

**In The  
Supreme Court of the United States**

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ALBERT W. FLORENCE,

*Petitioner,*

v.

BOARD OF CHOSEN FREEHOLDERS OF  
THE COUNTY OF BURLINGTON, et al.,

*Respondents.*

—◆—  
**On Writ Of Certiorari To The  
United States Court Of Appeals  
For The Third Circuit**

—◆—  
**BRIEF OF CITY AND COUNTY OF SAN  
FRANCISCO, INTERNATIONAL MUNICIPAL  
LAWYERS ASSOCIATION, AND CALIFORNIA  
STATE ASSOCIATION OF COUNTIES AS *AMICI  
CURIAE* IN SUPPORT OF RESPONDENTS**

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**INTEREST OF THE *AMICI CURIAE***<sup>1</sup>

The City and County of San Francisco (San Francisco) operates an urban jail system, consisting of six county jails, that books and processes tens of thousands of arrestees each year. The smuggling of contraband – including drugs and weapons – is a serious problem for San Francisco’s jail system that jeopardizes the health and safety of its officers, employees, inmates, and visitors. Based on overwhelming evidence of contraband smuggling in its jails, including by arrestees for minor offenses such as property crimes, San Francisco believes that visual strip searches<sup>2</sup> of *all* arrestees are necessary to reduce the flow of contraband into jails and to ensure the well-being of inmates, employees, corrections officers, and visitors.

The International Municipal Lawyers Association (IMLA) is a non-profit, professional organization of approximately 3,000 local government entities, including cities, counties, and special district entities, as represented by their chief legal officers, state municipal leagues, and individual attorneys. Since 1935, IMLA has served as a national, and now

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<sup>1</sup> No counsel for a party authored this brief in whole or in part, and no person or entity other than *amici* or their counsel made a monetary contribution to this brief’s preparation or submission. The parties have consented to the filing of this brief in letters filed with the Clerk of the Court.

<sup>2</sup> The term “visual strip search” in this brief includes a visual body-cavity search.

international, clearinghouse of legal information and cooperation on municipal legal matters. IMLA's mission is to advance the responsible development of municipal law through education and advocacy by providing the collective viewpoint of local governments around the country on legal issues before the United States Supreme Court, in the United States Courts of Appeals, and in state supreme and appellate courts. Because many local governments operate jails or other penal facilities, IMLA has a vital interest in the legal issues raised by this case.

The California State Association of Counties (CSAC) is a non-profit corporation whose membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout California. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties in California.



## **SUMMARY OF ARGUMENT**

Arrestees' smuggling of drugs, weapons, and other contraband presents a grave threat to the health and safety of inmates, employees, corrections officers, and visitors in local jails throughout the United States. To combat this threat, local jails

depend heavily on visual strip searches. Because arrestees often hide drugs and weapons in their body cavities, strip searches are often the only viable method for discovering these items. San Francisco’s experience with a policy of visually strip searching all jail inmates housed with the general jail population demonstrates that arrestees often hide drugs and weapons in their body cavities – including those arrestees who are booked for offenses *not* involving drugs, weapons, or violence, such as minor offenses like trespassing, public nuisance, or shoplifting. In the judgment of San Francisco’s jail administrators “[t]he safety and well being of all inmates, staff and the public demand[ed] no less” than strip searching all inmates. *Bull v. City and County of San Francisco*, 595 F.3d 964, 976 (9th Cir. 2010) (en banc).

In *Bell v. Wolfish*, 441 U.S. 520 (1979), the Court relied on far less evidence of contraband smuggling when it upheld the constitutionality of suspicionless strip searches of detainees after contact visits. Although *Wolfish* does not require that a correctional institution compile a substantial record of smuggling to justify its search policies, *see* 441 U.S. at 558-59 (“one instance . . . where contraband was found”), San Francisco, like other jurisdictions, has adduced evidence that drugs and weapons regularly are smuggled into jail and that visual strip searches (including visual body-cavity searches) are useful in detecting these items. The Court should therefore defer to the judgment of the experienced jail administrators in

this case and uphold the constitutionality of the suspicionless strip searches of petitioner.

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**ARGUMENT**

**I. WEAPON AND DRUG SMUGGLING IS A GRAVE THREAT TO HEALTH AND SAFETY THAT REQUIRES VISUAL STRIP SEARCHES TO COMBAT EFFECTIVELY.**

Contraband smuggling plagues local jails across the country. Some contraband, like guns, knives, or other weapons, is “dangerous in and of itself.” *Johannes v. Alameda Cnty. Sheriff’s Dep’t*, No. C 04-458 MHP (PR), 2006 WL 2504400, at \*4 (N.D. Cal. Aug. 29, 2006) (internal quotations omitted), *vacated*, *Johannes v. Hernandez*, 328 F. App’x 444 (9th Cir. 2009); *see also* Diane Jennings, *Texas Prisons Contraband Troubled Officials Long Before Latest Crackdown, It Takes Many Forms; Inmates Often Make It*, *The Dallas Morning News* (Oct. 25, 2008), at 1A (“When inmates get their hands on weapons, death or injury usually follows.”). Other contraband may seem innocuous, but “can be turned into a weapon.” *Johannes*, 2006 WL 2504400, at \*4. “Contraband can also consist of drugs, alcohol or other controlled substances.” *Id.* The use of those substances in jails poses a serious health risk and leads to violent behavior. *See* Michael L. Prendergast, et al., *Reducing Substance Abuse in Prison: The California Department of Corrections Drug Reduction Strategy Project*, 84 *Prison J.* 265, 266 (2004). Finally, the jail “substance

trade strengthens prison-based gangs, leads to inmate-on-inmate violence, and increases inmate-on-staff member attacks.” *Id.*; see also *Johannes*, at \*4-5 (noting that inmates use contraband as currency).

Contraband smuggling also plagues prison systems, as illustrated by California’s experience. In the latest data available, covering 2006, there were 14,490 inmate behavioral incidents in California’s prisons, a rate of 9.2 incidents per 100 inmates. Of these reported incidents, 1,869 involved assault with a weapon, 1,238 involved possession of a weapon, and 1,005 involved a controlled substance. This averages more than 11 contraband incidents per day in California’s prisons. See California Prisoners and Parolees, California Department of Corrections and Rehabilitation, at 34 (2006) (available at: [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Annual/CalPris/CALPRISd2006.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/CalPris/CALPRISd2006.pdf)).

Not surprisingly, this Court has recognized that “attempts to introduce drugs and other contraband into premises . . . [are] one of the most perplexing problems of prisons.” *Hudson v. Palmer*, 468 U.S. 517, 527 (1984); see also *Overton v. Bazzetta*, 539 U.S. 126, 134 (2003) (“Drug smuggling and drug use in prison are intractable problems.”). Given these indisputable problems, this Court has recognized that evidence of a smuggling problem is not required to sustain the reasonableness of an institution’s visual body-cavity search policy. See *Wolfish*, 441 U.S. at 558-59. Nonetheless, San Francisco has, as the Ninth Circuit recognized, developed a substantial record of

contraband smuggling in its jails and of the efficacy of visual body-cavity searches in detecting contraband.

Like other jurisdictions, San Francisco struggles with the problem of contraband in its jails. “[B]etween April 2000 and December 2003, searches of the San Francisco general jail population resulted in the discovery of 1,574 items of contraband, including 662 assorted controlled substance pills, 106 shanks and other weapons, 1 screwdriver, 17 jail-made handcuff keys, 42.88 grams of rock cocaine, 2.75 grams of powder cocaine, 6.70 grams of methamphetamine, 6.24 grams of tar heroin, 71.93 grams of marijuana, 4 ecstasy pills, 32 assorted pipes, 1 hypodermic needle, and 24 gallons of homemade alcohol known as ‘Pruno.’” *Bull*, 595 F.3d at 966-67. This contraband “threatens the health and safety of inmates, corrections officers and jail employees.” *Id.* at 967. For example, “an inmate housed in the general population” died “from drugs obtained within the prison.” *Id.* Another arrestee “set her clothes on fire with a lighter smuggled into the cell,” another “mutilated himself with staples similarly secreted into the jail,” and “a third . . . attempted suicide with razor-blades smuggled into the jail in his rectal cavity.” *Id.*

## II. ANY ARRESTEE MAY BE SMUGGLING IN HIS OR HER BODY CAVITIES DRUGS OR WEAPONS THAT CAN ONLY BE DETECTED THROUGH A VISUAL STRIP SEARCH.

