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**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

KAREN CRAFT, RANETTE SANCHEZ,  
 ROSEMARY RYAN, GEORGINA  
 FROST, ELROY HARDY, BETTY  
 WELCH, VERONICA WILLIAMS,  
 individually, and as class representative,

Plaintiffs,

vs.

COUNTY OF SAN BERNARDINO;  
 SAN BERNARDINO SHERIFF'S  
 DEPARTMENT; SHERIFF GARY  
 PENROD; DOES 1 through 100,

Defendants.

Case No. EDCV 05-0359 SGL

**THIRD AMENDED CLASS  
 ACTION COMPLAINT**

1. 42 U.S.C. § 1983
2. Cal. Civ. Code § 52.1(b)
3. Penal Code § 4030
4. Mandatory Duties (California Gov. Code § 815.6)
5. 42 U.S.C. § 1983 (plaintiff Ryan only)

DEMAND FOR JURY TRIAL

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1 **I. INTRODUCTION, JURISDICTION AND VENUE**

2 1. Plaintiffs present federal claims for relief that arise under 42 U.S.C. §1983.  
3 Accordingly, federal jurisdiction is conferred upon this court by 28 U.S.C. §§1331 and  
4 1343. Plaintiffs' state law claims are so related to plaintiffs' federal law claims that they  
5 form part of the same case or controversy. Accordingly, supplemental jurisdiction over  
6 those claims is conferred upon this court by 28 U.S.C. § 1367.

7 2. Plaintiffs' claims arise out of acts of the San Bernardino Sheriff's Department  
8 ("SBSD") in the County of San Bernardino, State of California. Accordingly, venue is  
9 proper within the Central District of California.

10 3. By this Complaint, plaintiffs, on behalf of themselves and the class of similarly  
11 situated persons described below, seek damages from defendants for being subjected to  
12 unwarranted, unnecessary, illegal, and severely intrusive strip and/or visual body cavity  
13 searches. Plaintiffs allege that such strip and/or body cavity searches were caused by, and  
14 are pursuant to, an unlawful SBSB policy which was formulated, promulgated, instituted,  
15 implemented and used by defendants and Does 1 through 100.

16 **II. PARTIES**

17 *CLASS REPRESENTATIVE PLAINTIFFS.*

18 4. Plaintiff Karen Craft ("CRAFT"), a female, is a resident of the County of Orange.

19 5. Plaintiff Ranette Sanchez ("SANCHEZ"), a female, is a resident of the County of  
20 Riverside.

21 6. Plaintiff Rosemary Ryan ("RYAN"), a female, is a resident of the County of Kern.

22 7. Plaintiff Georgina Frost ("FROST"), a female, is a resident of the County of San  
23 Bernardino.

24 8. Plaintiff Elroy Hardy ("HARDY"), a male, is a resident of the County of San  
25 Bernardino.

26 9. Plaintiff Betty Welch ("WELCH"), a female, is a resident of the County of San  
27 Bernardino.  
28

1           10. Plaintiff Veronica Williams (“WILLIAMS”), a female, is a resident of the  
2 County of San Bernardino.

3           11. Each of the aforementioned plaintiffs was housed in the San Bernardino County  
4 jail in the two years preceding the filing of this complaint.

5           *CLASS DEFENDANTS.*

6           12. All defendants are either California peace officers, or California governmental  
7 entities, or others whose identities are unknown to plaintiffs. Individual police officer  
8 defendants and/or individual Sheriff’s deputies are hereinafter referred to as “police  
9 officers” and any governmental entity defendants are referred to by proper name or as  
10 “governmental entity.” The phrase “Defendants” refers to all defendants, including the  
11 Class defendants.

12           13. Defendant County of San Bernardino (“COUNTY”) is a political subdivision  
13 duly organized and existing under the laws of the State of California. The SBSD is an  
14 agency of defendant COUNTY, and all actions of the SBSD are the legal responsibility of  
15 the COUNTY. Defendant COUNTY is sued both in its own right, and on the basis of  
16 *respondeat superior* under California Government Code § 815.2.

17           14. Defendant SBSD is an agency of the COUNTY, and is a public entity under  
18 California law subject to suit per Federal Rule of Civil Procedure 17(b). Defendant SBSD  
19 is sued both in its own right, and on the basis of *respondeat superior* under California  
20 Government Code § 815.2, and mandatory duties under California Government Code §  
21 815.6.

22           15. Defendant Gary Penrod (“PENROD”) was and is the SBSD Sheriff. Plaintiffs  
23 are informed and believe, and thereupon allege, that at all times relevant herein PENROD  
24 was responsible for the development, establishment and/or implementation of the  
25 procedures, policies, regulations, practices and/or customs of the SBSD with respect to its  
26 detention of prisoners. Upon information and belief, plaintiffs further allege that, at all times  
27 relevant herein, PENROD participated in, approved, and/or ratified the unconstitutional or  
28

1 illegal acts complained of herein. Plaintiffs sue PENROD in his individual capacity.

2 16. Plaintiffs are ignorant of the true names and capacities of defendants sued herein  
3 as DOES 1 through 100, inclusive, and therefore sue these defendants by such fictitious  
4 names. Plaintiffs will give notice of these defendants' true names and capacities when  
5 ascertained. Plaintiffs are informed and believe, and based thereon allege, that DOE  
6 defendants are responsible in some manner for the damages and injuries hereinafter  
7 complained of. Plaintiffs sue DOE defendants in both their individual and official  
8 capacities.

9 17. Plaintiffs are informed and believe, and thereupon allege, that at all times relevant  
10 herein the individual defendants, and each of them, were the agents, servants and  
11 employees of defendants SBSD and County, and were acting at all times within the scope  
12 of their agency and employment, and with the knowledge and consent of their principals  
13 and employers, the SBSD and County. At all times herein, these defendants, and each of  
14 them, were acting under the color of state law.

