UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

Dianna Johnson
[redacted]
Address redacted
[redacted]

and

Rubbiya Muhammed
Address redacted
[redacted]

and

Carolyn Montgomery
Address redacted
[redacted]

and

Tonya Cecelia Mack
Address redacted
[redacted]

and

Laura Lambert
Address redacted
[redacted]

and

Dianne Wilkes
Address redacted
[redacted]

and

Vickie Brooks
Address redacted

and

Keisha Holloway
Address redacted

and

Donna Curtis
Address redacted

and

On behalf of all others similarly situated

Plaintiffs,

v.

GOVERNMENT OF THE THE DISTRICT OF COLUMBIA,

Washington, D.C. 20004

and

UNITED STATES MARSHALS SERVICE

and

TODD DILLARD, Individually and Officially

Defendants

02-2364 (RMC)

CLASS ACTION

SECOND AMENDED COMPLAINT FOR MONEY DAMAGES AND JURY DEMAND

INTRODUCTION

1. Plaintiffs are persons who were arrested in the District of Columbia and who were taken to the Superior Court for presentment on District of Columbia warrants or code offenses and who were subjected to blanket strip, visual body cavity and/or squat searches (hereafter generically referred to as "strip searches") while being held in the Superior Court Cell Block of the District of Columbia Superior Court, waiting for presentment before a judge or other judicial officer of the District of Columbia Superior Court.

2. Every person held in the Superior Court Cell Block pending presentment on a code offense or a District of Columbia arrest warrant is held in the joint custody of the United States Marshal for the Superior Court of the District of Columbia (hereafter "Superior Court Marshal") and the Government of the District of Columbia.

3. Todd Dillard was appointed as the United States Marshal for the Superior Court of the District of Columbia in October 1995 and he held the office until at least January, 2005.

4. Plaintiffs primarily allege that, in about 1995, Todd Dillard implemented a practice of having his deputies subject all female arrestees (but not similarly situated

male arrestees) taken to the Superior Court for presentment to blanket strip searches (defined below) and the practice lasted during the Class Period. ("Class period" is defined below.) On the basis of these allegations plaintiffs assert two class action claims, a claim based on the Fourth Amendment ("Primary Fourth Amendment Class") on behalf of all female arrestees arrested on charges not involving weapons, drugs, or felony violence taken to the Superior Court for presentment during the Class Period and a claim based on the equal protection component of the Fifth Amendment ("Fifth Amendment Class") on behalf of all female arrestees (regardless of charge) taken to the Superior Court for presentment during the Class Period.

5. In the alternative, plaintiffs allege that, prior to the beginning of the Class Period Todd Dillard implemented a practice of having his deputies subject all male arrestees as well as female arrestees (rather than just female arrestees) to blanket strip searches so that from that point onward his deputies subjected all arrestees (male as well as female arrestees) to blanket strip searches. On the basis of these allegations plaintiffs assert a class action claim based on the Fourth Amendment ("Alternative Fourth Amendment Class") on behalf of all arrestees (male and female) arrested on charges not involving weapons, drugs, or felony violence taken to the Superior Court for presentment during

the Class Period.[1]

6. The Primary Fourth Amendment Named Plaintiffs (Dianna Johnson, Rubbiya Muhammad, Carolyn Montgomery, Tonya Cecelia Mack and Laura Lambert) bring this action on behalf of the Primary Fourth Amendment Class against the Government of the District of Columbia (hereinafter the District of Columbia or the District) and Todd Dillard in his individual and official capacity pursuant to Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, to enforce their Fourth Amendment Rights. Additionally, the Fourth Amendment Named Plaintiffs bring this action against Todd Dillard, in his individual and official capacity, directly under the Fourth Amendment to the Constitution. The Fourth Amendment Named Plaintiffs bring this action against the United States Marshals Service for injunctive relief only directly under the Fourth Amendment to the Constitution.

---

1 Plaintiffs plead the alternative Fourth Amendment claim and the allegations about strip searches of male arrestees in support of it because this is former Marshal Todd Dillard's litigating position in this case even though his position is contrary to sworn deposition testimony and interrogatory responses provided by his staff in previous, similar cases. See paragraphs 160 et seq. below. Female deputies testified in depositions in several previous lawsuits (e.g. Helton v. United States, 01-385 (JDB)) filed on February 21, 2001 in this Court that in about 1995 Todd Dillard implemented a practice of subjecting female but not male arrestees to blanket strip searches upon arrival at the Superior Court. Interrogatory responses filed in Helton based on information provided by Mark Shealey, Supervisory Deputy United States Marshal, Supervisor of the Superior Court Cell Block, and others, and signed by Diane Sullivan, AUSA, stated that the then prevailing practice at Superior Court was that male deputies subjected every male arrestees received by Todd Dillard's deputies at Superior Court to the blanket pat down and "in-custody" searches described herein, and that if "something suspicious" occurred male arrestees were set aside for "a more thorough search." Nonetheless, former Superior Court Marshal Todd Dillard's position in this case, as far as plaintiffs can understand it, is that he had the same strip search policy for male as well as female arrestees. Id.

7. The Fifth Amendment Named Plaintiffs (Dianna Johnson, Rubbiya Muhammad, Carolyn Montgomery, Tonya Cecelia Mack, Laura Lambert, Dianne Wilkes, Vickie Brooks, Keisha Holloway and Donna Curtis) bring this action against the Government of the District of Columbia and Todd Dillard in his individual and official capacity pursuant to Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, to enforce their Fifth Amendment Rights. Additionally, the Fifth Amendment Named Plaintiffs bring this action against Todd Dillard, in his individual and official capacity, directly under the Fifth Amendment to the Constitution. The Fifth Amendment Named Plaintiffs bring this action against the United States Marshals Service solely for injunctive relief directly under the Fifth Amendment to the Constitution.

8. The Alternative Fourth Amendment Named Plaintiffs (Dianna Johnson, Rubbiya Muhammad, Carolyn Montgomery, Tonya Cecelia Mack and Laura Lambert) bring this action on behalf of the Alternative Fourth Amendment Class against the Government of the District of Columbia and Todd Dillard in his individual and official capacity pursuant to Section 1983 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, to enforce their Fourth Amendment Rights. Additionally, the Alternative Fourth Amendment Named Plaintiffs bring this action against Todd Dillard, in his individual and official capacity, directly under the Fourth Amendment to the Constitution. The Alternative Fourth Amendment Named Plaintiffs bring this action against the United States Marshals Service for injunctive relief only directly under the Fourth Amendment to the Constitution.

JURISDICTION AND VENUE

9. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3) because plaintiffs' claims are based on Section 1983 and the Constitution.

10. Venue is appropriate in this District. The claim for relief arose in this judicial district.

DEFINITIONS

11. A "blanket" strip search means a strip search undertaken without making an individualized or categorical determination that reasonable suspicion exists to justify the search.

12. Since at least January 1999 through the present many arrestees arrested on felony charges had their charges "papered down" to a misdemeanor before presentment.

13. As used herein, "presentment" refers to the initial proceeding before the Court referred to in Rule 5 of the Superior Court Rules of Criminal Procedure.

14. Violent offense means any of the offenses defined as a "crime of violence" in D.C. Code § 23-1331(4) as defined under Title 22 of the D.C. Code, misdemeanor simple assault, D.C. Code § 22-404 and misdemeanor threats, D.C. Code § 22-407.

15. Drug offense means any offense under District of Columbia law that has as an element, the possession, possession with intent to distribute, or the distribution of, any

substance referred to in D.C. Code § 48-901.02, or any item defined as drug paraphernalia by D.C. Code § 48-1101(3).

16. Traffic and District of Columbia offenses mean any offense prosecuted by the Corporation Counsel's Office of the District of Columbia.

17. Superior Court Cell Block as used herein includes the hallway leading to the Superior Court Cell Block and any place in the Superior Court where the searches described herein actually occurred.

18. The United States Marshal for the Superior Court of the District of Columbia has deputies and detention enforcement officers and other persons under his command to help him in his duties at the Superior Court. Such persons are referred to herein as "deputies."

19. As used herein "arrestees" includes both male and female arrestees unless otherwise indicated.

20. As used herein "Class Period" refers to the Class Period for purposes of the damages claims herein, and means from December 2, 1999, until the date the strip search policies and practices complained of herein were terminated (which the federal defendants have represented happened in April 2003 but which Plaintiffs have not yet independently verified), or until this case is terminated, whichever is earlier). The phrase "Class Period" applies to both the Primary Fourth Amendment and the Fifth Amendment Classes and to the Alternative Fourth Amendment Class, as the relevant period for each

is, according to the Defendants, the same. If it turns out that the Class Period for the Primary Fourth Amendment Class and the Fifth Amendment Class differs from the Class Period for the Alternative Fourth Amendment Class, then the phrase "Class Period" as used up to and including ¶ 240 refers to the period from December 2, 1999, until the strip search policies and practices complained of herein were terminated as to female arrestees, and the phrase "Class Period" as used from ¶ 241 onward refers to the period from December 2, 1999, until the strip search policies and practices complained of herein were terminated as to both female and male arrestees.

21. If Plaintiffs are referring specifically to the Class Period for purposes of the injunctive relief claims herein, the phrase "Injunctive Relief Class Period" will be used, which refers to the period December 2, 1999 until the present and into the future unless the Court acts to enjoin the unlawful activity complained of herein.

PARTIES-PLAINTIFFS

22. Plaintiffs (all adults) are Dianna Johnson, Rubbiya Muhammed, Carolyn Montgomery, Tonya Cecelia Mack, Laura Lambert, Dianne Wilkes, Vicki Brooks, Keisha Hollaway and Donna Curtis.

NAMED PLAINTIFFS ARRESTED ON TRAFFIC OFFENSES

23. Plaintiff Dianna Johnson was arrested on a charge of driving on a revoked license under D.C. Code § 50-1403.01 by officers of the District of Columbia Metropolitan Police Department ("MPD").

24. Plaintiff Dianna Johnson was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on January 29, 2002.

25. Upon arriving at the Superior Court for presentment, Plaintiff Dianna Johnson was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

26. Plaintiff Dianna Johnson was released on personal recognizance directly from the courtroom after presentment on January 29, 2002.

27. Plaintiff Rubbiya Muhammed was arrested on a bench warrant in connection with a DWI (driving while under the influence of alcohol) case under D.C. Code § 50-2205.02 by officers of the District of Columbia Metropolitan Police Department.