To combat its contraband problem, San Francisco had a policy of visually strip searching the body cavities of all arrestees classified for housing in the general jail population.<sup>3</sup> See *Bull*, 595 F.3d at 968. After giving “arrestees a reasonable time in which to post bond,” *id.* at 977, San Francisco would automatically process, classify, and search the arrestee, *id.* at 968. San Francisco jail administrators adopted this policy because “the greatest opportunity for the introduction of drugs and weapons into the jail occurs at the point when an arrestee is received into the jail for booking and, thereafter, housing.” *Bull*, 595 F.3d at 967 (internal quotations omitted).

In the course of litigating the constitutionality of this policy in *Bull* and other cases, San Francisco compiled a record showing the scope of its contraband

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<sup>3</sup> The “strip search was to be performed in a professional manner in an area of privacy by an officer of the same sex as the arrestee. The arrestee was required to remove or arrange some or all of his or her clothing so as to permit a visual inspection of the underclothing, breasts, buttocks or genitalia of the person. The search included a visual inspection of the mouth, ears, hair, hands, skin folds, [and] armpits as well as a thorough search of all clothing items. The policy authorized a visual search only; officers were not allowed to physically touch inmates’ body cavities.” *Bull*, 595 F.3d at 968-69 (internal quotations and citations omitted).

problem and the drugs and weapons found even on arrestees booked for minor offenses. This evidence amply demonstrates the need for San Francisco's former policy and establishes that even individuals arrested for minor offenses pose a significant security risk because they often secrete drugs and weapons on, or in, their persons.<sup>4</sup>

**A. Arrestees Frequently Hide Weapons, Drugs, And Drug Paraphernalia In Their Body Cavities.**

In *Bull*, 595 F.3d at 969, “San Francisco produced evidence that from April 2000 through April 2005 [visual] strip searches . . . resulted in the discovery of 73 cases of illegal drugs or drug paraphernalia hidden in body cavities” (internal quotation omitted). Many arrestees hid contraband in their rectal cavities or buttocks. Excerpt of Record, *Bull*, 595 F.3d 964 (“*Bull ER*”), Vol. III, at 463, 474, 476-80, 483, 487-88, 518-20, 522-24, 526-35, 547, 567-70, 577-82, 586-89,

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<sup>4</sup> Petitioner contends that California Penal Code § 4030(f) “prohibit[s] suspicionless strip searches.” Brief for the Petitioner at 15 & n.6. He is wrong. See *Bull v. City & County of San Francisco*, No. C 03-0184 CRB, 2010 WL 3516099, at \*3 (N.D. Cal. Sept. 8, 2010) (holding that San Francisco’s visual strip search policy did not violate Cal. Pen. Code § 4030(f)); 2006 WL 449148, at \*20 (N.D. Cal. Feb. 23, 2006) (holding that suspicionless searches do not violate Cal. Pen. Code § 4030(f) if the arrestee “is actually destined for the general jail population absent some unexpected reason for release.”), *overruled on other grounds*, *Bull*, 595 F.3d at 964.

591-95, & 597-98. Female arrestees also regularly hid contraband in their vaginal cavities. *Bull ER*, Vol. III, at 481-82, 506-11, 517, 544, 551-52, 558-59, 604-05, & 607-08.

Drugs and other contraband discovered in the body cavities of arrestees included:

- “heroin,” *Bull*, 595 F.3d at 969;
- “crack-cocaine,” *id.*;
- “rock cocaine,” *id.*;
- “marijuana,” *id.*;
- “syringes,” *id.*;
- “crack pipes,” *id.*;
- “handcuff keys,” *id.*; and
- lighters, *Bull ER*, Vol. III, at 526, 597-98.

Visual strip searches during that time period also uncovered “various concealed weapons, including”:

- “a seven-inch folding knife,” *Bull*, 595 F.3d at 969;
- “a double-bladed folding knife,” *id.*;
- “a pair of 8-inch scissors,” *id.*;
- “a jackknife,” *id.*;
- “a double-edged dagger,” *id.*;
- “a nail,” *id.*; and
- “glass shards,” *id.*

San Francisco's experience is not unique. In an *amicus* brief in support of San Francisco in *Bull*, San Mateo County Sheriff Don Horsley and the County of San Mateo (San Mateo) reported that during "a five-month period in 2004," they "seized forty-one items of contraband found during strip searches conducted in San Mateo Jails." *Bull v. City & County of San Francisco*, 539 F.3d 1193, 1211 (9th Cir. 2008) (Tallman, J., dissenting).<sup>5</sup> "Items confiscated as a result of these strip searches included the following: a hypodermic needle secreted in an arrestee's buttocks; a razor blade found in a woman's bra; a pocket knife found in a woman's bra; a small bag containing methamphetamine inside a woman's bra; suspected heroin secreted between an inmate's buttocks; and suspected methamphetamine secreted between an inmate's buttocks." *Id.* at 1211-2.

As this evidence demonstrates, arrestees often go to great lengths to smuggle drugs and weapons into jails. Indeed, in one incident, a glass pipe and lighter had to be surgically removed from an arrestee's rectal cavity. *Bull* ER, Vol. III, at 597-98. As a result, in many of the incidents, jail officials only discovered the contraband after a visual body-cavity search. Absent the search, the arrestees would likely have

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<sup>5</sup> Like San Francisco, San Mateo "had a policy of strip searching every arrestee who was going to be housed in San Mateo's general jail population." *Bull*, 539 F.3d at 1211 (Tallman, J., dissenting).

smuggled the drugs and weapons into the general jail population free of detection.

San Francisco did not provide evidence of every smuggling incident in its jail system from April 2000 through April 2005. *Bull ER*, Vol. III, at 431; *see also* Excerpt of Record, *Yourke v. City & County of San Francisco*, 252 F. App'x 179 (9th Cir. 2007) (“*Yourke ER*”), Vol. III, at 409. Nonetheless, even the limited sampling provided by San Francisco demonstrates “that arrestees’ use of body cavities as a method of smuggling drugs, weapons, and items used to escape custody is an immediate and troubling problem. . . .” *Bull*, 595 F.3d at 975.

Although some arrestees may be unable to hide drugs or weapons before they are arrested, many others plainly are able to do so. As the Eleventh Circuit has explained,

Not everyone who is arrested is surprised, seized, and slapped into handcuffs without a moment’s notice. Some people surrender when they are notified that a warrant for them is outstanding. Those who do not turn themselves in often have notice that officers are coming to arrest them. Even those in a vehicle who are pulled over and arrested may have time to hide items on their person before the officer reaches the car door. Then there are those who deliberately get themselves arrested. Demonstrators or protestors engaged in civil disobedience are one example. Another example . . . is gang members who get themselves arrested so they can

smuggle in contraband. They have all the time they need to plan their arrests and conceal items on their persons.

*Powell v. Barrett*, 541 F.3d 1298, 1313-14 (11th Cir. 2008) (en banc).

There is also a powerful economic incentive to smuggle contraband into jail. As Judge Tallman explained in his dissent to the original panel decision in *Bull*, “[w]e now know that inmates will go to great lengths to get contraband into jail facilities, where the contraband may be worth more than it is on the street.” *Bull*, 539 F.3d at 1211, n.10 (Tallman, J., dissenting); see also *Johannes*, 2006 WL 2504400, at \*5 (“‘Drugs and other intoxicants are a very common form of contraband and command a high price within the jail. Even inmates who do not use drugs have incentive to smuggle them in because they are valuable commodities for purposes of barter and sale.’”). This smuggling of contraband by arrestees in their body cavities – which often can be discovered only through a visual strip search – is therefore a serious security risk for all jails.

