

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

May 1 9 31 AM '00

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yes

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\$ 1.00

KIMBERLY CONNOR, on behalf of herself
and on behalf of others similarly situated,

Plaintiffs

v.

PLYMOUTH COUNTY, PETER FORMAN,
in his individual capacity, TOWN OF
MARSHFIELD, JANE DOE, in her individual
capacity, JANE ROE, in her individual
capacity, the TOWN OF HANOVER
and the TOWN OF ROCKLAND,

Defendants

Civil Action No.

00 CV 1 0 8 3 5 REK

COMPLAINT

INTRODUCTION

1. This is a civil rights action for money damages against Plymouth County, its Sheriff Peter Forman, Plymouth County matrons Jane Doe and Jane Roe, the Town of Marshfield, the Town of Hanover and the Town of Rockland for injuries caused by the unconstitutional strip searches of the plaintiffs.

2. The named plaintiff, Kimberly Connor, seeks to represent a class of all women who were held at the Plymouth County Regional Lockup Facility at the Marshfield police station as "safe-keeps." Safe-keeps include pre-arraignment detainees who were waiting for bail to be set or for an initial court appearance, women who were arrested on

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default warrants and women who were held in protective custody. These women were unlawfully subjected to routine strip searches at the Plymouth County Regional Lockup Facility at the Marshfield Police Department due to a formal written policy implemented by the Plymouth County Sheriff's Department. These searches were conducted routinely, without any reason to suspect a strip search or a visual body cavity search was necessary.

3. The Town of Marshfield is sued because it acted jointly with the Plymouth County Sheriff's Department in violating the constitutional rights of women. Under an agreement with the Plymouth County Sheriff's Department, it offered its facilities at the Marshfield police station to the Sheriff to use it as a Regional Lockup Facility for women arrested in towns located within the County of Plymouth. Plymouth County Sheriff's Department matrons "report[ed] directly to the Marshfield Officer-in-Charge" upon arrival at the Marshfield Police Department.

4. The Towns of Hanover and Rockland are sued for violating the constitutional rights of women because, under their policies, all women who were held in custody overnight were to be transferred to the Plymouth County Regional Lockup Facility at Marshfield Police Department where they were to be routinely subjected to strip searches while men who were held in custody overnight were kept in the towns' holding cells and were not subjected to such searches as a matter of routine. These Towns knew of, sanctioned and participated in Plymouth County Sheriff's Department's strip search policy, practice and custom, and have adopted it as their own for their female pre-arraignment detainees.

JURISDICTION

5. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343.

PARTIES

6. The named plaintiff, Kimberly Connor, was at all times relevant to this complaint a resident of the Commonwealth of Massachusetts.

7. The defendant Plymouth County is a duly designated county in the Commonwealth of Massachusetts, under the laws of the Commonwealth.

8. The defendant Peter Forman was at all times relevant to this complaint the Sheriff of Plymouth County. He is sued in his individual capacity. The actions of defendant Forman alleged in this complaint were taken under color of law.

9. The defendant Town of Marshfield is a duly organized municipal corporation in the Commonwealth of Massachusetts.

10. The defendant Jane Doe is a matron employed by Plymouth County. She is sued in her individual capacity.

11. The defendant Jane Roe is a matron employed by Plymouth County. She is sued in her individual capacity.

12. The actions of defendants Jane Doe and Jane Roe alleged in this complaint were taken under color of the laws of the Commonwealth of Massachusetts and Plymouth County.

13. The defendant Town of Hanover is a duly organized municipal corporation in the Commonwealth of Massachusetts.

14. The defendant Town of Rockland is a duly organized municipal corporation in the Commonwealth of Massachusetts.

FACTS

15. On April 30, 1998, plaintiff Kimberly Connor was arrested by Hanover police officers.

16. Ms. Connor was taken to the Hanover police station where she was booked and fingerprinted.

17. Plaintiff was then told that she would be transferred to the Marshfield Police Department because the Hanover Police Department does not maintain female arrestees in custody.

18. Plaintiff was then handcuffed and taken in a Hanover police cruiser to the Marshfield police station.

19. When plaintiff arrived at Marshfield police station, defendant Doe brought plaintiff to a holding cell and ordered her to take off all of her clothing.

20. Ms. Connor was too scared to protest.

21. Ms. Connor complied with the order and took off all her clothing. Then defendant Doe searched plaintiff's clothing.

22. Defendant Doe next ordered plaintiff to squat and cough.

23. Defendant Doe had no reason to suspect that plaintiff had any weapons or contraband hidden on her person.

24. After the search, plaintiff was left in the cell alone.
25. Later in the morning, plaintiff was taken to the Hingham District Court for arraignment.
26. On April 10, 1999 at approximately 10:00 p.m., plaintiff Kimberly Connor was arrested by Rockland police officers.
27. Ms. Connor was taken to the Rockland police station where she was booked and fingerprinted.
28. Ms. Connor was then taken to a holding cell where a female employee of the Rockland police department ordered her to lift up her shirt, then the bra and shake it. The cell did not have a door, only bars, and was immediately across from an open stairwell.
29. Plaintiff complied with the orders.
30. At approximately 2:00 a.m., Ms. Connor was told that she would be transferred to the Marshfield Police Department because the Rockland Police Department does not keep female arrestees overnight.
31. Plaintiff was then handcuffed and taken in a Rockland police cruiser to the Marshfield police station.
32. When plaintiff arrived at Marshfield police station, defendant Roe brought plaintiff to a holding cell and ordered her to take off all of her clothing.
33. Ms. Connor complied with the orders and took off all her clothing. Defendant Roe searched plaintiff's clothing.
34. Defendant Roe then ordered Ms. Connor to squat and cough.