28. Plaintiff Rubbiya Muhammed was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

29. Upon arriving at the Superior Court for presentment, Plaintiff Rubbiya Muhammed was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

30. Plaintiff Rubbiya Muhammed was released on personal recognizance directly from the courtroom after presentment on October 5, 2002.

NAMED PLAINTIFFS ARRESTED ON MISDEMEANOR SOLICITATION OF PROSTITUTION

31. Plaintiff Carolynn Montgomery was arrested and detained on a charge of solicitation of prostitution under D.C. Code § 22-2701 by officers of the District of Columbia Metropolitan Police Department.

32. Plaintiff Carolynn Montgomery was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

33. Upon arriving at the Superior Court for presentment, Plaintiff Carolynn Montgomery was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

34. Plaintiff Carolynn Montgomery was released on personal recognizance directly from the courtroom after presentment on October 5, 2002.

NAMED PLAINTIFFS ARRESTED ON MISDEMEANOR CONTEMPT OF COURT

35. Plaintiff Tonya Mack was arrested on a warrant for contempt of court for violations of conditions of release in a solicitation of prostitution case under the D.C. Code by officers of the District of Columbia Metropolitan Police Department.

36. Plaintiff Tonya Mack was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 4, 2002.

37. Upon arriving at the Superior Court for presentment, Plaintiff Tonya Mack was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

38. Plaintiff Tonya Mack was released on personal recognizance directly from the courtroom after presentment on October 4, 2002.

39. Several weeks later Ms. Mack was alleged to have missed a court date and a bench warrant issued for her arrest.

NAMED PLAINTIFFS ARRESTED ON FIRST DEGREE THEFT

40. Plaintiff Laura Lambert was arrested by officers of the District of Columbia Metropolitan Police Department on a charge of theft of more than $250.00 (shoplifting at Neiman Marcus) under D.C. Code § 22-3211.

41. Plaintiff Laura Lambert was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

42. Upon arriving at the Superior Court for presentment, Plaintiff Laura Lambert was subjected to a strip, visual body cavity and squat search without a particularized finding

of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

43. Plaintiff Laura Lambert's case was "papered down" from felony theft to misdemeanor theft before presentment and she was presented on a charge of misdemeanor theft.

44. Plaintiff Laura Lambert was released on personal recognizance directly from the courtroom after presentment on October 5, 2002.

NAMED PLAINTIFF ARRESTED ON MISDEMEANOR SIMPLE ASSAULT

45. Plaintiff Diane Wilkes was arrested and detained on a charge of misdemeanor simple assault under D.C. Code § 22-404 by officers of the District of Columbia Metropolitan Police Department.

46. Plaintiff Diane Wilkes was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on September 25, 2002.

47. Upon arriving at the Superior Court for presentment, Plaintiff Diane Wilkes was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

48. Plaintiff Diane Wilkes was released on personal recognizance directly from the courtroom after presentment September 25, 2002.

NAMED PLAINTIFFS ARRESTED ON FELONY THREATS

49. Plaintiff Vickie Brooks was arrested on a charge of felony threats under D.C. Code § 22-1810 by a member of the District of Columbia Metropolitan Police Department.

50. Plaintiff Vickie Brooks was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on September 25, 2002.

51. Upon arriving at the Superior Court for presentment, Plaintiff Vickie Brooks was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

52. Plaintiff Vickie Brooks was released on personal recognizance directly from the courtroom after presentment September 25, 2002.

NAMED PLAINTIFFS ARRESTED ON AGGRAVATED ASSAULT

53. Plaintiff Keisha Holloway was arrested on a charge of aggravated assault under D.C. Code § 22-404.01 by a member of the District of Columbia Metropolitan Police Department.

54. Plaintiff Keisha Holloway was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on October 5, 2002.

55. Upon arriving at the Superior Court for presentment, Plaintiff Keisha Holloway was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

56. Plaintiff Keisha Holloway was released on personal recognizance directly from the courtroom after presentment October 5, 2002.

NAMED PLAINTIFFS ARRESTED ON MISDEMEANOR POSESSION OF PARAPHERNALIA

57. Plaintiff Donna Curtis was arrested on a charge of possession of paraphernalia under D.C. Code § 48-1103 by a member of the District of Columbia Metropolitan Police Department.

58. Plaintiff Donna Curtis was held for presentment before a District of Columbia Superior Court Judge or other judicial officer in the Superior Court Cell Block on September 25, 2002.

59. Upon arriving at the Superior Court for presentment, Plaintiff Donna Curtis was subjected to a strip, visual body cavity and squat search without a particularized finding of reasonable suspicion that she was in possession of weapons, drugs or other contraband.

60. Plaintiff Donna Curtis was released on personal recognizance directly from the courtroom after presentment September 25, 2002.

PARTIES-DEFENDANTS

61. Defendant Government of the District of Columbia is a municipal corporation capable of being sued under D.C. Code § 1-102.

62. Defendant Todd Dillard was the United States Marshal for the Superior Court of the District of Columbia from October 1990 until at least January 2005. Todd Dillard is sued in his individual and official capacity.

63. Defendant United States Marshals Service is an agency of the federal government located in Washington, DC. Defendant United States Marshals Service is sued for injunctive relief only.

FACTUAL ALLEGATIONS

RELATIONSHIP BETWEEN THE GOVERNMENT OF THE DISTRICT OF COLUMBIA AND THE UNITED STATES MARSHAL FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

64. The District of Columbia is a government constituted body corporate for municipal purposes capable of suing and being sued. D.C. Code §1-102.

65. The District of Columbia, through the Superior Court, has jurisdiction and legal custody over arrestees brought to the Superior Court for presentment.

66. The Superior Court of the District of Columbia is an agency of the Government of the District of Columbia.

67. The District of Columbia, through the Superior Court, has custody over arrestees because of Superior Court Rule of Criminal Procedure Rule 5 ("D.C. SCR-Crim. Rule 5").

68. Rule 5 obligates any "officer within the District of Columbia making an arrest under a warrant issued by the Superior Court upon a complaint, making an arrest without a warrant, or receiving a person arrested by a special policeman or other authorized person" to take the arrested person before the Superior Court. D.C. SCR-Crim.

69. Rule 5 also authorizes the Superior Court to hold presentments, and to make probable cause determinations and decisions affecting release or detention.

70. The judicial officers of the Superior Court have power to release or detain arrestees pending trial, pursuant to D.C. Code §23-1321.

71. Thus, while the arrestees are at the Superior Court for presentment, the statutory authority over arrestees is authority granted by District of Columbia statutes to the judges of the Superior Court.

72. Every person held in the Superior Court pending presentment is held in the joint custody of the United States Marshal for the Superior Court of the District of Columbia (formerly Todd Dillard) and the Government of the District of Columbia.

73. The Chief Judge of the District of Columbia Superior Court (hereafter "Chief Judge") administratively controls the disposition of the space at the District of Columbia Superior Court, including areas where arrestees and other prisoners are held.

74. For example, by Superior Court Administrative Order 02-14, the Chief Judge authorized the MPD to use Cellblock B as a booking center the day of the IMF protests in 2002.

75. On information and belief, Defendant District of Columbia pays every year for some or all of the costs of operation, maintenance and repair of space used by the United States Marshal for the Superior Court of the District of Columbia at the District of Columbia Superior Court Courthouse.

76. On information and belief, Defendant District of Columbia pays every year for some or all of the costs incurred by the United States Marshal for the Superior Court of the District of Columbia and his deputies in performing their duties at the District of Columbia Superior Court Courthouse.

77. The District of Columbia through the Chief Judge also administratively controls the prisoners (including arrestees) in the Superior Court courthouse.

78. The District of Columbia has the authority to direct the United States Marshal for the Superior Court of the District of Columbia with respect to his treatment of arrestees at the Superior Court. D.C. Code § 11-1729.

79. The Chief Judge in 2002 issued an administrative order ordering deputies not to remove in-custody defendants from the Superior Court courtrooms until after the judges and courtroom staff had completed appropriate paperwork, and further ordering said deputies not to return in-custody defendants to the DC Jail unless the deputies had all the

paperwork in all of in-custody defendant's cases. Chief Judge's Administrative Order 02-22, dated July 25, 2002.

80. The Superior Court Marshal and his deputies act as agents of the Defendant District of Columbia pursuant to District of Columbia statutes, policies and/or practices while holding arrestees in the Superior Court Cell Block and other areas of the Superior Court Courthouse.

ARRESTEES: FROM ARREST TO PRESENTMENT

81. Upon arrest, persons arrested in the District of Columbia on District of Columbia warrants or DC Code offenses are held at one of the seven District "stations" before transport to Central Cellblock (the District of Columbia Metropolitan Police lock-up for holding arrestees) or are taken directly to Central Cellblock.

82. The arrestees in the Superior Court Cell Block have been subjected to pat down searches by the arresting MPD officers and by the processing officers at the stations before being transported to the Superior Court Cell Block by the MPD.

83. Arrestees in the Superior Court Cell Block arrested on suspicion of offenses involving drugs in many cases have been subjected to searches by the arresting MPD officers in which the officers search inside the person's pants and underwear before being transported to the Superior Court Cell Block by the MPD.

84. The arrestees in the Superior Court Cell Block have been subjected to pat down searches by the transporting MPD officers before being transported to the Superior Court Cell Block by the MPD.

85. Any arrestee who is transported to the Superior Court Cell Block from any of the seven District of Columbia Metropolitan Police Department patrol districts or the District of Columbia Metropolitan Police Department's Central Cell Block has been subjected to a thorough pat down at the patrol station or the MPD Central Cell Block before being transported to Superior Court Cell Block.

86. During the Class Period, including the Injunctive Relief Class Period, the MPD had a policy and practice predating 1999 of subjecting male and female arrestees held in Central Cell Block to strip searches upon reasonable suspicion that the arrestee was carrying drugs, weapons or other contraband before transporting them to the Superior Court courthouse.

87. During the Class Period, including the Injunctive Relief Class Period, MPD officers transported the arrestees from the District stations or the MPD Central Cellblock by van to the Superior Court.

88. During the Class Period, including the Injunctive Relief Class Period, each arrestee also wore "flex cuffs," that is, plastic hand cuffs while on the van.

89. During the Class Period, including the Injunctive Relief Class Period, each van load of arrestees transported to Superior Court by the MPD had a "van sheet," that is, a

manifest that lists the name, PDID number, lock-up number (every person presented in Superior Court has a “lock-up” number), date of birth and arrest charge(s) of each passenger on the van.

90. During the Class Period, including the Injunctive Relief Class Period, each arrestee arriving from the MPD wore a plastic wrist band that has his/her name, PDID number and photograph on it.