**B. Arrestees Who Are Not Booked For Crimes Involving Drugs, Weapons, Or Violence Regularly Attempt To Smuggle Drugs And Weapons Into Jails.**

Contraband smuggling is not confined to arrestees booked for crimes involving drugs, weapons, or violence. There is, therefore, no reasoned basis to

distinguish between felony-arrestees and misdemeanor-arrestees as petitioner advocates. Any arrestee – including those booked for minor offenses – may attempt to smuggle contraband into jail, as confirmed by the evidence in San Francisco.

San Francisco’s “smuggling problem is not isolated to those inmates booked for crimes involving drugs, weapons, or violence.” *Bull*, 539 F.3d at 1205-06 (Tallman, J., dissenting). Jail officials regularly discovered contraband on arrestees charged with offenses that do not involve drugs, weapons, or violence – including minor offenses like trespassing, public nuisance, and petty theft. For example, officials found:

- five “white rock looking substances wrapped in a [o]ne [d]ollar [b]ill” and “one glass tube” in the buttocks of a woman arrested for violating two municipal codes, trespassing (S.F. Police Code § 25) and failure to appear (S.F. Police Code § 1559), App. 4-6;
- a “clear plastic bag containing [a] white powdery substance” in the shoe of a man arrested for illegal lodging (Cal. Pen. Code § 647j) and public nuisance (Cal. Pen. Code § 372), App. 27-31;
- “bindles of crack cocaine” ingested by a woman arrested for loitering for the purpose of engaging in prostitution (Cal. Pen. Code § 653.22) and public nuisance (Cal. Pen. Code § 372), App. 7-10;

- a “plastic bag” containing “two small white pills” in the mouth of a woman arrested for shoplifting (Cal. Pen. Code §§ 484(a) and 490.5) and forgery (Cal. Pen. Code § 475), App. 11-14;
- a “plastic baggie” containing a “white powdery substance” in the vaginal cavity of a woman arrested for receiving stolen property (Cal. Pen. Code § 496), App. 19-22;
- a “plastic bag” containing a “green and flaky” substance in the “anus” of a man arrested for auto theft (Cal. Pen. Code § 10851) and receiving stolen property (Cal. Pen. Code § 496(a)), App. 1-3;
- a “small white rock” suspected to be “cocaine” in the bra area of a woman arrested for petty theft with a prior (Cal. Pen. Code § 666) and theft (Cal. Pen. Code §§ 484(a) & 490.5), *Yourke ER*, Vol. III, at 427-28;
- “one small clear ziplock style bag containing a small amount of green leafy plant substance suspected of being marijuana” in the buttocks of a man arrested for second degree burglary (Cal. Pen. Code § 459), App. 15-18;
- a “[y]ellow piece of paper containing a small piece of rolled leafy substance” and a “baggy containing [a] green leafy substance” in the “anus” of a man arrested for burglary (Cal. Pen. Code § 459),

attempted burglary (Cal. Pen. Code §§ 459A, 664), resisting an officer (Cal. Pen. Code § 148(a)(1)); and trespass (Cal. Pen. Code § 602(e)), App. 23-26; and

- a pair of 8-inch scissors found on a man arrested for burglary (Cal. Pen. Code § 460), App. 32-33.

For each of these incidents, there is *no* evidence in the record that the arrestee was or could have been searched based on “individualized circumstances,” “the nature of the offense (such as crimes involving drugs or violence), the circumstances of the arrest (as when it appears that the inmate hid materials or was attempting to gain admission to jail), or the [arrestee’s] prior criminal history.” Brief for Petitioner at 32-33.

In nearly all of the incidents identified above, jail officials discovered the contraband solely because of the visual strip search. *See, e.g.*, App. 1-6, 15-26. There is no doubt that “San Francisco faces a serious smuggling problem and the problem is not isolated to those offenders arrested for crimes involving drugs, weapons, or violence.” *Bull*, 539 F.3d at 1210, n.9 (Tallman, J., dissenting) (internal citations omitted).

It is not surprising that even minor offenders may be hiding contraband. Drug users typically commit minor property crimes like shoplifting and often avoid “person-related acquisitive crimes such as street robbery and snatch theft.” Chris Allen, *The Links Between Heroin, Crack Cocaine and Crime*, 45

Brit. J. Criminology 355, 366 (2005); *see also* Arthur J. Lurigio & James A. Swartz, *The Nexus Between Drugs and Crime: Theory, Research, and Practice*, 63 Fed. Probation, June 1999, at 67, 68 (noting that “the need for money to purchase drugs is a motivating factor for criminally-active drug users”). Federal studies confirm this. Even though 60 to 80 percent of arrestees have drugs in their system at the time of arrest, *see* Office of Nat’l Drug Control Policy, Exec. Office of the President, ADAM II 2010 Annual Report (2010), at 38, the greatest proportion of their arresting charges is property crimes or other minor offenses, *see id.* at 14, 45; *see also* U.S. Dep’t of Justice, Office of Justice Programs, 2000 Arrestee Drug Abuse Monitoring: Annual Report (2000), at 118 (table showing that 41.7 to 82 percent of females arrested for minor offenses in 29 different jurisdictions in 2000 had drugs in their system at the time of arrest). Thus, neither the minor nature of the charges nor the absence of a serious criminal history supports the assumption that a particular arrestee is not hiding drugs, drug paraphernalia, or weapons on his or her person. Instead, as shown by the evidence of contraband smuggling in San Francisco, jail officials have every reason to believe that *any* arrestee could be smuggling drugs or weapons into the jail.<sup>6</sup>

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<sup>6</sup> “[T]o limit their liability,” San Francisco jail administrators changed San Francisco’s visual strip search policy on January 21, 2004. *Bull.*, 595 F.3d at 988 (Kozinski, J., concurring). Under the new policy, San Francisco no longer automatically  
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### III. THE OVERWHELMING EVIDENCE OF CONTRABAND SMUGGLING IN SAN FRANCISCO JUSTIFIES SUSPICIONLESS STRIP SEARCHES OF ARRESTEES UNDER *BELL V. WOLFISH*.

The evidence of contraband smuggling in San Francisco jails is representative of jails throughout the country. Under *Bell v. Wolfish*, this is more than enough to justify suspicionless searches of all arrestees.

In *Wolfish*, 441 U.S. at 547, the Court held that “[p]rison administrators . . . should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.” Applying this deference, the Court upheld a policy of visually strip searching the body cavities of all detainees following contact visits adopted by the Metropolitan Correctional Center (MCC), a short-term custodial facility. *Id.* at 560. It did so even though there had “been *only one instance* where an . . . inmate was discovered attempting to smuggle contraband into the institution on his person. . . .” *Id.* at 559 (emphasis added). Relying on “inmate attempts to secrete” contraband

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searched arrestees classified for housing in the general jail population. Its jail administrators, however, “express[ed] grave doubts about the new policy” and “believe[d] it ‘increase[d] the danger to staff and inmates’ and ‘[would] lead to a higher incidence of illegal contraband in the jails.’” *Id.*

“into the facility by concealing them in body cavities . . . [as] documented in this record . . . and in other cases,” *id.* (internal citations omitted), the Court concluded that the MCC’s institutional need to conduct suspicionless searches after contact visits outweighed the privacy interests of detainees, *see id.* at 560.

