

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS

NAKISHA BOONE, both individually and on behalf of a class of others similarly situated

(b) County of Residence of First Listed Plaintiff Philadelphia (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

SEE ATTACHED SHEET

County of Residence of First Listed Philadelphia (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

DANIEL C. LEVIN, ESQUIRE
Levin, Fishbein, Sedran & Berman
510 Walnut St. Ste. 500 Phila., PA 19106

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1. U.S. Government Plaintiff
2. U.S. Government Defendant
3. Federal Question (U.S. Government Not a Party)
4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- Original Proceeding
Removed from State Court
Remanded from Appellate Court
Reinstated or Reopened
Transferred from another district (specify)
Multidistrict Litigation
Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 USCA §1983 § 1981

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint. JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE: 4/21/05
SIGNATURE OF ATTORNEY OF RECORD
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA - DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff 308 N. Redfield Street, Philadelphia, PA 19139

Address of Defendant: SEE ATTACHED SHEET

Place of Accident, Incident or Transaction: (Use Reverse Side For Additional Space)

Does this case involve mulndistrict litigation possibilities? Yes [] No [X] RELATED CASE IF ANY

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No []
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No []
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No []

CIVIL: (Place [] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act-Personal Injury
4. [] Antitrust
5. [] Patent
6. [] Labor-Management Relations
7. [X] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [X] Products Liability
8. [] Products Liability - Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

Daniel C. Levin, Esquire (Check appropriate Category) counsel of record do hereby certify:

[X] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$100,000.00 exclusive of interest and costs. [] Relief other than monetary damages is sought.

DATE: 4/2/05 Attorney-at-Law 800]3 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above. DATE: 4/2/05 Attorney-at-Law 900]3 Attorney I.D.#

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 308 N. Redfield Street, Philadelphia, PA 19139

Address of Defendant: SEE ATTACHED SHEET

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this case involve multistrict litigation possibilities? Yes [] No [X] RELATED CASE IF ANY

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes [] No []
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [] No []
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes [] No []

CIVIL: (Place [] in ONE CATEGORY ONLY)

A. Federal Question Cases:

B. Diversity Jurisdiction Cases:

- 1. [] Indemnity Contract, Marine Contract, and All Other Contracts
2. [] FELA
3. [] Jones Act Personal Injury
4. [] Annuity
5. [] Patent
6. [] Labor-Management Relations
7. [X] Civil Rights
8. [] Habeas Corpus
9. [] Securities Act(s) Cases
10. [] Social Security Review Cases
11. [] All other Federal Question Cases (Please specify)

- 1. [] Insurance Contract and Other Contracts
2. [] Airplane Personal Injury
3. [] Assault, Defamation
4. [] Marine Personal Injury
5. [] Motor Vehicle Personal Injury
6. [] Other Personal Injury (Please specify)
7. [X] Products Liability
8. [] Products Liability — Asbestos
9. [] All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

Daniel C. Levin, Esquire

(Check appropriate Category)

counsel of record do hereby certify:

[X] Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$100,000.00 exclusive of interest and costs;
[] Relief other than monetary damages is sought.

DATE: 4/2/05

Attorney-at-Law

80013

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/2/05

Attorney-at-Law

80013

Attorney I.D.#

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

NAKISHA BOONE, both individually and
on behalf of a class of others
similarly situated

CIVIL ACTION

v.

NO.

