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CV 02-00601 #00000004

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF SEATTLE
AT SEATTLE

ORIGINAL

Sliss

JASMINE MARIE WELLS, on behalf
of herself and the class of women prisoners
of the King County Department of Adult
Detention, who she represents, and
BRIAN WALTON,

Plaintiffs,

v

THE CITY OF SEATTLE,
a municipal corporation,
JOHN DOE, in his capacity as a
police officer for the City of Seattle,
and as an individual;
RICHARD ROE, in his capacity as a
police officer for the City of Seattle,
and as an individual;
KING COUNTY, a municipal corporation,
STEVE THOMPSON, Director of the
King County Department of Adult and
Juvenile Detention, in his official and
individual capacities, and
JIM ALLEN, Training Manager for the
King County Department of Adult and
Juvenile Detention, in his official and
individual capacities.

Defendants

No CV02 0601P
FIRST AMENDED COMPLAINT FOR DAMAGES
JURY DEMANDED

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I. INTRODUCTION

This is a civil action seeking damages against the above-named defendants. The civil claims against the City of Seattle and its employees and agents include common law tort causes of action, statutory causes of action, and offenses committed under color of law resulting in a deprivation of rights secured by the Constitution and laws of the United States of America

The civil rights claim against King County is based on an unreasonable and unlawful strip search, in violation of this Court's permanent injunction in *Grew v. King County* (U.S. District Court WD Wash #C-83-157-V) and in violation of the Fourth and Fourteenth Amendments to the U S Constitution

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II. JURISDICTION AND VENUE

2.1 **Jurisdiction.** This Court has personal and subject matter jurisdiction over plaintiff's federal civil rights claims under Title 42, United States Code, §1983, and Title 28, United States Code, §§1331 and 1343(a)(3)

2.2. **Supplemental Jurisdiction.** This court has pendent jurisdiction over plaintiff's state law claims and over defendants as to said claims, pursuant to Title 28, United States Code, §1367 (Judicial Improvements Act of 1990), Public Law No. 101-650, 104 Stat. 5089 (1990).

2.3 **Venue** This lawsuit and all claims herein involve events which occurred in King County, Washington. All defendants to this action are situated in King County, Washington and/or reside or are employed therein. Venue is properly within the Western District of Washington at Seattle. 28 USC § 1391(b). *See also* 28 USC § 128(b).

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III. PARTIES

3.1 **Plaintiffs.** Plaintiffs Jasmine Marie Wells and Brian Walton are citizens of the United States and citizens and residents of the state of Alaska.

3.2 **Defendant City of Seattle.** Defendant City of Seattle is a municipal corporation organized under the laws of the State of Washington. Defendant City of Seattle is sued directly under 42 U.S.C. §1983 for the unconstitutional act, policies and practices and under the doctrine of *respondeat superior* as to the state law causes of action.

Defendant City of Seattle includes, as one of its agencies, the Seattle Police Department

1 4.3 At that time upon exiting the Mall, they saw what appeared to be a parade and lots of people
2 in the street. They thought it was festive and walked to a coffee shop nearby and had coffee watching what
3 was occurring on the street. At approximately 9:30 p.m. they left the coffee shop. Upon exiting the
4 commercial establishment, they saw large numbers of police officers north of them on Fourth Avenue, to the
5 east of where they had exited and to the south. As they walked on Fourth Avenue, they realized that large
6 numbers of police officers were getting off of buses and began slamming their batons into their body armor.

7 4.4 All of the police officers were closing in on the people caught in the middle and no one was
8 allowed to exit the corralling that was occurring, although police were now, on loud speakers, telling the
9 people to disperse, while they were making it impossible for the people to disperse.

10 4.5 On November 30, 2000, defendant City sent officers of the Seattle Police Department,
11 dressed in riot gear, to the Westlake Plaza area of Seattle. The officers were directed to arrest civilians in the
12 Westlake Plaza area and did so without regard to whether they were demonstrators or innocent people.

13 4.6 As plaintiff Jasmine Marie Wells was walking on Fourth Avenue to find a music club,
14 defendant John Doe seized and handcuffed her and took her into custody. Plaintiff Brian Walton was
15 arrested and handcuffed by defendant Richard Roe, who took him into custody at the same time.