91. Thus, deputies receiving arrestees from MPD officers could and did read an arrestee’s charge at a glance.

92. During the Class Period, including the Injunctive Relief Class Period, as arrestees stepped off the van and entered the Superior Court courthouse, they went up in an elevator, stepped off the elevator in a cell area, and deputies cut off the flex cuffs, and then the arrestees walked through a metal detector.

93. During the Class Period, including the Injunctive Relief Class Period, as the arrestees walked past the metal detector, one deputy would read out each name on the van sheet and the number next to it, while another deputy would locate that arrestee and write that number, the “lock up” number, on that arrestee’s wrist band if he/she had a US charge, or, if the person had a DC charge, the deputy wrote a letter on the wrist band designating the type of charge, as explained in the following paragraph.

94. During the Class Period, including the Injunctive Relief Class Period, the deputies marked, in black marker, the level of the charge on the wrist band each arrestee had been

issued by the MPD ("D" for District charge, "T" for traffic charge, "V" for domestic violence, "M" for misdemeanor and "F" for felony).

95. Any deputy who wrote, or saw, a "T" or a "D" on a wrist band would or should know that the arrestee is charged with a District of Columbia offense.

96. District of Columbia offenses are mostly minor offenses such as failure to obey, disorderly conduct, urinating in public.

97. Traffic offenses involve operation of a motor vehicle including speeding, reckless driving, driving without a license and DUI.

98. During the Class Period, including the Injunctive Relief Class Period, the searching deputies could have looked at the van sheets or the wrist bands to make individualized determinations of the need for searches based on the nature of the charge, but they did not.

99. During the Class Period, including the Injunctive Relief Class Period, the deputies then subjected the arrestees to very thorough pat-down searches in which the deputies checked the arrestees' hair, wig, hairpiece or hat, and removed and inspected their coats and shoes.

100. During the Class Period, including the Injunctive Relief Class Period, the deputies also searched arrestees' waistband areas, pockets, leg areas, and feet.

101. During the Class Period, including the Injunctive Relief Class Period, the deputies also made the arrestees take off their shoes and socks, shake out their shoes, and deputies searched the shoes and socks.

102. During the Class Period, including the Injunctive Relief Class Period, the deputies also made arrestees vigorously brush their hair to dislodge contraband, or a deputy ran his fingers or an object such as a pencil through their hair.

103. During the Class Period, including the Injunctive Relief Class Period, a deputy then inspected behind the ears and in the arrestees' ears, and looked inside their nostrils and mouths, including under the tongue and between the lips and gums.

104. During the Class Period, including the Injunctive Relief Class Period, deputies also conducted a thorough pat-down of the arrestees' bodies, including the crotch and other areas.

105. During the Class Period, including the Injunctive Relief Class Period, at this point in the process, male and female arrestees were led to separate areas segregated by gender.

106. However plaintiffs do not allege that male deputies searched female arrestees or vice versa, or that members of an opposite gender were allowed to see strip searches.

107. The great majority of arrestees during the Class Period, including the Injunctive Relief Class Period, were released from custody after presentment in the presentment courtroom, either because their cases were no-papered, or because they were released on personal recognizance.

108. During the Class Period, including the Injunctive Relief Class Period, twenty-five percent to 35% of arrestees' cases were "no-papered"; i.e., their cases were dismissed from the courtroom because the prosecuting agency rejected the charges completely.

109. During the Class Period, including the Injunctive Relief Class Period, many persons arrested on felony charges had their charges "papered down" to a misdemeanor before presentment.

110. During the Class Period, including the Injunctive Relief Class Period, the searching deputies knew at the time of the searches that some of the cases would be no-papered.

111. During the Class Period, including the Injunctive Relief Class Period, arrestees held at the Superior Court awaiting presentment there were quarantined from other persons held at the Superior Court in segregated holding cells.

112. During the Class Period, including the Injunctive Relief Class Period, other prisoners at the Superior Court Courthouse, including arrestees denied bail at presentment and ordered held at the DC Jail or some other place, and detainees held pending trial brought in for court events or "stepped-back" at court hearings, were not intermingled with pre-presentment arrestees in the courthouse or during transport prior to presentment.

113. During the Class Period, including the Injunctive Relief Class Period, arrestees were quarantined by sex in their own cells.

114. During the Class Period, including the Injunctive Relief Class Period, there was no "general population" at the Superior Court Cell Block.

115. During the Class Period, including the Injunctive Relief Class Period, no prisoner or arrestee stayed overnight at the Superior Court Cell Block.

116. During the Class Period, including the Injunctive Relief Class Period, prisoners, including arrestees, were bussed into the Superior Court Cell Block in the morning and left that same day whether by release at the courthouse or by transport out to another facility.

117. During the Class Period, including the Injunctive Relief Class Period, arrestees were brought to the Superior Court the day of presentment in their cases and were either released directly from the courtroom or transported that day to another facility.

118. During the Class Period, including the Injunctive Relief Class Period, the only persons housed in the Superior Court Cell Block designated for arrestees were arrestees brought to the Superior Court Courthouse for presentment to a judicial officer of the District of Columbia who had not yet been presented.

119. During the Class Period, including the Injunctive Relief Class Period, arrestees did not even receive meals or beverages at the Superior Court.

120. During the Class Period, including the Injunctive Relief Class Period, at presentment, a judge of the Superior Court ordered a person released or held pending trial.

121. During the Class Period, including the Injunctive Relief Class Period, arrestees ordered released at presentment left from the courtroom and picked up their property from the police facility where they were processed.

122. During the Class Period, including the Injunctive Relief Class Period, arrestees ordered held at presentment were taken from the courtroom by deputies and removed from the courthouse by deputies or handed off to custody of the detaining authority.

123. During the Class Period, including the Injunctive Relief Class Period, persons arrested on bench warrants were taken by the deputies to another courtroom (e.g., the courtroom of the judge who issued the bench warrant).

124. During the Class Period, including the Injunctive Relief Class Period, such arrestees remaining in custody after presentment were not intermingled with arrestees awaiting presentment.

125. During the Class Period, including the Injunctive Relief Class Period, arrestees brought to the Superior Court Courthouse were segregated by sex, and the males and females arrestees are held separately in separate areas in the Superior Court Cell Block.

STRIP SEARCH PRACTICES APPLICABLE TO FEMALE ARRESTEES ONLY

126. Sometime in 1995 Todd Dillard implemented a practice or policy of having female deputies subject all female arrestees to blanket strip, visual body cavity and/or squat searches without a particularized finding of reasonable suspicion that the female arrestees are in possession of weapons, drugs or other contraband.

127. This practice of having female deputies subject all female arrestees to blanket strip, visual body cavity and/or squat searches without a particularized finding of reasonable suspicion that the female arrestees were in possession of weapons, drugs or other contraband violated the United States Marshals' Service strip search policy in force agency-wide during the Class Period, including the Injunctive Relief Class Period.

128. The United States Marshals' Service strip search policy, memorialized in writing and in force agency-wide during the Class Period, including the Injunctive Relief Class Period, required that all strip searches be based on an individualized finding of reasonable suspicion that the person to be searched was secreting drugs or other contraband. A copy is attached hereto and incorporated herein by reference.

129. Todd Dillard's deputies actually physically conducted the visual body cavity and squat searches of the female arrestees at his direction in a hallway on the way to the Superior Court Cell Block or in the Superior Court Cell Block.

130. During the Class Period, including the Injunctive Relief Class Period, deputies subjected every single female arrestee to the strip searches described herein without exception and regardless of charge or arrest history.

131. During the Class Period, including the Injunctive Relief Class Period, Todd Dillard's deputies instructed deputies newly assigned to the Superior Court to conduct the blanket strip searches on all women as part of the new deputies' two day training program.

132. During the Class Period, after the thorough pat down searches and the "in-custody" searches female deputies then took the female arrestees to the cell block area designated for female arrestees and subjected them to blanket strip, visual body cavity and/or squat searches in the hallway leading to the Superior Court Cell Block or in the Cell Block or in the door way of the Cell Block itself.

133. During the Class Period, including the Injunctive Relief Class Period, a female deputy directed the female arrestees to pull up their skirts or lower their pants, and pull down any undergarments.

134. During the Class Period, including the Injunctive Relief Class Period, a female deputy then made the female arrestees squat, turn around, and display their buttocks and genitals to the female deputy.

135. During the Class Period, including the Injunctive Relief Class Period, the female deputies stood just a few feet away from the female arrestees as they performed the strip searches and made a point of observing the female's genitalia and anus areas.

136. During the Class Period, including the Injunctive Relief Class Period, the female deputies did not place mirrors underneath the female arrestees as they squatted.

137. Forcing a woman to squat is not an effective method of making contraband hidden in her vagina visible.

138. During the Class Period, including the Injunctive Relief Class Period, female deputies then put the female arrestees in a holding cell designated for new female lock ups measuring about 30 to 50 feet.

139. During the Class Period, including the Injunctive Relief Class Period, the female deputies conducted the strip searches of newly arrived female arrestees in front of all female arrestees already in the hallway leading from the reception area to the Superior Court Cell Block, or in the Cell Block.

140. One female arrestee subjected to the strip search in about 2002 described it as follows:

> We four women then walked into the cell one by one in single file. The lead woman walked towards the back of the cell where a toilet was, facing the back of the cell, and pulled her pants and underwear down, and crouched down in a half squat, displaying her buttocks to the female Marshal. The female Marshal told the second girl in line, "Face the wall." Then the second and third woman also walked towards the back of the cell where the toilet was, facing the back of the cell, and pulled their pants and underwear down, and crouched down in a half squat, displaying their buttocks to the female Marshal. The female Marshal was screaming, "Keep moving, ladies." The other inmates were telling me I had to strip too. "This is what you have to do when you get here", they said. I turned to the female Marshal, and asked the female Marshal, "I don't have to do that, do I"? She screamed several times at me, "Keep moving, I don't have all day." Then she barked at me, "Go to the end and do it." Then I walked to the back to the wall, turned around, pulled down my pants, and then I pulled down my underwear. It seemed like an eternity. All the other inmates applauded.

141. During the Class Period, including the Injunctive Relief Class Period, after the deputies had completed processing and strip searching female arrestees as described

herein, but before they presented female arrestees in the presentment courtrooms, they allowed female arrestees to have unsupervised contact visits with their attorneys in conference cells.

