

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

*ELECTRONICALLY FILED*

TABITHA GENTRY )  
1429 Locust St. )  
New Albany, IN 47150 )

and )

VINCENT MINTON )  
11302 Nabb New Washington Rd )  
Nabb, IN 47147 )

and )

MICHAEL HERRON )  
418 Howser Rd )  
Henryville, IN 47126 )

and )

ADAM WALKER )  
6090 State Rd. 62 )  
Apt. 25 )  
Georgetown, IN 47122 )

PLAINTIFFS )

vs. )

FLOYD COUNTY, INDIANA )  
SERVE: Mark Seabrook )  
County Commissioner )  
City-County Building )  
311 West First Street )  
New Albany, IN 47150 )

and )

CIVIL ACTION NO.

4:14-CV-00054

DARRELL MILLS, )  
Individually, and in his capacity as )  
Floyd County Sheriff )  
Floyd County Sheriff's Department )  
311 Hauss Square )  
New Albany, IN 47150 )

and )

TIFFANY FRANS, individually )  
Floyd County Sheriff's Department )  
311 Hauss Square )  
New Albany, IN 47150 )

and )

OFFICER ATHERTON, individually )  
Floyd County Sheriff's Department )  
311 Hauss Square )  
New Albany, IN 47150 )

and )

RYAN RAINEY, individually )  
Floyd County Sheriff's Department )  
311 Hauss Square )  
New Albany, IN 47150 )

and )

OFFICERS JOHN/JANE DOE, individually ) )  
Floyd County Sheriff's Department )  
311 Hauss Square )  
New Albany, IN 47150 )

DEFENDANTS )

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## **COMPLAINT**

### **INTRODUCTION**

1. Plaintiffs Tabitha Gentry, Vincent Minton, Michael Herron, and Adam Walker file this action in their individual capacities and on behalf of all persons stripped, held naked, tortured, humiliated, and abused by Defendants as a regular part of Defendants' policies, procedures, and protocol.

2. This class of people includes all individuals who were so treated from June 12, 2012, to the present.

3. Such treatment has been regularly perpetrated by Defendants and there are potentially hundreds of members of this class.

4. There are questions of law and fact in this case that are common to all members of this class.

5. Plaintiffs' claims are typical of those of the class, and they will fairly and adequately protect the interests of this class.

### **JURISDICTION AND VENUE**

6. Plaintiffs, and all other similarly situated, seek actual and punitive damages from Defendants under the Civil Rights Act of 1871, 42 U.S.C. §1983, for gross and unconscionable violations of the rights, privileges and immunities guaranteed them by the Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States.

7. This Court has jurisdiction of this case pursuant to the provisions of 28 U.S.C. §1331 and §1343.

8. Plaintiffs and the other members of the class also seek declaratory and injunctive relief.

9. As Floyd County, Indiana is the location of all acts on which Plaintiff's claims are based, venue is proper in this Court.

### **CLASS ACTION**

10. Plaintiffs bring this action as a class action pursuant to Rules 23(b)(1), (2) and (3) of the Federal Rules of Civil Procedure.

11. The class consists of all individuals who, since June 12, 2013, were forcibly stripped of their clothing, and kept in a state of undress for prolonged periods of time, whether as a punitive measure, or as a torture method, or under the pretext of a search and seizure, or any other reason.

12. This class also consists of individuals who were subjected to the use of pepper spray, taser, or other unnecessary and unwarranted means of excessive force while being held under these conditions.

13. Plaintiffs and other members of the class were subjected to such treatment despite the absence of any reasonable, individualized suspicion or probable cause required by law.

14. Plaintiffs will fairly and adequately protect the interests of all class members. They are members of the class and their claims are typical of the claims of all class members.

15. Plaintiffs were harmed and offended by the treatment accorded them and will aggressively pursue the interests of the entire class.

16. Plaintiffs' interest in obtaining injunctive relief and actual and punitive damages for the violations of their constitutional rights and privileges are consistent with and not antagonistic of those of any other person within the class.

