



150 Peyton Place 107 )  
East Atlanta 30331 )  
 )  
and )  
 )  
Anthony Westbrook )  
2494 Baker Ave )  
Atlanta 30318 )  
 )  
and )  
 )  
Benjamin Blake )  
413 St Cir Dr )  
Conyers, Georgia )  
 )  
and )  
 )  
Harry Witherspoon )  
2032 Campfire Dr )  
Riverdale, Georgia )  
 )  
and )  
 )  
Antionne Wolf )  
415 Fairburn Rd Apt 1001 )  
Atlanta 30311 )  
 )  
and )  
 )  
Kristopher Alan Matkin )  
3825 LaVista Rd apt 4 )  
Tucker, GA 30084 )  
 )  
Individually, and on behalf of all others )  
similarly situated )  
 )  
Plaintiffs, )  
 )  
v. )

Jacqueline Barrett  
Former Sheriff, Fulton County,  
State Of Georgia  
Individually

and

Myron Freeman  
Sheriff, Fulton County,  
State Of Georgia  
Individually and in his  
Official Capacity

and

Fulton County  
State of Georgia  
141 Pryor Street, SW  
Atlanta GA, 30303

and

Karen Handel  
Chairperson,  
Fulton County Board of  
Commissioners  
141 Pryor Street, SW, Suite 10044  
Atlanta GA, 30303

and

Robb Pitts  
Member,  
Fulton County Board of  
Commissioners  
141 Pryor Street, SW, Suite 10044  
Atlanta GA, 30303

and

Tom Lowe )  
Member, )  
Fulton County Board of )  
Commissioners )  
141 Pryor Street, SW, Suite 10044 )  
Atlanta GA, 30303 )

and )

Emma I. Darnell )  
Member, )  
Fulton County Board of )  
Commissioners )  
141 Pryor Street, SW, Suite 10044 )  
Atlanta GA, 30303 )

and )

Nancy A. Boxill )  
Member, )  
Fulton County Board of )  
Commissioners )  
141 Pryor Street, SW, Suite 10044 )  
Atlanta GA, 30303 )

and )

William "Bill" Edwards )  
Member, )  
Fulton County Board of )  
Commissioners )  
141 Pryor Street, SW, Suite 10044 )  
Atlanta GA, 30303 )

and )

City Of Atlanta, )  
State Of Georgia )

Defendants )

## Introduction

1. This is an action brought by C. Alan Powell, David Evans, Stanley Clemons, Allan Middleton, Anthony Westbrook, Benjamin Blake, Harry Witherspoon, and Antionne Wolf (the "Arrestee Strip Search Named Plaintiffs") on their own behalf individually, and on behalf of a class of individuals ("Arrestee Strip Search") who were injured by Defendants' conduct in causing them to be subjected to blanket strip searches upon their arrest and commitment to the Fulton County Jail. The term "blanket strip search" is more fully discussed later.

2. This is also an action brought by C. Alan Powell and Kristopher Alan Matkin (the "Alpha-Strip Search Named Plaintiffs") on their own behalf individually, and on behalf of a class of individuals ("Alpha Strip Search Class") who were injured by Defendants' conduct in causing them to be subjected to blanket booking strip searches upon their arrest and commitment to the Fulton County Jail. The term "blanket strip search" is more fully discussed later.

3. This is also an action brought by David Evans, Benjamin Blake, and Antionne Wolf (the "Court Return Strip Search Named Plaintiffs") on their own behalf and on behalf of a class of individuals ("Court Return Strip Search Class") who were injured by Defendants' conduct in subjecting them (or causing them to be subjected to) to blanket strip searches (described below) after they were returned from Superior Court or State Court to the Fulton County Jail after a judge

ordered their release, and after there was no longer a basis for their detention. They were further injured by Jacqueline Barrett's and the other defendants' deliberate indifference to the practice of strip searches; her failure to train, supervise and/or discipline her staff, and by her failure to promulgate and enforce policies.

4. This is also an action brought by each of C. Alan Powell, Tory Dunlap, Lee Antonio Smith, David Evans, Stanley Clemons, Allan Middleton, Anthony Westbrook, Benjamin Blake, Harry Witherspoon, Antionne Wolf and Kristopher Alan Matkin (the "Overdetention Named Plaintiffs") on his or her own behalf and on behalf of the class defined below who were injured, or who are being injured, or who will be injured in the future by defendants' pattern and practice of overdetaining inmates.

5. "Blanket strip search" means a strip search conducted without any determination of whether a basis to conduct the search exists.

6. "Overdetain" means holding an inmate in Fulton County Jail custody past the inmate's "Release Date".

7. "Premature Release" means releasing an inmate from Fulton County Jail custody before the inmate's "Release Date".

8. “Release Date” for each inmate is the day on which the person is entitled to be released by court order, or the date on which the basis for his or her detention has otherwise expired, for example by posting bond, or by being detained pretrial on a charge without judgment past the maximum period of any sentence on that charge.

9. “Exit Date” for each inmate means the date on which he or she was actually released from the custody of the Fulton County Jail.

10. Court return as used herein means an in custody defendant taken from the Fulton County Jail to one of the courthouses for a hearing, and returned to the Fulton County Jail.

11. The Arrestee Strip Search Named Plaintiffs bring this action against Defendants under Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. §1983, to enforce their rights under the Fourth and Fourteenth Amendments for injuries suffered by them and other members of the class at the Fulton County Jail. The Arrestee Strip Search Named Plaintiffs also base their claims against Defendant Jacklyn Barrett and Myron Freeman on the Constitution of the State of Georgia and the common law of the State of Georgia.

12. The Alpha Strip Search Named Plaintiffs bring this action against Defendants under Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. §1983, to enforce their rights under the Fourth and Fourteenth Amendments for injuries

suffered by them and other members of the class at the Fulton County Jail. The Alpha Strip Search Named Plaintiffs also base their claims against Defendant Jacklyn Barrett and Myron Freeman on the Constitution of the State of Georgia and the common law of the State of Georgia.

13. The Overdetention Named Plaintiffs bring this action against Defendants under Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. §1983, to enforce their rights under the Fourth, Eighth, and Fourteenth Amendments, for injuries suffered by them and other members of the class at the Fulton County Jail. The Overdetention Named Plaintiffs also base their claims against Defendant Jacklyn Barrett and Myron Freeman on the Constitution of the State of Georgia and the common law of the State of Georgia.

14. The Court Return Strip Search Named Plaintiffs brings this action against Defendant Jacqueline Barrett under Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. §1983, to enforce their Fourth and Fourteenth Amendments, for injuries suffered by them and the class. The Court Return Strip Search Named Plaintiffs also bases their claims against Defendant Jacklyn Barrett and Myron Freeman on the Constitution of the State of Georgia and the common law of the State of Georgia.



## **Jurisdiction and Venue**

15. This Court has jurisdiction over the plaintiffs' federal claims pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343(a)(3). This Court has supplemental jurisdiction over their state law claims against Defendant Jaquelyn Barrett under 28 U.S.C. §1367.

16. Venue is appropriate in this District and this division. Each of the claims for relief arose in this judicial district, and in this division.

### **Parties-Plaintiffs**

17. Plaintiff C. Alan Powell is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.
18. Plaintiff C. Alan Powell was arrested on March 20, 2004 on a charge of disorderly conduct and not paying a bar tab.
19. Plaintiff C. Alan Powell was committed to the Fulton County Jail on March 22, 2004.
20. Plaintiff C. Alan Powell's Release Date was March 21, 2004.
21. Plaintiff C. Alan Powell's Exit Date was March 23, 2004.
22. On 5/20/04 Plaintiff C. Alan Powell was re-arrested and re-committed to the Fulton County Jail a second time because the person who had posted his bond went off the bond.
23. Plaintiff C. Alan Powell's Release Date was 6/26/04.
24. Plaintiff C. Alan Powell's Exit Date was 5/27/04.
25. Plaintiff Tory Dunlap is an adult who was overdetailed in the Fulton County Jail.
26. Tory Dunlap was arrested by the Atlanta Police Department on February 9, 2003 on a charge of armed robbery.
27. Plaintiff Tory Dunlap was committed to the Fulton County Jail on February 9, 2003.

28. Plaintiff Tory Dunlap's Release Date was March 31, 2003.
29. Plaintiff Tory Dunlap's Exit Date was April 3, 2003.
30. Plaintiff Lee Antonio Smith is an adult who was overdetailed in the Fulton County Jail.
31. Plaintiff Lee Antonio Smith was arrested by the Atlanta Police Department on 12/20/04 on a charge of possession of cocaine with the intent to distribute.
32. Plaintiff Lee Antonio Smith was committed to the Fulton County Jail on 12/20/04.
33. Plaintiff Lee Antonio Smith's Release Date was 12/22/04.
34. Plaintiff Lee Antonio Smith's Exit Date was 12/25/04.
35. Plaintiff David Evans is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.
36. Plaintiff David Evans was arrested by the East Point Police on 8/9/03 on a charge of disorderly.
37. On 8/21/03 Plaintiff David Evans was transferred to the Fulton County Jail on a warrant for possession of a weapon.
38. A judge of the Superior Court ordered Plaintiff David Evans released on 8/21/03.
39. Instead of being released from the courthouse, Plaintiff David Evans was taken back to the Fulton County Jail and subjected to an illegal strip search even

though a judge had ordered his release, and there were no other charges, detainers, warrants or holds or other basis to detain him.

40. Plaintiff David Evans' Release Date was 12/1/03.

41. Plaintiff David Evans's Exit Date was 12/14/03.

42. Plaintiff Stanley Clemons is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.

43. Plaintiff Stanley Clemons was arrested on 8/2/03 by the Atlanta Police Department on a charge of burglary.

44. Plaintiff Stanley Clemons was committed to the Fulton County Jail on 8/2/03.

45. Plaintiff Stanley Clemons's Release Date was 7/19/03.

46. Plaintiff Stanley Clemons was ordered released by a judge of the Superior Court on July 19, 2004 when he was sentenced to time served.

47. Plaintiff Stanley Clemons tried to obtain a grievance form from four separate guards so he could file a grievance about his overdetention beginning on July 20, 2004, but none of the guards ever gave him one. The Fulton County Jail has no administrative remedies procedure for grieving complaints in general or the strip searches and overdetentions.

48. Plaintiff Stanley Clemons requested a grievance form from Sgt Jones, a floor sergeant on Zone 5 North on July 20, 2004. Initially Sgt Jones advised Plaintiff Stanley Clemons that the Fulton County Jail did not have grievance forms.

49. Plaintiff Stanley Clemons tried to obtain a grievance form later in the evening of July 20, 2004 from Deputy Williams.

50. On July 21, 2004 Plaintiff Stanley Clemons requested a grievance form from Deputy Ingram, and also requested a grievance form from Sergeant Fujobi.

51. None of the four guards gave Plaintiff Stanley Clemons a grievance form.

52. On July 20, 2004 Plaintiff Stanley Clemons obtained a grievance form from his civil attorney Charles Pekor, and on July 21, 2004 Plaintiff Stanley Clemons obtained a grievance form from another inmates.

53. On July 21, 2004 Plaintiff Stanley Clemons submitted the two grievance forms as instructed grieving his strip search and his overdetention to two separate guards, one form to Deputy Dunn, and one to Sergeant Jones.

54. On July 21, 2004 Plaintiff Stanley Clemons submitted the two grievance forms before his release. Plaintiff Stanley Clemons exhausted his administrative remedies available to him because he filed grievances and to this day has not received a response to his grievances. Any grievance system the Fulton County Jail has is a system in name only and there is no administrative remedies system available to inmates.

55. Plaintiff Stanley Clemons's Exit Date was 7/23/04.
56. Plaintiff Allen Middleton is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.
57. Plaintiff Allen Middleton was arrested by the Fulton County Marshals on 3/8/04 on a warrant for an unpaid \$27 traffic ticket from Richmond County.
58. Plaintiff Allen Middleton was committed to the Fulton County Jail on 3/8/04.
59. Plaintiff Allen Middleton's Release Date was 3/8/04.
60. Plaintiff Allen Middleton's Exit Date was 3/11/04.
61. Plaintiff Anthony Westbrook is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.
62. Plaintiff Anthony Westbrook was arrested by the Fulton County Marshals on 3/24/04 on a charge of simple battery, child abandonment (non-support) and a probation warrant for forgery.
63. Plaintiff Anthony Westbrook was committed to the Fulton County Jail on 3/24/04.
64. Plaintiff Anthony Westbrook's Release Date was 4/2/04.
65. Plaintiff Anthony Westbrook's Exit Date was 4/6/04.
66. Plaintiff Benjamin Blake is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.

67. Plaintiff Benjamin Blake was arrested by the Fulton County Police on charges of battery, trespass, and obstruction on 4/26/04.
68. Plaintiff Benjamin Blake was committed to the Fulton County Jail on 4/26/04.
69. Plaintiff Benjamin Blake's Release Date was 5/13/04.
70. Plaintiff Benjamin Blake's Exit Date was 5/15/04.
71. Plaintiff Harry Witherspoon is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.
72. Plaintiff Harry Witherspoon was arrested by the Fulton County Police on 2/11/04 on a charge of DUI (driving under the influence).
73. Plaintiff Harry Witherspoon was committed to the Fulton County Jail on 2/11/04.
74. Plaintiff Harry Witherspoon's Release Date was 3/10/04.
75. Plaintiff Harry Witherspoon's Exit Date was 3/17/04.
76. Plaintiff Antionne Wolf was arrested by the Fulton County Sheriff on 2/24/04 on a charge of contempt/non-payment of child support is an adult who was overdetailed in the Fulton County Jail and subjected to illegal strip searches.
77. Plaintiff Antionne Wolf was committed to the Fulton County Jail on 2/24/04 and subjected to a booking strip search on the same day.
78. Plaintiff Antionne Wolf' Release Date was 4/20/04.

79. Plaintiff Antionne Wolf's Exit Date was 4/21/04.
80. Plaintiff Antionne Wolf was transported to Superior Court for a hearing on 4/20/04.
81. A judge of the Superior Court ordered Plaintiff Antionne Wolf released on 4/20/04.
82. Instead of being released from the courthouse, Plaintiff Antionne Wolf was taken back to the Fulton County Jail and subjected to an illegal strip search even though a judge had ordered her release, and there were no other charges, detainers, warrants or holds or other basis to detain her.
83. Plaintiff Kristopher Alan Matkin was arrested on 3/18/04 by the Atlanta Police Department on a charge of aggravated assault and committed to the Fulton County Jail on the same day.
84. Plaintiff Kristopher Alan Matkin appeared before a judicial officer in the Fulton County Jail on 3/19/04 and the judicial officer dismissed the charges and ordered him released.
85. Plaintiff Kristopher Alan Matkin had no other cases, detainers, warrants or holds preventing his release.
86. But, instead of being released, Plaintiff Kristopher Alan Matkin was booked into the jail, "dressed out" and strip searched, and held several days before being released.



