

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**JESUS LIRA, BEN GARCIA, GRACIELA
MARTINEZ, STEPHEN CULLER, CYNTHIA
ARCHER, FREDERICK GARCIA and DOUGLAS
BEIDLER, on their own behalf and on behalf of a
class of similarly situated persons,**

Plaintiffs,

vs.

No. CIV 06-0179 WPJ/WPL

**DONA ANA COUNTY BOARD OF
COMMISSIONERS; Dona Ana County
Detention Center administrator CHRISTOPHER
BARELA, in his individual and official capacities;
former Dona Ana County Detention Center
administrator DAVID WOOLEY, in his
individual and official capacities; former
Dona Ana County Detention Center
administrator ALFONSO SOLIZ, in his
individual and official capacities, and former
Dona Ana County Detention Center acting
administrator CHERYL ROACH, in her
individual and official capacities.**

Defendants.

Consolidated with

**AMBER RODRIGUEZ, on her own
behalf and on behalf of a class of
similarly situated persons,**

Plaintiff,

vs.

No. CIV-06-416 JH/CEG

**DOÑA ANA COUNTY BOARD OF
COMMISSIONERS; Doña Ana County
Juvenile Detention Center administrator
CHRISTOPHER BARELA, in his individual
and official capacities; former Doña Ana**

County Juvenile Detention Center administrator DAVID WOOLEY, in his individual and official capacities; former Doña Ana County Juvenile Detention Center administrator ALFONSO SOLIZ, in his individual and official capacities, and former Doña Ana County Juvenile Detention Center acting administrator CHERYL ROACH, in her individual and official capacities,

Defendants.

AMENDED STIPULATION OF SETTLEMENT

Plaintiffs Jesus Lira, Ben Garcia, Graciela Martinez, Stephen Culler, Cynthia Archer, Frederick Garcia, and Douglas Beidler (hereinafter “Adult Plaintiffs”), individually and on behalf of the adult settlement class defined herein, Plaintiff Amber Rodriguez (hereinafter, “Juvenile Plaintiff”), individually and on behalf of the juvenile settlement class defined herein; and Defendants Dona Ana County Board of Commissioners, Dona Ana County Detention Center (hereinafter “DACDC”) administrator Christopher Barela, former DACDC administrators David Wooley and Alfonso Soliz, and former acting administrator Cheryl Roach (hereinafter “Defendants”) (Adult Plaintiffs, Juvenile Plaintiff and Defendants are hereinafter collectively referred to as “the Parties”), by and through their respective counsel, hereby enter into the following Amended Stipulation of Settlement (“Amended Stipulation of Settlement” or “Agreement”).

I.

RECITALS

On March 7, 2006, Adult Plaintiffs, on behalf of themselves and all persons similarly situated, filed a complaint in the above-captioned matter in which they challenged certain practices of Defendants including the strip search of certain detainees, and sought damages and declaratory and injunctive relief. Adult Plaintiffs allege that they were each unlawfully subjected to a strip search performed pursuant to the policies, practices and customs of Defendants of conducting strip searches of all incoming pre-arraignment detainees at the Doña Ana County Adult Detention Center ("DACDC"). Adult Plaintiffs allege that these strip searches were performed without regard to the nature of the alleged offenses for which Adult Plaintiffs had been arrested, and without Defendants having a reasonable belief that the Adult Plaintiffs possessed weapons or contraband, or that there existed facts supporting a reasonable belief that the search would produce contraband or weapons.

On May 16, 2006, Juvenile Plaintiff, on behalf of herself and all persons similarly situated, filed a complaint in the above-captioned matter in which she challenged certain practices of Defendants including the strip search of certain detainees, and sought damages and declaratory and injunctive relief. Juvenile Plaintiff alleged that she was unlawfully subjected to a strip search performed pursuant to the policies, practices and customs of Defendants of conducting strip searches of all incoming pre-arraignment detainees at the Doña Ana County Juvenile Detention Center ("DACJDC"). Juvenile Plaintiff alleges that this strip search was performed without regard to the nature of the alleged offenses for which Juvenile Plaintiff had

been arrested, and without Defendants having a reasonable belief that Juvenile Plaintiff possessed weapons or contraband, or that there existed facts supporting a reasonable belief that the search would produce contraband or weapons.

Adult Plaintiffs and Juvenile Plaintiff sought damages for civil rights violations under 42 U.S.C. § 1983, and for claims arising under the New Mexico Tort Claims Act. Adult Plaintiffs and Juvenile Plaintiff additionally sought a judgment declaring that Defendants must cease the activities described herein and enjoining Defendants from any further strip searches without individualized reasonable suspicion. Adult Plaintiffs and Juvenile Plaintiff brought these actions on their own behalf and on behalf of classes of similarly situated individuals.

Defendants contend that not all incoming pre-arraignment detainees were subjected to strip searches. Defendants further contend that the admissions search policies at the DACDC and the DACJDC were and are reasonably related to legitimate penological interests in deterring the introduction of weapons, drugs and other contraband into the detention center. Defendants submit that the detention center policies are entitled to deference under the law, and that the policies should not be found to violate the Constitution or any state law. Defendants further deny that the searches of Adult Plaintiffs or Juvenile Plaintiff violated any state or federal law.

The Parties entered into the voluntary exchange of all relevant information pertaining to the claims raised herein.

On May 14 and 15, 2007, the Parties engaged in two days of mediation sessions with experienced mediator Nancy Lesser. On October 16, 2007, the Parties engaged in a mediation session with United States Magistrate Judge Carmen E. Garza and United States Magistrate

Judge Leslie C. Smith. Following these mediations and continued negotiations among the Parties, the Parties arrived at this agreed Amended Stipulation of Settlement which, subject to the approval of the Court, settles this action in the manner and upon the terms set forth below and fully resolves the dispute.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, as follows:

II.

DEFINITIONS

1. "Administrator" means a claims administrator as appointed by the Court to review and determine the validity and amount of claims submitted by Settlement Class Members ("SCMs"), according to the procedures set forth herein. All parties concur that, subject to approval by the Court, the firm of Gilardi & Co., L.L.C. of San Rafael, CA, should serve as the Administrator.
2. The "Bar Date" is the date established by the Court by which any SCM who wishes to receive payment pursuant to the Amended Stipulation of Settlement must file his/her Claim Form(s), objections to this Amended Stipulation of Settlement, or request to be excluded from the class (opt-out).
3. "Charge List" means the list of charges attached hereto as Exhibit "4".
4. The "Claim Form" is the form required to be used to make a claim for payment under this settlement. A copy of the proposed Claim Form is attached as Exhibit "1."

5. "Class Counsel" means, collectively, Robert R. Rothstein, John C. Bienvenu and Mark H. Donatelli of the Law Offices of Rothstein, Donatelli, Hughes, Dahlstrom, Schoenburg & Bienvenu, LLP; and Michael W. Lilley, Jess R. Lilley, and Marc A. Lilley of the Lilley Law Offices.