CITY OF PHILADELPHIA, et al

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (XX)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

4/21/05	Daniel C. Levin, Esq. Plaintiff	
Date	Attorney-at-law	Attorney for
215-592-1500	215-592-4663	dlevin@lfsblaw.com
Telephone	FAX Number	E-Mail Address

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT	District EASTERN DISTRICT OF PENNSYLVANIA
NAKISHA BOONE, both individually and on behalf of a class of others similarly situated, 308 North Redfield Street Philadelphia, PA 19139 <p align="center">Plaintiffs,</p> <p align="center">v.</p> CITY OF PHILADELPHIA, PHILADELPHIA PRISON SYSTEM, LEON KING, II, ESQUIRE, CHARLES J. GRANT, ESQUIRE, PAUL LANCASTER ADAMS, LISETTE SHIRDAN-HARRIS, ESQUIRE, WESLEY PINNOCK, ESQUIRE, ELEANOR M. KAHANA, REGINALD HAMMOND, JOHN MURPHY, and ROBERT TOMASZEWSKI, <p align="center">Defendants.</p>	Docket No. CIVIL ACTION NO.
	To: (Name and Address of Defendant) <p align="center">SEE ATTACHED SHEET</p>
YOU ARE HEREBY SUMMONED and required to serve upon	
Plaintiff's Attorney (Name and Address) Daniel C. Levin, Esquire LEVIN, FISHBEIN, SEDRAN & BERMAN 510 Walnut Street - Ste. 500 Philadelphia, PA 19106 215-592-1500	
an answer to the complaint which is herewith served upon you, within days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.	
Clerk MICHAEL E. KUNZ	Date
(By) Deputy Clerk	

RE: *Boone v. City of Philadelphia, et al*

DEFENDANTS:

City of Philadelphia
7901 State Road
Philadelphia, PA 19136

Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

Reginald Hammond
Curran-Fromhold Correctional Facility
P. O. Box 6230
7901 State Road
Philadelphia, PA 19136

Robert L. Tomaszewski, Warden
House of Correction
8001 State Road
Philadelphia, PA 19136

Leon A. King, II, Esquire
Acting Commissioner
Office of the Commissioner
Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

John C. Murphy
Deputy Commissioner for Facility
Operations
Officer of the Commissioner
Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

Charles J. Grant, Esquire, Chairman
Board of Trustees
Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

Paul Lancaster Adams, Esquire
Board of Trustees
Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

Lisette Shirdan-Harris, Esquire
Board of Trustees
Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

Dr. Wesley Pinnock
Board of Trustees
Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

Eleanor M. Kahana
Secretary to the Board of Trustees
Philadelphia Prison System
7901 State Road
Philadelphia, PA 19136

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NAKISHA BOONE, both individually :
and on behalf of a class of others similarly :
situated, :
308 North Redfield Street :
Philadelphia, PA 19139 :

Plaintiffs, :

v. :

CITY OF PHILADELPHIA, :
PHILADELPHIA PRISON SYSTEM, :
LEON KING, II, ESQUIRE, CHARLES J. :
GRANT, ESQUIRE, PAUL LANCASTER :
ADAMS, LISETTE SHIRDAN-HARRIS, :
ESQUIRE, WESLEY PINNOCK, :
ESQUIRE, ELEANOR M. KAHANA, :
REGINALD HAMMOND, JOHN :
MURPHY, and :
ROBERT TOMASZEWSKI, :

Defendants. :

Civil Action Number

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

This is a class action brought to redress the deprivation by Defendants of rights secured to the Plaintiff and proposed Class by the United States Constitution and the laws of the United States of America. For at least the past 10 years, the Philadelphia Prison Systems (“PPS”) has had a policy of strip-searching all individuals who enter the City of Philadelphia’s jail facilities and are placed into jail clothing, regardless of the crime upon which they are charged. Upon information and belief, this policy is, in part, derived from the written procedures of the PPS, and was promulgated by senior Department officials;

specifically, Defendants Commissioner Leon A. King, II and the remaining individual defendants.

It has been well established that individuals charged with misdemeanors or violations cannot be strip-searched absent particularized suspicion that they possess weapons or contraband. In short, the policy of PPS, City of Philadelphia and individual defendants to force those charged with minor crimes to undergo the indignities of a strip search upon entry into their jail facilities is not only clearly illegal, but is insensitive and unnecessary.

