

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Sandra King Wilson, and
Joseph DePietro,
both individually and on behalf of a class of
others similarly situated,

Plaintiffs,

v.

THE COUNTY OF GLOUCESTER,
GLOUCESTER COUNTY DEPARTMENT
OF SHERIFF, GILBERT MILLER, III,
both individually and in his
official capacity as Sheriff of the County of
Gloucester, JOSEPH C. O'LEARY, JR.,
both individually and in his official capacity :
as Undersheriff of the County of Gloucester,
MICHAEL SILVERT, both individually :
and in his official capacity as Undersheriff :
of the County of Gloucester, FRED :
CATALANO, both individually and in his :
official capacity as Chief Sheriff's Officer of :
the County of Gloucester, and
GLOUCESTER COUNTY DEPARTMENT
OF CORRECTIONS, ROBERT M.
BALICKI, both individually and in his :
official capacity as Director of the :
Department of Corrections of Gloucester :
County, DARRYL JOHNSON, both :
Individually and in his official capacity as :
Warden of the Department of Corrections :
of Gloucester County, CAROL PISTORIO :
both individually and in her official capacity :
as Captain of the Department of Corrections :
of Gloucester County

Defendants.

Civil Action Number

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

This is a class action brought to redress the deprivation by Defendants of rights secured to the Plaintiffs and proposed Class by the United States Constitution and the laws of the United States of America. For at least the past 2 years, the Gloucester County Sheriff's Department has had a policy of strip-searching all individuals who enter the Gloucester County Jail and are placed in jail clothing, regardless of the crime upon which they are charged. Upon information and belief, this policy is, in part, derived from the written procedures of the Gloucester County Sheriff's Department, and was promulgated by senior Department officials; specifically, Defendants Gilbert Miller, III, Joseph C. O'Leary, Michael Silvert, Fred Catalano, Robert M. Balicki, Darryl Johnson and Carol Pistorio.

It has been well established in this judicial circuit for many years that individuals charged with misdemeanors or violations cannot be strip-searched absent particularized suspicion that they possess weapons or contraband. In short, the policy of Gloucester County and the Gloucester County Sheriff's Department to force those charged with minor crimes to undergo the indignities of a strip search upon entry into the Gloucester County Jail is not only clearly illegal, but is insensitive and unnecessary.

Sandra King Wilson and Joseph DePietro bring this action on behalf of themselves, and on behalf of a class of thousands of others who were strip searched after being charged with petty crimes, to vindicate the clear and unnecessary violation of their civil rights and those of the class members they propose to represent. Both of these individuals were charged with misdemeanor and/or violation offenses, and both were subject to strip searches, in violation of their right against unreasonable searches under the Fourth Amendment of the United States Constitution. They seek monetary damages

for themselves and each member of the proposed class, a declaration that the Sheriff's Department's policies are unconstitutional, and an injunction precluding Gloucester County, Gloucester County Corrections and the Gloucester County Sheriff's Department from continuing to violate the rights of those placed into their custody. With this as a background, Plaintiffs Sandra King Wilson and Joseph DePietro complain as follows:

JURISDICTION

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

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

PARTIES

3. Plaintiff Sandra King Wilson ("Wilson") is 50 years old and resides in Camden, New Jersey. Ms. Wilson was arrested on or about September 2005 and placed in the Gloucester County Correctional Facility on charges of shop lifting, violation of probation for shop lifting and municipal detainers.

4. Plaintiff Joseph DePietro ("DePietro") resides in Gloucester County, New Jersey. DePietro was arrested on or about January 24, 2006 and transported to the Gloucester County Jail because of purported child support arrears.

5. Defendant County of Gloucester (the "County") is a county government organized and existing under the laws of the State of New Jersey. At all times relevant hereto, the County, acting through its Sheriff's Department, was responsible for the policies, practices, supervision, implementation and conduct of all matters pertaining to the Gloucester County Jail and was responsible for the appointment, training, supervision and conduct of all Sheriff's Department personnel, including those working in the Gloucester County Jail. In addition, at all relevant times, the County was responsible for enforcing the rules of the Gloucester County Jail, and for ensuring that Sheriff's Department personnel employed in the Jail obey the Constitution and laws of the United States and of the State of New Jersey.