### 15 **III. CLASS CLAIMS**

#### 16 *ALLEGATIONS COMMON TO ALL CLASS CLAIMS.*

17 18. On information and belief, plaintiffs allege that, in the two years preceding the  
18 filing of this action and up until the date of class certification or such other date as the court  
19 may set, the strip and/or visual body cavity searches to which they and class members were  
20 subjected were done pursuant to defendants' policy and practice to indiscriminately search  
21 all, or a large number of persons being processed into the jail, without regard to: a) The  
22 nature of their offense or criminal history; b) Whether they are under an order of release or  
23 not; c) Whether they have had contact with any persons from outside the County jail system  
24 who could reasonably be believed to be a potential source of contraband or weapons; d)  
25 Whether there is cause of any kind to believe they are a potential source of contraband or  
26 weapons; e) Whether there is any other articulable justification for defendants'  
27 indiscriminate strip and/or visual body cavity search policy; or f) Whether they are "pre-  
28

1 arraignment detainees,” as that term is used in California Penal Code § 4030(b).

2 19. On information and belief, plaintiffs allege that defendants have a policy of not  
3 limiting the persons who can see, or hear, or observe all or part of the strip and/or visual  
4 body cavity searches to those who are necessary to the procedure. Thus, other inmates,  
5 dispensable jail personnel, and possibly others, are able to see or hear some or all of the  
6 searches described below.

7 20. Plaintiffs timely filed claims against defendants under Government Code §910  
8 for themselves and others similarly situated.

9 21. Plaintiffs suffered, among other things, the indignity of a strip and/or visual body  
10 cavity search of their persons. As a result of defendants’ actions, the plaintiffs suffered  
11 physical intrusion, humiliation, pain and suffering, emotional distress, and other physical  
12 and emotional injuries in an amount to be proven at trial.

13 *CLAIM OF CLASS REPRESENTATIVE CRAFT*

14 22. On or about August 29, 2003, and during the class period, SBSB personnel  
15 arrested plaintiff CRAFT on a charge of violating Cal. Penal Code § 459 (burglary). SBSB  
16 personnel transported CRAFT to the San Bernardino Jail, Central Detention Center where  
17 upon her arrival, SBSB personnel subjected her to an intrusive strip/visual body cavity  
18 search. At the time of the searches, SBSB personnel did not have probable cause or  
19 reasonable suspicion that CRAFT was in the possession of contraband, weapon or any  
20 other substance that would justify or necessitate the strip/visual body cavity search. While  
21 plaintiff CRAFT was were subjected to this search, she was not provided privacy.  
22 Moreover, persons whose presence was not required were able to observe plaintiff as she  
23 was searched.  
24

25 23. On or about September 4, 11, 15, 22, October 24, 31, November 14, 21, and  
26 December 22, 2003, while in SBSB custody plaintiff CRAFT appeared in the San  
27 Bernardino Superior Court on the above criminal charge. After the court appearance SBSB  
28 returned CRAFT to the Central Detention Center. Upon her return plaintiff CRAFT, along

1 with other inmates, were forced to disrobe and submit to a strip and/or visual body cavity  
2 search in a hallway, without privacy and in the presence and view of other inmates and  
3 visible to Sheriff's personnel not involved in or necessary to the search. At the time of the  
4 search, SBSD personnel did not have probable cause or reasonable suspicion that CRAFT  
5 and the other inmates were in the possession of contraband or any other substance that  
6 would justify or necessitate the strip and/or visual body cavity searches. The searches were  
7 viewed by other inmates and SBSD personnel whose presence was not required. During  
8 the searches SBSD personnel subjected plaintiff CRAFT and the other inmates to abusive,  
9 degrading and harassing comments and other indignities.

10 *CLAIM OF CLASS REPRESENTATIVE SANCHEZ.*

11 24. On or about August 30, 2004, SANCHEZ was in federal custody. On that date,  
12 a bond was posted thereby entitling SANCHEZ to release from federal incarceration.  
13 Because of an outstanding state warrant, SANCHEZ was released into the custody of  
14 defendant SBSD. SBSD incarcerated SANCHEZ in the San Bernardino County Jail. Upon  
15 SANCHEZ'S arrival at the jail, SBSD employees subjected SANCHEZ to an intrusive strip  
16 and visual body cavity search. During the search, SBSD employees required SANCHEZ  
17 to remove all of her clothing, and to bend and squat, exposing her anus. The strip and  
18 visual body cavity search took place in the presence of other inmates who were also  
19 subjected to intrusive strip and visual body cavity searches. While they were subjected to  
20 these searches SANCHEZ and the other prisoners were not provided privacy as required  
21 by state law. At the time of the searches SBSD personnel did not have probable cause or  
22 reasonable suspicion that SANCHEZ or the other prisoners were in the possession of  
23 contraband or any other substance that would justify or necessitate the strip and visual body  
24 cavity searches.  
25

26 25. On or about September 9, 2004, SBSD personnel transported SANCHEZ to the  
27 San Bernardino Superior Court. While at the courthouse, SANCHEZ remained in SBSD  
28 custody. Upon SANCHEZ'S return from the courthouse to the San Bernardino County

1 Jail, SANCHEZ, along with other inmates returning to the jail from the courthouse, were  
2 subjected to intrusive strip and visual body cavity searches. SANCHEZ and the other  
3 inmates were forced to disrobe in a hallway, without privacy from other inmates. At the  
4 time of the search, SBSD personnel did not have probable cause or reasonable suspicion  
5 that SANCHEZ and the other inmates were in the possession of contraband or any other  
6 substance that would justify or necessitate the strip and/or visual body cavity searches.

7 26. During the searches SBSD personnel subjected plaintiff SANCHEZ and the other  
8 inmates to abusive, degrading and harassing comments and other indignities.

9 *CLAIM OF CLASS REPRESENTATIVE RYAN.*

10 27. In December 2004, plaintiff RYAN was incarcerated in the Kern County Jail on  
11 a probation violation. Her scheduled release date was on or about December 16, 2004.  
12 Instead of releasing her on December 16, the Kern County Jail kept her in custody on a  
13 warrant issued from San Bernardino County for one "Karen Willis." RYAN was not, and  
14 has never been, the subject of this warrant, and said so when she was informed that she  
15 would be transferred to the San Bernardino County Jail.