16 4.7 Plaintiffs were transported to the King County Jail and imprisoned there. Plaintiffs were
17 released from the jail the next day only after they were able to post a bond.

18 4.8 Although lacking probable cause, the defendants charged plaintiffs with the criminal offenses
19 of Pedestrian Interference in violation of RCW 12A.12.015 and Failure to Disperse in violation of RCW
20 12A.12.020. These charges remained in force jeopardizing plaintiffs' freedom until they were resolved in
21 plaintiffs' favor on February 27, 2001.

22 4.9 Defendant City of Seattle failed to properly supervise defendants John Doe and Richard Roe.

23 4.10 Defendant City of Seattle failed to train defendants John Doe and Richard Roe not to arrest
24 and detain individuals without probable cause.

25 **4.11 Unlawful Strip Search at King County's Department of Corrections in**
26 **Seattle** Following plaintiff Well's arrest, she was transported by Seattle Police to the King County
Department of Corrections in Seattle. She was booked for Pedestrian Interference and Failure to Disperse,
non-violent misdemeanor offenses which involve neither weapons nor drugs and King County's agents in
no way documented any suspicion that she was in possession of such items or any other contraband.
Towards the conclusion of the booking process, she was directed to remove all of her clothes and

1 underclothes **and to move her legs apart** so female correctional officers could observe her before
2 plaintiff was permitted to put on jail issued clothing At such time, the outer female genitalia and bare breasts
3 were visible This was an unlawful "strip search" in violation of the Fourth and "Fourteenth Amendments to
4 the U.S Constitution and in violation of the Stipulated Permanent Injunction in *Grew v. King County*,
5 #C83-157-V This search was conducted without any individualized suspicion, without documentation of
the reasons for such a search, but in conformity with the pattern and practice of King County

6 4.12 **Failure to Train.** King County has failed to train its correctional staff at the King County
7 Jail in Seattle on the constitutional limits related to strip searches and the injunction in *Grew* Defendants
8 Thompson and Allen, as the officials charged with primary authority for training corrections officers, knew
9 or should have known of the clearly established law which limits strip searches, as well as the Stipulated
10 Permanent Injunction against King County which is consistent with clearly established law Defendant King
11 County's and Thompson's and Allen's failure to train correctional staff and failure to continue to implement
the stipulated injunction was done with deliberate indifference to, and callous disregard of, the rights of
female arrestees

12 4.13 As a result of the acts and omissions of defendants, plaintiff Jasmine Marie Wells suffered
13 personal injuries including, but not limited to, loss of liberty, pain and suffering, emotional distress, fear and
14 other consequential damages

15 4.14 As a result of the acts and omissions of defendants, plaintiff Brian Walton suffered personal
16 injuries including, but not limited to, loss of liberty, emotional distress, fear and other consequential
17 damages.

18 4.15 Plaintiffs hereby waive the physician's-patient privilege ONLY to the extent required by
19 RCW 5.60.060, as limited by the plaintiffs' constitutional rights of privacy, contractual rights of privacy,
20 and the ethical obligations of physicians and attorneys not to engage in *ex-parte* contact between the treating
physicians and the patients' legal adversaries.

21 4.16 Regarding their state law claims against the City of Seattle, plaintiffs have complied with the
22 applicable non-claim requirements of RCW 4.96 020.

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25 **V. CLASS ACTION ALLEGATIONS**

26 5.1 **Class Action** Plaintiff Wells also brings this case as a class action against King County on
behalf of the class defined as follows

1 All female prisoners booked at the King County Jail and strip searched
2 without individualized suspicion and documentation, and who were not
3 arrested for violent crimes, i.e. crimes that do meet the definition of RCW
4 9.94A.030(44) [previously RCW 9.94A.030(16)], or any of the following
5 crimes: any offense involving burglary, the use of a deadly weapon, or a
6 felony drug or controlled substance offense.

7 **5.2 Rule 23 Requirements Are Met.** This class may properly be maintained as a class
8 action pursuant to F.R.Civ.P. 23(b)(3). This action also satisfies the requirements of numerosity, typicality,
9 adequacy, commonality, predominance and superiority requirements of Rule 23. The class is so numerous
10 that individual joinder of all members is impracticable. The exact number of class members is unknown at
11 present and can only be determined through discovery, but is estimated at 2000 class members per year.