Nakisha Boone (“Boone”) brings this action on behalf of herself, and on behalf of a class of thousands of others who were strip searched after being charged with petty crimes, to vindicate the clear and unnecessary violation of their civil rights and those of the class members they propose to represent. This individual was charged with a misdemeanor offense and was subject to a strip search, in violation of her rights against unreasonable searches under the Fourth Amendment of the United States Constitution. Plaintiff seeks monetary damages for herself and each member of the proposed class, a declaration that City of Philadelphia’s policies are unconstitutional, and an injunction precluding City of Philadelphia and the PPS from continuing to violate the rights of those placed into their custody. With this as a background, Plaintiff Nakisha Boone complains as follows:

JURISDICTION

1. This Court has jurisdiction over this action under the provisions of 28 U.S.C. §§ 1331, 1341 & 1343 because it is filed to obtain compensatory damages, punitive

damages, and injunctive relief for the deprivation, under color of state law, of the rights of citizens of the United States secured by the Constitution and federal law pursuant to 42 U.S.C. §§ 1981 & 1983. This Court also has jurisdiction over this action under the provisions of 28 U.S.C. § 2201, as it is filed to obtain declaratory relief relative to the Constitutionality of the policies of a local government.

2. Venue is proper under 28 U.S.C. § 1391(e)(2) because the events giving rise to Plaintiff's claims and those of proposed class members occurred in this judicial district.

PARTIES

3. Plaintiff Nakisha Boone resides at 308 North Redfield Street, Philadelphia, PA 19139. On November 13, 2004, Ms. Boone was detained on misdemeanor charges – a bench warrant relative to a 1998 misdemeanor charge of endangering the welfare of a child – following a traffic stop by the Philadelphia Police Department. Ms. Boone was transported to the Riverside Correctional Facility (“RCF”) the following day. As a result of this detention, Ms. Boone was strip searched during the booking process at RCF. Specifically, she was required to remove all her clothes and squat before a Corrections Officer. She was also forced to bend over and spread the lobes of her buttocks. The six year old criminal charges upon which Ms. Boone was detained were later dismissed by the Philadelphia City Municipal Court.

4. Defendant City of Philadelphia is a Municipality located in Pennsylvania. It is upon information and belief that the Defendant, City of Philadelphia, is responsible for enacting uniform policies and overseeing the PPS. At all times relevant hereto,

Defendant City of Philadelphia together with the PPS was responsible for the policies, practices, supervision, implementation and conduct of all matters pertaining to the PPS and was responsible for the appointment, training, supervision and conduct of all personnel including those working for the PPS. In addition, at all times relevant hereto, Defendant, together with the PPS, was responsible for enforcing the rules of the PPS.

5. Defendant Philadelphia Prison System is organized and exists under the laws of the Commonwealth of Pennsylvania. At all times relevant hereto, PPS was responsible for the policy, practices, supervision, implementation and conduct of all matters pertaining to the prison and was responsible for the employment, training, supervision and conduct of all personnel including those working for the PPS. In addition, at all relevant times hereto, defendant, together with the City of Philadelphia was responsible for enforcing the rules of the PPS.

6. Defendant Leon King, II, Esquire, is the Commissioner of the Philadelphia Prison System. As such, Mr. King is a policy maker with respect to the treatment of pretrial and other detainees over which the PPS exercises custodial or other control. Mr. King's principal place of business is in the City of Philadelphia. Mr. King is made a defendant in this action in both his individual and official capacities.

7. Defendant Charles J. Grant, Esquire is on the Board of Trustees of PPS. As such, Mr. Grant is a policy maker with respect to the treatment of pretrial and other detainees over which the PPS exercises custodial or other control. Mr. Grant's place of business is in the City of Philadelphia. Mr. Grant is made a defendant in this action in both his individual and official capacities.

8. Defendant Paul Lancaster Adams is on the Board of Trustees of PPS. As such, Mr. Adams is a policy maker with respect to the treatment of pretrial and other detainees over which the PPS exercises custodial or other control. Mr. Adams' place of business is in the City of Philadelphia. Mr. Adams is made a defendant in this action in both his individual and official capacities.