16 28. On or about December 21, 2004, pursuant to the purported authority of the Karen  
17 Willis warrant, RYAN was transferred to the San Bernardino Jail, West Valley Detention  
18 Center, in Rancho Cucamonga. Upon RYAN'S arrival at the jail, SBSD personnel knew  
19 or should have known that RYAN was not the subject of the warrant. Notwithstanding that  
20 fact, SBSD proceeded to book RYAN on the warrant. Moreover, plaintiff RYAN is  
21 informed and believes and based thereon alleges that SBSD personnel failed and/or refused  
22 to notify the superior court that RYAN was not the subject of the warrant.

23 29. At West Valley Detention Center, SBSD employees subjected RYAN to an  
24 intrusive strip and/or visual body cavity searches. During the search, SBSD employees  
25 required RYAN to remove all her clothing, and to bend and squat, exposing her anus.  
26 While she was subjected to this search, RYAN was not provided privacy as required by  
27 state law. At the time of the search, SBSD personnel did not have probable cause or  
28



1 reasonable suspicion that RYAN was in the possession of contraband or any other  
2 substance that would justify or necessitate the strip and/or visual body cavity search.  
3 During the search SBSD personnel subjected plaintiff RYAN to abusive, degrading and  
4 harassing comments and other indignities.

5 30. On December 22, 2004, in the presence of SBSD personnel plaintiff RYAN  
6 again complained that she was not the subject of the warrant, and gave her true name and  
7 birthdate. Notwithstanding that complaint, SBSD failed and refused to investigate her  
8 complaint or utilize the readily available information that would have established that  
9 RYAN was not the warrant's subject. Consequently, SBSD kept RYAN in custody.

10 31. On December 29, 2004, SBSD transported RYAN to the San Bernardino  
11 Superior Court in Big Bear, California. At that point the court ordered SBSD to release  
12 plaintiff RYAN, which it did, because plaintiff was not the warrant's subject. SBSD  
13 released plaintiff in Big Bear in the snow, without funds or other means to secure  
14 transportation to her residence in Bakersfield, California.

15 *CLAIM OF CLASS REPRESENTATIVE FROST*

16 32. On or about April 16, 2005, Adelanto police officers arrested FROST on a  
17 warrant for a failure to appear in court. In the underlying criminal case, FROST was  
18 charged with a misdemeanor violation of Cal. Penal Code §148(a)(1). Thereafter, officers  
19 transported her to the West Valley Detention Center where, upon processing into the jail,  
20 she was subjected to a strip and/or visual body cavity search with other women in a  
21 hallway without privacy and in the presence and view of other inmates and visible to  
22 Sheriff's personnel not involved in or necessary to the search. FROST was strip searched  
23 even though the deputies did not have reasonable suspicion that she was in possession of  
24 contraband or weapons.

25 33. On or about April 19, 2005, while in the custody of the SBSD FROST was  
26 transferred to the West Valley Detention Center. Upon processing into the jail, she was  
27 strip searched with other women in a hallway without privacy and in the presence and view  
28

1 of other inmates and visible to Sheriff's personnel not involved in or necessary to the  
2 search. FROST was strip searched even though the deputies did not have reasonable  
3 suspicion that she was in possession of contraband or weapons.

4 34. On April 25, 2005, FROST, in SBSD custody, was transported from the West  
5 Valley Detention Center to the San Bernardino Superior Court. Before departure from the  
6 Detention Center, SBSD personnel conducted a strip and/or visual body cavity search on  
7 FROST along with other women in a hallway in a hallway without privacy and in the  
8 presence and view of other inmates and visible to Sheriff's personnel not involved in or  
9 necessary to the search. FROST and the others were searched even though the deputies did  
10 not have reasonable suspicion that the women were in possession of contraband or  
11 weapons.

12 35. When FROST appeared in the San Bernardino Superior Court, Criminal Case No.  
13 MVI043101, on April 25, 2005 the court sentenced FROST to the time she had already  
14 served, and ordered her release. Sheriff's deputies then took custody of FROST, returned  
15 her to the West Valley Detention Center where, upon arrival, she was subjected to a strip  
16 and/or visual body cavity with other women in a hallway without privacy and in the  
17 presence and view of other inmates and visible to Sheriff's personnel not involved in or  
18 necessary to the search. The day following the search, SBSD officials released FROST  
19 from custody.  
20

21 36. During the searches SBSD personnel subjected plaintiff FROST and the other  
22 inmates to abusive, degrading and harassing comments and other indignities.

23 *Claim of Class Representative HARDY*

24 37. On March 13, 2005, plaintiff HARDY surrendered himself to the SBSD at its  
25 Victorville on a warrant issued from Mono County seeking his arrest. The warrant was for  
26 allegedly violating a restraining order, and an alleged failure to appear.

27 38. In the early morning hours of March 14, 2005, while in SBSD custody Hardy  
28 was transported from the Victorville station to the West Valley Detention Center. Upon

1 processing into the jail, he was strip searched with other men in a long hallway off the  
2 transportation entrance. HARDY was strip searched even though the deputies did not have  
3 reasonable suspicion that he was in possession of contraband or weapons.

4 39. HARDY was searched as one of a group of about forty to forty-five inmates.  
5 There was no privacy. Plaintiff HARDY and the other inmates were forced to take off all  
6 their clothes and, facing the guards, raise their hands, stick out their tongues, and lift their  
7 genitals. They were forced to turn around and, with their backs to the guards, bend over,  
8 spread their buttocks, and cough three times. HARDY and the other inmates were forced  
9 to stand shoulder to shoulder, naked, touching the inmate on either side. Only about seven  
10 or eight deputies were involved in the search. However, many more deputies not involved  
11 in the search were present and observed the search. Even though this was a search of male  
12 inmates, female deputies were present and observed the search. Inmates not being  
13 searched were also present as they moved between holding cells and the transportation  
14 area. During the search, four trustees were present bringing in bedding and clothing. There  
15 was also a large window in the hallway through which the search could be observed.  
16 Throughout the search, the deputies were yelling at the inmates, calling them "assholes."  
17 Some deputies roughed up a few inmates.

18 40. On March 15, 2005, Hardy, in the custody of law enforcement officials, departed  
19 the West Valley Detention Center. Before departing the facility Hardy was again strip  
20 searched even though the deputies did not have reasonable suspicion that he was in  
21 possession of contraband or weapons.

