

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

David Blihovde and Travis Brecher
individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

St. Croix County, Wisconsin;
Dennis D. Hillstead, individually,
and in his capacity as the St. Croix
County Sheriff; Karen Humphrey,
individually, and in her capacity as
“Jail Captain” of the St. Croix County
Jail; Officer Mark Voltz of the North
Hudson Police Department, individually;
Kristen Anderson, individually and in
her capacity as a St. Croix County
Deputy Sheriff; Terry Larson,
individually and in his capacity as a
St. Croix County Deputy Sheriff;
and, Deputy Sheriffs John and
Jane Doe 1 through 30, individually
and in their capacities as St. Croix
County Deputy Sheriffs,

Defendants.

AMENDED
CLASS ACTION
COMPLAINT

Plaintiffs, David Blihovde and Travis Brecher, individually, and on behalf of all others similarly situated, for their causes of action against St. Croix County, Dennis D. Hillstead, Karen Humphrey, Mark Voltz, Kristen Anderson, Terry Larson and Deputy Sheriffs John and Jane Doe 1 through 30, state and allege as follows:

INTRODUCTION

This class action for damages is brought pursuant to 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments to the Constitution of the United States, alleging violation of the constitutional rights of the plaintiffs, and the members of the class they represent, by all defendants.

On or about December 28, 1998, plaintiff David Blihovde was taken into custody by defendant Voltz for driving under the influence of alcohol. He was brought to the St. Croix County Jail where defendant Voltz and members of the St. Croix County Sheriffs Department forced him to remove his clothing in a semi-public hallway and in the presence of at least one female Deputy Sheriff. The strip search was conducted without probable cause, reasonable belief, reasonable suspicion or any individualized reason to believe or suspect that he was in possession of, or concealing contraband or weaponry. The defendants deprived plaintiff Blihovde of his federal constitutional rights while acting under color of state law.

On or about April 13, 1999, plaintiff Travis Brecher was stopped for having a taillight out on his truck. He produced a revoked drivers license and was taken to the St. Croix County Jail. After sitting in a holding cell for several hours, he was booked and strip searched without probable cause, reasonable belief, reasonable suspicion or any individualized reason to believe or suspect that he was in possession of or concealing contraband or weaponry. The defendants deprived plaintiff Brecher of his federal constitutional rights while acting unde color of state law.

On information and belief, the plaintiffs were strip searched pursuant to a blanket policy and/or custom of St. Croix County and the St. Croix County Sheriffs Department of searching arrestees booked into the St. Croix County Jail, regardless of offense, reason for detention or

cause. On information and belief, the County's blanket custom and policy and/or custom of strip searching arrestees booked into the St. Croix County Jail was used to illegally strip search thousands of individuals with no probable cause, reasonable belief, reasonable suspicion or any individualized reason to believe or suspect that they might be concealing contraband or weaponry. In fact, because of the existence of the illegal and unconstitutional policy and/or custom, the officers and jailers involved never even made an assessment of the need for these searches -- they simply performed the unconstitutional searches as a matter of course, custom and/or policy.

JURISDICTION

1.

This action arises under the United States Constitution, particularly under the provisions of the Fourth and Fourteenth Amendments to the Constitution of the United States, and under federal law, particularly the Civil Rights Act, 42 U.S.C. § 1983.

2.

This Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331, which gives this court original jurisdiction over civil actions arising under the federal laws and federal constitution and pursuant to 28 U.S.C. § 1343(a)(3)-(4), which gives this Court original jurisdiction over civil actions to redress the deprivation under color of state law, statute, ordinance, regulation, custom or usage of any federal constitutional right or any right secured by federal statutes including 42 U.S.C. § 1983.

3.

Venue is proper in the Western District of Wisconsin since the acts and transactions complained of herein all occurred within the District.

PARTIES

4.

Plaintiff David Blihovde is an individual currently residing in the City of North Hudson, County of St. Croix, Wisconsin.