12 **5.3 Common Questions.** Common questions of fact and law prevail and predominate over
13 questions as to individual class members. The common factual and legal questions do not vary from class
14 member to class member and may be determined without reference to individual class members. The
15 common questions include the following

- 16 A. Whether King County has a custom or practice of "strip searching" females who
17 meet the class definition, in violation of the Stipulated Permanent Injunction in *Grew*
18 and in violation of the Fourth and Fourteenth Amendments?
- 19 B. Whether King County has failed to train correctional staff with respect to clearly
20 established law related to "strip searches" of non-violent prisoners where there is no
21 adequate reason to believe that the individual possesses or conceals drugs or
22 weapons, whether due to the nature and severity of the offense leading to the arrest
23 of other individualized suspicion?
- 24 C. Whether King County has routinely subjected women to "strip searches" as defined
25 in the Stipulated Permanent Injunction in *Grew v. King County*, without regard to
26 the nature of the alleged offense at booking?
- 27 D. Whether King County has "strip searched" non-violent arrestees, not suspected of
28 having drugs or weapons on their persons, i.e. without individualized suspicion?
- 29 E. Whether King County has failed to document the reasons or justifications for "strip
30 searches" in violation of *Grew*?

1 F Whether King County has failed to train its correctional staff with respect to the
2 requirements of the Stipulated Permanent Injunction in *Grew*?

3 5.4 **Typicality.** Plaintiff's claims are typical of those similarly situated arrestees booked at the
4 King County Jail.

5 5.5 **Adequacy.** Plaintiff and her counsel will fairly and adequately protect the members of the
6 class. Plaintiff's counsel has experience in the prosecution of class actions on behalf of jail inmates. This
7 case will be vigorously prosecuted.

8 5.6 **Superiority.** A class action is a superior method for the fair and just adjudication of this
9 controversy. Given the relatively small amount of damages that would likely be awarded to individual
10 plaintiffs, and the difficulty of litigation against governmental defendants, it is impractical for similarly
11 situated plaintiffs to pursue separate lawsuits. Individualized litigation presents risk of varying, inconsistent
12 or contradicting judgments, increases expense and delay, and imposes burdens on the courts. This case is
13 readily manageable as a class action.

14 **VI. FIRST CAUSE OF ACTION:
15 VIOLATION OF THE FOURTH AMENDMENT
16 PROHIBITION AGAINST UNREASONABLE SEARCHES AND SEIZURES**

17 6.1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation
18 of paragraphs 4.1 through 4.14.

19 6.2 The acts and omissions of defendants herein were performed under color of state law, custom
20 or usage.

21 6.3 Jasmine Marie Wells and Brian Walton were seized, for purposes of the Fourth Amendment
22 to the United States Constitution, by the acts and omissions of defendants set forth herein.

23 6.4 Jasmine Marie Wells and Brian Walton had a federally-protected right, under the Fourth
24 Amendment, not to be subjected to an unreasonable search and seizure.

25 6.5 The acts and omissions of defendants herein proximately caused the deprivation of the Fourth
26 Amendment rights of Jasmine Marie Wells and Brian Walton.

As a proximate result of the acts and omissions of defendants and deprivation of plaintiff's
Fourth Amendment rights, plaintiffs suffered personal injuries as set forth herein above.

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**VII. SECOND CAUSE OF ACTION:
ARREST WITHOUT PROBABLE CAUSE
IN VIOLATION OF THE FORTH AMENDMENT**

7 1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation of paragraphs 4 1 through 4.14.

7.2 The acts and omissions of defendants herein were performed under color of state law, custom or usage.

7.3 Jasmine Marie Wells and Brian Walton were arrested, for purposes of the Fourth Amendment, when they were seized, handcuffed and taken into custody.

7 4 Jasmine Marie Wells and Brian Walton had a federally-protected right, under the Fourth Amendment, not to be arrested by defendants without probable cause.