22 *CLAIM OF CLASS REPRESENTATIVE WELCH.*

23 41. On or about July 11, 2005, Adelanto police officers arrested plaintiff WELCH  
24 on a warrant for failure to appear in court. The warrant was issued out of a criminal case  
25 charging WELCH with driving a vehicle while under the influence of alcohol. The next  
26 day, July 12, 2005, officers transported her to the West Valley Detention Center where,  
27 upon processing into the jail, she along with other women were subjected to a strip and/or  
28

1 visual body cavity search in a hallway without privacy and in the presence and view of  
2 other inmates and visible to Sheriff's personnel not involved in or necessary to the search.  
3 Plaintiff WELCH and the other women were searched even though the deputies did not  
4 have reasonable suspicion that the women were in possession of contraband or weapons.

5 42. On July 25, 2005, WELCH, in SBSB custody at the West Valley Detention  
6 Center, was transported from the jail to the San Bernardino Superior Court for an  
7 appearance in Case No. TV1055444. Upon WELCH'S departure from the jail SBSB  
8 personnel subjected her to a strip and/or visual body cavity search. The search occurred in  
9 a jail hallway with other female inmates present, without privacy afforded to the inmates.  
10 WELCH and the women were searched even though the deputies did not have reasonable  
11 suspicion that the women were in possession of contraband or weapons.

12 43. When WELCH appeared before the superior court on July 25, 2005, the court  
13 placed WELCH on probation and ordered her released from custody. For purposes of  
14 processing plaintiff's release, San Bernardino Sheriff's deputies took custody of her and  
15 returned her to West Valley Detention Center. Upon arrival, WELCH, along with other  
16 women, was subjected to a strip and/or visual body cavity search. After the search, jail  
17 officials released WELCH from custody.

18 44. The strip and/or visual body cavity searches of plaintiff WELCH took place in  
19 a hallway off the sallyport (the entrance into the jail). She was always searched as part of  
20 a group of female inmates, ranging from about seven to 30 or more. While facing the  
21 deputies, plaintiff and the other inmates had to remove all their clothing, including their bras  
22 and panties, and shake them out. Pursuant to the deputies' commands, WELCH and the  
23 others turned, faced the wall, bent over, spread their buttocks, put a finger inside their  
24 vaginas, squat, spread the lips of their vaginas, and coughed. The deputies forced the  
25 inmates to squat for a painful amount of time. Plaintiff WELCH and the others were forced  
26 to stand, naked, so close to one another that they were touching.

27 45. During one of the searches, as the inmates were squatting and coughing, the  
28

1 deputies stated that some of the women did not cough correctly. The deputies ordered all  
2 the women to remain in the crouched position, holding their buttocks and vaginal lips apart  
3 for over a minute, and continuing to cough. WELCH has steel rods and plates in both of her  
4 legs and, consequently, suffered considerable pain trying to keep her balance. If female  
5 inmates were menstruating, they had to remove their tampons and pads. Some women  
6 began to menstruate on the floor. If they did not spread their legs far enough apart the  
7 deputies would kick their ankles to make them spread farther. Although only two female  
8 deputies conducted the search, there were other deputies present who were not involved  
9 in the search. Also present were trustees who handed out pads and cleaned up the blood  
10 on the floor.

11 46. There was a large window in the hallway where the searches were conducted.  
12 From the other side of the window, male deputies and male inmates being brought into the  
13 jail could view the searches of the female inmates. The searches of the female inmates were  
14 also visible to female inmates in the holding cells.

15 47. During the searches, the deputies treated the whole affair as a joke laughing and  
16 calling WELCH and others “stinky bitches.” Once, an inmate was too incoherent to lift her  
17 breasts as ordered. So a deputy ridiculed her, saying that if she couldn’t lift her own breasts  
18 then the woman next to her was going to have to lift them.

19 48. On one occasion, there were pregnant women who were strip searched with  
20 WELCH (the women were returning from a hospital run). One woman appeared about eight  
21 months pregnant. After she had opened and touched her vagina as demanded by the  
22 deputy, the deputy mockingly stated “let me see that again.” The deputy even made the  
23 pregnant women squat and cough. Plaintiff WELCH was worried that the pregnant woman  
24 would go into labor as it appeared she was having a very difficult time squatting and  
25 coughing for so long.

26  
27 *CLAIM OF CLASS REPRESENTATIVE WILLIAMS.*

28 49. On or about May 6, 2004, plaintiff WILLIAMS was arrested on a bench warrant

1 for a failure to appear in a criminal case in which it was alleged that on February 28, 2004,  
2 WILLIAMS violated Cal. Health & Safety Code § 11550(a). Section 11550(a) makes it a  
3 misdemeanor to be under the influence of a controlled substance.

4 50. Upon WILLIAMS' arrest she was booked into the West Valley Detention  
5 Center. Upon processing into the jail, she was subjected to a strip and/or visual body cavity  
6 search with other women in a hallway without privacy and in the presence and view of  
7 other inmates and visible to Sheriff's personnel not involved in or necessary to the search.  
8 WILLIAMS and the women were searched even though the deputies did not have  
9 reasonable suspicion that the women were in possession of contraband or weapons.

10 51. On or about May 7, 2004, SBSD personnel transported WILLIAMS from West  
11 Valley Detention Center to the San Bernardino Superior Court for arraignment on the  
12 warrant in case no. FSB048197. Both upon her departure and return to the jail after  
13 arraignment, SBSD personnel subjected WILLIAMS to a strip and/or visual body cavity  
14 search as described above. WILLIAMS was searched even though the deputies did not  
15 have reasonable suspicion that plaintiff was in possession of contraband or weapons.

16 52. On or about June 10, 2004, plaintiff WILLIAMS was again arrested on a bench  
17 warrant for a failure to appear in the above criminal case. Upon her arrest she was booked  
18 into the West Valley Detention Center where, upon arrival, she was subjected to a strip  
19 and/or body cavity search as described above. WILLIAMS was searched even though the  
20 deputies did not have reasonable suspicion that plaintiff was in possession of contraband  
21 or weapons.