9. Defendant Lisette Shirdan-Harris, Esquire is on the Board of Trustees of PPS. As such, Ms. Harris is a policy maker with respect to the treatment of pretrial and other detainees over which the PPS exercises custodial or other control. Ms. Harris' place of business is in the City of Philadelphia. Ms. Harris is made a defendant in this action in both her individual and official capacities.

10. Defendant Wesley Pinnock, Esquire is on the Board of Trustees of PPS. As such, Mr. Pinnock is a policy maker with respect to the treatment of pretrial and other detainees over which the PPS exercises custodial or other control. Mr. Pinnock's place of business is in the City of Philadelphia. Mr. Pinnock is made a defendant in this action in both his individual and official capacities.

11. Defendant Eleanor M. Kahana is the secretary to the Board of Trustees of PPS. As such, Ms. Kahana is a policy maker with respect to the treatment of pretrial and other detainees over which the PPS exercises custodial or other control. Ms. Kahana place of business is in the City of Philadelphia. Ms. Kahana is made a defendant in this action in both her individual and official capacities.

12. Defendant Reginald Hammond is the duly appointed Deputy Commissioner for Policy, Training and Special Services of the Philadelphia Prison System. As such, Mr. Hammond is a policy maker with respect to the treatment of pretrial and other

detainees over which PPS exercises custodial or other control. Mr. Hammond's place of business is the City of Philadelphia. Mr. Hammond is made a defendant in this action in both his individual and official capacities.

13. Defendant John Murphy is the duly appointed Deputy Commissioner for Facility Operations of the Philadelphia Prison System. As such, Mr. Murphy is a policy maker with respect to the treatment of pretrial and other detainees over which PPS exercises custodial or other control. Mr. Murphy's place of business is the City of Philadelphia. Mr. Murphy is made a defendant in this action in both his individual and official capacities.

14. Defendant Robert Tomaszewski is the duly appointed Deputy Commissioner for Correctional Administration of the Philadelphia Prison System. As such, Mr. Tomaszewski is a policy maker with respect to the treatment of pretrial and other detainees over which PPS exercises custodial or other control. Mr. Tomaszewski's place of business is the City of Philadelphia. Mr. Tomaszewski is made a defendant in this action in both his individual and official capacities.

15. The Individual Defendants detailed above are collectively referred to as the "Policy Making Defendants" in this Complaint.

CLASS ACTION ALLEGATIONS

16. Plaintiff brings this action pursuant to Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of herself and a class of similarly situated individuals who were charged with misdemeanors or minor crimes and were strip searched upon their entry into the PPS.

17. The class that Plaintiff seeks to represent is defined as follows:

All persons who have been or will be placed into the custody of the PPS after being charged with misdemeanor violations, violations of probation or parole, traffic infractions, civil commitments or other minor crimes and were or will be strip searched upon their entry into the PPS pursuant to the policy, custom and practice of the PPS and the City of Philadelphia. The class period commences on April 21, 2003 and extends to the present or until the defendants are enjoined from, or otherwise cease, enforcing their unconstitutional policy, practice and custom of conducting strip searches absent reasonable suspicion. Specifically excluded from the class are Defendants and any and all of their respective affiliates, legal representatives, heirs, successors, employees or assignees.

18. This action has been brought and may properly be maintained as a class action under Federal law and satisfies the numerosity, commonality, typicality and adequacy requirements for maintaining a class action under Fed. R. Civ. P. 23(a).

19. The members of the class are so numerous as to render joinder impracticable. Upon information and belief, there are hundreds of people arrested for misdemeanors and violations who are placed into the custody of the PPS every month – all of whom are members of the proposed class. Upon information and belief, the size of the proposed class totals at least 30,000 individuals, some of whom have had their civil rights violated on multiple occasions.