6. The "Class Notice" means the notice in a form substantially similar to that attached hereto as Exhibit "2" (Notice by Mail), and the summary notice substantially in the form attached hereto as Exhibit "3" to be published in newspapers identified in Paragraph 50 herein, and posted in the DACDC and DACJDC and announced on radio as referenced in Paragraph 51 herein.

7. The "Class Period" is March 7, 2003 through March 7, 2006 for the Adult Settlement Class, and May 16, 2003 through May 16, 2006 for the Juvenile Settlement Class.

8. The "Database" is the information to be provided in hard copy and/or electronic form by the Defendants to the Administrator and Class Counsel no later than the later of thirty (30) days from the Parties' selection of the Administrator or thirty (30) days from the date the United States District Court grants preliminary approval of the terms of this Amended Stipulation of Settlement. The Database includes, to the extent practicable, the name, last known addresses, date of birth, Social Security Number, date(s) of arrest and charges of all SCMs arrested during the Class Period; date(s) of booking(s), housing(s) and first appearance(s) of each member of the class. The Database shall not be provided by the Administrator or Class Counsel to any parties or to any SCMs.

9. The "Effective Date" means the date upon which a judgment entered by the Court approving the Amended Stipulation of Settlement becomes final. The judgment will be deemed final only upon expiration of the time to appeal or, if a Notice of Appeal is filed, upon dismissal of the appeal or exhaustion of all appeals and petitions for writs of certiorari.

10. "Non-VDW Offense" means an offense not listed on the Charge List (Exhibit "4").

11. "VDW Offense" means an offense which appears on the Charge List (Exhibit "4").

12. An "Opt-Out" is any potential Settlement Class Member who files a timely request for exclusion as specified in Paragraph 44.

13. "Released Persons" means Defendants and their affiliates, subsidiaries, predecessors, successors, and/or assigns, together with past, present, and future officials, employees, representatives, attorneys and/or agents of the Dona Ana County Board of Commissioners, DACDC, DACJDC, Christopher Barela, David Wooley, Alfonso Soliz, and Cheryl Roach or any of them. "Released Persons" also includes any and all insurance carriers, or risk pools, for the Released Persons.

14. A "Settlement Class Member" ("SCM") means any member of the Adult Settlement Class or Juvenile Settlement Class including representatives, successors and assigns, who does not file a valid and timely Request for Exclusion as provided in Paragraph 44 of this Amended Stipulation of Settlement.

15. "Adult Settlement Class" means all persons arrested on a non-VDW Offense who were strip searched during the Class Period at DACDC prior to arraignment. "Juvenile

Settlement Class” means all persons arrested on a non-VDW Offense who were strip searched during the Class Period at DACJDC prior to arraignment.

16. “Strip search” means a search conducted upon intake and booking by a corrections officer in which the person was required to remove all of his or her clothing, including underwear, in the presence of the corrections officer.

17. “Verified claims” means claims that are made in writing on the Claim Forms and that are signed under oath by the SCM. If the SCM is under the age of 18 at the time of signing, the Claim Form must be signed by a parent or guardian.

18. This Amended Stipulation of Settlement is for settlement purposes only, and neither the fact of, nor any provision contained in this Amended Stipulation of Settlement or its exhibits, nor any action taken hereunder shall constitute, be construed as, or be admissible in evidence as any admission of the validity of any claim or any fact alleged by Plaintiffs or SCMs in these actions or in any other pending or future action or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Defendants or admission by Defendants of any claim or allegation made in this action or in any other action, nor as an admission by any of the Plaintiffs, SCMs or Class Counsel of the validity of any fact or defense asserted against them in this action or in any other action. Defendants deny all allegations of wrongdoing and deny any liability to Plaintiffs or to any other class members. The Parties have agreed that, in order to avoid long and costly litigation, this controversy should be settled pursuant to the terms of this Amended Stipulation of Settlement, subject to the approval of the Court.

III.

TERMS AND EFFECT OF AMENDED STIPULATION OF SETTLEMENT

19. The Parties agree solely for the purposes of this settlement and implementation that the within action shall proceed as a class action, with the Adult Settlement Class and Juvenile Settlement Class as defined in Paragraph 15, and that attorneys for the Class are Class Counsel defined in Paragraph 5; but if such settlement fails to be approved or otherwise fails of consummation, then this Amended Stipulation of Settlement is hereby withdrawn.

20. SCMs who comply with the requirements set forth in this Amended Stipulation of Settlement will be paid specified sums determined by the process set forth herein in full satisfaction of all claims.

21. The Parties hereto stipulate and agree that the strip search policies at the DACDC and the DACJDC were changed as a result of Plaintiffs' and Class Counsel's efforts preceding and during this lawsuit and that the request for equitable relief was thereby rendered moot.

22. The Amended Stipulation of Settlement, as of the Effective Date, resolves in full all claims against the Released Persons by all of the SCMs, including the named Plaintiffs, involving violation of law or constitutional rights, including their Fourth Amendment rights, their Fourteenth Amendment rights, or of any other federal, state or local law, regulation, duty, or obligation which are based upon or could be based upon or arise from the facts alleged in the lawsuits. When the Amended Stipulation of Settlement is final, as of the Effective Date, all SCMs, including the named Plaintiffs, hereby release all such claims.

23. The Parties agree that the Court, by preliminarily approving the Amended Stipulation of Settlement, will be certifying the classes as defined in Paragraph 15, as the Settlement Classes, subject to final approval of the Settlement at the fairness hearing and that the Court shall retain exclusive and continuing jurisdiction of the action, Parties, SCMs, and the Administrator to interpret and enforce the terms, conditions and obligations under this Agreement.

24. As of the Effective Date of this Amended Stipulation of Settlement, the SCMs, including the named Plaintiffs, hereby waive any and all rights to pursue, initiate, prosecute, or commence any action or proceeding before any court, administrative agency or other tribunal, or to file any complaint with regard to acts of commission or omission by the Released Persons respecting such SCMs with respect to any strip search by Defendants that occurred during the Class Period.

25. This Amended Stipulation of Settlement together with its exhibits contains all the terms and conditions agreed upon by the Parties hereto regarding the subject matter of the instant proceeding, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation shall be deemed to exist, or to bind the Parties hereto, or to vary the terms and conditions contained herein, except as expressly provided herein.

26. Each SCM shall be deemed to have submitted to the jurisdiction of the Court.

27. No Opt-Out shall share in any monetary benefits provided by this Amended Stipulation of Settlement.

28. This settlement is subject to and conditioned upon the final approval of this

Amended Stipulation of Settlement and the issuance of the final order and judgment of dismissal by the Court, providing the below specified relief, which relief shall be pursuant to the terms and conditions of this Amended Stipulation of Settlement and the Parties' performance of their continuing rights and obligations hereunder. The order and judgment will be deemed final only upon expiration of the time to appeal, or if a Notice of Appeal is filed, upon exhaustion of all appeals and petitions for writs of certiorari. Such final order and judgment shall:

- a. Dismiss with prejudice all claims in the actions as to the Released Persons including all claims for damages, declaratory and injunctive relief, attorneys' fees and costs;
- b. Order that all SCMs are enjoined from asserting against any Released Person, any and all claims which the SCMs had, has, or may have in the future arising out of the facts alleged in the Complaints;
- c. Release each Released Person from the claims which any SCM has, had or may have in the future, against such Released Person arising out of the facts alleged in the Complaints;
- d. Determine that this Amended Stipulation of Settlement is entered into in good faith, is reasonable, fair and adequate, and in the best interest of the Classes; and
- e. Reserve the Court's continuing and exclusive jurisdiction over the Parties to this Amended Stipulation of Settlement, including Defendants and SCMs, to administer, supervise, construe and enforce the Amended

Stipulation of Settlement in accordance with the terms for the mutual benefit of all the Parties.