17. Given the circumstances of their detention, as detailed below, Plaintiffs allege, on information and belief, that Defendants regularly forcibly remove the clothing of arrestees/detainees, and leave them without clothing for prolonged periods of time, despite the absence of any reasonable, individualized suspicion, probable cause, threat, security interest, or provocation that would justify such an extreme sanction.

18. Given the circumstances of their detention, as detailed below, Plaintiffs allege, on information and belief, that Defendants regularly expose such detainees' naked bodies to officers of the opposite sex either through conducting the forcible removal of clothing, through the subsequent withholding of clothing while in view of Jail employees, or through video surveillance of detainees' naked bodies.

19. Given the circumstances of their detention, as detailed below, Plaintiffs allege, on information and belief, that Defendants regularly expose such detainees' naked bodies to harmful and extremely offensive touching.

20. Given the circumstances of their detention, as detailed below, Plaintiffs allege, on information and belief, that Defendants regularly subject detainees to unnecessary, unwarranted, and excessive uses of force during and following the removal of their clothing despite the absence of any provocation, legitimate security or law enforcement interest, probable cause, or articulable individualized suspicion.

21. Given the circumstances of their detention, as detailed below, Plaintiffs allege, on information and belief, that Defendants regularly deprive such detainees of access to bathroom facilities, and force detainees to void into a floor drain.

22. In addition, upon information and belief, video footage was taken of the above abuses. This video footage, which includes clear and graphic depictions of Plaintiffs' naked bodies, is available to other members of Floyd County government, and to the general public.<sup>1</sup>

23. Such abuses violate the Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. §1983, and clearly established law.

24. Plaintiffs and the members of the class are entitled to declaratory and injunctive relief and an award of compensatory and punitive damages.

25. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because:

- a. A multiplicity of suits with consequent burden on the courts and Defendants should be avoided.
- b. It would be virtually impossible for all class members to intervene as parties-plaintiffs in this action.
- c. Upon adjudication of Defendants' liability, claims of the class members can be determined by this Court.

#### **NATURE OF DEFENDANTS' CONDUCT**

26. The conduct of the Defendants constitutes torture, and violates well-established, longstanding national and international norms.

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<sup>1</sup> Video footage of Plaintiff Tabitha Gentry was obtained through a request pursuant to the Indiana Access to Public Records Act, IC § 5-14-3.

27. Defendants' treatment of Plaintiffs and other class members is intolerable in a civilized society, and presents a marked departure from the standard to which the Western world adheres for the treatment of prisoners of war during wartime, let alone the standard of acceptable treatment for American citizens on American soil.

28. Defendants engaged in the conduct described below under color of the law of the State of Indiana and Floyd County.

29. The offenses described below resulted from the failure of Defendants Floyd County and Darrell Mills to employ qualified persons for positions of authority, to properly or conscientiously train and supervise the conduct of such persons after their employment, and/or to promulgate appropriate operating policies and procedures either formally or by custom to protect the constitutional rights of American citizens.

30. Defendants' conduct was intentional or grossly negligent, or indicated active malice toward Plaintiffs and the class, or constitutes a total and reckless disregard for and indifference to Plaintiffs' constitutional and common law rights, justifying an award of punitive damages in addition to the actual damages which Plaintiffs and the class are entitled to recover.

### **PARTIES**

31. Plaintiff Tabitha Gentry ("Gentry") is, and at all times relevant herein was, a resident of Floyd County, Indiana.

32. Plaintiff Vincent Minton ("Minton") is, and at all times relevant herein was, a resident of Scott County, Indiana.

33. Plaintiff Michael Herron ("Herron") is, and at all times relevant herein was, a resident of Clark County, Indiana.

34. Plaintiff Adam Walker (“Walker”) is, and at all times relevant herein was, a resident of Floyd County, Indiana.

35. Defendant Floyd County, Indiana is responsible for the conditions in the Floyd County Jail, for the establishment of policies either formally or by custom and practice, and for the employment, training, supervision and conduct of the officers and employees of the Jail.

36. At all times relevant herein, Defendant Darrell Mills (“Mills”), Sheriff of Floyd County, was responsible for the conditions in the Floyd County Jail, for the establishment of policies either formally or by custom and practice, and for the employment, training, supervision and conduct of the officers and employees of the Jail. Mills is named in his individual capacity and his official capacity as Floyd County Sheriff.

