08-00467

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHEN DIMITRI BUSSY, individually and on behalf of a class of others similarly situated, Plaintiff, v. THE GEO GROUP, INC, in its official and individual capacities, and JOHN DOES 1 – 100, in their official and individual capacities, Defendants.	COMPLAINT -- CLASS ACTION Civil Action No. JURY TRIAL DEMANDED

INTRODUCTION

1. This is a class action brought against Defendants The GEO Group, Inc. ("GEO") and John Doe Defendants 1 – 100 (collectively with GEO, "Defendants") in their individual capacities and in their official capacities as administrators, managers, and/or operators of the "Facilities," as that phrase is defined herein. Defendant GEO has been hired by various governmental entities across the country to manage, oversee, and operate their prisons, jails, correctional facilities, residential, detention, treatment, and medical facilities. This action seeks to redress and prevent the deprivation of rights secured to Plaintiff Stephen Dimitri Bussy ("Plaintiff") and the proposed Class under the United States Constitution, the laws of the United States and of various states. The Defendants, while serving as government actors, have employed a uniform practice and/or procedure of strip-searching all pre-trial detainees who enter the Facilities, regardless of the crime or

violation for which they are detained, and without making the legally required determination of whether reasonable suspicion exists to justify a strip search (the "Illegal Strip Search Practice or Policy"). Upon information and belief, this uniform practice and procedure is, in part, derived from the written policies and procedures of the Defendants, and is implemented, employed and/or overseen by Defendants at numerous jails across the United States.

2. Individuals charged with non-violent and non-drug related offenses cannot be lawfully strip searched upon entry or transfer to jail absent particularized suspicion that those detainees possess or are concealing weapons, drugs or other contraband. Thus, a blanket policy of conducting strip searches on all arrestees and/or pre-trial detainees on the ground that they are to be placed into the jail's general population is a violation of the detainee's constitutional rights.

3. The Illegal Strip Search Practice or Policy implemented, overseen, and/or employed by Defendants compels all new inmates and pre-trial detainees, regardless of the charges or circumstances, to undergo the indignities, humiliation and embarrassment of a strip search upon admission to the Facilities.

4. Plaintiff brings this action on behalf of himself and a Class of thousands of others who were unconstitutionally strip searched pursuant to Defendants' Illegal Strip Search Practice of Policy in various Facilities across the United States to vindicate their rights under the Fourth and Fourteenth Amendments and under state law.

5. GEO is a government actor and operates under color of state law in carrying out the function of operating a jail under contracts with various counties. The operation of jails is traditionally the exclusive prerogative of the government. When private organizations, such as Defendant GEO, contract to perform such governmental functions, those entities and its agents are liable for violations of federal and state created rights under, 42 U.S.C. § 1983, the United States Constitution, and under state tort law. For the purposes of this action, Defendant GEO stands in the shoes of the counties on whose behalf it has been hired to operate, manage, and oversee the Facilities.

JURISDICTION

6. This Court has jurisdiction over this action under the provisions of 28 U.S.C. §§ 1331, 1341 and 1343 and 42 U.S.C. § 1983. Plaintiff seeks to obtain compensatory damages, punitive damages, and declaratory 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 and 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 local government entities.

7. Jurisdiction is also conferred upon this Court pursuant to 28 U.S.C. § 1332(d)(2) because: (i) there are 100 or more class members, (ii) there is an aggregate amount in controversy of at least $5,000,000, exclusive of interest and costs, and (iii) there is minimal diversity because at least one plaintiff and one

defendant are citizens of different states. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

8. Venue is proper under 28 U.S.C. § 1391(e)(2) because the events giving rise to Plaintiff's claims and those of many of the proposed Class members occurred in substantial part in this judicial district. Defendant GEO operates at least one Jail facility that employs the Illegal Strip Search Practice or Policy that is located within the geographic region covered by this Court.

DEFINITIONS

9. As used herein, the phrase "Facilities" shall refer to any and all jail(s), prison(s), correctional, detention facility, residential, detention, treatment, and/or medical facilities: (i) where arrestees and/or pre-trial detainees are held, (ii) which Defendant GEO manages, administers, runs, and/or oversees, and (iii) that employs the Illegal Strip Search Practice of Policy. The phrase "Facilities" is limited to jail(s), prison(s), correctional, detention facility, residential, detention, treatment, and/or medical facilities that Defendant GEO manages, administers, and/or oversees on behalf of any local government, municipality, or county in the United States.