35. Defendant Roe had no reason to suspect that plaintiff had any weapons or contraband hidden on her person.

36. Less than a half hour after the strip search, Ms. Connor was released on \$25.00 bail.

37. Plaintiff suffered extreme emotional distress as a result of the strip searches as described above conducted at the Marshfield police station. She felt humiliated, degraded and violated.

38. The strip searches of plaintiff by defendants Doe and Roe conformed to the written policy of the Plymouth County Sheriff's Department.

39. Plymouth County Sheriff's Department policy PCCF 401 stated, "All inmates, including transfers, safe-keeps, court returns, hospital returns and new commitments will be pat-frisked and strip-searched upon entry or reentry to the facility."

40. The policy of the Plymouth County Sheriff's Department required a routine strip search, without evaluating whether a strip search was necessary.

41. The policy of the Plymouth County Sheriff's Department applied regardless of the length of time the person was to be held or of the charges lodged against the person.

42. Pursuant to an agreement between the Plymouth County and the Town of Marshfield, the Town offered its lockups at its police station to Plymouth County to be used as a Regional Lockup Facility for women arrested in towns located within Plymouth County.

43. Plymouth County Sheriff's Department matrons "report[ed] directly to the Marshfield Officer-in-Charge" upon arrival at the Marshfield Police Department.

44. Pursuant to an agreement between the Plymouth County Sheriff's Department, the Town of Marshfield and the Towns of Hanover and Rockland, the Plymouth County Sheriff's Department held all women who were pre-arraignment detainees as "safe-keeps" at the Marshfield Police Department.

45. The Plymouth County Sheriff's Department conducted strip searches of all women who were admitted to their custody at the Marshfield Police Department.

46. Female prisoners were not held overnight at the Hanover Police station.

47. Female prisoners were not held overnight at the Rockland Police station.

48. When female prisoners arrived at the Plymouth County Regional Lockup Facility at Marshfield Police Station, they were subjected to a routine strip search as described above.

49. It was the policy of the Hanover and Rockland Police Departments to hold male prisoners in holding cells at their respective stations until their first appearance in court.

50. Male arrestees who were similarly situated to the female safe-keeps were held in the Hanover or Rockland police stations and were not subjected to a routine strip search.

CLASS ACTION ALLEGATIONS

51. This action is brought pursuant to Rule 23(a) and (b)(1) and (3) of the Federal Rules of Civil Procedure by plaintiff as a class action on behalf of all women who were:

- a. taken into custody by the Plymouth County Sheriff's Department at the Marshfield police station as a safe-keep; and
- b. subjected to a routine strip search at the Marshfield Police Station without evaluating whether there was cause for the search.

52. The named plaintiff, Kimberly Connor, is a member of the class. The class represented by the plaintiff is so numerous that joinder of all such persons is impractical. On information and belief, the number of class members is more than one hundred women.

53. There are questions of law and fact which are common to the class of plaintiffs. Central to all the claims is the constitutionality of the policy, practice or custom of the Plymouth County Sheriff to routinely conduct strip searches of female safe-keeps.

54. Plaintiff's claims or defenses are typical of the claims or defenses of the class of plaintiffs.

55. Plaintiff will fairly and accurately represent and protect the interests of the members of the class. The attorney for plaintiff is experienced and capable in civil rights litigation and has successfully represented plaintiffs in other civil rights litigation including cases alleging unlawful strip searches. Counsel has the resources and expertise to prosecute this action.

56. This action is properly maintained as a class action because the prosecutions of separate actions by the individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class, which would establish incompatible standards of conduct for the defendants.

57. This action is properly maintainable as a class action because the prosecutions of separate actions would create a risk of adjudications with respect to individual members of the class which would, as a practical matter, be dispositive of the interests of the other members who are not parties or substantially impair or impede their ability to protect their interests.

58. As a direct result of the policies as described above, class members have been subjected to unlawful strip searches which has caused each member of the class to endure pain and suffering and mental anguish.

FIRST COUNT: 42 U.S.C. § 1983: DEFENDANT PLYMOUTH COUNTY

59. The above paragraphs are incorporated herein.

60. The policy of the Plymouth County Sheriff's Department regarding strip searches directed its officers to conduct searches that violated the United States Constitution.

61. By the actions described above, the defendant deprived the plaintiff and members of the plaintiff class of their clearly established right guaranteed by the Constitution of the United States to be free from an unreasonable search and seizure.