29. The Parties will take all necessary and appropriate steps to obtain preliminary approval of the Amended Stipulation of Settlement, final approval of the Settlement, and dismissal of the actions with prejudice. If the Court finally approves this Amended Stipulation of Settlement, and if there is an appeal from such decision, Defendants will not oppose Plaintiffs' efforts to defend the Amended Stipulation of Settlement.

IV.

RESOLUTION AND PAYMENT OF CLAIMS FOR DAMAGES

30. The settlement amount, which shall be used to pay all verified claims of SCMs, administrative costs, incentive bonuses to Class Representatives, and attorneys' fees and costs, is \$5,300,000.00 (Five Million Three Hundred Thousand Dollars) ("Settlement Fund"). The Settlement Fund will be distributed as follows, subject to approval of the Court:

- a. \$200,000.00 will be allocated for payment to Adult Plaintiffs and Juvenile Plaintiff collectively to acknowledge their participation and efforts in these lawsuits in securing damages for personal injury for SCMs. This amount is separate and apart from any payment due for their individual claims as SCMs and shall be paid within ten days of the Effective Date. Defendants agree not to contest Plaintiffs' request for approval of this payment to Plaintiffs. In the event the Court approves less than this

amount, the difference will be added to the amount allocated to pay verified claims.

- b. \$1,666,667.00 will be allocated for payment of Plaintiffs' attorneys' fees, gross receipts tax on Plaintiffs' attorneys' fees, and Plaintiffs' litigation expenses and costs through the date that this settlement becomes final, to be paid within ten days of the Effective Date. Defendants agree not to contest Plaintiffs' request for approval of this amount for fees, gross receipts tax, and litigation expenses. In the event the Court approves less than this amount, the balance remaining in the Settlement Fund will be added to the amount allocated to pay verified claims.
- c. Actual costs of claims administration, providing notice to the Class, and processing and administering the Settlement of SCMs' claims will be paid from the Settlement Fund. Invoices for services provided by the Administrator shall be approved first by Class Counsel and then by Defendants' counsel, and then paid by check from the Settlement Fund.
- d. The balance of the Settlement Fund, after payment of all amounts enumerated above, will be distributed, pro-rata as described in Paragraph 33 below, among the SCMs who timely file qualifying Claim Forms, as soon as practicable after the Effective Date.

31. By November 13, 2007, Defendants will transmit by wire transfer or certified funds \$5,000,000.00 (Five Million Dollars) to the Administrator or the Administrator's designee

for deposit in an interest-bearing qualified settlement fund (“QSF”) , and within 30 days of preliminary approval by the United States District Court of the terms of this Amended Stipulation of Settlement, Defendants will transmit by wire transfer or certified funds the balance of \$300,000 (Three Hundred Thousand Dollars) to the Administrator or the Administrator’s designee for deposit in the QSF, and all interest earned on the Settlement Fund shall inure to the benefit of the SCMs.

32. The Parties agree to make an application to the Court to appoint the Administrator an officer of the Court for the purpose of implementing the terms of this Amended Stipulation of Settlement. The Administrator shall be subject to judicial immunity to the fullest extent permitted by law. The Administrator shall be subject to the jurisdiction of the Court with respect to any dispute arising between the Administrator and the Parties regarding the implementation of the terms and conditions of the administration agreement.

V.

**PROCEDURES FOR RECEIVING
PAYMENT UNDER THIS AMENDED STIPULATION OF SETTLEMENT**

33. All SCMs who were strip searched during the Class Period, prior to arraignment, at the DACDC following arrests on a Non-VDW Offense, and all SCMs who were strip searched during the Juvenile Class Period, prior to arraignment, at the DACJDC following arrests on a Non-VDW Offense, shall be entitled to receive a pro-rata share of the funds allocated for payment of SCM claims, with up to a maximum of two searches during the Class Period being counted as separate claims. This two search maximum shall apply regardless of whether the

SCM has more than two searches as a juvenile, as an adult or in any combination of the two.

Payment shall be in full satisfaction of each and every claim of such SCMs.

34. If the Administrator receives Claim Forms identifying information substantially different from that on the Database so that the Administrator is unable to determine if the persons submitting the Claim Forms are SCMs or are otherwise entitled to payment, the Administrator shall forward copies of the Claim Forms to Defendants' counsel and Class Counsel who shall consult in an attempt to agree on the eligibility of the questioned claimants to receive payments. If Defendants' counsel and Class Counsel cannot agree, the Administrator will notify the claimant(s) that additional information must be submitted to be postmarked or received within 14 days to substantiate their eligibility. If information is submitted, the Administrator will be responsible for making the determination of eligibility. If no information is received, the claimant(s) will be excluded.

35. If the Administrator receives Claim Forms from persons whom it cannot locate on the Database, it will the notify the persons submitting the Claim Forms that they are not on the Database and request that such persons submit information to substantiate their eligibility to be postmarked or received within 14 days. If no further information is timely provided, the claimants will be ineligible. If further information is provided, the Administrator will determine eligibility.

36. The Parties expressly agree that the funds paid herein are not for economic damages or for punitive damages but are attributable to damages on account of alleged personal injuries, including but not limited to bodily injury, mental and emotional distress, and pain and

suffering, arising from an occurrence, within the meaning of § 104(a)(2) of the Internal Revenue Code of 1986, as amended.

37. Any SCM who fails to submit a Claim Form completed in accordance with the instructions contained therein by the Bar Date or any other Court mandated extension, shall be forever barred from receiving any payment pursuant to the Amended Stipulation of Settlement. Such SCM shall in all other respects be bound by all of the terms of the Amended Stipulation of Settlement, and the judgment entered herein, including but not limited to the release of all Released Persons of all claims resolved herein.

38. To receive payment, an SCM shall be required to submit to the Administrator an executed Claim Form signed under penalty of perjury with questions completed in accordance with the instructions provided. If the SCM is under the age of 18 at the time of signing, the Claim Form shall also be signed by a parent or guardian. All Claim Forms must be submitted by the Bar Date unless such period is extended by order of the Court.

39. The Claim Form shall be submitted by first class mail and shall be deemed submitted upon the date of the postmark thereon or the date of receipt, whichever is earlier.

40. SCMs who submit valid and timely claims and whose names appear on the Database will be paid by mail at the address specified on the Claim Form as soon as practicable after the Effective Date.

41. The Administrator shall determine whether or not a person who has submitted a Claim Form is an SCM and shall reject claims by persons who are not SCMs. The Administrator will determine the dollar amount of each payment to an eligible SCM based upon the

Administrator's review of the SCMs' responses to questions on the Claim Form, the number of claims and the funds available in the settlement fund.

