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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JULIA ANN JACKSON, individually and on behalf of a class of others similarly situated

Plaintiffs,

v.

THE COUNTY OF BEXAR

Defendant.

CLASS ACTION COMPLAINT

SA07CA0928 FB

INTRODUCTION

This is a class action brought to redress the deprivation by Defendant of rights secured to the Plaintiff and the proposed Class by the United States Constitution and the laws of the United States of America. For at least the past five years, the Bexar County Detention Center (the "Detention Center") has had a policy and practice of strip-searching all individuals regardless of the crime upon which they are charged. In addition, such policy and practice does not call for any reasonable suspicion analysis before conducting a strip search. Upon information and belief, this policy is, in part, derived from the written procedures of the Bexar County Detention Center and was promulgated by senior officials of the County of Bexar, acting through the Bexar County Sheriff's Office.

It has been well established in this judicial circuit for many years that individuals charged with misdemeanors or violations cannot be strip-searched absent particularized suspicion that they possess weapons or contraband. In short, the policy of Bexar County

and the Bexar County Detention Center to force those charged with minor crimes to undergo the indignities of a strip search upon detention is not only clearly illegal, but is insensitive and unnecessary.

Plaintiff brings this action on behalf of herself and on behalf of a class of thousands of others (together, "Plaintiffs") who were strip searched after being charged with petty crimes to vindicate the clear and unnecessary violation of their civil rights and those of the class members they propose to represent. Plaintiffs were charged with misdemeanor and/or violation offenses and were subjected to a strip search, in violation of their right against unreasonable searches under the Fourth Amendment of the United States Constitution. Plaintiff seeks monetary damages for herself and each member of the proposed class, a declaration that the Bexar County Detention Center's policies are unconstitutional, and an injunction precluding Bexar County and the Bexar County Detention Center from continuing to violate the rights of those placed into their custody. With this as a background, Plaintiffs complain as follows:

JURISDICTION

1. This Court has jurisdiction over this action under the provisions of 28 U.S.C. §§ 1331, 1341 & 1343 because it is filed to obtain compensatory damages and injunctive relief for the deprivation, under color of state law, of the rights of citizens of the United States secured by the Constitution and federal law pursuant to 42 U.S.C. §§ 1981 & 1983. This Court also has jurisdiction over this action under the provisions of 28 U.S.C. § 2201, as it is filed to obtain declaratory relief relative to the constitutionality of the policies of a local government.

2. Venue is proper under 28 U.S.C. § 1391(e)(2) because the events giving rise to Plaintiffs' claims occurred in this judicial district.

PARTIES

3. Plaintiff Julia Ann Jackson ("Jackson" or "Plaintiff Jackson") is a 29 year old female who resides in Behar County, Texas. On or about April 14, 2006, Jackson was arrested by the Converse Police Department after they were called to a scene because of a noise violation concern and discovered that Jackson had a warrant out for her arrest for driving with an invalid license, a misdemeanor offense. After being held by the Converse Police Department for a period of several hours, Jackson was transported to and held by the Bexar County Detention Center.

4. Defendant County of Bexar (the "County") is a county government organized and existing under the laws of the State of Texas. At all times relevant hereto, the County, acting through the Bexar County Sheriff's Office and the Bexar County Detention Center, was responsible for the policies, practices, supervision, implementation and conduct of all matters pertaining to the center and was responsible for the appointment, training, supervision and conduct of all personnel, including those working in the Bexar County Detention Center (the "Detention Center"). In addition, at all relevant times, the County, acting through the Bexar County Sheriff's Office and the Detention Center, was responsible for enforcing the rules of the Detention Center and for ensuring that detention personnel obeyed the Constitution and laws of the United States and of the State of Texas.

CLASS ACTION ALLEGATIONS

5. Plaintiff Jackson brings this action pursuant to Rules 23(b)(1), 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of herself and a class of similarly situated individuals who were charged with misdemeanors or minor crimes and were strip searched upon their entry into the Bexar County Detention Center.