87. Plaintiff Kristopher Alan Matkins' Release Date was 3/19/04.

88. Plaintiff Kristopher Alan Matkins' Exit Date was 3/23/04.

89. The following chart shows the name, arresting jurisdiction, and arrest charge of each named plaintiff, and which class or classes each named plaintiff belongs to:

Name	Arresting jurisdiction	charge	Arrestee Strip Search Class	Alpha Arrestee Strip Search Class	Court Return Strip Search Class	Overdetention Class
Powell 1	Sheriff	Disorderly/theft	Yes	Yes	No	Yes
Powell 2	Sheriff	Bail revocation	Yes	No	No	Yes
Tory Dunlap	Atlanta Police Department	Armed robbery	No	No	No	yes
Lee Antonio Smith	Atlanta Police Department	PWID cocaine	No	No	No	Yes
David Evans	East Point	Weapons warrant	Yes	No	Yes	Yes
Stanley Clemons	Atlanta Police	Burglary warrant	Yes	No	No	yes

	Department					
Allen Middleton	Fulton County Marshals	Traffic ticket warrant	Yes	no	No	yes
Anthony Westbrook	Fulton County Marshals	Simple battery obstruction	Yes	No	No	yes
Benjamin Blake	Fulton County Police	battery, trespass, and obstruction	Yes	No	Yes	yes
Harry Witherspoon	Fulton County Police	DUI	Yes	No	No	yes
Antionne Wolf	Sheriff	contempt/non-payment of child support	Yes	No	Yes	Yes
Kristopher Alan Matkin	Sheriff	Aggravated assault	Yes	Yes	No	yes

### **Parties-Defendants**

90. Defendant Jacqueline Barrett was the Sheriff of Fulton County until December 31, 2004. She was previously sued in her official capacity for prospective injunctive relief. She is sued currently in in her individual capacity, for money damages. She was suspended for a period of 60days effective July 24,

2004. A receiver had authority over the Fulton County Jail from July 26, 2004 until December 31, 2004.

91. Defendant Myron Freeman is currently the Sheriff of Fulton County. He is sued in his official capacity for prospective injunctive relief, and in his official capacity, and individual capacity, for money damages.

92. Because there were different Sheriffs responsible for the operation of the Fulton County Jail at different times, certain allegations are made herein with reference to the "the Sheriff." Such allegations refer to each Sheriff for the time period during which that person was Sheriff.

93. At all times described herein, Defendant Jacqueline Barrett, Myron Freeman and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill, William "Bill" Edwards was acting under color of state law.

94. Defendant Fulton County is a body corporate, with power to sue or be sued in any court. O.C.G.A. §36-1-3.

95. The Fulton County County Commissioners are Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill, William "Bill" Edwards. Plaintiffs sue Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill, William "Bill" Edwards in their individual as well as their individual capacities.

96. The City of Atlanta is a municipal corporation with power to sue or be sued in any court.

## **FACTUAL ALLEGATIONS**

### **Fulton County, The Fulton County Board Of Commissioners, And The Fulton County Jail**

95. Defendant Fulton County is administered by the Fulton County Board of Commissioners ("Board") which consists of seven Commissioners elected by the voters of Fulton County to four-year terms.

96. The Board sets Fulton County governmental policy, and approves departmental budget requests.

97. Fulton County and its “governing authority,” that is, the Board, have authority to maintain and operate facilities for the detention, incarceration or confinement of all persons subject to confinement under the laws of the state, any county resolution, or any city ordinance.

98. Starting in 1989-1990, Fulton County exercised its authority to build and operate an incarceration facility, and built the current Fulton County Jail on Rice Street to replace the old jail.

99. The current Fulton County Jail on Rice Street came online in about 1990.

100. The Fulton County Jail at Rice Street (“Fulton County Jail” or sometimes the “Jail”) is the primary facility used by Fulton County to house inmates in Fulton County.

101. The Fulton County Jail has a capacity of approximately 1,450 inmates. However, at its opening the County put double beds in the cells and so Fulton County Jail opened with about 2,250 inmates.

102. Currently, the jail houses about 2,900 inmates, with 400 others in two annexes.

103. Most inmates at the Fulton County Jail are either pre-trial detainees, misdemeanants serving misdemeanor sentences, or probation violators.

104. The Board has the power to designate the person(s) to control incarceration facilities, including the Fulton County Jail.

105. The Board has designated the Sheriff of Fulton County as the person to control the County’s incarceration facilities.

106. The Board has designated the Sheriff of Fulton County as the person to operate and control the Fulton County Jail.

107. The Board, not the sheriff, has ultimate control over the Fulton County Jail.

108. Fulton County also sets the budget for the County’s incarceration facilities.

109. The Fulton County Board and its members, pursuant to requirements of Georgia state law, “shall pass an annual budget provide an annual budget sufficient

for the efficient and effective operation of the jail.” O.C.G.A. § 42-4-94(b). By definition, a budget sufficient for the “efficient and effective operation of the jail” must be one that permits constitutional requirements for the jail to be met.

110. On December 14, 1992, defendant Jacquelyn Barrett took office as the Sheriff of Fulton County, Georgia.

111. The old jail had been the subject of a 1982 class-action lawsuit (Fambro v. Fulton, 82-cv2136, JOF) challenging conditions at that facility including overcrowding and overdetentions.

112. In a published opinion in the Fambro case this Court stated that the Fulton County criminal justice system not capable of functioning at an attainable rate. The 1982 class-action lawsuit continued to cover the Rice Street Jail until the suit was settled by the Fulton County Commission in 1994, and dismissed by this Court.

113. In April 2002, The Honorable Marvin Shoob of this Court issued a published opinion in Foster v. Fulton County, which sought to address systemic problems that lead to unnecessary incarceration and chronic jail overcrowding, which in turn adversely affected living conditions at the jail, increased the risk of exposure to dangerous diseases, and interfered with the provision of adequate medical care. Foster v. Fulton County, 223 F. Supp. 2d 1292 (N.D. Ga. 2002).

114. The opinion detailed the unconstitutional condition of the Fulton County criminal Justice system and the overcrowding and overdetention problems at the Fulton County Jail.

115. Plaintiffs incorporate by reference herein the contents of the published opinions in Foster.

116. The Foster Court specifically ordered Fulton County and the Fulton County Jail and the sheriff to implement an integrated computer system that links all of the appropriate agencies in the Fulton County criminal justice system, expand the current discharge planning resources at the jail and evaluate obstacles to discharge planning and take steps to remove these obstacles.

117. The opinion detailed the fact that the Fulton County Jail allowed commitment of intakes to the Fulton County Jail without obtaining commitment documents needed to book intakes to the Fulton County Jail, and process their appearances in court in about twenty percent of intakes.

#### Fulton County and The Board's Control Over Jail Staff

118. The Sheriff appoints deputies and jailers (civilian, administrative employees who do not have any police powers) to staff the Fulton County Jail subject to the supervision of the Board.

119. The Records Room staff (people that work in the records room and process admissions and releases) are classified, administrative employees.
120. Records Room staff employees are not deputies.
121. Records Room staff are county employees.
122. Both deputies and jailers are classified employees under the constitutionally mandated Fulton County Civil Service System.
123. Classified employees are subject to the constitutionally mandated Fulton County Civil Service System.
124. The Fulton County Board administers the Fulton County Civil Service System through the Personnel Board.
125. The Personnel Board is appointed by the Board of Commissioners and is the major decision-making authority within the Personnel Department.
126. The Fulton County Civil Service Act severely curtails the Fulton County Sheriff's power to hire, discipline, and fire Jail staff.
127. The classified employees at the Fulton County Jail are employees of the county subject to the supervision of the Board.
128. All county employees, including deputies and Records Room staff and other Fulton County Jail staff, are part of a unified, constitutionally mandated civil service system subject to the Board.



129. County employees may freely transfer between various county departments (including the sheriff's department) without losing seniority.

130. All county employees, including not only the sheriff's staff, but the sheriff herself, are part of a unified, constitutionally mandated pension system.

131.

### The Sheriff's Responsibilities For Inmates At The Fulton County Jail

132. The Sheriff's duties include hiring, disciplining, and firing Jail staff subject to the supervision of the Board.

133. The Sheriff's duties also include formulating, implementing, and executing policies concerning the operation of the Fulton County Jail facilities subject to the authority of the Board.

134. These duties include promulgating policies controlling the strip searches of inmates, and regulations ensuring the release of inmates on their Release Dates.

135. The Sheriff has day-to-day training, supervisory, and disciplinary authority for all operations of the Fulton County Jail subject to the supervision of the Board.

136. The Sheriff is also responsible for ensuring that each employee of the Fulton County Jail discharges his or her duties in accordance with the law, court orders, and authority designated her by the Board.

## Criminal Justice Cycle And The Fulton County Jail

137. The steps in an inmate's trip through the criminal justice cycle in Fulton County are: (1) arrest; (2) commitment to the Fulton County Jail as a new commitment; (3) hearing at the Fulton County Jail in the case of felony arrests, or hearing at the courthouse in the case of misdemeanor arrests; (4) transport from the Fulton County Jail to court for subsequent court dates; and (5) return to the Fulton County Jail.

138. A suspect is arrested in Fulton County by the Fulton County Police or other county agent, by the Sheriff, or by a municipal police force.

139. The Fulton County Police Department transports all arrestees directly to the Fulton County Jail, and commits them to the Fulton County Jail.

140. The Fulton County Police Department is controlled and operated by, and is subject to, the authority of the Board.

141. At any one time, approximately forty percent (40%) of the Fulton County Jail inmate population was committed by the Fulton County Police Department.

142. The City of Atlanta Police Department transports arrestees arrested on state charges directly to the Fulton County Jail, and commits them to the Fulton County Jail.

143. The Atlanta Police Department ("Atlanta PD") is a department of the City of Atlanta with an authorized strength of over 2,300 employees.

144. Every year during the past five years, officers of the Atlanta PD arrested about 30,000 persons and committed them to the Fulton County Jail.

145. Approximately seventy-five percent (75%) of the cases in the State Court of Fulton County originate in the City of Atlanta.

146. Many arrests made by the Atlanta Police Department charged as misdemeanors could also have been charged as municipal offenses.

147. Many arrests made by the Atlanta PD charged as state law misdemeanors could also have been taken before the City of Atlanta courts, given probable cause hearings there, and bound over to the Fulton County Jail upon a finding of probable cause. O.C.G.A. § 17-4-21; O.C.G.A. § 17-4-62; O.C.G.A. §§ 15-7-4(a)(3)-(4); 15-10-2(1), (3), (9); 17-4-40(a); 17-6-1(b)(1); 17-6-1(f)(1); 17-7-20; and O.C.G.A. § 36-32-3 (granting municipal court judges the same power and authority as magistrate court judges in criminal cases).

148. Prior to January 1, 2003, the Atlanta PD committed all persons it arrested and charged with state offenses to a City of Atlanta detention facility instead of the Fulton County Jail.

149. Prior to January 1, 2003, the City of Atlanta detained, and assumed the responsibility for conducting the 48 hour “McLaughlin v. County of Riverside” probable cause hearings for all persons its officers arrested; even persons its officers arrested and charged with state offenses.

150. Prior to January 1, 2003, the City of Atlanta detained all persons its officers arrested, even persons its officers arrested and charged with state offenses, and conducted whatever probable cause hearing was given to such persons.

151. Prior to January 1, 2003, persons for whom probable cause was found on the state offense were bound over to Superior Court, and transferred to the Fulton County Jail unless the person was released on bond.

152. Many such arrestees were held by the City of Atlanta for several days before being transferred to the Fulton County Jail.

153. Prior to January 1, 2003, many persons arrested by the Atlanta PD and charged with state offenses had their charges reduced to a municipal offense as a result of their probable cause hearings, or after processing by City of Atlanta attorneys.

154. First Appearances for persons arrested for felons committed to the Fulton County Jail are held in the Fulton County Jail.

155. First Appearances for persons arrested for misdemeanors committed to the Fulton County Jail are held in the State or Superior Court during the week, and in the Fulton County Jail on Saturdays.

156. In-custody defendants are transported from the Fulton County Jail to the State or Superior Court for subsequent hearings such as bond hearings or status hearings.

157. All in-custody defendants transported from the Fulton County Jail to a courthouse for a hearing are returned to the Fulton County Jail after their court appearances (“court returns”), even those entitled to release by virtue of their court appearances.

### 2003 Changes In City Of Atlanta Arrest And Commitment And Hearing Practices

158. During 2002, Atlanta mayor Shirley Franklin conceived a plan to order Atlanta PD officers to exercise their discretion to charge all persons who could be charged with either municipal or state offenses with state offenses.

159. During 2002, Atlanta mayor Shirley Franklin conceived a plan to order Atlanta PD officers to exercise their discretion to commit all persons it arrested and charged with state offenses to Fulton County Jail instead of an Atlanta detention facility.

160. Mayor Shirley Franklin expressly announced that the purpose of her plan was to save money for the City of Atlanta.

161. Mayor Franklin advised the City of Atlanta City Council that her plan would save the City of Atlanta about \$11.4 million in fiscal year 2003.

162. The City Council approved Mayor Franklin’s plan, and her proposed budget.

163. Fulton County officials had estimated it would cost anywhere from \$8 million to \$17 million to process and house the arrestees the City of Atlanta had previously processed and housed.

164. As of January 1, 2003, the Atlanta PD began charging all persons who could be charged with either municipal offenses or state offenses with state offenses.

165. As of January 1, 2003, the City of Atlanta stopped detaining persons arrested by the Atlanta PD in Fulton County.

166. As of January 1, 2003, the Atlanta PD began committing those arrestees it arrested in Fulton County and charged with state offenses directly to the Fulton County Jail.

#### Records Room And Operations Of The Records Room

167. The Records Room is the unit of the Fulton County Jail that has responsibility for booking arrestees into the Fulton County Jail. Additionally, these employees create and administer institutional files for inmates, and keep track of inmates to ensuring their release according to their court ordered Release Dates.

168. The Records Room uses a combined system of paper files and computer databases to keep track of inmates, prepare them to be transported to court for

court hearings, and process the release and commitment orders generated at the court hearings.

169. When inmates are “booked” into the Fulton County Jail, the Records Room creates, or in the case of a person who has previously been booked into the Fulton County Jail, updates a 4x6 card for each inmate showing his demographic information, his open charges, and his charge history.

170. As part of the booking process, the Records Room staff also checks criminal databases to determine if the new commitment is the subject of any other wants, holds or detainers from other jurisdictions.

171. If there are such holds, the information is noted in the inmate’s institutional files, and on the 4x6 card.

172. Whether the inmate is the subject of any other wants, holds or detainers from other jurisdictions is also available in real time on the “Mainframe” computer, available to Records Room staff and deputies.

173. The Jail and the courthouses have their own computer systems for keeping track of defendants and their court dates, and entering dispositions into the computer systems.

174. As a result, court data, release, and commitment orders issued by judges for in-custody defendants must be faxed from the courthouses to the Fulton County Jail. This information must be processed by hand for each inmate.

