the initial roundup, identified the vehicle containing the transmitter.

56. No one caught in the roundup was permitted to leave the intersection for approximately two-and-a-half hours.

57. Defendant Oates has publicly defended the officers' actions and affirmed that they acted pursuant to APD policy, practice, and custom.

58. In the days following the roundup, however, Defendant Oates phoned each Plaintiff individually to apologize for the ordeal.

Allegations of Plaintiff Timothy Olson

59. Upon information and belief, Defendant Richard Ray forced Plaintiff Olson out of his vehicle and demanded that Mr. Olson get on his knees.

60. Mr. Olson attempted to explain to Defendant Ray and the other officers nearby that he had had multiple back and knee surgeries and permanent nerve damage, so kneeling was painful for him. Nevertheless, Defendant Ray continued to scream at Mr. Olson to do so while waving his shotgun near Mr. Olson's face.

61. Mr. Olson complied, and the pain in his lower back caused him to fall face forward onto the pavement.

62. As Mr. Olson attempted to get up, Defendant Ray yanked Mr. Olson's arm so violently behind his back while cuffing him that he injured Mr. Olson's shoulder.

63. Mr. Olson continued to try to explain to the officers nearby, including Defendant Ray, that they were hurting him. Although he was complying with all of their demands, Defendant Ray callously responded, "Quit resisting."

64. After handcuffing him, Defendant Ray patted down Mr. Olson, despite having no probable cause or reasonable suspicion that Mr. Olson carried a weapon or otherwise posed a threat.

65. Mr. Olson is in his mid-fifties. He is nearly six feet tall and weighs much more than 130 pounds. He did not match the description of the robber whom witnesses described as a twenty- or thirty-year-old man, 5'6" and 130 pounds.

66. Officers then marched Mr. Olson to the curb and forced him to sit there, still handcuffed. The pain in his lower back and legs was severe.

67. Mr. Olson appears in the red jacket in the following photograph:

68. An officer then asked Mr. Olson to sign a waiver permitting them to search his vehicle. Mr. Olson refused. Another officer then stated that it does not matter whether Mr. Olson signed the release because a suspect was apprehended. Hearing this, Mr. Olson signed the release. Defendant Michael David Prince then searched Mr. Olson's vehicle while Mr. Olson remained handcuffed.

69. After the officers finally removed the cuffs, Mr. Olson returned to his vehicle. As he was getting inside, another officer demanded that he exit his vehicle yet again. They searched his vehicle a second time — still with no probable cause or reasonable suspicion that Mr. Olson had done anything wrong.

70. Mr. Olson still suffers pain as a result of the shoulder injury. His doctor diagnosed him as having a bruised bursa. He received a steroid shot, but the pain still affects his ability to do his job, as well as everyday tasks, such as driving.

71. Mr. Olson also suffered and continues to suffer physical and emotional damages.

Allegations of Plaintiff Mary Ann Lombardi

72. Upon information and belief, Defendant McDowell forced Ms. Lombardi out of her vehicle, patted her down, and handcuffed her, despite having no probable cause or reasonable suspicion that she possessed a weapon or otherwise posed a threat.

73. Defendant McDowell then marched Ms. Lombardi to the curb and forced her to sit, still handcuffed.

74. Ms. Lombardi's handcuffs were very tight. She asked an officer if he could loosen them, explaining that they were painful and that she was on the verge of suffering an anxiety attack. He bluntly refused to do so.

75. Officers informed Ms. Lombardi that they were going to search her vehicle. They stated that if she refused to let them, she would be arrested.

