

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

JOHNATHAN AARON BROWN, on behalf	)	
of himself and a class of others	)	
similarly situated,	)	
	)	
Plaintiff,	)	NO: _____
	)	
v.	)	Judge _____
	)	
CITY OF DETROIT,	)	
	)	CLASS ACTION
Defendant.	)	JURY TRIAL DEMANDED

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David L. Haron (P14655)  
Louis C. Szura (P71764)  
FRANK, HARON, WEINER, and  
NAVARRO  
Attorneys for Plaintiffs  
5435 Corporate Drive, Suite 225  
Troy, MI 48098  
Telephone:(248) 952-0400  
Facsimile:(248) 952-0890

Arthur Loevy  
Michael Kanovitz  
Jon Loevy  
Cindy Tsai  
LOEVY & LOEVY  
Attorneys for Plaintiffs  
312 North May St., Suite 100  
Chicago, IL 60607  
Telephone:(312) 243-5900  
Facsimile:(312) 243-5902

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**CLASS ACTION COMPLAINT**

NOW COMES Plaintiff JOHNATHAN AARON BROWN, on behalf of himself and a class of others similarly situated, through his attorneys, Loevy & Loevy and Frank, Haron, Weiner and Navarro,

PLLC, and for his complaint against Defendant CITY OF DETROIT, states as follows:

**Introduction**

1. This is a class action pursuant to 42 U.S.C Section 1983 challenging the Detroit Police Department's ("DPD" or "Department") inhumane and unlawful system for detaining persons under the Department's control.

2. As explained in detail below, the DPD has engaged, for decades, in a repeated pattern of detaining citizens *incommunicado* within its police precincts, holding them for unconstitutional lengths of time, and subjecting them to torturous mistreatment in order to accomplish unjust ends. Plaintiff brings this case in order to finally put an end to this institutionalized system of abuse.

3. The DPD's detention system violates several fundamental constitutional protections guaranteed to all Americans. One such protection is the right to prompt judicial review of the Department's justification for detaining a citizen in the first place. This requirement serves to ensure that citizens are not arrested unless the police have a proper justification for interfering in their liberties and to prevent overreaching while a citizen is detained behind closed station house doors.

4. As explained below, the Department routinely flouts this requirement for prompt judicial review by keeping citizens secreted inside the police department while it attempts to develop, after the fact, grounds needed to satisfy a judge's probable cause determination.

5. Further, detentions under the DPD's system often last many days. However, the DPD is not equipped to meet basic human needs during prolonged detentions and so the detainees are denied access to food, sleep, and hygiene.

6. Indeed, Detectives often exploit these harsher aspects of the DPD's extended detention system to extract involuntary and, all too often, false confessions.

7. Defendant's policymakers have known of these inhumane conditions and illegal detentions for many years but they have failed to effectively change this system because it is an entrenched means of doing business in the DPD.

8. In 2003, Defendant entered into two consent decrees in which it admitted that these same prolonged detentions and same conditions of confinement violate the constitutional rights of detainees in the DPD's custody. The consent decrees followed a federal investigation into many of the same practices challenged in this case.

9. Despite these admissions, the policymakers have not implemented reasonable measures to remedy the pattern of

constitutional violations that led to those decrees. As a result, the policies and widespread practices which were to be abolished by the decrees have continued to flourish inside the DPD. Plaintiff brings this case to achieve needed reforms and to obtain compensation for those whose rights have been and continue to be violated.

**Jurisdiction and Venue**

10. This Court has jurisdiction of the action pursuant to 28 U.S.C. § 1331. Venue is proper under 28 U.S.C. § 1391(b). Defendant, City of Detroit, is a municipality physically situated in this judicial district, and the events giving rise to the claims in this case all occurred here.

**Excessive Detentions Under the DPD System**

11. The DPD's detention practices challenged herein directly contravene well-established rights and safeguards inherent in the United States Constitution.

12. First, DPD policy and practice allows its officers to hold citizens in its police stations without the benefit of judicial review for periods in excess of 48 hours.

13. This practice directly contravenes the Fourth Amendment which requires police to obtain either an arrest warrant or prompt review by a judge of the supposed justification for depriving an arrestee of his/her liberty. However, the DPD does not honor this right to judicial review.

