

ORIGINAL

FILED

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DEC - 2 2002

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U.S. DISTRICT COURT

Dianna Johnson

[Redacted]  
Address redacted [Redacted]

and

Ms. Rubbiya Muhammed

Address redacted [Redacted]

and

Carolyn Montgomery

Address redacted [Redacted]

and

Tonya Cecelia Mack

Address redacted [Redacted]

and

Laura Lambert

Address redacted [Redacted]

and

Dianne Wilkes

Address redacted [Redacted]

and

Vickie Brooks

Address redacted [Redacted]

and

CASE NUMBER 1:02CV02364

JUDGE: John D. Bates

DECK TYPE: Civil Rights (non-employment)

DATE STAMP: 12/02/2002

E C F

Keisha Holloway

Address redacted

and

Donna Curtis

Address redacted

and

On behalf of all others  
similarly situated

Plaintiffs,

v.

GOVERNMENT OF THE  
THE DISTRICT OF COLUMBIA,

SERVE: Mayor ANTHONY WILLIAMS  
Or his designee  
Office of the Secretary  
Gladys Herring  
John Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

and

UNITED STATES MARSHALS SERVICE  
Civil Process  
600 Army Navy Drive  
Arlington, VA 22202-4210

and

TODD DILLARD, Individually  
United States Marshal, D.C.  
Superior Court  
H. Carl Moultrie Courthouse  
500 Indiana Avenue, N.W.  
Room C-250  
Washington, DC 20001,

and

JOHN DOE NUMBERS 1-10 )  
 Deputy Marshals, D.C. Superior Court) )  
 H. Carl Moultrie Courthouse )  
 500 Indiana Avenue, N.W. )  
 Washington, DC 20001, )  
 )  
 and )  
 )  
 JOHN DOE NUMBERS 11-20 )  
 Deputy Marshals, D.C. Superior Court) )  
 H. Carl Moultrie Courthouse )  
 500 Indiana Avenue, N.W. )  
 Washington, DC 20001, )  
 )  
 Defendants )

CLASS ACTION

COMPLAINT FOR MONEY DAMAGES AND INJUNCTIVE RELIEF  
AND PRELIMINARY INJUNCTION AND JURY DEMAND

Introduction

1. Plaintiffs bring this class action lawsuit on behalf of themselves and all other women arrestees who 1) were subjected to blanket strip, visual body cavity and/or squat searches while being held in the Superior Court Cell Block of the District of Columbia Superior Court, waiting for presentment before a judge or other judicial officer of the District of Columbia Superior Court on charges brought under a District of Columbia statute that were either a) a non-violent, non-drug related traffic charge, b) a non-violent, non-drug related misdemeanor charge, or c) a non-violent, non-drug related felony charge, or 2) were subjected to blanket strip, visual body cavity and/or squat searches while being held in the Superior Court Cell Block of the

District of Columbia Superior Court, waiting for presentment before a judge or other judicial officer of the District of Columbia Superior Court on charges brought under a District of Columbia statute regardless of the charges against them because similarly situated men are not subjected to such searches.

2. Plaintiffs ask the Court to declare two separate subclasses, as described below.

3. Plaintiffs Dianna Johnson, Rubbiya Muhammad, Carolyn Montgomery, Tonya Cecelia Mack and Laura Lambert (the "Fourth Amendment Named Plaintiffs") are women arrestees arrested under a District of Columbia statute, on a) non-violent, non-drug related traffic charges, b) non-violent, non-drug related misdemeanor charges, or c) non-violent, non-drug related felony charges who were subjected to blanket strip, visual body cavity and/or squat searches without any individualized finding of reasonable suspicion or probable cause that they were concealing drugs, weapons or other contraband, by United States Marshals at the District of Columbia Superior Courthouse, while they were held in the Superior Court Cell Block waiting for presentment before a judge or other judicial officer of the District of Columbia Superior Court.

4. The great majority of the "Fourth Amendment Named Plaintiffs" and the class members were released from custody after presentment directly from the presentment courtroom either

because their cases were no-papered or because they were released on personal recognizance. The Fourth Amendment class does not apply to those who were returned to jail custody because they had bail set that they were unable to post or were detained on the charges on which they were presented or other charges such that they were properly processed into the general jail population for continued detention and were subjected to visual body cavity or squat searches prior to being processed into the general jail population at the DC Jail or the Correctional Treatment Facility.

5. The Fourth Amendment Named Plaintiffs base their claims on the Fourth Amendment of the Constitution, which prohibits subjecting persons arrested on traffic, misdemeanor or felony non drug, non violent offenses to strip and squat searches without an individualized finding of reasonable suspicion or probable cause that the person was concealing drugs, weapons or other contraband.