10. The "Illegal Strip Search Practice or Policy" shall refer to the Defendants' written, unwritten, and/or *de facto* policy or practice of strip searching all individuals detained for misdemeanors, summary offenses, violations of probation or parole, traffic infractions, civil commitments and/or other similar charges upon their commitment to one or more of the Facilities.

11. For purposes of this Complaint, strip and visual cavity searches are collectively referred to as "Strip Searches."

PARTIES

12. Plaintiff Bussy is an adult male who resides at 411 Manchester Avenue, Apt. 202, in Media, Pennsylvania. On July 31, 2007, Plaintiff was arrested and charged with DUI, public drunkenness and criminal trespass for allegedly entering a public parking garage unlawfully. After being placed into the custody of Defendants, and as described in more detail *infra*, Plaintiff was subject to an unconstitutional strip search at one of the Facilities.

13. Defendant GEO is a Florida corporation whose common stock is publicly traded on the New York Stock Exchange (NYSE:GEO). According to its most recent Form 10-K filed with the Securities and Exchange Commission ("SEC"), GEO recorded revenues in excess of $860 million in 2006. As of December 31, 2006, Defendant GEO had over 10,000 full-time employees. GEO can be served at its headquarters at One Park Place, Suite 700, 621 Northwest 53rd Street in Boca Raton, Florida. GEO has previously operated under the name "Wackenhut Corrections Corp."

14. In its SEC filings, Defendant GEO describes itself as "a leading provider of government-outsourced services specializing in the management of correctional, detention and mental health and residential treatment facilities in the United States, Australia, South Africa, the United Kingdom and Canada. We operate a broad range of correctional and detention facilities including maximum,

medium and minimum security prisons, immigration detention centers, minimum security detention centers and mental health and residential treatment facilities. Our correctional and detention management services involve the provision of security, administrative, rehabilitation, education, health and food services, primarily at adult male correctional and detention facilities."

15. As of December 31, 2006, Defendant GEO operated a total of sixty-two (62) correctional, detention, and mental health residential treatment facilities. Upon information and belief, GEO operates and/or manages jails, prisons, and correctional facilities in sixteen (16) different states.

16. Various other individual persons (including without limitation, law enforcement and corrections officers), the identities of whom are presently unknown to Plaintiff and his counsel, have participated as co-conspirators with GEO and other actors in the violations alleged herein, and have performed acts in furtherance thereof. Collectively, these defendants shall be referred to herein as the "John Doe Defendants," and they include, without limitation, the various local government, municipal, and county entities with which Defendant GEO contracted regarding the maintenance and management of their prisons. The acts charged in this Complaint have been done by Defendants and their co-conspirators, and/or were authorized, ordered or done by their respective officers, agents, employees or representatives.

17. At all times relevant hereto, Defendant GEO has acted as the agent of the respective local government, municipal, and county entities with which GEO contracted to manage/oversee the Facilities.

18. This complaint seeks monetary damages and other relief from the Defendants in their respective individual, official, and personal capacities.

FACTS

FACTS APPLICABLE TO THE CLASS GENERALLY

19. The Fourth Amendment of the United States Constitution, made applicable to the states by the Fourteenth Amendment, prohibits local government and county officials, including the Defendants in this action, from performing strip searches of arrestees who have been detained for non-violent, non-drug related offenses unless the corrections officer has reasonable suspicion to believe that the detainee is concealing weapons, drugs, or other contraband.

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

21. Upon information and belief, the Defendants have promulgated, implemented, enforced, carried out, and/or failed to rectify a written and/or *de facto* policy, practice or custom of uniformly strip searching all individuals placed into the custody of the Facilities without any demonstration or finding of reasonable suspicion. This written and/or *de facto* policy made the strip searching of arrestees and 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.