6. The Gloucester County Sheriff's Department (the "Sheriff's Department") is a County Sheriff's Department organized and existing under the laws of the State of New Jersey. Although not a legal entity for the purposes of litigation, the Department is listed as a party for the purposes of identification. At all times relevant hereto, the Sheriff's Department was responsible for operating, organizing, overseeing and administering the Gloucester County Jail ("GCJ"). At all times relevant hereto, Defendant Sheriff's Department, together with the County of Gloucester, was responsible for the policies, practices, supervision, implementation and conduct of all matters pertaining to the GCJ, and was responsible for the appointment, training, supervision and conduct of all Sheriff's Department personnel, including those working in the GCJ. In addition, at all times relevant hereto, Defendant Sheriff's Department, together with the County of

Gloucester, was responsible for enforcing the rules of the Gloucester County Jail, and for ensuring that Sheriff's Department personnel employed in the GCJ obeyed the Constitution and laws of the United States and of the State of New Jersey.

7. Defendant Gloucester County Correctional Facility (the "Jail" or "GCCF") is a county governmental organization and exists under the laws of the State of New Jersey. At all times relevant hereto, the County, acting through its Sheriff's Department and GCCF, was responsible for the policies, practices, supervision, implementation and conduct of all matters pertaining to the Gloucester County Jail and was responsible for the appointment, training, supervision and conduct of all Sheriff's Department personnel, including those working in the Gloucester County Jail. In addition, at all relevant times, the County was responsible for enforcing the rules of the Gloucester County Jail, and for ensuring that Sheriff's Department and GCCF personnel employed in the Jail obey the Constitution and laws of the United States and of the State of New Jersey.

8. Defendant Gilbert Miller ("Sheriff Miller") is the duly elected Sheriff of Gloucester County, and, as such, is a policy maker with respect to the treatment of pre-trial and other detainees over which the GCJ exercises custodial or other control. Sheriff Miller's principal place of business is the Criminal Justice Complex, Hunter/Euclid Street, Woodbury, NJ 08096. Sheriff Miller is made a Defendant in this action in both his individual and official capacities.

9. Defendant Joseph C. O'Leary, Jr. ("Undersheriff O'Leary") is a duly appointed Undersheriff of Gloucester County, and, as such, is a policy maker with respect to the treatment of pre-trial and other detainees over which the GCJ exercises custodial or other control. Undersheriff O'Leary's principal place of business is the Criminal Justice

Complex, Hunter/Euclid Street, Woodbury, NJ 08096. Undersheriff O'Leary is made a Defendant in this action in both his individual and official capacities.

10. Defendant Michael Silvert ("Undersheriff Silvert") is a duly appointed Undersheriff of Gloucester County, and, as such, is a policy maker with respect to the treatment of pre-trial and other detainees over which the GCJ exercises custodial or other control. Undersheriff Silvert's principal place of business is the Criminal Justice Complex, Hunter/Euclid Street, Woodbury, NJ 08096. Undersheriff Silvert is made a Defendant in this action in both his individual and official capacities.

11. Defendant Fred Catalano, ("Officer Catalano") is the duly appointed Chief Sheriff's Officer of Gloucester County, and, as such, is a policy maker with respect to the treatment of pre-trial and other detainees over which the GCJ exercises custodial or other control. Officer Catalano's principal place of business is Criminal Justice Complex, Hunter/Euclid Street, Woodbury, NJ 08096. Officer Catalano is made a Defendant in this action in both his individual and official capacities.

12. Defendant Robert M. Balicki ("Director Balicki") is the duly appointed Director of the Gloucester County Department of Corrections, and, as such, is a policy maker with respect to the treatment of pre-trial and other detainees over which the GCJ exercises custodial or other control. Director Balicki's principal place of business is the Gloucester County Jail, 70 Hunter Street, Woodbury, NJ, 08096. Director Balicki is made a Defendant in this action in both his individual and official capacities.