6. Plaintiffs Dianna Johnson, Rubbiya Muhammad, Carolyn Montgomery, Tonya Cecelia Mack, Laura Lambert, Dianne Wilkes, Vickie Brooks, Keisha Holloway and Donna Curtis (the "Fifth Amendment Named Plaintiffs") are women arrestees arrested on all types of District of Columbia charges, including drug and violent offenses, who were subjected to blanket strip, visual body cavity and/or squat searches, by United States Marshals at the District of Columbia Superior Courthouse, while held in the Superior Court

Cell Block waiting for presentment before a judge or other judicial officer of the District of Columbia Superior Court on a charge brought under a District of Columbia statute. Defendants subject women arrestees to such searches, but do not subject similarly situated men arrestees, including men charged with drug and violent offenses, to them.

7. The great majority of the "Fifth Amendment Named Plaintiffs" and the class members are released from custody after presentment directly from the presentment courtroom either because their cases are no-papered or because they are released on personal recognizance. The Fourth Amendment class does not apply to those who were returned to jail custody because they had bail set that they were unable to post or were detained on the charges on which they were presented or other charges such that they were properly processed into the general jail population for continued detention and were subjected to visual body cavity or squat searches prior to being processed into the general jail population.

8. The Fifth Amendment Named Plaintiffs base their claims on the equal protection component of the due process clause of the Fifth Amendment of the United States Constitution, which prohibits treating similarly situated men and women differently based on their gender.

9. As used herein, "presentment" refers to the initial proceeding before the Court referred to in Rule 5 of the Superior Court Rules of Criminal Procedure.

10. Violent offense means any of the offenses defined as a "crime of violence" in D.C. Code § 23-1331(4) as defined under Title 22 of the D.C. Code, misdemeanor simple assault, D.C. Code § 22-404 and misdemeanor threats, D.C. Code § 22-407.

11. Drug offense means any offense under District of Columbia law that has as an element, the possession, possession with intent to distribute, or the distribution of, any substance referred to in D.C. Code § 48-901.02, or any item defined as drug paraphernalia by D.C. Code § 48-1101(3).

12. Traffic offense means any offense prosecuted by the Corporation Counsel's Office of the District of Columbia.

13. Superior Court Cell Block as used herein includes not only the lock up behind Superior Court Courtroom C-10, but also the lock up behind the courtroom where presentments are held for persons arrested on traffic offenses, if strip, squat and visual body cavity searches are held there.

14. The Fourth Amendment Named Plaintiffs bring this action against the Government of the District of Columbia, Todd Dillard in his individual capacity, and Does 1-10, in their individual capacities, pursuant to Section 1983 of the Civil Rights Act of

1871, 42 U.S.C. § 1983, to enforce their Fourth Amendment Rights. Alternatively, the Fourth Amendment Named Plaintiffs bring this action against Todd Dillard, in his individual capacity, and Does 1-10 in their individual capacities, directly under the Fourth Amendment to the Constitution. The Fourth Amendment Named Plaintiffs bring this action against the United States Marshals Service directly under the Fourth Amendment to the Constitution.

15. The Fifth Amendment Named Plaintiffs bring this action against the Government of the District of Columbia, Todd Dillard in his individual capacity, and Does 11-20, in their individual capacities, pursuant to Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, to enforce their Fifth Amendment Rights. Alternatively, the Fifth Amendment Named Plaintiffs bring this action against Todd Dillard, in his individual capacity, and John Does 11-20, in their individual capacities, directly under the Fifth Amendment to the Constitution. The Fifth Amendment Named Plaintiffs bring this action against the United States Marshals Service directly under the Fifth Amendment to the Constitution.

#### **JURISDICTION AND VENUE**

16. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3) because plaintiffs' claims are based on Section 1983 and the Constitution.

17. Venue is appropriate in this District. The claim for relief arose in this judicial district.



**Fourth Amendment Class Action Allegations**

18. The Fourth Amendment Named Plaintiffs bring this action under Rules 23(a), 23(b) (2), and 23(b) (3) of the Federal Rules of Civil Procedure on behalf of a class consisting of each woman who, in the three years preceding the filing of this action, up until the date this case is terminated, was or will be, (i) while being held in the Superior Court Cell Block; (ii) for presentment under a statute of the District of Columbia; on either (iii)(a) a non drug, non violent traffic offense; (iii)(b) a non drug, non violent misdemeanor; or (iii)(c) a non drug, non violent felony; (iv) was subjected to a blanket strip, visual body cavity search and/or squat search without any individualized finding of reasonable suspicion or probable cause that she was concealing drugs, weapons or other contraband.

19. Certification of a class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because defendants District of Columbia and the United States Marshals Service and the other defendants have a policy and engage in a pattern and practice of conduct that has uniformly affected all members of the class, and injunctive relief against Defendants will benefit each and every plaintiff and class member.

20. The class is entitled to injunctive relief of terminating the above described policy of blanket searches not based on individualized or particularized suspicion or probable cause.

21. Certification of a class under Federal Rule of Civil Procedure 23(b)(3) is also appropriate, in that common questions of law and fact predominate over any individual questions, and a class action is superior for the fair and efficient adjudication of this controversy as detailed below.