20. Upon information and belief, joinder of all of these individuals is impracticable because of the large number of class members and the fact that class members are likely dispersed over a large geographical area, with some members presently residing outside of Philadelphia County and this Judicial District. Furthermore, upon information and belief, many members of the class are low-income persons, may not speak English, and likely would have great difficulty in pursuing their rights individually.

21. Common questions of law and fact exist as to all members of the Class, in that they all had their right to be free from unreasonable searches violated by Defendants' conducting strip searches absent particularized suspicion. All members of the class were charged with misdemeanors or violations when placed into the custody of the PPS, and all were illegally strip searched in violation of the clearly established law in this judicial circuit.

22. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all members of the class sustained damages arising out of Defendants' course of conduct. The harms suffered by the Plaintiffs are typical of the harms suffered by the class members.

23. The representative Plaintiff has the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of the Class. Plaintiff has no interests that are adverse to the interests of the members of the Class.

24. Plaintiff has retained counsel who has substantial experience and success in the prosecution of class action and civil rights litigation. The named Plaintiff is being represented by Daniel C. Levin of Levin, Fishbein, Sedran & Berman; Elmer Robert Keach, III, Law Offices of Elmer Robert Keach, III, PC; Gary E. Mason and Charles Schneider of The Mason Law Firm, PLLC; Jonathan Cuneo and Charles LaDuca of Cuneo, Waldman and Gilbert, LLP; Christopher Hayes, Law Offices of Christopher Hayes, Laura Feldman of Feldman & Pinto, and Kevin Birley of Ostriat Associates, LLC. Proposed Class Counsel has significant experience in class actions and civil rights litigation.

25. In short, Plaintiff's counsel has the resources, expertise and experience to successfully prosecute this action against the Defendants and the Policy Making Defendants. Counsel for Plaintiff knows of no conflicts among members of the class, or between counsel and members of the class.

26. This action, in part, seeks declaratory and injunctive relief. As such, the Plaintiff seeks class certification under Fed. R. Civ. P. 23(b)(2), in that all class members were subject to the same policy requiring the illegal strip searches of individuals charged with misdemeanor or minor crimes and placed into the custody of the PPS. In short, the PPS and the Policy Making Defendants acted on grounds generally applicable to all class members.

27. In addition to certification under Rule 23(b)(2), and in the alternative, Plaintiffs seek certification under Rule 23(b)(3).

28. Common questions of law and fact exist as to all members of the Class, and predominate over any questions that affect only individual members of the Class. These common questions of law and fact include, without limitation, the common and predominate question of whether the Defendants' written and/or *de facto* policy of strip searching all individuals charged with misdemeanors or minor crimes and committed to the PPS is a violation of the Fourth and Fourteenth Amendments to the United States Constitution, and whether such a written and/or *de facto* policy existed during the class period.

29. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all of the individual members of the class is impracticable given the large number of class members and the fact that they are

dispersed over a large geographical area. Furthermore, the expense and burden of individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them. The cost to the federal court system of adjudicating thousands of individual cases would be enormous. Individualized litigation would also magnify the delay and expense to all parties and the court system. By contrast, the conduct of this action as a class action in this District presents far fewer management difficulties, conserves the resources of the parties and the court system, and protects the rights of each member of the Class.

30. Upon information and belief, there are no other actions pending to address the Defendants' flagrant violation of the civil rights of thousands of individuals, even though the Defendants have maintained their illegal strip search regimen for at least the past 10 years with the practice being declared unconstitutional.

31. In the alternative to certification under Fed. R. Civ. P. 23(b)(3), Plaintiffs also seek partial certification under Fed. R. Civ. P. 23(c)(4).

FACTS

Facts Applicable to the Class Generally

32. The Fourth Amendment of the United States Constitution prohibits state officials, such as the Policy Making Defendants in this action and the Corrections Officers they supervise, from performing strip searches of arrestees who have been charged with misdemeanors or other minor crimes unless the Corrections Officer has reasonable suspicion to believe that the arrestee is concealing a weapon or contraband.