The evidence justifying suspicionless searches of arrestees in *Bull* is far stronger than the evidence used to justify suspicionless searches in *Wolfish*. “The record of smuggling” in San Francisco jails “far exceeds the showing in [*Wolfish*].” *Bull*, 595 F.3d at 975. That record “shows that arrestees do, in fact, have both the opportunity and inclination to conceal contraband in private bodily areas. . . .” *Id.* at 980. Thus, the risk of smuggling by arrestees is as great as, if not greater than, the risk of smuggling posed by “loosely supervised contact visits.” Brief for the Petitioner at 37.

Indeed, petitioner’s claim that “the policy challenged in *Wolfish* addressed a far greater risk of smuggling” rests on illusory distinctions. *Id.* “There is no denying that arrestees entering a detention facility usually have had plenty of contact with outsiders, most having been outsiders themselves until they were arrested.” *Powell*, 541 F.3d at 1313. Moreover, unlike the prison administrators in *Wolfish*, “‘officials at a county jail . . . usually know very little about the new inmates they receive or the security risks they present at the time of their arrival.’” *Evans v. Stephens*, 407 F.3d 1272, 1291 (11th Cir.

2005) (en banc) (Carnes, J., specially concurring) (quoting *Dodge v. County of Orange*, 282 F. Supp. 2d 41, 48 (S.D.N.Y. 2003), *remanded on other grounds*, 103 F. App'x 688 (2d Cir. 2004)).

The evidence provided by San Francisco in *Bull* also demonstrates that suspicionless strip searches have a deterrent effect, a key factor under *Wolfish*. That evidence “establishes that San Francisco detected a substantial amount of contraband during strip searches of arrestees at the San Francisco jail, and also indicates that arrestees facing a strip search have jettisoned contraband in the holding cell.” *Bull*, 595 F.3d at 980. This is more than sufficient to show “that a strip search policy may have a deterrent effect.”<sup>7</sup> *Id.*

---

<sup>7</sup> Citing a footnote in one of the district court opinions in *Bull*, petitioner contends San Francisco “continued to discover drug contraband at the same rate (once per month), but the rate at which it discovered weapons tripled (to once every five months)” after it changed its search policy. Brief of Petitioner at 34-5. But the district court did not make that contention in its footnote. See *Bull*, 2006 WL 449148, at \*2, n.3. With good reason. San Francisco only provided the district court with an illustrative sampling of the smuggling incidents in its jails from April 2000 to April 2005. It did not provide a complete catalog of those incidents. See Excerpt of Record, *Bull*, 595 F.3d 964, Vol. III at 431; Excerpt of Record, *Yourke v. City & County of San Francisco*, 252 F. App'x 179 (9th Cir. 2007), Vol. III at 409. Any comparison of the rate of contraband discovery before and after San Francisco changed its search policy using the data before the district court is therefore meaningless.

In addition, San Francisco’s evidence shows that “the alternatives suggested by” petitioner – *i.e.*, pat down searches,  
(Continued on following page)

When confronted with the overwhelming evidence of contraband smuggling submitted by San Francisco in *Bull*, a majority of Ninth Circuit judges on the en banc panel concluded that “San Francisco produced undisputed evidence that the elimination of the strip search policy would ‘lead to a higher incidence of illegal contraband in the jails,’ and that implementation of more targeted policies ‘requires supervisory and line staff training’ that ‘takes time away from other tasks and necessarily uses resources in scarce supply.’” *Bull*, 595 F.3d at 976. As a result, those judges found “no meaningful difference between the institutional concerns raised by contact visits in [*Wolfish*] and those raised by introducing arrestees into the general jail population. . . .” *Id.* at 980.

In *Wolfish*, 441 U.S. at 560, this Court upheld the constitutionality of suspicionless searches of detainees after “[b]alancing the significant and legitimate security interests of the institution against the privacy interests of the inmates.” In doing so, the Court deferred to the judgment of experienced prison administrators and relied on evidence of contraband smuggling from “other cases.” *Id.* at 559. It should do the same here and uphold the constitutionality of the

---

metal detectors, the Body Orifice Scanning System, or the Canon RadPro SecurPass, *see* Brief of Petitioners at 31-32 – “would not be as effective as” visual strip searches, *Bell*, 441 U.S. at 559 n.40. Those alternatives would not detect “[m]oney, drugs, and other nonmetallic contraband” that San Francisco arrestees often hid in their body cavities. *Id.*

suspicionless searches of petitioner out of deference to the judgment of respondents' experienced jail administrators and based on the evidence of contraband smuggling by arrestees in *Bull*.



**CONCLUSION**

Based on the foregoing, the judgment of the court of appeals should be affirmed.

Respectfully submitted,

SAN FRANCISCO CITY  
ATTORNEY'S OFFICE

DENNIS J. HERRERA  
City Attorney

DANNY CHOU  
*Counsel of Record*

ROBERT A. BONTA

VINCE CHHABRIA

CHRISTINE VAN AKEN

Deputy City Attorneys

*Counsel for Amici Curiae  
City and County of San  
Francisco, International  
Municipal Lawyers Association,  
and California State  
Association of Counties*

August 25, 2011



App. 2

combative. I unraveled the plastic bag and noticed the unknown substance to be green and flaky. Sgt. Doi asked Deputy Chu to call the arresting officer to find out whether he wanted to book in the contraband. Deputy Chu called and spoke to officer Nelson #2039. The officer was informed about the contraband and did not want to book the contraband. Sgt. Oaks told me to put the contraband in an evidence envelope and seal it and write TO BE DESTROYED on the outside of the envelope. Sgt. Oaks then had me take the envelope to the 4th floor of the Hall of Justice where the lab is located. I dropped the evidence envelope in the locked slot at the lab.

2.) -sf# 564747

Dep. B. Wan #1473

Sgt. Y. Doi #1042

Dep. C. Chu #1463

Sgt. E. Oaks #546

Officer Nelson #2039

DAY, DATE & TIME OF THIS REPORT Sunday, October 21, 2000 @ 23:15 Hours	<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUPPLEMENTARY
COPIES TO <input checked="" type="checkbox"/> FACILITY FILES <input type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA <input type="checkbox"/> _____	FURTHER ACTION REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO

3.) N/A



Report No.:

---

RE: (PRINCIPLE PERSON INVOLVED)

---

---

NATURE OF INCIDENT

4573,6 Possession of Controlled Substance in Jail

---

LOCATION

425 7th Street County Jail#9 Strip Room #2

---

DAY, DATE & TIME

Tuesday, October 17, 2000 @ 12:23 Hours

---

VERBAL REPORT TO

Sgt. Wong

DATE & TIME

10/17/00 @ 13:00 Hours

---

① NARRATIVE    ② PERSONS INVOLVED (Subject, Suspect, Victim, Reportee, Inmate)    ③ PROPERTY/EVIDENCE INVOLVED

- 1.) On Tuesday October 17th, 2000 I (Deputy S. Parker #655) was on duty, in uniform assigned to Booking Search at CJ#9. While conducting a strip search on inmate \_\_\_\_\_, I asked her to spread her legs, bend over and spread her buttocks. I then saw a folded paper One Dollar Bill, and one glass tube protruding from her buttocks. I then instructed Inmate \_\_\_\_\_ to slowly remove those items from her buttocks. Inmate \_\_\_\_\_ complied, and removed the contraband. I completed the rest of the search without incident. I then escorted inmate \_\_\_\_\_ to I.D. Processing.

App. 5

Upon further review of the contraband, I found five (5) white rock looking substances wrapped up in a One Dollar Bill. I contacted SFPD Operations and received a case and lab number; then placed the suspected substance inside the evidence envelope and sealed it in wax, labeling it for destruction. I took the envelope to 850 Bryant, room 437 and deposited the envelope in the evidence drawer.

