

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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KIMBERLEY CONNOR, et al.,	)	
Plaintiffs	)	
	)	
v.	)	Civil Action No. 00-10835-RBC
	)	
PLYMOUTH COUNTY, et al.,	)	
Defendants	)	

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**PLAINTIFFS' ASSENTED TO MOTION  
TO AMEND THE CLASS DEFINITIONS**

The plaintiffs move this Court to amend the class definitions to add time periods to each Sub-Class so that the class definition will conform to the Settlement Agreement.

The proposed class definition is as follows:

- a. Marshfield Sub-Class: women who were taken to the Plymouth County Regional Lockup Facility located in the Marshfield Police Station for detention and strip searched without determining whether there was individualized reasonable suspicion for the strip search **between May 20, 1997 and January 31, 2000**.
- b. PCCF Sub-Class: women who were taken to the Plymouth County Correctional Facility for arraignment where they were strip searched without determining whether there was individualized reasonable suspicion for the strip search **between February 23, 1998 and October 11, 1999**.

As grounds for this motion, plaintiffs state the following:

- 1. This court is authorized to alter or amend a class ruling at any time before final judgment under Fed.R.Civ.P. 23(c)(1).
- 2. The proposed class definitions begin when the Regional Lockup Facility at Marshfield Police Station (“Marshfield lockup”) and the Plymouth County Correctional

Facility (“PCCF”) each began operation and end when the County formally changed its policy or custom of suspicionless strip searches at each facility.

3. The class definition as certified by this Court on September 21, 2001 did not include any time periods because the motion was filed before plaintiffs learned through discovery when the policy, practice or custom of strip searching without cause started and ended.

4. The plaintiffs learned through discovery that on May 20, 1997, the Marshfield lockup opened and that Plymouth County changed its written policy effective February 1, 2000, ending the policy of conducting suspicionless strip searches of women who were held at the Marshfield lockup.

5. The plaintiffs also learned that on February 23, 1998, the County began its arraignment program at the PCCF and determined that pre-arraignment suspicionless strip searches ended as the official policy or custom at the PCCF on October 12, 1999 when a written notice was placed in the matron’s journal noting that women were no longer to be strip searched before bail hearings.

6. If any women were strip searched without individualized reasonable suspicion at the Marshfield lockup after February 1, 2000 or at the PCCF after October 12, 1999, they would not have a complaint that could be addressed in this class action because it was not caused by the common policies. This class action is based on the claim that the County’s policies or customs were the moving force behind the strip searches. This allegation could no longer be made after the County formally acted to end

the policy or custom. Thus, any women strip searched after these dates would not have a claim that is based on the common class issue in this case.

7. Plaintiffs have identified 109 women who received notice of the class action but who are not class members because they were at the facility after Plymouth County changed its policy or custom.

8. The 109 women will be notified of the amendment of the class definitions in order to preserve their opportunity to pursue a claim separately. *See, Eisen v. Carlisle and Jacquelin*, 417 U.S. 156 (1974). Plaintiff's counsel will pay the cost of printing and mailing the notices.

9. The proposed notice of amended class definitions informs the women why the definitions were amended and explains that they may file an individual action. It also explains that tolling of the statute of limitations.

10. The statute of limitations for claims that these women may bring separately was tolled from the date the complaint in this case was filed on May 1, 2000. *See, Crown Cork & Seal, Co. v. Parker*, 462 U.S. 345 (1983). Plaintiffs request that the court order that the tolling period end thirty (30) days from the date of the Court's Order amending the class definitions. This will give adequate protection to the these women.

11. Plaintiffs' counsel proposes that the notice be sent in an envelope bearing the name of the Court with a return address to a post office box which is maintained by class counsel. Those notices that are returned as undeliverable will go to class counsel. Class counsel will make reasonable efforts to find newer addresses for any such returned

notices and resend them.

12. The *Settlement Agreement* and the *Notice to the Class* include the correct class periods in the Sub-Class definitions that the plaintiffs now seek to have formally amended by this motion. The Sub-Class definitions in plaintiffs' motion for preliminary approval of the settlement included class periods but the dates were reversed. The end dates were also one day longer than it should have been.

13. Defendants assent to this motion.

WHEREFORE, plaintiffs move the Court to:

1. Amend the class definitions as originally certified to the definitions as agreed by the parties in the settlement as follows:

- a. Marshfield Sub-Class: women who were taken to the Plymouth County Regional Lockup Facility located in the Marshfield Police Station for detention and strip searched without determining whether there was individualized reasonable suspicion for the strip search between May 20, 1997 and January 31, 2000.
- b. PCCF Sub-Class: women who were taken to the Plymouth County Correctional Facility for arraignment where they were strip searched without determining whether there was individualized reasonable suspicion for the strip search between February 23, 1998 and October 11, 1999.

2. Order that the tolled statute of limitations begin accruing again thirty (30) days from the date of this Court's Order amending the class definitions and to approve the attached notice of amended class definitions to be sent to the 109 women identified by class counsel as not being class members under the amended class definitions.

**RESPECTFULLY SUBMITTED,**  
For the plaintiffs,

/s/ Howard Friedman

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**ASSENTED TO:**

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/s/ Douglas I. Louison/HF

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For defendant Town of Marshfield:

/s/ Leonard H. Kesten/HF

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