UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v. Case No. 03-80598

D-1 WILLIAM MELENDEZ et al., HONORABLE AVERN COHN

Defendants.

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MEMORANDUM AND ORDER
DENYING DEFENDANTS' MOTION TO DISMISS COUNT ONE AND DENYING DEFENDANTS' MOTION TO DISMISS COUNTS OR PORTIONS OF COUNTS BASED ON FAILURE OF THE GOVERNMENT TO ALLEGE OR CLAIM STANDING OF PARTIES TO ASSERT FOURTH AMENDMENT RIGHTS IN ALLEGED RESIDENCES AND DENYING DEFENDANTS' MOTION TO DISMISS CHARGES OF DUE PROCESS DEPRIVATION

I. Factual Background

This is a criminal case. Defendants are eighteen Detroit police officers who have been charged in a thirty-two count first superseding indictment with various offenses, including conspiring to violate constitutional rights, 18 U.S.C. § 241, deprivation of rights under color of law, 18 U.S.C. § 242, aiding and abetting, 18 U.S.C. § 2(a), use and carrying of a firearm during a crime of violence, 18 U.S.C. § 924(c)(1), and making a false statement to the government, 18 U.S.C. § 1001. Defendants will be tried in two separate trials.[1]

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[1]The first trial of defendants William Melendez, Matthew Zani, Jeffrey Weiss, Troy Bradley, Christopher Ruiz, Timothy Gilbert, Mark Diaz, Jerrod Willis, and Denny Borg is set for February 9, 2004. Two defendants, Troy Bradley and Nicole Rich, have reached plea agreements with the government, which have been taken under advisement by the

Before the Court are (1) defendants' motion to dismiss Count One, the conspiracy count, (2) defendants' motion to dismiss Counts Two, Three, Five, Seven, Eight, Fifteen, Twenty, Twenty-Three, Twenty-Four, and Twenty-Seven, or portions of these substantive counts, as well as overt acts in the conspiracy count, based on the failure to allege or claim standing of parties to assert Fourth Amendment rights, and (3) defendants' motion to dismiss charges of due process violations in Counts One, Two, Three, Four, Six, Seven, Ten, Eleven, Thirteen, Fifteen, Sixteen, Seventeen, Eighteen, Nineteen, Twenty-One, Twenty-Two, Twenty-Three, Twenty-Four, Twenty-Five, Twenty-Seven, Twenty-Eight, and Thirty.[2]

For the reasons that follow, the motions are DENIED.

II. Analysis

A. Conspiracy to Violate Constitutional Rights

The first superseding indictment alleges in Count One that all defendants "did willfully conspire and agree with each other and with various other unindicted co-conspirators . . . to injure, oppress, threaten and intimidate persons in the State of Michigan in the free exercise and enjoyment of the rights secured to them by the Constitution and laws of the United States" in violation of 18 U.S.C. § 241. Specifically, Count One alleges that defendants conspired to violate four rights: (1) the right to be free from unreasonable search and seizure, (2) the right to be free from the deprivation

Court.

[2]The government has noticed its intent to seek a second superseding indictment. The Court will address defendants' motions as they relate to the first superseding indictment.

of liberty without due process of law, including the right not to have criminal charges based on fraudulent evidence or false information, (3) the right to be free from the deprivation of property without due process of law, and (4) the right to be free from the intentional use of unreasonable force.

Count One then lists various general "manner and means by which the defendants and their co-conspirators sought to accomplish the objectives of their conspiracy," including, among other things, forcibly entering residences without a warrant or exigent circumstances, stealing from individuals, detaining individuals without reasonable suspicion, falsifying police reports and committing perjury to cover up illegal actions, planting evidence, and intimidating individuals who were illegally detained with threats of violence or unlawful arrest. The indictment lists twenty-one specific overt acts committed by the various defendants.

Defendants say that Count One does not support a finding of a single conspiracy because there is no factor connecting the defendants other than the fact that some defendants acted together during arrests and searches at various times.