14. Rather, the DPD allows its officers to hold arrestees for extended periods of time in order to forestall this very judicial scrutiny while they attempt to develop grounds to justify the arrest. DPD officers can, and routinely do, rely on the extended detentions to make arrests for unconstitutional reasons, such as mere hunches or even animus, and then justify them after the fact by developing sufficient supposed evidence during the period of illegal detention. All too often the "justifications" DPD officers develop during these illegal detentions consist of fabricated evidence and coerced confessions.

15. This very practice was documented seven years ago in an investigation by the Department of Justice, which ultimately resulted in a consent decree entered into in 2003. Pursuant to the Decree, the DPD agreed to arraign detainees within 24 hours, and to document the specific reasons for any delay when it fails to meet that requirement.

16. Periodic reports of the consent decree monitor, relevant media stories, and numerous criminal and individual civil cases, have all put Detroit's policymakers on notice that the unlawful policies and pattern of constitutional violations has continued. However, the policymakers have not taken reasonable steps to remedy the system.

**Inhumane Conditions of Confinement**

17. In addition to the above, the DPD's system fails to accommodate the basic human needs of those who are being detained.

18. Persons who are detained by the DPD for extended periods are held in small, bare cells, approximately eight feet in length and six feet in width.

19. The rooms contain only a concrete slab. There is no bed or bunk to sleep on and the cells are kept very cold. Because the rooms are wholly inadequate to meet the detainee's basic needs, it is inhumane and cruel to hold a detainee in these rooms for extended lengths of time.

20. The DPD, however, maintains no policies regarding the length of time a detainee may be held in these rooms. It is not uncommon for a detainee to be kept in such rooms for several days while DPD detectives attempt to build a case.

21. The Department has an obligation to ensure, at a minimum, that detainees' basic needs for hygiene and sleep are met while they are in the Department's charge. However, many of the tens of thousands of citizens arrested in the City of Detroit each year are systematically deprived of these basic needs. As a general and widespread practice and policy:

a. The DPD holds detainees in oppressive conditions;

and

b. The DPD furnishes no mattress or other bedding for overnight detentions or for detentions of more than sixteen hours in a 24-hour period. Despite the fact that overnight detentions are foreseeable and multi-day detentions are commonplace, the DPD maintains no bedding in its facilities and does not require that its employees furnish appropriate means of sleep to those who are subjected to extended detentions.

22. All of these failures violate well-established constitutional and state law requirements to provide for the basic human needs of those in police custody. However, the final policymakers of the DPD consistently treat these serious problems with callous indifference, despite ample notice of the widespread violations.

23. Although there is absolutely no legitimate law enforcement purpose for the foregoing policies and practices, the DPD has refused, and continues to refuse, to effectively change.

#### **Inadequate Food**

24. The DPD also fails routinely to provide for the sustenance needs of those in its custody. DPD policymakers have been deliberately indifferent to this failure, and, as a result many arrestees are deprived of food during their lengthy

detentions. It is not uncommon for detainees to go without meals for days.

25. Even when the DPD does furnish food to those in its custody, the food is often limited to a pork-based bologna sandwich, which, as the final policymakers know, violates the religious beliefs of many of the detainees, and is inedible to them.

26. The DPD's policymakers were put on notice of the Department's repeated and widespread failure to provide adequate food for those in its custody, *inter alia*, by the 2002 Department of Justice findings about the DPD's failure to feed its arrestees and by continuing reports from the consent decree monitor noting the DPD's non-compliance with feeding requirements.

**Johnathan Aaron Brown**

27. At approximately 10 a.m. on September 21, 2007, officers of the DPD arrested Johnathan Aaron Brown without a warrant. The detectives handcuffed Mr. Brown and took him to the Ninth Precinct.

28. When they arrived at the station, the detectives booked Mr. Brown and placed him in a small, cold, isolated room. There was no place to sit but on concrete and there was no place to sleep; he was not even provided a mattress, blanket, or pillow.

29. The detectives detained Mr. Brown in the isolated room for approximately 55 hours, from noon on September 21, 2007 to early evening of September 23, 2007. During this time, Mr. Brown was not allowed out of the room, and his repeated requests for a phone call, an attorney, and information about what he was being charged with, were all denied.