22. Regarding the Fourth Amendment Named Plaintiffs, and members of the class, there are no individual questions on the issue of liability, because every woman arrestee held in the Superior Court Cell Block is subjected to the blanket searches, and none of the defendants keeps records of the searches and therefore none of the defendants can show that any of the searches were conducted based on an individual determination of reasonable suspicion. Should records exist demonstrating such individualized suspicion, such people would, by definition, not be members of the class.

23. Among the questions of law and fact common to the class are:

- a. whether Defendant District of Columbia and the United States Marshals Service have a policy, custom and practice of subjecting female arrestees being held in the Superior Court Cell Block pending presentment to blanket strip, visual body cavity searches and/or squat searches without an individualized determination that the woman was in possession of drugs, weapons or other contraband;

- b. whether such policy, if found to exist, violates the Fourth Amendment;
- c. whether the individual defendants were deliberately indifferent to the rights of such women arrestees;
- d. whether plaintiffs and the members of the class have sustained damages and, if so, the proper measure of such damages;
- e. whether plaintiffs and the members of the class and future members are entitled to equitable relief, and, if so, what is the nature of that relief; and
- f. whether determination of damages suffered by a statistically representative sample of the class provides the basis for determination of all class members' damages except those who opt out.

24. The class is so numerous that joinder of all members is impracticable. The exact number of class members is unknown to plaintiffs at this time, but is likely to consist of at least many hundreds of people.

25. Every week at least 10 women meeting the Fourth Amendment class definition are held in the Superior Court Cell Block pending presentment and subject to the illegal searches. Thus this class well exceeds 1000 members.

26. Defendant District of Columbia has within its records the names and addresses of all the current and past class members in the "CIJIIS" computer system (computerized booking program used by District of Columbia Metropolitan Police Department described below).

27. The Fourth Amendment Named Plaintiffs' claims are typical of the claims of the other members of the class, because the Fourth Amendment Named Plaintiffs and all other members of the class were injured by exactly the same means, that is, by the blanket searches.

28. The Fourth Amendment Named Plaintiffs will fairly and adequately protect the interests of the members of the class and have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

29. The Fourth Amendment Named Plaintiffs have no interests that are contrary to or in conflict with those of the class.

30. The Fourth Amendment Named Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action, and the class action is superior to any other available means to resolve the issues raised on behalf of the Fourth Amendment Class. The class action will be manageable because so many different records systems exist from which to ascertain the members of the putative

class. For example, the District of Columbia Metropolitan Police Department maintains "CIJIIS", a computerized booking system that captures the name, address, charge, date of charge, date of presentment and post presentment custody status, for every arrestee, and the District of Columbia Superior Court maintains "CIS", a computer database that captures the name, address, charge, date of charge, date of presentment, docket number and post presentment custody status disposition for every arrestee. Class treatment will be superior because liability can be determined on a class wide basis, and damages can also be determined on a class wide basis through use of statistical sampling.

#### **Fifth Amendment Class Action Allegations**

31. The Fifth Amendment Named Plaintiffs bring this action under Rules 23(a), 23(b) (2), and 23(b) (3) of the Federal Rules of Civil Procedure on behalf of a class consisting of each woman who, in the three years preceding the filing of this action, up until the date this case is terminated, was or will be, (i) while in the Superior Court Cell Block; (ii) being held for presentment subject to a statute of the District of Columbia; (iii) under similar circumstances as men arrestees; (iv) subjected to a blanket strip, visual body cavity and/or squat search.

32. Certification of a class under Federal Rule of Civil Procedure 23(b) (2) is appropriate, because defendants District of

Columbia and the United States Marshals Service and the other defendants have a policy and engage in a pattern and practice of conduct that has uniformly affected all members of the class, and injunctive relief against Defendants will benefit each and every plaintiff and class member.

33. The class is entitled to injunctive relief of terminating the searches.

34. Certification of a class under Federal Rule of Civil Procedure 23(b)(3) is also appropriate, in that common questions of law and fact predominate over any individual questions, and a class action is superior for the fair and efficient adjudication of this controversy as detailed below.

35. Regarding the Fifth Amendment Named Plaintiffs, and members of the class, there are no individual questions on the issue of liability, because every woman arrestee held in the Superior Court Cell Block is subjected to the blanket searches, and none of the defendants keeps records of the searches and therefore none of the defendants can show that any of the searches were conducted based on an individual determination of reasonable suspicion. Should records exist demonstrating such individualized suspicion, such people would, by definition, not be members of the class.

36. Among the questions of law and fact common to the class are:

- a. whether Defendant District of Columbia and the United States Marshals Service have a policy or custom and practice of subjecting female arrestees being held in the Superior Court Cell Block pending presentment to blanket strip, visual body cavity and/or squat searches, but not subjecting men arrestees to such searches;
- b. whether the policy of strip searching women arrestees serves any legitimate penological interest;
- c. whether classification of similarly situated men and women arrestees into classes based on gender bears any relationship to defendants' asserted penological interest;
- d. whether such policy, if found to exist, violates the Fifth Amendment;
- e. whether the individual defendants were deliberately indifferent to the rights of such women arrestees;
- f. whether plaintiffs and the members of the class have sustained damages and, if so, the proper measure of such damages; and
- g. whether plaintiffs and the members of the class and future members are entitled to equitable relief, and, if so, what is the nature of that relief; and

h. whether determination of damages suffered by a statistically representative sample of the class provides the basis for determination of all class members except those who opt out.