37. At all times relevant herein, Defendants Atherton, Frans, and Rainey were employed as corrections officers in the Floyd County Jail.

38. Defendant Officers John and Jane Does, are individuals who were employed by the Floyd County Sheriff’s Department and participated in depriving the class members of constitutional guarantees, or were present for and otherwise failed to intervene in order to protect Plaintiffs’ constitutional rights.

### **FACTUAL ALLEGATIONS**

#### *Plaintiff Tabitha Gentry*

39. Plaintiff Tabitha Gentry is a thirty-two-year-old mother of four.

40. On March 30, 2014 at approximately 4:00 a.m., Gentry was arrested on suspicion of public intoxication, disorderly conduct, and resisting law enforcement, all misdemeanor offenses.



41. Indiana State Police transported Gentry to the Floyd County Jail.

42. Upon arriving at the Floyd County Jail, Gentry was escorted, in handcuffs, to the “remand room.”

43. While waiting to be booked, Gentry had a verbal altercation with three Defendant officers.

44. During this verbal exchange, Gentry was seated on a bench and her hands were cuffed behind her back.

45. Defendants Frans, Atherton, and Rainey then ceased booking Gentry into the Jail and grabbed Gentry by the neck, arms, and head, and forcibly escorted her into a “padded cell,” identified on surveillance video as “PD-2.”

46. Defendants then forced Gentry to the floor, held her down, and began to forcibly remove her shoes, pants and underwear.

47. After stripping her from the waist down, officers removed Gentry’s handcuffs and began to remove her shirt and bra.

48. While removing Gentry’s shirt and bra, Defendant Rainey pressed a taser to her back and threatened to tase her.

49. Male officers, including Defendant Rainey, were present for and participated in stripping Gentry.

50. At approximately 4:15 a.m. officers left the cell, and Gentry was kept naked and alone with only a small blanket (referred to by Jail staff as a “smock”) to cover herself.

51. After approximately 20 minutes, Gentry began to bang on the cell door and ask officers for clothing.

52. An unknown Defendant officer responded that if Gentry did not “shut up,” he was going to pepper spray her.

53. At approximately 5:12 a.m., an unknown Defendant officer sprayed pepper spray into the cell.

54. Gentry’s naked body was exposed to the chemical spray in the closed cell for approximately forty (40) minutes.

55. At approximately 6:00 a.m., Gentry was handcuffed behind her back and taken to a washing station to wash the pepper spray off her face.

56. Because she was handcuffed, Gentry was unable to hold the smock so that her body was adequately covered. While walking to and from the wash station, Gentry’s breasts and genitals were exposed to male officers and, upon information and belief, male inmates.

57. At 6:20 a.m., Gentry was returned to her cell, still naked with a wet “smock.”

58. Gentry remained in the cell, naked, for approximately five (5) hours.

59. During the time Gentry was in the cell she was deprived of toilet facilities and forced to urinated into a floor drain.

60. At approximately 11:00 a.m. officers provided Gentry with a standard-issue jumpsuit and she was booked into the Jail.

*Plaintiff Vincent Minton*

61. Plaintiff Vincent Minton is a twenty-three year old resident of the State of Indiana and employee of a local music store.

62. On February 28, 2013, Minton was arrested by New Albany police officers on suspicion of public intoxication, intimidation, and disorderly conduct, all misdemeanors.

63. Minton was brought to the Floyd County Jail at approximately 2:45 a.m.

64. Minton exercised his right against self-incrimination, and refused to respond to questions posed by Jail officers.

65. Minton was subsequently put into a “padded cell.”

66. After some time alone in the cell, Minton began banging on the door and requesting a phone call or access to a lawyer.

67. In response, two unidentified Defendant officers came into the cell, pushed Minton against the wall, and then to the ground.