30. During that entire time, the only food Mr. Brown received was a few crackers and some juice. By the early evening of September 23, 2007, Mr. Brown was suffering from hunger and lack of sleep.

31. In the early evening of September 23, 2007, after being unlawfully detained for over 48 hours, the DPD detectives transported Mr. Brown from the Ninth Precinct to the Second Precinct.

32. Around 5:30 p.m. the DPD detectives placed Mr. Brown in another, similar detention room. This one was filled with trash, dirt, and feces.

33. Later that evening, Mr. Brown was placed in an interview room. During that time, the detectives repeatedly questioned Mr. Brown. In response to the questioning, Mr. Brown asked for his phone call and an attorney.

34. Although Mr. Brown maintained that he had committed no crime, after being held captive for nearly 60 hours, with little

food and sleep, he succumbed to the DPD detectives' tactics and gave a coerced statement.

35. At no time during this entire period did Mr. Brown receive any judicial determination of probable cause or bail hearing. Rather, he was held solely on the Department's says so. He also was not allowed to use the telephone until after he gave a statement.

### **Class Allegations**

36. The Named Plaintiff seeks to pursue claims both for himself and for a class of others similarly situated. The Named Plaintiff believes that the class should be organized into three subclasses as follows.

37. The first class, Class I, consists of:

All persons detained in a DPD lock-up or detective division facility overnight or for more than sixteen hours in a 24-hour period at any time from May 27, 2007 to the present.

38. The individuals in Class I are so numerous that joinder of all members is impractical. The Named Plaintiff estimates that Class I numbers in at least the thousands.

a. On information and belief, at least 65,000 persons have been arrested by the DPD each year since 2007. A sizeable percentage of these persons are detained

overnight as persons arrested by the DPD in the afternoon are rarely, if ever, taken to court until the following morning;

b. The DPD maintains no policy, directive or procedure requiring the provision of minimally appropriate sleeping accommodations to those in its custody, including the provision of a mattress, blanket or pillow;

c. The Department of Justice has found a repeated pattern inside the DPD of holding people long enough that they need sleep while failing to provide for those needs; and

d. The DPD maintains no bedding and no facilities to allow arrestees to get meaningful sleep, *i.e.*, no beds, cots, mattresses, blankets or pillows.

39. There are questions of law and fact common to the claims of Class I. Among these common questions are:

a. Whether it is unconstitutional to hold detainees overnight or for more than sixteen hours in a 24-hour period without furnishing them sleeping facilities such as a mattress, blanket or pillow;

b. Whether it is a violation of state law to hold detainees overnight or for more than sixteen hours in a 24-hour period without furnishing them sleeping facilities such as a mattress, blanket or pillow;

c. Whether DPD final policymakers have condoned or been deliberately indifferent to the Department's failure to adequately meet the human needs of those detained for extended periods of time; and

d. Whether DPD policy allows the misuse of detentions to inflict coercive conditions for purposes of interrogation.

40. Plaintiff's claims are typical of the claims of Class I. Mr. Brown was detained over several nights by the DPD. During that entire time he received no accommodations for sleeping -- no mattress, blanket or pillow. These deprivations were a direct result of the DPD's policies and practices.

41. The Named Plaintiff will fairly and adequately represent the interests of Class I. Plaintiff has retained skilled counsel with experience in constitutional and class action litigation to represent the Class.

42. The questions of law and fact common to Class I predominate over any individual issues.

43. Named Plaintiff Brown also seeks to represent Class II. Class II consists of:

All persons detained by the DPD in excess of 48 hours without a judicial determination of probable cause at anytime from May 27, 2007 until the present.

