06-15566
(Consolidated with 05-17080)

**IN THE UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**MARY BULL, et al.,**

Plaintiffs–Appellees,

**v.**

**CITY AND COUNTY OF SAN FRANCISCO, et al.,**

Defendants–Appellants.

---

On Appeal from the United States District Court
For the Northern District of California
No. C 03-1840
The Honorable Charles R. Breyer, Judge

# APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT'S PETITION FOR REHEARING AND REHEARING EN BANC


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## APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF

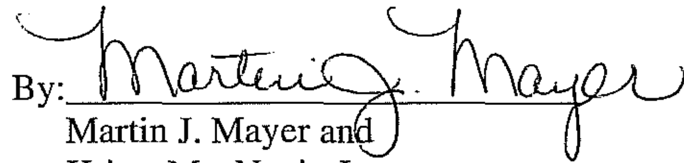
The California State Sheriff's Association ("CSSA") requests leave to file the attached Amicus Curiae Brief in support of Appellants' Petition for Rehearing and Rehearing En Banc ("Petition" or "Pet."), to assist this Court in resolving the important issues of law presented in this matter. CSSA represents each of the 58 Sheriffs in California. This Association is interested in this case because the issues presented have profound impact on the members of this Association as well as every jail employee and inmate under the command of the state's sheriffs.

The Applicant endeavors to provide this Court with a broad law enforcement perspective as to the issues in this matter, specifically the constitutionality of strip searching all inmates prior to their introduction into the general jail population and whether the Sheriff is entitled to qualified immunity with respect to a strip search policy.

Therefore, Applicant respectfully requests leave to file the attached Amicus Curiae brief addressing the above issues.

Dated: October 10, 2008

Respectfully submitted,
JONES & MAYER



By: ______________________
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## PROPOSED BRIEF OF AMICUS CURIAE

## I. AUTHORITY TO FILE AND INTERESTS OF AMICUS

CSSA represents each of the 58 California Sheriffs. This Association is interested in this case because the issues presented have profound impact on the members of this Association as well as every jail employee and inmate under the command of the state's sheriffs. The decision of this Court in this matter will profoundly affect not only Appellants, but also the 57 other Sheriffs' Departments throughout the State of California, which also face varying degrees of drugs or weapons smuggling within their jail facilities. In fact, this Court's decision even impacts other jail facilities not represented by CSSA, such as the multiple municipal jails that house inmates on an on-going basis.

The undersigned serves as legal counsel to CSSA and has been given specific authority to make this Application.

## II. STATEMENT OF FACTS

Amicus accepts the facts as set forth in the Petition, without restatement.

## III. REHEARING EN BANC IS NECESSARY FOR UNIFORMITY OF DECISION AND TO SETTLE CRITICAL ISSUES OF LAW.

A rehearing en banc is appropriate when "(1) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or (2) the proceeding involves a question of exceptional importance." Fed. Rules App.

Proced., Rule 35 (a). In particular, "a proceeding presents a question of exceptional importance if it involves an issue on which the panel decision conflicts with the authoritative decisions of other United States Courts of Appeals that have addressed the issue." Fed. Rules App. Proced., Rule 35 (b)(1)(B).

As stated in the Petition, there are sufficient and appropriate grounds for this Court to grant rehearing or rehearing en banc. Appellants have specifically noted that this Court's decision conflicts with United States Supreme Court precedent, Bell v. Wolfish, 441 U.S. 520 (1979), as well as the recent decision of another Court of Appeal, Powell v. Barrett, 2008 U.S. App. LEXIS 18907 (11th Cir. 2008), and it involves critical issues of statewide importance to all Sheriffs.

## A. Appellants' Strip Search Policy is Necessary, Justified and Constitutional.

The Court's opinion in this matter omits consideration of a very important aspect of the Sheriff's constitutional obligations. As the Court in Thompson v. City of Los Angeles, 885 F.2d 1439 (9th Cir. 1989), noted, "jail officials have a constitutional obligation to provide inmates with adequate medical care and personal safety." Id. at 1447 (*citing* Wright v. Rushen, 642 F.2d 1129, 1132-33 (9th Cir. 1981)). The constitutional obligations of Sheriffs are not limited to the Fourth Amendment constitutional rights of an individual inmate with respect to