42. If either the Defendants or Class Counsel contests a claim on the ground of fraud or administrative error, the contesting party will notify the other party, the Administrator and the claimant. The other party and/or the claimant will have 10 days within which to respond to the notice. After the deadline for response, the contesting party will submit any remaining issue to the District Court in accordance with local motion practice. The decision of the District Court will be final and unappealable. The contesting party will have the burden of proof.

43 For any Claim Form that the Administrator determines to be invalid or incorrect, the Administrator will provide written notice to the SCM that will include procedures and time limits for seeking reconsideration of the Administrator's determination. If the SCM timely and properly contests the Administrator's determination of the validity or correctness of the Claim Form, the Administrator will reconsider the Claim Form and make a second determination. If the Administrator determines a second time that the Claim Form is invalid or incorrect the Administrator will notify the SCM of his or her right to appeal to the District Court within thirty days of notice of the Administrator's second determination. The District Court's written decision on appeal from the Administrator's second determination will be final and unappealable.

VI.

EXCLUSION FROM THE SETTLEMENT CLASSES

44. Any potential SCM who wishes to be excluded from the Settlement Classes must submit a request to be excluded from the class in the form attached hereto as Exhibit "5" to the Administrator, so that it is postmarked or otherwise delivered on or before the Bar Date or as the Court may otherwise direct.

45. Any potential SCM who does not timely file a Request for Exclusion shall conclusively be deemed to have become an SCM and to be bound by this Amended Stipulation of Settlement and all subsequent proceedings, orders and judgments herein.

46. Any SCM who does not elect to be excluded from the Settlement Classes may, but need not, enter an appearance through his or her own attorney.

47. The Administrator will report all Opt-Out elections to all counsel upon receipt, and will determine and report to counsel for the Parties not later than ten (10) days after the Bar Date the total number of timely and valid Opt-Out elections. If the total number of potential SCMs submitting timely and valid Opt-Out elections equals or exceeds the number stated in a separate confidential letter [more than 55 potential SCMs], then the Defendants, in their sole discretion, may rescind their acceptance of this Agreement, in which case the Agreement will be rendered null and void and of no effect. To exercise this right of rescission, the Defendants must serve on the Administrator and Class Counsel a written notice of rescission not later than thirty (30) days after the Administrator serves counsel for the Defendants with its totals of valid and timely Opt-Out elections received. In the event the Defendants validly and timely exercise their

right of rescission, the funds deposited by Defendants pursuant to Paragraph 31 herein, together with any interest earned thereon, will be returned to Defendants, less any expenses, fees and costs incurred by the Administrator.

VII.

OBJECTING TO THE PROPOSED SETTLEMENT

48. Any SCM who does not elect to be excluded from the Settlement Classes may, but need not, submit comments or objections to the proposed settlement. The Court will enter an appropriate order setting forth the procedure for SCMs to submit comments or objections to the proposed settlement.

VIII.

NOTICE

49. Notice to SCMs shall be by first class mail, postage prepaid, to all individuals whose addresses are on record in the Database and any other databases and records maintained by Defendants or to such other, better addressees identified by the Administrator, and by publication and broadcast as set forth below. All notices and information provided to SCMs shall be in English and Spanish.

50. The Administrator shall cause to be published in English and Spanish languages, in three newspapers to be determined by the Parties in consultation with the Administrator, twice a week in each of six consecutive weeks, notices in a form substantially similar to that attached hereto as Exhibit 3, describing this settlement, the claims procedure and the procedure to object

and/or to Opt-Out of the settlement. Notices in a form substantially similar to that attached hereto as Exhibit 3 shall also be posted in the DACDC and the DACJDC.

51. Announcements summarizing the proposed settlement in English and Spanish will be made on four radio stations to be determined by the Parties in consultation with the Administrator, seven times during a week, during six successive weeks.

IX.

ADMINISTRATIVE COSTS

52. All reasonable costs incurred in the administration of this Amended Stipulation of Settlement, including but not limited to the fees of the Administrator, costs of disseminating notice to SCMs, costs of receiving and evaluating claims, and any additional administration fees, will be paid from the Settlement Fund. Following preliminary Court approval of the Amended Stipulation of Settlement, the Administrator shall submit monthly invoices to Class Counsel and Counsel for the Defendants for services rendered and for expense reimbursement. All invoices will indicate the dates upon which services were performed, the titles of the employees performing the services, the number of hours worked by each such employee for each date, the hourly rate for each such employee, and the total fee for the services performed. The hourly rates shall be in accordance with the agreement between the Parties and the Claims Administrator.

X.

DISPUTE RESOLUTION

53. The Parties may bring an issue directly before the District Court when exigent

facts or circumstances require immediate District Court action to prevent a serious violation of the terms of this Agreement, which otherwise would be without meaningful remedy.

XI.

GOVERNING LAW

54. This Agreement will be subject to, governed by, and construed and enforced pursuant to the laws of New Mexico.

XII.

ENTIRE AGREEMENT

55. The terms of this Agreement and its attachments are the exclusive and final expression of all agreements by Adult Plaintiffs, Juvenile Plaintiff, and Defendants with respect to full and final settlement of this matter, but the Agreement does not, and is not intended to, constitute the entirety of agreements among the Defendants and their respective insurers. The Parties have entered into this Agreement based solely upon its terms and not in reliance upon any representations or promises other than those contained in this Agreement. The terms of this Agreement may not be contradicted either by evidence of any prior or contemporaneous agreement or by the use of any form of extrinsic evidence whatsoever in any judicial, administrative, or other legal proceeding involving this Agreement.

Dated: 11/20/07

ROTHSTEIN, DONATELLI, HUGHES,
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CLAIM FORM

**DONA AÑA COUNTY DETENTION CENTER STRIP SEARCH LAWSUIT
CLASS ACTION CLAIM FORM**
*(LIRA V. DOÑA ANA COUNTY BOARD OF COMMISSIONERS, ET AL., consolidated with
RODRIGUEZ V. DOÑA ANA COUNTY BOARD OF COMMISSIONERS, ET AL)*
**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO
CASE NO. CIV 06-0179 WPJ/WPL AND NO. CIV-06-416 JH/CEG**

FILL OUT THIS FORM IF:

YOU WERE ARRESTED FOR ANY CHARGE NOT INVOLVING VIOLENCE, DRUGS OR WEAPONS AND WERE STRIP SEARCHED AT THE DOÑA ANA COUNTY DETENTION CENTER IN LAS CRUCES, NEW MEXICO, PRIOR TO ARRAIGNMENT, ON OR BETWEEN MARCH 7, 2003 AND MARCH 7, 2006, OR YOU WERE ARRESTED FOR ANY CHARGE NOT INVOLVING VIOLENCE, DRUGS OR WEAPONS AND WERE STRIP SEARCHED AT THE DOÑA ANA COUNTY JUVENILE DETENTION CENTER IN LAS CRUCES, NEW MEXICO, PRIOR TO ARRAIGNMENT, ON OR BETWEEN MAY 16, 2003 AND MAY 16, 2006.