7 5 The defendants lacked probable cause to arrest Jasmine Marie Wells and Brian Walton

7 6 The acts and omissions of defendants herein, and each of them, proximately caused the deprivation of Jasmine Marie Wells and Brian Walton's Fourth Amendment rights

7.7 As a proximate result of the acts and omissions of defendants and deprivation of her Fourth Amendment rights, plaintiffs Jasmine Marie Wells and Brian Walton suffered personal injuries as set forth herein above

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**VIII. THIRD CAUSE OF ACTION:
VIOLATION OF THE FOURTEENTH AMENDMENT
DUE PROCESS CLAUSE**

8 1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation of paragraphs 4.1 through 4.14

8 2 The acts and omissions of defendants herein were performed under color of state law, custom or usage

8.3 Jasmine Marie Wells had federally-protected rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution to remain in a public place of her choice and the right to move from one place to another, in order to shop and visit commercial businesses in downtown Seattle and to be free of violations of this Court's orders restrict the nature and circumstances of strip searches at the King County Jail

1 10.3 For purposes of the incident described herein, it was the policy, custom and practice of the
2 City of Seattle to arrest and detain the plaintiffs without probable cause in violation of their Fourth and
3 Fourteenth Amendment rights as set forth herein above.

4 10.4 It was further the policy of the City of Seattle, by and through policymaking officials to
5 approve, acquiesce, condone and ratify the unreasonable seizure and detention of the plaintiffs in the incident
6 described herein above, in violation of their Fourth and Fourteenth Amendment rights

7 10.5 For purposes of liability for said policies, practices and/or customs, Gil Kerlikowske was the
8 authorized policy-maker on police matters, and his decisions, explicit and *de facto*, were and are binding on
9 defendant City of Seattle.

10 10.6 The policy, practice and custom of approving, acquiescing in, condoning and/or ratifying the
11 unreasonable seizure and detention of the plaintiffs in the incident described herein, in violation of their
12 Fourth and Fourteenth Amendment rights, was a deliberate choice by defendant City of Seattle, by and
13 through its chief of police and/or others.

14 10.7 These policies, practices and customs were maintained with deliberate, reckless and/or
15 callous indifference to the constitutional rights of the plaintiffs as set forth herein above

16 10.8 The above-described policies, practices and customs of defendant City of Seattle proximately
17 caused the deprivation of the Fourth and Fourteenth Amendment rights of the plaintiffs

18 10.9 As a proximate result of the above-described policies, practices and customs of defendant
19 City of Seattle, and as a result of the deprivation of plaintiffs' Fourth and Fourteenth Amendment rights,
20 plaintiffs suffered personal injuries as set forth herein above

21 10.10 At all times material herein, defendant City of Seattle had a duty, under the United States
22 Constitution, to properly supervise Seattle police officers.

23 10.11 At all times material herein, defendants City of Seattle had a duty, under the Fourth
24 Amendment to the United States Constitution, to train Seattle police officers not to arrest and detain
25 individuals without probable cause

26 10.12 Defendants failed to properly supervise defendants John Doe and Richard Roe.

 10.13 Defendants failed to properly train defendants John Doe and Richard Roe

1 10 14 The above-described failures to supervise and to train were maintained with deliberate,
2 reckless and/or callous indifference to the constitutional rights of plaintiffs as set forth herein above

3 10.15 The above-described failures by defendants to properly supervise and to properly train John
4 Doe and Richard Roe proximately caused the deprivation of the constitutional rights of plaintiffs as set forth
5 herein above.

6 10 16 As a proximate result of the failure of defendants to properly supervise and train, and as a
7 result of the deprivation of plaintiffs' constitutional rights, plaintiffs suffered personal injuries as set forth
8 herein above.

9 **XI. SIXTH CAUSE OF ACTION:
10 ASSAULT AND BATTERY**

11 11 1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation
12 of paragraphs 4 1 through 4 14

13 11.2 Defendants assaulted and battered plaintiffs Jasmine Marie Wells and Brian Walton.

14 11.3 Defendant City of Seattle is liable for the actions of the individual defendants under the
15 doctrine of *respondeat superior*.

16 11 4 As a direct, proximate and foreseeable result of wrongful actions described herein above,
17 plaintiffs have been damaged in an amount in excess of the minimum jurisdiction of this Court

18 **XII. SEVENTH CAUSE OF ACTION:
19 FALSE ARREST/FALSE IMPRISONMENT**

20 12 1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation
21 of paragraphs 4 1 through 4.14.

22 12.2 Defendants arrested and imprisoned plaintiffs Jasmine Marie Wells and Brian Walton without
23 probable cause.