2.) J#1950004 B/F DOB: [Omitted] SF#518234

3.) 1 plastic bag containing 5 white rock like substance delivered to SFPD Analysis. Case Number: #001230674  
Lab Number: #00182961

DAY, DATE & TIME OF THIS REPORT		<input checked="" type="checkbox"/> INITIAL	
Tuesday, October 17, 2000 @ 13:23 Hours		<input type="checkbox"/> SUPPLEMENTARY	
COPIES TO <input checked="" type="checkbox"/> FACILITY FILES		FURTHER <input type="checkbox"/> YES	
<input type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA		ACTION <input type="checkbox"/> NO	
<input type="checkbox"/> ____		REQUIRED	
REPORTING OFFICER	RANK	STAR	DETAIL
/s/ S. Parker			
S. Parker	8304	655	CJ #9
APPROVED BY	RANK	STAR	
/s/ A. Wong #810			
A. Wong	8308	810	

INCIDENT REPORT

**SAN FRANCISCO  
SHERIFF'S DEPARTMENT**

/s/ [Illegible]

---

REPORT 6789 QCX ) RUNS 05/[Illegible]  
 ) @ [Illegible]  
 ) CTN 1950004 SCN  
 ) SFNO S518234  
 ) INCN 000488763  
 ) JAIL# 1950004 B/F  
 ) DOB [Omitted]

DEFSTATUS CITN ) MCN STRKS CELL  
JAILST CITN 101700/1730 ) OPLIC

----- KEY DATES -----

ARR 101700 REBOOK ) BRCN  
 / / ) BW / PSR  
PROBSTAT ) INTR PCD  
SETBAIL \$ )

----- SCHEDULED ON CALENDAR -----

101800/0900 M88 AN  
-----  
B291190 BKD TFWTXX /I NOW TFWTXX  
/I W#00591273, \$270, 1559, 25MPC

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\*\*\*\*\* END OF REPORT \*\*\*\*\*

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Report No.

---

RE: (PRINCIPLE PERSON INVOLVED)

(J#1994703)

---

NATURE OF INCIDENT

possession of drugs by inmate

---

LOCATION

County Jail #9 saly port

---

DAY, DATE & TIME

Sunday, 07/08/01 @ 0825hrs

---

VERBAL REPORT TO      DATE & TIME

Sgt. Bloom #1231      07/08/01 @ 08:45 Hrs.

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① NARRATIVE    ② PERSONS INVOLVED (Subject, Suspect, Victim, Reportee, Inmate)    ③ PROPERTY/ EVIDENCE INVOLVED

1.) On Sunday morning, 07/08/01, at 0710 hours while in full uniform, I relieved Deputy Bautista at SFGH where he was guarding inmate (J#1994703, SF#556454, BFA, 01/04/79). had been sent out to the hospital because she admitted to medical staff to having ingested several bindles of crack cocaine.

Once she was medically cleared at SFGH I transported inmate back to CJ#9 at approximately 0817 hours. When I opened the right passenger side of the vehicle, inmate lunged out and threw up a large amount of the activated charcoal that she had been treated with at SFGH. Immediately she squatted and

searched through her vomit. She then took a small black covered bindle from the vomit and inserted it in her mouth. I then placed [redacted] in a control hold and told her to open her mouth. At this point she stated "too late I swallowed it." I brought her in to County Jail #9 to be seen by medical. [redacted] told R.N. Christian Kithchin that she had re-swallowed one of the original bindles that she had been sent out for treatment earlier that same morning.

I secured [redacted] in a holding tank. I went to the area where she had vomited and retrieved two more bindles that she admitted to swallowing from the pool of vomit. I secured them in an envelope and submitted them to the lab for analysis. I informed [redacted] that she would be charged for attempting to destroy evidence and for possessing a controlled substance where inmates are kept. I proceeded to "book" [redacted] with penal code violations 135/M and 4573.6/F. the corresponding case number is 010810457 and lab number 01189842.

- 2.) Deputy Ramirez, J. #1486  
R.N. Kithchin, C  
Inmate [redacted] (J#1994703 SF#556454)
- 3.) two plastic bindles with white chalky substance  
Polaroid of area where bindles were found  
Polaroid of the bindles found

DAY, DATE & TIME OF THIS REPORT  Sunday, July 8, 2001 @ 08:45 Hours	<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUPPLEMENTARY
COPIES TO <input checked="" type="checkbox"/> FACILITY FILES <input type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA <input type="checkbox"/> ____	FURTHER ACTION REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO

one copy of the field arrest card  
 xerox copy of analysis envelope

REPORTING OFFICER	RANK	STAR	DETAIL
/s/ John Ramirez			
Ramirez, John	8304	1486	CJ#9
APPROVED BY	RANK	STAR	
/s/ Barry Bloom			
Sgt. Bloom	8308	1231	

INCIDENT REPORT

**SAN FRANCISCO  
 SHERIFF'S DEPARTMENT**

/s/ Capt. T. Arata #370

\_\_\_\_\_  
 [Field Arrest Card, Report Of Analyzed Evidence,  
 And Photographs Omitted In Printing]  
 \_\_\_\_\_

REPORT 6789 QCX ) RUNS 05/07/06  
 ) @ 09:18  
 ) CTN 1994703 SCN  
 ) SFNO S556454  
 ) INCN 010809660  
 ) JAIL# 1994703 B/F  
 ) DOB [Omitted]  
 DEFSTATUS CITN ) MCN STRKS CELL  
 JAILST CITN 071001/2126 ) OPLIC

----- KEY DATES -----

ARR 07801 REBOOK ) BRCN  
 / / ) BW / PSR  
 PROBSTAT ) INTR PCD  
 SETBAIL \$ )

----- SCHEDULED ON CALENDAR -----

070901/0900 M16 AN  
-----  
C255541 BKD 653, 22APC /M NOW 653,22APC /M  
LOITERING W/INTENT TO PROSTITU  
COUNT PLEA / DISM 27  
C255542 BKD 372PC /M NOW 372PC /M  
MAINTAIN PUBLIC NUISANCE  
COUNT PLEA / DISM 27  
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\*\*\*\*\* END OF REPORT \*\*\*\*\*

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Report No.

---

RE: (PRINCIPLE PERSON INVOLVED)

---

NATURE OF INCIDENT

NARCOTICS/CONTRABAND INTO  
COUNTY JAIL #9

---

LOCATION

425 7TH ST SAN FRANCISCO, CA

---

DAY, DATE & TIME

WED. AUG. 1, 2001 1645HRS.

---

VERBAL REPORT TO            DATE & TIME

LT. BENOIT      08/08/01 @ 21:06 Hrs.

---

① NARRATIVE    ② PERSONS INVOLVED (Subject,  
Suspect, Victim, Reportee, Inmate)    ③ PROPERTY/  
EVIDENCE INVOLVED

1.) On August 1, 2001 at 1645 hrs. I conducted a strip search on JAIL#1998781. When I asked her to open her mouth and lift her tongue, I saw a plastic bag in her mouth. When she moved her tongue the bag started to come out of her mouth. I removed the bag and saw two small white pills enclosed in the small clear plastic bag. I asked what it was and she told me "It's aspirin". When I again asked what they were, she stated that it was Clonidine.

I advised Lt. Benoit that I found contraband pills on and then showed the pills to medical

staff to see if they could identify the pills. Medical was not sure if it was Clonidine. I then called the arresting officer, Babbs #330, of Southern District Station, and advised him of the contraband pills found during the search. Officer Babbs arrived at 2100 hours and took custody of the pills from my possession.

- 2.) Persons Involved: Arresting Officer SFPD Babbs #330, Searching officer, SFSD Barbaria #1615, Custody, J#1998781
- 3.) Evidence: Two (2) white pills in small plastic bag, three (3) photos of contraband pills, copy of booking card.