5.

Plaintiff Travis Brecher is an individual currently residing in the City of Wilson, County of St. Croix, Wisconsin.

6.

Defendant St. Croix County is, and at all relevant times was, a political entity charged with the control and supervision of all law enforcement personnel in the Saint Croix County Sheriffs Department, including defendants Dennis H. Hillstead, Karen Humphrey, Terry Larson and John and Jane Doe 1 through 30. Defendant St. Croix County is subject to suit in the State of Wisconsin.

7.

Defendant Dennis H. Hillstead ("Hillstead") is, and at all relevant times was, the duly appointed and acting Sheriff of Saint Croix County. As such, defendant Hillstead was a duly appointed agent authorized to enforce the law, and was acting under the color of the law at all times herein material. All causes of action brought against defendant Hillstead are brought both individually and in his capacity as the St. Croix County Sheriff. Defendant Hillstead is subject to suit in the State of Wisconsin.

8.

On information and belief, defendant Karen Humphrey ("Humphrey") is, and at all relevant times was, the duly appointed and acting "Jail Captain" of the St. Croix County Jail and was a duly appointed and acting Deputy Sheriff of St. Croix County. As such, defendant Humphrey was a duly appointed agent authorized to enforce the law, and was acting under the color of the law at all times herein material. All causes of action brought against defendant Humphrey are brought both individually and in her capacity as the "Jail Captain" of the St. Croix County Jail, and in her capacity as a St. Croix County Deputy Sheriff. Defendant Humphrey is subject to suit in the State of Wisconsin.

9.

Defendant Mark Voltz ("Voltz") is, and at all relevant times was, a duly appointed and acting Police Officer of the Village of North Hudson, Wisconsin. As such, defendant Voltz was a duly appointed agent authorized to enforce the law, and was acting under the color of the law at all times herein material. All causes of action brought against defendant Voltz are brought against him individually only. Defendant Voltz is subject to suit in the State of Wisconsin.

10.

Defendant Kristen Anderson ("Anderson") is, and at all relevant times was, a duly appointed and acting Deputy Sheriff employed by St. Croix County. As such, defendant Anderson was a duly appointed agent authorized to enforce the law, and was acting under the color of the law at all times herein material. All causes of action brought against defendant Anderson are brought both individually and in her capacity as a St. Croix County Deputy Sheriff. Defendant Anderson is subject to suit in the State of Wisconsin.

11.

Defendant Terry Larson ("Larson") is, and at all relevant times was, a duly appointed and acting Deputy Sheriff employed by St. Croix County. As such, defendant Larson was a duly appointed agent authorized to enforce the law, and was acting under the color of the law at all times herein material. All causes of action brought against defendant Larson are brought both individually and in his capacity as a St. Croix County Deputy Sheriff. Defendant Larson is subject to suit in the State of Wisconsin.

12.

Defendants Deputy Sheriffs John and Jane Doe 1 through 30 ("the Doe defendants") are unidentified St. Croix County Deputy Sheriffs who conducted, participated in, observed and/or videotaped the strip searches of plaintiffs David Blihovde and Travis Brecher and/or conducted, participated in, observed and/or videotaped the strip searches of other class members performed at the St. Croix County Jail between May 1, 1996, and February 27, 2001. At all relevant times, the Doe defendants were duly appointed and acting Deputy Sheriffs employed by St. Croix County. As such, the Doe defendants were duly appointed agents authorized to enforce the law, and were acting under the color of the law at all times herein material. All causes of action brought against the Doe defendants are brought both individually and in their capacity as St. Croix County Deputy Sheriffs. The Doe defendants are subject to suit in the State of Wisconsin. Plaintiffs believe that appropriate discovery will reveal the identities of all Deputy Sheriffs that participated in the unconstitutional strip searches conducted of plaintiffs and the class members.

GENERAL ALLEGATIONS

13.