You must complete and submit this claim form no later than _____, to qualify for payment from settlement of this class action strip search case against Dona Aña County and others. If you do not return a completed claim form by the due date you will receive **no money** from the settlement.

Please enter your **correct** name, and address here if it does not appear to the left.

Name: _____

Address: _____

Please provide the following information:

Phone Number: _____

New Mexico Driver's License No.: _____

Social Security Number: _____

Date of Birth: _____

ANSWER THESE QUESTIONS

	Yes	No
Were you arrested and strip searched, prior to arraignment, at the Dona Aña County Detention Center in Las Cruces, New Mexico, at any time on or between March 7, 2003 and March 7, 2006?	<input type="checkbox"/>	<input type="checkbox"/>

Exhibit 1

Were you arrested and strip searched, prior to arraignment, at the Dona Aña County Juvenile Detention Center in Las Cruces, New Mexico, at any time on or between May 16, 2003 and May 16, 2006?

Yes No

If you answered "yes" to one of the above, or if you are unsure of the date, please read the rest of the Claim Form.

Note: Not all persons strip searched at the Dona Aña County Detention Center during the adult class period (March 7, 2003, to March 7, 2006) or at the Dona Aña County Juvenile Detention Center during the juvenile class period (May 16, 2003, to May 16, 2006) will be entitled to payment. If you were charged with a crime involving drugs, weapons or violence, you will not be entitled to payment. Eligibility will be based on records maintained by Dona Aña County.

Use the return envelope (or any other envelope) and mail the completed claim form to: Class Claim Administrator: *Dona Ana County Strip Search Class Action*, c/o Claims Administrator, [address].

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF NEW MEXICO THAT THE ABOVE IS TRUE AND CORRECT.

DATED: _____ SIGNATURE: _____

IF YOU ARE UNDER THE AGE OF 18 AT THE TIME OF SIGNING THIS FORM MUST ALSO BE SIGNED BY A PARENT OR GUARDIAN.

DATED: _____ SIGNATURE: _____
PRINT OR TYPE NAME: _____

The information given here is private and will remain confidential. If you have any questions about this lawsuit, write to the Claims Administrator at *Dona Ana County Strip Search Class Action*, c/o Claims Administrator, [address], [toll-free phone number] or visit the website at [website].

THIS CLAIM FORM MUST BE SIGNED AND RETURNED WITH A POSTMARK NO LATER THAN _____

If you would like your settlement check mailed to an address other than that on the first page of the Claim Form, provide it here: Address, if different, to which settlement check should be mailed:

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION STRIP SEARCH CASES

If you were arrested and strip searched at Doña Ana County Detention Center before your arraignment on or between March 7, 2003 and March 7, 2006 or at the Doña Ana County Juvenile Detention Center in Las Cruces, New Mexico before your arraignment on or between May 16, 2003, and May 16, 2006, you may be entitled to compensation under a class action settlement.

There are presently pending two consolidated lawsuits filed as class actions in the United States District Court for the District of New Mexico. The parties have proposed a Settlement which, if it receives final approval, will provide that certain persons subject to pre-arraignment strip searches at the Doña Ana County Detention Center or the Doña Ana County Juvenile Detention Center in Las Cruces, New Mexico will receive money. Records of the Doña Ana County Detention Center show that you may have been subjected to a strip search after an arrest and before your arraignment. To receive monetary compensation in this pending Settlement, **you must fill out and mail a Claim Form.**

**If You Wish to Claim Monetary Compensation,
Obtain, Fill out and Mail the Claim Form as Soon as Possible but No Later than _____.**

For more information, please read this notice.

**PLEASE READ THIS ENTIRE NOTICE CAREFULLY.
YOU MAY BE ENTITLED TO RECEIVE A SUBSTANTIAL PAYMENT.**

There are now pending in the United States District Court for the District of New Mexico, two consolidated actions filed as class actions on behalf of persons allegedly illegally strip searched by employees at the Doña Ana County Detention Center on or between March 7, 2003, and March 7, 2006 and at the Doña Ana County Juvenile Detention Center on or between May 16, 2003 and May 16, 2006. A Stipulation of Settlement, approved preliminarily by the Court, defines the Class as follows:

All persons arrested on charges not involving violence, drugs or weapons, on or between March 7, 2003, and March 7, 2006, who were strip searched at the Doña Ana County Detention Center prior to arraignment, and all persons arrested on charges not involving violence, drugs or weapons, on or between May 16, 2003 and May 16, 2006, who were strip searched at the Doña Ana County Juvenile Detention Center prior to arraignment.

You have received this Notice either because Doña Ana County Adult or Juvenile Detention Center records indicate that you may be in the Class or because you contacted the Claims Administrator. Whether or not you qualify as a Class member will be based upon information you submit in your Claim Form and records maintained by Doña Ana County Adult or Juvenile Detention Center. If Detention Center records do not contain your name and show you to be within the definition of the Class, you will not qualify.

This Notice is to inform you that a settlement has been proposed in this action and that, as a potential Class member, your rights may be affected by the Settlement. This Notice also summarizes the terms and effect of the proposed Settlement, what you can do to participate in it, how you may obtain money under the Settlement and what you must do if you choose to exclude yourself from the Classes.

Exhibit 2

SUMMARY OF THE PROPOSED TERMS

A Settlement Agreement (Settlement) was entered into after intensive negotiations between the parties, conducted with the assistance of a third party mediator. The Parties are requesting that the Court approve the Settlement.

A. Parties to the Settlement.

The parties to the Settlement are the Plaintiffs named in *Lira, et al. v. Doña Ana County Board of Commissioners, et al.*, United States District Court for the District of New Mexico, Case No. CIV 06-0179 WPJ/WPL, consolidated with *Rodriguez v. Doña County Board of Commissioners, et al.*, No. CIV 06-0416 JH/CEG, filed on behalf of themselves and the Class, and various Defendants including Doña Ana County Board of Commissioners and named individual employees. Counsel for the Class are Robert R. Rothstein, John C. Bienvenu and Mark H. Donatelli, of Rothstein, Donatelli, Hughes, Dahlstrom, Schoenburg & Bienvenu, LLP, Post Office Box 8180, 1215 Paseo de Peralta, Santa Fe, New Mexico 87504-8180; and Michael W. Lilley, Jess R. Lilley, and Marc A. Lilley, of the Lilley Law Offices, 1014 S. Main St., Las Cruces, New Mexico, 88005-2919.

B. Defendants Do Not Admit Any Liability

Plaintiffs allege that the acts and/or omissions which are the subject of the claims covered by this action (strip searches) violated various state and federal laws. Defendants deny all allegations of wrongdoing and deny any liability to Plaintiffs or to any other Class members. The parties have agreed that, in order to avoid long and costly litigation, this controversy should be settled pursuant to the terms of the Settlement as described in this Notice, subject to the approval of the Court.

C. Monetary Terms of Settlement

1. Payment of Claims

Defendants shall pay \$5,300,000.00 (Five Million Three Hundred Thousand Dollars) under the terms of the Settlement which will be referred to as the Class Fund.