13. Defendant Darryl Johnson ("Warden Johnson") is the duly appointed Warden of the Gloucester County Department of Corrections, and, as such, is a policy maker with respect to the treatment of pre-trial and other detainees over which the GCJ exercises custodial or other control. Warden Johnson's principal place of business is the

Gloucester County Jail, 70 Hunter Street, Woodbury, NJ, 08096. Warden Johnson is made a Defendant in this action in both his individual and official capacities.

14. Defendant Carol Pistorio (“Captain Pistorio”) is the duly appointed Captain of the Gloucester County Department of Corrections, and, as such, is a policy maker with respect to the treatment of pre-trial and other detainees over which the GCJ exercises custodial or other control. Captain Pistorio’s principal place of business is the Gloucester County Jail, 70 Hunter Street, Woodbury, NJ, 08096. Captain Pistorio is made a Defendant in this action in both his individual and official capacities.

15. Collectively, Sheriff Miller, Undersheriff O’Leary, Undersheriff Silvert, Officer Catalano, Director Balicki, Warden Johnson and Captain Pistorio will be referred to as the “Policy Making Defendants.”

CLASS ACTION ALLEGATIONS

16. Plaintiffs bring this action pursuant to Rules 23(b)(1), 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of themselves and a class of similarly situated individuals who were charged with misdemeanors or minor crimes and were strip searched upon their entry into the Gloucester County Jail.

17. The class that Plaintiffs seek to represent is defined as follows:

All persons who have been or will be placed into the custody of the Gloucester County Jail after being charged with misdemeanors, violations, violations of probation or parole, traffic infractions, civil commitments or other minor crimes and were or will be strip searched upon their entry into the Gloucester County Jail pursuant to the policy, custom and practice of the Gloucester County Sheriff's Department and the County of Gloucester. The class period commences on March 22, 2004 and extends to the date on which the Gloucester County Sheriff's Department and/or the County of Gloucester are enjoined from, or otherwise cease, enforcing their unconstitutional policy, practice and custom of conducting strip searches absent reasonable suspicion. Specifically excluded from the class are Defendants and any and all of their respective affiliates, legal representatives, heirs, successors, employees or assignees.

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

19. The members of the class are so numerous as to render joinder impracticable. Upon information and belief, there are hundreds of people arrested for misdemeanors and violations who are placed into the custody of the Gloucester County Jail every month – all of whom are members of the proposed class. Upon information and belief, the size of the proposed class totals at least 5,000 individuals, some of whom have had their civil rights violated on multiple occasions.

20. Upon information and belief, joinder of all of these individuals is impracticable because of the large number of class members and the fact that class members are likely dispersed over a large geographical area, with some members presently residing outside of Gloucester County and this Judicial District. Furthermore, upon information and belief, many members of the class are low-income persons, may not speak English, and likely would have great difficulty in pursuing their rights individually.

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

22. Plaintiffs' claims are typical of the claims of the members of the Class. Plaintiffs and all members of the class sustained damages arising out of Defendants' course of conduct. The harms suffered by the Plaintiffs are typical of the harms suffered by the class members.

23. The representative Plaintiffs have the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of the Class. Plaintiffs have no interests that are adverse to the interests of the members of the Class.

24. Plaintiffs have retained counsel who have substantial experience and success in the prosecution of class action and civil rights litigation. The named Plaintiffs are being represented by William Riback; Jonathan Cuneo and Charles LaDuca of Cuneo

Gilbert & LaDuca, LLP; Seth Lesser and Fran Rudich of the Locks Law Firm, PLLC; Elmer Robert Keach, III; and Gary E. Mason of The Mason Law Firm, PLLC.

25. William Riback is an experienced civil rights and class action attorney who has successfully litigated class actions in both state and federal courts in a number of jurisdictions across the country.

26. Jonathan W. Cuneo and Charles J. LaDuca of Cuneo Gilbert & LaDuca, LLP, have extensive experience in state and federal trial and appellate courts, before law enforcement authorities and in proceedings before the United States Congress. Cuneo and LaDuca have successfully prosecuted complex class actions, including cases involving securities fraud, antitrust violations, consumer protection and products liability in state and federal courts throughout the United States. In addition to this experience, Cuneo and LaDuca are co-counsel in several strip-search class actions, with Mr. Keach, one of which was recently certified in the United States District Court for the Northern District of New York against the County of Schenectady and other related Defendants.