68. The two Defendant officers proceeded to forcibly remove Minton’s shoes, socks, pants, underwear, and shirt.

69. One Defendant officer then deployed his taser, striking Plaintiff in the buttocks.

70. The officers then left the cell without providing Minton with anything with which to cover his naked body.

71. Approximately thirty (30) minutes later, officers provided Minton with a “smock” with which to cover himself.

72. The cell did not contain a toilet, and Minton was forced to urinate into a drain in the floor.

73. Minton was held for several hours before officers provided him with any clothing.

*Plaintiff Michael Herron*

74. Plaintiff Michael Herron is a thirty-six-year-old Army veteran, truck driver, and father of two.

75. On January 5, 2014, Herron was arrested by New Albany police officers on suspicion of public intoxication and disorderly conduct.

76. Herron was taken to the Floyd County Jail in handcuffs at approximately 1:30 a.m.

77. While being booked into the Jail, Herron questioned unidentified Defendant officers about their processes and procedures.

78. Defendant officers then interrupted the booking process and instructed Herron to get up. They walked him to the “padded cell.”

79. After some time in the cell, Herron began to knock on the door and asked to make a phone call.

80. Officers told Herron to “go to sleep,” although there was no mat or cot in the cell.

81. Herron was forced to urinate in a drain in the floor.

82. Following an additional passage of time, Herron began banging on the door and wall of the cell.

83. Unknown Defendant officers then entered the cell and directed Herron to face the wall and then get on the ground.

84. Herron complied with officers’ orders and was then held down by three male and one female officer by his legs, neck, and arms.

85. Defendant officers then removed his shoes, socks, pants, underwear, and shirt.

86. Defendants left the cell and gave Herron a “smock” which was too small to adequately cover himself.

87. One unidentified officer instructed Herron “go to sleep or I’ll pepper spray you.”

88. Herron attempted to cover himself with the smock while laying on the floor of the cell, however the smock did not adequately cover his body.

89. At approximately 8:00 a.m., Herron was given his street clothes, and was later booked and released.

Plaintiff Adam Walker

90. Plaintiff Adam Walker is a thirty-one-year-old Army veteran, small business owner, and a resident of the State of Indiana.

91. On May 24, 2014, at approximately 1:00 a.m., Walker was arrested by Floyd County Sheriff Deputies on suspicion of operating a vehicle while intoxicated, a misdemeanor.

92. Walker disputed the charge and agreed to voluntarily accompany the Deputy to the Floyd County Jail to take a breathalyzer test.

93. Walker blew into the breathalyzer three times over the course of one hour. Each time the machine gave an error message.

94. Walker was cooperative and was not handcuffed during this time.

95. While sitting on a bench, three unidentified Defendant officers approached Walker and one officer winked at him.

96. Walker asked the officer why he winked at him, and the officer denied winking at him.

97. The two argued briefly over whether the officer winked at him, when the three deputies descended on Walker, threw him to the ground, and handcuffed him.

98. While handcuffed, officers tased Walker seven times and choked him until he lost consciousness.

99. Walker regained consciousness while being dragged into the “padded cell.”

100. Defendants then forcibly removed Walker’s shoes, socks, and jeans. Then, they removed his handcuffs and removed his shirt.

101. Defendants left Walker alone in the cell with nothing to cover himself.

102. After a period of time, Walker began to beat on the door and complain that the room had no heat and he was cold. In response, officers provided Walker with a “smock.”

103. After the next shift of officers arrived at the Jail, Walker asked to use a bathroom. He was told that the drain in the floor was his bathroom.

104. After approximately 18 hours in the cell, the officer who winked at Walker the night before came to the door and asked, “Are you docile?” Walker was then given a prison jumpsuit to wear and a mat to lay on.

105. While in the Jail, Walker also witnessed another detainee get forcibly stripped by officers and put into another padded cell. During the course of this detainee’s forcible striping, Walker witnessed the officers pull the detainee’s feet out from under him so that the detainee fell to the floor headfirst and knocked out his teeth.

106. Walker suffers from a variety of combat injuries, including a gunshot wound, spinal compression fracture, traumatic brain injury, and post-traumatic stress.

107. Walker was held in the booking area for four (4) days. During this time, Jail staff refused to provide him with medications, including anti-seizure medication and antibiotics. When Walker advised officers that he needed seizure medication, an officer told him, “Well, you’d better not have a seizure.”