175. The large number of inmates in the Fulton County Jail, and the constant flow of inmates and releases, have overwhelmed the outmoded, paper-driven system for processing inmates.

176. Lack of staff and lack of training exacerbates problems caused by the systemic deficiencies in the inmate management system.

177. Chronic absenteeism of Jail staff caused by unsanitary conditions in the Jail exacerbates the problems caused by the systemic deficiencies in the inmate management system.

178. Because of problems and backlogs in the Records Room, many newly committed inmates are not actually booked into the Jail for several days after their commitment.

179. The Fulton County Jail also accepts for commitment to the Fulton County Jail arrestees brought by the Atlanta PD, and the Fulton County Police Department, to the Fulton County Jail without charging or arrest documents.

The Fulton County Jail Policy Of Strip Searching All Arrestees Booked Into The  
Fulton County Jail

180. Every person booked into the Fulton County Jail general population is subjected to a strip search conducted without an individual determination of reasonable suspicion to justify the search, and regardless of the crime with which the person is charged.



181. The booking strip search process involves having the arrested person go into a large room with a group of up to thirty to forty other inmates, remove all of his clothing, and place the clothing in boxes.

182. The arrested person, along with the group, takes a shower.

183. Each arrestee then either singly, or standing in a line with others, is visually inspected front and back by deputies.

184. Inmates and guards refer to the booking strip searches as “dressing out.”

185. The Fulton County Jail does not keep any logs or other records of any individual strip searches performed in the booking areas.

186. The City of Atlanta, through its agents, has had notice of the booking strip searches before the class period through communications with county agents, inmates and other methods.

The Fulton County Jail Practice Of Subjecting Certain Persons To Booking Strip Searches After They Have Already Been Ordered Released By A Judge Or Had Their Bond Posted, Or Should Have Been Posted

187. The booking and presentment processes at the Fulton County Jail before and during the class period were so inefficient that many persons were committed to the Fulton County Jail, presented to a judicial officer in the Fulton County Jail or one of the court houses at First Appearance, ordered released by the judicial officer, and then subjected to the booking strip searches (the “dress out”

procedure), or, the persons were subjected to the illegal booking searches after they had posted bail or someone had posted it for them.

188. The only reasons Alpha Strip Search Class members were subjected to a booking strip search is because the Fulton County Jail made going through the booking process a condition of release, and it also made an illegal strip search a component of the booking process.

189. The Fulton County Jail's booking process, as administered and acquiesced in, by defendants was so indifferent to the rights of these persons that it made a strip search an element of the booking process, and required the booking process as a condition of release, even after a person was entitled to release by court order or bond.

#### The Fulton County Jail Policy For Court Returns

190. Every weekday, about 100 to 150 in-custody defendants are transported from the Fulton County Jail to the Superior Court and the State Court for court appearances.

191. The Records Room does not run checks for wants and holds on in-custody defendants before they are transported to the courthouses for hearings.

192. The Records Room does pull the 4x6 card of each inmate who is going to a courthouse for a hearing the night before the hearing, and puts the cards aside in

the Records Room.

193. The in-custody defendants are under the constant supervision of Fulton County Sheriff's deputies while in transit, and while at the courthouses.

194. While at the courthouse, in-custody defendants are not allowed to have contact with anyone apart from Fulton County Sheriff's deputies, except for visits in the lockups with attorneys. These attorney visits are subject to supervision by Fulton County Sheriff's deputies during the visits.

195. After an in-custody defendant appears before a judge, the judge issues an order directing release or further commitment. These orders are reduced to writing by the clerk.

196. The clerk does not enter the disposition into the court computer system in real time.

197. Dispositions are entered into the court computer system later in the day, or the next day.

198. The release and commitment orders are faxed to the Records Room.

199. In-custody defendants whose cases have been discharged are not given the option of being discharged from the courthouse.

200. Every in-custody defendant transported to the Superior Court or the State Court for a court event is sent back to the Fulton County Jail following his court appearance even if the judge has issued a release order. Such persons are

sometimes called “court returns”.

201. The Fulton County Jail sends these court returns with release orders back to the Fulton County Jail so the Records Room can check for any other open cases with detention orders, warrants, detainers or holds before releasing them.

202. The Records Room relies on its paper records as updated by the faxed court orders. Fulton County has not implemented a county-wide computer inmate management system as it was ordered to do by this Court.

203. Court returns entitled to release are booked back into the Fulton County Jail general populations while the Records Room processes the day’s commit and release orders. Even though they are entitled to release, these court returns are not actually released until a later date.

#### The Fulton County Jail Policy For Court Returns

204. The Fulton County Jail staff subject many court returns to strip searches, even after the court return has been ordered released by a judge, and has no other cases, detainers, warrants, holds or other basis to detain him.

205. These court return strip searches are different from the booking strip searches because they do not involve the “dressing out” process of turning in clothes and going through the showers.

The Cause Of The Overdetention – Detaining Persons Ordered Released To Check For Detainers And Warrants; Collapse Of The Inmate Management System

206. The Fulton County Jail has no effective inmate management system.
207. The Records Room is plagued by both overdetentions and premature releases.
208. Both overdetentions and premature releases are symptomatic of a non-functioning inmate management system.
209. The fact that the Fulton County Jail has no effective inmate management system has been documented by a series of reports and newspaper articles, as well as by court cases dating back many years.
210. The Fulton County Jail has recently aggravated the backlog of overdetained inmates by overreacting to a string of premature releases.
211. The Fulton County Jail's policy of returning all in-custody defendants sent to the courthouses for hearings back to the Jail for processing after their hearings, even those whose cases have been dismissed, swells the backlog of unprocessed inmates.
212. This policy and practice is a major contributing cause of the Records Room's inability to process and release individuals on their Release Dates.
213. The policy of sending court returns entitled to release back to the Jail, instead of releasing them from the courthouses, creates the court return strip search problem.

214. If the court returns entitled to release by virtue of their court appearances were released at the courthouse, they would not be booked back in and strip searched in the first place.

215. The policy of sending court returns entitled to release back to the Jail, instead of releasing them from the courthouses, exacerbates the overdetention and overcrowding problem. This policy adds persons who have already been ordered released by a judge into an already overloaded system.

216. The Fulton County Jail's policy of sending all court returns, even those whose cases have been dismissed, back to the jail for processing costs taxpayers money, swells the population of the facilities unnecessarily, and causes inmate unrest.

The Overcrowding, Overdetentions And Premature Releases Are A Longstanding, Pervasive And Continuing Problem Known To Defendants

217. The Fulton County Jail has a long and documented history of overcrowding, overdetaining inmates past their release dates, and prematurely releasing inmates.

218. The old jail had been the subject of a 1982 class-action lawsuit (Fambro v. Fulton, 82-cv2136, JOF) challenging conditions at that facility, including overcrowding and overdetentions.

219. Among the many deficiencies the monitor found at the old jail in 1989, three broad areas were especially outrageous: 1) overcrowding, 2) medical services, and 3) sanitation.

220. The Court ultimately had to take the drastic step of ordered wholesale releases in an attempt to solve the problems of 1) overcrowding, 2) medical services, and 3) sanitation.

221. In 1989, this Court published a decision that warned the Fulton County Commissioners that the new jail would not be sufficient to handle the present inmate population requirements of the county because of a substantially higher population, and problems with moving persons expeditiously through the criminal justice system.

222. The 1982 class-action lawsuit continued to cover the current Rice Street Jail when that facility opened in 1991, until the suit was settled by the Fulton County Commission in 1994, and was dismissed by this Court.

223. The unconstitutional 1) overcrowding, 2) medical services, and 3) sanitation deficiencies persisted in the new facility.

224. Certain inmates of the Fulton County Jail again brought a class action against Fulton County, the Sheriff, and the Board in 1999. Foster v. Fulton County, 1:99-cv-900-MHS challenging 1) overcrowding, 2) medical services,

especially medical services for HIV positive inmates, 3) overdetentions, and 4) sanitation.

225. The Court found that systemic problems lead to unnecessary incarceration and chronic jail overcrowding, which in turn adversely affected living conditions at the jail, thus increasing the risk of exposure to dangerous diseases, and interfering with the provision of adequate medical care, and thus being a major contributing moving force of the overdetentions.

226. In Foster v. Fulton County, 1:99-cv-900-MHS, the defendants, including Fulton County and Fulton County Board of Commissioners, Mike Kenn, Karen Webster, Tom Lowe, Bob Fulton, Emma I. Darnell, Nancy Boxill, L. L. Briggs, and George Herron, filed monthly reports on the jail population containing (among other things) information documenting a persistent pattern of overdetentions, including certain inmates held past their Release Dates.

227. Recent notorious examples of overdetention show the overdetention and strip search problems persist.

228. At least eight jail inmates were prematurely released by error over the year 2004.

229. Inmates routinely must obtain attorneys or inmate rights organizations on the outside to call the Records Room just to obtain release in accordance with their Release Dates.



230. On information and belief, at any one time up to 5-20% of the Fulton County Jail population is being held past their Release Dates.

231. In addition to the court opinions referenced above, there were numerous newspaper articles and other media reports detailing the systemic problems of constitutional magnitude at the Fulton County Jail, including problems of Overdetentions.

232. On information and belief, Fulton County, the Fulton County Board and its members were fully aware of the court opinions, newspaper articles and other media reports and court filings detailing the systemic problems of constitutional magnitude at the Fulton County Jail, including problems of Overdetentions.

233. On information and belief, Sheriff Barrett directly informed Fulton County, the Fulton County Board and its members, on numerous occasions, that the insufficiency of the County's allocation of funds "for the efficient and effective operation of the jail", O.C.G.A. § 42-4-94(b), were directly responsible for serious deficiencies of constitutional magnitude in the jail's operation, including the problem of Overdetentions.

234. On information and belief, Fulton County, the Fulton County Board and its members were fully aware that the problem of Overdetentions at the Fulton County Jail was significantly attributed to its lack of adequate funding "for the efficient and effective operation of the jail." O.C.G.A. § 42-4-94(b).

235. On information and belief, Fulton County, the Fulton County Board and its members knowingly refused to provide adequate funding “for the efficient and effective operation of the jail.” O.C.G.A. § 42-4-94(b), and were fully aware that its inaction would result in the perpetuation of problems of the operation of the jail of constitutional magnitude, including Overdetentions.

236. The chart set forth below shows how pervasive and widespread the overdetention problem is.

237. The chart shows the court date, Release Date, and Exit Date for virtually every inmate who appeared in magistrate court first appearance hearings (9 a.m. and 1 p.m. calendars) and State Court preliminary hearing calendars during the period March 18-31, 2004 who had a disposition resulting in release (dismissal, sentence of time served, defendant allowed to sign own bond (SOB)).

<b>Defendant</b>	<b>Date Booked</b>	<b>Court Date</b>	<b>Disposition</b>	<b>Date Released</b>	<b>Days Held Over</b>
El Aten	3-18-04	3-18-04	Dismissed	3-20-04	2
Marvin Davidson	3-16-04	3-18; 3-19	Time served	3-20-04	2
Leroy Barrett	3-17-04	3-18-04	Dismissed	3-21-04	3
Corey Boatwright	3-18-04	3-18-04	Dismissed	3-21-04	3
Michelle Collins	3-18-04	3-18-04	Dismissed	3-21-04	3

Bobbie Derest	3-18-04	3-18-04	Dismissed	3-21-04	3
Malcolm Dill	3-18-04	3-18-04	Dismissed	3-25-04	7
Roberto Duarte	3-18-04	3-18-04	SOB	3-25-04	7
Carl Feguson	3-18-04	3-18-04	SOB	3-20-04	2
Jimmie Gray	3-17-04	3-18-04	Dismissed	3-23-04 (hold)	5
Zhan Holsey	3-17-04	3-18-04	Dismissed	3-20-04	2
Jerald Lawson	3-17-04	3-18-04	Dismissed	3-22-04	4
Nadine Marshall	3-18-04	3-18-04	Dismissed	3-21-04	3
Angela Morrow	3-18-04	3-18-04	Dismissed	3-21-04	3
Terry Mozley	3-18-04	3-18-04	Dismissed	3-20-04	2
Donald Springer	3-18-04	3-18-04	Dismissed	3-23-04	5
Randy Troy	3-18-04	3-18-04	SOB	3-23-04	5
Lorraine Wilkens	3-18-04	3-18-04	SOB	3-23-04	5
Harvey Boyd	3-17-04	3-18-04	Dismissed	3-21-04	3
Clarence Maxwell	3-17-04	3-18-04	Dismissed	3-22-04	4
Reginald Morton	3-16-04	3-18-04	Dismissed	3-21-04	3
Maury Ridley	3-17-04	3-18-04	Dismissed	3-21-04	3
Roger Threats	3-17-04	3-18-04	Dismissed	3-20-04	2
Chaka Zulu	3-17-04	3-18-04	Time served	3-22-04	4
William Dodson	3-18-04	3-19-04	SOB	3-20-04	1
Leo Harden	3-18-04	3-19-04	Time served	3-24-04	5
Niles Johnson	3-10-04	3-19-04	SOB	3-23-04	4
Arnold Levi	3-18-04	3-19-04	Reset for proof	3-21-04	2

Charles Lyons	3-17-04	3-19-04	Time served	3-23-04	4
Roger Thomas	3-17-04	3-19-04	SOB	3-25-04	6
Ronnie Tyler	3-17-04	3-19-04	Time served	3-29-04 (hold in Bibb Co.)	10
Larry Dean	3-19-04	3-19-04	SOB	3-25-04	6
Jasiah Gillis	3-19-04	3-19-04	Time served	3-24-04	5
Norman Gray	3-19-04	3-19-04	Time served	3-23-04	4
Randy Harris	3-19-04	3-19-04	SOB	3-23-04	4
Shirley McCullough	3-19-04	3-19-04	SOB	3-23-04	4
Dwike Leonard	3-19-04	3-19-04	SOB	3-23-04	4
Cassandra Mays	3-18-04	3-19-04	SOB	3-22-04	3
Yolanda Smith	3-18-04	3-19-04	SOB	3-22-04	3
Tarron Tyler	3-19-04	3-19-04	SOB	3-22-04 (Marietta hold)	3
George Teasley	3-19-04	3-19-04	SOB	3-23-04	4
Marco Thomas	3-19-04	3-19-04	SOB	3-23-04	4
Timothy Williams	3-19-04	3-19-04, 3-20-04	SOB	3-24-04 (DeKalb hold)	5
Howard Arnold	2-18-04	3-19-04	Time served	3-23-04	4
Shanika Fambro	3-12-04	3-19-04	SOB	3-22-04	3
Steven Berry	3-19-04	3-20-04	SOB	3-24-04 Gwinnett	4

				hold	
Eric Brewster	3-19-04	3-20-04	SOB	3-22-04	2
Ronald Brown	3-18-04	3-20-04	Time served	3-25-04	5
Charles Carter	3-18-04	3-20-04	Time served	3-25-04	5
Jane Doe	3-20-04	3-20-04	Time served	3-22-04	2
Roberto Duarte	3-18-04	3-18; 3-20	SOB	3-25-04	5
Leo Harden	3-18-04	3-20-04	Time served	3-24-04	4
Betty Ann Hicks	3-18-04	3-20-04	SOB	3-23-04	3
Anthony Jefferson	3-18-04	3-20-04	SOB	3-23-04	3
Mark King	3-19-04	3-20-04	SOB	3-22-04	2
Bengie Martin	3-18-04	3-18-04	Bond, wouldn't let him out w/o bk#	3-25-04	7
Keair Mason	3-20-04	3-20-04	SOB	3-22-04	2
Deniera Owens	3-19-04	3-20-04	Time served	3-23-04	3
Charley Parks	3-19-04	3-20-04	SOB	3-23-04	3
Raymond Quantez	3-20-04	3-20-04	Time served	3-23-04	3
Michael Riddlebarger	3-19-04	3-20-04	Time served	3-23-04	3
Waverly Spivey	3-19-04	3-20-04	Time served	3-23-04	3
Donald Springer	3-18-04	3-18-04, 3-20-04	Dismissed	3-23-04	3
Quincy Tarver	3-20-04	3-20-04	SOB	3-23-04	3
Gary Thomas	3-19-04	3-20-04	Time served	3-23-04	3
Randy Troy	3-18-04	3-20-04	SOB	3-23-04	3