142. During the Class Period, including the Injunctive Relief Class Period, the attorneys and the female arrestees in the conference cells were separated only by grills that have 4 inch by 12 inch slots in the grill-work for items and paperwork to be passed through.

143. During the Class Period, including the Injunctive Relief Class Period, no female arrestees were subjected to strip searches after the contact visits even though female arrestees were subjected to strip searches described herein before the contact visits.

144. During the Class Period, including the Injunctive Relief Class Period, the contact visits with attorneys were not the justification for any of the searches of female arrestees described herein.

145. During the Class Period, including the Injunctive Relief Class Period,, agents of the District of Columbia such as police and pretrial services employees and CJA Office employees conducting financial eligibility interviews regularly mingled at the Superior Court courthouse with the Superior Court Marshals and arrestees, and knew about the searches at all times within the Class Period, including the Injunctive Relief Class Period,

146. The MPD transport officers mingled with Todd Dillard's deputies near the sally port and were aware of the strip searches of female arrestees during the Class Period including the Injunctive Relief Class Period.

District Court Injunctions Applicable to the District of Columbia and to the Female Arrestees

147. In the 1980s and the early 1990s, before instituting its current practice of holding female arrestees at the District stations or Central Cellblock before bringing them to the Superior Court for presentment, the District followed a practice of committing female arrestees to the DC Jail and holding them there until they were transported to the Superior Court for presentment.

148. At that time (in the 1980s and the early 1990s) the District followed a practice of subjecting all female arrestees committed to the DC Jail awaiting transport to the courthouse for presentment ("police cases") to visual body cavity strip searches without an individual determination of reasonable suspicion that the arrestee was concealing contraband to support the search.

149. On July 22, 1981 The Honorable Audrey Robinson of this Court entered on Order ("Morgan Order") which directed, among other things, that the District of Columbia not conduct strip or squat searches of female police cases housed at the District of Columbia Detention Facility [DC Jail] in the absence of a "reasonable suspicion that a weapon, contraband or evidence of a crime are concealed on the person or in the clothing of the

arrestee which the District or its agents reasonably believe can only be discovered by a strip or squat search." Morgan v. Barry, 596 F. Supp. 897, 898 (D.D.C. 1984).

150. The Honorable Audrey Robinson entered an Order on October 29, 1985 continuing the Morgan Order (and another order) "for an indefinite period of time". Morgan v. Barry, 81-cv-1419, Docket Entry No. 82, 1985 (docket sheet). The orders remain in effect.

151. The Morgan Order and other orders imposed on the District of Columbia from the time when they were entered obliged the District of Columbia to protect female arrestees from blanket strip searches before presentment regardless of where the female arrestees are held before presentment.

152. The Morgan Order and other orders from the time when they were entered imposed on the District of Columbia obliged the District of Columbia to ensure that anyone to whom the District of Columbia entrusted its female arrestees also protect the District's female arrestees from blanket strip searches before presentment regardless of where the female arrestees are held before presentment.

153. The Morgan Order and other orders from the time when they were entered obliged the District of Columbia to monitor the conduct of persons to whom the District of Columbia entrusts its female arrestees to ensure they were protected from blanket strip searches before presentment regardless of where the female arrestees are committed before presentment.

154. The District of Columbia remained and remains obligated under the Morgan Order and other orders to ensure that Todd Dillard protect the female arrestees from blanket strip searches while the United States Marshal for the Superior Court of the District of Columbia and his deputies have physical custody of the District's female arrestees prior to presentment.

155. The Morgan Order and other orders impose on the Superior Court Marshal and his deputies a duty to familiarize themselves with laws and orders which protect the District's female arrestees from blanket strip searches before presentment regardless of where the female arrestees are committed before presentment.

KNOWLEDGE OF THE DISTRICT OF COLUMBIA OF THE STRIP SEARCHES APPLICABLE TO FEMALE ARRESTEES

156. During the Class Period, including the Injunctive Relief Class Period, female arrestees but not similarly situated male arrestees were subjected to blanket searches in the Superior Court Cell Block. The Government of the District of Columbia knew at all times during the Class Period, or should have known, that female arrestees but not similarly situated male arrestees were and would be subjected to blanket searches in the Superior Court Cell Block and the Government of the District of Columbia acquiesced in the searches.

157. Several related lawsuits filed on February 21, 2001, challenging the United States Marshal for the Superior Court of the District of Columbia's policy of subjecting all female arrestees (but not male arrestees) to the blanket strip searches plaintiffs challenged

herein gave constructive notice to the District that the United States Marshal for the Superior Court of the District of Columbia was subjecting all female arrestees (but not male arrestees) to blanket strip searches. E.g. Helton v. United States, 01-385 (JDB).

158. Female deputies testified in depositions in those cases that in about 1995 Todd Dillard implemented a practice of subjecting female but not male arrestees to blanket strip searches upon arrival that the Superior Court.

159. Female deputies testified in depositions in those cases that they were trained in that policy upon their assignment to Superior Court.

160. Interrogatory responses filed in Helton based on information provided by Mark Shealey, Supervisory Deputy United States Marshal, Supervisor of the Superior Court Cell Block, and others, and signed by Diane Sullivan, AUSA, stated that the then prevailing practice at Superior Court was that male deputies subjected every male arrestees received by Todd Dillard's deputies at Superior Court to blanket to the pat down and "in-custody" searches described herein, and that if "something suspicious" occurred male arrestees were set aside for "a more thorough search."

161. The Government of the District of Columbia knowingly, and as part of its practice, policy, and custom, nonetheless transferred female arrestees in its custody to the custody of Todd Dillard (then United States Marshal for the Superior Court of the District of Columbia), causing each member of the Classes to be subjected to the strip searches.

162. The District of Columbia delegated its duties to Todd Dillard but failed to train Todd Dillard in strip search polices even though the need for training was obvious.

163. The constitutional violations that resulted were foreseeable because of the District's failure to train.

STEPS DISTRICT OF COLUMBIA COULD HAVE TAKEN TO PREVENT STRIP SEARCHES BUT DID NOT

164. The District of Columbia could have taken many steps to stop the strip searches of the female arrestees described herein but did not take any steps.

165. The District of Columbia could have instructed Todd Dillard to stop the strip searches of the female arrestees described herein but did not.

166. The Chief Judge of the District of Columbia could have issued an administrative order prohibiting the strip searches described herein but did not.

167. The Chief Judge of the District of Columbia or the District of Columbia could have ordered other agents of the District of Columbia such as police officers to handle arrestees at the Superior Court without the strip searches described herein but did not.

168. The District of Columbia could have asked the Chief Judge of the District of Columbia to issue an administrative order stopping the strip searches of female arrestees described herein but did not.

169. The District of Columbia could have brought a lawsuit like this one seeking to enjoin the strip searches of female arrestees described herein but did not.

170. The District could have joined this lawsuit with respect to the injunctive relief component but did not.

171. The District of Columbia currently and since at least 1998 had a process for disposing of arrestees' cases before bringing them to the Superior Court by (for example) granting them bail from a District station or the MPD Central Cell Block, allowing release on citation or personal recognizance, .

172. The District could have instituted a "night" court so that more arrestees arrested on minor offenses had their cases disposed of without necessitating a transfer to the custody of the United States Marshal for the Superior Court of the District of Columbia at the Superior Court.

173. The District either did or alternatively could have communicated the strip search policies in effect at the MPD Central Cell Block to the United States Marshal for the Superior Court of the District of Columbia so he could have known which arrestees transported to him by the MPD had already been strip searched.

174. The District could have held presentments in the MPD Cell Block or another location as it has on other occasions.

175. The District could have maintained physical custody of the arrestees and presented them to Superior Court judicial officers via video camera.

176. The District of Columbia could have taken other steps but it did not.

Primary Fourth Amendment Class Action Allegations

177. The Primary Fourth Amendment Named Plaintiffs bring this action under Rules 23(a), and 23(b) (3) of the Federal Rules of Civil Procedure on behalf of a class consisting of each woman who, during the Class Period (December 2, 1999, until the date the strip search policies and practices complained of herein were terminated or until this case is terminated, whichever is earlier), was, (i) while being held or just before being put in the Superior Court Cell Block; (ii) for presentment under a statute of the District of Columbia; on either (iii)(a) a non drug, non violent traffic offense; (iii)(b) a non drug, non violent misdemeanor; or (iii)(c) a non drug, non violent felony; (iv) was subjected to a blanket strip, visual body cavity search and/or squat search without any individualized finding of reasonable suspicion or probable cause that she was concealing drugs, weapons or other contraband.

178. The Primary Fourth Amendment Named Plaintiffs bring this action under Rules 23(a), and 23(b) (2) of the Federal Rules of Civil Procedure on behalf of a class consisting of each woman who, during the Injunctive Relief Class Period (December 2, 1999 until the present and into the future unless the Court acts to restrain the unlawful activity complained of herein), was or will be, (i) while being held or just before being put in the Superior Court Cell Block; (ii) for presentment under a statute of the District of Columbia; on either (iii)(a) a non drug, non violent traffic offense; (iii)(b) a non drug, non violent misdemeanor; or (iii)(c) a non drug, non violent felony; (iv) was subjected to

a blanket strip, visual body cavity search and/or squat search without any individualized finding of reasonable suspicion or probable cause that she was concealing drugs, weapons or other contraband. (This Class is hereafter at times referred to as the Primary Fourth Amendment Injunctive Relief Class.)

179. Certification of a Primary Fourth Amendment class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because defendants District of Columbia and Todd Dillard had policies and engaged in a pattern and practice of conduct that has uniformly affected all members of the class, and injunctive relief against Defendants will benefit each and every plaintiff and class member.

180. The Primary Fourth Amendment class is entitled to injunctive relief of terminating and prohibiting the resumption of the above described policy of blanket searches not based on individualized or particularized suspicion or cause.

181. Certification of a Primary Fourth Amendment class under Federal Rule of Civil Procedure 23(b)(3) is also appropriate, in that common questions of law and fact predominate over any individual questions, and a class action is superior for the fair and efficient adjudication of this controversy as detailed below.

182. Regarding the Primary Fourth Amendment Named Plaintiffs, and members of the Primary Fourth Amendment class, there are no individual questions on the issue of liability, because every woman arrestee held in the Superior Court Cell Block during the Class Period was subjected to the blanket strip searches, and none of the defendants keeps records of the searches and therefore none of the defendants can show that any of

the searches were conducted based on an individual determination of reasonable suspicion. Should records exist demonstrating any searches were done pursuant to such individualized suspicion, such people would, by definition, not be members of the Fourth Amendment class.