22. Pursuant to this written and/or *de facto* policy, each member of the Class, including Plaintiff, was the victim of a routine strip search upon their transfer and/or entry into one or more of the Facilities. These strip searches were conducted without any inquiry into or establishment of reasonable suspicion, and in fact were not supported by any suspicion at all. Strip searches are conducted for offenses which are non-violent and non-drug related in nature, and, taken alone, do not objectively give rise to a particularized reasonable suspicion that the detainee is concealing weapons, drugs, or other contraband.

23. As a direct and proximate result of the unlawful strip searches conducted pursuant to this written and/or *de facto* policy, the victims of the unlawful strip searches have suffered and in the future will suffer psychological pain, humiliation, and mental anguish.

FACTS APPLICABLE TO THE NAMED PLAINTIFF AND TO DEFENDANTS' HILL FACILITY

24. Plaintiff Bussy is a 53 year old male who resides with and cares for his 80 year old mother in their apartment in Media, Pennsylvania. Plaintiff has worked in the home health care field since the 1990s, and holds an undergraduate degree from the University of Massachusetts.

25. Plaintiff was arrested on July 31, 2007 by Officer Craig Nolan of the Media Borough Police Department, and was charged with DUI, public drunkenness, and criminal trespass.

26. Plaintiff's arrest was void of any reasonable suspicion that he harbored any weapons or contraband.

27. After being arrested and detained by Officer Nolan, Plaintiff was transported to a local detention center in Media. After informing police that he did not have sufficient funds readily available to make his $500 bail, Plaintiff was transported to the George W. Hill Correctional Facility (the "Hill Facility"), located at 500 Cheyney Road in Thornton, Pennsylvania.

28. The Hill Facility is managed by Defendant GEO pursuant to a contract that it has with Delaware County. Upon information and belief, Defendant GEO has run the Hill Facility since 1995. In November of 2007, it was reported that Delaware County and Defendant GEO agreed to a contract extension that calls for Defendant GEO to continue to operate the Hill Facility through 2009 under for $80 million. According to an article published in the November 28, 2007 edition of the *Philadelphia Daily News*, the annual cost of outsourcing the Hill Facility is the single largest expenditure of Delaware County tax dollars. Indeed, it has been reported that the County pays in excess of $3 million per month to Defendant GEO in exchange for operating the Hill Facility.

29. According to Delaware County's website, the Hill Facility is "responsible for the incarceration of pre-trial detainees and persons serving a county sentence of two years less one day or a state sentence of five years less one day." The County's website further provides that "[i]n 2005, the [Hill Facility] maintained a daily average population of 1817 residents." According to GEO's most

recent Form 10-K, the "Design Capacity" for the Hill Facility provides for 1,883 inmates.

30. Plaintiff was patted down by a law enforcement official before being transported to the Hill Facility. There was no indication that Plaintiff was in possession of a weapon, drugs, or other contraband.

31. When Plaintiff arrived at the Hill Facility he went through the intake process with other detainees. During this process, corrections officers at the Hill Facility went through all of Plaintiff's possessions. No drugs, weapons, or other contraband were found on Plaintiff.

32. Plaintiff was next taken into a room at the Hill Facility with a corrections officer, where Plaintiff was stripped searched. In connection with the strip search, Plaintiff was required to completely disrobe and lift up his testicles. Plaintiff's anal cavity was also visually inspected by a correctional officer.

33. Plaintiff observed other people going into this room in street clothes, and coming out in prison uniforms.

34. On a separate occasion, and while still a pre-trial detainee at the Hill Facility, Plaintiff was strip searched and forced to go into a shower with all the inmates from the entire block. The shower quarters were extremely crowded – making it difficult to comfortably move, much less breathe – and the floor of the shower room was covered in feces.

35. Because he was unable to make his bail, Plaintiff was detained at the Hill Facility for approximately four (4) months. While at the Hill Facility, other inmates shared their strip search experiences with him.

36. As a direct and proximate result of the unlawful strip-search conducted pursuant to Defendants' policy, practice and custom, Plaintiff has suffered and continues to suffer psychological pain, humiliation, suffering and mental anguish.

37. Defendants had no valid reason for conducting a strip search of either Plaintiff. Rather, Defendants' strip search of Plaintiff – and of all members of the Class – was conducted pursuant to a blanket and indiscriminate policy of strip searching each and every detainee processed at the Hill Facility and at the Facilities.