strip searches, or even the lesser administrative interests of penological efficiency and safety in running a jail facility, as to both inmates, employees and administration generally. An additional constitutional legal obligation exists as to a Sheriff's having to provide for the health and safety of his or her inmates. As the Thompson Court found, this obligation is of such paramount importance that "the County's interest of diagnosing severe medical problems to prevent transmission of serious disease among the general jail population is sufficiently compelling to preclude a finding that such searches [in the form of blood samples and x-rays] are unreasonable within the meaning of the Fourth Amendment." Id. It is hard to imagine that the forced "extraction of blood" or "forced submission to radioactive rays," which the Thompson Court found to be *more* intrusive than strip searches in certain respects, is constitutional in order to maintain the health and safety of inmates, but strip searches are not.

This conclusion is particularly troublesome when the specific strip search policy of Appellants and Appellants' specific justification for such policy are considered. As noted by Appellants, the strip searches at issue in this matter are "visual only; they involved no touching, occurred in private, and were conducted by a deputy of the same gender as the arrestee." (Pet., at p. 6). In addition, unlike other cases decided previously by this Court on the issue of strip searches, there is

a significant problem with contraband, including dangerous weapons, being smuggled into San Francisco County jails; jail administrators have specifically determined in their discretion that visual strip searches are an effective tool for combating such smuggling, even among those who were not arrested in connection with drugs, weapons or violence; and such searches have actually resulted in the confiscation of a significant number of contraband items. (Pet., at pp. 6-7). As Appellants aptly point out, the Supreme Court has held that "'in the *absence* of substantial evidence in the record to indicate that the officials have *exaggerated* their response to these considerations [prison administration and safeguarding institutional security], courts should ordinarily *defer* to their expert judgment in such matters.'" (Pet., at 8 (*citing* Bell, at 548) (emphasis added)).

The constitutional rights of an individual inmate cannot trump the constitutional rights of *all* inmates to safety and security in the jail setting, when they are put into the general jail population by the government. If this Court requires all Sheriffs to forego one of the only and best tools to discover dangerous contraband being smuggled into the general jail population, the Court is also requiring Sheriffs throughout the State to relinquish their duty to adequately and fully satisfy the constitutional obligation to insure the safety of all inmates. The practical reality of the Court's decision in this regard is all Sheriffs' Departments

will be subject to liability for the injury to or death of inmates that will result from the failure to find and deter contraband smuggled into the general jail populations, particularly since such efforts could have been easily thwarted by a reasonable visual strip search policy such as Appellants.

This Court must realize that the facts in Giles v. Ackerman, 746 F.2d 614 (9th Cir. 1984), are distinguishable from the set of circumstances faced by Appellants. As the dissent stated, in the opinion in the present matter and in construing Giles, "the Idaho county failed to *demonstrate* that its security interests *justified* the serious invasion of privacy created by its policy." Bull v. City and County of San Francisco, 539 F.3d 1193, 2008 U.S. App. LEXIS 18026, * 41 (9th Cir. 2008) (emphasis added) (*citing* Bell, at 617). The dissent further noted that "'[t]he record [in Giles] reveals that the incidence of smuggling activity at the Bonneville County Jail is *minimal*.'" Id. (emphasis added) (*quoting* Bell, at 617). This is in direct contrast to the detailed and specific evidence submitted by Appellants that smuggling of contraband into the jail system in the County of San Francisco is a "pervasive" problem. (Pet., at 9).

The Supreme Court's standard of deference set out in Bell, is not a call for this Court to require that jail administrators such as Appellants utilize the least restrictive method of combating the serious health and safety issues facing its

inmates and guards. This Court's opinion in this matter essentially analyzes Appellants' strip search policy under this type of rubric. Rather than truly deferring to Appellants' determination of how to address a demonstratably grave epidemic, this Court has required that Appellants show that their policy is in response to a particular problem associated with the particular class in this matter. However, the Supreme Court in Bell did not require this and the Eleventh Circuit in Powell specifically noted the absence of such a requirement. Powell v. Barrett, 2008 U.S. App. LEXIS 18907, *20-21 (11th Cir. 2008) ("[T]he Supreme Court was not ready to concede that lesser alternative analysis has any place in the Fourth Amendment area.") (*quoting* Bell, at 559 n.40 ("[T]he logic of such elaborate less-restrictive-alternative arguments could raise insuperable barriers to the exercise of virtually all search-and-seizure powers.") (internal quotations and citations omitted) (alteration in original)).

