

**CIVIL COVER SHEET**

JS-44 (Rev. 3-99)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

**I. (a) PLAINTIFFS**

Brady Lynn Byrum  
 Dallas County  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS**

City of Mesquite, Texas and  
 all arresting officers, et al.  
 Dallas Co.  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

**(c) Attorney's (Firm Name, Address, and Telephone Number)**

pro-se

Attorneys (If Known) unknown as of June 20, 2002

3-02CV 1301D

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |   |                                |   |                                |   |
|---|---|--------------------------------|---|--------------------------------|---|
| Citizen of This State                   | PTF <input checked="" type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input type="checkbox"/> 4 | DEF <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2                | <input type="checkbox"/> 2     | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5     | <input type="checkbox"/> 5                |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3                | <input type="checkbox"/> 3     | Foreign Nation  | <input type="checkbox"/> 6     | <input type="checkbox"/> 6                |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Fords to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

FOURTH AMENDMENT AND FOURTEENTH AMENDMENT. DEFENDANTS VIOLATED PLAINTIFF'S CONSTITUTIONAL RIGHTS, BY AN ILLEGAL SEARCH AND MALICIOUS PROSECUTION.

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  DEMAND \$ \$1,200,000.00 CHECK YES only if demanded in complaint JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S)** (See instructions) IF ANY JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD pro-se

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFF JUDGE MAG JUDGE

*ORIGINAL*

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS <b>FILED</b> JUN 2 2002 CLERK, U.S. DISTRICT COURT By _____ Deputy
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BRADY L. BYRUM, Plaintiff §

VS. §

CITY of MESQUITE, TEXAS §

And Arresting Police Officers, §

In their Official Capacity, et al. §

Defendant(s) §

CIVIL ACTION NO.

3-02CV 1301D

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Brady L. Byrum, Plaintiff in the above-styled and numbered cause of action, is complaining of the **City of Mesquite, Texas and its Arresting Police Officers, et al.**, here after called Defendants and for cause of action would respectfully show the Court as follows:

I.  
JURISDICTION

Defendant, City of Mesquite, Texas has employees who were acting "Under the Color of Law", as is governed by 42 U.S.C., Sec. 1983, when such employee's actions or omissions caused the Plaintiff to be deprived of his federally protected rights under the 4th and 14th Amendments of the United States Constitution. Because of these types of violations of federal rights and the amount of money, which is involved; this Court now has and retains all jurisdiction of these proceedings.

BYRUM VS. MESQUITE, TEXAS  
Plaintiff's Original Complaint

**II.**  
**PARTIES**

A. Brady L. Byrum is a Citizen of the State of Texas and of the United States of America, and here after called Plaintiff. He has been such inhabitant in excess of 10 years prior to the filing of this action. Plaintiff presently lives at the Kilpatrick residence: 2802 Cary Drive, in Mesquite, Texas 75150 and whose telephone number is: (972) 270-4530.

B. Defendant, Mesquite, Texas has employees, who were acting as Police Officers and such employees have exercised their powers against Plaintiff. This happened when Plaintiff's federally protected rights under the 4th and 14th Amendments of the United States Constitution were deprived, and while such employees were "Clothed with Authority of State Law", citing *United States v. Classic*, 313 U.S. 299, 326 (1941).

Defendants, the Arresting Police Officers, acted on behalf of Defendant, City of Mesquite, Texas and the State of Texas, for whom Defendant, City of Mesquite, Texas is responsible for. Such employees can fairly be called and considered as [a] "State Actor". See *West v. Atkins*, 487 U.S. 42 (1988).

Violations of Plaintiff's constitutional rights have come about as the direct and proximate result of Defendant, City of Mesquite, Texas and its failure to properly train its employees. See *Monell v. New York City of Social Services*, 436 U.S. 658, 684, 98 S. Ct. 2018, 2037, 56 L. Ed 2d 611 (1978); *City of Oklahoma City v. Tuttle*, 471 U.S. 808, 105 S. Ct. 2433-34, 85 L. Ed. 2d 791 (1985).