37. The class is so numerous that joinder of all members is impracticable. The exact number of class members is unknown to plaintiffs at this time, but is likely to consist of at least several thousands of people.

38. Every week at least seventy-five women meeting the Fifth Amendment class definition are held in the Superior Court Cell Block pending presentment and subject to the illegal searches.

39. The Fifth Amendment Named Plaintiffs' claims are typical of the claims of the other members of the class, because the Fifth Amendment Named Plaintiffs and all other members of the class were injured by exactly the same means, that is, by the blanket searches.

40. The Fifth Amendment Named Plaintiffs will fairly and adequately protect the interests of the members of the class and have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

41. The Fifth Amendment Named Plaintiffs have no interests that are contrary to or in conflict with those of the class.



42. The Fifth Amendment Named Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action, and the class action is superior to any other available means to resolve the issues raised on behalf of the Fifth Amendment Class. The class action will be manageable because so many different records systems exist from which to ascertain the members of the putative class. For example, the District of Columbia Metropolitan Police Department maintains "CIJIIS", a computerized booking system that captures the name, address, charge, date of charge and date of presentment for every arrestee, and the District of Columbia Superior Court maintains "CIS", a computer database that captures the name, address, charge, date of charge, date of presentment, docket number and disposition for every arrestee. Class treatment will be superior because liability can be determined on a class wide basis, and damages can also be determined on a class wide basis through use of statistical sampling.

43. Defendant District of Columbia has within its computerized records described above the names and addresses of all the current and past class members.

#### PARTIES

44. Plaintiff Dianna Johnson is an adult resident of the District of Columbia.

45. Plaintiff Rubbiya Muhammed is an adult resident of the state of Maryland.

46. Plaintiff Carolyn Montgomery is an adult resident of the District of Columbia.

47. Plaintiff Tonya Cecelia Mack is an adult resident of the District of Columbia.

48. Plaintiff Laura Lambert is an adult resident of the state of California.

49. Plaintiff Dianne Wilkes is an adult resident of the Commonwealth of Virginia.

50. Plaintiff Vicki Brooks is an adult resident of the District of Columbia.

51. Plaintiff Keisha Hollaway is an adult resident of the state of Maryland.

52. Plaintiff Donna Curtis is an adult resident of the state of Maryland.

53. Defendant the Government of the District of Columbia (hereinafter the District of Columbia) is a municipal corporation capable of being sued under D.C. Code § 1-102.

54. Defendant United States Marshals Service is an agency of the federal government located in Washington, DC, and is jointly

responsible with Defendant District of Columbia for planning and implementing the visual body cavity and squat searches of women arrestees described below in this Complaint. In the context of the facts of this complaint, it operates as an agent of the District of Columbia, as is more fully explained below.

55. Defendant Todd Dillard is the United States Marshal for the Superior Court of the District of Columbia. Marshall Dillard is sued in his individual capacity.

56. Does 1-10 are Deputy United States Marshals who developed and implemented the current policy complained of by members of the Fourth Amendment Class defined above. Does 1-10 are sued in their individual capacity.

57. Does 11-20 are Deputy United States Marshals who developed and implemented the current policy complained of by members of the Fifth Amendment Class defined above. Does 11-20 are sued in their individual capacity.

#### FACTUAL ALLEGATIONS

58. Every person who is arrested in the District of Columbia pursuant to a statute or warrant of the District of Columbia and who is taken to the District of Columbia Superior Court for presentment before a judge or other judicial officer of the District of Columbia is held in a designated area of the Superior

Court Courthouse called the Superior Court Cell Block pending presentment.

59. Every person held in the Superior Court Cell Block pending presentment who has been arrested either on a District of Columbia warrant or on suspicion of violation of a District of Columbia statute is held in the joint custody of the United States Marshal for the Superior Court of the District of Columbia (Todd Dillard) and the Government of the District of Columbia.

60. The Superior Court of the District of Columbia is an agency of the Government of the District of Columbia.

61. Defendant Todd Dillard as the United States Marshal for the Superior Court of the District of Columbia derives his authority over women arrestees in the Superior Court Cell Block pursuant to statutes of the District of Columbia, including D.C. Code §§ 13-302, 16-703, 23-501, 23-561, 23-563 and 23-581 and cooperative agreements entered into between the United States Marshals Service and the Government of the District of Columbia pursuant to D.C. Code § 5-133.17.

62. Defendant District of Columbia pays every year for some or all of the costs of operation, maintenance and repair of space used by the United States Marshals Service at the District of Columbia Superior Court Courthouse.

63. Defendant District of Columbia pays every year for some or all of the costs incurred by the United States Marshals Service in performing their duties at the District of Columbia Superior Court Courthouse.