As the Powell Court recognized, "[t]he policy the Court upheld [in Bell] required that searches be conducted on every inmate after each contact visit, even *without* the slightest cause to suspect that the inmate was concealing contraband." Powell v. Barrett, 2008 U.S. App. LEXIS 18907, *20 (11th Cir. 2008) (emphasis added). This holding permits jail administrators to do what is necessary to satisfy their constitutional obligation to protect health and safety of *all* prisoners, as well

as protecting to rights of inmates to be subject only to *reasonable* strip searches, i.e. those searches that are conducted in a reasonable *manner* given the particular demonstrated need of the jail facility.

Even the District Court in Bell had found certain strip searches valid without any finding of cause to search a particular individual. The District Court found unconstitutional only those searches of genital and anal areas; "full body visual strip searches, which did not require the inmates to take any action to more fully expose their anal or genital areas to inspection, [were permitted] to continue without any showing of cause." Id. (*citing* United States *ex rel.* Wolfish v. Levi, 439 F. Supp. 114, 48 (S.D.N.Y. 1977); Bell at 558). And the Second Circuit's affirmation of the District Court's decision prohibited, without probable cause, *only* "forcing inmates to assume postures or take other actions that would more fully expose their anal and genital areas to visual inspection"; it did not prohibit strip searches entirely, or require reasonable suspicion as to particular individuals.

In addition, the justification for the strip searches was but *one* factor that the Supreme Court indicated should be evaluated in determining the reasonableness of a policy. Bell at 559. The other factors referenced in Bell related to the *manner* in which the search was conducted. All of these factors here weigh in favor of this Court finding the strip search policy of Appellants to be reasonable and

constitutional under the circumstances. As noted above, the justification for Appellants' policy is based on specific evidence of pervasive smuggling problems. Moreover, Bell did not require that the justification be specifically tailored to any specific class of persons or propensity to smuggle contraband. In addition, the searches are conducted in private and are minimally intrusive.

In fact, the Eleventh Circuit's analysis in Powell goes even further and would not seem to require any evidence of particular need, based on Bell. The Court generally states as follows:

> The difference between felonies and misdemeanors or other lesser offenses is without constitutional significance when it comes to detention facility strip searches. It finds no basis in the *Bell* decision, in the reasoning of that decision, or in the real world of detention facilities. The Supreme Court **made no distinction in *Bell* between detainees based on whether they had been charged with misdemeanors or felonies or even with no crime at all.** Instead, the policy that the Court treated categorically, and upheld categorically, was one under which all "[i]nmates at all Bureau of Prison facilities, including the MCC, are required to expose their body cavities for visual inspection as a part of a strip search conducted after every contact visit with a person from outside the institution." *Bell*, 441 U.S. at 558, 99 S. Ct. at 1884. It was a **blanket policy applicable to all.**
>
> Among the "[i]nmates at all Bureau of Prison facilities, including the MCC," were detainees facing only lesser charges, people incarcerated for contempt of court, and witnesses in protective custody who had not been accused of doing anything wrong. See id. at 524 & n.3, 558, 99 S. Ct. at 1866 & n. 3, 1884.

Powell v. Barrett, 2008 U.S. App. LEXIS 18907, *23-24 (11th Cir. 2008). The

facility at issue in Bell was not "some special sort of seething cauldron of criminality," yet the Supreme Court permitted strip searches as a reasonable means to address the identified penological interests. Powell, at *33 n.3. As noted in the Petition and by the Court in Powell, there is a significant risk of contraband smuggling even among those for whom there might not otherwise be reasonable suspicion, particularly due to the influence of gangs. Powell, at *34-36 (*citing*, e.g. Johannes v. Alameda County Sheriff's Dep't, 2006 U.S. Dist. LEXIS 63378, 2006 WL 2504400, at *4-6 (N.D. Cal. 2006); Dodge v. County of Orange, 282 F. Supp. 2d 41, 46-49 (S.D.N.Y. 2003)).