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**III.**  
**CUSTOM OR POLICY**

A. Defendant, City of Mesquite, Texas and its failure to properly train its employees, which resulted in violations of Plaintiff's constitutional rights, shows the City of Mesquite, Texas has a custom or policy in place. This is true because the arresting Police Officers knew, that at the time they acted and performed an unlawful search of Plaintiff's vehicle, such unlawful act will meet with the approval of city policymakers.

B. Thus the causation requirement to prove a custom or policy exists has been met. See Grandstaff v. City of Borger, Texas, 767 F. 2d 161, 169 (5th Cir. 1985) at 169. See also Palmer v. City of San Antonio, Texas, 810 F. 2d 514 (5th Cir. 1987). As an initial matter, the United States Supreme Court held: Section 1983 does not require a plaintiff even to prove multiple instances of misconduct. See Oklahoma City, 471 U.S. at 823- 24. Furthermore the Supreme Court in Leatherman v. Tarrant County Narcotics Unit, 113 S. Ct. 1160 (1993) held: a plaintiff need not plead multiple instances of misconduct, for such a requirement would impose upon Section 1983 plaintiffs like the Plaintiff here, to [a] pleading requirement more demanding than that required for other claims. A complaint describing a single instance of official misconduct and alleging a failure to train may put a municipality "On Notice" of the nature and basis of the Plaintiff's claim. Alleging an additional instance of misconduct would not necessarily improve that notice. Such a requirement would simply shift to the pleading, a burden that Leatherman id. reserves for a later stage of litigation.

BYRUM VS. MESQUITE, TEXAS  
Plaintiff's Original Complaint

**IV.**  
**STATEMENT OF CASE**

A. On Thursday April 23, 1998 and at about 1 p.m. the Plaintiff, Brady Byrum was pulled over by a Police Officer from the Mesquite, Texas Police Department. The Plaintiff pulled his vehicle into the Town East Mall parking lot. When such vehicle was stopped, the Plaintiff exited the Bronco and closed the door behind him. The Viper "auto-lock" of the Bronco engaged and locked all doors. This first Police Officer asked Plaintiff to verbally verify if his name was Brady Byrum, and Plaintiff stated, "Yes.", at which time this first Police Officer radioed this affirmation to Dispatch. Within moments, other Police Officers started arriving. Plaintiff was never told by any officer that he had violated any traffic violations at this time. Such Police Officer further never issued the Plaintiff any type of Traffic citation or Warning during such stop. Such Police Officer then notified Plaintiff that his onboard computer terminal indicated that there were out standing warrants of failure to appear in Mesquite Municipal Court for Class C traffic violations of no insurance in his possession and no driver's license in his possession, from a previous Mesquite Traffic stop. It was later learned by Mesquite Police Officer testimony that the Mesquite Police Department Dispatch had been called by a mobile cell telephone, by one or more undercover "Federal" agents who had Plaintiff under surveillance at the time of the stop.

B. Plaintiff was then placed under arrest and handcuffed without incident and placed in the rear of the second Police Officer's cruiser. The third such Police Officer that arrived on scene, a Police Sergeant, then stated to Plaintiff that he wanted into the Bronco.

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Plaintiff's Original Complaint

C. Plaintiff, who is keenly aware of his legal rights then several times verbally refused such Police Officer's request to search his vehicle without a warrant.

D. Said Police Sergeant ignored Plaintiff's demands for probable cause or warrant, and proceeded to take the Plaintiff's key from the hood of the first Mesquite Police Officer's cruiser, and Plaintiff protested such Officer's actions and stated: you understand that this search "Is Being Done Against My Will". Without finding any evidence of criminal activity outside the Bronco, and "Without Probable Cause or Search Warrant" such Police Officer then proceeded to perform a full search of the cab of Plaintiff's Ford Bronco. Plaintiff was placed in the second Police Officer's cruiser and taken to the Mesquite Police Station for booking.

E. Without finding any evidence of criminal activity in the cab of such vehicle, said Police Officer then proceeded back outside to the rear of Plaintiff's vehicle, electrically lowered the glass window and unlocked the rear tailgate of the Bronco to gain access to a steel locked box, that was laying down in this rear portion, facing the rear of the Bronco.