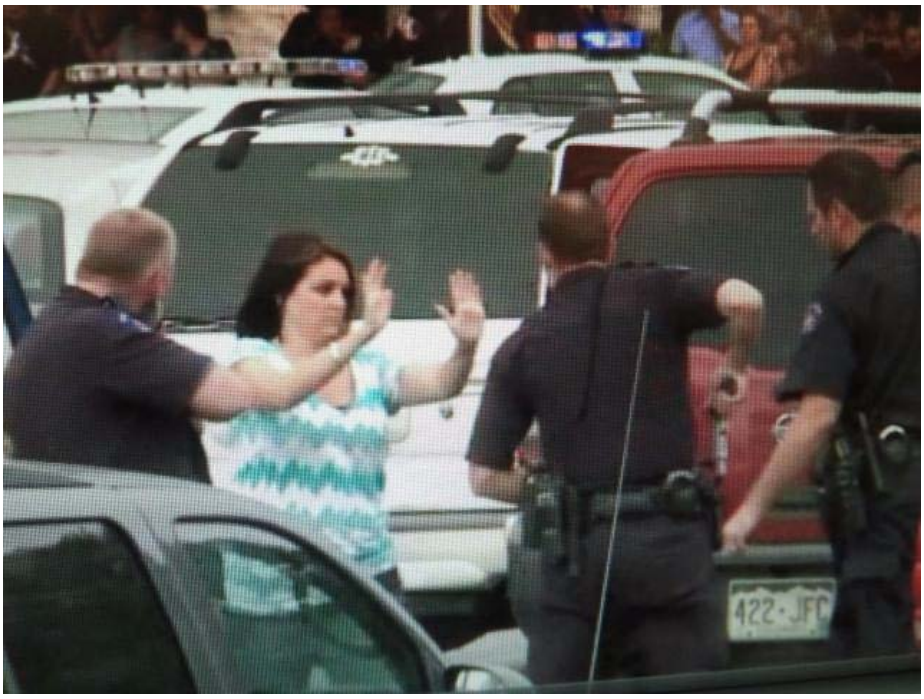
76. Officers then proceeded to search Ms. Lombardi's vehicle without her consent.

77. When her handcuffs were finally removed, Ms. Lombardi had deep, red marks on her wrists that were visible for days following the incident.

78. Ms. Lombardi works at a financial institution and is required to be bonded. Ms. Lombardi appeared in the extensive media coverage of the incident with her hands in the air while in the presence of law enforcement. Defendants put Ms. Lombardi's job and professional reputation at risk.

79. Ms. Lombardi suffered and continues to suffer emotional damages.

80. Ms. Lombardi appears in the following photograph, surrounded by three officers, at least two of whom are pointed their weapons directly at her and at close-range:



Allegations of Plaintiffs Crystal DeGuzman and Michael Hance

81. Upon information and belief, Defendants Brandt A. Smith and A. Todd Chanos forced Ms. DeGuzman and her son, Michael Hance, out of their vehicle, patted them down, and handcuffed them, despite having no probable cause or reasonable suspicion that they possessed a weapon or otherwise posed a threat.

82. Defendants Smith and Chanos then marched Ms. DeGuzman and Mr. Hance backwards to the curb and forced them to sit, still handcuffed.

83. Ms. DeGuzman suffered a panic attack. She pleaded with an officer for assistance, but the officer callously told her to simply take a deep breath. As her panic attack continued, the officer did not provide any assistance.

84. Ms. DeGuzman's hands turned blue due to the tightness of the handcuffs.

85. Defendant Smith demanded that Ms. DeGuzman sign a waiver consenting to a search of her vehicle. She did not want to sign the waiver, but she felt pressured to do so.

86. Officers then proceeded to search her vehicle without her actual consent.

87. Ms. DeGuzman and her son suffered and continue to suffer emotional damages.

Allegations of Plaintiff Enrique Nunez

88. Upon information and belief, Defendant Ray ordered Plaintiff Nunez to exit his vehicle from the passenger side.

89. Defendant Ray patted down and handcuffed Mr. Nunez without probable cause or reasonable suspicion that Mr. Nunez possessed a weapon or otherwise posed a threat.