24 12 3 Defendant City of Seattle is liable for the actions of the individual defendants under the
25 doctrine of *respondeat superior*.

26 12 4 As a direct, proximate and foreseeable result of wrongful actions described herein above,
plaintiffs have been damaged in an amount in excess of the minimum jurisdiction of this Court.

1 **XIII. SEVENTH CAUSE OF ACTION:**
2 **MALICIOUS PROSECUTION**

3 13.1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation
4 of paragraphs 4.1 through 4.14.

5 13.2 Defendants maliciously charged plaintiffs Jasmine Marie Wells and Brian Walton with
6 criminal offenses without probable cause.

7 13.3 Defendant City of Seattle is liable for the actions of the individual defendants under the
8 doctrine of *respondeat superior*.

9 13.4 As a direct, proximate and foreseeable result of wrongful actions described herein above,
10 plaintiffs have been damaged in an amount in excess of the minimum jurisdiction of this Court

11 **XIV. EIGHTH CAUSE OF ACTION:**
12 **MUNICIPAL LIABILITY OF KING COUNTY, THOMPSON AND ALLEN**

13 14.1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation
14 of paragraphs 4.1 through 4.14.

15 14.2 Based on the factual allegations set forth in paragraphs 4.11 through 4.12 above, defendants
16 King County, Thompson and Allen are liable for violation of plaintiff's Fourth and Fourteenth Amendment
17 rights and in violation of 42 USC § 1983. Defendants are further liable for damages to the class which
18 plaintiff represents. Defendants Thompson and Allen are liable for punitive damages for reckless disregard
19 of the rights of plaintiff Wells and the class members she represents, and for the disregard of the injunction
20 in *Grew*.

21 **XV. PUNITIVE DAMAGES ALLEGATIONS**

22 15.1 Plaintiffs hereby incorporate and re-allege as if fully set forth herein each and every allegation
23 of paragraphs 4.1 through 4.14.

24 15.2 The acts and omissions of defendants herein were motivated by wrongful motives or intent,
25 or involved reckless or callous indifference to the constitutional rights of the plaintiffs as set forth herein
26 above.

15.3 Defendants City of Seattle and King County should indemnify the individual defendants for
any damages awarded against them at the trial of this action, including punitive damages.

1 15.4 Defendant City of Seattle is responsible for the fault of the individual defendants because the
2 individual defendants were acting as agents or servants of the City Defendants City of Seattle and King
3 County are liable for all damages awarded against the individual defendants, including punitive damages
4 RCW 4.22 070(1)(a).

5 15.5 Because Jasmine Marie Wells and Brian Walton are fault-free plaintiffs, defendant City of
6 Seattle and King County are jointly and severally liable for all damages awarded, including punitive
7 damages RCW 4.22 070(1)(b)

8 XVI. PRAYER FOR RELIEF

9 WHEREFORE, plaintiffs pray for relief as follows.

10 16.1 **Compensatory Damages:** The defendants should be required to pay compensatory
11 damages in an amount to be proven at trial

12 16.2 **Punitive Damages:** The defendants should be required to pay punitive damages in an
13 amount to be proven at trial pursuant to Title 42, United States Code, §1983, Title 42, United States Code,
14 §1988; RCW 4.22 070(1)(a); and RCW 4.22 070(1)(b)

15 16.3 **Attorney's Fees:** The defendants should be required to pay the plaintiffs' reasonable
16 attorney's fees and costs pursuant to Title 42, United States Code, §1988

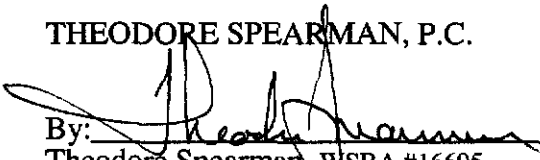
17 16.4 **Other Relief:** The Court should grant the plaintiffs such other and further relief as the
18 Court deems just and equitable

19 JURY DEMAND

20 Plaintiffs demand trial by a jury of twelve (12) in this matter.

21 DATED this 17th day of April, 2002.

22 THEODORE SPEARMAN, P.C.

23 By: 
Theodore Spearman, WSBA #16695
Attorney for Plaintiffs

24 LAW OFFICE OF FRED DIAMONDSTONE

25 By: 
Fred Diamondstone, WSBA #7138
Attorney for Plaintiffs