Given the precise holding in Bell and its particular facts, this Court is requested to reconsider its position in this matter, taking into account the opinion and rationale in Powell, as well as the specific facts and evidence in this case. Specifically, this Court is respectfully requested to rehear this matter en banc and to determine that the strip search policy of Appellants is necessary, reasonable and constitutional. Appellants cannot be expected to satisfy their constitutional obligation to *all* inmates when this Court has effectively taken away the only and most effective method for maintaining the safety of its jail facilities. This is a matter of statewide importance and critical to the daily operations of Amicus and its members, all of the Sheriffs throughout the State of California. This issue is of

such magnitude that it is at least deserving of this Court's reconsideration en banc as well as this Court's specific evaluation of the Eleventh Circuit's recent opinion on the very same issue as are presented in this matter.

**B. The Sheriff Is Entitled to Qualified Immunity.**

This Court has concluded that it was clearly established in the Ninth Circuit that blanket pre-arraignment strip searches were unconstitutional. Bull, 539 F.3d 1193, 2008 U.S. App. LEXIS 18026, *18 (2008). This Court has indicated that its precedent, including the opinions in Giles and Thompson required reasonable individualized suspicion for strip searches to be conducted. However, this issue was not really settled and, until this Court's current opinion, was subject to the interpretation of multiple court decisions, involving vastly different types of searches and inmates, as well as varying degrees of evidence to support penological policies.

In Giles there was no evidence that the strip search performed on the inmate was related to any documented security risk. In fact the Giles Court indicated that the county had "*not demonstrated* that its security interests warrant the serious invasion of privacy inflicted by its policy. The *record* reveals that the incidence of smuggling activity at the Bonneville County Jail is *minimal*." Giles, at 617 (emphasis added). It was entirely reasonable to interpret this case to stand for the

proposition that a blanket, per se policy of strip searching might be permissible and constitutional where there *was* a demonstratable and serious risk. In particular, the Giles Court pointed out that only eleven instances of concealment had occurred in an eighteen-month period, with only one of significance, a weapon. Id. In contrast, Appellants here have demonstrated the significant need and the success of such a strip search policy, namely 1,500 items confiscated during more than three-year period. Indeed, they have even shown the effects of *not* having such a strip search policy, namely the death of an inmate from an overdose. (Pet. at 5-6).

In Thompson, the Court generally stated that reasonable suspicion of a particular individual was required for strip searches, but also went on to find that the taking of a blood sample and an x-ray, which were found to be *more* intrusive in certain respects than a strip search, were justified solely by "the County's interest of diagnosing severe medical problems to prevent transmission of serious disease among the general jail population." Thompson, at 1447. In fact, the Thompson Court specifically recognized the constitutional obligation of jail officials to provide for the "personal safety" of inmates. Id. (*citing Wright v. Rushen*, 642 F.2d 1129, 1132-33 (9th Cir. 1981)). Therefore, the magnitude of the penological interests of a jail facility and the significance of the justification for a

blanket strip search policy could reasonably be seen as constitutional, since the balance would tip in favor of jail administration and the constitutional rights of all inmates to safety and security while in custody.

Based on these authorities, it cannot be said to be beyond a reasonable officer's belief that he or she can balance the rights of *all* inmates to safety with the rights of individual inmates in being reasonably searched. An officer must satisfy *both* requirements and is not unreasonable in not being able to fully satisfy both where they are clearly conflicting.

Moreover, Thompson cannot reasonably be said to be support for the proposition that individuals held on minor offenses cannot be subject to a blanket rule of strip searches; Thompson was not arrested for a minor offense, but grand theft auto, which the Court found to be an offense sufficiently associated with violence to justify reasonable suspicion. Id. at 1447. In addition, it is not clear whether the search policy in this matter is of the same type as in Thompson, which involved a body cavity search. Id. at 1446 n.5.

Similarly, Ward v. County of San Diego, 791 F.2d 1329 (9th Cir. 1986), involved a strip search, pursuant to a blanket policy, which was done prior to a determination of the arrestee's eligibility for an own recognizance release and which involved a body cavity search. It is not clear that they same type of policy

is at issue here and that there would not be a reasonable basis for finding that differences in policies would justify a different analysis of constitutionality.