183. Among the questions of law and fact common to the Primary Fourth Amendment class are:

a. whether Todd Dillard while the United States Marshal for the Superior Court of the District of Columbia implemented a policy, custom and practice of subjecting female arrestees (but not similarly situated male arrestees) being held in the Superior Court Cell Block pending presentment to blanket strip, visual body cavity searches and/or squat searches without an individualized determination that the woman was in possession of drugs, weapons or other contraband;

b. whether such policy, if found to exist, violates the Fourth Amendment;

c. whether Todd Dillard was deliberately indifferent to the rights of such female arrestees;

d. Whether defendant District of Columbia had a policy or practice of committing its female arrestees to the custody of Todd Dillard when it knew or should have known that Todd Dillard's deputies would subject the

female arrestees (but not similarly situated male arrestees) to blanket strip searches;

e. whether plaintiffs and the members of the Primary Fourth Amendment Class have sustained damages and, if so, the proper measure of such damages;

f. whether plaintiffs and the members of the Primary Fourth Amendment class and future members are entitled to equitable relief, and, if so, what is the nature of that relief; and

g. whether determination of damages suffered by a statistically representative sample of the Primary Fourth Amendment class provides the basis for determination of all Primary Fourth Amendment class members' damages except those who opt out.

184. The Primary Fourth Amendment class is so numerous that joinder of all members is impracticable. There are over 15,000 Primary Fourth Amendment class members.

185. Defendant District of Columbia has within its records the names and addresses of all the current and past Primary Fourth Amendment class members in the "CJIS" computer system (computerized booking program used by District of Columbia Metropolitan Police Department described below).

186. The Primary Fourth Amendment Named Plaintiffs' claims are typical of the claims of the other members of the class, because the Primary Fourth Amendment Named

Plaintiffs and all other members of the Primary Fourth Amendment class were injured by exactly the same means, that is, by the blanket searches.

187. The Primary Fourth Amendment Named Plaintiffs will fairly and adequately protect the interests of the members of the class and have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

188. The Primary Fourth Amendment Named Plaintiffs have no interests that are contrary to or in conflict with those of the Primary Fourth Amendment class.

189. The Primary Fourth Amendment Named Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action, and the class action is superior to any other available means to resolve the issues raised on behalf of the Primary Fourth Amendment Class.

190. The Primary Fourth Amendment class action will be manageable because so many different records systems exist from which to ascertain the members of the putative class. Class treatment will be superior because liability can be determined on a class wide basis, and damages can also be determined on a class wide basis through use of statistical sampling or a "Dellums" matrix.

Fifth Amendment Class Action Allegations

191. The Fifth Amendment Named Plaintiffs bring this action under Rules 23(a) and 23(b) (3) of the Federal Rules of Civil Procedure on behalf of a class consisting of each

woman who, during the Class Period (December 2, 1999, until the date the strip search policies and practices complained of herein were terminated or until this case is terminated, whichever is earlier), was, (i) while in the Superior Court Cell Block or just before being put in the Superior Court Cell Block; (ii) being held for presentment subject to a statute of the District of Columbia; (iii) under similar circumstances as men arrestees; (iv) subjected to a blanket strip, visual body cavity and/or squat search.

192. The Fifth Amendment Named Plaintiffs bring this action under Rules 23(a) and 23(b) (2) of the Federal Rules of Civil Procedure on behalf of a class consisting of each woman who, during the Injunctive Relief Class Period (December 2, 1999 until the present and into the future unless the Court acts to restrain the unlawful activity complained of herein), was or will be, (i) while in the Superior Court Cell Block or just before being put in the Superior Court Cell Block; (ii) being held for presentment subject to a statute of the District of Columbia; (iii) under similar circumstances as men arrestees; (iv) subjected to a blanket strip, visual body cavity and/or squat search..(This Class is hereafter at times referred to as the Fifth Amendment Injunctive Relief Class.)

193. Certification of a Fifth Amendment class under Federal Rule of Civil Procedure 23(b)(2) is appropriate, because defendants District of Columbia and Todd Dillard had a policy and engaged in a pattern and practice of conduct that has uniformly affected all members of the class, and injunctive relief against Defendants will benefit each and every plaintiff and class member.

194. The Fifth Amendment class is entitled to injunctive relief of terminating the searches.

195. Certification of a Fifth Amendment class under Federal Rule of Civil Procedure 23(b)(3) is also appropriate, in that common questions of law and fact predominate over any individual questions, and a class action is superior for the fair and efficient adjudication of this controversy as detailed below.

196. Regarding the Fifth Amendment Named Plaintiffs, and members of the Fifth Amendment class, there are no individual questions on the issue of liability, because every woman arrestee held in the Superior Court Cell Block is subjected to the blanket searches, and none of the defendants keeps records of the searches and therefore none of the defendants can show that any of the searches were conducted based on an individual determination of reasonable suspicion. Should records exist demonstrating any searches were done pursuant to such individualized suspicion, such people would, by definition, not be members of the class.

197. Among the questions of law and fact common to the class are:

a. whether Todd Dillard implemented a policy or custom and practice of subjecting female arrestees being held in the Superior Court Cell Block pending presentment to blanket strip, visual body cavity and/or squat searches, but not subjecting men arrestees to such searches;

b. whether the policy of strip searching female arrestees serves any legitimate security interest;

c. whether classification of similarly situated men and female arrestees into classes based on gender bears any relationship to defendants' asserted security interest;

d. whether such policy, if found to exist, violates the Fifth Amendment;

e. whether Todd Dillard or the District of Columbia were deliberately indifferent to the rights of such female arrestees;

f. Whether defendant District of Columbia had a policy or practice of committing its female arrestees to the custody of Todd Dillard when it knew or should have known that Todd Dillard's deputies would subject females (but not similarly situated male arrestees) to blanket strip searches;

g. whether plaintiffs and the members of the Fifth Amendment class have sustained damages and, if so, the proper measure of such damages; and

h. whether plaintiffs and the members of the Fifth Amendment class and future members are entitled to equitable relief, and, if so, what is the nature of that relief; and

i. whether determination of damages suffered by a statistically representative sample of the Fifth Amendment class provides the basis for determination of all class members except those who opt out.

198. The Fifth Amendment class is so numerous that joinder of all members is impracticable. The exact number of class members is unknown to plaintiffs at this time, but is likely to consist of at least 15,000 people.

199. The Fifth Amendment Named Plaintiffs' claims are typical of the claims of the other members of the Fifth Amendment class, because the Fifth Amendment Named Plaintiffs and all other members of the Fifth Amendment class were injured by exactly the same means, that is, by the blanket searches.

200. The Fifth Amendment Named Plaintiffs will fairly and adequately protect the interests of the members of the Fifth Amendment class and have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

201. The Fifth Amendment Named Plaintiffs have no interests that are contrary to or in conflict with those of the Fifth Amendment class.

202. The Fifth Amendment Named Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action, and the class action is superior to any other available means to resolve the issues raised on behalf of the Fifth Amendment Class. The Fifth Amendment class action will be manageable because so many different records systems exist from which to ascertain the members of the putative class. Class treatment will be superior because liability can be determined on a class wide basis, and damages can also be determined on a class wide basis through use of statistical sampling.

203. Defendant District of Columbia has within its computerized records described above the names and addresses of all the current and past class members.

SUBSTANTIVE ALLEGATIONS

CLAIMS OF PRIMARY FOURTH AMENDMENT NAMED PLAINTIFFS

Count 1

Violation of Fourth Amendment Rights of Fourth Amendment Plaintiffs under § 1983

204. The Primary Fourth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Complaint.

205. While being held for presentment in the Superior Court Cell Block each of the Primary Fourth Amendment Named Plaintiffs and every other Primary Fourth Amendment class member were subjected to a strip, visual body cavity search and/or squat search without an individual determination that the search would reveal weapons, drugs or other contraband, pursuant to a custom, policy and/or practice of Marshal Dillard and the District of Columbia – each of which is jointly and severally liable and responsible for such policy, custom and/or practice - to conduct such searches.

206. Subjecting an arrestee arrested on a non drug, non violent offense to a strip, visual body cavity search and/or squat search without an individual determination that the search would reveal weapons, drugs or other contraband violates her Fourth Amendment Rights.

207. The District of Columbia knew or should have known that the Primary Fourth Amendment Named Plaintiffs and other Primary Fourth Amendment class members were being and would be subjected to the searches in the Superior Court Cell Block and acquiesced in the searches.

208. Defendants' actions, and failure to act, as described above, directly and proximately and affirmatively were the moving force behind the violations of the Primary Fourth Amendment Named Plaintiffs and the Primary Fourth Amendment class members' Fourth Amendment Rights.

209. Todd Dillard's and the District of Columbia's policy, custom and practices described above were the moving force behind the deprivations to the Primary Fourth Amendment Named Plaintiffs' and other Primary Fourth Amendment class members' Fourth Amendment Rights and the Primary Fourth Amendment Named Plaintiffs and the Primary Fourth Amendment other class members' injuries as described above.

210. Defendants caused the unreasonable strip, visual body cavity search and/or squat searches of the Primary Fourth Amendment Named Plaintiffs and all other Primary Fourth Amendment class members by deliberate indifference to the risk of constitutional injury by implementing maintaining and/or acquiescing in a policy and practice and custom of strip searching female arrestees.

211. At all relevant times Todd Dillard's deputies and the District of Columbia's employees were acting within the scope of their employment, their acts were motivated by a desire to further the interests of Todd Dillard or the District of Columbia, and such

employees were acting in furtherance of the business of Todd Dillard or the District of Columbia.

212. In developing, implementing and participating in the custom, policy, practice and conduct complained of herein, Marshal Todd Dillard and his deputies were acting as agents of the District of Columbia.

213. Defendant District of Columbia and Defendant Todd Dillard are therefore liable under 42 U.S.C. § 1983 for constitutional injuries to the Fourth Amendment Named Plaintiffs and all other class members caused by their conduct.

214. As a stand alone, alternative theory of liability the District of Columbia is liable for its own policy or practice of transferring physical custody of its arrestees to the United States Marshal for the Superior Court of the District of Columbia because the District knew, or should have known, that the Superior Court Marshal's deputies were subjecting female, but not male, arrestees brought to the Courthouse for presentment to unconstitutional strip searches. This is so regardless of the District's relationship with Todd Dillard [United States Marshal for the Superior Court of the District of Columbia] and regardless of whether it established the policy of strip searching pre-presentment arrestees at the D.C. Superior Court, regardless of whether it its agents or employees participated in or authorized the strip searches, and regardless of whether it had power to supervise or control the actions of former Marshal Dillard or the U.S. Marshal's Service.