The Class Fund will be used to pay the claims submitted and the claims of the representative Plaintiffs, the expenses of the Claims Administrator, and attorneys' fees and costs of \$1,666,667.00, subject to approval of the Court.

2. Payment to Representative Plaintiffs

Under the terms of the Settlement, representative Plaintiffs Jesus Lira, Ben Garcia, Graciela Martinez, Stephen Culler, Cynthia Archer, Frederick Garcia, Douglas Beidle and Amber Rodriguez, will each receive an amount of \$25,000.00, in addition to whatever amounts they are entitled to as class members, subject to approval of the Court.

3. Payment to Class Members Who File Claims

Money for the Class will be paid on the following basis:

All of the Claim Forms received by the Bar Date will be reviewed and compared to the database of all eligible claimants. Those Claim Forms which qualify for payment will be counted and the amount of money available for satisfaction of individual claims submitted by Class members will be divided by the total number of claims which qualify for payment and each claimant will

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receive his or her pro-rata share of the Settlement. All persons who were arrested on charges not involving violence, drugs or weapons, as defined in Exhibit 4 to the Stipulation of Settlement, on or between March 7, 2003, to March 7, 2006, who were strip searched at the Doña Ana County Detention Center in Las Cruces, New Mexico, prior to arraignment, and all persons who were arrested on charges not involving violence, drugs or weapons, as defined in Exhibit 4 to the Stipulation of Settlement, on or between May 16, 2003, to May 16, 2006, who were strip searched at the Doña Ana County Juvenile Detention Center in Las Cruces, New Mexico, prior to arraignment, and who submit valid claim forms will be entitled to receive compensation under this Settlement. Read the rest of this Notice to find out how to get a Claim Form.

D. Strip Search Policy

Effective ____, 2006, the Doña Ana County Detention Center and the Doña Ana County Juvenile Detention Center implemented a strip search policy under which pre-arraignment detainees charged with offenses not involving violence, drugs or weapons will not be strip searched upon admission without reasonable suspicion that a strip search would be productive of contraband or weapons. The strip search policy implemented on ____, is not challenged in this lawsuit.

E. Your Options as a Class Member

1. Be Bound by and Participate in the Settlement.

To qualify for a payment, you must send in a completed Claim Form, signed under penalty of perjury, to the Claims Administrator. If you receive a notice by First Class Mail, a Claim Form will be included in the notice package. You can also get a Claim Form by: (1) calling this toll free number: ____ [toll free number] ____; (2) visiting the website ____ [website] ____; or (3) writing the Claims Administrator at: *Doña Ana County Strip Search Class Action, c/o Claims Administrator, [address]*.

You have until ____, to submit a claim or to opt -out of the Settlement.

Mail your completed Claim Form to: *Doña Ana County Strip Search Class Action, c/o Claims Administrator, __[address]__.*

Remember, if you do not submit a Claim Form, you cannot get a payment. If you submit a Claim Form, you will be bound by the Settlement and receive money (if you are a Class member). If you do not submit a Claim Form but do not exclude yourself from the Class (as explained in the next paragraph), you will be bound by the terms of the Settlement and dismissal entered in this case, but you will not receive any money.

By participating in this Settlement you will be waiving all your rights to all claims up to and including March 7, 2006 (for adults) and May 16, 2006 (for juveniles), related to strip searches at Doña Ana County Detention Center and the Doña Ana County Juvenile Detention Center in Las Cruces, New Mexico, even those of which you are not presently aware.

2. Exclude Yourself From the Class

You do not have to take part in the Settlement or be a member of the Class. This is called excluding yourself. If you exclude yourself, you cannot get a payment and you cannot object to the Settlement. Any Court orders will not apply to you. To exclude yourself, you must sign an Opt-Out Form that states that you want to be excluded from *Lira v. Doña Ana County, et al.*, United States District Court for the District of New Mexico, Case No. CIV 06-0179 WPJ/WPL and *Rodriguez v. Doña Ana County, et al.*,

If you do not follow these instructions properly, you will lose your right to exclude yourself. If you exclude yourself, you cannot get any money from the Settlement of this case and you cannot tell the Court you do not like the Settlement (which is called objecting). If you exclude yourself, you are no longer part of the Class or the Settlement, but you can sue or be part of a different lawsuit about your claims.

F. Fairness Hearing and Process for Objections.

A Fairness Hearing will be held on _____, at _____m., at the United States District Court for the District of New Mexico, _____, New Mexico. If you are a Class member and do not exclude yourself, you can tell the Court you do not like the Settlement or some part of it at this hearing. This is called objecting to the Settlement. For example, you can say you do not think the Settlement is fair or adequate. The Court will consider your views.

At the Fairness Hearing, the Court may schedule further hearings without further notice to the Classes. The matters considered at such future hearings may include, but shall not be limited to, further consideration of the fairness and adequacy of the proposed Settlement, the determination of the Settlement of individual claims filed by Class members, consideration of the request for attorneys' fees and reimbursement of costs and expenses to Class Counsel, and the form and entry of the final judgment of dismissal in the event the proposed Settlement is approved by the Court.

Individually, or through counsel, any Class member has the right to object to the proposed Settlement as a whole, to the amount of attorneys' fees and costs of Class Counsel, or to any portion of either. ANY SUCH OBJECTIONS MUST BE FILED IN WRITING ON OR BEFORE _____, IN THE UNITED STATES DISTRICT COURT, DISTRICT OF NEW MEXICO, 333 LOMAS N.W., ALBUQUERQUE, NEW MEXICO 87102, ATTENTION: CLERK, RE: *LIRA V. DOÑA ANA COUNTY BOARD OF COMMISSIONERS, ET AL.*, CASE NO. CV 05-0179 WPJ/WPL. If you wish to appear and present your objections at the Fairness Hearing, you must also submit a Notice of Intention to Appear that identifies the case, contains your name and address, and explains the reason the appearance is desired. The Notice of Intention to Appear and any objections must be filed with the Court on or before _____. You may be represented by your own attorney. If you are to be represented by an attorney at the hearing, his or her name, address and telephone number must be included in the Notice of Intention to Appear as well.

A copy of the Statement of Objection and/or Notice of Intention to Appear must also be mailed to: Rothstein, Donatelli, Hughes, Dahlstrom, Schoenburg & Bienvenu, LLP, Post Office Box 8180, 1215 Paseo de Peralta, Santa Fe, NM 87504-8180, Attention: Robert R. Rothstein/John C. Bienvenu/Mark H. Donatelli; Lilley Law Offices, 1014 S. Main, Las Cruces, NM 88005, Attention: Michael W. Lilley/Jess R. Lilley/Marc Lilley; and Carrillo Law, LLC, P.O. Box 457, 437 E. Lohman Ave., Las Cruces, NM 88001, Attention: Raul A. Carrillo, Jr.; and Keleher & McLeod, P.A., Post Office Box AA, Albuquerque, NM 87103, Attention: Kurt Wihl.