Finally, qualified immunity should normally be afforded where there is any reasonable basis for disagreeing about the meaning and scope of precedent, as here. In Brewster v. Board of Educ., 149 F.3d 971, 977 (9th Cir., 1998), the Ninth Circuit pointed out that the "Supreme Court has made clear that qualified immunity provides a protection to government officers that is quite far-reaching. Indeed, it safeguards 'all but the plainly incompetent or those who knowingly violate the law. . . . If officers of reasonable competence *could disagree* on the issue whether a chosen course of action is constitutional, immunity should be recognized.'" Id. (emphasis added) (*quoting* Malley v. Briggs, 475 U.S. 335, 341 (1986); Knox v. Southwest Airlines, 124 F.3d 1103, 1107 (9th Cir. 1997) ('The test allows ample room for reasonable error on the part of the [government official].')).

Applied in the context of the facts and circumstances presented to Appellants, there was a reasonable basis for concluding that there was sufficient justification for a blanket policy of strip searches, where there may not have been in other factual scenarios in prior court opinions. Brewster, at 977 (qualified immunity defense requires consideration "not [of] a general constitutional

guarantee . . . but its application in a particular context") (*quoting* Todd v. United States, 849 F.2d 365, 370 (9th Cir. 1988) & *citing* Kelley v. Borg, 60 F.3d 664, 667 (9th Cir. 1995) ("Broad rights must be particularized before they are subjected to the clearly established test.")). See also, Auriemma v. Rice, 910 F.2d 1449, 1455 (7th Cir. 1990) ("test for [qualified] immunity is whether the law is clear in relation to the specific facts confronting the public official when he acted"). Where reasonable minds can differ and, even where reasonable officers could err, qualified immunity should still apply.

Moreover, if the policy is deemed constitutionally deficient, the fact that the Sheriff's Department and the City and County of San Francisco are already parties makes the Sheriff in his official capacity a superfluous defendant. Monell v. Department of Social Services of New York, 436 U.S. 658, 690 n.55 (1978) ("official-capacity suits generally represent only another way of pleading an action against an entity of which an officer is an agent"); Kentucky v. Graham, 473 U.S. 159, 165 & 167 n.14 (1985) ("there is no longer a need to bring official capacity actions against local government officials").

## IV. CONCLUSION.

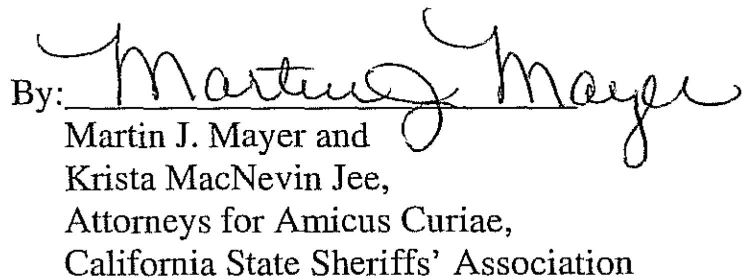
For all of the foregoing reasons, Amicus Curiae, the California State Sheriffs' Association, on behalf of its members – all 58 Sheriffs in the State of

California, respectfully request that this Court grant Appellants' Petition and rehear this important matter en banc.

Furthermore, Amicus Curiae request that this Court find that Appellants' policy of strip searching all inmates before introduction into the general jail population is reasonable and thus constitutional, and/or that the Sheriff is entitled to qualified immunity in implementing such policy.

Dated: October 10, 2008

Respectfully submitted,
JONES & MAYER



By:____________________
Martin J. Mayer and
Krista MacNevin Jee,
Attorneys for Amicus Curiae,
California State Sheriffs' Association

**STATE OF CALIFORNIA** )

**COUNTY OF ORANGE** ) ss.

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 3777 North Harbor Boulevard, Fullerton, California. On **October 10, 2008**, I served the foregoing document described as:

**APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT'S PETITION FOR REHEARING AND REHEARING EN BANC**

on the parties or attorneys for parties in this action who are identified on the attached service list, using the following means of service. (If more than one means of service is checked, the means of service used for each party is indicated on the attached service list).

____ **BY EXPRESS MAIL.** I placed __ the original or __ a true copy of the foregoing document in a sealed envelope individually addressed to each of the parties on the attached service list, and caused such envelope or package to be deposited in the.

x **BY OVERNIGHT EXPRESS.** I placed __ the original or x a true copy of the foregoing documents in a sealed envelope or package designated by Overnight Express with delivery fees paid or provided for, individually addressed to each of the parties on the attached service list, and caused such envelope or package to be delivered to an authorized courier or driver authorized by Overnight Express to receive documents.