Lorraine Wilkens	3-18-04	3-18-04, 3-20-04	SOB	3-23-04	3
Heidi Hendrix	3-20-04	3-20-04	SOB	3-24-04 (DeKalb hold)	4
Bobby Adams	3-21-04	3-22-04	SOB	3-24-04	2
Marvin Allen	3-21-04	3-22-04	SOB	3-24-04	2
Petree Anderson	3-22-04	3-22-04	SOB	3-26-04	4
Keith Barnett	3-21-04	3-22-04	Dismissed	3-24-04	2
Patrick Bryant	3-20-04	3-22-04	SOB	3-24-04	2
Christopher Cobb	3-21-04	3-22-04	Dismissed	3-24-04	2
Thomas Davis	3-20-04	3-22-04	Time served	3-24-04	2
Jose Alberto Duran	3-21-04	3-22-04	SOB	3-24-04	2
Arthur Favor	3-21-04	3-22-04	SOB	3-24-04	2
Pauline Favors	3-21-04	3-22-04	SOB	3-24-04	2
Torino Hawkins	3-22-04	3-22-04	SOB	3-23-04	1
Romaldo Hernandez	3-21-04	3-22-04	SOB	3-23-04	1
Shane Humphrey	3-22-04	3-22-04	SOB	3-24-04 (Alph. hold)	2
Ahmad Jamil	3-22-04	3-22-04	Dismissed	3-24-04	2
David Lucas	3-19-04	3-22-04	SOB	3-25-04	3
Orlando Neal	3-20-04	3-22-04	Dismissed	3-25-04	3
Herman Pittman	3-20-04	3-22-04	Time served	3-24-04	2

Arrgueta Reyes	3-21-04	3-22-04	SOB	3-24-04	2
William Robinson	3-20-04	3-22-04	Time served	3-24-04	2
Dominique Roscoe	3-21-04	3-22-04	Dismissed	3-24-04	2
Gregory Shields	3-20-04	3-22-04	Time served	3-24-04	2
Wayne Teague	3-21-04	3-22-04	SOB	3-24-04	2
Thomas Toland	3-21-04	3-22-04	SOB	3-24-04	2
Michael Wallace	3-20-04	3-22-04	SOB	3-24-04	2
Willie Zachary	3-21-04	3-22-04	Dismissed	3-24-04	2
Derrick David	3-19-04	3-22-04	SOB	3-23-04	1
Norris Davis	3-20-04	3-22-04	SOB	3-24-04	2
Bernard Hill	3-20-04	3-22-04	Dismissed	3-24-04	2
Toddrick Merritt	3-19-04	3-22-04	Time served	3-24-04	2
Albert Williams	3-19-04	3-22-04	Time served	3-24-04	2
John E. Clarke	3-21-04	3-23-04	Dismissed	3-25-04	2
William Hiner	3-21-04	3-23-04	SOB	3-24-04	1
Emmanuel Mitchell	3-21-04	3-23, 3-26	Time served	3-29-04	3
Marcell Murrell	3-21-04	3-23-04	SOB	3-25-04	2
Brandon Starks	3-19-04	3-23-04	Time served	3-25-04	2
Roger Thomas	3-17-04	3-23-04	Dismissed	3-25-04	2
James Verlon	3-20-04	3-23-04	SOB	3-25-04	2
Arjuna Westbrook	3-21-04	3-23-04	Time served	3-24-04	1
John Woody	3-20-04	3-23-04	Time served	3-25-04	2
Marvin Williams	3-15-04	3-16, 3-23	Time served	3-27-04	4

Trenton Williams	3-22-04	3-23-04	Time served	3-25-04	2
Phillip Buchanan	3-23-04	3-23-04	Time served	3-25-04	2
Ann Giorgianni	3-23-04	3-23-04	SOB	3-25-04	2
Michael Gladney	3-22-04	3-23-04	Time served	3-25-04	2
Vincent Manderson	3-23-04	3-23-04	SOB	4-4-04	12
April May	3-23-04	3-23-04	SOB	3-24-04	1
Michael Mcleod	3-23-04	3-23-04	SOB	3-25-04	2
John Bentley	3-22-04	3-23-04	SOB	3-29-04	6
Warren Fletcher	3-12-04	3-23-04	Dismissed	3-25-04	2
Uzziah Hammonds	3-8-04	3-23-04	Time served	3-25-04	2
Darrell James	3-15-04	3-23-04	Time served	3-25-04	2
Gary Jones	3-8-04	3-23-04	Dismissed	3-25-04	2
Anthony Cobb	3-23-04	3-24-04	Time served	3-26-04	2
Marcus Richardson	3-21-04	3-24-04	Time served	3-26-04	2
Rachel Bailey	3-23-04	3-24-04	SOB	3-25-04	1
*Lavoid Blount	3-24-04	3-24-04	SOB	3-27-04	3
*Howard Coleman	3-24-04	3-24-04	SOB	3-28-04	4
*Walter Gay	3-23-04	3-24-04	SOB	3-28-04	4
*William Hackett	3-24-04	3-24-04	SOB	3-28-04	4
Michael Moore	3-24-04	3-24-04	Time served	3-27-04	3
Ronnie Pharr	3-24-04	3-24-04	SOB	3-27-04	3
*Ledarius Timmons	3-24-04	3-24-04	SOB	3-28-04	4



Duval Union	3-23-04	3-24-03	Time served	3-27-04	3
Travis Houston	3-25-04	3-25-04	Dismissed	3-27-04	2
Barry Johnson	3-25-04	3-25-04	SOB	3-26-04	1
Bryan Kitts	3-17-04	3-25-04	Dismissed	3-26-04	1
Gloria Miller	3-24-04	3-25-04	SOB	3-27-04	2
Bernice Render	3-25-04	3-25-04	SOB	3-27-04	2
Curtis Thorton	3-25-04	3-25-04	SOB	3-28-04	3
Larry Bostic	3-25-04	3-26-04	Dismissed	3-28-04	2
Jeffrey Cain	3-25-04	3-26-04	Time served	3-29-04	3
Benjamin Dykes	3-25-04	3-26-04	SOB	3-28-04	2
Keith Green	3-25-04	3-26-04	Time served	3-28-04	2
James Jones	3-25-04	3-26-04	SOB	3-29-04	3
Michael Netters	3-26-04	3-26-04	Time served	3-28-04	2
James Smith	3-26-04	3-26-04	Time served	3-31-04	5
Demiron Chester	3-25-04	3-26-04	SOB	4-3-04	8
Dwight Davis	3-25-04	3-26-04	SOB	3-31-04	5
Dennis Fannin	3-25-04	3-26-04	Time served	4-1-04	6
Kendrick Freeman	3-25-04	3-26-04	SOB	4-1-04	6
Lee Gamble	3-25-04	3-26-04	SOB	3-30-04	4
Mostafa Ghorbani	3-25-04	3-26-04	Time served	4-1-04	6
Phillip Quinones	3-25-04	3-26-04	Time served	4-6-04	11
Michael Gladney	3-26-04	3-27-04	Time served	3-29-04	2
Kevin Ball	3-26-04	3-27-04	SOB	3-29-04	2
Antonio Battle	3-26-04	3-27-04	SOB	3-29-04	2
John Bentley	3-22-04	3-27-04	Time served	3-29-04	2

Shakita Brew	3-26-04	3-27-04	SOB	3-29-04	2
Antonio Griffin	3-27-04	3-27-04	SOB	3-29-04	2
Catrina Hollis	3-25-04	3-27-04	Dismissed	3-29-04	2
Charlie Howard	3-27-04	3-27-04	Time served	3-29-04	2
Joseph Hunt	3-26-04	3-27-04	SOB	3-28-04	1
Shakita McLester	3-26-04	3-27-04	SOB	3-29-04	2
Richard Minor	3-25-04	3-27-04	SOB	3-29-04	2
Travis Moore	3-26-04	3-27-04	Time served	3-29-04	2
Kyle Palmer	3-26-04	3-27-04	Time served	3-29-04	2
James Sidel	3-25-04	3-27-04	SOB	3-29-04	2
Steven Taylor	3-27-04	3-27-04	SOB	3-28-04	1
Rodney Townsend	3-25-04	3-27-04	SOB	3-31-04	4
Bryan Turner	3-26-04	3-27-04	Time served	3-28-04	1
Shawn Williams	3-22-04	3-27-04	Time served	3-29-04	2
Dale Baldwin	3-28-04	3-29-04	SOB	4-1-04	3
Lawrence Caldwell	3-28-04	3-29-04	Time served	3-30-04	1
Alfred Couch	3-27-04	3-29-04	SOB	3-30-04	1
Michelle Couch	3-27-04	3-29-04	SOB	3-30-04	1
Harold Gooden	3-27-04	3-29-04	SOB	4-1-04	3
Sandeep Gupta	3-27-04	3-29-04	SOB	3-30-04	1
Curtis Harris	3-27-04	3-29-04	SOB	3-30-04	1
Verner Harris	3-27-04	3-29-04	Time served	4-1-04	3
Michael Kingcaid	3-27-04	3-29-04	SOB	3-30-04	1
Nadir Quadir	3-27-04	3-29-04	SOB	3-31-04	2

Kelvin Robinson	3-28-04	3-29-04	Time served	3-30-04	1
Lynn Ann Thompson	3-27-04	3-29-04	Dismissed	3-31-04	2
Nyroble White	3-27-04	3-29-04	Time served	4-1-04	3
Jeffrey Williams	3-27-04	3-29-04	SOB	3-31-04	2
Arbram Adams	3-27-04	3-29-04	SOB	3-31-04	2
Ronald Boutte	3-28-04	3-29-04	SOB	3-31-04	2
Howard Brown	3-27-04	3-29-04	SOB	3-31-04	2
Lucia Davis	3-27-04	3-29-04	SOB	3-31-04	2
Sidy Diallo	3-26-04	3-29-04	SOB	4-1-04	3
Ann Gilbert	3-28-04	3-29-04	Time served	3-31-04 (hold)	2
Darrell Glover	3-28-04	3-29-04	Time served	3-31-04 (hold)	2
Dotruell Jordan	3-28-04	3-29-04	SOB	3-30-04	1
Max Lipchonsky	3-28-04	3-29-04	SOB	4-1-04	3
Eric Smith	3-28-04	3-29-04	Time served	4-1-04	3
Amos Brown	3-29-04	3-30-04	Dismissed	4-1-04	2
Avery Childs	3-29-04	3-30-04	SOB	4-1-04	2
Rodrick Contrell	3-29-04	3-30-04	SOB	4-1-04	2
Demarcus Ellis	3-29-04	3-30-04	SOB	4-1-04	2
Kewonnus Harness	3-29-04	3-30-04	Time served	4-1-04	2
Lamar Jefferson	3-29-04	3-30-04	Dismissed	4-1-04	2
Mary Magnes	3-29-04	3-30-04	SOB	4-1-04	2
Frank Murrell	3-22-04	3-30-04	Time served	4-1-04	2

Brian Quinn	3-24-04	3-30-04	Dismissed	4-1-04	2
Diane Thomas	3-29-04	3-30-04	Time served	4-1-04	2
Leroy Thompson	3-29-04	3-30-04	SOB	4-1-04	2
Patricia Brumley	3-29-04	3-30-04	Time served	4-1-04	2
Terry Bailey	3-30-04	3-31-04	SOB	4-3-04	3
Wesley Cosby	3-30-04	3-31-04	Time served	4-2-04	2
Maurice Edwards	3-30-04	3-31-04	SOB	4-3-04	3
Jason Underwood	3-30-04	3-31-04	SOB	4-3-04	3
Henry Bell	3-30-04	3-31-04	SOB	4-1-04	1
Mikal Cartier	3-30-04	3-31-04	SOB	4-3-04	3
Marcene Cooper	3-30-04	3-31-04	SOB	4-1-04	1
John Daniell	3-30-04	3-31-04	SOB	4-1-03	1
Mark Hillegas	3-30-04	3-31-04	SOB	4-2-04	2

Illustrative Case

231. Overdetentions happen at practically every event in the criminal justice system from arrest to trial.

232. The problem starts when inmates are committed into the Fulton County Jail without being “booked in”; that is, fingerprinted, identified, checked for outstanding wants, holds, warrants and detainers, and entered into the computerized inmate management system.

233. For example, Plaintiff Alan Powell was arrested and committed into the Fulton County Jail early on the morning of Saturday, March 20, 2004. He was not booked in until approximately 6:00 p.m. the following day; Sunday, March 21, 2004.

234. As a result, Mr. Powell was not taken to the misdemeanor court in State Court for First Appearance, and so was not given a bond hearing.

235. Moreover, even though Mr. Powell was entitled to bail based on a schedule for minor offenses, Jail staff told him that he could not be released on bail until after he was booked.

236. Finally, on the evening of Sunday, March 21, 2004, Mr. Powell was formerly booked into the jail.

237. Along with the booking procedure came a degrading, humiliating strip search.

238. Mr. Powell, and everyone else booked into the Fulton County Jail on Sunday night (or any other night or day), was taken to a large room, told to take off all clothes, put them in a plastic box, and take a shower with the entire group in a single large room.

239. Then each man took his clothes to a counter and exchanged his own clothes for a jail jumpsuit.

240. Before picking up his jumpsuit, Mr. Powell, along with every other inmate in the process, had to stand before a guard front and center, and show his front and back sides while naked.

241. Mr. Powell's family posted his bond on Sunday, March 21, 2004.

242. However, Mr. Powell was not released. When he complained, guards threatened to "lose" his paperwork.

243. Mr. Powell was finally released on Tuesday morning, March 23, 2004.

244. The jail frequently sends recently arrested inmates to bond hearings at State Court before the inmates have been booked in.