90. Defendant Ray then marched Mr. Nunez to the curb and forced him to sit there, still handcuffed.

91. Mr. Nunez's handcuffs were very tight. He asked an officer to loosen them, but the officer ignored him and walked away.

92. Mr. Nunez suffered a pinched nerve because of the tight handcuffs. The pain persists to this day.

93. Officers searched Mr. Nunez's vehicle without his knowledge or consent.

94. Mr. Nunez also suffered and continues to suffer physical and emotional damages.

Allegations of Plaintiff Denise Burke

95. Upon information and belief, Defendant Chanos patted down and handcuffed Ms. Burke without probable cause or reasonable suspicion that she possessed a weapon or otherwise posed a threat.

96. Defendant Chanos marched Ms. Burke to the curb and forced her to sit there still handcuffed.

97. Officers then searched Ms. Burke's vehicle without her knowledge or consent.

98. Ms. Burke suffered and continues to suffer physical and emotional damages.

Allegations of Plaintiffs Marci Strandberg and Her Minor Children, Ian and Chloe Strandberg

99. Ms. Strandberg's son, Ian Strandberg, was seven years old at the time of the incident. He suffered an asthma attack soon after the stop commenced. Prior to being forced out of her vehicle, Ms. Strandberg pleaded with officers to allow her to lower her arms so that she could reach for her son's inhaler, but the officers callously refused, letting the child continue to suffer through the attack.

100. Ms. Strandberg was diagnosed with Epilepsy in March 2012. She feared that she would suffer a seizure during the stop.

101. Upon information and belief, Defendant McDowell demanded that Ms. Strandberg and her children get out of her vehicle. She refused to allow him to handcuff her because she had to carry her four-year-old daughter, Chloe Strandberg, as they walked to the curb.

102. The officers forced Ms. Strandberg and her children to remain on the curb.

103. Defendants searched Ms. Strandberg's vehicle without her consent. After the search, Defendants required Ms. Strandberg to sign a form indicating that she consented to the search. She was not permitted to leave the scene until she signed the form.

104. Ms. Strandberg and her children suffered and continue to suffer emotional damages.

Allegations of Plaintiffs Quintin Tweed, Sara Lombard, and Their Minor Children, Tony, Tyson, and Nesiah

105. Fearing for their children's lives as officers approached their vehicle with weapons and dogs, Mr. Tweed and Ms. Lombard yelled at their nine- and six-year-old sons, Tony and Tyson Tweed, to lie down in the backseat.

106. Officers pointed weapons directly at Mr. Tweed, Ms. Lombard, and their children.

107. Ms. Lombard was wearing a brace on her arm. Holding her arms above her head and out of her vehicle's window, as the officers demanded, for such an extended period of time was particularly painful.

108. Ms. Lombard's two-year-old daughter, Nesiah Tweed, soiled her diaper during the roundup. The officers would not permit Ms. Lombard to attend to her child. As a result, the toddler suffered a rash after sitting in a dirty diaper for more than two hours.

109. Upon information and belief, after forcing him to remain in his vehicle with his hands raised for more than one hour, Defendant Luke J. Barker yanked Mr. Tweed from his vehicle, threw him to the ground, patted him down, and handcuffed him — all with no probable cause or reasonable suspicion that Mr. Tweed possessed a weapon or otherwise posed any threat. Tony and Tyson observed all of this, terrified for their father's safety, as well as their own.

110. Defendant Barker forced Mr. Tweed to the curb, still handcuf.

111. Mr. Tweed is African American. He did not match the robber's general description — a Caucasian male in his twenties or thirties, 5'6" and 130 pounds.

112. Officers then pulled Tony and Tyson from the backseat. As nine-year-old Tyson turned around, he faced a wall of officers with guns and shields bearing down on him.

113. Upon information and belief, Defendant Barker then demanded that Ms. Lombard exit the vehicle with her daughter. He attempted to handcuff her but could not because of the brace on her arm.

