

## Philly Rico

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Sunday

The perversion of pre-trial detention into a means of punishment in and of itself, achieved by denial, circumvention, and dismissal of rights of the accused, has generated a conglomerate network of racketeer influenced and corrupt organizations, acting with the intent purpose of keeping a specific group and number of persons incarcerated in Philadelphia County.

This municipality's enforcement agents have taken license to pursuing extrapolated charges in all instances of arrest, with the attendant excessive fines imposed in the form of exorbitant bail, imposing distinct and deliberate barriers to realization of 8<sup>th</sup> Amendment rights guaranteed as inviolable in our Constitution. This would constitute the initial "predicate act" of "racketeering activity" demonstrated by this conglomerate.

In Pennsylvania, a specific statute of limitations concerns the time in which the prosecution may bring a case to trial after the accused has been arrested. This is commonly known as the defendant's "speedy trial" right. The right is found in the Sixth Amendment to the United States Constitution and in Article I, Section 9 of the Pennsylvania Constitution. The right was and is considered an important one to protect defendants (who are presumed innocent) from being subjected to long periods of incarceration prior to trial. - 1

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"For purposes of implementation, the term 'speedy' is more particularly defined in the PENNSYLVANIA Rules of Criminal Procedure (P.A.R. Crim. P. 600). That Rule provides that defendants must be brought to trial within 365 days of the filing of charges. Defendants who are in jail awaiting trial are entitled to release on nominal bail after 180 days [P.A.R. Crim. P. 600(E)]."

In the Philadelphia Prison System, adherence to these rules is almost never realized, and court spokes persons and officers issue standard "overcrowding" responses among the plethora of reasons for non-compliance to rules they themselves have established.

"Overcrowding" has less to do with citizens walking into courtrooms and police precincts and more to do with law enforcement agents picking people up indiscriminately and without probable cause: this is the second "predicate act" and indicator <sup>of</sup> "racketeering activity".

Hundreds of men at CFCF wait months for a preliminary hearing and sometimes years before a trial, effectively held "hostage" by the Commonwealth in violation of the 14<sup>th</sup> Amendment "due process" clause and the 6<sup>th</sup> Amendment right to a "speedy" trial as

mentioned. The municipality is in control of the court system and bail institution, directly affecting prisoners captivity and "length of stay", which by the aggregate consequences establishes a "pattern of racketeering activity".

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The Philadelphia Prison System has a long, established history of civil litigation brought by pre-trial detainees concerning unconstitutional "conditions of confinement". The 140 year old House of Corrections, falling down around prisoners as they are continuously held beyond capacity, is the flagship in this jurisdiction's fleet of apathetic concern for pre-trial detainee rights. Overcrowded conditions, promulgated and sanctioned by city government, and in no way commensurate with contemporary rates of offenses, further preclude those accused from fully enjoying appropriate access to courts, adequate health care (mental and physical), and detention prior to trial in a reasonably safe environment. In fact, these conditions, when conjoined with the overwhelmed and sometimes disinterested defense attorneys assigned to most defendants housed in the PPS (who rarely consult with clients before trial; a fact city government is fully aware of), specifically serve to increase the probability and length of incarceration of persons within the PPS.

There are very specific requirements for civil Rico suits which plaintiffs in prison cases can only rarely meet. First, a plaintiff must show two or more "predicate acts" of racketeering activity by the defendants.

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This has been shown by indiscriminate arrest procedures and continued non-compliance with Federal Rules of Criminal Procedure concerning trial deadlines. Second, the plaintiff must show an actual RICO violation, which usually involves some sort of unlawful debt or debt collection activities or use of funds obtained from them, or other "pattern of racketeering activity".<sup>3</sup> The exorbitant bail assigned to most cases in this jurisdiction would actually qualify as "ransom", and, in consideration of the totality of circumstances, absolutely establish such a pattern as required. A civil RICO plaintiff must also show he was "injured in his business or property" by the RICO violation, which courts have held means a business or property recognized by state law. *Doe v. Roe*, 958 F.2d 763, 768 (7th Cir. 1992) Thus, one court has held that a person who was falsely imprisoned as a result of a "pattern of racketeering", and was therefore unable to work or to seek employment, was subjected to "intentional interference with contract and interference with prospective business relations", torts recognized under state law. *Diaz v. Gates*, 420 F.3d 897 (9th Cir. 2006)<sup>4</sup>

Pre-trial detainees in this jurisdiction have been specifically targeted for prosecution through this system, by this municipality, with full knowledge of all interacting agents and agencies.

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Prisoners, perpetually relegated to such status as a direct, concerted effort by the District Attorney's Office, the Court system, the PPS, and other related officers and officers of this municipality, "are subject to the continual control of Department of Corrections staff" and are therefore "members of an identified class of targeted individuals." (Engles v. City of New York, 2003) This specific group has been habitually and continuously denied equal protection of the law in Philadelphia County by separate, and official, municipal agents and agencies. As such, remedy is warranted to be sought through the Racketeer Influenced and Corrupt Organizations Act. These actions continuously promulgated in this municipality has resulted in a severe loss of liberty for thousands of citizens every year.

References

1. Pennsylvania's Criminal Justice System (Carolina Academic Press, 2014) p. 49
2. IBID, p. 50
3. Prisoners' Self-Help Litigation Manual (Oxford University Press, 2010) p. 14
4. IBID, p. 444