DAY, DATE & TIME OF THIS REPORT  Wednesday, August 1, 2001 @ 21:06 Hours	<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUPPLEMENTARY
COPIES TO <input checked="" type="checkbox"/> FACILITY FILES <input checked="" type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA <input type="checkbox"/> _____	FURTHER ACTION REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO
REPORTING OFFICER      RANK    STAR /s/ [Illegible]                      1615 BARBARIA, MARIA #1615    8304    1615	DETAIL
APPROVED BY /s/ [Illegible] Benoit #731 LT. BENOIT	RANK                      STAR

INCIDENT REPORT

**SAN FRANCISCO  
SHERIFF'S DEPARTMENT**

/s/ Capt. T. Arata #370

\_\_\_\_\_  
[Field Arrest Card Omitted In Printing]  
\_\_\_\_\_

) RUN 05/07/06  
) @ [Illegible]  
) CTN 1998781 SCN  
) SFNO S558702  
) INCN 010913089  
) JAIL# 2053686 W/F  
) DOB [Omitted]  
PD OLMO/S ) MCN 1194 STRKS  
DEFSTATUS CUST ) CELL  
JAILST FREE 081902/1330 ) OPLIC A1715394 /CA

----- KEY DATES -----

ARR 080101 REBOOK ) BRCN CB00100477  
COMP /080201 ) BW D/061902 PSR  
PROBSTAT - ) INTR PCD  
SETBAIL \$ 062802 )

----- SCHEDULED ON CALENDAR -----

062802/0900 M15 SN DOP,GTW  
062602/0900 M15 CT SENTENCING, DOP  
062102/0900 M15 HR1 12/BW  
DISCP  
061902/0900 M15 BW  
120501/0900 M30 HR2 30/\$100  
VIF & PRF OF PRG, DOP  
100301/0900 M15 PC  
080201/0900 M15 AN

.....

----- REARREST INFORMATION -----

TYPE	REARDATE	REBKDATE	DOCNO	
MW	09/23/01	09/23/01	577099	
	0035	0351		
MW	06/18/02	06/18/02	581911	
	2000	2142		
BAMT	AGENCY	OFF1	OFF2	STAR
5,000	SFPD	550		1040
		SHEEHAN		
2,000	SFPD	1169		715
2,000	2142	LEE		

---

TOTALCTS 29D  
C262086 BKD 484A4905PC/M NOW 484A4905PC/M  
SHOPLIFTING  
COUNT 1 PLEA NL /100301 FINDING G  
DISPO 100301 ISS 17PC CTS 021D PJ 000 PROB  
/000 JLSS 0 JAIL 90D LAST APPEARANCE

---

062802 M15 SN DEF P/CUST  
/TWS/CH1:CJ90D/CTS:29/VF1/X:SENTENCE TO BE  
SERVED IN COUNTY JAIL/

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\*\*\*\*\* END OF REPORT \*\*\*\*\*

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Report No.

---

RE: (PRINCIPLE PERSON INVOLVED)

SF#573227

---

NATURE OF INCIDENT

POSSIBLE DRUGS FOUND  
DURING STRIP SEARCH

---

LOCATION

COUNTY JAIL #9

---

DAY, DATE & TIME

SUNDAY 01/27/02 @ 18:30 HOURS

---

VERBAL REPORT TO

DATE & TIME

SR. DEPUTY V. CHEW #809

01/27/02 @ 18:33 Hrs.

---

① NARRATIVE    ② PERSONS INVOLVED (Subject, Suspect, Victim, Reportee, Inmate)    ③ PROPERTY/ EVIDENCE INVOLVED

1.) On Sunday 01/27/2002 at 18:30 hours I was working my regularly scheduled shift, assigned to the position of booking search, at CJ #9. During the strip search of inmate J#2029048 I saw contraband concealed between the cheeks of his buttocks. I placed [redacted] in handcuffs and told him I saw the contraband. [redacted] said "It's marijuana and "I'll get it out". [redacted] used his right hand dislodge the contraband from his buttocks and it fell to the floor. I used my right foot to move the contraband out of the dress-in room. I removed [redacted] from the handcuffs and continued the search. No other contraband was found. I called my supervisor, Sr. Deputy V.chew to come

to the dress-in area and I showed him what I had found.

- 2.) Inmate J#2029048, DOB [Omitted], SF#573227, BMA  
Deputy P. Burt #1616  
Sr. Deputy V. Chew #809
- 3.) One small white plastic type sack. One small clear plastic ziplock style bag containing a small amount of green leafy substance suspected of being marijuana.

The contraband was sealed in a evidence envelope. I labeled it "for destruction only". I deposited this envelope in the drop box at the crime lab on the 4th floor of the Hall of Justice.

DAY, DATE & TIME OF THIS REPORT  Sunday, January 27, 2002 @ 18:33 Hours	<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUPPLEMENTARY						
COPIES TO <input checked="" type="checkbox"/> FACILITY FILES <input type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA <input type="checkbox"/> ____	FURTHER ACTION REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO						
REPORTING OFFICER /s/ P. Burt #1616 DEPUTY P. BURT	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">RANK</td> <td style="width: 15%; text-align: center;">STAR</td> <td style="width: 70%; text-align: center;">DETAIL</td> </tr> <tr> <td style="text-align: center;">8304</td> <td style="text-align: center;">1616</td> <td style="text-align: center;">CJ#9</td> </tr> </table>	RANK	STAR	DETAIL	8304	1616	CJ#9
RANK	STAR	DETAIL					
8304	1616	CJ#9					
APPROVED BY /s/ Sr. Dep. V. Chew #509 SR. DEPUTY V. CHEW	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center;">RANK</td> <td style="width: 85%; text-align: center;">STAR</td> </tr> <tr> <td style="text-align: center;">8306</td> <td style="text-align: center;">809</td> </tr> </table>	RANK	STAR	8306	809		
RANK	STAR						
8306	809						

INCIDENT REPORT

**SAN FRANCISCO  
SHERIFF'S DEPARTMENT**

---

  ) RUN 05/07/06  
  ) @ [Illegible]  
  ) CTN 2029048  
  ) SCN 184814  
  ) SFNO S573227  
  ) INCN 020116245  
DA KHINE/M                              ) JAIL# 2029048 B/M  
PD GOLDMAN/G                           ) DOB [Omitted]  
DEFSTATUS XXXX                        ) MCN STRKS CELL  
JAILST DLVD 061102/0949              ) OPLIC

----- KEY DATES -----

ARR 012702                              ) BRCN  
REBOOK 012902                          ) BW / PSR 050702  
COMP /013002                           ) INTR          PCD Y  
INFO /022602                           )  
PROBSTAT -                              )  
SETBAIL \$ 121703                       )

----- SCHEDULED ON CALENDAR -----

121703/0900 S22 HR2 31/REMITTUR  
060502/0900 S26 SN  
050702/0900 S26 TR  
041002/0900 S26 CT  
031802/0845 S24 PC  
022702/0900 S22 AN  
021102/0900 M12 HR1 05/FELONY PRELIMINARY  
HEARING

---

TOTALCTS 131D  
E208341 BKD 459PC /F NOW 459PC /F 2ND  
DEGREE BURG  
COUNT 1 PLEA NG /022702 FINDING G  
DISPO 060502 ISS 17PC CTS 000 PJ 000 PROB  
/000 JLSS 0 JAIL  
SP 3Y//

---

121703 S22 HR 31/REMITTUR           DEF NP/XXXX  
LAST APPEARANCE  
NEWPLEA OCCURRED  
/TEXT:JUDGMENT AFFIRMED; REMITTUR  
SPREAD UPON MINUTES/

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\*\*\*\*\* END OF REPORT \*\*\*\*\*

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Report No. 14702

RE: (PRINCIPLE PERSON INVOLVED)

SF 576227

NATURE OF INCIDENT

Found Contraband

LOCATION

County Jail #9 strip search stall

DAY, DATE & TIME

Sunday, June 23, 2002 @ 0410 Hrs.

VERBAL REPORT TO

Sgt. Oaks

DATE & TIME

06/23/02 @ 05:12 Hrs.