On or about December 28, 1998, plaintiff David Blihovde was detained by defendant Voltz for suspected operation of a motor vehicle while intoxicated. He was transported to the St. Croix County Jail. At the Jail, David Blihovde was given a breath test and brought to the booking desk where he was made to remove all his clothing in the hallway and in plain view of at least one female Deputy Sheriff. He was made to stand naked in the hallway while persons of both sexes walked through the hallway and around him. When he asked why he was being made to stand naked in the hallway, his jailers responded, "to show you what we can do to you if you don't cooperate." He was then given a jail uniform, escorted to a holding cell and told to call his wife to come and pick him up.

14.

On or about April 11, 1999, plaintiff Travis Brecher was stopped in Hudson, Wisconsin, for having a taillight out on his truck. He produced a revoked drivers license and was taken to the St. Croix County Jail. He was kept in a holding cell for several hours while he tried to reach someone to come and pick him up from the Jail. His jailers became increasingly agitated with his inability to find someone to bail him out of Jail and finally told him that they would have to book him. After he was booked, he was escorted to a small room where he was made to remove all his cloths. He was then made to bend over and touch his toes so that a visual rectal search could be performed.

15.

The strip searches of David Blihovde and Travis Brecher were performed pursuant to the custom and/or policy of the St. Croix County Sheriffs Department of strip searching arrestees booked into the Jail. This custom and/or policy was in furtherance of, and/or an interpretation of, a written Strip Search Policy of the St. Croix County Sheriff, entitled: "St. Croix County Sheriffs Department - Jail Division Policy and Procedure - Title: Strip Searches" effective May 5, 1996 ("the Strip Search Policy"). The Strip Search Policy stated:

In order to ensure the highest level of security, the St. Croix County Jail staff will perform strip searches on all persons entering the jail. (Emphasis added).

It defined a Strip Search as:

A search in which an inmate or arrested persons (sic) genitals, pubic area, buttocks or anus, or females breasts is uncovered and either is exposed to view or is touched by the person conducting the search.

16.

On information and belief, it was the custom and/or policy of St. Croix County, acting through the St. Croix County Sheriffs Department, to interpret this written policy to mean that arrestees booked into the St. Croix County Jail should be strip searched. Thus, on information and belief, pursuant to this written policy and/or the County's custom and/or policy and/or the Deputy Sheriff's interpretation, the County strip searched, without individual cause or suspicion,

arrestees booked into the Jail. It was the position of the St. Croix County and the St. Croix County Sheriffs Department that no cause was needed for these searches.

17.

On information and belief, St. Croix County trained and told its Deputy Sheriffs that arrestees booked into the Jail should be striped searched. As a basis for these beliefs, plaintiffs state that defendant Anderson gave an interview on June 6, 2001, in conjunction with an internal investigation of the County's custom and/or policy regarding strip searches and the Sheriffs Strip Search Policy ("Anderson interview"). In that interview Deputy Anderson stated that she had been "trained and told and the policy reflected that everyone that comes in and stays and that changes in to a uniform, shall be strip searched before being placed in to a housing unit."

18.

The Strip Search Policy was in effect from May 1, 1996 to February 27, 2001, and, on information and belief, it was the custom and/or policy of St. Croix County to strip search arrestees booked into the Jail between May 1, 1996 and February 27, 2001. As a basis for these beliefs, plaintiffs state that in the Anderson interview, defendant Anderson, when asked to estimate how many strip searches she had performed since becoming a jailer in December of 1995, stated "thousands, every person that comes through here." Further, in an interview with defendant Larson performed during the same internal investigation, defendant Larson confirmed that he would strip search every person that he booked in and gave a uniform to prior to placing that individual in the Jail Block area. Further, plaintiffs are aware of at least four other arrestees that were strip searched during the relevant period of time, including two teenage girls that have already settled claims against the County stemming from their illegal strip searches.

CLASS ALLEGATIONS

19.