27. Seth Lesser and Fran Rudich of the Locks Law Firm with offices in Cherry Hill and New York City, are both experienced civil rights and class action attorneys. Mr. Lesser is one of this country's premier class action attorneys having successfully litigated civil rights, consumer protection and products liability class actions against Fortune 500 companies in courts across the country, including both New Jersey state and federal courts. Ms. Rudich has litigated scores of individual and class action civil rights cases against a number of Defendants in over ten jurisdictions throughout the United States.

28. Mr. Keach is an experienced civil rights and class action attorney who has litigated a wide variety of civil rights actions, and has litigated class action lawsuits in state and federal courts in five states. Mr. Keach has successfully litigated strip search

cases against the Troy City Police Department and the Schenectady School District, and was lead counsel in the Rensselaer County Jail strip search class action that recently settled.

29. Gary E. Mason is one of this country's premier class action attorneys, with offices in Washington, DC. Mr. Mason has successfully litigated class actions against Fortune 500 companies in both state and federal court in over a dozen jurisdictions, including gaining a settlement for a class of purchasers of defective polybutylene pipe of \$ 950 million dollars. Mr. Mason has served as lead or co-counsel in numerous high profile class actions, including In Re The Exxon Valdez, In Re Diet Drugs Product Liability Litigation and In Re Synthetic Stucco (EIFS) Product Liability Litigation.

30. In short, Plaintiffs' counsel has the resources, expertise and experience to successfully prosecute this action against Gloucester County, the Gloucester County Sheriff's Department and the Policy Making Defendants. Counsel for Plaintiffs knows of no conflicts among members of the class, or between counsel and members of the class.

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

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

33. 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 charged with misdemeanors or minor crimes and committed to the Gloucester County Jail is a violation of the Fourth and Fourteenth Amendments to the United States Constitution, and whether such a written and/or *de facto* policy existed during the class period.

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

35. Upon information and belief, there are no other actions pending to address the Defendants' flagrant violation of the civil rights of thousands of individuals, even though the Defendants have maintained their illegal strip search regimen for at least the past 2 years.

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

FACTS

Facts Applicable to the Class Generally

37. The Fourth Amendment of the United States Constitution prohibits state officials, such as the Policy Making Defendants in this action and the Corrections Officers they supervise, from performing strip searches of arrestees who have been charged with misdemeanors or other minor crimes unless the officer has reasonable suspicion to believe that the arrestee is concealing a weapon or contraband.

38. Upon information and belief, the County of Gloucester, the Gloucester County Sheriff's Department and the Policy Making Defendants have instituted a written and/or *de facto* policy, custom or practice of strip searching all individuals who enter the custody of the Gloucester County Jail and are placed into jail clothing, regardless of the nature of their charged crime and without the presence of reasonable suspicion to believe that the individual was concealing a weapon or contraband.

39. Upon information and belief, the County of Gloucester, the Gloucester County Sheriff's Department and the Policy Making Defendants have instituted a written and/or *de facto* policy, custom or practice of conducting visual body cavity searches (visual inspection of the vaginal and rectal cavities) on all individuals who enter the custody of the Gloucester County Jail, regardless of the individual characteristics or the nature of their charged crime. For purposes of this Complaint, strip and visual cavity searches are collectively referred to as "strip searches."

40. The County of Gloucester, the Gloucester County Correctional Facility and the Gloucester County Sheriff's Department, and the Policy Making Defendants know

that they may not institute, enforce or permit enforcement of a policy or practice of conducting strip searches without particularized, reasonable suspicion. Upon information and belief, the Gloucester Police's written policy was based on the policy promulgated by the Gloucester County Sheriff's Department.

41. The Defendants' written and/or *de facto* policy, practice and custom mandating wholesale strip searches of all misdemeanor and violation arrestees has been promulgated, effectuated and/or enforced in bad faith and contrary to clearly established law.

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

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

44. Pursuant to this written and/or *de facto* policy, each member of the Class, including every named Plaintiff, was the victim of a routine strip search upon their entry into the Gloucester County Jail. These searches were conducted without inquiry into or establishment of reasonable suspicion, and in fact were not supported by reasonable

suspicion. Strip searches are conducted for individuals arrested for, among other innocuous offenses, Driving While Intoxicated, Harassment and Trespassing.