G. How to Obtain Further Information

For additional information regarding the Settlement and Claim Form, or a copy of the Settlement Agreement, Claim Form or Class Counsel's Application for Attorneys' Fees, you or your counsel should contact: *Doña Ana County Strip Search Class Action, c/o Claims Administrator, [address]*. You may also check the Class Administrator's website at _____ [website] _____ or call _____ [toll free number] _____. You may also obtain detailed information about the case by examining the Court file located in the office of the Clerk of the United States District Court for the District of New Mexico, 333 Lomas N.W., Albuquerque, New Mexico 87102.

H. Court Approval

Although the Court has reviewed the proposed Settlement, no decision has been, or will be, reached by the Court, until the Fairness Hearing. This Notice does not indicate that the Court has approved the Settlement.

Dated: _____

William P. Johnson
United States District Judge

IF YOU WERE STRIP SEARCHED AT THE DOÑA ANA COUNTY DETENTION CENTER PRIOR TO YOUR ARRAIGNMENT ON OR BETWEEN MARCH 7, 2003 AND MARCH 7, 2006 OR AT THE DOÑA ANA COUNTY JUVENILE DETENTION CENTER PRIOR TO YOUR ARRAIGNMENT ON OR BETWEEN MAY 16, 2003 AND MAY 16, 2006, YOU MAY BE ENTITLED TO A SUBSTANTIAL PAYMENT UNDER A CLASS ACTION SETTLEMENT

There is a proposed Settlement of two consolidated Class Action lawsuits, *Lira v. Doña Ana County Board of Commissioners, et al.*, and *Rodriguez v. Doña Ana County Board of Commissioner, et al.*, pending in the United States District Court for the District of New Mexico. The lawsuits concern the strip search policy and practices at the Doña Ana County Detention Center and the Doña Ana County Juvenile Detention Center in Las Cruces, New Mexico.

What Is the Litigation About?

Plaintiffs alleged that Defendants violated various federal and state laws by strip searching certain persons at the Doña Ana County Detention Center between March 7, 2003 and March 7, 2006 or at the Doña Ana County Juvenile Detention Center in Las Cruces, New Mexico, between May 16, 2003, and May 16, 2006.

Who Is Involved?

You may be a member of the Settlement Class if you were strip searched at the Doña Ana County Detention Center in Las Cruces, New Mexico, prior to arraignment between March 7, 2003, and March 7, 2006, or if you were strip searched at the Doña Ana County Juvenile Detention Center in Las Cruces, New Mexico, prior to arraignment between May 16, 2003, and May 16, 2006. To see if you may qualify for a payment you should check the website or call the toll free number below.

What are the Terms?

The total settlement in this case is \$5,300,000.00. At the conclusion of the Claims Period, the amount available for payment of claims will be divided by the number of qualifying claims submitted.

Class Counsel will apply to the Court for an attorneys' fee and cost award of \$1,666,667.00. The eight representative Plaintiffs will apply for awards of \$25,000 each. Actual costs incurred by the Claims Administrator will be paid from the settlement.

For more information or to receive a claim form, consult the website or call the toll free number below.

What are My Legal Rights?

If you wish to share in the Settlement Fund you must file a claim as discussed below. If the Court approves the Proposed Settlement, you will receive a payment if you qualify. You will also be bound by all of the Court's orders. This means you will drop and release any claims you may have against the Defendants covered by this Settlement.

If you wish to participate in this settlement you must complete a Claim Form. You can get a Claim Form by contacting the Claims Administrator, in writing, at the address given below, or by calling the toll free number. Claim Forms must be signed under penalty of perjury and returned to the Claims Administrator post-marked no later than _____.

If you do not wish to be a member of the Settlement Classes, you must sign an Opt-Out Form as outlined in the Stipulation of Settlement and Notice which you can download from the website or get from the Claims Administrator. Your Opt-Out Form must be signed, under penalty of perjury, and returned to the Claims Administrator post-marked no later than _____.

When Will the Settlement be Approved?

The United States District Court for the District of New Mexico will hold a Fairness Hearing to decide if the proposed settlement is fair, reasonable and adequate at _____m. on _____, at the United States District Court, Courtroom of Judge William P. Johnson, _____. At the hearing the Court will also consider whether Class Counsel's request for attorneys' fees and costs is fair, reasonable, and adequate.

If you remain a member of the Settlement Classes you or your counsel have the right to appear before the Court and to object to the Settlement. However, in order to object, you must file a written objection, as outlined in the Stipulation of Settlement and long form notice. Objections must be filed with the Court by _____.

FOR INFORMATION ON THE PROPOSED SETTLEMENT, YOUR RIGHTS, AND A COPY OF THE NOTICE:

VISIT: _____ [website] _____ Call: _____ [toll free number] _____

or Write: **Doña Ana County Strip Search Class Action,**
c/o Claims Administrator, [address]

PLEASE DO NOT CALL THE COURT

**LIST OF EXAMPLE OFFENSES INVOLVING
DRUGS, WEAPONS OR VIOLENCE**

Charges involving drugs, weapons or violence means the following or substantially similar New Mexico statutory, federal, tribal, and/or local offenses, including juvenile offenses based on the same statutes:

§ 30-31-20	Trafficking controlled substances; violation
§ 30-31-21	Distribution to a minor
§ 30-31-22	Controlled or counterfeit substances; distribution prohibited
§ 30-31-23	Controlled substances; possession prohibited
§ 30-31-24	Controlled substances; violations of administrative provisions
§ 30-31-25	Controlled substances; prohibited acts
§ 30-31-25.1	Possession, delivery or manufacture of drug paraphernalia prohibited; exceptions
§ 30-31-41	Anabolic steroids; possession; distribution; penalties; notice
§ 30-31A-4	Manufacture, distribution [or possession] of imitation controlled substance.
§ 30-31A-5	Sale to a minor
§ 30-31A-6	Possession with intent to distribute an imitation controlled substance
§ 30-31B-1	New Mexico Drug Precursor Act
30-31B-12	Drug precursors; prohibited acts; penalties
§ 30-28-1	Attempt to commit a felony (if involving the preceding offenses)
§ 30-28-2	Conspiracy (if involving the preceding offenses)
§ 30-28-3	Criminal solicitation (if involving the preceding offenses)

Exhibit 4

NMSA 1978, § 30-7-2	Unlawful Carrying of a Deadly Weapon
§ 30-7-2.1	Unlawful Carrying of a Deadly Weapon on School Premises
§ 30-7-2.2	Unlawful Possession of a Handgun
§ 30-7-2.4	Unlawful Carrying of Firearm on University Premises
§ 30-7-3	Unlawful Carrying of Firearm in Liquor Establishment
§ 30-7-4	Negligent Use of a Deadly Weapon
§ 30-7-5	Dangerous Use of Explosives
§ 30-7-6	Negligent Use of Explosives
§ 30-7-7	Unlawful Sale, Possession, or Transportation of Explosives
§ 30-7-8	Unlawful Possession of Switchblade
§ 30-7-12	Bus Crimes
§ 30-7-13	Weapon on a Bus
§ 30-7-16	Felon in Possession
§ 30-7-19	Possession of Explosives
§ 30-7-19.1	Possession of Explosive or Incendiary Device
§ 30-7-20	Hoax Bomb
§ 30-28-1	Attempt to commit a felony (if involving the preceding offenses)
§ 30-28-2	Conspiracy (if involving the preceding offenses)
§ 30-28-3	Criminal solicitation (if involving the preceding offenses)