44. The individuals in Class II are so numerous that joinder of all members is impractical. Named Plaintiff Brown estimates that Class II numbers in at least the thousands.

a. On information and belief, at least 65,000 persons have been arrested by the DPD each year since 2007;

b. The DPD maintains or maintained a policy, custom and/or widespread practice permitting officers to detain suspects in excess of 48 hours without obtaining a judicial determination of probable cause and for reasons which do not amount to exigent circumstances;

c. The DPD has a long history of detaining persons in excess of 48 hours without a judicial probable cause determination. Despite entering into the consent decree in 2003, which requires that the Department obtain a judicial determination of probable cause within 24 hours, DPD officers continue to violate both the 48-hour rule as well as the more restrictive terms of the Decree;

d. In addition to the DOJ inquiry and complaint, numerous individual cases as well as criminal cases dating back to 1998 and before have challenged that the DPD fails to obtain probable cause determinations within 48 hours of arrest;

e. Detentions in excess of 48 hours are an ingrained and long standing DPD practice. The DOJ consent decree

monitor continues to report significant numbers of detentions in excess of 48 hours without a probable cause determination; and

f. An analysis of the sample data obtained by the consent decree monitor indicates that during the reporting periods in 2008 and 2009, between 18 and 34 percent of arrestees were detained in excess of 48 hours by the DPD without a judicial determination of probable cause.

45. The final policymakers of the City of Detroit have been and remain deliberately indifferent to the widespread practice of detaining arrestees in excess of 48 hours without judicial approval. As a result, such detentions remain widespread practice in the DPD.

46. There are questions of law and fact common to the claims of Class II. Among these common questions are:

a. Whether it violates the constitution to detain arrestees in excess of 48 hours without obtaining judicial approval of probable cause for the detention;

b. Whether it violates state law to detain arrestees in excess of 48 hours without obtaining judicial approval of probable cause for the detention;

c. Whether the DPD maintained a policy, custom and/or widespread practice allowing the detention of arrestees in excess of 48 hours without obtaining a

judicial determination of probable cause for the detention;  
and

d. Whether DPD officials have been deliberately indifferent to the need for training, enforcement, discipline, and/or better policies regarding the length of detention of arrestees in the absence of a judicial determination of probable cause.

47. Plaintiff's claims are typical of the claims of Class II. The Named Plaintiff was detained by the DPD in excess of 48 hours without receiving a judicial determination of probable cause. The Named Plaintiff seeks to prove that the deprivations he suffered were inflicted as a result of DPD policy, custom, practice and/or the deliberate indifference of DPD policy makers.

48. The Named Plaintiff will fairly and adequately represent the interests of Class II. Plaintiff has retained skilled counsel with experience in constitutional and class action litigation to represent the Class.

49. The questions of law and fact common to Class II predominate over any individual issues.

50. Named Plaintiff Brown also seeks to represent Class III. Class III consists of:

All persons detained by the DPD in excess of 24 hours and did not receive at least two meals at any time from May 27, 2007 to the present.

51. The individuals in Class III are so numerous that joinder of all members is impractical. The Named Plaintiff estimates that Class III numbers in at least the thousands.

a. On information and belief, at least 65,000 persons have been arrested by the DPD each year since 2007;

b. The DPD maintains or maintained a policy, custom and/or widespread practice permitting officers to detain citizens in excess of 24 hours without feeding them; and

c. The Department of Justice has found a repeated pattern inside the DPD of holding people long enough that they need food while failing to provide for this need.

52. There are questions of law and fact common to the claims of Class III. Among these common questions are:

a. Whether it is unconstitutional to hold detainees in excess of 24 hours without providing at least two meals;

b. Whether it is a violation of state law to hold detainees in excess of 24 hours without providing at least two meals;

c. Whether there is a policy, custom and/or widespread practice within the DPD of failing to provide adequate food for those in its custody; and

d. Whether the DPD final policymakers have condoned or been deliberately indifferent to the Department's

failure to adequately meet the basic human need for food of those detained for extended periods of time.

53. Plaintiff's claims are typical of the claims of Class III. Mr. Brown was detained over several days by the DPD. During that entire time he was fed only a few crackers and some juice. This deprivation was a direct result of the DPD's policies and practices.

54. The Named Plaintiff will fairly and adequately represent the interests of Class III. Plaintiff has retained skilled counsel with experience in constitutional and class action litigation to represent the Class.