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

Facts Applicable to the Named Plaintiffs

A. SANDRA KING WILSON

46. Sandra King Wilson was arrested on September 2005 suspicion of 4th degree shoplifting and violation of probation which arose from a guilty plea to shoplifting in 2003.

47. Upon arrival of the Gloucester County Correctional Facility Ms. Wilson was required to undress in the shower area in the presence of an observing Correctional Officer. Ms. Wilson was required to bend down and cough while manually required to spread her buttocks. Ms. Wilson was then required to lift her breasts one at a time.

48. Defendants strip searched her according to policy without reasonable suspicion of drug or weapon possession.

49. As a direct and proximate result of the unlawful strip search conducted pursuant to County and Sheriff's Department policy, practice and custom, Wilson has suffered and continues to suffer psychological pain, humiliation, suffering and mental anguish.

B. JOSEPH DEPIETRO

50. Mr. DePietro is a disabled person receiving Social Security Disability benefits.

51. Mr. Depietro turned himself in to the Gloucester Sheriff's Office on outstanding child support warrants.

52. According to the Gloucester County Policy, Mr. Depietro was strip searched in the presence and requirement of Gloucester County Correctional Officers.

53. As a direct and proximate result of the unlawful strip search conducted pursuant to County and Sheriff's Department policy, practice and custom, DePietro has suffered and continues to suffer psychological pain, humiliation, suffering and mental anguish.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

Violation of Constitutional Rights Under Color of State Law

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

54. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 50.

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

56. The actions of Defendants detailed above violated Plaintiffs' rights under the United States Constitution. Simply put, it was not objectively reasonable for Gloucester County Corrections Officers to strip search Plaintiffs and Class members based on their arrests for misdemeanor/violation charges. It was also not objectively reasonable for the Policy Making Defendants to order/direct Gloucester County Corrections Officers to conduct such searches.

57. These strip searches were conducted pursuant to the policy, custom or practice of the County of Gloucester, the Gloucester County Correctional Facility and the Gloucester County Sheriff's Department. As such, the County of Gloucester is directly liable for the damages of the named Plaintiffs and members of the Class.

58. Upon information and belief, Sheriff Miller, Undersheriff O'Leary, Undersheriff Silvert, Officer Catalano, Director Balicki, Warden Johnson and Captain Pistorio are responsible for establishing the policies and procedures to be utilized in the operation of the Gloucester County Jail, and are responsible for the implementation of the strip search policy questioned in this lawsuit. As such, Miller, O'Leary, Silvert, Catalano and Balicki are each individually responsible for the damages of the named Plaintiffs and members of the Class.

59. Sheriff Miller, Undersheriff O'Leary, Undersheriff Silvert, Officer Catalano, Director Balicki, Warden Johnson and Captain Pistorio knew that the GCJ's strip search policy was illegal, and acted willfully, knowingly, and with specific intent to deprive Plaintiffs and members of the Class of their Constitutional rights.

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

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

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST ALL
DEFENDANTS**

-- Demand for Declaratory Judgment --

62. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 58.

63. The policy, custom and practice of the Gloucester County Sheriff's Department, the County of Gloucester and the Policy Making Defendants is clearly unconstitutional, in that these entities and individuals are directing/conducting the strip searches of all individuals placed into the Gloucester County Jail without any particularized suspicion that the individuals in question have either contraband or weapons.

64. Plaintiffs and members of the Class request that this Court issue a declaratory judgment, and that it declare the strip search policy of the County of Gloucester and the Gloucester County Sheriff's Department to be unconstitutional.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

-- Demand for Preliminary and Permanent Injunction --

65. Plaintiffs incorporate by reference and reallege each and every allegation stated in paragraphs 1 through 61.

66. The policy, custom and practice of the Gloucester County Sheriff's Department, the County of Gloucester and the Policy Making Defendants is clearly unconstitutional, in that these entities and individuals are directing/conducting the strip

searches of all individuals placed into the Gloucester County Jail without any particularized suspicion that the individuals in question have either contraband or weapons.