114. Officers searched Mr. Tweed and Ms. Lombard's vehicle without their knowledge or consent.

115. Mr. Tweed, Ms. Lombard, and their children suffered and continue to suffer emotional damages.

116. Tony and Tyson Tweed were diagnosed with Post-Traumatic Stress Disorder after the incident. Both young boys now fear individuals in uniform.

STATEMENT OF CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
42 U.S.C. § 1983
Fourth Amendment – Unlawful Seizure
The Initial Stop
(Against Defendants Aurora and Oates)

117. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

118. At the time of the incident described herein, Plaintiffs had a clearly established right under the Fourth Amendment to the United States Constitution to be secure in their persons

from unreasonable seizures. Any reasonable law enforcement officer knew or should have known of this clearly established right.

119. APD officers unlawfully seized Plaintiffs within the meaning of the Fourth Amendment when they erected the traffic barricade and completely halted Plaintiffs' freedom of movement with no reasonable suspicion that Plaintiffs had committed any offense.

120. APD officers used firearms, handcuffs, and other forceful measures to restrict Plaintiffs' freedom of movement such that a reasonable person in Plaintiffs' position would not believe that he or she was free to leave.

121. The officers' intrusion on Plaintiffs' privacy was substantial.

122. The officers' actions were objectively unreasonable in light of the circumstances confronting them.

123. The officers engaged in these actions intentionally, willfully, and wantonly.

124. The acts and omissions of the APD officers were engaged in pursuant to the custom, policy, and practice of Defendant Aurora, which encourages, condones, tolerates, and ratifies the practice of seizures that exceed the bounds of reasonability.

125. Defendant Oates was the final policymaker acting on behalf of Defendant Aurora. Defendant Oates was responsible for the custom, policy, and practice of Defendant Aurora that caused the unreasonable seizure of Plaintiffs.

126. Because Defendants Oates was responsible for the unlawful seizure of Plaintiffs, Defendant Aurora is liable for this Fourth Amendment violation, as it is the City's official policy set forth by the Chief of Police to act in violation of the United States Constitution.

127. Furthermore, the custom and practice of the Aurora Police Department violates the United States Constitution.

128. Plaintiffs have been and continue to be damaged by Defendants' unlawful seizure of them.

129. The acts or omissions of Defendants Aurora and Oates, including the unconstitutional policy, procedure, custom, and/or practice described herein, were the legal and proximate cause of Plaintiffs' actual injuries, damages, and losses in an amount to be proven at trial.

SECOND CLAIM FOR RELIEF
42 U.S.C. § 1983
Fourth Amendment – Unlawful Seizure
The Prolonged, Two-Hour Roundup
(Against Defendants Aurora, Oates, & Lertch)

130. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

131. At the time of the incident described herein, Plaintiffs had a clearly established right under the Fourth Amendment to the United States Constitution to be secure in their persons from unreasonable seizures. Any reasonable law enforcement officer knew or should have known of this clearly established right.

132. APD officers unlawfully seized Plaintiffs within the meaning of the Fourth Amendment when they continued to detain Plaintiffs and prevent them from leaving the scene for more than two hours after the initial roundup, with no suspicion that Plaintiffs had committed any offense and with little to no reason to believe that they would identify the robbery suspect (and thus permit Plaintiffs to leave the scene) within a reasonable amount of time.

133. APD officers used firearms, handcuffs, and other forceful measures to restrict Plaintiffs' freedom of movement such that a reasonable person in Plaintiffs' position would not believe that he or she was free to leave.

134. The officers' intrusion on Plaintiffs' privacy was substantial.

135. The officers' actions were objectively unreasonable in light of the circumstances confronting them.

136. The officers engaged in these actions intentionally, willfully, and wantonly.

137. The acts and omissions of the APD officers were engaged in pursuant to the custom, policy, and practice of Defendant Aurora, which encourages, condones, tolerates, and ratifies the practice of seizures that exceed the bounds of reasonability.