To prove a single conspiracy, the government must show that "'each alleged member agreed to participate in what he knew to be a collective venture directed toward a common goal.' However, the government is not required to prove an actual agreement among the various conspirators in order to establish a single conspiracy." United States v. Warner, 690 F.2d 545, 549 (6th Cir. 1982) (citation omitted). Participation in the single conspiracy may be inferred from a defendant's actions under the circumstances, United States v. King, 272 F.3d 366, 370 (6th Cir. 2001), which may include "'sharing a common motive, presence in a situation where one could assume

participants would not allow bystanders, repeated acts, mutual knowledge with joint action, and the giving out of misinformation to cover up [the illegal activity],'" United States v. Whitney, 229 F.3d 1296, 1301 (10th Cir. 2000) (citation omitted). Indeed, although an individual conspirator must know the essential object of the conspiracy, "[a] defendant may be guilty of conspiracy despite possessing limited knowledge of the conspiracy's scope, details and membership." United States v. Milligan, 17 F.3d 177, 183 (6th Cir. 1994); see United States v. Maliszewski, 161 F.3d 992, 1014-15 (6th Cir. 1998). A single conspiracy can also exist even if "its members are cast in different roles, some more vital and more numerous than others." United States v. Rios, 842 F.2d 868, 873 (6th Cir. 1988).

Contrary to defendants' arguments, the indictment sufficiently alleges a single conspiracy involving two "masterminds," defendants William Melendez and Matthew Zani, who the proofs will show were the "moving forces" behind the conspiracy according to the government. The indictment alleges a traditional "wheel" conspiracy with a minor variation–two individuals represent the "hub" instead of one person. See United States v. White, 19 F.3d 20, No. 91-2005, 1994 U.S. App. LEXIS 4060, at *7 (6th Cir. Mar. 3, 1994) (unpublished) (describing the difference between a "wheel" conspiracy and a "chain" conspiracy). Importantly, every "spoke" defendant participated in at least one overt act with at least one of the two "mastermind" conspirators. Melendez and Zani are connected to each other because they worked together in the Fourth Precinct for five years prior to the start of the conspiracy and later when Zani worked in the Gang Squad, which is physically located within the Fourth Precinct. The government also says that Melendez and Zani participated in two of the overt acts

together[3] and Troy Bradley will testify regarding their connection at trial.

The indictment is sufficient to allege a single conspiracy for other reasons as well. The government points out that the same modus operandi was repeated in many of the civil rights violations. For instance, defendants planted incriminating evidence in thirteen of the overt acts, falsified police reports in eight of the overt acts, and used force to unlawfully enter residences in eight of the overt acts. The false police reports filed by defendants to cover up illegal searches were also consistent with each other. This pattern of conduct occurred within a ten square mile radius within the Fourth Precinct during a two year time period. Defendants even targeted two repeat victims. "'Seemingly independent transactions may be revealed as parts of a single conspiracy by their place in a pattern of regularized activity involving a significant continuity of membership.'" United States v. Kelley, 849 F.2d 999, 1003 (6th Cir. 1988) (citation omitted). Further, all but six defendants worked in the Fourth Precinct during the two year period. Although different defendants participated in different overt acts, "[t]he government need not show that a defendant participated in all aspects of the conspiracy; it need only prove that the defendant was a party to the general conspiratorial agreement." See United States v. Avery, 128 F.3d 966, 971 (6th Cir.

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[3]Although Count One does not specifically include Melendez and Zani in Overt Acts 13 and 17, this is not necessary because the language of 18 U.S.C. § 241 does not explicitly require any overt act. See United States v. Whitney, 229 F.3d 1296, 1301 (10th Cir. 2000); United States v. Skillman, 922 F.2d 1370, 1375-76 (9th Cir. 1990); United States v. Crochiere, 129 F.3d 233, 237-39 (1st Cir. 1997) (finding no overt act requirement based on the language of the statute and a similar Supreme Court case analyzing 18 U.S.C. § 846). But see United States v. Brown, 49 F.3d 1162, 1165 (6th Cir. 1995) (stating in dictum that 18 U.S.C. § 241 requires proof of an overt act). Even if the statute did require an overt act, however, the other nineteen overt acts would be sufficient.

1997).