22 53. On or about June 11, 2004, SBSD personnel transported WILLIAMS from West  
23 Valley Detention Center to the San Bernardino Superior Court for arraignment on the  
24 warrant. Both upon her departure and return to the jail from the courthouse, SBSD  
25 personnel subjected WILLIAMS to a strip and/or visual body cavity search in a jail hallway  
26 with other female inmates present, with no privacy afforded to the inmates. WILLIAMS  
27 was searched even though the deputies did not have reasonable suspicion that plaintiff was  
28

1 in possession of contraband or weapons.

2 54. Plaintiff WILLIAMS remained in SBSD custody, at the West Valley Detention  
3 Center, until June 30, 2004. On that date SBSD personnel transported WILLIAMS from  
4 West Valley Detention Center to the San Bernardino Superior Court. Upon WILLIAMS'  
5 departure SBSD personnel searched WILLIAMS as described above, *i.e.*, a strip and/or  
6 visual body cavity search in a hallway, without privacy and in the presence of other  
7 inmates. WILLIAMS was searched even though the deputies did not have reasonable  
8 suspicion that plaintiff was in possession of contraband or weapons.

9 55. At WILLIAMS' June 30, 2004 court appearance, the court ordered that  
10 WILLIAMS be released from custody. SBSD personnel returned her to the West Valley  
11 Detention Center in order to process her release. Upon arrival, WILLIAMS was subjected  
12 to an illegal strip and/or visual body cavity search, again in a jail hallway with other  
13 inmates present, and without privacy. After searching WILLIAMS, jail officials released  
14 her from custody.

15 56. On or about March 22, 2005, WILLIAMS, in SBSD custody at West Valley  
16 Detention Center on a charge of violating Penal Code § 459 (burglary), was transported to  
17 the San Bernardino Superior Court, No. FSB048197. Upon her departure from the jail  
18 WILLIAMS was subjected to an illegal strip and/or visual body cavity search in the jail  
19 hallway with other inmates present, and without privacy.

20 57. On or about July 8, 2005, WILLIAMS, in SBSD custody at West Valley  
21 Detention Center on the aforementioned burglary charge, was transported to the San  
22 Bernardino Superior Court No. FSB048197. Upon her departure from the jail WILLIAMS  
23 was subjected to an strip and/or visual body cavity search in the jail hallway with other  
24 inmates present, and without privacy. This process was repeated on or about August 2,  
25 2005, when WILLIAMS, in SBSD custody at West Valley Detention Center on the  
26 aforementioned burglary charge, was transported to the San Bernardino Superior Court.

27 58. Plaintiff WILLIAMS' searches took place in a hallway off the sallyport. She  
28

1 was always searched as part of a group of female inmates, with no privacy. The deputies  
2 made WILLIAMS and the other remove all their clothing, and any tampons or sanitary  
3 napkins. While standing naked and facing the deputies, the women had to shake all their  
4 clothes, lift their breasts and stomachs. At the deputies' commands, the women turned to  
5 face the wall and, with their backs to the deputies, squatted, spread their buttocks and  
6 coughed. As the women were being searched, other deputies not involved in the search  
7 were also present. Additionally, at least one trustee was present during the search. There  
8 were windows in the hallway. Persons on the other side of the window could observe the  
9 women as they were being searched.

#### 10 **IV. CLASS ACTION ALLEGATIONS**

11 59. Plaintiffs bring this action on their own behalf, and on behalf of the class of all  
12 other persons similarly situated, pursuant to Rule 23, Federal Rules of Civil Procedure.

13 60. Plaintiffs propose five classes.

14 61. Class One is defined as persons who, in the two years preceding the filing of this  
15 action, and up to the time that the practice ceases, or the time of judgment or settlement of  
16 the case: (1) were in SBSD custody; (2) were booked on a charge (whether misdemeanor  
17 or felony) not involving possession of drugs or violence; (3) were strip and/or visual body  
18 cavity searched before their arraignment absent reasonable suspicion or probable cause that  
19 the individual is in possession of weapons or drugs, before being placed in a San  
20 Bernardino County Jail facility. All of the named plaintiffs belong to and represent Class  
21 One. Class One is made up of three subclasses of pre-arraignment arrestees:

22 A. The first subclass is defined as persons who were taken directly to  
23 West Valley Detention Center or Central Detention Center upon arrest. Plaintiffs  
24 CRAFT and WILLIAMS belong to and represent this subclass.

25 B. The second subclass is defined as persons who were taken to West  
26 Valley Detention Center or Central Detention Center from another San Bernardino  
27 County Jail facility before arraignment. Plaintiffs FROST, WELCH and HARDY  
28



1 belong to and represent this subclass.

2 C. The third subclass is defined as persons who were taken to West Valley  
3 Detention Center or Central Detention Center from a non-San Bernardino County  
4 Jail facility, such as a federal prison or a different county jail. Plaintiffs RYAN and  
5 SANCHEZ belong to and represent this subclass.

6 62. Class Two is defined as persons who, in the two years preceding the filing of this  
7 action, and up to the time that the practice ceases, or the time of judgment or settlement of  
8 the case: (1) were in SBSB custody; (2) were taken from jail to court; (3) became entitled  
9 to release after going to court; and (4) were strip and/or visual body cavity searched before  
10 release. Plaintiffs WELCH and WILLIAMS belong to and represent Class Two.

11 63. Class Three is defined as persons who, in the two years preceding the filing of  
12 this action, and up to the time that the practice ceases, or the time of judgment or settlement  
13 of the case: (1) were in SBSB custody; (2) were subjected to a strip and/or visual body  
14 cavity search in a manner that would be illegal for persons covered by Cal. Penal Code §  
15 4030(b) in that the searches are conducted without affording the persons searched privacy  
16 from others, including but not limited to, privacy from members of the opposite sex. All  
17 Plaintiffs belong to and represent Class Three.

18 64. Class Four is defined as persons who, in the two years preceding the filing of this  
19 action, and up to the time that the practice ceases, or the time of judgment or settlement of  
20 the case: (1) were in SBSB custody; (2) were subjected to a strip and/or visual body cavity  
21 search in an unreasonable and unconstitutional manner, including but not limited to any of  
22 the following: the conduct of such searches in the presence of persons of the opposite sex,  
23 the conduct of such searches in an overly intrusive or aggressive or abusive manner, the  
24 conduct of such searches in the presence of persons not necessary to the search, or the  
25 conduct of such searches in an unhygienic manner. All of the named plaintiffs belong to  
26 and represent Class Four.