138. Defendant Lertch was the defendant with the final policymaking authority at the scene and had authority over the subordinate officers. He authorized and was responsible for the officers' unlawful seizure of Plaintiffs, as described herein.

139. Defendant Oates was the final policymaker acting on behalf of Defendant Aurora. Defendant Oates was responsible for the custom, policy, and practice of Defendant Aurora that caused the unreasonable seizure of Plaintiffs.

140. As described above, it was Defendant Oates's official decision not to retain a handheld beacon for the Aurora Police Department. This policy led to this foreseeable constitutional violation.

141. Because Defendants Oates and Lertch were acting in charge and/or authorized the unlawful seizure of Plaintiffs, Defendant Aurora is liable for this Fourth Amendment violation,

as it is their official policy set forth by the Chief of Police to act in violation of the United States Constitution.

142. Furthermore, the complete lack of preparedness for this sort of event evidences a pattern and practice for the Aurora Police Department to violate the United States Constitution.

143. Plaintiffs have been and continue to be damaged by Defendants' false arrest/unlawful seizure of them.

144. The acts or omissions of each Defendant, including the unconstitutional policy, procedure, custom, and/or practice described herein, were the legal and proximate cause of Plaintiffs' actual injuries, damages, and losses in an amount to be proven at trial.

THIRD CLAIM FOR RELIEF
42 U.S.C. § 1983
Fourth Amendment – Excessive Force
The Rifles, Shields, K9s, Handcuffs, & Patdowns
(Against All Defendants)

145. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

146. At the time of the incident described herein, Plaintiffs had a clearly established right under the Fourth Amendment to the United States Constitution to be free from excessive force. Any reasonable law enforcement officer knew or should have known of this clearly established right.

147. Defendant Officers exercised excessive force against Plaintiffs when they ordered them to hold their hands above their heads and outside their vehicles for an hour, pointed assault rifles and other weapons directly at them at close range, deployed officers with K9s, removed Plaintiffs from their vehicles, patted them down, unnecessarily handcuffed them, and forced

them to sit on the curb for another hour — all without reasonable suspicion that Plaintiffs had committed any offense or posed a threat.

148. Defendant Officers engaged in the use of force that was objectively unreasonable in light of the facts and circumstances confronting them.

149. Defendant Officers had a clearly established, affirmative duty to intervene to protect the constitutional rights of citizens from infringement by other officers in their presence.

150. Defendant Officers had a realistic opportunity to intervene to prevent the infringement of Plaintiffs' right to freedom from excessive force in their presence, but Defendants failed to do so.

151. Defendant Officers engaged in these actions intentionally, willfully, and wantonly.

152. The acts and omissions of Defendant Officers were engaged in pursuant to the custom, policy, and practice of the City of Aurora, which encourages, condones, tolerates, and ratifies the use of excessive force by its law enforcement officers.

153. Defendant Lertch was the defendant with the final policymaking authority at the scene and had authority over the subordinate Defendant officers. He authorized and was responsible for the officers' use of excessive force against Plaintiffs, as described herein.

154. Defendant Oates was the final policymaker acting on behalf of the City of Aurora. Defendant Oates was responsible for the custom, policy, and practice of Defendant Aurora that caused the officers' use of excessive force against Plaintiffs.

155. Because Defendants Oates and Lertch were acting in charge and/or authorized the use of excessive force, Defendant Aurora is liable for this Fourth Amendment violation, as it is

their official policy set forth by the Chief of Police to act in violation of the United States Constitution.

156. Furthermore, the use of excessive force against individuals for whom the officers had no probable cause or reasonable suspicion is a pattern and practice of the Aurora Police Department that violates the United States Constitution.