55. The questions of law and fact common to Class III predominate over any individual issues.

**COUNT I - 42 U.S.C. § 1983: Conditions of Confinement**

56. Plaintiff re-alleges each of the paragraphs of this complaint as if fully stated herein.

57. As described more fully above, Named Plaintiff Brown and the other members of the Class I have been detained in DPD facilities overnight or for more than sixteen hours in a 24-hour period and were not furnished minimally adequate accommodations for sleeping as required by federal constitutional and state law. Among other violations, Defendants contravened the Fourth Amendment reasonableness requirement and the Fourteenth Amendment Due Process requirement. Detainees are entitled to

have their need for rest met while they are being detained. Defendant deprived them of this entitlement without due process of law.

58. The City of Detroit caused these deprivations of rights and is liable for Plaintiff's and the Class Members' damages, *inter alia*, because the City of Detroit maintains unconstitutional policies, customs, and widespread practices that caused these violations. Moreover, the City of Detroit fails to adequately train and discipline its officers in a manner that causes such violations. Further, the City of Detroit has been deliberately indifferent to the need for different policies, training, and discipline. Also, the City of Detroit has failed to act to remedy the patterns of misconduct described in the preceding paragraphs, despite actual knowledge of the same, thereby causing the types of injuries alleged here.

**COUNT II - 42 U.S.C. § 1983: Excessive Detention**

59. Plaintiff re-alleges each of the paragraphs of this complaint as if fully stated herein.

60. As described more fully above, Named Plaintiff Brown and the members of the Class II have been detained in DPD facilities for over 48 hours following arrest without a judicial determination of probable cause.

61. The City of Detroit caused this deprivation of rights and is liable for Plaintiff's and the Class Members' damages,

*inter alia*, because the City of Detroit maintains unconstitutional policies, customs, and widespread practices that caused these violations. Moreover, the City of Detroit fails to adequately train and discipline its officers in a manner that causes such violations. Further, the City of Detroit has been deliberately indifferent to the need for different policies, training, and discipline. Also, the City of Detroit has failed to act to remedy the patterns of misconduct described in the preceding paragraphs, despite actual knowledge of the same, thereby causing the types of injuries alleged here.

**COUNT III: 42 U.S.C. § 1983 - Deprivation of Food**

62. Plaintiff re-alleges each of the paragraphs of this complaint as if fully stated herein.

63. As described more fully above, Named Plaintiff Brown and the other members of the Class III have been detained in DPD facilities in excess of 24 hours and were not furnished minimally adequate food as required by federal constitutional and state law. Among other violations, Defendants contravened the Fourth Amendment reasonableness requirement and the Fourteenth Amendment Due Process requirement.

64. The City of Detroit caused these deprivations of rights and is liable for Plaintiff's and the Class Members' damages, *inter alia*, because the City of Detroit maintains unconstitutional policies, customs, and widespread practices

that caused these violations. Moreover, the City of Detroit fails to adequately train and discipline its officers in a manner that causes such violations. Further, the City of Detroit has been deliberately indifferent to the need for different policies, training, and discipline. Also, the City of Detroit has failed to act to remedy the patterns of misconduct described in the preceding paragraphs, despite actual knowledge of the same, thereby causing the types of injuries alleged here.

**COUNT IV - Respondeat Superior**

65. Plaintiff re-alleges each of the paragraphs of this complaint as if fully stated herein.

66. By all of the above employees of the City of Detroit subjected Named Plaintiff Brown and the members of the Classes I-III to excessive detentions and conditions of confinement which violate state law.

67. These employees' actions and omissions were taken within the scope of their employment for the DPD.

68. Named Plaintiff Brown and the members of Classes I-III have suffered damages as a result.

WHEREFORE, PLAINTIFF BROWN, on behalf of himself and a class of others similarly situated, demand judgment against the CITY OF DETROIT awarding their actual damages, costs and a reasonable attorneys fee, together with any other relief that

may be just; and further demand that a common fund be established to compensate them and their attorneys and to reimburse all expenses in connection with obtaining this relief.

**JURY DEMAND**

Named Plaintiff Brown on behalf of himself and the classes, hereby demand a trial by jury on all issues so triable.

RESPECTFULLY SUBMITTED,

/s/ Michael Kanovitz

Arthur Loevy

Michael Kanovitz

Jon Loevy

Cindy Tsai

LOEVY & LOEVY

312 North May St., Suite 100

Chicago, IL 60607

Telephone:(312) 243-5900

Facsimile:(312) 243-5902

David L. Haron (P14655)

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