245. As a result, the bond hearings are meaningless because the inmates cannot be either charged or bonded out since they have not yet been booked.

246. Without the paperwork generated by a booking, prosecutors lack the documentation necessary to show probable cause. Without probable cause, judges are forced to throw out cases within 48 hours.

247. On March 18, 2004, Judge Roy Roberts in State Court dismissed misdemeanor charges against 22 defendants because they were presented in his courtroom without paperwork. They had been sent to court without having been booked.

248. However, even when a judge orders inmates released at the first appearance, their release is no sure thing.

249. During the period March 18-31, 2004, approximately 135 persons presented before the magistrate for a probable cause hearing..

250. Almost every single person was overdetailed for periods ranging from one day to twelve days. (see chart at ¶131).

Defendants' Knowledge Of The Collapse Of The Inmate Management System  
At The Fulton County Jail

251. Defendants have known of the ineffective and chaotic condition of the Records Room inmate management system for years.

252. The City of Atlanta, through its agents, has had notice of the overdetailed problem at the Fulton County Jail for years, through court opinions, newspaper articles, TV news reports, or communications with county agents.

253. Moreover, jail officials have had personal knowledge of the problem for years.

254. The Fulton County Commission has also been aware of the above-described problems in the inmate management system for years.

255. In the past few years, the Fulton County commissioners have had a federal judge, a grand jury, two separate private consultants, and a rash of escapes to tell them about problems at the Fulton County Jail. These problems are such as money for more guards, money for mental health treatment, money for new

facilities to handle nonviolent inmates in work-release programs, money to fix a crippled computer system, money to streamline the court system, money for public defenders, and money for more probation officers.

256. Recently, Defendant Jacqueline Barrett released a statement terming continuing problems at the crowded and understaffed jail a "state of emergency."

Defendant Jacqueline Barrett's Failure To Take Meaningful, Sustained  
Corrective Action

257. Defendant Jacqueline Barrett has acquiesced in the Records Room's chaotic procedures leading to the overdeterment and strip search problems by failing to take any meaningful, sustained corrective action.

258. The Fulton County Jail is understaffed. Only about 650 guards watch over 2,900 inmates.

259. Fulton County has refused to provide adequate funding to the Fulton County Jail.

260. Last year, the Fulton County Commission reduced the Jail's funding by \$3,000,000.

261. Jacqueline Barrett never sent inmates to other county jails as she was authorized to do under Georgia law.

262. In an opinion published on April 16, 2002, just a couple of weeks before the start of the class period, Judge Shoob held that it cost the county about



\$45 per inmate per day to house an inmate in the Fulton County Jail. Foster v. Fulton County, 223 F. Supp. 2d 1292, 1295 n.3 (N.D. Ga. 2002).

263. Since at least 2002 the Board and the sheriff have had the option of sending inmates awaiting transfer to the state correctional system to other jails in Georgia such as the facility in Pelham, Georgia.

264. Since 2002, Gwinnett County has "housed out" surplus inmates to Pelham, 240 miles from Lawrenceville, at the rate of \$35 per day.

265. "We don't have a choice," said Gwinnett County Sheriff Butch Conway was quoted as saying. The population of Sheriff Conway's 1,235-bed jail routinely exceeds its capacity, forcing inmates to sleep on mattresses on the floor.

266. The inmates housed out from Gwinnett County usually have been convicted and are awaiting state cell space.

267. The Fulton County Commission never exercised its constitutional powers to build another jail or an addition to the Fulton County Jail.

## **CLASS ACTION ALLEGATIONS**

### **ARRESTEE STRIP SEARCHES CLASS ALLEGATIONS**

#### **Arrestee Strip Searches Performed on Arrestee Strip Search Class Named**

##### **Plaintiffs**

268. On May 20, 2004, Plaintiff Alan Powell was booked into the Fulton County Jail's general population a second time on the same charges after his bond was revoked. He was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

269. On August 22, 2003, Plaintiff David Evans was booked into the Fulton County Jail's general population. He was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

270. On August 22, 2003, Plaintiff Stanley Clemons was booked into the Fulton County Jail's general population on a charge of felony burglary. He was subjected to a strip search before presentment without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons. At First Appearance his charge was reduced to criminal trespass, but he was indicted subsequently on burglary.

271. On March 8, 2004, Plaintiff Allen Middleton was booked into the Fulton County Jail's general population. He was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

272. On March 24, 2004, Plaintiff Anthony Westbrook was booked into the Fulton County Jail's general population and subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

273. On April 26, 2004 Plaintiff Benjamin Blake was booked into the Fulton County Jail's general population and subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

274. On February 11, 2004 Plaintiff Harry Witherspoon was booked into the Fulton County Jail's general population and subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

“Arrestee Strip Search Class” -- Class Action Allegations

275. The Arrestee Strip Search 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 person who, in the two years preceding the filing of this action up until the date this case is terminated, was or will be, (i) upon being arrested and committed into the Fulton County Jail; (ii) on a charge other than a charge of drugs, weapons or felony violence; (iii) was subjected to a blanket strip search without any individualized finding of reasonable suspicion or probable cause that he or she was concealing drugs, weapons or other contraband.

276. Certification of a class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because the Fulton County Jail has a policy, and engages in a pattern and practice of conduct that has uniformly affected all members of the class. Injunctive relief against Defendant to enjoin the practice will benefit each and every Arrestee Strip Search Named Plaintiff and class member.

277. The class is entitled to injunctive relief of terminating the above-described policy and practice of subjecting arrestees to blanket strip searches without any individualized finding of reasonable suspicion, or probable cause that he or she was concealing drugs, weapons or other contraband.

278. 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. A class action is superior for the fair and efficient adjudication of this controversy as detailed below.

279. Regarding the Arrestee Strip Search Named Plaintiffs and members of

the class, there are no individual questions on the issue of liability. Every arrestee committed into the Fulton County Jail is subjected to the blanket strip searches. None of the staff of the Fulton County Jail keeps records of these searches. Therefore, Defendant cannot 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.

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

- a) whether Defendant Jacqueline Barrett instituted a policy, or acquiesced in a custom and practice of subjecting arrestees committed to the Fulton County Jail pending presentment to blanket strip searches without an individualized determination that the arrestees were in possession of drugs, weapons or other contraband;
- b) whether such policy or practice, if found to exist, violates the Fourth or Fourteenth Amendment;
- c) whether Defendant Jacqueline Barrett was deliberately indifferent to the rights of such arrestees;
- d) whether Defendant Jacqueline Barrett is entitled to qualified immunity on the §1983 claims;

- e) whether Defendant Jacqueline Barrett is entitled to governmental immunity on the state law claims;
- f) whether the County Defendants are liable for plaintiffs' injuries;
- g) whether the City of Atlanta is liable for plaintiffs injuries;
- h) whether the Arrestee Strip Search Class Named Plaintiffs and the members of the class have sustained damages and, if so, the proper measure of such damages;
- i) 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; and
- j) whether the Arrestee Strip Search Class Named 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.

287. 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. However, every week at least 100 persons meeting the Arrestee Strip Search Class class definition are committed into the Fulton County Jail pending presentment. All are subject to the illegal searches. Thus, this class well exceeds 10,000 members.

288. Defendant Jacqueline Barrett and the Fulton County Jail and the County Defendants have within their records the names and addresses of all current and

past class members. This information is maintained in the Fulton County Jail computer systems (CJUS, JDL and Banner and Mainframe), logbooks, and other paper records maintained by the Fulton County Jail and the Fulton County Defendants.

289. The Arrestee Strip Search Named Plaintiffs' claims are typical of the claims of the other members of the class because the Arrestee Strip Search Named Plaintiffs, and all other members of the class, were injured by exactly the same means; that is, by the blanket strip searches.

290. The Arrestee Strip Search Named Plaintiffs will fairly and adequately protect the interests of the members of the class. They have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

291. The Arrestee Strip Search Named Plaintiffs have no interests that are contrary to, or in conflict with, those of the class.

292. The Arrestee Strip Search 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. 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. Damages can be

determined on a class-wide basis using a damages matrix set by a jury, or by trying the damages of a statistically valid sample of the class to a jury and extrapolating those damages to the class as a whole.

293. Class treatment will be superior because liability can be determined on a class-wide basis. Damages can also be determined on a class-wide basis through use of statistical sampling.

### **ALPHA STRIP SEARCHES CLASS ALLEGATIONS**

#### **Alpha Strip Searches Performed By The Fulton County Jail**

294. On 3/21/04, someone posted bond for Plaintiff Alan Powell.

295. On 3/22/04, after someone had posted bond for him but before he was presented to a judicial officer for First Appearance, Plaintiff Alan Powell was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.

296. On 3/19/04, Plaintiff Kristopher Alan Matkin was ordered released by a judicial officer after his case was dismissed at First Appearance.

297. On 3/22/04, after a judicial officer had dismissed his case and ordered him released at First Appearance, Plaintiff Kristopher Alan Matkin was subjected to a strip search without any individualized finding of reasonable suspicion, or probable cause that he was concealing contraband or weapons.



“Alpha Strip Search Class” -- Class Action Allegations

298. The Alpha Strip Search Class 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 person who, in the two years preceding the filing of this action up until the date this case is terminated, was or will be, (i) upon being arrested and committed into the Fulton County Jail; (ii) subjected to a booking strip search without any individualized finding of reasonable suspicion or probable cause that he or she was concealing drugs, weapons or other contraband; (iii) after a judicial officer had ordered his release at First Appearance, or, in the case of persons released without being taken before a judicial officer, after he had already posted bond (or someone had already posted it for him).

299. Certification of a class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because the Fulton County Jail has a policy, and engages in a pattern and practice of conduct that has uniformly affected all members of the class.

Injunctive relief against Defendants to enjoin the practice will benefit each and every Alpha Strip Search Class Named Plaintiff and class member.

300. The class is entitled to injunctive relief of terminating the above- described policy and practice.

301. 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. A class action is superior for the fair and efficient adjudication of this controversy as detailed below.

302. Regarding the Alpha Strip Search Class Named Plaintiffs and members of the class, there are no individual questions on the issue of liability. None of the staff of the Fulton County Jail keeps records of these searches. Therefore, Defendants cannot 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.

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

- a) whether Defendants acquiesced in a practice or policy in which persons: (i) upon being arrested and committed into the Fulton County Jail; (ii) after a judicial officer at First Appearance had ordered their release, or, in the case of persons released without being taken before a judicial officer, after they had already posted bond (or someone had already posted it for them); (iii) were subjected to a blanket strip search without any individualized finding of reasonable suspicion or probable cause that they were concealing drugs, weapons or other contraband;
- b) whether such policy or practice, if found to exist, violates the Fourth or Fourteenth Amendment;

- c) whether Defendant Jacqueline Barrett and Myron Freeman were deliberately indifferent to the rights of such arrestees;
- d) whether Defendant Jacqueline Barrett and Myron Freeman are entitled to qualified immunity on the §1983 claims;
- e) whether Defendant Jacqueline Barrett and Myron Freeman are entitled to governmental immunity on the state law claims;
- f) whether the County Defendants are liable for plaintiffs' injuries;
- g) whether the City of Atlanta is liable for plaintiffs injuries;
- h) whether the Alpha Strip Search Class Named Plaintiffs and the members of the class have sustained damages and, if so, the proper measure of such damages;
- i) 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; and
- j) whether the Alpha Strip Search Class Named 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.

304. 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. However, upon information and belief every week at least 20 persons meeting the Alpha

Class class definition are committed into the Fulton County Jail. All are subject to the illegal searches. Thus, this class well exceeds 2,000 members.

305. Defendant Jacqueline Barrett and/or Myron Freeman and/or the Fulton County Jail and the Fulton County Defendants have within their records the names and addresses of all current and past class members. This information is maintained in the Fulton County Jail computer systems (CJUS, JDL and Banner and Mainframe), logbooks, and other paper records maintained by the Fulton County Jail and the Fulton County Defendants.

306. The Alpha Strip Search Class Named Plaintiffs' claims are typical of the claims of the other members of the class because the Alpha Strip Search Class Named Plaintiffs, and all other members of the class, were injured by exactly the same means; that is, by the blanket strip searches.

307. The Alpha Strip Search Class Named Plaintiffs will fairly and adequately protect the interests of the members of the class. They have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

308. The Alpha Strip Search Class Named Plaintiffs have no interests that are contrary to, or in conflict with, those of the class.

309. The Alpha Strip Search Class 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. 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 records systems exist from which to ascertain the members of the putative class. Damages can be determined on a class-wide basis using a damages matrix set by a jury, or by trying the damages of a statistically valid sample of the class to a jury and extrapolating those damages to the class as a whole.

310. Class treatment will be superior because liability can be determined on a class-wide basis. Damages can also be determined on a class-wide basis through use of statistical sampling.

### **COURT RETURN STRIP SEARCH CLASS ALLEGATIONS**

#### **“Court Return Strip Search Class” -- Class Action Allegations**

311. The Court Return Strip Search Named Plaintiffs were subjected to illegal strip searches after their court appearances as described above.

312. The Court Return Strip Search Named Plaintiffs brings 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 person who, in the two years preceding the filing of this action up until the date this case is terminated, has been, is or will be: (i) in the custody of the Fulton County Jail; (ii) taken to court from the Fulton

County Jail; (iii) ordered released by the court or otherwise became entitled to release by virtue of the court appearance because the charge on which he had been held was no longer pending or was dismissed at the hearing, was ordered released on his own recognizance, or had posted bail, was sentenced to time served, was acquitted or was otherwise entitled to release; (iv) was not the subject of any other pending case or cases which imposed any condition of release other than personal recognizance; (v) was not the subject of any detainer or warrant; (vi) was returned to the Fulton County Jail; and (vii) was subjected to a strip search without any individualized finding of reasonable suspicion or probable cause that he was concealing contraband or weapons before being released, regardless of whether he was overdetailed.

313. Certification of the Court Return Strip Search Class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because Defendant Jacqueline Barrett implemented a policy, and/or acquiesces in a pattern and practice of conduct that has uniformly affected all members of the class, and on information and belief, that her successor, Myron Freeman has done so. Injunctive relief against Defendant will benefit each and every Overdetention Named Plaintiff and class member.

314. The Court Return Strip Search Class is entitled to injunctive relief of terminating the above-described policy of subjecting court returns entitled to release by virtue of their court appearances to strip searches without any

individualized findings of reasonable suspicion or probable cause that the court returns were concealing contraband or weapons.

315. 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. A class action is superior for the fair and efficient adjudication of this controversy as detailed below.

316. Regarding the Court Return Strip Search Named Plaintiffs and members of the class, there are no individual questions on the issue of liability because every court return returned to the Fulton County Jail is subjected to the blanket searches. No records of the searches are kept. Defendant Jacqueline Barrett cannot 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. On information and belief, Defendant Myron Freeman has continued the aforementioned policies.