33. Upon information and belief, the City of Philadelphia, PPS and the Policy Making Defendants have instituted a written and/or *de facto* policy, custom or practice of

strip searching all individuals who enter the custody of the PPS and are placed into jail clothing, regardless of the nature of their charged crime and without the presence of reasonable suspicion to believe that the individual was concealing a weapon or contraband.

34. Upon information and belief, the City of Philadelphia, PPS and the Policy Making Defendants have instituted a written and/or *de facto* policy, custom or practice of conducting visual body cavity searches (visual inspection of the vaginal and rectal cavities) and strip searches (involving the removal of clothing for a visual inspection) on all individuals who enter their custody, regardless of the individual characteristics or the nature of their charged crime. For purposes of this Complaint, strip and visual cavity searches are collectively referred to as “strip searches.”

35. The City of Philadelphia, the PPS and the Policy Making Defendants know that they may not institute, enforce or permit enforcement of a policy or practice of conducting strip searches without particularized, reasonable suspicion. This Court and the Federal Courts of Appeal have stated repeatedly that state officials may not strip search individuals charged with misdemeanors or violations absent particularized, reasonable suspicion.

36. The Defendants’ written and/or *de facto* policy, practice and custom mandating wholesale strip searches of all misdemeanor and violation arrestees has been promulgated, effectuated and/or enforced in bad faith and contrary to clearly established law.

37. Reasonable suspicion to conduct a strip search may only emanate from the particular circumstances antecedent to the search, such as the nature of the crime charged, the particular characteristics of the arrestees, and/or the circumstances of the arrest.

38. Upon information and belief, the City of Philadelphia, PPS and Policy Making Defendants have promulgated, implemented, enforced, and/or failed to rectify a written and/or *de facto* policy, practice or custom of strip searching all individuals placed into the custody of the PPS and placed into jail clothing without any requirement of reasonable suspicion, or indeed suspicion of any sort. This written and/or *de facto* policy made the strip searching of pre-trial detainees routine; neither the nature of the offense charged, the characteristics of the arrestee, nor the circumstances of a particular arrest were relevant to the enforcement of the policy, practice and custom of routine strip searches.

39. Pursuant to this written and/or *de facto* policy, each member of the Class, including every named Plaintiff, was the victim of a routine strip search upon their entry into the Philadelphia Prison System. These searches were conducted without inquiry into or establishment of reasonable suspicion, and in fact were not supported by reasonable suspicion. Strip searches are conducted for individuals arrested for, among other innocuous offenses, Driving While Intoxicated, Harassment and Trespassing.

40. As a direct and proximate result of the unlawful strip search conducted pursuant to this written and/or *de facto* policy, the victims of the unlawful strip searches – each member of the class, including every named Plaintiff – has suffered or will suffer psychological pain, humiliation, suffering and mental anguish.

Facts Applicable to the Named Plaintiff

37. Ms. Boone's experience is representative. On or about October 22, 2004 at approximately 6:30 PM, Plaintiff Nakisha Boone was arrested on a bench warrant relative to a criminal charge originally prosecuted against her in 1998. The charge in question, endangering the welfare of a child, is a first degree misdemeanor under 18 P.C.S.A. § 4304. Ms. Boone's arrest occurred after she was stopped for a traffic violation. The circumstances of her criminal charges are that she is alleged to have left her children alone, thereby endangering their welfare. The misdemeanor criminal charges pending against her were later dismissed.

38. The following morning, Ms. Boone was transported to the Riverside Correctional Facility, a component facility of the Philadelphia Prison System, and was booked into the facility. Approximately 24 hours later, Ms. Boone was moved into a room in the booking area of RCF and ordered to remove her clothing. Ms. Boone was then instructed to "squat and cough," and then to bend over and spread the lobes of her buttocks to allow for a visual examination of her vagina and anus. Ms. Boone was then provided with a jail uniform.