This action is brought and may properly be maintained as a class action pursuant to the provisions of Rules 23(a) and (b) of the Federal Rules of Civil Procedure. Plaintiffs bring this action on behalf of themselves and all others similarly situated, as the representative members of the following class, subject to the six year statute of limitations:

All arrestees strip searched at the St. Croix County Jail between May 5, 1996, and February 27, 2001, pursuant to St. Croix County's custom and/or policy of strip searching arrestees booked into the St. Croix County Jail and/or pursuant to the St. Croix County Sheriff's written Strip Search Policy.

**Numerosity,
Fed. R. Civ. P. 23(a)(1)**

20.

The class is so numerous that joinder of the individual members of the proposed class is impracticable. The class, upon information and belief, includes thousands of members. As the basis for this belief, plaintiffs state that in the Anderson interview, defendant Anderson stated that she had been a jailer at the St. Croix County Jail since December of 1995 and that during those five and one half years she had conducted "thousands" of strip searches on "every person that comes through here." While the exact number and identities of class members are unknown at this time and can only be ascertained through appropriate investigation and discovery, plaintiffs believe that the members of the class are readily identifiable from records of defendant St. Croix County.

**Existence and predominance of Common Questions of Law and Fact,
Fed. R. Civ. P. 23(a)(2) and 23(3)**

21.

Questions of law and fact arising out of the strip searches conducted on thousands of individuals at the St. Croix County Jail are common to all members of the class and predominate over any questions affecting only individual members of the class.

22.

The members of the class seek to remedy a common legal grievance. They were all similarly victimized by the St. Croix County's custom and/or policy of strip searching arrestees booked into the St. Croix County Jail. All members of the class were strip searched regardless of their individual circumstances or the circumstances of their arrests. All the searches were preformed as a matter of course, policy and/or custom, without cause, and with no analysis of the chances that any class member was concealing contraband or weaponry. There were no material variations in the nature of the strip searches performed, although, on information and belief, some of the strip searches may have been conducted by, or observed by, officers of the opposite sex and/or videotaped.

**Typicality of Claims,
Fed. R. Civ. P. 23(a)(3)**

23.

Plaintiffs' claims are typical of the members of the class. Plaintiffs and all members of the class sustained damages directly caused by the defendants' wrongful, illegal and unconstitutional conduct. That conduct was similar, if not exactly the same, toward each of the class members, in that each class member was illegally strip searched pursuant to the County's unconstitutional policy and/or custom of strip searching arrestees booked into the St. Croix County Jail. The Fourth and

Fourteenth Amendment rights of the plaintiffs and of each class member were violated in the same manner and through the same conduct.

**Adequate Representation,
Fed. R. Civ. P. 23(a)(4)**

24.

Plaintiffs will fairly and adequately protect the interests of the members of the class. Plaintiffs have no interests adverse to the interests of absent class members. Plaintiffs, like all class members, were illegally strip searched pursuant to the County's unconstitutional custom and/or policy of strip searching arrestees booked into the St. Croix County Jail, and seek damages because of it. Plaintiffs have retained counsel with significant experience in the prosecution of large, complex, multi-plaintiffs litigation as well as counsel with significant experience in the criminal justice system in St. Croix County, Wisconsin. Plaintiffs' counsel will vigorously prosecute this action.

**Appropriateness and Superiority,
Fed. R. Civ. P. 23(b)(3)**

25.

A class action is superior to other available methods for the fair and efficient adjudication of this litigation, since individual joinder of all members of the class is impracticable. Even if class members could afford individual litigation, the number of such individual actions would prove unduly burdensome to the courts. Individual litigation magnifies the delay and expense to all parties. By contrast, the class action device presents far fewer management difficulties and provides the benefits of unitary adjudication, economies of scale, and comprehensive supervision by a single court. Concentrating this litigation in one forum will promote judicial economy and efficiency and

promote parity among the claims of individual class members as well as judicial consistency. The conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and the court system, and protects the rights of each class member. Notice of the pendency and of any resolution of this action can be provided to the class members by mailing and/or by publication.