67. Upon information and belief, this policy is currently in place at the Gloucester County Jail, with new and/or prospective members of the Class being subjected to the harms that have already been inflicted upon the named Plaintiffs.

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

69. Plaintiffs demand that the County of Gloucester, the Gloucester County Sheriff's Department, the Policy Making Defendants and Gloucester County Corrections Officers immediately desist from strip searching individuals placed into the custody of the Gloucester County Jail absent any particularized suspicion that the individuals in question have either contraband or weapons, and seek both a preliminary and permanent injunction from this Court ordering as much.

DEMAND FOR PUNITIVE DAMAGES

70. The actions of the Individual Defendants detailed herein are outrageous, in that they continue to propagate an illegal strip search policy even though they know for a fact that their actions are unconstitutional.

71. It is clear that the Policy Making Defendants, the County of Gloucester and the Gloucester County Sheriff's Department have no respect for the civil rights of individual citizens or for the rule of law. Consequently, an award of punitive damages is necessary to punish the Policy Making Defendants, and to send a message to them that the requirements of the United States Constitution also apply to government officials in Gloucester County.

DEMAND FOR TRIAL BY JURY

72. The Plaintiffs hereby demand a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Wilson and DePietro, on behalf of themselves and on behalf of a class of others similarly situated, request that this Honorable Court grant them the following relief:

- A. An order certifying this action as a class action pursuant to Fed. R. Civ. P. 23.
- B. A judgment against all Defendants, jointly and severally on Plaintiffs' First Cause of Action detailed herein, awarding Compensatory Damages to each named Plaintiff and each member of the proposed class in an amount to be determined by a Jury and/or the Court on both an individual and a class wide basis.
- C. A judgment against Defendant Gilbert Miller, III on Plaintiffs' First Cause of Action.
- D. A judgment against Defendant Joseph C. O'Leary, Jr. on Plaintiffs' First Cause of Action.
- E. A judgment against Defendant Michael Silvert on Plaintiffs' First Cause of Action.

- F. A judgment against Defendant Fred Catalano on Plaintiffs' First Cause of Action.
- G. A judgment against Defendant Robert M. Balicki on Plaintiffs' First Cause of Action.
- H. A judgment against Defendant Darryl Johnson on Plaintiffs' First Cause of Action.
- I. A judgment against Defendant Carol Pistorio on Plaintiffs' First Cause of Action.
- J. A declaratory judgment against all Defendants declaring the County of Gloucester and the Gloucester County Sheriff's Department's policy, practice and custom of strip and visual cavity searching all detainees entering the Gloucester County Jail, regardless of the crime charged or suspicion of contraband, to be unconstitutional and improper.
- K. A preliminary and permanent injunction enjoining Defendants from continuing to strip and visual cavity search individuals charged with misdemeanors or minor crimes absent particularized, reasonable suspicion that the arrestee subjected to the search is concealing weapons or other contraband.
- L. A monetary award for attorney's fees and the costs of this action, pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 23;

Respectfully submitted by:

Dated: March 21, 2006
Trenton, NJ

/S/ William Riback
William Riback, Esquire Bar # 01358-1994
527 Cooper Street, 2nd Floor
Camden, New Jersey 08102
856.342.9700

Jonathan W. Cuneo, Esquire
Charles J. LaDuca, Esquire
CUNEO GILBERT & LADUCA, LLP
507 C Street, N.E.
Washington, DC 20002
202.789.3960

Seth R. Lesser, Esquire
Fran L. Rudich, Esquire
LOCKS LAW FIRM
457 Haddenfield Road, Suite 500
Cherry Hill, New Jersey 08002
856.663.8200

-and-

110 E. 55th Street, 12th Floor
New York, NY 10022
212.838.3333

Elmer Robert Keach, III, Esquire
One Steuben Place
Albany, NY 12207
518.434.1718

Gary E. Mason, Esquire
THE MASON LAW FIRM, PLLC
1225 19th Street, NW
Suite 600
Washington, DC 20036
202.429.2290

**ATTORNEYS FOR PLAINTIFFS AND
PROPOSED CLASS**