39. On this particular occasion, there was no reasonable suspicion to believe that Ms. Boone was concealing a weapon or other contraband. Indeed, no inquiry was made of Ms. Boone that could have given rise to the requisite reasonable suspicion necessary to conduct a strip search.

42. As a direct and proximate result of the unlawful strip search conducted pursuant to the Defendants' policy, practice and custom, Plaintiff has suffered and continues to suffer psychological pain, humiliation, suffering and mental anguish.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

Violation of Constitutional Rights Under Color of State Law

**-- Unreasonable Search and Failure to Implement Municipal Policies to Avoid
Constitutional Deprivations Under of Color of State Law --**

43. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 42.

44. The Fourth Amendment of the United States Constitution protects citizens from unreasonable searches by law enforcement officers, and prohibits officers from conducting strip searches of individuals arrested for misdemeanors or violations absent some particularized suspicion that the individual in question has either contraband or weapons.

45. The actions of Defendants detailed above violated Plaintiff's rights under the United States Constitution. Simply put, it was not objectively reasonable for the City of Philadelphia, PPS and the Individual Defendants to strip search Plaintiffs and class members based on their arrests for misdemeanor/violation charges. It was also not objectively reasonable for the Policy Making Defendants to order/direct officers to conduct such searches.

46. These strip searches were conducted pursuant to the policy, custom or practice of the City of Philadelphia, PPS and individual defendants. As such, the City of Philadelphia is directly liable for the damages of the named Plaintiff and members of the Class.

47. Upon information and belief, City of Philadelphia, PPS and individual defendants are responsible for establishing the policies and procedures to be utilized in

the operation of the PPS, and are responsible for the implementation of the strip search policy questioned in this lawsuit. As such, the Individual Defendants are each individually responsible for the damages of the named Plaintiff and members of the Class.

48. The Individual Defendants knew that the strip search policy, practice or custom was illegal, and acted willfully, knowingly, and with specific intent to deprive Plaintiffs and members of the Class of their Constitutional rights.

49. This conduct on the part of all Defendants represents a violation of 42 U.S.C. § 1983, given that their actions were undertaken under color of state law.

50. As a direct and proximate result of the unconstitutional acts described above, Plaintiff and members of the proposed class have been irreparably injured.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

-- Demand for Declaratory Judgment --

51. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 50.

52. The policy, custom and practice of the City of Philadelphia, PPS and the Policy Making Defendants is clearly unconstitutional, in that these entities and individuals are directing/conducting the strip searches of all individuals placed into the PPS without any particularized suspicion that the individuals in question have either contraband or weapons.

53. Plaintiff and members of the Class request that this Court issue a declaratory judgment, and that it declare the strip search policy of the County of Philadelphia, PPS and individual defendants to be unconstitutional.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

-- Demand for Preliminary and Permanent Injunction --

54. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 53.

55. The policy, custom and practice of the City of Philadelphia, PPS and the Policy Making Defendants is clearly unconstitutional, in that these entities and individuals are directing/conducting the strip searches of all individuals placed into the PPS without any particularized suspicion that the individuals in question have either contraband or weapons.

56. Upon information and belief, this policy is currently in place at the PPS, with new and/or prospective members of the Class being subjected to the harms that have already been inflicted upon the named Plaintiffs.

57. The continuing pattern of strip searching individuals charged with minor crimes will cause irreparable harm to the new and/or prospective members of the Class, an adequate remedy for which does not exist at law.

58. Plaintiff demands that the City of Philadelphia, PPS, the Policy Making Defendants immediately desist from strip searching individuals placed into the custody of the Philadelphia Prison System absent any particularized suspicion that the individuals in question have either contraband or weapons, and seek both a preliminary and permanent injunction from this Court ordering as much.