COUNT ONE

Directed to defendants St. Croix County, Hillstead and Humphrey
*(Violation of the Fourth and Fourteenth Amendments of the
Constitution of the United States and of 42 U.S.C. §1983)*

26.

Plaintiffs, on behalf of themselves and all others similarly situated, repeat, reallege and incorporate by reference, as if set forth here in their entirety, Paragraphs 1 through 25 above.

27.

When brought to the St. Croix County Jail, plaintiffs, and all class members, were strip searched.

28.

The strip searches conducted of plaintiffs and all class members were conducted pursuant to the County's blanket custom and custom and/or policy of strip searching arrestees entering the St. Croix County Jail and/or pursuant to the St. Croix County Sheriff's written Strip Search Policy described above. The written Strip Search Policy and/or the custom and/or policy of St. Croix County did not require probable cause, reasonable belief, reasonable suspicion or any individualized reason to believe or suspect that the plaintiffs or any class member was in possession of, or concealing, contraband or weaponry. The strip searches were performed on

arrestees regardless of offense, reason for detention, or cause, and with no analysis of cause or necessity. As such, each search constituted an illegal and unconstitutional search in violation of the Fourth Amendment's prohibition of unreasonable searches.

29.

Defendants St. Croix County, Humphrey and Hillstead drafted, established and/or followed the written Strip Search Policy and the custom and/or policy of strip searching arrestees booked into the St. Croix County Jail. Defendants St. Croix County, Humphrey and Hillstead knew, should have known, or were deliberately indifferent to the fact that arrestees booked into the Jail were being strip searched, regardless of offense, reason for detention or cause, and failed to alter either the written strip search policy or the custom and/or policy of strip searching arrestees.

30.

As a direct and proximate result of defendants St. Croix County, Hillstead and Humphrey's acts and/or omissions, as described herein, defendants St. Croix County, Hillstead and Humphrey, while acting under color of state law, deprived plaintiffs, and all the class members, of their federal rights to be free from unreasonable searches and seizures, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. § 1983.

31.

As a direct and proximate result of defendants St. Croix County, Hillstead and Humphrey's acts, as described herein, plaintiffs, and the class members, suffered violations of their rights, privileges and immunities under the Constitution of the United States and suffered

humiliation, pain, distress, anguish, anxiety, injury and pain and suffering and emotional distress, all to the plaintiffs' and class members' damage in an amount to be determined.

COUNT TWO

Directed to defendant Voltz, Anderson,
Larson and the Doe defendants
*(Violation of the Fourth and Fourteenth Amendments of the
Constitution of the United States and of 42 U.S.C. §1983)*

32.

Plaintiffs, on behalf of themselves and all others similarly situated, repeat, reallege and incorporate by reference, as if set forth here in their entirety, Paragraphs 1 through 31 above.

33.

When brought to the St. Croix County Jail, plaintiffs, and all class members, were variously strip searched by defendants Voltz, Anderson, Larson and/or one or more of the Doe defendants.

34.

The strip searches conducted of plaintiffs and all class members were conducted pursuant to the County's blanket custom and/or policy of strip searching arrestees booked into the St. Croix County Jail and/or pursuant to the St. Croix County Sheriff's written Strip Search Policy described above. The written Strip Search Policy and/or the custom and/or policy of St. Croix County did not require probable cause, reasonable belief, reasonable suspicion or any individualized reason to believe or suspect that the plaintiffs or any class member was in possession of, or concealing, contraband or weaponry. The strip searches were performed on

arrestees regardless of offense, reason for detention or cause and with no analysis of cause or necessity.

35.