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

- a) whether there is a policy, custom and practice of subjecting court returns entitled to release by virtue of their court appearances returned to the Fulton County Jail to blanket strip searches without an individualized determination that the person was in possession of drugs, weapons or other contraband;

- b) whether such policy or practice, if found to exist, violates the Fourth or Fourteenth Amendment;
- c) whether Defendant Jacqueline Barrett and/or Myron Freeman were deliberately indifferent to the rights of such arrestees;
- d) whether Defendant Jacqueline Barrett and/or Myron Freeman are entitled to qualified immunity on the §1983 claims;
- e) whether Defendant Jacqueline Barrett and/or Myron Freeman are entitled to governmental immunity on the state law claims;
- f) whether the County Defendants are liable for the Court Return Strip Search Class Named Plaintiffs' injuries;
- g) whether the City of Atlanta is liable for the Court Return Strip Search Class Named Plaintiffs' injuries;
- h) whether the Court Return Strip Search Class Named Plaintiffs and the members of the class have sustained damages and, if so, the proper measure of such damages;
- i) 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; and



j) whether the Court Return Strip Search Class Named 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.

317. 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.

318. Every week at least 100 persons meeting the Court Return Strip Search Class definition are committed into the Fulton County Jail pending presentment and subjected to the illegal searches. Thus this class well exceeds 10,000 members.

319. Defendant Jacqueline Barrett and/or Defendant Myron Freeman and the Fulton County Jail have within their records the names and addresses of all current and past Court Return Strip Search Class members in the Fulton County Jail computer systems (CJUS, JDL and Banner and Mainframe), logbooks and other paper records maintained by the Fulton County Jail and the Fulton County Defendants.

320. The Court Return Strip Search Named Plaintiffs' claims are typical of the claims of the other members of the class, because the Court Return Strip Search Named Plaintiffs and all other members of the class were injured by exactly the same means; that is, by the blanket searches.

321. The Court Return Strip Search Named Plaintiffs will fairly and adequately protect the interests of the members of the class. They have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

322. The Court Return Strip Search Named Plaintiffs have no interests that are contrary to, or in conflict with, those of the class.

323. The Court Return Strip Search Named Plaintiffs knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action. The class action is superior to any other available means to resolve the issues raised on behalf of the Court Return Strip Search Class. The class action will be manageable because so many different records systems exist from which to ascertain the members of the putative class. Damages can be determined on a class-wide basis using a damages matrix set by a jury, or by trying the damages of a statistically valid sample of the class to a jury and extrapolating those damages to the class as a whole.

324. 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.

## OVERDETENTION CLASS ALLEGATIONS

### Plaintiff C. Alan Powell's Overdetention By The Fulton County Jail

325. On or about Saturday, March 20, 2004, Plaintiff C. Alan Powell was detained in the Fulton County Jail.
326. Plaintiff Alan Powell's Release Date was about March 21, 2004, when he made bond.
327. Plaintiff Alan Powell's Exit Date was March 23, 2004.
328. Plaintiff Alan Powell was overdetained for three days at the Fulton County Jail.
329. The moving force behind Plaintiff Alan Powell's overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.
330. Plaintiff Alan Powell suffered damages as a result of the over detention.

### Tory Dunlap's Overdetention By The Fulton County Jail

331. On or about Friday, February 13, 2002, Plaintiff Tory Dunlap was committed to the Fulton County Jail.
332. Plaintiff Tory Dunlap's Release Date was March 31, 2003.
333. Plaintiff Tory Dunlap's Exit Date was April 4, 2003.

334. Plaintiff Tory Dunlap was overdetailed for four days at the Fulton County Jail.

335. The moving force behind Plaintiff Tory Dunlap's overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

336. Plaintiff Tory Dunlap suffered damages as a result of the overdetention.

Plaintiff Lee Antonio Smith's Overdetention By The Fulton County Jail

337. On or about Thursday night, May 9, 2002, Plaintiff Lee Antonio Smith was committed to the Fulton County Jail.

338. Plaintiff Lee Antonio Smith's Release Date was December 22, 2003.

339. Plaintiff Lee Antonio Smith's Exit Date was December 25, 2003.

340. Plaintiff Lee Antonio Smith was overdetailed for three days at the Fulton County Jail.

341. The moving force behind Plaintiff Lee Antonio Smith's overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

342. Plaintiff Lee Antonio Smith suffered damages as a result of the overdetention.

David Evans' Overdetention By The Fulton County Jail

343. Plaintiff David Evans's Release Date from the Fulton County Jail was December 4, 2003.

344. Plaintiff David Evans' Exit Date was December 14, 2003.

345. Plaintiff David Evans was overdetained for ten days at the Fulton County Jail.

346. The moving force behind Plaintiff David Evans' overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

347. Plaintiff David Evans suffered damages as a result of the overdetention.

Plaintiff Stanley Clemons' Overdetention By The Fulton County Jail

348. In August, 2003, Plaintiff Stanley Clemons was detained in the Fulton County Jail.

349. Plaintiff Stanley Clemons' Release Date was July 19, 2004, when he was sentenced to time served.

350. Plaintiff Stanley Clemons has not yet been released from the Fulton County Jail as of the time the motion to amend was filed, July 21, 2004.

351. Plaintiff Stanley Clemons has already been overdetained for two days at the Fulton County Jail as of the time the motion to amend was filed, July 21, 2004.

352. The moving force behind Plaintiff Stanley Clemons' overdetection was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

353. Plaintiff Stanley Clemons suffered damages as a result of the over detention.

Plaintiff Allen Middleton' Overdetection By The Fulton County Jail

354. On 3/8/04, Plaintiff Allen Middleton was detained in the Fulton County Jail.

355. Plaintiff Allen Middleton's Release Date was 3/8/04, when he was sentenced to time served.

356. Plaintiff Allen Middleton's Exit Date was 3/11/04.

357. Plaintiff Allen Middleton was overdetailed for three days at the Fulton County Jail.

358. The moving force behind Plaintiff Allen Middleton' overdetection was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

359. Plaintiff Allen Middleton suffered damages as a result of the overdetection.

Plaintiff Anthony Westbrook' Overdetection By The Fulton County Jail

360. On 3/24/04, Plaintiff Anthony Westbrook was detained in the Fulton County Jail.

361. Plaintiff Anthony Westbrook's Release Date was 4/2/04.
362. Plaintiff Anthony Westbrook's Exit Date was 4/6/04.
363. Plaintiff Anthony Westbrook was overdetailed for four days at the Fulton County Jail.
364. The moving force behind Plaintiff Anthony Westbrook's overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.
365. Plaintiff Anthony Westbrook suffered damages as a result of the overdetention.

Plaintiff Benjamin Blake's Overdetention By The Fulton County Jail

366. On 4/26/04, Plaintiff Benjamin Blake was detained in the Fulton County Jail.
367. Plaintiff Benjamin Blake's Release Date was 5/13/04.
368. Plaintiff Benjamin Blake's Exit Date was 5/15/04.
369. Plaintiff Benjamin Blake was overdetailed for two days at the Fulton County Jail.
370. The moving force behind Plaintiff Benjamin Blake's overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

371. Plaintiff Benjamin Blake suffered damages as a result of the overdetention.

Plaintiff Henry Witherspoon' Overdetention By The Fulton County Jail

372. On 2/11/04, Plaintiff Henry Witherspoon was detained in the Fulton County Jail.

373. Plaintiff Henry Witherspoon's Release Date was 3/10/04.

374. Plaintiff Henry Witherspoon's Exit Date was 3/17/04.

375. Plaintiff Henry Witherspoon was overdetained for seven days at the Fulton County Jail.

376. The moving force behind Plaintiff Henry Witherspoon' overdetention was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

377. Plaintiff Harry Witherspoon suffered damages as a result of the overdetention.

Plaintiff Antionne Wolf's Overdetention By The Fulton County Jail

378. On 2/24/04, Plaintiff Antionne Wolf was detained in the Fulton County Jail.

379. Plaintiff Antionne Wolf's Release Date was 4/20/04.

380. Plaintiff Antionne Wolf's Exit Date was 4/21/04.



381. Plaintiff Antionne Wolf was overdetailed for one day at the Fulton County Jail.

382. The moving force behind Plaintiff Antionne Wolf' overdetection was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

383. Plaintiff Antionne Wolf suffered damages as a result of the overdetection.

Plaintiff Kristopher Matkins' Overdetection By The Fulton County Jail

384. On 3/18/04, Plaintiff Kristopher Matkins was detained in the Fulton County Jail.

385. Plaintiff Kristopher Matkins' Release Date was 3/19/04.

386. Plaintiff Kristopher Matkins' Exit Date was 3/23/04.

387. Plaintiff Kristopher Matkins was overdetailed for four days at the Fulton County Jail.

388. The moving force behind Plaintiff Kristopher Matkins' overdetection was the collapse of the Fulton County Jail's inmate management system, and Defendants' deliberate indifference.

389. Plaintiff Kristopher Matkins suffered damages as a result of the overdetection.

**“Overdetention Class” -- Class Action Allegations**

390. The Overdetention 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: (a) each person who has been, is, or who will be incarcerated in any Fulton County Jail facility in the two years preceding the filing of this action up to and until the date this case is terminated; and (b) who was not released or, in the future, will not be released by midnight on the date on which the person is entitled to be released by court order, posting bail, or the date on which the basis for his or her detention has otherwise expired.

391. Certification of a class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because Defendant Jacqueline Barrett implemented, and, on information and belief, Defendant Myron Freeman continued a policy, or or engaged or engages in a pattern and practice of conduct that has uniformly affected all members of the class, Injunctive relief against Defendant Myron Freeman, the current Sheriff will benefit each and every Overdetention Named Plaintiff and class member.

392. The class is entitled to injunctive relief of terminating the above described policy and practice of overdetections.

393. 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. A class action is superior for the fair and efficient adjudication of this controversy as detailed below.

394. Regarding the Overdetention Named Plaintiffs and members of the class, there are no individual questions on the issue of liability other than whether an individual has been overdetailed. The answer to that question can be determined by ministerial inspection of the Jail's records.

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

- a) whether the Constitution provides a bright line, maximum length of time measured in hours beyond which Defendant cannot hold a person before releasing that person from jail after a judge has ordered his release or he has posted bail, or the basis for his detention has otherwise expired;
- b) whether Defendants have exceeded that maximum for each class member;
- c) whether there is a pattern and practice of the Fulton County Jail of holding inmates past their Release Dates;
- d) whether Defendant Jacqueline Barrett and/or Myron Freeman have been deliberately indifferent to the pattern and practice of the Fulton County Jail of holding inmates past their Release Dates;
- e) whether Defendants' acts as alleged herein violate the Constitution of the United States by holding detainees and inmates past their release dates;

- f) whether such policy, if found to exist, violates the Fourth and/or Fourteenth Amendments;
- g) whether Jacqueline Barrett and/or Myron Freeman were deliberately indifferent to the rights of inmates and detainees in the custody of the Fulton County Jail;
- h) whether Defendant Jacqueline Barrett and/or Myron Freeman are entitled to qualified immunity on the section 1983 claims;
- i) whether Defendant Jacqueline Barrett and/or Myron Freeman are entitled to governmental immunity on the state law claims;
- j) whether the County Defendants are liable for plaintiffs' injuries;
- k) whether the City of Atlanta is liable for plaintiffs injuries;
- l) whether the Overdetention Named Plaintiffs and the members of the Overdetention Class have sustained damages and, if so, the proper measure of such damages;
- m) 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; and
- n) whether the Overdetention Class Named 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.

397. 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. However, every week at least 100 persons meeting the Overdetention Class definition are released from the Fulton County Jail. Thus, this class well exceeds 10,000 members.

398. Defendant Jacqueline Barrett and/or Myron Freeman and the Fulton County Jail and the Fulton County Defendants have within their records the names and addresses of all current and past class members. This information is maintained in the Fulton County Jail computer systems (CJUS, JDL and Banner and Mainframe), logbooks, and other paper records maintained by the Fulton County Jail and the Fulton County Defendants.

399. The Overdetention Named Plaintiffs' claims are typical of the claims of the other members of the class, because the Overdetention Named Plaintiffs and all other members of the class were injured by exactly the same means; that is, by the systemic collapse of the inmate management system, and the practice of returning in-custody defendants entitled to release by virtue of their court appearances from the courthouses to the Fulton County Jail to check for wants, holds and detainers.

400. The Overdetention Named Plaintiffs will fairly and adequately protect the interests of the members of the class. They have retained counsel who are competent and experienced in complex federal civil rights class action litigation

and/or complex federal prisoner rights litigation.

401. The Overdetention Named Plaintiffs have no interests that are contrary to, or in conflict with, those of the class.

402. The Overdetention 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. 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, and damages can be determined on a class wide basis using a damages matrix set by a jury or by trying the damages of a statistically valid sample of the class to a jury, and extrapolating those damages to the class as a whole.

403. Class treatment will be superior because liability can be determined on a class-wide basis. Damages can also be determined on a class-wide basis through use of statistical sampling.

## **SUBSTANTIVE ALLEGATIONS**

### **CLAIMS OF ARRESTEE STRIP SEARCH NAMED PLAINTIFFS**

#### **Count 1**

##### **Section 1983 Claims Of Arrestee Strip Search Named Plaintiffs Against Defendants Jacqueline Barrett and Myron Freeman**

404. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

405. The phrase “Defendants” as used in Counts 1 and 2 herein refer to Defendants Barrett and Freeman.

406. Upon being booked into the Fulton County Jail, each of the Arrestee Strip Search Named Plaintiffs, and every other Arrestee Strip Search Class member, was subjected to a strip search without an individual determination that the search would reveal weapons, drugs or other contraband.

407. Subjecting an arrestee arrested on a non-drug, non-weapon non-violent felony offense to a strip search, without an individual determination that the search would reveal weapons, drugs or other contraband, violates his or her Fourth Amendment and Fourteenth Amendment Rights.

408. Defendant Jacqueline Barrett knew that the Arrestee Strip Search Named Plaintiffs and other class members would be subjected to these searches in the

Fulton County Jail, and acquiesced in the searches.

409. On information and belief, Defendant Myron Freeman has continued the strip search policies of Defendant Barrett, and was aware, or should have been aware, that the strip search policies complained of herein were continuing.

410. Defendants' actions, and failures to act as described above, directly and proximately and affirmatively were the moving forces behind the violations of the Arrestee Strip Search Named Plaintiffs, and the class members' Fourth and Fourteenth Amendment Rights.

411. Defendants caused the unreasonable strip searches of the Arrestee Strip Search 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 arrestees.

412. Defendants are therefore liable under 42 U.S.C. §1983 for constitutional injuries to the Arrestee Strip Search Named Plaintiffs and all other class members caused by their conduct.

## **Count 2**

### **Negligent Training And Negligent Supervision And Failure To Implement Policies Claims Against Defendant Jacqueline Barrett and Myron Freeman**

413. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.