215. The Primary Fourth Amendment Injunctive Relief Class Plaintiffs are informed and believe, and on that basis allege, that the conduct of Defendants, and each of them,

has been and, unless restrained, will continue to be deleterious to the constitutional and statutory rights of plaintiffs, thereby inflicting irreparable harm on the Fourth Amendment Injunctive Relief Class. Said Plaintiffs have no adequate remedy at law for the injuries that are threatened by Defendants' continued failure to abide by and implement the statutory and constitutional rights of the Primary Fourth Amendment Injunctive Relief Class. Unless restrained, defendants will continue to deny said Plaintiffs their statutory and constitutional rights as expressed in this Complaint.

Count 2

Direct Liability of Todd Dillard for Violation of Fourth Amendment Rights of Fourth Amendment Plaintiffs for Illegal Searches

216. The Primary Fourth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Complaint.

217. Each of the Primary Fourth Amendment Named Plaintiffs was arrested under the authority of a District of Columbia statute and held in the Superior Court Cell Block for presentment before a District of Columbia Superior Court Judge or other judicial officer.

218. At all times that each of the Primary Fourth Amendment Named Plaintiffs and every other Primary Fourth Amendment class member was in the Superior Court Cell Block, she was in the joint custody of Todd Dillard and the District of Columbia.

219. While in the Superior Court Cell Block, each of the Primary Fourth Amendment Named Plaintiffs and every other Primary Fourth Amendment class member was

subjected to a strip, visual body cavity search and/or squat search by a deputy of Todd Dillard without an individual determination that the search would reveal weapons, drugs or other contraband.

220. Defendant Todd Dillard violated the Fourth Amendment rights of the Primary Fourth Amendment Named Plaintiffs and the Primary Fourth Amendment class by establishing and implementing the strip search policies described above.

221. Defendant Todd Dillard is therefore directly liable under the Primary Fourth Amendment for constitutional injuries to the Fourth Amendment Named Plaintiffs and all other Primary Fourth Amendment class members caused by his conduct.

222. The Primary Fourth Amendment Injunctive Relief Class Plaintiffs are informed and believe, and on that basis allege, that the conduct of Defendant Todd Dillard, and/or of the current United States Marshal for the Superior Court of the District of Columbia, and each of them, has been and, unless restrained, will continue to be deleterious to the constitutional and statutory rights of plaintiffs, thereby inflicting irreparable harm on the Fourth Amendment Injunctive Relief Class. Said Plaintiffs have no adequate remedy at law for the injuries that are threatened by Defendants' continued failure to abide by and implement the statutory and constitutional rights of the Primary Fourth Amendment Injunctive Relief Class. Unless restrained, defendants will continue to deny said Plaintiffs their statutory and constitutional rights as expressed in this Complaint.

CLAIMS OF FIFTH AMENDMENT NAMED PLAINTIFFS

Count 3

Liability of Defendants for Violation of Fifth Amendment Rights of Fifth Amendment Plaintiffs for Illegal Searches under § 1983

223. The Fifth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth above in this Complaint.

224. While in the Superior Court Cell Block each of the Fifth Amendment Named Plaintiffs and every other Fifth Amendment class member were subjected to a visual body cavity search and squat search, pursuant to a custom, policy and/or practice of Marshal Dillard and the District of Columbia – each of which is jointly and severally liable and responsible for such policy, custom and/or practice - to conduct such searches.

225. While in the Superior Court Cell Block each of the Fifth Amendment Named Plaintiffs and every other Fifth Amendment class member, was similarly situated to every male arrestee, but said male arrestees were not subjected to a visual body cavity search and squat search, pursuant to a custom, policy and/or practice of Marshal Dillard and the District of Columbia.

226. The visual body cavity and squat searches of the female arrestees did not serve any legitimate security interest.

227. The classification of arrestees into classes based on gender bore no relationship to defendants' security interests.

228. Defendant District of Columbia knew that the Fifth Amendment Named Plaintiffs and other Fifth Amendment class members were being and would be subject to the above-described searches in the Superior Court Cell Block and acquiesced in the strip searches.

229. Defendants' actions, and failure to act, as described above, resulted in the violation of the equal protection rights of the Fifth Amendment class Named Plaintiffs and members under the Fifth and Fourteenth Amendments to the United States Constitution. Defendants' actions, and failure to act, as described above, directly and proximately and affirmatively were the moving force behind the violations of the Fifth Amendment Named Plaintiffs and the Fifth Amendment class members' Fifth Amendment Rights.

230. Todd Dillard's and the District of Columbia's policies, customs and practices described above were the moving force behind the deprivations to the Fifth Amendment Named Plaintiffs' and other Fifth Amendment class members' Fifth Amendment Rights.

231. Defendants' actions, and failure to act, as described above, directly and proximately caused, and were the moving force behind the Fifth Amendment Named Plaintiffs and the other Fifth Amendment class members' injuries as described above.

232. Todd Dillard's and the District of Columbia's deputies and employees caused the unreasonable strip, visual body cavity search and/or squat searches of the Fifth Amendment Named Plaintiffs and all other Fifth Amendment class members by deliberate indifference to the risk of constitutional injury by maintaining and/or

acquiescing in a policy and practice of strip searching female arrestees but not similarly situated male arrestees.

233. At all relevant times such Todd Dillard and District of Columbia employees were acting within the scope of their employment, their acts were motivated by a desire to further the interests of Todd Dillard and the District of Columbia, and such employees were acting in furtherance of the business of Todd Dillard and the District of Columbia.

234. In developing, implementing and participating in the custom, policy, practice and conduct complained of herein, Marshal Todd Dillard was acting as an agent of the District of Columbia.

235. Defendant District of Columbia and Defendant Todd Dillard are therefore liable under 42 U.S.C. § 1983 for constitutional injuries to the Fifth Amendment Named Plaintiffs and all other class members caused by them.

236. As a stand alone, alternative theory of liability the District of Columbia is liable for its own policy or practice of transferring physical custody of its arrestees to the United States Marshal for the Superior Court of the District of Columbia because the District knew, or should have known, that the Superior Court Marshal's deputies were subjecting female, but not male, arrestees brought to the Courthouse for presentment to unconstitutional strip searches. This is so regardless of the District's relationship with Todd Dillard [United States Marshal for the Superior Court of the District of Columbia] and regardless of whether it established the policy of strip searching pre-presentment arrestees at the D.C. Superior Court, regardless of whether it its agents or employees

participated in or authorized the strip searches, and regardless of whether it had power to supervise or control the actions of former Marshal Dillard or the U.S. Marshal's Service.

237. The Fifth Amendment Injunctive Relief Class Plaintiffs are informed and believe, and on that basis allege, that the conduct of Defendants, and each of them, has been and, unless restrained, will continue to be deleterious to the constitutional and statutory rights of plaintiffs, thereby inflicting irreparable harm on the Fifth Amendment Injunctive Relief Class. Said Plaintiffs have no adequate remedy at law for the injuries that are threatened by Defendants' continued failure to abide by and implement the statutory and constitutional rights of the Fifth Amendment Injunctive Relief Class. Unless restrained, defendants will continue to deny said Plaintiffs their statutory and constitutional rights as expressed in this Complaint.

Count 4

Direct Liability of the United States Marshals Service and Todd Dillard for Violation of Fifth Amendment Rights of Fifth Amendment Named Plaintiffs

238. The Fifth Amendment Named Plaintiffs reallege and incorporate by reference all allegations set forth in the preceding paragraphs of this Complaint.

239. Todd Dillard is directly liable under the Fifth Amendment for the strip searches of the female arrestees (but not similarly situated male arrestees) described herein.

240. The Fifth Amendment Injunctive Relief Class Plaintiffs are informed and believe, and on that basis allege, that the conduct of Defendant Todd Dillard, and/or of the current

United States Marshal for the Superior Court of the District of Columbia, and each of them, has been and, unless restrained, will continue to be deleterious to the constitutional and statutory rights of plaintiffs, thereby inflicting irreparable harm on the Fifth Amendment Injunctive Relief Class. Said Plaintiffs have no adequate remedy at law for the injuries that are threatened by Defendants' continued failure to abide by and implement the statutory and constitutional rights of the Fifth Amendment Injunctive Relief Class. Unless restrained, defendants will continue to deny said Plaintiffs their statutory and constitutional rights as expressed in this Complaint.

CLAIMS OF "ALTERNATIVE FOURTH AMENDMENT CLASS" NAMED PLAINTIFFS

ALLEGATIONS ABOUT MALE ARRESTEES PLED IN THE ALTERNATIVE

241. Plaintiffs now plead in the alternative certain allegations relating to strip searches of both males and females arrestees. (See ¶¶ 4-5 and fn. 1, *supra*, for further explanation of the reason for this alternative pleading.) The alternative allegations encompass ¶¶ 241-272, after which the alternative causes of action are set forth.

242. Plaintiffs plead these allegations in the alternative based on information and belief and their understanding of statements made by attorneys for the federal defendants.

243. Plaintiffs incorporate by reference the preceding allegations from ¶ 1 up to and including ¶ 125.

244. Sometime in 1995, and continuing through the Class Period, including the Injunctive Relief Class Period, Todd Dillard implemented a practice or policy of having deputies subject all arrestees, males as well as females, to blanket strip, visual body cavity and/or squat searches without a particularized finding of reasonable suspicion that the arrestees are in possession of weapons, drugs or other contraband.

245. During the Class Period, including the Injunctive Relief Class Period, this practice of having deputies subject all arrestees, males as well as females, to blanket strip, visual body cavity and/or squat searches without a particularized finding of reasonable suspicion that the arrestees were in possession of weapons, drugs or other contraband violated the United States Marshals' Service strip search policy (attached and incorporated by reference herein).

246. During the Class Period, including the Injunctive Relief Class Period, Todd Dillard's deputies actually physically conducted the visual body cavity and squat searches of the arrestees, males as well as females, in a hallway on the way to the Superior Court Cell Block or in the Superior Court Cell Block.

247. During the Class Period, including the Injunctive Relief Class Period, Deputies subjected every single arrestee, males as well as females, to the strip searches described herein without exception and regardless of charge.

248. During the Class Period, including the Injunctive Relief Class Period, Todd Dillard's deputies instructed deputies newly assigned to the Superior Court to conduct the

blanket strip searches on all arrestees, males as well as females, as part of the new deputies' two day training program.