**LEGAL CLAIMS**

***42 U.S.C. §1983***

108. Defendants were acting under the color of state law when they undertook the actions described above.

109. Defendants deprived Plaintiffs of their rights under the Fourth, Fifth, Eighth, Ninth, and Fourteenth Amendments to the United States Constitution.

110. The abuses to which Plaintiffs and the class were subjected, as described above, were part of a continuing pattern of misconduct and were the result of Defendant's written policies or procedures and/or unwritten customs and practices that are systematically applied to arrestees/detainees.

111. As a state actor, Defendant's practices constitute an arbitrary use of government power, and evince a total, intentional and unreasonable disregard for the constitutional and common law rights of the citizens of Indiana, including Plaintiffs and the members of the class, and the wholesale violations of those rights likely to result from the systematic pursuit of such practices.

112. As a result of the foregoing, Plaintiffs and the class, through Defendants' intentional or grossly negligent conduct, were deprived without due process of law of the following non-exhaustive list of rights and immunities guaranteed them by the Constitution of the United States in violation of the Civil Rights Act of 1871, 42 U.S.C. § 1983:

- a. Their right to be secure in their person against unreasonable searches and seizures under the Fourth and Fourteenth Amendments;
- b. Their right to privacy in their person against unreasonable intrusions under the Fourth, Fifth, Ninth and Fourteenth Amendments;

- c. Their right to the equal protection of the law, procedural due process, and substantive due process secured by the Fifth and Fourteenth Amendment;
- d. The right to be free of cruel and unusual punishment secured by the Eighth Amendment; and
- e. The right to be free of excessive force.

113. Defendant's conduct also violated concomitant rights guaranteed by the Constitution and common laws of Indiana.

114. Moreover, given the pre-existing law that clearly prohibited Defendants' conduct, Defendants' abuse of Plaintiffs and the members of the class was intentional, wanton and malicious, and indicative of Defendants' total and reckless disregard of/deliberate indifference to the rights of Plaintiffs and the class.

#### ***Failure to Train***

115. In addition, Defendants were negligent and/or deliberately indifferent to Defendant officers' need for training regarding unlawful searches and seizures, the reasonable use of force, and the rights of pre-trial arrestees/detainees.

116. As a result of Defendants' failure to train the officers, the officers violated Plaintiffs' constitutional rights.

117. As a direct and proximate result of the aforementioned conduct, Plaintiffs have suffered physical harm, emotional distress, embarrassment, humiliation, and mental anguish.

#### ***Damages***

118. Plaintiffs and the members of the class were unjustifiably and unconstitutionally treated in a manner that generated tremendous and overwhelming



embarrassment, humiliation, and mental and emotional distress. As a result, they have suffered, and are entitled to recover, actual damages.

119. Furthermore, Defendants' violations of the constitutional and common law rights of the Plaintiffs and the class were cruel, malicious and evinced a total and reckless disregard for and indifference to those rights, entitling Plaintiffs and the class to recover punitive damages from Defendant in order to deter such conduct in the future.

***Declaratory Judgment and Permanent Injunction***

120. In addition to the foregoing, Plaintiffs and the class request that this Court issue a declaratory judgment deeming unconstitutional any and all written policies or procedures, and/or unwritten customs or practices under which they were forced to be submitted to Defendants' humiliating and/or torturous practices, and further request that this Court permanently enjoin Defendants from following or enforcing such written policies or procedures, and/or unwritten customs or practices subjecting detainees to gratuitous, unnecessary humiliation, excessive punishment, torture, and/or unreasonable search and seizures.

**WHEREFORE**, Plaintiffs and the class they represent request:

- A. That this action proceed as a class action under Fed. R. Civ. P. 23;
- B. a trial by jury;
- C. an award of actual and punitive damages to Plaintiffs and all members of the class;
- D. the declaratory and injunctive relief requested herein; and
- E. an award of their costs and attorney fees and all other relief to which they are entitled under law or in equity.



Respectfully submitted,

*/s/ Laura E. Landenwich*  
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