Defendant Voltz participated in the strip search of plaintiff Blihovde. On information and belief formed from the above-cited statements of defendants Anderson and Larson, defendants Anderson and Larson conducted and/or participated in the searches of numerous class members at the St. Croix County Jail. The identities of the other Deputy Sheriffs involved in the Blihovde search, the Deputy Sheriffs involved in the Brecher search and the Deputy Sheriffs involved in the searches of other class members are presently unknown, but include the doe defendants and may include defendants Voltz, Anderson, and Larson.

36.

As a matter of law, the involved officers and Deputy Sheriffs knew or should have known that the strip searches were illegal and unconstitutional. Further, on information and belief, these searches were conducted despite the involved officers and Deputy Sheriffs knowing as a matter of fact that they were illegal searches. As a basis for this belief, plaintiffs state that defendant Anderson in the Anderson interview stated that she was told at "Jail School" -- a training facility apparently not run by St. Croix County -- that such searches were illegal and that she had discussed her concerns about the illegal nature of the searches with one of her St. Croix County supervisors. Defendant Anderson also stated that five other St. Croix County Deputy Sheriffs attended the same "Jail School" with her and were told that such searches were illegal.

37.

As a direct and proximate result of the acts of defendants Voltz, Anderson, Larson and the Doe defendants, as described herein, defendants Voltz, Anderson, Larson and the Doe defendants, while acting under the color of state law, deprived plaintiffs, and all the class members, of their federal rights to be free from unreasonable searches and seizures, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and 28 U.S.C. § 1983.

38.

As a direct and proximate result of the acts of defendants Voltz, Anderson, Larson and the Doe defendants, as described herein, plaintiffs, and the class members, suffered violations of their rights, privileges and immunities under the Constitution of the United States and suffered humiliation, pain, distress, anguish, anxiety, injury and pain and suffering and emotional distress, all to the plaintiffs' and class members' damage in an amount to be determined.

39.

Further, the acts of defendants Voltz, Anderson, Larson and the Doe defendants, as described herein, were perpetrated with reckless and/or callous disregard for the rights of plaintiffs and the class members, entitling plaintiffs and the class members to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment against the defendants, and each of them jointly and severally, as follows:

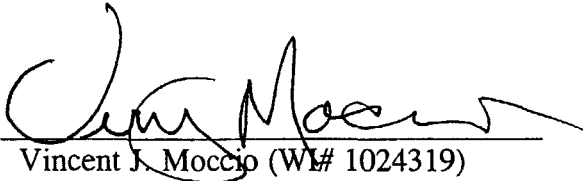
- A. Certifying the plaintiff class and appointing plaintiffs and their counsel to represent the class;
- B. Finding that defendants' acts constituted violations of the Fourth and Fourteenth Amendments to the United States Constitution and of 42 U.S.C. §1983;
- C. Awarding money damages, including presumed, special and general damages, to plaintiffs and the class members;
- D. Awarding punitive damages against defendants Voltz, Anderson, Larson and the Doe defendants;
- E. Awarding plaintiffs and the class members all applicable pre-judgment and post-judgment interest;
- F. Awarding plaintiffs and the class members their class action contingency attorneys' fees and costs, or, in the alternative, their attorney's fees and costs pursuant to 42 U.S.C. § 1988; and
- G. Awarding such other and further relief as the Court may deem just and equitable.

**A TRIAL BY JURY ON ALL ISSUES SO TRIABLE
IS HEREBY REQUESTED.**

Dated this 12th day of August, 2002.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI, LLP

By: 

Vincent J. Moccio (WI# 1024319)

Philip Sieff (MN# 169845)

Adam Samaha (MN# 274379)

2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, Minnesota 55402-2015
(612) 349-8500

and

MILLER LAW OFFICE

Barbara K. Miller (WI#1013162)
615 ½ Second Street
P.O. Box 377
Hudson, Wisconsin 54016
(715) 386-9655

**ATTORNEYS FOR PLAINTIFFS DAVID
BLIHOVDE AND TRAVIS BRECHER,
INDIVIDUALLY, AND ON BEHALF OF ALL
OTHERS SIMILARLY SITUATED**