62. As a direct and proximate result of this conduct, plaintiff suffered the injuries described above.

SECOND COUNT: 42 U.S.C. § 1983: DEFENDANT PETER FORMAN

63. The above paragraphs are incorporated herein.

64. Defendant Peter Forman was the policymaker for the Plymouth County Sheriff's Department at all times relevant to this Complaint.

65. Defendant Forman implemented and maintained a policy of conducting strip searches of all persons who were admitted to the custody of the Plymouth County Sheriff's Department at its Regional Lockup Facility at the Marshfield police station, regardless of the nature of charges or the circumstances of the individual.

66. Defendant Forman knew or should have known that the strip search policy at the Plymouth County Regional Lockup Facility at the Marshfield Police Department would result in officers/matrons conducting unconstitutional searches of women who were being held as safe-keeps.

67. Defendant Forman established and enforced the policy of conducting routine strip searches without any reason to believe the woman had anything concealed on her person by implementing and maintaining the strip search policy.

68. As a result of defendant Forman's conduct, plaintiff was subjected to the search described above.

69. Defendant Forman acted with reckless indifference to the constitutional rights of women who were detained as safe-keeps at the Marshfield police station.

70. As a direct and proximate result of this conduct, plaintiff suffered the injuries described above.

THIRD COUNT: 42 U.S.C. § 1983: DEFENDANT TOWN OF MARSHFIELD

71. The above paragraphs are incorporated herein.

72. Pursuant to an agreement between Plymouth County and the Town of Marshfield, the Town offered cells in its police station to Plymouth County to be used as a Regional Lockup Facility for women arrested in towns located within Plymouth County.

73. Plymouth County Sheriff's Department matrons "report[ed] directly to the Marshfield Officer-in-Charge" upon arrival at the Marshfield Police Department.

74. The Town of Marshfield adopted the policy of the Plymouth County Sheriff's Department of conducting strip searches of all persons admitted into its facilities as safe-keeps regardless of the nature of charges or the circumstances of the individual.

75. As a direct and proximate result of the policies or customs of the Town of Marshfield, the plaintiff suffered the injuries described above.

FOURTH COUNT: 42 U.S.C. § 1983: DEFENDANT TOWN OF HANOVER

76. The above paragraphs are incorporated herein.

77. By the Town of Hanover's policy of requiring female prisoners awaiting an initial court appearance to be held at the Plymouth County Regional Lockup Facility in Marshfield, the strip search policy in that facility became the policy of the Town of Hanover.

78. The Plymouth County Sheriff's Department's strip search policy, practice and custom was known to, sanctioned by and participated in by the Town of Hanover.

79. The policies required women who were arrested by the Town of Hanover and held in custody before their first court appearance to undergo a strip search while men in the same circumstances are not required to undergo similar searches.

80. The policies, practices and customs of the Hanover Police Department above violated the right of women to the equal protection of law and violated the right of women under the Fourth Amendment to be free from unreasonable searches and seizures.

81. As a direct and proximate result of the policies, practices or customs of the Town of Hanover, the plaintiff suffered the injuries described above.

FIFTH COUNT: 42 U.S.C. § 1983: DEFENDANT TOWN OF ROCKLAND

82. The above paragraphs are incorporated herein.

83. By the Town of Rockland's policy of requiring female prisoners awaiting an initial court appearance to be held at the Plymouth County Regional Lockup Facility in Marshfield, the strip search policy in that facility became the policy of the Town of Rockland.

84. The Plymouth County Sheriff's Department's strip search policy, practice and custom was known to, sanctioned by and participated in by the Town of Rockland.

85. The policies required women who were arrested by the Town of Rockland and held in custody before their first court appearance to undergo a strip search while men in the same circumstances are not required to undergo similar searches.

86. The policies, practices and customs of the Rockland Police Department violated the right of women to the equal protection of law and violated the right of women under the Fourth Amendment to be free from unreasonable searches and seizures.

87. As a direct and proximate result of the policies, practices or customs of the Town of Rockland, the plaintiff suffered the injuries described above.

SIXTH COUNT: 42 U.S.C. §1983: DEFENDANTS DOE AND ROE

88. The above paragraphs are incorporated by reference.

89. At all times relevant to this complaint, defendants Doe and Roe were acting under color of the laws of the Commonwealth of Massachusetts and Plymouth County.

90. Defendants Doe and Roe had no legal justification for conducting the strip searches of the plaintiff's person.

91. By the actions described in the preceding paragraphs, the defendants deprived the plaintiff of clearly established rights guaranteed by the Constitution of the United States and by the Massachusetts Declaration of Rights including freedom from an unreasonable search and seizure and the right to be treated equally under the law.

92. As a direct and proximate result of the acts of the defendants, the plaintiff suffered the injuries described above.

WHEREFORE the plaintiff requests that this Court:

1. award compensatory damages to the individual plaintiff and to members of the plaintiff class;
2. award punitive damages against the defendant Forman;
3. award the plaintiffs the costs of this action including reasonable attorney's fees; and
4. award whatever additional relief this Court deems necessary and appropriate.

JURY DEMAND

A jury trial is hereby demanded.

RESPECTFULLY SUBMITTED,



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