V.

A. Upon such unlawful search of said locked box by the Mesquite Police Sergeant, they found common, legal firecrackers that were stored in a sealed in a plastic Tupperware cup and a small cardboard box, approximately 3 inches by 3 inches by 3 inches. Such Police further found Plaintiff's legal rifles and ammunition. None of the contents of the Plaintiff's locked box, in his Ford Bronco, were unlawful to be owned, kept, stored or moved in this locked container format. 5.

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Plaintiff's Original Complaint

**B.** Mesquite Police, without finding any evidence of criminal activity or unlawful possession of contraband by Plaintiff, then contrived charges against him to justify the unlawful search and seizure of him and his vehicle. Such police then called the A.T.F. and the F.B.I., who dispatched the Multi-Jurisdictional Task Force, under the guidance of Special Agent In Charge, Diane Upchurch, who is NOT a plaintiff in this cause of action, and for which the Mesquite Police indicated was needed for this case. The Mesquite Bomb Squad, the "Bomb Robot" and the Mesquite Fire Department Engines were also dispatched to the scene of the Bronco. At this time, Town East Mall was evacuated, and the traffic along L.B.J. Freeway (Hwy. 635) was shut down by Mesquite Police.

**C.** Such Police released a story to the local news media that Plaintiff was in possession of unlawful homemade explosives / bombs and unlawful weapons, described as fully automatic machine guns, of which have never been owned by Plaintiff. The Mesquite Police further tried to cover their unlawful acts and caused local television stations and newspapers to release stories that Plaintiff was hauling two bombs in the back of his Ford Bronco. When the Federal Agents learned that the contents of the two small containers were common firecrackers, the Federal Agents left the City of Mesquite to deal with Plaintiff on their own.

**D.** Mesquite Police further tried to cover their acts of unlawful searched and seizure of Plaintiff's vehicle by bringing felony explosives charges against Plaintiff.

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Plaintiff's Original Complaint

E. Plaintiff was charges with knowingly and intentionally possession of explosives. To show charges against Plaintiff were purely contrived and frivolous, when he was arrested, there was and still is no Texas law making it illegal to possess common items which could be made to explode, but which are not made **into** explosive weapons, (i.e. cans of hairspray, paint thinner, engine cleaner, and even fire extinguishers.)

V.

A. Even after Mesquite Police were fully aware that the firecrackers they found in Plaintiff's truck was not feloniously unlawful or explosive weapons in nature, such Police still continued in a vicious effort to bring felony charges against him. Plaintiff feels this type of prosecution by such police were acts of pure retaliation against him.

B. This is because about 8 months earlier, the Plaintiff was stopped by the Mesquite Police for an alleged traffic violation. That Police Officer, [a] Patrick King, after stopping Plaintiff for such violation, then made an unlawful search of Plaintiff Ford Escort, where he found a pistol in a sealed container, and Plaintiff was charged and convicted of U.C.W., Unlawful Carrying of a Weapon, which is only a Class A Misdemeanor.

C. Because Plaintiff felt that Officer King had violated his Second Amendment rights, he filed a formal complaint with the Federal Prosecutor's office in Dallas, Texas.

D. Plaintiff believes that complaint brought about the coordinated efforts to falsely charge and imprison him. At any rate, all of the Charges against the Plaintiff were purely frivolous in nature.



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E. This is true because Plaintiff was not charged with possession of explosive weapons under Sec. 46.05 of Texas Penal Code, but rather he was charged with Knowingly and Intentionally possessing explosives, which is simply not a crime in Texas. In fact, possession of a vast assortment of common items, which are or can be explosive if for instance, they are mistreated or placed too near a stove, is perfectly legal.

F. Mesquite Police further showed that their prosecution of Plaintiff was done in a vicious and malicious manner, because of its news media releases to the Television Stations, Newspapers and Radio that Plaintiff was caught carrying bombs in the back of his Bronco. This caused his bond to be **originally set at \$200,000.00**, and which was later **raised to \$500,000.00**, all of which was done, **after** the Mesquite Police knew that all the Plaintiff had was **common firecrackers**, purchased from an East Texas Firecracker Stand.