27 65. Class Five is defined as persons who, in the two years preceding the filing of this  
28

1 action, and up to the time that the practice ceases, or the time of judgment or settlement of  
2 the case: (1) were in SBSB custody; (2) were transported from jail to court or another San  
3 Bernardino County jail; and (3) were subjected to strip and/or visual body cavity searches  
4 before transport. Plaintiff WILLIAMS belongs to and represents Class Five.

5 66. In accordance with F.R.Civ. P. Rule 23(a), the members of the aforementioned  
6 classes are so numerous that joinder of all members is impracticable. Plaintiffs do not know  
7 the exact number of class members. Plaintiffs are informed and believe, and thereon allege,  
8 that there are more than 50 inmates per day who are subjected to strip and/or visual body  
9 cavity searches as a result of defendants' policy and practice of indiscriminately subjecting  
10 prisoners to strip and/or visual body cavity searches. Plaintiffs are informed and believe,  
11 and thereon allege, that there are thousands of persons in the proposed class.

12 67. In accordance with F.R. Civ. P. Rule 23(a), there are questions of fact common  
13 to the three classes. Plaintiffs are informed and believe, and thereon allege, that the  
14 common questions of fact include: (1) Whether the SBSB routinely subjects all prisoners  
15 to strip and/or visual body cavity searches, without any reasonable suspicion based on  
16 specific or articulable facts to believe any particular inmate has concealed drug(s),  
17 weapon(s) and/or any contraband in their body cavities; and (2) Whether the strip and/or  
18 visual body cavity searches are conducted in an area of privacy so that the search cannot  
19 be observed by persons not participating in the search, or whether the strip and/or visual  
20 body cavity searches are conducted in open areas where they may be observed by persons  
21 not participating in the searches.

22 68. In accordance with F.R. Civ. P. Rule 23(a), there are questions of law common  
23 to the three classes. Plaintiffs are informed and believe and thereon allege that the common  
24 questions of law include but are not limited to: (1) Whether the SBSB may indiscriminately  
25 conduct strip and/or visual body cavity searches of inmates without any reasonable  
26 suspicion based on specific or articulable facts to believe any particular inmate has  
27 concealed drug(s), weapon(s) and/or any contraband in their body cavities; (2) Whether the  
28

1 SBSD may conduct strip and/or visual body cavity searches of inmates in open areas where  
2 they may be observed by persons not participating in the searches; (3) Whether SBSD's  
3 policy of subjecting persons to strip and/or visual body cavity searches violates California  
4 Penal Code §4030; (4) Whether SBSD's policy of subjecting persons to strip and/or visual  
5 body cavity searches in an area which is not an "area of privacy" violates California Penal  
6 Code §4030 (m); (5) Whether the conduct described above violates the Fourth Amendment;  
7 (6) Whether the conduct described above constitutes a policy or custom of the defendants;  
8 (7) Whether defendant PENROD, or any DOE defendants, are entitled to qualified  
9 immunity on the federal claims, or state law immunity on the state law claims, for the  
10 practices complained of herein; and (8) Whether determination of damages suffered by a  
11 statistically representative sample of the class provides the basis for determination of all  
12 class members' damages except those who opt out.

13 69. In accordance with F.R. Civ. P. Rule 23(a), the claims of the representative  
14 plaintiffs are typical of the class:

15 A. For Class One, each of the named plaintiffs were booked on a charge  
16 (whether misdemeanor or felony) not involving possession of drugs or violence.  
17 Plaintiffs were in SBSD custody when they were subjected to strip and/or visual  
18 body cavity searches without any reasonable suspicion based on specific or  
19 articulable facts to believe that plaintiffs had concealed drug(s), weapon(s) and/or  
20 any contraband in their body cavities, before being placed in a San Bernardino  
21 County jail.

22 B. For Class Two, plaintiffs WELCH and WILLIAMS were taken from jail  
23 to court, became entitled to release after going to court, and were strip and/or visual  
24 body cavity searched before release.

25 C. For Class Three, each of the named plaintiffs were subjected to strip and/or  
26 visual body cavity searches without privacy and under conditions that would violate  
27 Cal. Penal Code § 4030 were it applicable to persons like plaintiffs.  
28

1 D. For Class Four, each of the named plaintiffs were subjected to a strip  
2 and/or visual body cavity search in an unreasonable, and accordingly  
3 unconstitutional, manner including, but not limited to, any of the following: the  
4 conduct of such searches in the presence of persons of the opposite sex; the conduct  
5 of such searches in an overly intrusive, or aggressive, or abusive manner; the  
6 conduct of such searches in the presence of persons not necessary to the search, or  
7 the conduct of such searches in an unhygienic manner.

8 E. For Class Five, plaintiff WILLIAMS was transported from jail to court or  
9 another jail, and strip and/or visual body cavity searched prior to transport.

10 70. Each of the named plaintiff's claims is based upon the same legal theories as the  
11 claims of the class members they represent. Each class member suffered actual damages  
12 as a result of being subjected to a strip and/or visual body cavity search. The actual  
13 damages suffered by the representative plaintiffs are similar in type and amount to the  
14 actual damages suffered by each class member.

15 71. In accordance with F.R. Civ. P. Rule 23(a), the representative parties will fairly  
16 and adequately protect the interests of the class. The interests of the representative plaintiffs  
17 are consistent with and not antagonistic to the interests of the class.

18 72. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(A), prosecutions of separate  
19 actions by individual members of the class would create a risk that inconsistent or varying  
20 adjudications with respect to individual members of the class would establish incompatible  
21 standards of conduct for the parties opposing the class.

22 73. In accordance with Fed.R.Civ.P. Rule 23(b)(1)(B), prosecutions of separate  
23 actions by individual members of the class would create a risk of adjudications with respect  
24 to individual members of the class which would, as a practical matter, substantially impair  
25 or impede the interests of the other members of the class to protect their interests.

26 74. In accordance with Fed.R.Civ.P. Rule 23(b)(2), plaintiffs are informed and  
27 believe and thereon allege that the defendants have acted on grounds generally applicable  
28

1 to the class, thereby making appropriate final injunctive relief or declaratory relief with  
2 respect to the class as a whole.