64. The United States Marshal for the Superior Court and his deputies act as the agents of the Defendant District of Columbia pursuant to District of Columbia statutes, policies and/or practices while holding arrestees in the Superior Court Cell Block.

65. The arrestees in the Superior Court Cell Block have been subjected to pat down searches by the transporting police officers before being transported to the Superior Court Cell Block.

66. Any person who is transported to the Superior Court Cell Block from any of the seven District of Columbia Metropolitan Police Department patrol districts or the District of Columbia Metropolitan Police Department's Central Cell Block has been subjected to a thorough pat down at the patrol station or the District of Columbia Metropolitan Police Department Central Cell Block before being transported to Superior Court Cell Block.

67. The only persons housed in the Superior Court Cell Block are arrestees brought to the Superior Court Courthouse for presentment to a judicial officer of the District of Columbia on a charge of violating a District of Columbia statute.

68. The great majority of women arrestees are released directly from the Superior Court Courthouse after presentment either because their cases are no-papered or they are released on personal recognizance. The Fourth and Fifth Amendment classes do not encompass those who were returned to jail custody because they had bail set that they were unable to post or were detained on the charges on which they were presented or other charges such that they were properly processed into the general jail population for continued detention and were subjected to visual body cavity or squat searches prior to being processed into the general jail population.

69. Many women arrestees arrested on felony charges have their charges "papered down" to a misdemeanor before presentment.

70. Women and men arrestees who are denied bail and held pending trial are transported in vans and buses from the Superior Court Courthouse to the DC Jail.

71. Other prisoners at the Superior Court Courthouse are not intermingled with the arrestees prior to the search.

72. Men arrestees and women arrestees brought to the Superior Court Courthouse are segregated by sex, and the men and women are held separately in separate areas in the Superior Court Cell Block.

73. The United States Marshal for the Superior Court, and his deputies, follow a policy and custom of subjecting, upon their admission to the Superior Court Cell Block, all women arrestees to blanket strip, visual body cavity and/or squat searches without a particularized finding of reasonable suspicion that the woman arrestee is in possession of weapons, drugs or other contraband.

74. Agents of the Marshals Service actually physically conduct the visual body cavity and squat searches of the women arrestees in the Superior Court Cell Block.

75. Agents of the District of Columbia, including the United States Marshal for the Superior Court and his deputies, do not subject men arrestees in the Superior Court Cell Block awaiting presentment to blanket strip, visual body cavity and/or squat searches.

76. The search procedure conducted on the women arrestees in the Superior Court Cell Block is as follows:

77. When women arrestees are transported to the Superior Court Cell Block, a female United States Marshals conducts full body pat down searches on them from head to toe.

78. A female Marshal then makes the women arrestees take off their shoes and shake them out.

79. A female Marshal then directs the arrestees to pull up her skirt or to lower her pants and to pull down any undergarments.

80. A female Marshal then makes the arrestees squat and turn around and display their buttocks and their genitals to the female Marshal.

81. The searches are conducted in front of all the women arrestees already in the Superior Court Cell Block.

82. The searches are public, humiliating, and degrading and cause emotional and psychic injury to the women arrestees.

83. The practice of the searches is not supported by a documented history of contraband smuggling at the Superior Court Cell Block.

84. Other less invasive means of searching the women arrestees exist, such as thorough pat downs, electronic screeners and hand held "wands" or scanners, or drug detection canines.

85. After the Marshals conduct the strip, squat and visual body cavity searches on the women arrestees, the Marshals put the women in the Superior Court Cell Block and allow them to have unsupervised visits with attorneys.

86. The attorneys and the women arrestees are separated only by grills that have 4 inch by 12 inch slots in the grill work for items and paperwork to be passed through.



87. United States Marshals Service employees including Does 1-10 and Does 11-20 participated in making and implementing the policy of subjecting women arrestees to the above-described searches.

88. Defendant District of Columbia employees participated in making and implementing the policy of subjecting women arrestees to the above-described searches and acquiesce in and facilitate the practice.

89. The Government of the District of Columbia knows that women arrestees will be subjected to blanket searches in the Superior Court Cell Block and the Government of the District of Columbia acquiesces in the searches.

90. The Government of the District of Columbia has never protested the searches.

91. The District of Columbia delegated its duties to the United States Marshals Service but failed to train the Marshals in strip search polices even though the need for training was obvious.

92. The constitutional violations that resulted are foreseeable because of the District's failure to train.

93. Every person who has been arrested either on a District of Columbia warrant or on suspicion of violation of a District of Columbia statute was arrested by a person acting under color of District of Columbia law and engaging in state action. D.C. Code § 23-561; D.C. Code § 23-581.

94. Every person held in the Superior Court Cell Block pending presentment who has been arrested either on a District of Columbia warrant or on suspicion of violation of a District of Columbia statute is held by a person acting under color of District of Columbia law and engaging in state action.