Defendants cite Kotteakos v. United States, 328 U.S. 750, 754-55 (1946), where one defendant obtained fraudulent loans for the other defendants, who had no connection to each other except for the fact that they transacted business with the main defendant. The Court found a pattern of several "spokes" meeting at a common center but no "rim of the wheel to enclose the spokes." Id. at 755. Hence, there were really multiple conspiracies resulting in a variance from the indictment that charged only a single conspiracy. Id. at 755-56. Kotteakos is distinguishable because the "spoke" defendants were not connected to each other. Here, however, the "rim of the wheel" is clearly present. All defendants committed at least one overt act with at least one **other defendant** in addition to the "mastermind" conspirators Melendez and Zani. Hence, the government properly charged a single conspiracy.

The claim in this case is very similar to what was alleged in United States v. Mayes, 512 F.2d 637, 640, 648 (6th Cir. 1975), which affirmed the convictions of nineteen defendants for conspiring to transport and sell stolen motor vehicles. The evidence at trial showed "a central organization, master-minded by" three of the defendants. Id. at 642. These defendants "secured the services of [co-conspirator] car thieves." Id. The Sixth Circuit held:

> While the government did not prove that each defendant knew or was involved with all of the activities of all other defendants, this is not an essential element of proving a single conspiracy. Indeed in any large organization, legal or illegal, it is common for willing participants not to be acquainted with all of the members of the organization, or even to know the nature of every aspect of the operation. Nor does the fact that the conspiracy continued over a long period of time and contemplated the commission of many illegal acts transform the single conspiracy into

> several conspiracies. A conspiracy is completed when the intended purpose of the conspiracy is accomplished. But where a conspiracy contemplates a continuity of purpose and a continued performance of acts, it is presumed to exist until there has been an affirmative showing that it has terminated; and its members continue to be conspirators until there has been an affirmative showing that they have withdrawn.
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> Appellants here, however, do not claim that the conspiracy ended and another began. They assert the existence of more than one conspiracy existing at the same time, arguing that the government has attempted to tack together several "parallel" conspiracies. Viewing the evidence in the light most favorable to the government, we conclude that the government succeeded in showing that the many acts occurring over a long period of time and involving many people were all a part of a single conspiracy. The conspiracy shown was quite long lived and very successful until it was detected. It spread over a large geographical area. It appears that because of the very success and widespread nature of the organization, defendants now claim that it was not one unified undertaking, but a series of disjointed and separate activities which might have enjoyed some commonality, but which lacked the essential continuity and singleness of purpose necessary to prove one conspiracy. We cannot agree.

Id. at 642-43. Here, like in Mayes, the "masterminds," Melendez and Zani, secured the services of fellow police officers to illegally enter residences, falsify police reports, and commit perjury.

Defendants say that Count One really alleges two separate conspiracies: one group centered around Melendez and Fourth Precinct officers and another group centered around Zani and Gang Squad officers. According to defendants, the government arbitrarily picked Melendez and Zani to be center of the conspiracy simply because they are charged in the most overt acts. However, "[t]he fact that a conspiracy can be divided into distinct subgroups does not mean that there is more than one conspiracy. As long as the different sub-groups are committing acts in furtherance of one overall plan, the jury can still find a single, continuing conspiracy." United States v.

Warner, 690 F.2d 545, 550 n.8 (6th Cir. 1982). The allegations of Count One of the indictment are certainly sufficient to make out the existence of a joint enterprise for a common goal and, therefore, a single conspiracy.

Finally, defendants' arguments relating to the single conspiracy count are premature because the existence of a single conspiracy versus multiple conspiracies is a question of fact for the jury. Rios, 842 F.2d at 872. A variance results when an indictment charges a single conspiracy but the proof shows multiple conspiracies. United States v. Carr, 5 F.3d 986, 990 (6th Cir. 1993). When a variance occurs at trial, a defendant's conviction must be reversed if his substantial rights were prejudiced. Id. The proper course of action is to instruct the jury on the possibility of multiple conspiracies. Rios, 842 F.2d at 872; United States v. Tocco, 581 F. Supp. 379, 381 (N.D. Ill. 1984). While defendants clearly anticipate a variance, their arguments regarding the single conspiracy are not proper grounds for dismissing the conspiracy count of the indictment.

B. Fourth Amendment Violations

The indictment alleges in ten of the substantive counts and ten of the overt acts relating to the conspiracy count that defendants deprived individuals of their rights to be free from unreasonable search and seizure under the Fourth Amendment. Defendants say that the indictment is deficient because it does not allege that the individuals whose Fourth Amendment rights were allegedly violated had standing to assert those rights at the time of the alleged violation. According to defendants, many of the alleged victims were merely trespassers or guests in the residences described and some of these residences were abandoned or temporary.