249. During the Class Period, including the Injunctive Relief Class Period, after the thorough pat down searches and the "in-custody" searches, deputies then took the arrestees, males as well as females, to the cell block area designated for arrestees and subjected them to blanket strip, visual body cavity and/or squat searches in the hallway leading to the Superior Court Cell Block or in the Cell Block or in the door way of the Cell Block itself.

250. During the Class Period, including the Injunctive Relief Class Period, a deputy directed the arrestees, males as well as females, to pull up their skirts or lower their pants, and pull down any undergarments.

251. During the Class Period, including the Injunctive Relief Class Period, a deputy then made the arrestees, males as well as females, squat, turn around, and display their buttocks and genitals to the deputy.

252. During the Class Period, including the Injunctive Relief Class Period, the deputies stood just a few feet away from the arrestees, males as well as females, as they performed the strip searches and made a point of observing their genitalia and anus areas.

253. During the Class Period, including the Injunctive Relief Class Period, the female deputies did not place mirrors underneath the female arrestees as they squatted.

254. Forcing a woman to squat is not an effective method of making contraband hidden in her vagina visible.

255. During the Class Period, including the Injunctive Relief Class Period, deputies then put the arrestees, males as well as females, in a holding cell designated for new lock ups measuring about 30 to 50 feet.

256. During the Class Period, including the Injunctive Relief Class Period, the deputies conducted the strip searches of newly arrived arrestees, males as well as females, in front of all arrestees of the same sex already in the hallway leading from the reception area to the Superior Court Cell Block, or in the Cell Block.

257. One female arrestee subjected to the strip search in about 2002 described it as follows:

> We four women then walked into the cell one by one in single file. The lead woman walked towards the back of the cell where a toilet was, facing the back of the cell, and pulled her pants and underwear down, and crouched down in a half squat, displaying her buttocks to the female Marshal. The female Marshal told the second girl in line, "Face the wall." Then the second and third woman also walked towards the back of the cell where the toilet was, facing the back of the cell, and pulled their pants and underwear down, and crouched down in a half squat, displaying their buttocks to the female Marshal. The female Marshal was screaming, "Keep moving, ladies." The other inmates were telling me I had to strip too. "This is what you have to do when you get here", they said. I turned to the female Marshal, and asked the female Marshal, "I don't have to do that, do I"? She screamed several times at me, "Keep moving, I don't have all day." Then she barked at me, "Go to the end and do it." Then I walked to the back to the wall, turned around, pulled down my pants, and then I pulled down my underwear. It seemed like an eternity. All the other inmates applauded.

258. After the deputies had completed processing and strip searching arrestees as described herein, but before they presented arrestees, males as well as females, in the presentment courtrooms, they allowed arrestees to have unsupervised contact visits with their attorneys in conference cells.

259. The attorneys and the arrestees, males as well as females, in the conference cells were separated only by grills that have 4 inch by 12 inch slots in the grill-work for items and paperwork to be passed through.

260. No arrestees were subjected to strip searches after the contact visits even though arrestees were subjected to strip searches described herein before the contact visits.

261. The contact visits with attorneys were not the justification for any of the searches of arrestees described herein.

262. During the Class Period, including the Injunctive Relief Class Period, agents of the District of Columbia had actual knowledge of Todd Dillard's practice of subjecting males and females to blanket strip searches. Alternatively, agents of the District of Columbia knew or should have known of Todd Dillard's practice of subjecting male and female arrestees to blanket strip searches.

263. During the Class Period, including the Injunctive Relief Class Period, agents of the District of Columbia such as police and pretrial services employees and CJA Office employees conducting financial eligibility interviews regularly mingled at the Superior Court courthouse with the Superior Court Marshals and arrestees, and knew about the

searches at all times within the Class Period. On information and belief, the Government of the District of Columbia knowingly, and as part of its practice, policy, and custom, nonetheless transferred arrestees in its custody to the custody of Todd Dillard (then United States Marshal for the Superior Court of the District of Columbia), causing each member of the Alternative Fourth Amendment Class to be subjected to the strip searches.

264. The MPD transport officers mingled with Todd Dillard's deputies near the sally port and were aware of the strip searches of arrestees during the Class Period.

265. The strip searches of male and female arrestees were not supported by a legitimate security interest.

266. For example, there is no documented history of contraband smuggling at the Superior Court.

267. The deputies did not keep records of the strip searches of male and female arrestees.

268. During the Class Period, including the Injunctive Relief Class Period, agents of the District of Columbia such as police and pretrial services employees and CJA Office employees conducting financial eligibility interviews regularly mingled at the Superior Court courthouse with the Superior Court Marshals and arrestees, and knew about the blanket strip searches of male and female arrestees at all times within the Class Period.

269. During the Class Period, including the Injunctive Relief Class Period, the MPD transport officers mingled with Todd Dillard's deputies near the sally port and were aware of the strip searches of male and female arrestees.

270. During the Class Period, including the Injunctive Relief Class Period, the District of Columbia took no steps to stop the strip searches of male and female arrestees.

271. During the Class Period, including the Injunctive Relief Class Period, the District of Columbia delegated its duties regarding strip searches to Todd Dillard but failed to train Todd Dillard in strip search policies even though the need for training was obvious.

272. The constitutional violations that resulted were foreseeable because of the District's failure to train.

Alternative Fourth Amendment Class Action Allegations

273. The Alternative Fourth Amendment Named Plaintiffs bring this action under Rules 23(a) and 23(b) (3) of the Federal Rules of Civil Procedure on behalf of a class consisting of each male and female who, during the Class Period (December 2, 1999, until the date the strip search policies and practices complained of herein were terminated or until this case is terminated, whichever is earlier),was (i) while being held or just before being put in the Superior Court Cell Block; (ii) for presentment under a statute of the District of Columbia; on either (iii)(a) a non drug, non violent traffic offense; (iii)(b) a non drug, non violent misdemeanor; or (iii)(c) a non drug, non violent felony; (iv) was subjected to a blanket strip, visual body cavity search and/or squat search without any

individualized finding of reasonable suspicion or probable cause that he/she was concealing drugs, weapons or other contraband.

274. The Alternative Fourth Amendment Named Plaintiffs bring this action under Rules 23(a), and 23(b) (2) of the Federal Rules of Civil Procedure on behalf of a class consisting of each person who, during the Injunctive Relief Class Period (December 2, 1999 until the present and into the future unless the Court acts to restrain the unlawful activity complained of herein), was or will be, (i) while being held or just before being put in the Superior Court Cell Block; (ii) for presentment under a statute of the District of Columbia; on either (iii)(a) a non drug, non violent traffic offense; (iii)(b) a non drug, non violent misdemeanor; or (iii)(c) a non drug, non violent felony; (iv) was subjected to a blanket strip, visual body cavity search and/or squat search without any individualized finding of reasonable suspicion or probable cause that she was concealing drugs, weapons or other contraband. (This Class is hereafter at times referred to as the Alternative Fourth Amendment Injunctive Relief Class.)

275. Certification of an Alternative Fourth Amendment class under Federal Rule of Civil Procedure 23(b)(2) is appropriate because defendants District of Columbia and Todd Dillard had policies and engaged in a pattern and practice of conduct that has uniformly affected all members of the Alternative Fourth Amendment class, and injunctive relief against Defendants will benefit each and every Alternative Fourth Amendment named plaintiff and Alternative Fourth Amendment class member.

276. The Alternative Fourth Amendment class is entitled to injunctive relief of terminating and prohibiting the resumption of the above described policy of blanket searches not based on individualized or particularized suspicion or cause.

277. Certification of a class under Federal Rule of Civil Procedure 23(b)(3) is also appropriate, in that common questions of law and fact predominate over any individual questions, and a class action is superior for the fair and efficient adjudication of this controversy as detailed below.

278. Regarding the Alternative Fourth Amendment Named Plaintiffs, and members of the Alternative Fourth Amendment class, there are no individual questions on the issue of liability, because every arrestee held in the Superior Court Cell Block during the alternative Class Period was subjected to the blanket strip searches, and none of the defendants keeps records of the searches and therefore none of the defendants can show that any of the searches were conducted based on an individual determination of reasonable suspicion. Should records exist demonstrating any searches were done pursuant to such individualized suspicion, such people would, by definition, not be members of the Alternative Fourth Amendment class.

279. Among the questions of law and fact common to the class are:

a. whether Todd Dillard while the United States Marshal for the Superior Court of the District of Columbia implemented a policy, custom and practice of subjecting female arrestees and male arrestees being held in the Superior Court Cell Block pending presentment to blanket strip, visual

body cavity searches and/or squat searches without an individualized determination that the arrestee was in possession of drugs, weapons or other contraband;

b. whether such policy, if found to exist, violates the Fourth Amendment;

c. whether Todd Dillard was deliberately indifferent to the rights of such arrestees;

d. Whether defendant District of Columbia had a policy or practice of committing its male and female arrestees to the custody of Todd Dillard when it knew or should have known that Todd Dillard's deputies would subject the female arrestees and the male arrestees to blanket strip searches;

e. whether plaintiffs and the members of the Alternative Fourth Amendment class have sustained damages and, if so, the proper measure of such damages;

f. whether the Alternative Fourth Amendment class plaintiffs and the members of the Alternative Fourth Amendment class and future members are entitled to equitable relief, and, if so, what is the nature of that relief; and

g. whether determination of damages suffered by a statistically representative sample of the class provides the basis for determination of all Fourth Amendment class members' damages except those who opt out.

280. The class is so numerous that joinder of all members is impracticable. There are over 15,000 Alternative Fourth Amendment class class members.

281. Defendant District of Columbia has within its records the names and addresses of all the current and past class members in the "CJIS" computer system (computerized booking program used by District of Columbia Metropolitan Police Department described below).

282. The Alternative Fourth Amendment class Named Plaintiffs' claims are typical of the claims of the other members of the Alternative Fourth Amendment class, because the Alternative Fourth Amendment class Named Plaintiffs and all other members of the Alternative Fourth Amendment class were injured by exactly the same means, that is, by the blanket strip searches.

283. The Alternative Fourth Amendment class Named Plaintiffs will fairly and adequately protect the interests of the members of the Alternative Fourth Amendment class and have retained counsel who are competent and experienced in complex federal civil rights class action litigation and/or complex federal prisoner rights litigation.

284. The Alternative Fourth Amendment class Named Plaintiffs have no interests that are contrary to or in conflict with those of the Alternative Fourth Amendment class.