THE DEFENDANTS' WIDESPREAD ILLEGAL STRIP SEARCH PRACTICE OR POLICY AT THE FACILITIES

38. Upon information and belief, GEO and the John Doe Defendants operate the Facilities pursuant to a contract entered into with a state or local government, or with the federal government as the case may be. According to its SEC filings, GEO claims that it "operate[s] each facility in accordance with our company-wide policies and procedures and with the standards and guidelines required under the relevant management contract."

39. In carrying out its contractual arrangements with various government entities to maintain, supervise, manage and oversee the Facilities, Defendant GEO has served as governmental actors for purposes of, among other things, liability under 42 U.S.C. § 1983 and the United States Constitution. The administration of

a jail is an activity that is traditionally the exclusive prerogative of the government. The Facilities that are operated by Defendant GEO have all of the attributes of other jails that are publicly run by the government. Furthermore, by entering into agreements that call for Defendant GEO to operate and manage the Facilities (which has resulted in the imposition of the Illegal Strip Search Practice or Policy by Defendants), the various governmental entities with which GEO has contracted have affirmatively facilitated, encouraged, or authorized unlawful acts against its citizens. For purposes of this action, Defendants are governmental actors that stand in the shoes of the government(s) on whose behalf it was operating the Facilities. Indeed, Defendant GEO's most recent Form 10-K filed with the SEC provides that "we are required under our contracts to indemnify the contracting governmental agency for all claims and costs arising out of our management of facilities and, in some instances, we are required to maintain performance bonds relating to the construction, development, and operation of the facilities."

40. Plaintiff's experience at the Hill Facility was by no means an isolated event or an outlying occurrence. The other inmates with whom he spoke while he was detained at the Hill Facility claimed that they were also strip searched. As part of their pre-suit investigation, Plaintiff's Counsel has interviewed other pre-trial detainees who were charged with relatively minor offenses, and who were also indiscriminately strip searched at the Hill Facility. Furthermore, in an article published in the *Philadelphia Inquirer* on December 17, 2007, three current and former guards at the Hill Facility acknowledged that Defendant GEO Group

employs a blanket strip search policy that calls for the strip search of all detainees regardless of the crime with which they were charged, and without any showing of reasonable suspicion:

> The Delaware County jail, now run by a private firm, strip-searches thousands of inmates annually, regardless of charge, according to three current and former guards. County officials would not talk about the strip searches; neither would executives from the company, the Geo Group of Boca Raton, Fla.

41. Upon information and belief, Defendant's Illegal Strip Search Practice or Policy is implemented not only at the Hill Facility, but at all jails that Defendants are responsible for overseeing and managing all across the United States. Upon information and belief, for example, Defendants' have employed a broad strip search policy in its Lawrenceville Correctional Center in Lawrenceville, Virginia. The fact that the Illegal Strip Search Practice or Policy is part of a uniform, company-wide policy at GEO is further demonstrated by GEO's Form 10-K for the year ended 2006, where it claimed that it "operate[s] each facility in accordance with our company-wide policies and procedures and with the standards and guidelines required under the relevant management contract."

42. Upon information and belief, Defendants are responsible for the screening, hiring, training, monitoring, and supervision of its corrections officers and other employees at the Facilities. Defendants were directly responsible for the policy making activities at the Facilities, and implemented, enforced, and carried out the Illegal Strip Search Practice of Policy.

CLASS ACTION ALLEGATIONS

43. Plaintiff brings this action pursuant to Rules 23(a), 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of himself and a class of similarly situated individuals who were detained for non-violent and non-drug related offenses, and were strip searched upon their transfer and/or entry into one or more of the Facilities (the "Class").

44. Specifically, the Class that Plaintiff seeks to represent is defined as follows:

> All persons who have been or will be placed into the custody of one or more of the Facilities after being detained for misdemeanors, summary offenses, violations of probation or parole, traffic infractions, civil commitments, or other similar charges and/or crimes, and were or will be strip searched upon their transfer and/or entry into one or more of the Facilities pursuant to Defendants' Illegal Strip Search Policy. Excluded from the class are Defendants and any and all of their respective affiliates, legal representatives, heirs, successors, employees or assignees.