① NARRATIVE ② PERSONS INVOLVED (Subject, Suspect, Victim, Reportee, Inmate) ③ PROPERTY/EVIDENCE INVOLVED

- 1.) On Sunday June 23, 2002 at approximately 0410 hours at CJ #9 while on duty and in full uniform, I, Deputy Castillo #1785 was strip searching inmate (Jail# 2054316). As I instructed to spread her feet wide, bend over at the waist, spread her buttock checks and vagina to cough. At first she was hesitant, I gave the directions again of what to do. She did and while she was bending over at the waist to cough, I noticed something sticking out of her vagina. I asked her again to bend over and cough so I can be sure I actually saw something. I asked to go ahead and pull out the plastic bag from her vagina. She pulled it out and handed it to me. I asked her to put it into a plastic bag

which she did and then she handed it to me. When I asked her again to bend over and cough, she said "that's all I have".

I then took possession of the clear plastic baggie with the white powdery substance that was placed inside a plastic zip lock bag and brought it to the attention of Sgt. Oaks. Two (2) photograph pictures were taken of the recovered baggie containing white powdery substance. I then placed the suspected narcotics into the Analyzed Evidence envelope and sealed it with wax. I hand carried the evidence and deposited it into the narcotics drop box on the fourth (4th) floor located at 850 Bryant Street.

was booked for 4573.6PC possession of a controlled substance where prisoners are kept.

**2.) PERSON INVOLVED**

. J#2054316 SF#576227

Deputy S. Castillo, #1785

DAY, DATE & TIME OF THIS REPORT  Sunday, June 23, 2002 @ 05:12 Hours	<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUPPLEMENTARY
COPIES TO <input checked="" type="checkbox"/> FACILITY FILES <input checked="" type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA <input type="checkbox"/> ____	FURTHER ACTION REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO

**3) EVIDENCE:**

2 Photographs of plastic baggie containing white powdery substance

1 plastic baggie containing white powdery substance

LAB #02198655

CASE #020745888

REPORTING OFFICER	RANK	STAR	DETAIL
/s/ S. Castillo			
S. Castillo	Deputy	1785	
APPROVED BY	RANK	STAR	
/s/ E Oaks			
E. Oaks	Sgt.	546	

INCIDENT REPORT

**SAN FRANCISCO  
SHERIFF'S DEPARTMENT**

[Field Arrest Card Omitted In Printing]

) RUN 05/07/06  
) @ [Illegible]  
) CTN 2054316 SCN  
) SFNO S576227  
) INCN 020665333  
) JAIL# 2054316 W/F  
) DOB [Omitted]  
DEFSTATUS FREE ) MCN STRKS CELL  
JAILST FREE 062502/1903 ) OPLIC

----- KEY DATES -----

ARR 062302 ) BRCN  
REBOOK 062402 ) BW / PSR  
PROBSTAT - ) INTR PCD Y  
SETBAIL \$ )

-----  
E251615 BKD 496PC /F NOW 496PC /F REC/ETC  
KNOWN STOLEN PROPERTY  
COUNT PLEA / DISM 24  
-----

\*\*\*\*\* END OF REPORT \*\*\*\*\*

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Report No. 9-06-03-120

---

RE: (PRINCIPLE PERSON INVOLVED)

Inmate J#2113729

---

NATURE OF INCIDENT

Possession of contraband

---

LOCATION

CJ #9 strip search area

---

DAY, DATE & TIME

Tues., 06/17/03 0930 Hrs.

---

VERBAL REPORT TO DATE & TIME

Sgt. Daggs #729 06/17/03 @ 10:11 Hrs.

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① NARRATIVE ② PERSONS INVOLVED (Subject, Suspect, Victim, Reportee, Inmate) ③ PROPERTY/EVIDENCE INVOLVED

1.) On 06/17/03 at 0930 hrs., I was conducting a strip search on inmate J#2113729. I asked to bend forward at the waist and spread his buttocks. appeared to be very agitated and did not comply with my orders. After several commands, complied and I saw a yellow piece of paper in his anus. I instructed him to remove the paper. complied and when he pulled the yellow paper out, a clear baggy containing some green leafy substance fell to the floor. I was unable to determine if he had anything else secreted. became argumentative and his demeanor was challenging and threatening to me. was placed in safety cell # 1 and was given a notice of rules violation.

2.) Inmate DOB: [Omitted], J#2113729  
SFNO 369852

3) 1 Clear baggy containing green leafy substance  
(To be destroyed) (PHOTO OF NOTED ITEMS)

1 Yellow piece of paper containing a small piece  
of rolled leafy substance (To be destroyed) (PHO-  
TO OF NOTED ITEMS).

DAY, DATE & TIME OF THIS REPORT  Tuesday, June 17, 2003 @ 10:11 Hours	<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUPPLE- MENTARY
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COPIES TO <input checked="" type="checkbox"/> FACILITY FILES <input checked="" type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA <input type="checkbox"/> _____	FURTHER <input type="checkbox"/> YES ACTION <input type="checkbox"/> NO REQUIRED
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REPORTING OFFICER	RANK	STAR	DETAIL
/s/ B. Alviar			
B. Alviar	Dep.	732	

APPROVED BY	RANK	STAR
/s/ Sgt Daggs #729		
Daggs	Sgt	729

INCIDENT REPORT

**SAN FRANCISCO  
SHERIFF'S DEPARTMENT**

\_\_\_\_\_  
[Photograph, Field Arrest Card, And Prisoner  
Discipline Forms Omitted In Printing]  
\_\_\_\_\_

)RUN 05/07/06  
) @ [Illegible]  
)CTN 2113729  
) SCN 190038  
)SFNO S396852  
) INCN 030727296  
DA ROSS/J )JAIL# 2113729 B/M  
PD DOERING/H ) DOB [Omitted]  
DEFSTATUS CUST )MCN STRKS CELL  
JAILST FREE 021804/0943 )OPLIC C1864953 /CA

----- KEY DATES -----

ARR 0161703 )BRCN  
REBOOK 061803 )BW / PSR 092403  
COMP /061903 )INTR PCD Y  
INFO /072903 )  
PROBSTAT GRANT - )  
102203 )  
SETBAIL \$ 102203 )

----- SCHEDULED ON CALENDAR -----

102203/0845 S24 SN  
092503/1000 S24 CT  
091903/0900 S22 TR TR/----TRIAL, LD 09-29-03  
082703/1030 S22 PC  
073003/0900 S22 AN  
071603/0900 M09 HR1 05/PRELIM HRG,  
DOP,NTW LD 7 17

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TOTALCTS 128D

F249188 BKD 664459PC /F NOW 459PC /F 1ST  
DEGREE  
COUNT PLEA NG /061903 DISM 74  
F249189 BKD 594(B) 2APC/M NOW 664459APC /F  
VANDALISM UNDER \$400  
COUNT PLEA NG /073003 DISM 46  
F249190 BKD 148(A) 1PC /M NOW 148(A) 1PC /M

OBSTRUCT/ETC PUB OFFICER/ETC  
COUNT PLEA/           DISM 34  
F249191 BKD 602 (E) PC /M NOW 602 (E)PC /M  
TRESPASS/SOIL REMOVAL PUB PROP  
COUNT PLEA /           DISM 34  
F260998 BKD       NOW 664459PC /F N/A  
COUNT PLEA /           DISM 72  
F260999 BKD       NOW 664459PC /F N/A  
COUNT 1 PLEA G /092403  
DISPO 102203 ISS Y 17PC CTS 000 PJ 001Y  
PROB FO/004Y JLSS 0 JAIL

----- LAST APPEARANCE -----  
-----  
102203 S24 SN           DEF P/CUST  
/AJW/CH1:ISS:PROB 4 Y:PJ  
1Y/CTS:128/WS/VF4:200/RESTV/SA2:HICKORY  
ST,,SF/PC/PSR/BKFEE/OBEY/ACCEP/

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\*\*\*\*\* END OF REPORT \*\*\*\*\*

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Report No. 03J57

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RE: (PRINCIPLE PERSON INVOLVED)

J#2103274; SF# 566121

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NATURE OF INCIDENT

Drugs found on prisoner

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LOCATION

425 7th Street, CJ#9 Strip-Search Area

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DAY, DATE & TIME

Wednesday, November 19, 2003 @ 22:41 Hours

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VERBAL REPORT TO

DATE & TIME

Lt. Garibaldi #386

11/19/03 @ 22:41 Hrs.