95. Defendant Todd Dillard, as the United States Marshal for the Superior Court of the District of Columbia, derives his authority over women arrestees in the Superior Court Cell Block pursuant to statutes of the District of Columbia, including D.C. Code §§ 13-302, 16-703, 23-501, 23-561, 23-563 and 23-581 and cooperative agreements entered into between the United States Marshals Service and the government of the District of Columbia pursuant to D.C. Code § 5-133.17.

96. At all times described herein Defendant Todd Dillard and Does 1-10 and Does 11-20 were acting under color of District of Columbia law and they were acting pursuant to the policy, custom and practice of Defendant District of Columbia.

NAMED PLAINTIFFS ARRESTED ON TRAFFIC OFFENSES

97. Plaintiff Dianna Johnson was arrested on a charge of driving on a revoked license under D.C. Code § 50-1403.01 by officers of the District of Columbia Metropolitan Police Department.

98. Plaintiff Dianna Johnson was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on January 29, 2002.

99. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Dianna Johnson was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

100. Plaintiff Dianna Johnson was released on personal recognizance directly from the courtroom after presentment on January 29, 2002.

101. Plaintiff Rubbiya Muhammed was arrested on a bench warrant in connection with a DWI (driving while under the influence of alcohol) case under D.C. Code § 50-2205.02 by officers of the District of Columbia Metropolitan Police Department.

102. Plaintiff Rubbiya Muhammed was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

103. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Rubbiya Muhammed was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

104. Plaintiff Rubbiya Muhammed was released on personal recognizance directly from the courtroom after presentment on October 5, 2002.

NAMED PLAINTIFFS ARRESTED ON MISDEMEANOR SOLICITATION OF  
PROSTITUTION

105. Plaintiff Carolynn Montgomery was arrested and detained on a charge of solicitation of prostitution under D.C. Code § 22-2701 by officers of the District of Columbia Metropolitan Police Department.

106. Plaintiff Carolynn Montgomery was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

107. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Carolynn Montgomery was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

108. Plaintiff Carolynn Montgomery was released on personal recognizance directly from the courtroom after presentment on October 5, 2002.

NAMED PLAINTIFFS ARRESTED ON MISDEMEANOR CONTEMPT OF COURT

109. Plaintiff Tonya Mack was arrested on a warrant for contempt of court for violations of conditions of release in a solicitation of prostitution case under the D.C. Code by officers of the District of Columbia Metropolitan Police Department.

110. Plaintiff Tonya Mack was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 4, 2002.

111. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Tonya Mack was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

112. Plaintiff Tonya Mack was released on personal recognizance directly from the courtroom after presentment on October 4, 2002.

NAMED PLAINTIFFS ARRESTED ON FIRST DEGREE THEFT

113. Plaintiff Laura Lambert was arrested by officers of the District of Columbia Metropolitan Police Department on a charge of theft of more than \$250.00 (shoplifting at Neiman Marcus) under D.C. Code § 22-3211.

114. Plaintiff Laura Lambert was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

115. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Laura Lambert was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

116. Plaintiff Laura Lambert's case was "papered down" from felony theft to misdemeanor theft before presentment and she was presented on a charge of misdemeanor theft.

117. Plaintiff Laura Lambert was released on personal recognizance directly from the courtroom after presentment on October 5, 2002.

NAMED PLAINTIFF ARRESTED ON MISDEMEANOR SIMPLE ASSAULT

118. Plaintiff Diane Wilkes was arrested and detained on a charge of misdemeanor simple assault under D.C. Code § 22-404 by officers of the District of Columbia Metropolitan Police Department.

119. Plaintiff Diane Wilkes was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on September 25, 2002.

120. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Diane Wilkes was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

121. Plaintiff Diane Wilkes was released on personal recognizance directly from the courtroom after presentment September 25, 2002.

NAMED PLAINTIFFS ARRESTED ON FELONY THREATS

122. Plaintiff Vickie Brooks was arrested on a charge of felony threats under D.C. Code § 22-1810 by a member of the District of Columbia Metropolitan Police Department.

123. Plaintiff Vickie Brooks was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on September 25, 2002.

124. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Vickie Brooks was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

125. Plaintiff Vickie Brooks was released on personal recognizance directly from the courtroom after presentment September 25, 2002.

NAMED PLAINTIFFS ARRESTED ON AGGRAVATED ASSAULT

126. Plaintiff Keisha Holloway was arrested on a charge of aggravated assault under D.C. Code § 22-404.01 by a member of the District of Columbia Metropolitan Police Department.

127. Plaintiff Keisha Holloway was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

128. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Keisha Holloway was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

129. Plaintiff Keisha Holloway was released on personal recognizance directly from the courtroom after presentment October 5, 2002.

NAMED PLAINTIFFS ARRESTED ON MISDEMEANOR POSSESSION OF  
PARAPHERNALIA

130. Plaintiff Donna Curtis was arrested on a charge of possession of paraphernalia under D.C. Code § 48-1103 by a member of the District of Columbia Metropolitan Police Department.

131. Plaintiff Donna Curtis was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on September 25, 2002.

132. While being held in the Superior Court Cell Block awaiting presentment, Plaintiff Donna Curtis was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.