6. The class that Plaintiff Jackson seeks to represent is defined as follows:

> All persons who have been or will be placed into the custody of the Bexar County Detention Center after being charged with misdemeanors, violations, violations of probation or parole, traffic infractions, civil commitments or other minor crimes and were or will be strip searched upon their entry into the Bexar County Detention Center pursuant to the policy, custom and practice of Bexar County. The class period commences on November 15, 2005, and extends to the date on which Bexar County and the Detention Center are enjoined from, or otherwise ceases, enforcing its unconstitutional policy, practice and custom of conducting strip searches absent reasonable suspicion. Specifically excluded from the class are Defendant and any and all of their respective affiliates, legal representatives, heirs, successors, employees or assignees.

7. This action has been brought and may properly be maintained as a class action under Federal law and satisfies the numerosity, commonality, typicality and adequacy requirements for maintaining a class action under Fed. R. Civ. P. 23(a).

8. The members of the class are so numerous as to render joinder impracticable. Upon information and belief, there are hundreds of people arrested for misdemeanors and violations who are placed into the custody of the Detention Center every month -- all of whom are members of the proposed class. Upon information and belief, the size of the proposed class totals at least 10,000 individuals, some of whom have had their civil rights violated on multiple occasions.

9. Upon information and belief, joinder of all of these individuals is impracticable because of the large number of class members and the fact that class

members are likely dispersed over a large geographical area, with some members presently residing outside of Bexar County and this Judicial District. Furthermore, upon information and belief, many members of the class are low-income persons, may not speak English, and likely would have great difficulty in pursuing their rights individually.

10. Common questions of law and fact exist as to all members of the class, in that they all had their right to be free from unreasonable searches violated by Detention Officers conducting strip searches absent particularized suspicion. All members of the class were charged with misdemeanors or violations when placed into the custody of the Detention Center, and all were illegally strip searched in violation of the established law in this judicial circuit.

11. Plaintiff Jackson's claims are typical of the claims of the members of the class. Plaintiff Jackson and all members of the class sustained damages arising out of Defendant's course of conduct. The harms suffered by the Plaintiffs are typical of the harms suffered by the class members.

12. The representative Plaintiff, Julia Ann Jackson, has the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of the class. Plaintiff Jackson has no interests that are adverse to the interests of the members of the class.

13. Plaintiff Jackson has retained counsel who have substantial experience and success in the prosecution of class action and civil rights litigation. The named Plaintiff, Julia Ann Jackson, is being represented by Charles LaDuca of Cuneo Gilbert & LaDuca, LLP; Sam H. Lock of The Law Offices of Sam H. Lock; James Harrington of the Texas Civil Rights Project; Bob Keach of the Law Offices of Elmer Keach; Gary Mason and

Alexander Barnett of the Mason Law Firm; and Kerissa Chelkowski of the Law Offices of Kerissa Chelkowski.

14. In short, Plaintiff Jackson's counsel has the resources, expertise and experience to successfully prosecute this action against Bexar County. Counsel for Plaintiff Jackson know of no conflicts among members of the class, or between counsel and members of the class.

15. This action, in part, seeks declaratory and injunctive relief. As such, Plaintiffs seek class certification under Fed. R. Civ. P. 23(b)(2), in that all class members were subject to the same policy requiring the illegal strip searches of individuals charged with misdemeanor or minor crimes and placed into the custody of the Detention Center. In short, the County of Bexar and Detention Center Officers acted on grounds generally applicable to all class members.

16. In addition to certification under Rule 23(b) (2), and in the alternative, Plaintiffs seek certification under Rule 23(b)(3).

17. Common questions of law and fact exist as to all members of the class, and predominate over any questions that affect only individual members of the class. These common questions of law and fact include, without limitation, the common and predominate question of whether the Defendant's written and/or *de facto* policy of strip searching all individuals charged with misdemeanors or minor crimes and committed to the Detention Center is a violation of the Fourth and Fourteenth Amendments to the United States Constitution, and whether such a written and/or *de facto* policy existed during the class period.

18. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all of the individual members

of the class is impracticable given the large number of class members and the fact that they are dispersed over a large geographical area. Furthermore, the expense and burden of individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them. The cost to the federal court system of adjudicating thousands of individual cases would be enormous. Individualized litigation would also magnify the delay and expense to all parties and the court system. By contrast, the conduct of this action as a class action in this District presents far fewer management difficulties, conserves the resources of the parties and the court system, and protects the rights of each member of the class.