285. The Alternative Fourth Amendment class Named Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its

maintenance as a class action, and the class action is superior to any other available means to resolve the issues raised on behalf of the Alternative Fourth Amendment class.

286. The class action will be manageable. Class treatment will be superior because liability can be determined on a class wide basis, and damages can also be determined on a class wide basis through use of statistical sampling or a "Dellums" matrix.

ALTERNATIVE FOURTH AMENDMENT CLASS SUBSTANTIVE ALLEGATIONS

Count 5

Violation of Fourth Amendment Rights of Alternative Fourth Amendment Class Plaintiffs under § 1983

287. The Alternative Fourth Amendment Class Named Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1 through 125, and all the allegations in ¶ 241 forward.

288. While being held for presentment in the Superior Court Cell Block each of the Alternative Fourth Amendment Class Named Plaintiffs and every other Alternative Fourth Amendment Class class member were subjected to a strip, visual body cavity search and/or squat search without an individual determination that the search would reveal weapons, drugs or other contraband, pursuant to a custom, policy and/or practice of Marshal Dillard and the District of Columbia – each of which is jointly and severally liable and responsible for such policy, custom and/or practice - to conduct such searches.

289. Subjecting an arrestee arrested on a non drug, non violent offense to a strip, visual body cavity search and/or squat search without an individual determination that the search would reveal weapons, drugs or other contraband violates his/her Fourth Amendment Rights.

290. The District of Columbia knew or should have known that the Alternative Fourth Amendment Class Named Plaintiffs and other Alternative Fourth Amendment Class class members would be subject to the searches in the Superior Court Cell Block and acquiesced in the searches.

291. Defendants' actions, and failure to act, as described above, directly and proximately and affirmatively were the moving force behind the violations of the Alternative Fourth Amendment Class Named Plaintiffs and the Alternative Fourth Amendment Class class members' Fourth Amendment Rights.

292. Todd Dillard's and the District of Columbia's policy, custom and practices described above were the moving force behind the deprivations to the Alternative Fourth Amendment Class Named Plaintiffs' and other Alternative Fourth Amendment Class class members' Fourth Amendment Rights and the Alternative Fourth Amendment Class Named Plaintiffs and the other Alternative Fourth Amendment Class class members' injuries as described above.

293. Defendants caused the unreasonable strip, visual body cavity search and/or squat searches of the Alternative Fourth Amendment Class Named Plaintiffs and all other Alternative Fourth Amendment Class class members by deliberate indifference to the risk

of constitutional injury by implementing maintaining and/or acquiescing in a policy and practice and custom of strip searching female arrestees.

294. At all relevant times Todd Dillard's deputies and the District of Columbia's employees were acting within the scope of their employment, their acts were motivated by a desire to further the interests of Todd Dillard or the District of Columbia, and such employees were acting in furtherance of the business of Todd Dillard or the District of Columbia.

295. In developing, implementing and participating in the custom, policy, practice and conduct complained of, Marshal Todd Dillard and his deputies were acting as agents of the District of Columbia.

296. Defendant District of Columbia and Defendant Todd Dillard are therefore liable under 42 U.S.C. § 1983 for constitutional injuries to the Alternative Fourth Amendment Class Named Plaintiffs and all other Alternative Fourth Amendment Class class members caused by their conduct.

297. As a stand alone, alternative theory of liability the District of Columbia is liable for its own policy or practice of transferring physical custody of its arrestees to the United States Marshal for the Superior Court of the District of Columbia because the District knew, or should have known, that the Superior Court Marshal's deputies were subjecting female, but not male, arrestees brought to the Courthouse for presentment to unconstitutional strip searches. This is so regardless of the District's relationship with Todd Dillard [United States Marshal for the Superior Court of the District of Columbia]

and regardless of whether it established the policy of strip searching pre-presentment arrestees at the D.C. Superior Court, regardless of whether it its agents or employees participated in or authorized the strip searches, and regardless of whether it had power to supervise or control the actions of former Marshal Dillard or the U.S. Marshal's Service.

298. The Alternative Fourth Amendment Injunctive Relief Class Plaintiffs are informed and believe, and on that basis allege, that the conduct of Defendants, and each of them, has been and, unless restrained, will continue to be deleterious to the constitutional and statutory rights of plaintiffs, thereby inflicting irreparable harm on the Alternative Fourth Amendment Injunctive Relief Class. Said Plaintiffs have no adequate remedy at law for the injuries that are threatened by Defendants' continued failure to abide by and implement the statutory and constitutional rights of the Alternative Fourth Amendment Injunctive Relief Class. Unless restrained, defendants will continue to deny said Plaintiffs their statutory and constitutional rights as expressed in this Complaint.

Count 6

Direct Liability of Todd Dillard for Violation of Fourth Amendment Rights of Fourth Amendment Plaintiffs for Illegal Searches

299. The Alternative Fourth Amendment Class Named Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1 through 125, and all the allegations in ¶ 241 forward.

300. Each of the Alternative Fourth Amendment Class Named Plaintiffs was arrested under the authority of a District of Columbia statute and held in the Superior Court Cell Block for presentment before a District of Columbia Superior Court Judge or other judicial officer.

301. At all times that each of the Alternative Fourth Amendment Class Named Plaintiffs and every other Alternative Fourth Amendment class member was in the Superior Court Cell Block, he/she was in the joint custody of Todd Dillard and the District of Columbia.

302. While in the Superior Court Cell Block, each of the Alternative Fourth Amendment Class Named Plaintiffs and every other Alternative Fourth Amendment class member was subjected to a strip, visual body cavity search and/or squat search by a deputy of Todd Dillard without an individual determination that the search would reveal weapons, drugs or other contraband.

303. Defendant Todd Dillard violated the Fourth Amendment rights of the Alternative Fourth Amendment Class Named Plaintiffs and class members by establishing and implementing the strip search policies described above.

304. Defendant Todd Dillard is therefore directly liable under the Fourth Amendment for constitutional injuries to the Alternative Fourth Amendment Class Named Plaintiffs and all other Alternative Fourth Amendment class members caused by his conduct.

305. Alternatively, the Government of the District of Columbia knows, and knew at all times within the Class Period, or should have known, that female and male arrestees would be subjected to blanket searches in the Superior Court Cell Block and the Government of the District of Columbia acquiesced in the searches.

306. Alternatively, the Government of the District of Columbia knowingly and as part of its practice, policy, and custom, nonetheless transferred female and male arrestees in its custody to the custody of Todd Dillard (then United States Marshal for the Superior Court of the District of Columbia), causing each member of the Classes to be subjected to the strip searches.

307. As a stand alone, alternative theory of liability the District of Columbia is liable for its own policy or practice of transferring physical custody of its arrestees to the United States Marshal for the Superior Court of the District of Columbia because the District knew, or should have known, that the Superior Court Marshal's deputies were subjecting female, but not male, arrestees brought to the Courthouse for presentment to unconstitutional strip searches. This is so regardless of the District's relationship with Todd Dillard [United States Marshal for the Superior Court of the District of Columbia] and regardless of whether it established the policy of strip searching pre-presentment arrestees at the D.C. Superior Court, regardless of whether it its agents or employees participated in or authorized the strip searches, and regardless of whether it had power to supervise or control the actions of former Marshal Dillard or the U.S. Marshal's Service.

308. The Alternative Fourth Amendment Injunctive Relief Class Plaintiffs are informed and believe, and on that basis allege, that the conduct of Defendant Todd Dillard, and/or of the current United States Marshal for the Superior Court of the District of Columbia, and each of them, has been and, unless restrained, will continue to be deleterious to the constitutional and statutory rights of plaintiffs, thereby inflicting irreparable harm on the Alternative Fourth Amendment Injunctive Relief Class. Said Plaintiffs have no adequate remedy at law for the injuries that are threatened by Defendants' continued failure to abide by and implement the statutory and constitutional rights of the Alternative Fourth Amendment Injunctive Relief Class. Unless restrained, defendants will continue to deny said Plaintiffs their statutory and constitutional rights as expressed in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

1) declare that this action may be maintained as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3) and certify the classes defined herein.

2) declare that defendants' acts alleged above violate the Fourth and Fifth Amendments to the Constitution by illegally strip searching plaintiffs as alleged herein;

3) preliminarily and permanently enjoin defendants from pursuing the course of conduct complained of herein;

4) award all plaintiffs compensatory and consequential damages in an amount to be determined at trial;

5) award plaintiffs attorneys' fees and costs incurred in bringing this action under 42 U.S.C. § 1988 and/or any other applicable statute or under the percentage of the fund method;

6) grant such other relief as this Court deems just and proper.

Respectfully submitted,

_____/sig/_____
WILLIAM CLAIBORNE
D.C. Bar # 446579
Counsel for the Named Plaintiffs and the Classes
717 D Street, NW
Suite 210
Washington, DC 20004
Phone 202/824-0700
Fax 202/824-0745

Respectfully submitted,

_____/sig/_____
Louis Kleiman
D.C. Bar # 124-933
Counsel for Plaintiffs and the Classes

2055 15th Street
Arlington, VA
Phone 703-524-3333
Fax 703-525-2222

Respectfully submitted,

_____/sig/_____
Barrett S. Litt, Esq.
Pro Hac Vice
3435 Wilshire Blvd.
Los Angeles, CA
Phone (213)-386-3114
Fax (213)-380-4585

Respectfully submitted,

_____/sig/_____
Paul Estuar, Esq.
Pro Hac Vice
3435 Wilshire Blvd.
Los Angeles, CA
Phone (213)-386-3114
Fax (213)-380-4585

JURY DEMAND

Plaintiffs demand a jury trial on all claims so triable.

Respectfully submitted,

_____/sig/_____
WILLIAM CLAIBORNE
D.C. Bar # 446579
Counsel for the Named Plaintiffs and the Classes
717 D Street, NW
Suite 210
Washington, DC 20004
Phone 202/824-0700
Fax 202/824-0745

Respectfully submitted,

_____/sig/_____
Louis Kleiman
D.C. Bar # 124-933
Counsel for Plaintiffs and the Classes

2055 15th Street
Arlington, VA
Phone 703-524-3333
Fax 703-525-2222

Respectfully submitted,

_____/sig/_____
Barrett S. Litt, Esq.
Pro Hac Vice
3435 Wilshire Blvd.
Los Angeles, CA
Phone (213)-386-3114
Fax (213)-380-4585

Respectfully submitted,

_____/sig/_____
Paul Estuar, Esq.
Pro Hac Vice
3435 Wilshire Blvd.
Los Angeles, CA
Phone (213)-386-3114
Fax (213)-380-4585