133. Plaintiff Donna Curtis was released on personal recognizance directly from the courtroom after presentment September 25, 2002.

**SUBSTANTIVE ALLEGATIONS**

**CLAIMS OF FOURTH AMENDMENT NAMED PLAINTIFFS**

Count 1

Violation of Fourth Amendment Rights of Fourth Amendment  
Plaintiffs under § 1983

134. The Fourth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Complaint.

135. While being held for presentment in the Superior Court Cell Block each of the Fourth Amendment Named Plaintiffs and every other class member were subjected to a strip, visual body cavity search and/or squat search without an individual determination that the search would reveal weapons, drugs or other contraband.

136. Subjecting an arrestee arrested on a non drug, non violent offense to a strip, visual body cavity search and/or squat search without an individual determination that the search would reveal weapons, drugs or other contraband violates her Fourth Amendment Rights.

137. The Defendants knew that the Fourth Amendment Named Plaintiffs and other class members would be subject to the searches in the Superior Court Cell Block and acquiesced in the searches.

138. Defendants' actions, and failure to act, as described above, directly and proximately and affirmatively were the moving force behind the violations of the Fourth Amendment Named Plaintiffs and the class members' Fourth Amendment Rights.

139. Defendant District of Columbia and the United States Marshals Service's policy, custom and practice described above were the moving force behind the deprivations to the Fourth Amendment Named Plaintiffs' and other class members' Fourth Amendment Rights and the Fourth Amendment Named Plaintiffs and the other class members' injuries as described above.

140. Defendants caused the unreasonable strip, visual body cavity search and/or squat searches of the Fourth Amendment Named Plaintiffs and all other class members by deliberate indifference to the risk of constitutional injury by maintaining and/or acquiescing in a policy and practice and custom of strip searching women arrestees.

141. At all relevant times District of Columbia and United States Marshal Service employees were acting within the scope of their employment, their acts were motivated by a desire to further the interests of the District of Columbia and the United States

Marshals Service, and such employees were acting in furtherance of the business of the District of Columbia and the United States Marshals Service.

142. Defendant District of Columbia and Defendant Todd Dillard and Does 1-10 are therefore liable under 42 U.S.C. § 1983 for constitutional injuries to the Fourth Amendment Named Plaintiffs and all other class members caused by their conduct.

Count 2

Direct Liability of the United States Marshals Service and Todd Dillard (the United States Marshal for the Superior Court) and the United States Marshal Service employees Does 1-10 for Violation of Fourth Amendment Rights of Fourth Amendment Plaintiffs for Illegal Searches

143. The Fourth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Complaint.

144. Each of the Fourth Amendment Named Plaintiffs was arrested by officers of the District of Columbia Metropolitan Police Department under the authority of a District of Columbia statute and held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block and was actually presented before a District of Columbia

-Superior Court Judge or other judicial officer in a courtroom in the District of Columbia Superior Court.

145. At all times that each of the Fourth Amendment Named Plaintiffs and every other class member was in the Superior Court Cell Block, she was in the joint custody of one or more agents of the Government of the United States and the United States Marshals Service and the District of Columbia.

146. While in the Superior Court Cell Block, each of the Fourth Amendment Named Plaintiffs and every other class member was subjected to a strip, visual body cavity search and/or squat search by an agent of the United States Marshals Service without an individual determination that the search would reveal weapons, drugs or other contraband.

147. Defendant United States Marshals Service and Defendant Todd Dillard and Does 1-10 violated the Fourth Amendment rights of the Fourth Amendment Named Plaintiffs by establishing and implementing the search policies described above.

148. The United States Marshals Service and Defendant Todd Dillard and Does 1-10 are therefore directly liable under the Fourth Amendment for constitutional injuries to the Fourth Amendment Named Plaintiffs and all other class members caused by their conduct.

**CLAIMS OF FIFTH AMENDMENT NAMED PLAINTIFFS**

Count 3

Liability of Defendants for Violation of Fifth Amendment Rights  
of Fifth Amendment Plaintiffs for Illegal Searches under § 1983

149. The Fifth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Complaint.

150. While in the Superior Court Cell Block each of the Fifth Amendment Named Plaintiffs and every other class member were subjected to a visual body cavity search and squat search.

151. While in the Superior Court Cell Block each of the Fifth Amendment Named Plaintiffs and every other class member, was similarly situated to every male arrestee.

152. The visual body cavity and squat searches of the women arrestees do not serve any legitimate penological interest.

153. The classification of arrestees into classes based on gender bears no relationship to defendants' asserted penological interest.

154. Defendants knew that the Fifth Amendment Named Plaintiffs and other class members would be subject to the above-described searches in the Superior Court Cell Block and acquiesced in the searches.

155. Defendants' actions, and failure to act, as described above, directly and proximately and affirmatively were the moving force behind the violations of the Fifth Amendment Named Plaintiffs and the class members' Fifth Amendment Rights.