NMSA 1978, § 30-2-1	Murder
§ 30-2-1(A)	First Degree Murder
§ 30-2-1(B)	Second Degree Murder
§ 30-2-3	Manslaughter
§ 30-2-3(A)	Voluntary Manslaughter
§ 30-2-3(B)	Involuntary Manslaughter
§ 30-3-2	Aggravated Assault
§ 30-3-3	Assault w/intent to commit violent felony (incl. murder, mayhem, CSP, robbery and burglary)
§ 30-3-5	Aggravated Battery
§ 30-3-7	Injury to Pregnant Woman
§ 30-3-8	Shooting at dwelling place or at or from vehicle
§ 30-3-8(A)	Shooting at dwelling place
§ 30-3-8(B)	Shooting at or from vehicle
§ 30-3-9	Assault/Battery on School Personnel
§ 30-3-9.1	Assault/Battery on Sports Official
§ 30-3-13	Aggravated Assault on a Household Member
§ 30-3-14	Aggravated Assault on HHM w/ intent to commit violent felony
§ 30-3-15	Battery Against a Household Member
§ 30-3-16	Aggravated Battery Against a Household Member
§ 30-3A-3.1	Aggravated Stalking
§ 30-4-1	Kidnapping
§ 30-6-1(D)(2)	Child Abuse
§ 30-6A-3	Sexual Exploitation of Children
§ 30-6A-4	Sexual Exploitation of Children by Prostitution
§ 30-9-11	Criminal Sexual Penetration
§ 30-9-12	Criminal Sexual Contact
§ 30-9-13	Criminal Sexual Contact of a Minor
§ 30-16-2	Robbery
§ 30-16-4	Aggravated Burglary
§ 30-17-5(A)	Arson
§ 30-17-6	Aggravated Arson
§ 30-20-2	Public affray
§ 30-20-11	Dueling
§ 30-20-16	Bomb scares unlawful
§ 30-20A-3	[Antiterrorism Act] Unlawful acts; penalty
§ 30-21-1	Sabotage
§ 30-22-1.1	Aggravated fleeing a law enforcement officer
§ 30-22-11	Assisting escape
§ 30-22-12	Furnishing articles for prisoner's escape

§ 30-22-16	Possession of deadly weapon or explosive by prisoner
§ 30-22-17	Assault by prisoner
§ 30-22-21	Assault upon peace officer
§ 30-22-22	Aggravated assault upon peace officer
§ 30-22-23	Assault with intent to commit violent felony upon peace officer
§ 30-22-24	Battery upon peace officer
§ 30-22-25	Aggravated battery upon peace officer
§ 30-22-26	Assisting in assault upon peace officer
§ 30-22-27	Disarming a peace officer
§ 30-24-3(A)(2)(3) & (B)	Bribery or intimidation of a witness; retaliation against a witness
§ 30-28-1	Attempt to commit a felony (involving the preceding offenses)
§ 30-28-2	Conspiracy (if involving the preceding offenses)
§ 30-28-3	Criminal solicitation (if involving the preceding offenses)
§ 30-47-4	Abuse of a resident; criminal penalties

OPT-OUT FORM

**DOÑA ANA COUNTY STRIP SEARCH LAW SUITS
LIRA v. DOÑA ANA COUNTY BOARD OF COMMISSIONERS, et al.
RODRIGUEZ v. DOÑA ANA COUNTY BOARD OF COMMISSIONERS, et
al.**

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW
MEXICO**

No. CIV 06-0179 WPJ/WPL and No. CIV 06-0416 JH/CEG

IN ORDER TO **EXCLUDE** YOURSELF FROM THE SETTLEMENT CLASSES THAT HAVE BEEN CERTIFIED IN THIS PROCEEDING, YOU MUST SUBMIT THIS OPT-OUT FORM SO THAT IT IS POSTMARKED OR OTHERWISE DELIVERED NO LATER THAN _____.

IF THIS OPT-OUT FORM IS TIMELY AND PROPERLY SUBMITTED, THEN YOU WILL BE EXCLUDED FROM THE SETTLEMENT CLASSES AND YOU WILL NOT BE ENTITLED TO ANY BENEFITS UNDER THE SETTLEMENT AGREEMENT, YOU WILL NOT BE ENTITLED TO OBJECT TO THE SETTLEMENT AGREEMENT, AND YOU WILL NOT BE BOUND BY THE RELEASE OF CLAIMS SET FORTH IN THE SETTLEMENT AGREEMENT AND SUMMARIZED IN THE NOTICE OF PROPOSED SETTLEMENT OF DOÑA ANA COUNTY CLASS ACTION STRIP SEARCH CASE.

Before electing to opt-out and exclude yourself from the Settlement Classes, you should read the enclosed Notice of Proposed Settlement of Doña Ana County Class Action Strip Search Case to understand the effect of either opting out of the Settlement Classes or not opting out of the Settlement Classes. You have the right to confer with Plaintiffs' Class Counsel or counsel of your own choosing, before executing this Opt-Out Form. If you have any questions regarding the effect of opting out of the Settlement Classes or not opting out of the Settlement Classes, or need any further information or assistance, please contact the Claims Administrator [address, website, toll-free number].

INSTRUCTIONS:

1. Questions 1-6 of the Sworn Affidavit below must be answered.
2. The Opt-Out Form must be signed under penalty of perjury. If you are under 18 at the time of signing the Form must also be signed by a parent or guardian.
3. The completed Opt-Out Form must be sent to the following address so that it is postmarked or otherwise delivered no later than _____ : Administrator
[ADDRESS]

Exhibit 5

- 4. After submitting the completed Opt-Out Form, you may be required to submit additional proof, including a photocopy of your passport, birth certificate, or other identifying document.

SWORN AFFIDAVIT

STATE OF _____)
) ss.
 COUNTY OF _____)

- 1. My name is: _____
 (first) (middle) (last)
- 2. My home address is: _____

- 3. My telephone number (including area code) is: _____ (day) _____
 (evening)
- 4. My Social Security number is: _____
- 5. My date of birth is: _____

6. **I WANT TO BE EXCLUDED FROM THE SETTLEMENT CLASSES CERTIFIED IN THIS PROCEEDING AND FROM ALL BENEFITS OTHERWISE AVAILABLE TO ME UNDER THE SETTLEMENT:** _____ Yes

CERTIFICATION UNDER PENALTY OF PERJURY

I hereby affirm and declare under penalty of perjury that I have read and understand the contents of this Opt-Out Form and the Notice of Proposed Settlement of Doña Ana County Class Action Strip Search Case, the statements made in this Opt-Out Form are true and correct, and I am over the age of eighteen (18) and am of sound mind. I UNDERSTAND THAT BY SIGNING THIS OPT-OUT FORM I WILL NOT BE ENTITLED TO THE BENEFITS OF THE SETTLEMENT AGREEMENT.

 Signature Type or print name Date

I am presently under the age of 18 and this Form is being signed by my parent or guardian.

 Signature Type or print name Date