157. Plaintiffs have been and continue to be damaged by Defendants' use of excessive force against them.

158. The acts or omissions of each Defendant, including the unconstitutional policy, procedure, custom, and/or practice described herein, were the legal and proximate cause of Plaintiffs' actual injuries, damages, and losses in an amount to be proven at trial.

FOURTH CLAIM FOR RELIEF
42 U.S.C. § 1983
Fourth Amendment – Unlawful Search
The Warrantless Searches of Plaintiffs' Vehicles
(Against All Defendants)

159. Plaintiffs hereby incorporate all other paragraphs of this Complaint as if fully set forth herein.

160. At the time of the incident described herein, Plaintiffs had a clearly established right under the Fourth Amendment to the United States Constitution to be free from unlawful searches. Any reasonable law enforcement officer knew or should have known of this clearly established right.

161. Plaintiffs have a legitimate expectation of privacy in their vehicles, so that the Fourth Amendment protects them from unreasonable governmental intrusion into that place.

162. Plaintiffs were inside their vehicles when Defendant Officers surrounded them and brandished weapons, pointing them directly toward Plaintiffs.

163. Defendant Officers searched Plaintiffs' vehicles. Defendants did not have a warrant authorizing any such search of Plaintiffs' vehicles, and no legally recognizable exigent circumstances existed which would have justified or permitted Defendants' conduct.

164. Defendant Officers had no probable cause or reasonable suspicion to justify their searches.

165. Any consent by Plaintiffs to Defendant Officers' searches of their vehicles was coerced.

166. Defendant Officers' actions were objectively unreasonable in light of the circumstances confronting them.

167. Defendant Officers engaged in these actions intentionally, willfully, and wantonly.

168. Defendant Officers had a clearly established, affirmative duty to intervene to protect the constitutional rights of citizens from infringement by other officers in their presence.

169. Defendant Officers had a realistic opportunity to intervene to prevent the infringement of Plaintiffs' right to freedom from unlawful searches in their presence, but Defendants failed to do so.

170. The acts and omissions of Defendant Officers were engaged in pursuant to the custom, policy, and practice of the City of Aurora, which encourages, condones, tolerates, and ratifies unlawful searches by its law enforcement officers.

171. Upon information and belief, Defendant Lertch was the Defendant with the final decision-making authority at the scene and had authority over the subordinate Defendant Officers. He authorized and was responsible for Defendants' unlawful searches, as described herein.

172. Defendant Oates was the final policy- and decision-maker acting on behalf of the City of Aurora. Defendant Oates was responsible for the custom, policy, and practice of Defendant Aurora that caused the officers' unlawful searches of Plaintiffs.

173. Because Defendants Oates and Lertch were acting in charge and/or authorized the unlawful searches, Defendant Aurora is liable for this Fourth Amendment violation, as it is their official policy set forth by the Chief of Police to act in violation of the United States Constitution.

174. Furthermore, the officers' searches of Plaintiffs' vehicles without probable cause, reasonable suspicion, or consent is a pattern and practice of the Aurora Police Department that violates the United States Constitution.

175. Plaintiffs have been and continue to be damaged by Defendants' unlawful searches.

176. The acts or omissions of each Defendant, including the unconstitutional policy, procedure, custom, and/or practice described herein, were the legal and proximate cause of Plaintiffs' actual injuries, damages, and losses in an amount to be proven at trial.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and against Defendants, and grant:

(a) Appropriate declaratory and other injunctive and/or equitable relief;

(b) Compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount to be determined at trial;

(c) All economic losses on all claims allowed by law;

(d) Punitive damages on all claims allowed by law and in an amount to be determined at trial;

(e) Attorneys fees and the costs associated with this action on all claims allowed by law;

(f) Pre- and post-judgment interest at the lawful rate.

(g) Any further relief that this court deems just and proper, and any other relief as allowed by law.

PLAINTIFFS REQUEST A TRIAL TO A JURY ON ALL ISSUES SO TRIABLE.

Dated this 16th day of May, 2014.

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