19. Upon information and belief, there are no other actions pending to address the Defendant's flagrant violation of the civil rights of thousands of individuals, even though the Defendant has maintained the illegal strip search regimen for at least the past two (2) years.

20. In the alternative to certification under Fed. R. Civ. P. 23(b)(3), Plaintiffs also seek partial certification under Fed. R. Civ. P. 23(c)(4).

FACTS

Facts Applicable to the Class Generally

21. The Fourth Amendment of the United States Constitution prohibits state officials, such as the Detention Center Corrections Officers, from performing strip searches of arrestees who have been charged with misdemeanors or other minor crimes unless the officer has reasonable suspicion to believe that the arrestee is concealing a weapon or contraband.

22. Upon information and belief, the County of Bexar and the Bexar County Detention Center have instituted a written and/or *de facto* policy, custom or practice of strip searching all individuals who enter the custody of the Detention Center and are placed into jail clothing, regardless of the nature of their charged crime and without the presence of reasonable suspicion to believe that the individual was concealing a weapon or contraband.

23. Upon information and belief, Bexar County and the Bexar County Detention Center have instituted a written and/or *de facto* policy, custom or practice of conducting visual body cavity searches (visual inspection of the vaginal and rectal cavities) on all individuals who enter the custody of the Detention Center, regardless of the individual characteristics or the nature of their charged crime. These strip searches occur in front of other pretrial detainees, not in a private setting. For purposes of this Complaint, strip and visual cavity searches are collectively referred to as ("strip searches").

24. The Bexar County Sheriff's Office Search Policy, a true and correct copy of which is attached hereto as Exhibit A, specifically provides that routine strip searches will be conducted "[u]pon the admissions process, during the issuance of the inmate uniform." Ex. A at 2.

25. The County of Bexar knows that it may not institute, enforce or permit enforcement of a policy or practice of conducting strip searches without particularized, reasonable suspicion.

26. The Defendant's written and/or *de facto* policy, practice and custom mandating wholesale strip searches of all misdemeanor and violation arrestees has been

promulgated, effectuated and/or enforced in bad faith and contrary to clearly established law.

27. Reasonable suspicion to conduct a strip search may only emanate from the particular circumstances antecedent to the search, such as the nature of the crime charged, the particular characteristics of the arrestees, and/or the circumstances of the arrest.

28. Upon information and belief, Bexar County and the Bexar County Detention Center have promulgated, implemented, enforced, and/or failed to rectify a written and/or *de facto* policy, practice or custom of strip searching **all** individuals placed into the custody of the Detention Center and placed into jail clothing without any requirement of reasonable suspicion, or indeed suspicion of any sort. This written and/or *de facto* policy made the strip searching of pre-trial detainees routine; neither the nature of the offense charged, the characteristics of the arrestee, nor the circumstances of a particular arrest were relevant to the enforcement of the policy, practice and custom of routine strip searches.

29. Pursuant to this written and/or *de facto* policy, each member of the class, including the named Plaintiff, was the victim of a routine strip search upon their entry into the Bexar County Detention Center. These searches were conducted without inquiry into or establishment of reasonable suspicion, and in fact were not supported by reasonable suspicion. Strip searches are conducted for individuals arrested for, among other innocuous offenses, Driving While Intoxicated, Harassment and Trespassing.

30. As a direct and proximate result of the unlawful strip search conducted pursuant to this written and/or *de facto* policy, the victims of the unlawful strip searches -- each member of the class, including the named Plaintiffs -- have suffered or will suffer psychological pain, humiliation, suffering and mental anguish.

Facts Applicable to the Named Plaintiff

31. Plaintiff Julia Ann Jackson was arrested on misdemeanor charges and admitted to the Bexar County Detention Center. The charges for which Jackson was arrested did not, in and of themselves, provide Detention Center Corrections Officers with reasonable suspicion to believe that Jackson was harboring any weapons or contraband.

32. Jackson was strip searched after her admission to the Detention Center. After being held in a holding cell for almost two days, she, along with approximately 25 other female pre-trial detainees, was taken into a changing room to remove her street clothes and change into a Detention Center uniform. Immediately prior to providing Jackson with the Detention Center uniform, a female Corrections Officer required Jackson to submit to a strip search whereby the Officer and another detainee were able to view Jackson while she was in a state of complete undress.