45. This action has been brought and may properly be maintained as a class action pursuant to the Federal Rules of Civil Procedure, as Plaintiff and the Class satisfy the numerosity, commonality, typicality and adequacy requirements for maintaining a class action under FED. R. CIV. P. 23(a).

46. The number of members in the Class is so numerous as to render joinder impracticable. Upon information and belief, there are at least hundreds of people detained for non-violent and non-drug related offenses who are placed into the custody of the County Jail every month - all of whom are members of the proposed Class. Indeed, in Defendant's Hill Facility alone the average daily inmate

population was in excess of 1,800 detainees. In GEO's 2006 Form 10-K, it claimed that it has "over 54,000 beds under management or for which we had been awarded contracts." Upon information and belief, the precise size of the Class can be readily determined from documents and records maintained by Defendants.

47. 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 the geographic area served by 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 on an individual basis.

48. Common questions of law and fact exist as to all members of the Class, in that they each possessed the right to be free from unreasonable searches, and each were victims of the blanket policy of Defendants that calls for strip searches absent individualized particularized suspicion, as required by law. All members of the Class were detained for non-violent and non-drug related offenses when placed into the custody of the Facilities, and all were illegally strip searched in violation of clearly established law.

49. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff, like all members of the Class, possess (and, at all relevant times, possessed) a constitutional right to be free from strip searches conducted without reasonable suspicion. Plaintiff and all Class members had their constitutional

rights violated as a result of being subjected to the blanket strip search policy of Defendants. As a result, Plaintiff and all members of the Class were injured due to Defendants' illegal conduct.

50. Plaintiff has the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of the Class. Plaintiff has no interests that are adverse to, or in conflict with, the interests of the members of the Class.

51. Plaintiff has retained counsel who have substantial experience and success in the prosecution of class actions and in civil rights litigation. In short, Plaintiff's counsel has the resources, expertise and experience to successfully prosecute this action against Defendants, and intends to prosecute this action vigorously. Counsel for the Plaintiff knows of no conflicts among members of the Class or between counsel and members of the Class.

52. This action, in part, seeks declaratory relief. As such, Plaintiff seeks class certification under FED. R. CIV. P. 23(b)(2), in that all Class members were subject to the same policy which required the illegal strip search of all individuals who are detained – including those who have been detained for non-violent and non-drug related offenses – and placed into the custody of the Jail. Defendants acted on grounds generally applicable to all class members, thereby making final equitable relief with respect to the Class as a whole appropriate with respect to the Defendants.

53. In addition to certification under FED. R. CIV. P. 23(b)(2), Plaintiff seeks certification under FED. R. CIV. P. 23(b)(3).

54. 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 Defendants' written and/or *de facto* policy of strip searching all individuals detained for non-violent and non-drug related offenses and who were committed to the Facilities, constitutes a violation of, *inter alia*, the Fourth and Fourteenth Amendments to the United States Constitution; whether Plaintiff and members of the Class are entitled to damages and/or equitable relief; and, if so, the measure and/or nature of this relief.

55. A class action is the superior method 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 maintenance of this action as a class action in this Court 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.

56. Upon information and belief, there are no other actions pending to address the Defendants' flagrant violations of the civil rights of members of the Class.

57. In the alternative to certification under FED. R. CIV. P. 23(b)(3), Plaintiff also seeks partial certification under FED. R. CIV. P. 23(c)(4), if appropriate.

CAUSES OF ACTION

COUNT I

Monetary Damages for Violations of 42 U.S.C. §1983

AGAINST ALL DEFENDANTS

58. Plaintiff incorporates by reference and realleges each and every allegation stated in the preceding paragraphs.

59. The Fourth Amendment of the United States Constitution, made applicable to the states by the Fourteenth Amendment, protects citizens from unreasonable searches by law enforcement officers, and prohibits officers from conducting strip searches of individuals detained for non-violent and non-drug related offenses absent particularized reasonable suspicion that the individual in question has weapons, drugs, or other contraband.

60. The actions of Defendants detailed above violated the Fourth and Fourteenth Amendment rights of Plaintiff and Class members.

61. The Defendants' administration and enforcement of the Illegal Strip Search Policy was the direct causal link between Defendants and the constitutional injuries complained of herein. As such, the Defendants are directly liable for the damages of Plaintiff and members of the Class.