Defendants are correct that an individual may only assert his Fourth Amendment rights if he has "standing," meaning that the person had a reasonable expectation of privacy in the property searched or the items seized. Minnesota v. Olson, 495 U.S. 91, 96 (1990) (citing Rakas v. Illinois, 439 U.S. 128, 143 (1978)). However, Fed. R. Crim. P. 7(c)(1) only requires that an indictment state the essential elements of the offense charged. The sufficiency of an indictment is determined by the following standard:

> [A]n indictment is sufficient if it, first, contains the elements of the offense charged and fairly informs a defendant of the charge against which he must defend, and, second, enables him to plead an acquittal or conviction in bar of future prosecutions for the same offense. It is generally sufficient that an indictment set forth the offense in the words of the statute itself, as long as those words of themselves fully, directly, and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offence intended to be punished. Undoubtedly the language of the statute may be used in the general description of an offence, but it must be accompanied with such a statement of the facts and circumstances as will inform the accused of the specific offence, coming under the general description, with which he is charged.

Hamling v. United States, 418 U.S. 87, 117 (1974) (citations and quotation marks omitted).

The substantive counts in the indictment allege a violation of 18 U.S.C. § 242, the elements of which are a (1) willful (2) deprivation of a constitutional right (3) under color of law. See United States v. Lanier, 520 U.S. 259, 264 (1997). Each count alleges that particular defendants unlawfully entered residences without exigent circumstances or obtaining a search warrant and subjected individuals to illegal searches and seizures. The indictment gives the address of each residence, states the date of each alleged constitutional violation, and identifies the alleged victims by name. See United States v. Fleming, 526 F.2d 191, 192 (8th Cir. 1975). The "element" that

must be stated in the indictment is the deprivation of a constitutional right. Here, it is the Fourth Amendment right to be free from unreasonable search and seizure. As the government correctly points out, an occupant's expectation of privacy is merely one fact that must be proved to establish the second element of 18 U.S.C. § 242. Whether the government is able to prove the element will be determined at trial. The allegations in the indictment are plainly sufficient to allege the second element and fairly inform defendants of the charges against them.[4]

Further, the substantive counts allege that once inside the residences, defendants subjected the occupants to unlawful searches and seizures, which may constitute separate Fourth Amendment violations apart from the illegal entries. The indictment sets forth all of the elements necessary to constitute the offense.

C. Due Process Violations

The indictment alleges in many of the substantive counts and overt acts that defendants denied various individuals the right to be free from the deprivation of liberty without due process of law, including the right not to have criminal charges based on fraudulent evidence or false information. The indictment alleges, among other things, that defendants falsified police reports and committed perjury to cover up illegal searches and the planting of false evidence. Defendants again attack the indictment on the grounds that it fails to charge due process violations.

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[4]The overt acts in the conspiracy count that allege Fourth Amendment violations were also sufficiently stated for the same reasons. Moreover, overt acts do need not need to be crimes themselves. United States v. Cooper, 577 F.2d 1079, 1085 (6th Cir. 1978). The indictment properly alleges that the overt acts were performed in furtherance of the conspiracy.

18 U.S.C. §§ 241 and 242 prohibit individuals from depriving, or conspiring to deprive, other persons of their constitutional rights. Instead of forbidding specific conduct, the statutes "incorporate constitutional law by reference." Lanier, 520 U.S. at 265. Because of the uncertainties in constitutional law, the Supreme Court has specified that in order to give fair warning to potential defendants, criminal liability "may be imposed for deprivation of a constitutional right if, but only if, in the light of pre-existing law the unlawfulness under the Constitution is apparent." Id. at 271-72 (citations and quotation marks omitted); id. at 269 (stating that the inquiry into whether a right is established by case law is similar to the determination of qualified immunity under 42 U.S.C. § 1983). The pre-existing law may be found in appellate as well as lower court decisions and the facts of the decision need not be fundamentally similar to the case at hand. Id. at 268. Often, the clearest constitutional violations will not be the subject of a judicial opinion; hence, "a general constitutional rule already identified in the decisional law may apply . . . even though the very action in question has not previously been held unlawful." Id. at 271 (citations and quotation marks omitted).