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① NARRATIVE    ② PERSONS INVOLVED (Subject, Suspect, Victim, Reportee, Inmate)    ③ PROPERTY/EVIDENCE INVOLVED

- 1.) On November 19, 2003 at approximately 2230 hours, I was conducting a strip-search on Inmate when I found a clear plastic bag containing a white powdery substance inside the tongue of his right shoe. Prior to the strip-search I asked Inmate a series of routine questions like, "do you have any drugs on you?" Inmate replied, "no, I don't have any drugs on me" to my question. I then took him to the first stall and asked him to remove his shoes first and hand them to me. Once he handed me his shoes I noticed he became nervous and was standing there watching me search his shoes. He told me, "watch out, they stink really bad". I then told him to remove the rest of his clothing so I could

search them too after I finished searching his shoes. I began searching his right shoe and I noticed that he did not hear me and was nervously focused on his right shoe. I squeezed the tongue of his right shoe and immediately felt that there was something hard inside. Inmate [redacted] noticed that I found something inside the tongue and said, "there's nothing in there". I took a closer look at the shoe and noticed that there was a slit on the right side of the tongue and became suspicious. I then began to move the object inside up to the slit on the tongue and saw a clear plastic container. I immediately removed it and saw that it was a plastic bag full of white powdery substance. I secured the bag in my right pants pocket and confiscated his shoes and notified Lt. Garibaldi #386 of my findings. Deputy Lawsha #1526 completed the strip-search on Inmate [redacted] and found no other contraband.

Once I suspected it was drugs, I called S.F. Police Department Operation Center and obtained an incident case number and a lab report number. I then placed the plastic bag which contained the white powdery substance inside an envelope and sealed it and sent it to the lab for further analysis. I then notified Investigative Services Unit.

2.) Inmate [redacted] J#2103274; SF#566121 DOB [Omitted]

3) Attachment:

Photograph of clear plastic bag containing white powdery substance with shoes included.

DAY, DATE & TIME OF THIS REPORT  Wednesday, November 19, 2003 @ 22:41 Hours	<input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> SUPPLEMENTARY
COPIES TO <input checked="" type="checkbox"/> FACILITY FILES <input type="checkbox"/> ADMINISTRATION <input type="checkbox"/> DA <input type="checkbox"/> ____	FURTHER ACTION REQUIRED <input type="checkbox"/> YES <input type="checkbox"/> NO

Case #031360257; Lab Report #03211254

REPORTING OFFICER /s/ Suguitan 1653 Sugui-Tan	RANK 8304	STAR 1653 CJ9
APPROVED BY /s/ Sgt. [Illegible] For 8308 #1042 Lt. Garibaldi	RANK 8310	STAR 386

INCIDENT REPORT

**SAN FRANCISCO  
SHERIFF'S DEPARTMENT**

\_\_\_\_\_  
 [Field Arrest Card And Photographs  
 Omitted In Printing]  
 \_\_\_\_\_

) CTN 2103274 SCN  
 ) SFNO S566121  
 ) INCN 030329284  
 ) JAIL# 2103274 W/M  
 ) DOB [Omitted]  
 PD PEARLMAN/B ) MCN STRKS CELL  
 DEFSTATUS ORCT ) OPLIC  
 JAILST DLVD 041504/0927 )

----- KEY DATES -----

ARR 031903 REBOOK ) BRCN  
 COMP /0422033 ) BW D/112003 PSR  
 PROBSTAT - ) INTR PCD  
 SETBAIL \$ 121103 )

----- SCHEDULED ON CALENDAR -----

121103/0900 M15 HR1 30/JONES MTN DOP  
 112003/0900 M15 BW 110303 FTA PRETRIAL  
 (2ND BWI  
 110303/0900 M15 PC  
 042203/0900 M19 AN

----- REARREST INFORMATION -----

TYPE	REARDATE	REBKDATE	DOCNO
MW	10/19/03	10/19/03	610335
	0130	0349	
MW	11/19/03	11/19/03	620650
	1900	2013	
BAMT	AGENCY	OFF1	OFF2 STAR
5,000	SFPD	4160	1815
	MITCHELL		
5,000	OTHER	192 1	1653
	PINTOS	AMTRAKPD	

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9336577 BKD 647(J)PC /M NOW 647(J)PC /M ILLE-  
GAL LODGING

COUNT PLEA NG /112003      DISM 68  
 9336577A BKD              NOW 372PC /M NA  
 COUNT PLEA NG /112003      DISM 68

9336577B BKD                   NOW 647(J)PC /M NA  
COUNT PLEA NG /112003       DISM 68  
9336577C BKD                   NOW 372PC /M NA  
COUNT PLEA NG /112003       DISM 68  
9336577D BKD                   NOW 647(J)PC /M NA  
COUNT PLEA NG /112003       DISM 68  
9336577E BKD                   NOW 372PC /M NA  
COUNT PLEA NG /112003       DISM 68  
9336577F BKD                   NOW 647(J)PC /M NA  
COUNT PLEA NG /112003       DISM 68  
9336577G BKD                   NOW 372PC /M NA  
COUNT PLEA NG /112003       DISM 68  
9336577H BKD                   NOW 647(J)PC /M NA  
COUNT PLEA NG /112003       DISM 68  
9336577I BKD                   NOW 372PC /M NA  
COUNT PLEA NG /112003       DISM 68

----- LAST APPEARANCE -----  
121103 M15 HR 30/JONES MTN DOP DEF P/ORCT  
/  
TEXT: DEFENDANT'S MOTION TO DISMISS FOR  
DELAY IN PROSECUTION PURSUANT TO  
JONES-SERNA,/MO JONES/MO GR TD/  
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\*\*\*\*\* END OF REPORT \*\*\*\*\*

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[LOGO]

**San Francisco Sheriff's Department  
INTER-OFFICE CORRESPONDENCE  
CONTRABAND FORM**

Case # 040-010-489

Name:	Jail # 2143344	SF# 562790
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Date: 01-04	Time:	Found By: DEPUTY YAMBAO #1854
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Item(s) Found: ABOUT 8" INCHES SCISSOR
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- Pat Down/Wand Search
- Strip Search (Drugs/ Weapons/Violence, etc.)
- Custodial Strip Search (Processed/ Classified)
- Safety Cell Placement
- Strip Search Authorization Form

**CHECK ALL THAT APPLY:**

- Incident Report Written
- SFPD Advised to Supplement Charges
- Sent to Lab for Analysis
- Charges Filed
- Item(s) Destroyed
- Sent to Lab for Destruction
- Items Placed in Inmate's Property
- Other \_\_\_\_\_

BKD:01-04-04

I/M  
J# 2143344

[Photograph Of Scissors Omitted In Printing]

\_\_\_\_\_

) CTN 2143344 SCN  
) SFNO S562790  
) INCN 040010489  
) JAIL# 2143344 B/M  
) DOB [Omitted]  
) MCN STRKS CELL

DEFSTATUS DLVD ) OPLIC  
JAILST DLVD 010504/2210 )

----- KEY DATES -----

ARR 010404 REBOOK ) BRCN  
/ / ) BW / PSR  
PROBSTAT - ) INTR PCD  
SETBAIL \$ )

----- SCHEDULED ON CALENDAR -----

010504/0900 M77 AN  
-----  
G200945 BKD ENROUTEXX /M NOW ENROUTEXX  
/M SANMATEO#SM312436A3 46OPC \$25K  
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\*\*\*\*\* END OF REPORT \*\*\*\*\*

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