____ **(State)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

X **(Federal)** I declare that I am employed in the office of a member of the bar of this court, at whose direction the service was made.

Executed on October 10, 2008 at Fullerton, California 92835.

DEBBIE MENICUCCI

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Case No. 05-17080
(Consolidated with Case No. 06-15566)

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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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MARY BULL, et al.,

Plaintiffs/Appelles,

vs.

CITY AND COUNTY OF SAN FRANCISCO, et al.,

Defendants/Appellants.

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# MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE CALIFORNIA STATE ASSOCIATION OF COUNTIES AND LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF DEFENDANTS/APPELLANTS PETITION FOR REHEARING AND REHEARING EN BANC

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On Appeal from the United States District Court
for the Northern District of California
(U.S. District Court No. C 03-1840 CRB)
The Honorable Charles R. Breyer

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## MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE

Amici Curiae, California State Association of Counties ("CSAC") and League of California Cities ("League"), respectfully move this Court, pursuant to Federal Rule of Appellate Procedure 29, for leave to file the brief submitted with this motion in support of Defendants and Appellants City and County of San Francisco, et al.

## I. INTEREST OF AMICI CURIAE

The California State Association of Counties (CSAC) is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties.

The League of California Cities ("League") is an association of 480 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, which is comprised of 24 city attorneys from all regions of the State.

The Committee monitors litigation of concern to municipalities, and identifies those cases that are of statewide – or nationwide – significance. The Committee has identified this case as being of such significance.

The issue of violence and drug use in this State's jails and prisons is one of critical importance to CSAC and the League. Local law enforcement is on the front line for dealing with arrestees. Pretrial detainees begin their process through the criminal justice system in our jails. Though Amici Curiae are not aware of any comprehensive study involving county jails and other local detention centers, the State prison system illustrates the serious problem of inmates obtaining contraband while incarcerated in the general population. In the latest data available, covering 2006, there were 14,490 incidents in our State prisons, which is a rate of 9.2 incidents per 100 inmates.[1] This is the highest incident rate in more than twenty years. Of these reported incidents, 1,869 involved assault with a weapon, 1,238 involved possession of a weapon, and 1,005 involved a controlled substance. This averages to more than 11 incidents per day in our State's prisons involving contraband. The dangers facing our local jail personnel, as well as our residents both visiting and incarcerated in our jails, is apparent from these facts.

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1 The statistics in this paragraph are found in: *California Prisoners and Parolees*, California Department of Corrections and Rehabilitation, p. 34 (2006) [available at: http:www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/CalPris/CALPRISd2006.pdf].

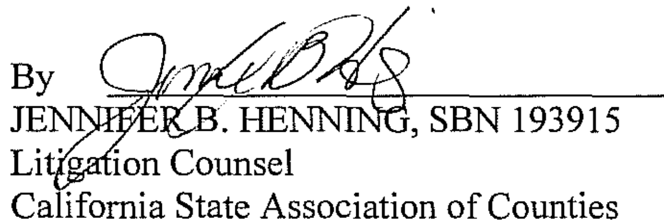
## III. Conclusion

Amici Curiae respectfully move that this Court grant leave to file the Brief of Amici Curiae submitted with this motion.

DATED: October 15, 2008

Respectfully submitted,

CALIFORNIA STATE ASSOCIATION OF COUNTIES,
and LEAGUE OF CALIFORNIA CITIES



By ______________________
JENNIFER B. HENNING, SBN 193915
Litigation Counsel
California State Association of Counties

Further, the general liability exposure of cities and counties, particularly of our various police departments and law enforcement agencies, will be significantly affected by this Court's ruling regarding the Fourth Amendment constitutionality of blanket strip search policies in detention facilities. As such, Amici Curiae have a significant interest in the decision of this Court with regard to a possible en banc hearing.

## II. Amici Curiae's Brief

Amici Curiae desire to file this brief in order to articulate and clarify the issues and law surrounding this Court's deliberations and the potential burden it presents to the law enforcement operations of cities and counties. Amici's counsel is familiar with the briefs filed in this case and has reviewed the Petition for Rehearing and Rehearing En Banc. The amicus brief enclosed herewith does repeat these arguments, but instead refers this Court to some cases not otherwise cited by the Petitioner and provides the Court with the public policy concerns that are of particular interest to CSAC's and the League's member cities and counties.