VII.

A. Even through Mesquite Police had performed an unlawful search of Plaintiff's truck, they knew that he was not guilty of any of the charges against him, yet they still carried on prosecution against Plaintiff, for twenty six months from April of 1998 until June 20, 2000.

B. During this time Mesquite Police had brought false charges against the Plaintiff causing him to be forced to spend 21 days in the Dallas County jail in Solitary Confinement. Such action by Mesquite Police has further resulted in a extreme financial Hardship upon Plaintiff and his family. Because of his legal defense to these two bogus felony charges, Plaintiff has had to borrow over \$24,000.00 for attorney fees and family support.

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Plaintiff's Original Complaint

C. Plaintiff and his family (except for their youngest daughter who was shielded from the full story due to her tender age) have also suffered through extreme emotional and mental anguish and fear, for over two years, having to endure and bear up under this malicious prosecution, all the while knowing how former Jail Guards (Plaintiff is a former Dallas County Detention Service Officer) are singled out for rape and murder by “Lifer” Prison Inmates in the Texas Department of Corrections. Plaintiff believes that this attempt to send him to Texas Prison was an indirect method to have him silenced and murdered by the hands of others, who would have no qualms at killing a former guard.

D. Plaintiff's two felony cases were finally dismissed after State Felony Judge Robert Francis found and ruled that the evidence against the Plaintiff was “gained illegally in violation of the Fourth Amendment” unlawfully obtained without a search warrant, and therefore was not admissible, as under the doctrine of law known as the “Fruit of the Poisonous Tree”, in violation of **Mapp v Ohio, 367 U.S. 643 (1961).**

E. Judge Robert Francis further found and ruled that Plaintiff was not guilty of unlawfully Possession of Explosives, by granting the Motion to Quash the Indictment for vagueness, proving that Plaintiff's common firecrackers were not “explosive weapons”, nor “bombs”, nor even “Explosive Incendiary Devices” as was told to the media by various City of Mesquite employees.

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**VIII.**

**FIRST CAUSE OF ACTION**

Mesquite Police are guilty of unlawful search of Plaintiff's locked container, without probable cause or warrant, which is a violation of Plaintiff's 4<sup>th</sup> Amendment Rights under the United States Constitution.

**IX.**

**SECOND CAUSE OF ACTION**

Mesquite Police are guilty of Malicious Prosecution against the Plaintiff. This is true because even after such police KNEW or should have known that he did not have feloniously unlawful contraband in his vehicle, they still brought bogus felony charges against him, which had no merit whatsoever. This type of malicious prosecution CLEARLY shows that Mesquite Police intended to deprive Plaintiff of the equal protection of the laws, which is a violation of Plaintiff's 14<sup>th</sup> Amendment rights under the United States Constitution.

**X.**

Because the facts stated herein clearly show the Defendants, Arresting Officers are guilty of **Negligence** and **Gross Negligence**; the foresaid acts by Defendants were done in a **wanton** and **reckless manner**, which amounts to a **total disregard** of Plaintiff's rights. Such acts were further done without the entire want of care, that raise the belief that such acts complained of, was the results of persons who were acting with "**Deliberate Indifference**".

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This is true because a person in the Defendant's position HAD to know that their actions would violate the Plaintiff's rights, **but did it anyway.**

**XI.**  
**PRAYER FOR RELIEF**

WHEREFORE PREMISES CONSIDERED, Plaintiff prays for jury trial, that Defendant be cited to appear and answer all of the allegations stated herein, and upon the final judgment thereof, that Plaintiff be awarded in excess of \$1,200,000.00, one million, two hundred thousand dollars in damages, pre-judgment and post-judgment as provided by law, any reasonable attorney fees if hired, Court cost and such other and further relief, which Plaintiff may be entitled to in law.

Respectfully Submitted by:



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Brady L. Byrum, Plaintiff  
c/o Kilpatricks @  
2802 Cary Drive  
Mesquite, Texas 75150  
(214) 270-4530