414. Defendants entrusted certain duties including, but not limited to, searching all arrestees booked into the Fulton County Jail to certain Jail employees.

415. Therefore, Defendants had a duty to exercise reasonable care in training, supervising and disciplining such employees in exercising their duties.

416. The need for such training was and is obvious from the nature of the responsibilities entrusted to such jail employees.

417. Defendants deliberately failed to implement and enforce procedures employees needed to ensure the constitutional searches of inmates.

418. The problems at the jail described above, and the various reports in the media, should have made it obvious to Defendants that the training employees under her supervision and control were receiving was inadequate, that the policies in place were inadequate, and that, as a direct and proximate result of these inadequacies, the inmates under her supervision would suffer injury.

419. Defendants negligently trained and supervised, or negligently failed to train and supervise such employees in their duties; failed to implement policies and, as a result, such employees were incompetent to perform their duties.

420. This negligent training; negligent failure to train; failure to supervise, and failure to implement policies by Defendants resulted in the unconstitutional strip searches of the Arrestee Strip Search Named Plaintiffs and the other members of the putative class.

421. As a result of said negligence of Defendants, Arrestee Strip Search Named Plaintiffs suffered injuries described in the preceding paragraphs of this Fourth Amended Complaint.

### **Count 3**

#### **Section 1983 Claims Of Arrestee Strip Search Named Plaintiffs Against Defendant Fulton County And Each Of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards**

422. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

423. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards had ultimate authority over the Fulton County Jail.

424. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County Jail.

425. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County criminal justice network.

426. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to

adequately train the sheriff and her staff.

427. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards knew or should have known of the illegal booking strip searches at the Fulton County Jail and were deliberately indifferent to the rights of the Arrestee Strip Search Class members to be free from illegal strip searches.

428. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards' deliberate indifference to the rights of the Arrestee Strip Search Class members to be free from illegal strip searches was the motivating factor of their injuries described above.

#### **Count 4**

#### **Section 1983 Claims Of Arrestee Strip Search Named Plaintiffs Against Defendant City Of Atlanta**

429. The Arrestee Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

430. The City of Atlanta, acting through its mayor and council, had control over the Atlanta PD's policy of charging persons arrested within the municipality for either municipal or state charges.

431. The City of Atlanta, acting through its mayor and council, had control over

the city's policy of holding persons arrested by the Atlanta PD within the municipality in an Atlanta detention facility.

432. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding first appearance for persons arrested within the municipality in the Atlanta court system.

433. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail was overcrowded during the ten years preceding this Fourth Amended Complaint.

434. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail had a custom and policy of subjecting all new commitments to blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process both before and during the class period.

435. Still, the City of Atlanta, acting through its mayor and council, discontinued its policy of committing persons arrested in the municipality to an Atlanta detention facility and holding their first presentment hearings there.

436. The City of Atlanta, acting through its mayor and council, began directing its police officers to charge all persons they arrested with state charges, whenever possible, and commit them to the Fulton County Jail upon arrest.

437. The City of Atlanta, acting through its mayor and council, knew that Defendant Fulton County and the Board and the Fulton County Sheriff were

deliberately indifferent to the rights of the Arrestee Strip Search Named Plaintiffs and the Arrestee Strip Search Class class members to be free from blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process.

438. The City of Atlanta's deliberate indifference to the rights of the Arrestee Strip Search Named Plaintiffs and the Arrestee Strip Search Class class to be free from blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process was the moving force behind their injuries.

439. Defendant City of Atlanta is therefore liable under the Fourth and the Fourteenth Amendments through 42 U.S.C. §1983 for constitutional injuries to the Arrestee Strip Search Named Plaintiffs and all other class members caused by its conduct described herein and is jointly and severally liable with all other defendants for injuries caused by their conduct described herein.

## **CLAIMS OF ALPHA STRIP SEARCH NAMED PLAINTIFFS**

### **Count 5**

#### **Section 1983 Claims Of Alpha Strip Search Named Plaintiffs Against Defendants Jacqueline Barrett and Myron Freeman**

440. The Alpha Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

441. Each of the Alpha Strip Search Named Plaintiffs, and every other Alpha Strip Search Class member, was subjected to a strip search without an individual determination that the search would reveal weapons, drugs or other contraband, either after a judge ordered his release at First Appearance, or, in the case of persons released without appearing before a judge, after he had posted bail or someone had posted it for him.

442. Subjecting an Alpha Strip class member to such strip searches, without an individual determination that the search would reveal weapons, drugs or other contraband, violates his or her Fourth Amendment and Fourteenth Amendment Rights.

443. The phrase “Defendants” as used in Counts 5 and 6 herein refers to Defendants Barrett and Freeman.

444. Defendants knew that the Alpha Strip Search Named Plaintiffs and other

class members would be subjected to these searches in the Fulton County Jail, and acquiesced in the searches.

445. Defendants' actions, and failures to act as described above, directly and proximately and affirmatively were the moving forces behind the violations of the Alpha Strip Search Named Plaintiffs, and the class members' Fourth and Fourteenth Amendment Rights.

446. Defendants caused the unreasonable strip searches of the Alpha Strip Search 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 Alphas.

447. Defendants are therefore liable under 42 U.S.C. §1983 for constitutional injuries to the Alpha Strip Search Named Plaintiffs and all other class members caused by their conduct.

### **Count 6**

#### **Negligent Training And Negligent Supervision And Failure To Implement Policies Claims Against Defendant Jacqueline Barrett**

448. The Alpha Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

449. Defendants entrusted certain duties including, but not limited to, searching all Alpha Strip Search class members to certain Jail employees.

450. Therefore, Defendants had a duty to exercise reasonable care in training, supervising and disciplining such employees in exercising their duties.

451. The need for such training was and is obvious from the nature of the responsibilities entrusted to such jail employees.

452. Defendants deliberately failed to implement and enforce procedures employees needed to ensure the constitutional searches of inmates.

453. The problems at the jail described above, and the various reports in the media, should have made it obvious to Defendant Jacqueline Barrett that the training employees under her supervision and control were receiving was inadequate, that the policies in place were inadequate, and that, as a direct and proximate result of these inadequacies, the inmates under her supervision would suffer injury.

454. Defendants negligently trained and supervised, or negligently failed to train and supervise such employees in their duties; failed to implement policies and, as a result, such employees were incompetent to perform their duties.

455. This negligent training; negligent failure to train; failure to supervise, and failure to implement policies by Defendants resulted in the unconstitutional strip searches of the Alpha Strip Search Named Plaintiffs and the other members of the putative class.

456. As a result of said negligence of Defendants, Alpha Strip Search Named



Plaintiffs suffered injuries described in the preceding paragraphs of this Fourth Amended Complaint.

### **Count 7**

#### **Section 1983 Claims Of Alpha Strip Search Named Plaintiffs Against Defendant Fulton County And Each Of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards**

457. The Alpha Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

458. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards had ultimate authority over the Fulton County Jail and its staff.

459. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County Jail.

460. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County criminal justice network.

461. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately train the sheriff and her staff.

462. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards knew or should have known of the illegal strip searches of Alpha Strip Search Class members and were deliberately indifferent to the rights of the Alpha Strip Search Class members to be free from illegal strip searches.

463. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards' deliberate indifference to the rights of the Alpha Strip Search Class members to be free from illegal strip searches was the motivating factor of their injuries described above.

### **Count 8**

#### **Section 1983 Claims Of Alpha Strip Search Named Plaintiffs Against Defendant City Of Atlanta**

464. The Alpha Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

465. The City of Atlanta, acting through its mayor and council, had control over the Atlanta PD's policy of charging persons arrested within the municipality for either municipal or state charges.

466. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding persons arrested by the Atlanta PD within the municipality in an Atlanta detention facility.

467. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding first appearance for persons arrested within the municipality in the Atlanta court system.

468. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail was overcrowded during the ten years preceding this Fourth Amended Complaint.

469. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail had a custom and policy of subjecting all new commitments to blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process both before and during the class period.

470. The City of Atlanta, acting through its mayor and council, knew or should have known that the Fulton County Jail had a custom and policy of subjecting persons who had been ordered released at First Presentment, and persons who had posted bail (or had it posted for them) before First Appearance to blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process both before and during the class period.

471. Still, the City of Atlanta, acting through its mayor and council, discontinued its policy of committing persons arrested in the municipality to an Atlanta detention facility and holding their first presentment hearings there.

472. The City of Atlanta, acting through its mayor and council, began directing

its police officers to charge all persons they arrested with state charges, whenever possible, and commit them to the Fulton County Jail upon arrest.

473. The City of Atlanta, acting through its mayor and council, knew that Defendant Fulton County and the Board and the Fulton County Sheriff were deliberately indifferent to the rights of the Alpha Strip Search Named Plaintiffs and the Alpha Strip Search Class class members to be free from blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process, even after they had been ordered released at First Appearance or after posting bond (or having it posted for them).

474. The City of Atlanta's deliberate indifference to the rights of the Alpha Strip Search Named Plaintiffs and the Alpha Strip Search Class class members to be free from blanket strip searches without an individualized finding of reasonable suspicion as part of the booking process was the moving force behind their injuries.

475. Defendant City of Atlanta is therefore liable under 42 U.S.C. §1983 for constitutional injuries to the Alpha Strip Search Named Plaintiffs and all other Alpha Strip Search class members caused by its conduct described herein and is jointly and severally liable with all other defendants for injuries caused by their conduct described herein.

## **CLAIMS OF COURT RETURN STRIP SEARCH NAMED PLAINTIFFS**

### **Count 9**

#### **Section 1983 Claim of Court Return Strip Search Named Plaintiffs against Defendant Jaquelyn Barrett and Myron Freeman**

476. The Court Return Strip Search Named Plaintiffs reallege and incorporates by reference all allegations set forth above in this Complaint.

477. Upon returning from the Superior Court or State Court to the Fulton County Jail after court hearings at which a judge ordered him released, the Court Return Strip Search Named Plaintiffs, and many other Court Return Strip Search Class member, was subjected to a strip search without an individual determination that the search would reveal weapons, drugs or other contraband.

478. Subjecting court returns entitled to release by virtue of their court appearances to strip searches without an individual determination that the search would reveal weapons, drugs or other contraband violates their Fourth Amendment and Fourteenth Amendment Rights.

479. The phrase “Defendants” as used in Counts 9 and 10 herein refers to Defendants Barrett and Freeman.

480. Defendants knew that the Court Return Strip Search Named Plaintiffs and other class members would be subjected to searches in the Fulton County Jail, and acquiesced in such searches.

481. Defendants' actions, and failure to act as described above, directly and proximately and affirmatively were and are the moving forces behind the violations of the Court Return Strip Search Named Plaintiffs' and the class members' Fourth and Fourteenth Amendment Rights.

482. Defendants caused the unreasonable strip searches of the Court Return Strip Search 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 arrestees.

**483.** Defendants are therefore liable under 42 U.S.C. §1983 for constitutional injuries to the Court Return Strip Search Named Plaintiffs and all other class members caused by their conduct.

### **Count 10**

#### Negligent Training and Negligent Supervision and Failure to Implement Policies Regarding Searches of Court Return Strip Search Class Members against Defendant Jaquelyn Barrett

484. The Court Return Strip Search Named Plaintiffs reallege and incorporates by reference all allegations set forth above in this Complaint.

485. Defendants entrusted certain duties, including but not limited to, searching all court returns booked back into the Fulton County Jail to certain jail employees.

486. Therefore, Defendants had a duty to exercise reasonable care in training, supervising, and disciplining such employees in exercising their duties.

487. The need for such training was obvious from the nature of the responsibilities entrusted to such jail employees.

488. Defendants deliberately failed to implement and enforce procedures employees under her supervision and control needed to ensure the constitutional searches of court returns entitled to release by virtue of their court appearances.

489. The problems at the jail described above, and the various reports in the media should have made it obvious to Defendants that the training such employees were receiving was inadequate, the policies in place were inadequate, and that as a direct and proximate result of these inadequacies, the inmates under her supervision would suffer injury.

490. Defendants negligently trained and supervised, or negligently failed to train and supervise such employees in their duties, and failed to implement policies. As a direct result of these failures, such employees were incompetent to perform their duties.

491. This negligent training, and negligent failure to train and supervise, and failure to implement policies by Defendants resulted in the unconstitutional strip searches of the Court Return Strip Search Named Plaintiffs and the other members of the putative class.

492. As a result of said negligence of Defendants, Court Return Strip Search Named Plaintiffs suffered injuries described in the preceding paragraphs of this Complaint.

### **Count 11**

#### **Section 1983 Claims Of Court Return Strip Search Named Plaintiffs Against Defendant Fulton County And Each Of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards**

493. The Court Return Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

494. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards had ultimate authority over the Fulton County Jail and its staff.

495. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County Jail.

496. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County criminal justice network.

497. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to



adequately train the sheriff and her staff.

498. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards were deliberately indifferent to the rights of the Court Return Strip Search Class members to be free from illegal strip searches.

499. Each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards knew or should have known that the Fulton County Jail had a policy or practice of subjecting court returns to blanket strip searches after a judge had ordered their release and no further basis for their detention existed.

500. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards' deliberate indifference to the rights of the Court Return Strip Search Class members under the Fourth and Fourteenth Amendments of the federal constitution was the motivating factor of their injuries described above.

### **Count 12**

#### **Section 1983 Claims Of Court Return Strip Search Named Plaintiffs Against Defendant City Of Atlanta**

501. The Court Return Strip Search Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

502. The City of Atlanta, acting through its mayor and council, had control over the Atlanta PD's policy of charging persons arrested within the municipality for either municipal or state charges.

503. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding persons arrested by the Atlanta PD within the municipality in an Atlanta detention facility.

504. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding first appearance for persons arrested within the municipality in the Atlanta court system.

505. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail was overcrowded during the ten years preceding this Fourth Amended Complaint.

506. The City of Atlanta, acting through its mayor and council, knew or should have known that the Fulton County Jail had a custom and policy of subjecting all court returns to blanket strip searches after a judge had ordered their release and there was no basis for their continued detention.

507. Still, the City of Atlanta, acting through its mayor and council, discontinued its policy of committing persons arrested in the municipality to an Atlanta detention facility and holding their first presentment hearings there.

508. The City of Atlanta, acting through its mayor and council, began directing

its police officers to charge all persons they arrested with state charges, whenever possible, and commit them to the Fulton County Jail upon arrest.

509. The City of Atlanta's deliberate indifference to the rights of the Court Return Strip Search Named Plaintiffs and the Court Return Strip Search Class class members to be free from blanket strip searches after a judge had ordered their release and there was no basis for their continued detention.

510. Defendant City of Atlanta is therefore liable under the Fourth and Fourteenth Amendments to the Federal Constitution pursuant to 42 U.S.C. §1983 for constitutional injuries to the Court Return Strip Search Named Plaintiffs and all other Court Return Strip Search class members caused by its conduct described herein and is jointly and severally liable with all other defendants for injuries caused by their conduct described herein.