33. Jackson was later released from the Detention Center after she was able to pay bail.

34. As a direct and proximate result of the unlawful strip search conducted pursuant to Defendant's policy, practice and custom, Jackson has suffered and continues to suffer psychological pain, humiliation, suffering and mental anguish.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION

Violation of Constitutional Rights Under Color of State Law

-- Unreasonable Search and Failure to Implement Municipal Policies to Avoid Constitutional Deprivations Under Color of State Law –

35. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 34.

36. The Fourth Amendment of the United States Constitution protects citizens from unreasonable searches by law enforcement officers, and prohibits officers from conducting strip searches of individuals arrested for misdemeanors or violations absent some particularized suspicion that the individual in question has either contraband or weapons.

37. The actions of Defendant detailed above violated Plaintiffs' rights under the United States Constitution. Simply put, it was not objectively reasonable for Detention Center Officers to strip search Plaintiff Jackson and Class members based on their arrests for misdemeanor/violation charges.

38. These strip searches were conducted pursuant to the policy, custom or practice of Bexar County and the Bexar County Detention Center. As such, Bexar County is directly liable for the damages of Plaintiff and members of the Class.

39. This conduct on the part of Defendant represents a violation of 42 U.S.C. § 1983, given that the actions of the Detention Center Officers were undertaken under color of state law.

40. As a direct and proximate result of the unconstitutional acts described above, Plaintiffs have been irreparably injured.

AS AND FOR A SECOND CAUSE OF ACTION

-- Demand for Declaratory Judgment --

41. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 40.

42. The policy, custom and practice of the Bexar County Detention Center and the County of Bexar is clearly unconstitutional, in that these entities and individuals are directing/conducting the strip searches of all individuals placed into the Detention Center without any particularized suspicion that the individuals in question have either contraband or weapons.

43. Plaintiffs and members of the class request that this Court issue a declaratory judgment, and that it declare the strip search policy of Bexar County and the Bexar County Detention Center to be unconstitutional.

AS AND FOR A THIRD CAUSE OF ACTION

-- Demand for Preliminary and Permanent Injunction --

44. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 43.

45. The policy, custom and practice of the Bexar County Detention Center and Bexar County is clearly unconstitutional, in that these entities and individuals are directing/conducting the strip searches of all individuals placed into the Detention Center without any particularized suspicion that the individuals in question have either contraband or weapons.

46. Upon information and belief, this policy is currently in place at the Detention Center, with new and/or prospective members of the class being subjected to the harms that have already been inflicted upon the Plaintiffs.

47. The continuing pattern of strip searching individuals charged with minor crimes will cause irreparable harm to the new and/or prospective members of the class, an adequate remedy for which does not exist at law.

48. Plaintiffs demand that the Bexar County, the Detention Center, and Bexar County Corrections Officers immediately desist from strip searching individuals placed into the custody of the Detention Center absent any particularized suspicion that the individuals in question have either contraband or weapons, and seek both a preliminary and permanent injunction from this Court ordering as much.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Julia Ann Jackson, on behalf of herself and on behalf of a class of others similarly situated, requests that this Honorable Court grant them the following relief:

1. An order certifying this action as a class action pursuant to Fed. R. Civ. P. 23.
2. A judgment against Defendant awarding compensatory damages to Plaintiff and each member of the proposed class in an amount to be determined by a Jury and/or the Court on both an individual and a class wide basis.
3. A declaratory judgment against Defendant declaring the Bexar County Detention Center's policy, practice and custom of strip and visual cavity searching all detainees entering the Detention Center, regardless of the crime charged or suspicion of contraband, to be unconstitutional and improper.
4. A preliminary and permanent injunction enjoining Defendant and the Bexar County Detention Center from continuing to strip and visual cavity search individuals charged with misdemeanors or minor crimes absent

particularized, reasonable suspicion that the arrestee subjected to the search is concealing weapons or other contraband.

5. A monetary award for attorney's fees and the costs of this action, pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 23.

Respectfully submitted by:

Dated: November 15, 2007

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