62. Upon information and belief, Defendants are responsible for establishing the policies and procedures to be utilized in the operation of the County Facilities, and are responsible for the implementation of the strip search policy questioned in this lawsuit. As such, Defendants are responsible for the damages of the Plaintiff and members of the Class.

63. Upon information and belief, Defendants knew of the strip search policies of the Facilities, and acquiesced in strip searches conducted pursuant to these policies. Defendants' failure to take action with respect to these policies was the moving force behind the violations of the constitutional rights of Plaintiff and members of the Class. By maintaining and/or acquiescing in the Illegal Strip Search Practice or Policy, Defendants were deliberately indifferent to the risk of constitutional injury to the Plaintiff and member of the Class.

64. This conduct on the part of the Defendants represents a violation of 42 U.S.C. §1983, given that their unlawful actions were undertaken under color of state law.

COUNT II

Demand for Declaratory Judgment

AGAINST ALL DEFENDANTS

65. Plaintiff incorporates by reference and realleges each and every allegation stated in the preceding paragraphs.

66. The policy, custom and practice of the Defendants is clearly unconstitutional, in that these entities and individuals are directing/conducting the strip searches of all individuals placed into the Facilities based solely on Defendants' blanket strip search policy and without any particularized reasonable suspicion that the individuals in question have either weapons, drugs, or other contraband.

67. There exists a present case or controversy between Defendants on the one hand, and Plaintiff and Class members on the other. Without limitation, these live issues include whether Defendants' strip search policy, custom and practice is unconstitutional, and whether Plaintiff and members of the Class have been injured as a result of this policy, custom and practice.

68. Plaintiff and members of the Class respectfully request that this Court issue a declaratory judgment against Defendants that declares the Illegal Strip Search Practice or Policy of Defendants to be unconstitutional.

69. In the alternative, Plaintiff and members of the Class would be irreparably injured absent an order from this Court declaring these practices

unlawful and unconstitutional, as Plaintiff and Class members lack an adequate remedy at law to stop and remedy this illegal conduct.

COUNT III

Demand for Preliminary and Permanent Injunction

AGAINST ALL DEFENDANTS

70. Plaintiff incorporates by reference and realleges each and every allegations in the preceding paragraphs.

71. The policy, custom and practice of the Defendants is unconstitutional, in that it authorizes the strip searches of all individuals placed into the Facilities without any particularized suspicion that the individuals in question have either contraband or weapons.

72. Upon information and belief, this policy is currently in place at the Facilities, with new and/or prospective members of the Class being subjected to the harms that have already been inflicted upon the Plaintiff.

73. The continuing pattern of unconstitutionally strip searching individuals has caused and will cause irreparable harm to the new and/or prospective members of the Class, an adequate remedy for which does not exist at law.

74. Plaintiff and members of the Class would be irreparably injured absent an order from this Court declaring these practices unlawful and unconstitutional.

75. Plaintiff and members of the Class are reasonably likely to succeed the on merits of their underlying claim, thereby making the issuance of a preliminary injunction appropriate.

COUNT IV

BATTERY

AGAINST ALL DEFENDANTS

76. This count is being plead in the alternative to Counts I through III, and only to the extent that Defendant GEO and/or its agents are considered to be afforded any sovereign immunity defenses.

77. Defendants acted intending to cause a harmful or offensive contact with Plaintiff and members of the Class.

78. A harmful contact with the Plaintiff and Class members directly or indirectly resulted.

79. Plaintiff has suffered injuries as a result of Defendants' conduct.

COUNT V

NEGLIGENCE

AGAINST ALL DEFENDANTS

80. This count is being plead in the alternative to Counts I through III, and only to the extent that Defendant GEO and/or its agents are considered to be afforded any sovereign immunity defenses.

81. Defendants had a duty to act reasonably under the circumstances.

82. Defendants breached this duty by, *inter alia*, subjecting Plaintiff and Class members to its Illegal Strip Search Practice or Policy.

83. Plaintiff and Class members were injured as a direct and proximate cause of Defendants' negligence, and as a result of being subjected to Defendants' Illegal Strip Search Practice or Policy.