DEMAND FOR PUNITIVE DAMAGES

59. The actions of the Individual Defendants detailed herein are outrageous, in that they continue to propagate an illegal strip search policy even though they know for a fact that their actions are unconstitutional.

60. It is clear that the Policy Making Defendants have no respect for the civil rights of individual citizens or for the rule of law. Consequently, an award of punitive damages is necessary to punish the Policy Making Defendants, and to send a message to them that the requirements of the United States Constitution also apply to government officials in the City of Philadelphia.

DEMAND FOR TRIAL BY JURY

61. The Plaintiffs hereby demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Nakisha Boone, on behalf of herself and on behalf of a class of others similarly situated, requests that this Honorable Court grant her the following relief:

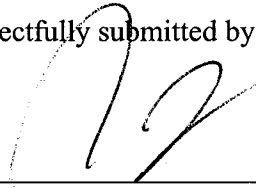
- A. An order certifying this action as a class action pursuant to Fed. R. Civ. P. 23.
- B. A judgment against all Defendants, jointly and severally on Plaintiff's First Cause of Action detailed herein, awarding Compensatory and Punitive Damages to the named Plaintiff and each member of the proposed class in an amount to be determined by a Jury and/or the Court on both an individual and a class wide basis.

C. A declaratory judgment against all Defendants declaring the City of Philadelphia and the PPS' policy, practice and custom of strip and visual cavity searching all detainees entering the system, regardless of the crime charged or suspicion of contraband, to be unconstitutional and improper.

D. A preliminary and permanent injunction enjoining Defendants from continuing to strip and visual cavity search individuals charged with misdemeanors or minor crimes absent particularized, reasonable suspicion that the arrestee subjected to the search is concealing weapons or other contraband.

E. A monetary award for attorney's fees and the costs of this action, pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 23;

Respectfully submitted by:



Dated: April 21, 2005

Daniel C. Levin, Esquire
Id No.: 80013
Levin, Fishbein, Sedran & Berman
510 Walnut Street, Ste. 500
Philadelphia, PA 19106
Telephone: 215-592-1500
Telecopier: 215-592-4663
Electronic Mail: dlevin@lfsblaw.com

Elmer Robert Keach, III, Esquire
LAW OFFICES OF
ELMER ROBERT KEACH, III, PC
1040 Riverfront Center
Post Office Box 70
Amsterdam, NY 12010
Telephone: 518.434.1718
Telecopier: 518.770.1558
Electronic Mail:
bobkeach@keachlaw.com

Gary E. Mason, Esquire
Charles Schneider, Esquire
THE MASON LAW FIRM, PLLC
1225 19th Street, NW
Suite 600
Washington, DC 20036
Telephone: 202.429.2290
Telecopier: 202.429.2294
Electronic Mail: gmason@masonlawdc.com

Jonathan W. Cuneo, Esquire
Charles LaDuca, Esquire
CUNEO WALDMAN & GILBERT, LLP
317 Massachusetts Avenue, N.E.
Suite 300
Washington, DC 20002
Telephone: 202.789.3960
Telecopier: 202.789.1813
Electronic Mail: CharlesL@cuneolaw.com

Laura Feldman, Esquire
Identification No. 49459
FELDMAN & PINTO
1604 Locust St., 2R
Philadelphia, PA 19103
Telephone: 215-546-2604
Telecopier: 215-592-4663
Electronic Mail:
LFeldman@FeldmanPinto.com

Christopher G. Hayes, Esquire
Identification No. 57253
115 East Chestnut Street, 2nd Floor
West Chester, PA 19380
Telephone: 610-431-9505
Telecopier: 610-431-1269
Electronic Mail:
CHayes@FeldmanPinto.com

Kevin Birley, Esquire
Ostriat & Associates, LLC
1800 John F. Kennedy Blvd.
Suite 300
Philadelphia, PA 19103

**ATTORNEYS FOR PLAINTIFFS AND
PROPOSED CLASS**