3 75. In accordance with Fed.R.Civ.P. Rule 23(b)(3), this class action is superior to  
4 other available methods for the fair and efficient adjudication of the controversy between  
5 the parties. Plaintiffs are informed and believe, and thereon allege, that the interest of  
6 members of the class in individually controlling the prosecution of a separate action is low,  
7 in that most class members would be unable to individually prosecute any action at all.  
8 Plaintiffs are informed and believe, and thereon allege, that the amounts at stake for  
9 individuals are so small that separate suits would be impracticable. Plaintiffs are informed  
10 and believe, and thereon allege, that most members of the class will not be able to find  
11 counsel to represent them. Plaintiffs are informed and believe, and thereon allege, that it  
12 is desirable to concentrate all litigation in one forum because all of the claims arise in the  
13 same location, *i.e.*, the County of San Bernardino. It will promote judicial efficiency to  
14 resolve the common questions of law and fact in one forum, rather than in multiple courts.

15 76. Plaintiffs do not know the identities of the class members. Plaintiffs are informed  
16 and believe, and thereon allege, that the identities of the class members may be ascertained  
17 from SBSD records. Class plaintiffs are informed and believe, and thereon allege, that  
18 SBSD records reflect the identities, including addresses and telephone numbers, of the  
19 persons who have been held in custody by SBSD. Plaintiffs are informed and believe, and  
20 thereon allege, that SBSD records reflect when prisoners were taken to court, when  
21 prisoners are returned from court, why prisoners were released, and when prisoners were  
22 released. Plaintiffs are informed and believe that all of the foregoing information is  
23 contained in SBSD's computer system, the "Jail Information Management System,"  
24 commonly referred as "JIMS", and that the information necessary to identify the class  
25 members, their last known addresses, and the dates and reasons for their releases from  
26 custody, is readily available from SBSD's computer system.

27 77. Plaintiffs know of no difficulty that will be encountered in the management of  
28

1 this litigation that would preclude its maintenance as a class action. The class action is  
2 superior to any other available means to resolve the issues raised in this action. The class  
3 action will be manageable because so many different records systems exist from which to  
4 ascertain the members of the putative class. Liability can be determined on a class-wide  
5 basis. Damages can be determined on a class-wide basis using a damages matrix set by a  
6 jury, or by trying the damages of a statistically valid sample of the class to a jury and  
7 extrapolating those damages to the class as a whole.

8 78. In accordance with Fed.R.Civ.P. Rule 23(b)(3), class members must be furnished  
9 with the best notice practicable under the circumstances, including individual notice to all  
10 members who can be identified through reasonable effort. Plaintiffs are informed and  
11 believe that SBSB computer records contain a last known address for class members.  
12 Plaintiffs contemplate that individual notice be given to class members at such last known  
13 address by first class mail. Plaintiffs contemplate that the notice inform class members of  
14 the following:

- 15 A. The pendency of the class action, and the issues common to the class;
- 16 B. The nature of the action;
- 17 C. Their right to 'opt out' of the action within a given time, in which event they  
18 will not be bound by a decision rendered in the class action;
- 19 D. Their right, if they do not 'opt out,' to be represented by their own counsel  
20 and enter an appearance in the case; otherwise, they will be represented by the  
21 named Plaintiffs and their counsel; and
- 22 E. Their right, if they do not 'opt out,' to share in any recovery in favor of the  
23 class, and conversely to be bound by any judgment on the common issues, adverse  
24 to the class.

25 ///

26 ///

27 ///

1 **COUNT ONE - 42 U.S.C. § 1983**

2 **(Against All Defendants)**

3 79. By this reference, plaintiffs incorporate ¶¶1 through 78 above as if fully set forth  
4 herein.

5 80. In subjecting plaintiffs and the class to unnecessary, demeaning, and outrageous  
6 intrusive strip and/or visual body cavity searches, defendants, and each of them, violated  
7 the rights of plaintiffs and class members to be secure in their person against unreasonable  
8 searches and seizures, to due process and the equal protection of the laws, as guaranteed  
9 by the Fourth and Fourteenth Amendments to the United States Constitution. Therefore,  
10 plaintiffs and the class members are entitled to bring suit and recover damages pursuant to  
11 42 U.S.C. §1983.

12 81. In subjecting plaintiffs and the class to unnecessary, demeaning, and outrageous  
13 intrusive strip and/or visual body cavity searches, defendants, and each of them, deprived  
14 plaintiffs and the class members of their constitutional rights to be free from cruel and  
15 unusual punishment, in violation of the Eighth Amendment to the United States Constitution  
16 and state law, thereby entitling them to bring suit and recover damages pursuant to 42  
17 U.S.C. §1983.

18 82. As a direct and proximate cause of the aforementioned acts of defendants,  
19 plaintiffs and the class members were damaged in amounts to be determined at trial.  
20

21 **COUNT TWO - Cal. Civ. Code § 52.1(b)**

22 **(Against All Defendants)**

23 83. By this reference, plaintiffs incorporate ¶¶1 through 78 above as if fully set forth  
24 herein.

25 84. The unnecessary, demeaning, and outrageous intrusive strip and/or visual body  
26 cavity searches deprived plaintiffs and the class they represent, via coercion, of the  
27 protections afforded by provisions of federal constitutional and state constitutional and  
28 statutory law, including but not limited to rights protected under the Fourth, Eighth and

1 Fourteenth Amendments to the United States Constitution; Article I, §§1, 7, 13, and 17, of  
2 the California Constitution, and California Penal Code § 4030. Therefore, plaintiffs and  
3 the class members they represent are entitled to bring suit and recover damages pursuant  
4 to Cal. Civ. Code §52.1(b).

5 85. As a direct and proximate cause of the aforementioned acts, plaintiffs and class  
6 members were damaged in an amount to be proven at trial but in any event not less than  
7 \$4000 per violation pursuant to the provisions of Civil Code §52.1(b).

8 **COUNT THREE -- Violation of Penal Code § 4030**  
9 **(Against All Defendants)**

10 86. By this reference plaintiffs incorporate ¶¶1 through 78 above as if fully set forth  
11 herein.