84. The injuries suffered by Plaintiff and Class members were reasonably foreseeable.

COUNT VI

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

AGAINST ALL DEFENDANTS

85. This count is being plead in the alternative to Counts I through III, and only to the extent that Defendant GEO and/or its agents are considered to be afforded any sovereign immunity defenses.

86. Defendants' conduct as described herein is extreme and outrageous.

87. Defendants' extreme and outrageous conduct intentionally or recklessly caused severe emotional distress to Plaintiff and Class members.

COUNT VII

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

AGAINST ALL DEFENDANTS

88. This count is being plead in the alternative to Counts I through III, and only to the extent that Defendant GEO and/or its agents are considered to be afforded any sovereign immunity defenses.

89. While in their custody and control, Defendant had a contractual or fiduciary duty toward Plaintiff and Class members.

90. Plaintiff suffered a physical impact as a result of Defendants' conduct described herein.

91. Plaintiff was in a "zone of danger" and at risk of an immediate physical injury as a result of Defendants' conduct described herein.

92. Defendants owed a duty of care to the Plaintiff and Class members.

93. Defendant breached that duty.

94. The breach resulted in injury to Plaintiff and Class members.

95. Plaintiff and Class members have suffered an actual loss or damage

DEMAND FOR PUNITIVE DAMAGES

96. The actions of the Defendants detailed herein are outrageous, in that they continue to propagate an illegal strip search policy in the face of numerous court decisions declaring such practices unlawful. The actions of the Defendants were undertaken with reckless disregard and callous indifference to the Fourth and Fourteenth rights of Plaintiff and Class members.

DEMAND FOR TRIAL BY JURY

97. Plaintiff and members of the Class hereby demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff on behalf of himself and on behalf of a Class of others similarly situated, respectfully request that this Court grant them the following relief:

A. An order certifying this action as a class action pursuant to FED. R. CIV. P. 23(a), 23(b)(2) and 23(b)(3);

B. An order against Defendants on Plaintiff's causes of action detailed herein, awarding compensatory damages to Plaintiff and each member of the proposed class in an amount to be determined at trial;

C. A declaratory judgment against Defendants declaring Defendants' policy, practice and custom of strip and visual cavity searching all pre-trial detainees entering the Facilities, regardless of the crime charged or suspicion of weapons, drugs, or other contraband, to be unconstitutional and improper. Further, Plaintiff respectfully requests that this Court issue a declaratory judgment declaring that Plaintiff and Class members have been injured as a result of the unconstitutional actions of Defendants;

D. The issuance of a preliminary and permanent injunction to prevent Defendants from continuing to violate the constitutional rights of Plaintiff and Class members; and

E. A monetary award for attorney's fees and the costs of this action, pursuant to 42 U.S.C. § 1988 and other applicable fee shifting statutes and principals.

Dated: January 30, 2008

Respectfully submitted,

By: _____

David Rudovsky (PA ID No. 15168)
Jonathan H. Feinberg
KAIRYS, RUDOVSKY, MESSING & FEINBERG LLP
The Cast Iron Building
718 Arch Street, Suite 501
Philadelphia, PA 19106
Office: 215-925-4400
Fax: 215-925-5365
E-mail: drudovsky@krlawphila.com

Joseph G. Sauder (PA ID No. 82467)
Benjamin F. Johns (PA ID No. 201373)
CHIMICLES & TIKELLIS LLP
One Haverford Centre
361 West Lancaster Avenue
Haverford, PA 19041
Telephone: (610) 642-8500
Facsimile: (610) 649-3633
E-mail: JosephSauder@chimicles.com

Christopher G. Hayes (PA ID No. 57253)
LAW OFFICE OF CHRISTOPHER G. HAYES
225 South Church Street
West Chester, PA 19382
610-431-9505 (phone)
610-431-1269 (fax)
Electronic Mail:
chris@chayeslaw.com

Daniel C. Levin (PA ID No. 80013)
Charles Schaffer (PA ID No. 76259)
LEVIN, FISHBEIN, SEDRAN & BERMAN
510 Walnut Street, Ste. 500
Lancaster, PA 19106
Telephone: 215-592-1500
Telecopier: 215-592-4663
Electronic Mail:
dlevin@lfsblaw.com

ATTORNEYS FOR PLAINTIFF AND
PROPOSED CLASS