Defendants say that there is no pre-existing law indicating that the use of false or fraudulent evidence in a criminal prosecution violates the Due Process Clause of the Fourteenth Amendment. According to defendants, due process is only violated when false or fraudulent evidence is willfully presented in court and is material to a conviction. See Napue v. Illinois, 360 U.S. 264, 269 (1959) ("a conviction obtained through use of false evidence, known to be such by representatives of the State, must fall under the Fourteenth Amendment"); Brady v. Maryland, 373 U.S. 83, 87 (1963) ("suppression by the prosecution of evidence favorable to an accused upon request violates due process

where the evidence is material either to guilt or to punishment"). Because the Supreme Court has not held that the making of a false police report or the presentation of false evidence at trial is a due process violation by itself, the right is not established by pre-existing law according to Lanier.

While the government acknowledges that the mere falsification of evidence by itself does not violate due process, it says that defendants have mischaracterized the allegations in the indictment. The indictment does not charge that due process rights were violated by the mere falsification of evidence. Rather, the substantive counts and overt acts allege that specific victims were deprived of their due process rights including "the right not to have criminal charges based on fraudulent evidence or false information" and "the right not to have false evidence intentionally presented against" them. According to the government, the evidence introduced at trial will show a "chain of events" including charges based on false police reports, individuals held in custody based on the fabricated charges, guilty pleas based on the false allegations, and false testimony at trial.

There is abundant analogous case law indicating that there is a right under the Due Process Clause not to be prosecuted on the basis of fraudulent evidence in the form of written reports or false testimony. Indeed, in United States v. Epley, 52 F.3d 571, 576 (6th Cir. 1995), the Sixth Circuit found sufficient evidence to convict a police officer of violating 18 U.S.C. §§ 241 and 242 where the victim's constitutional right was the due process right "to be free from arrest without probable cause and to be free from having false evidence presented against him." See also Frantz v. Bradford, 245 F.3d 869, 877 (6th Cir. 2001) ("substantive due process may support a § 1983 malicious

prosecution claim against a police officer who plants false evidence to implicate a suspect whose arrest was supported by probable cause"). "Courts have applied § 242 to punish police officers who have abused their authority under 'color of law.'"[5] Id.

Defendants say that Epley was overruled by Albright v. Oliver, 510 U.S. 266 (1994). However, Epley was decided more than a year and a half **after** Albright. Albright was a plurality opinion holding that the Due Process Clause could not give rise to a 42 U.S.C. § 1983 claim in circumstances that would normally be considered malicious prosecution, but the Fourth Amendment "would be relevant to such a claim." Thacker v. City of Columbus, 328 F.3d 244, 258 (6th Cir. 2003). The decision has created considerable confusion among the district courts and has not been resolved by the Sixth Circuit. See id. at 259. Further, the indictment is not phrased in terms of malicious prosecution, or, prosecution without probable cause. Rather, it alleges that defendants violated the victims' right "not to have criminal charges based on fraudulent evidence or false information" and "the right not to have false evidence intentionally presented against" them. The government says that the false evidence and false testimony are merely the beginning of a "chain of events" leading to prosecution that will establish a due process violation at trial. Epley provided defendants with fair notice that

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[5]The Supreme Court has acknowledged that while witnesses, including police officers, are immune from civil liability for giving false testimony in a criminal prosecution, "the public is not powerless to punish misconduct. Like prosecutors and judges, official witnesses may be punished criminally for willful deprivations of constitutional rights under 18 U.S.C. § 242." Briscoe v. LaHue, 460 U.S. 325, 335-36, 345 n.32 (1983). Defendants suggest that the statute was only meant to encompass false testimony in favor of a defendant because the Court did not find any legislative history showing the opposite. There is nothing in the language of the statute, however, to indicate that it is limited to constitutional violations that help criminal defendants.

their conduct was unlawful.