156. Defendant District of Columbia and the United States Marshals Service's policy, custom and practice described above were the moving force behind the deprivations to the Fifth Amendment Named Plaintiffs' and other class members' Fifth Amendment Rights.

157. Defendants' actions, and failure to act, as described above, directly and proximately caused, and was the moving force behind the Fifth Amendment Named Plaintiffs and the other class members' injuries as described above.

158. District of Columbia and United States Marshal Service employees caused the unreasonable strip, visual body cavity search and/or squat searches of the Fifth Amendment Named Plaintiffs and all other class members by deliberate indifference to the risk of constitutional injury by maintaining and/or acquiescing in a policy and practice of strip searching women arrestees.

159. At all relevant times such District of Columbia and United States Marshal Service employees were acting within the scope of their employment, their acts were motivated by a desire to further the interests of the District of Columbia and the United

States Marshals Service, and such employees were acting in furtherance of the business of the District of Columbia and the United States Marshals Service.

160. Defendant District of Columbia and Defendant Todd Dillard and Does 11-20 are therefore liable under 42 U.S.C. § 1983 for constitutional injuries to the Fifth Amendment Named Plaintiffs and all other class members caused by them.

Count 4

Direct Liability of the United States Marshals Service and Todd Dillard and Does 11-20 for Violation of Fifth Amendment Rights of Fifth Amendment Named Plaintiffs

161. The Fifth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs of this Complaint.

162. The visual body cavity and squat searches of the women arrestees do not serve any legitimate penological interest.

163. The classification of arrestees into classes based on gender bears no relationship to defendants' asserted penological interest.

164. Defendant United States Marshals Service and Defendant Todd Dillard and Does 11-20 violated the Fifth Amendment rights of the

Fifth Amendment Named Plaintiffs by establishing and implementing the search policies described above.

165. The United States Marshals Service and Defendant Todd Dillard and Does 11-20 are therefore directly liable under the Fifth Amendment for constitutional injuries to the Fifth Amendment Named Plaintiffs and all other class members caused by their conduct.

IRREPARABLE INJURY AND INJUNCTIVE RELIEF

166. Defendants are unreasonably subjecting members of the subclasses to strip, visual body cavity and/or squat searches, which irreparably harms them, even if they are later able to recover compensatory damages.

167. Defendants' performing illegal searches of the Named Plaintiffs and the class members has irreparably harmed, and will continue to irreparably harm, members of the proposed plaintiff classes, thus making declaratory and injunctive relief necessary.

PRAYER FOR RELIEF

WHEREFORE, the Fourth Amendment Named Plaintiffs respectfully request that this Court grant the following relief:

- 1) grant a jury trial on all claims so triable;
- 2) declare that this action may be maintained as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3)

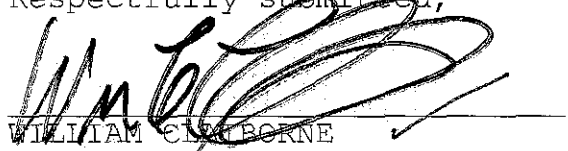


and certify the Fourth Amendment Named Plaintiffs as the proper representative of the class consisting of each woman who, in the three years preceding the filing of this action, up until the date this case is terminated, was or will be, (i) while being held in the Superior Court Cell Block; (ii) for presentment under a statute of the District of Columbia; on either (iii)(a) a non drug, non violent traffic offense; (iii)(b) a non drug, non violent misdemeanor; or (iii)(c) a non drug, non violent felony; (iv) was subjected to a blanket strip, visual body cavity search and/or squat search without any individualized finding of reasonable suspicion or probable cause that she was concealing drugs, weapons or other contraband;

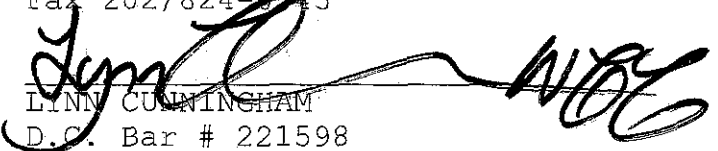
3) declare that this action may be maintained as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3) and certify the Fifth Amendment Named Plaintiffs as the proper representative of the class consisting of each woman who, in the three years preceding the filing of this action, up until the date this case is terminated, was or will be, (i) while in the Superior Court Cell Block; (ii) being held for presentment subject to a statute of the District of Columbia; (iii) under similar circumstances as men arrestees; (iv) subjected to a strip, visual body cavity search and/or squat search.

- 4) declare that defendants' acts alleged above violate the Fourth and Fifth Amendments to the Constitution by illegally strip searching plaintiffs as alleged herein;
- 5) preliminarily and permanently enjoin defendants from pursuing the course of conduct complained of herein;
- 6) award all plaintiffs compensatory and consequential damages in an amount to be determined;
- 7) award plaintiffs attorneys' fees and costs incurred in bringing this action under 42 U.S.C. § 1988 and any other applicable statute;
- 8) grant such other relief as this Court deems just and proper.

Respectfully submitted,



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