12 87. The unnecessary, demeaning, outrageous, and intrusive strip and visual body  
13 cavity searches, to which the plaintiffs and classes they represent were subjected by the  
14 defendants, and the manner in which they were conducted, violated the right of plaintiffs  
15 and the class they represent not to be subjected to invasion of their fundamental privacy  
16 interests, as guaranteed by California Penal Code § 4030.

17 88. Although by its terms Penal Code § 4030 only applies to misdemeanor arrests,  
18 there is no rational basis to establish different standards for how a strip is conducted in  
19 order to maintain the arrestee's privacy while allowing the strip search based on whether  
20 arrestee is charged with a misdemeanor or a felony. Accordingly, equal protection and due  
21 process of law under the Federal and California Constitutions require that the manner of  
22 strip search protections contained in Penal Code § 4030 apply to felony arrestees as well  
23 as misdemeanor arrestees.

24 89. The aforementioned acts of defendants directly and proximately caused the  
25 plaintiffs and the classes they represent to be deprived of their rights as stated above,  
26 thereby entitling plaintiffs and the class to recover damages proximately caused by  
27 defendants' wrongful acts, including statutory damages under Penal Code §4030.  
28



1                                   **COUNT FOUR – Violation of Mandatory Duties**  
2                                   **(Against All Defendants)**

3           90. By this reference, plaintiffs incorporate ¶¶1 through 78 above as if fully set forth  
4 herein.

5           91. The Fourth and Fourteenth Amendments to the United States Constitution;  
6 Article I, §§1, 7, 13, and 17, of the California Constitution; California Penal Code §4030;  
7 and California Civil Code §52.1 are enactments. Enactments form the basis of a mandatory  
8 duty under California Government Code § 815.6.

9           92. These constitutional provisions and statutes apply to all members of the general  
10 public, including plaintiffs, and were all designed to prevent the kind of injuries alleged  
11 herein.

12           93. Defendants did not exercise reasonable diligence in discharging their duty to  
13 refrain from violating the constitutional rights of plaintiffs and class members.

14           94. As a direct and proximate cause of the aforementioned acts of defendants,  
15 plaintiffs and the class members were damaged in amounts to be determined at trial.

16                                   **COUNT FIVE – 42 U.S.C. § 1983**

17                                   **(Plaintiff RYAN only Against All Defendants)**

18           95. By this reference, plaintiff RYAN incorporates ¶¶1 through 21, 27-31 above, as  
19 if fully set forth herein.  
20

21           96. By wrongfully incarcerating plaintiff RYAN on a warrant that defendants knew  
22 or should have known did not apply to plaintiff, defendants, and each of them, incarcerated  
23 plaintiff in the SBSB jail without lawful authority or justification, in violation of the Fourth  
24 and Fourteenth Amendments to the United States Constitution.

25           97. As a direct and proximate cause of the aforementioned acts of defendants and  
26 each of them, plaintiff RYAN was injured as set forth in above, thereby entitling her to  
27 recover damages as allowed under 42 U.S.C. § 1983.

28 ///

1 **PRAYER**

2 **WHEREFORE**, each plaintiff requests damages against each defendant as follows:

3 98. General and special damages according to proof;

4 99. As against the individual defendants only, punitive damages according to proof;

5 100. In addition to actual damages, statutory damages as allowed by law, including  
6 Penal Code §4030 and treble damages under California Civil Code §§52 and 52.1;

7 101. Attorneys' fees and costs under 42 U.S.C. §1988; California Civil Code  
8 §§52(b)(3), 52.1(h); California Code of Civil Procedure §1021.5, and whatever other  
9 statute or law may be applicable;

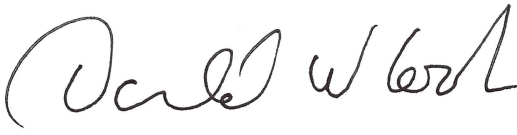
10 102. Such other relief as is just and proper.

11 DATED: June 29, 2006

12 **LITT, ESTUAR, HARRISON,**  
13 **MILLER & KITSON, LLP**

14 **ROBERT MANN**  
15 **DONALD W. COOK**

16 **LAW OFFICES OF CYNTHIA ANDERSON-BARKER**

17   
18 By \_\_\_\_\_  
19 Donald W. Cook  
20 Attorneys for Plaintiffs  
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1 **DEMAND FOR JURY TRIAL**

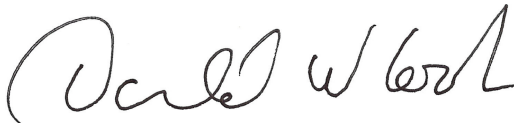
2       Plaintiffs, on behalf of themselves individually and on behalf of the class, demand  
3 a jury trial.

4 DATED: July 6, 2006

5                   **LITT, ESTUAR, HARRISON,**  
6                   **MILLER & KITSON, LLP**

7                   **ROBERT MANN**  
8                   **DONALD W. COOK**

9                   **LAW OFFICES OF CYNTHIA ANDERSON-BARKER**

10                     
11 By \_\_\_\_\_  
12                   Donald W. Cook  
13                   Attorneys for Plaintiffs  
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1 PROOF OF SERVICE BY MAIL

2 I am a resident of the county of Los Angeles; I am over the age of 18 and not a party  
3 to the within action; my business address is 3435 Wilshire Blvd., Suite 2900, Los Angeles,  
4 California.

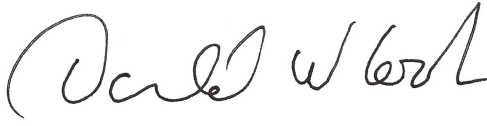
5 On July 7, 2006, I served the within THIRD AMENDED CLASS ACTION  
6 COMPLAINT on the interested parties herein by placing a true copy thereof enclosed in  
7 a sealed envelope with postage thereon fully prepaid in the United States mail at Los  
8 Angeles, California addressed as follows:

9  
10 Dana Alden Fox  
11 Barbara S. Huff  
12 Lynberg & Watkins  
13 888 S. Figueroa St., 16<sup>th</sup> Fl.  
14 Los Angeles, CA 90017

15 I placed such envelope in the United States mail at Los Angeles, California.

16 I declare under penalty of perjury that the above is true and correct.

17 Executed on July 7, 2006, at Los Angeles, California.

18 

19 Donald W. Cook  
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