Other courts have also found constitutional violations for conduct similar to the acts alleged in the indictment here. See, e.g., United States v. McDermott, 918 F.2d 319, 325 (2d Cir. 1990) ("False arrest is an act of unlawful detainment that constitutes a violation of due process and in turn is a 'deprivation' of a legal right."); Geter v. Fortenberry, 849 F.2d 1550, 1559 (5th Cir. 1988); Anthony v. Baker, 767 F.2d 657, 662 (10th Cir. 1985) ("state and federal officers are liable under § 1983 and § 1985(2) when they conspire to procure groundless state indictments and charges based upon fabricated evidence or false, distorted, perjurious testimony presented to official bodies in order to maliciously bring about a citizen's trial or conviction"). As the Supreme Court found in Lanier, conduct that is obviously unconstitutional may not be the subject of a specific judicial opinion. Lanier, 520 U.S. at 271. Two cases decided after defendants' conduct began in 2000 illustrate this point. See Castellano v. Fragozo, – F.3d –, 2003 WL 22881590, at *11 (5th Cir. Dec. 5, 2003) ("causing charges to be filed without probable cause will not without more violate the Constitution" but "additional government acts that may attend the initiation of a criminal charge could give rise to claims of constitutional deprivation"); Devereaux v. Abbey, 263 F.3d 1070, 1075 (9th Cir. 2001) ("[T]here is a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government. Perhaps because the proposition is virtually self-evident, we are not aware of any prior cases that have expressly recognized this specific right, but that does not mean that there is no such right.").

The Second Circuit has clearly explained the rationale for finding a constitutional

violation in these cases as follows:

> No arrest, no matter how lawful or objectively reasonable, gives an arresting officer or his fellow officers license to deliberately manufacture false evidence against an arrestee. To hold that police officers, having lawfully arrested a suspect, are then free to fabricate false confessions at will, would make a mockery of the notion that Americans enjoy the protection of due process of the law and fundamental justice. Like a prosecutor's knowing use of false evidence to obtain a tainted conviction, a police officer's fabrication and forwarding to prosecutors of known false evidence works an unacceptable "corruption of the truth-seeking function of the trial process."
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> When a police officer creates false information likely to influence a jury's decision and forwards that information to prosecutors, he violates the accused's constitutional right to a fair trial, and the harm occasioned by such an unconscionable action is redressable in an action for damages under 42 U.S.C. § 1983. . . .

Ricciuti v. N.Y.C. Transit Authority, 124 F.3d 123, 130 (2d Cir. 1997) (citations omitted).

Finally, the indictment is materially identical to the indictment in a prior case in this Court. See United States v. Bradfield, No. 98-2407, 2000 U.S. App. LEXIS 17556, at *2 (6th Cir. July 18, 2000) (unpublished). The indictment in Bradfield charged that police officers violated and conspired to violate the following rights under 18 U.S.C. §§ 241 and 242: "unreasonable search and seizure; taking of property without due process; unreasonable force; and 'deprivation of liberty without due process of law, which includes the right not to have criminal charges based on fraudulent evidence or false information.'" Id. The indictment alleged that the officers unlawfully entered houses, kept property they found, intimidated potential witnesses, and falsified police reports to cover up illegal activity. Id. at *3. The indictment also listed thirty-three overt acts committed in furtherance of the conspiracy. Id. The officers were found guilty but the district court entered a judgment of acquittal as to one defendant on one of the counts,

which was affirmed on appeal. Id. at *6, *32. The district court in Bradfield apparently never questioned whether the bringing of criminal charges based on fraudulent evidence or false information could be a due process violation.

Based on these cases, the conduct alleged in the indictment is unlawful according to pre-existing law and satisfies the fair warning concern of Lanier. The indictment alleges due process violations that are based in part on underlying conduct (filing false police reports and testifying falsely in court proceedings) that set in motion a "chain of events" including the bringing of criminal charges. The government says that it will show these actions resulted in individuals being held in custody, convicted, or induced to plead guilty. The indictment is sufficient to inform defendants of the charges against them. Again, the government bears the burden of proving the due process charges in the indictment at trial.

III. Conclusion

Defendants' challenges to the sufficiency of the indictment are, in actuality, challenges to the sufficiency of the evidence that may be produced by the government at trial. For the reasons stated above, the indictment is proper in all respects.

SO ORDERED.

/s/
AVERN COHN
UNITED STATES DISTRICT JUDGE
Detroit, Michigan

Dated: January 20, 2004