## CLAIMS OF OVERDETENTION NAMED PLAINTIFFS

### Count 13

#### Section 1983 Claims Of Overdetention Named Plaintiffs Against Defendants Jacqueline Barrett and Myron Freeman

511. The Overdetention Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

512. The phrase “Defendants” as used in Counts 13 and 14 herein refers to Defendants Barrett and Freeman.

513. Defendants were, at all times relevant herein, the supervisor of the Jail employees charged with ensuring the release on their Release Dates of all inmates in the custody of the Fulton County Jail.

514. Defendants deliberately failed to train, monitor and discipline such employees.

515. Defendants deliberately failed to implement and enforce procedures employees needed to ensure the timely release of inmates.

516. Defendants had both actual and constructive knowledge that such employees were engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to The Overdetention Named Plaintiffs and other members of the class.

517. Defendants engaged in a pattern of continued inaction in the face of employees' documented widespread abuse of the Fourth, Eighth and Fourteenth Amendment rights of the Overdetention Named Plaintiffs and the other members of the class by failing to ensure their release on their Release Dates.

518. Defendants' actions, and failures to act as described above, directly, proximately, and affirmatively caused the violations of the Fourth, Eighth and Fourteenth Amendment rights of the Overdetention Named Plaintiffs' and the other members of the class.

519. The deprivations to the Fourth, Eighth and Fourteenth Amendments to the federal constitution rights of the Overdetention Named Plaintiffs and the other members of the class were committed by Defendants while she was acting under color of state law, and was acting pursuant to the policy, custom and practice of Fulton County Jail.

520. Defendants' actions, and failures to act, as described above, directly and proximately caused injury described above to the Overdetention Named Plaintiffs' and the other members of the class.

## Count 14

### Negligent Training And Negligent Supervision And Failure To Implement Policies Claims Of Overdetention Named Plaintiffs Against Defendant Jacqueline Barrett and Myron Freeman

521. The Overdetention Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

522. Defendants entrusted certain duties including, but not limited to, ensuring the release on their Release Dates of all inmates in Fulton County Jail custody to certain Jail employees.

523. Therefore, Defendants had a duty to exercise reasonable care in training, supervising, and disciplining such employees in exercising their duties.

524. The need for such training was obvious from the nature of the responsibilities entrusted to Jail employees.

525. Defendants deliberately failed to implement and enforce procedures employees needed to ensure the timely release of inmates.

526. The problems at the jail described above, and the various reports in the media, should have made it obvious to Defendants that the training employees under her supervision and control were receiving was inadequate, that the policies in place were inadequate, and that, as a direct and proximate result, the inmates under her supervision would suffer injury.

527. Defendants negligently trained and supervised, or negligently failed to train

and supervise, such employees in their duties. She further failed to implement policies and, as a result, such employees were incompetent to perform their duties.

528. This negligent training, and negligent failure to train and supervise, and failure to implement policies by Defendants resulted in the complete breakdown in the inmate management system of the Fulton County Jail. These failures have caused the overdetection of The Overdetection Named Plaintiffs and the other members of the putative class.

529. As a result of said negligence of Defendants, The Overdetection Named Plaintiffs suffered injuries described in the preceding paragraphs of this Fourth Amended Complaint.

### **Count 15**

#### **Section 1983 Claims Of Overdetection Named Plaintiffs Against Defendant Fulton County And Each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards**

530. The Overdetection Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

531. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards had ultimate authority over the Fulton County Jail.

532. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe,

Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County Jail.

533. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately fund and staff the Fulton County criminal justice network.

534. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards failed to adequately train the sheriff and her staff.

535. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards knew or should have known of the overdetections and were deliberately indifferent to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class members under the Fourth, Eighth and Fourteenth Amendments Fourth, Eighth and Fourteenth Amendments to the federal constitution to be released by midnight of their Release Dates.

536. Defendant Fulton County and each of Karen Handel, Robb Pitts, Tom Lowe, Emma I. Darnell, Nancy A. Boxill and William "Bill" Edwards' deliberate indifference to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class to be released by midnight of their Release Dates the motivating factor of their injuries described above.



## Count 16

Section 1983 Claims of Overdetention Named Plaintiffs Against Defendant Fulton County And Each of Karen Handel, Robb Pitts, Tom Lowe, Emman I. Darnell, Nancy A. Boxill and William “Bill” Edwards – Deliberate Indifference For Knowing Failure to Provide Adequate Funds for the Constitutional Operation of the Fulton County Jail Despite the Express Legal Obligation To Do So

537. The Overdetention Named Plaintiffs reallege and incorporate by reference all allegations set forth in this Fourth Amended Complaint.

538. The phrase “Defendants” as used in this Count 16 refers to Defendants Fulton County, Karen Handel, Robb Pitts, Tom Lowe, Emman I. Darnell, Nancy A. Boxill and William “Bill” Edwards.

539. Defendants were and are obligated under Georgia state law to provide sufficient funds “for the efficient and effective operation of the jail”, O.C.G.A. § 42-4-94(b), which as a matter of law necessitates adequate funding to allow the Sheriff to operate the jail in a constitutional manner.

540. Defendants were fully aware for many years, and knew or should have known, that serious deficiencies of constitutional magnitude in the Fulton County jail’s operation, including the problem of Overdetentions, were significantly attributable to their lack of adequate funding “for the efficient and effective operation of the jail.” O.C.G.A. § 42-4-94(b).

541. Despite this knowledge, Defendants made a knowing and conscious decision

not to provide adequate funding to allow the Sheriff to process inmates out in a timely fashion, in violation of those inmates' constitutional rights.

542. In failing to provide adequate funding for the Fulton County Jail to operate without violating the constitutional rights of the inmates, and specifically without violating their right to be timely released from jail and not to be overdetailed, Defendants displayed a conscious and knowing disregard for, and deliberate indifference towards, the constitutional rights of the Overdetention Named Plaintiffs and the class they represent.

543. Defendants' deliberate indifference to the rights of the Overdetention Named Plaintiffs and the class they represent was a motivating factor for their injuries as described above.

### **Count 17**

#### **Section 1983 Claims Of Overdetention Named Plaintiffs Against Defendant City Of Atlanta**

544. The Overdetention Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Fourth Amended Complaint.

545. The City of Atlanta, acting through its mayor and council, had control over the Atlanta PD's policy of charging persons arrested within the municipality for either municipal or state charges.

546. The City of Atlanta, acting through its mayor and council, had control over

the city's policy of holding persons arrested by the Atlanta PD within the municipality in an Atlanta detention facility.

547. The City of Atlanta, acting through its mayor and council, had control over the city's policy of holding first appearance for persons arrested within the municipality in the Atlanta court system.

548. The City of Atlanta, acting through its mayor and council, knew that the Fulton County Jail was overcrowded during the ten years preceding this Fourth Amended Complaint.

549. The City of Atlanta, acting through its mayor and council, knew or should have known that the Fulton County Jail had a custom of overdetaining inmates before and during the class period.

550. Still, the City of Atlanta, acting through its mayor and council, discontinued its policy of committing persons arrested in the municipality to an Atlanta detention facility and holding their first presentment hearings there.

551. The City of Atlanta, acting through its mayor and council, began directing its police officers to charge all persons they arrested with state charges, whenever possible, and commit them to the Fulton County Jail upon arrest.

552. The City of Atlanta, acting through its mayor and council, knew that the Fulton Defendant Fulton County and the Board were deliberately indifferent to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class

members under the Fourth, Eighth and Fourteenth Amendments Fourth, Eighth and Fourteenth Amendments to the federal constitution to be released by midnight of their Release Dates.

553. The City of Atlanta's deliberate indifference to the rights of the Overdetention Named Plaintiffs and the Overdetention Class class to be released by midnight of their Release Dates the was the moving force of their injuries described above.

554. Defendant City of Atlanta is therefore liable under 42 U.S.C. §1983 for injuries to the Overdetention Named Plaintiffs and the Overdetention Class class members' rights under the Fourth, Eighth and Fourteenth Amendments Fourth, Eighth and Fourteenth Amendments to the federal constitution caused by its conduct.

## **IRREPARABLE INJURY AND INJUNCTIVE RELIEF**

555. Defendants are overdetaining, or contributing to the overdetention of members of the plaintiff class, and unreasonably subjecting, or causing the subjection of members of the Arrestee Strip Search Class to strip searches which irreparably harm them, even if they are later able to recover compensatory damages.

556. Defendants' conduct and/or participation in overdetaining members of the plaintiff class, and performing illegal strip searches of the Arrestee Strip Search Class, has irreparably harmed them. This conduct will continue to irreparably harm members of the proposed plaintiff Overdetention Class and Arrestee Strip Search Class, thus making declaratory and injunctive relief necessary.

## **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs respectfully request that this Court grant the following relief:

- 1) grant a jury trial on all claims so triable;
- 2) declare that, with respect to the Arrestee Strip Search Class, 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 Arrestee Strip Search Named Plaintiffs

as the proper representative of the class consisting of each person who, in the two years preceding the filing of this action up until the date this case is terminated, was or will be, (i) upon being arrested and committed into the Fulton County Jail; (ii) on a charge other than a charge of drugs, weapon or felony violence; (iii) was subjected to a blanket strip search without any individualized finding of reasonable suspicion or probable cause that he or she was concealing drugs, weapons or other contraband.

- 3) declare that, with respect to the Alpha Strip Search Class, 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 Alpha Strip Search Named Plaintiffs as the proper representative of the class consisting of each person who, in the two years preceding the filing of this action up until the date this case is terminated, was or will be, (i) upon being arrested and committed into the Fulton County Jail; (ii) subjected to a booking strip search without any individualized finding of reasonable suspicion or probable cause that he or she was concealing drugs, weapons or other contraband; (iii) after a judicial officer had ordered his release because of a finding of no probable cause to support the arrest, or, in the case of persons released without being taken before a judicial officer, after he had already posted bond (or someone had already posted it for him).

- 4) declare that, with respect to the Court Return Strip Search Class, 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 Court Return Strip Search Named Plaintiffs as the proper representative of the class consisting of each person who: in the two years preceding the filing of this action up until the date this case is terminated, has been, is or will be: (i) in the custody of the Fulton County Jail; (ii) taken to court from the Fulton County Jail; (iii) ordered released by the court or otherwise became entitled to release by virtue of the court appearance because the charge on which he had been held was no longer pending or was dismissed at the hearing, was ordered released on his own recognizance, or had posted bail, was sentenced to time served, was acquitted or was otherwise entitled to release; (iv) was not the subject of any other pending case or cases which imposed any condition of release other than personal recognizance; (v) was not the subject of any detainer or warrant; (vi) was returned to the Fulton County Jail; and (vii) was subjected to a strip search without any individualized finding of reasonable suspicion or probable cause that he was concealing contraband or weapons before being released, regardless of whether he was overdetailed.
- 5) declare that, with respect to the Overdetention Class, this action may be maintained as a class action pursuant to Federal Rule of Civil Procedure

23(a), 23(b) (2), and 23(b)(3) and certify the Overdetention Named Plaintiffs as the proper representative of the Overdetention Class consisting of class consisting of: (a) each person who has been, is, or will be incarcerated in any Fulton County Jail facility in the two years preceding the filing of this action up to and until the date this case is terminated; and (b) who was not released, or, in the future, will not be released by midnight on the date on which the person is entitled to be released by court order, posting bail, or the date on which the basis for his or her detention has otherwise expired.

- 6) Name William Claiborne, Dan DeWoskin, Charles Pekor, J.P. Claiborne, Lynn Cunningham, Barrett Litt and Paul Estuar as class counsel for all classes.
- 7) preliminarily and permanently enjoin defendants from pursuing the course of conduct complained of herein;
- 8) preliminarily and permanently enjoin defendants from pursuing settlement directly with any member of the putative Arrestee Strip Search Class or the Alpha Strip Search Class or the Overdetention Class or Court Return Strip Search Class described herein unless that person is represented by counsel;
- 9) award all Plaintiffs and class members compensatory and consequential damages in an amount to be determined;



- 10) appoint an independent monitor to supervise the Fulton County Jail “dress out” area to ensure that all new commitments are not strip searched or subjected to a visual body cavity search without an individualized finding of reasonable suspicion;
- 11) appoint an independent monitor to supervise the Records Room to ensure that all inmates are released on or before their Release Dates;
- 10) award Plaintiffs’ attorneys’ fees and costs incurred in bringing this action under 42 U.S.C. §1988; and
- 11) grant such other relief as this Court deems just and proper.

<p>Respectfully submitted,</p> <p>_____</p> <p>/s/William Claiborne</p> <p>William Claiborne          Georgia Bar # 126360          Counsel for all named plaintiffs and all putative class members          717 D Street, NW          Suite 210          Washington, DC 20004          Phone 202/824-0700          Fax 202/824-0745</p>	<p>Respectfully submitted,</p> <p>_____</p> <p>Charles Pekor          Georgia Bar # 570601          Counsel for all named plaintiffs and all putative class members          Pekor &amp; DeWoskin          270 Peachtree Street, N.W.          Suite 1060          Atlanta, GA 30303          Phone 404-221-8887          Fax 404-221-8884</p>
<p>Respectfully submitted,</p>	<p>Respectfully submitted,</p>

<hr/> <p>Dan DeWoskin  Georgia Bar # 220-327  Counsel for all named plaintiffs and all putative class members  Pekor &amp; DeWoskin  270 Peachtree Street, N.W.  Suite 1060  Atlanta, GA 30303  Phone 404-221-8887  Phone 404-230-9171  Fax 404-221-8884</p>	<hr/> <p>J.P. Claiborne  Georgia Bar # 126337  Counsel for all named plaintiffs and all putative class members  699 Broad Street  Ste 1206  Augusta, GA 30901  Phone 706-722-8224  Fax 706-722-8236</p>
<p>Respectfully submitted,</p> <hr/> <p>Lynn E. Cunningham  Admitted <u>pro hac vice</u>  Counsel for all named plaintiffs and all putative class members  Professor of Clinical Law  The George Washington University  Law School  2000 G Street, N.W.  Washington, DC 20052  Phone: 202/994-7659</p>	<p>Respectfully submitted,</p> <hr/> <p>Barrett S. Litt  Paul Estuar  Admitted <u>pro hac vice</u>  Counsel for all named plaintiffs and all putative class members  Litt &amp; Associates, Inc.  3435 Wilshire Boulevard, Suite 1100  Los Angeles, CA 90010-1912  Phone: 213-251-5400  Fax: 213.380-4585</p>

JURY DEMAND

Plaintiffs demand a jury of six as to all claims so triable.

/s/William Claiborne

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William Claiborne  
Georgia Bar # 126360

CERTIFICATE OF COMPLIANCE WITH LR 5dB

I, William Claiborne, do hereby certify that the foregoing motion and other documents have been prepared in 14-point New Times Roman and comply with LR 5dB.

/s/William Claiborne

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William Claiborne  
Georgia Bar # 126360