

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FRED WELLS, a minor, by his next friend  
SHARON KELSO, WESLEY RAY, a minor,  
by his next friend MERUDIETH RAY, and CATHY  
HOLMES, a minor, by her next friend  
CANDICE HOLMES,

Plaintiffs,

Case Number:

vs.

Honorable

CITY OF DETROIT, DETROIT PUBLIC  
SCHOOLS, UNKNOWN DETROIT  
POLICE OFFICERS and UNKNOWN  
DETROIT PUBLIC SCHOOL SECURITY  
OFFICERS,

Defendants.

---

AMOS E. WILLIAMS (P39118)  
Cooperating Attorney, American Civil Liberties Union  
Fund of Michigan  
615 Griswold, Suite 1115  
Detroit, Michigan 48226-3998  
(313) 963-5222

MICHAEL J. STEINBERG (P 43085 )  
KARY L. MOSS (P 49759)  
American Civil Liberties Union  
Fund of Michigan  
60 W. Hancock  
Detroit, Michigan 48201-1342  
(313) 578-6814

Counsel for Plaintiffs

---

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES  
AND JURY DEMAND**

Plaintiffs, for their complaint against defendants, state:

**Jurisdiction**

1. Plaintiffs bring this suit pursuant to the Fourth Amendment to the United States Constitution and 42 U.S.C. §§1983 and 1988. Plaintiffs seek injunctive relief thereunder and declaratory and other relief under 28 U.S.C. §§2201 and 2202.

2. This Court has jurisdiction pursuant to 28 U.S.C. §§1331 (federal question), 1343 (original jurisdiction over civil rights claims) and 2201 (declaratory relief).

**Venue**

3. Venue is proper under 28 U.S.C. §1391(b)(1) and (2), this being a judicial district where defendants reside and where the events giving rise to this action occurred and will occur.

**Parties**

4. Plaintiff FRED WELLS is a minor and a resident of the City of Detroit. He is a Detroit Public School student attending Mumford High School. He is represented by his grandmother, SHARON KELSO, who is his next friend.

5. Plaintiff WESLEY RAY, is a minor and a resident of the City of Detroit. He is a Detroit Public School student attending Mumford High School. He is represented by his mother, MERUDIETH RAY, who is his next friend.

6. Plaintiff CATHY HOLMES, is a minor and a resident of the City of Detroit.

She is a Detroit Public School student attending Mumford High School. She is represented by her mother, CANDICE HOLMES, who is his next friend.

7. Defendant CITY OF DETROIT, a municipal corporation, located in Wayne County, Michigan and operating under the authority of state law and subject to the laws and constitutions of the State of Michigan and the United States.

8. Defendant DETROIT PUBLIC SCHOOLS, a corporate entity, located in Wayne County, Michigan and operating under the authority of state law and subject to the laws and constitutions of the State of Michigan and the United States.

9. Defendants UNKNOWN DETROIT POLICE OFFICERS are members of the Detroit Police Department who, at all times pertinent, were on duty and who were operating in conjunction with security officers of the Detroit Public Schools.

10. Defendants UNKNOWN DETROIT PUBLIC SCHOOLS SECURITY OFFICERS are members of the Detroit Public Schools Security who, at all times pertinent, were on duty and who were operating in conjunction with the Detroit Police Department.

### **Allegations of Fact**

11. On Wednesday, February 18, 2004 beginning at approximately 7:30 a.m., defendants conducted a mass, indiscriminate, unconstitutional search and seizure known as a “sweep” of the entire student body of Detroit’s Mumford High School, including the three minor plaintiffs.

12. This sweep was not at the request of the school principal or any of the school staff.

13. This sweep was not based upon particularized suspicion that any given student or group of students was in violation of the law.

14. This sweep was not based upon probable cause or reasonable suspicion that any given student or group of students had committed or was about to commit a crime.

15. This sweep was not based upon probable cause and there were no exigent circumstances present that would support a search without a warrant.

16. These searches and seizures do not fall within any recognized exception to the warrant requirement of the Fourth Amendment.

17. The sweep was conducted pursuant to an established custom, policy or practice of defendant Detroit Public Schools to periodically conduct such sweeps without notice in its intermediate and high schools. Upon information and belief, at least two other high schools were searched in the same manner and pursuant to the same policy including Murray Wright High School and Pershing High School.

18. On February 18, 2004, defendant Detroit Public Schools and defendant City of Detroit directed the unknown officers of the public safety department and the police department respectively, to coordinate the unlawful searches, seizures and detentions of students only.

19. The unlawful sweeps were planned and scheduled in advance of the actual operation.

20. Defendants intended to prosecute any student found with illegal contraband such as guns or controlled substances.

21. The unknown police officers and public safety officers arrived at the school

before commencement of first hour.

22. Students then upon the premises and those arriving thereafter were ushered into the hallway of the school and were not allowed to leave until the unlawful searches were concluded, about one and one half hours later at the start of the third hour.

23. The students were lined up against the walls and, under the close supervision of Detroit Police and the Detroit Public Schools' Public Safety Officers, were marched to the end of the hall where they were each frisked and their school bags, purses and other belongings were searched.

24. After being searched, the students were further held in the school's auditorium until released at the beginning of the third hour.

25. Students, including plaintiffs, who questioned these illegal searches were threatened with arrest or corporal violence if they did not "shut up."

26. Upon information and belief, the police officers did not find any guns or drugs despite searching every student in the school.

27. As a direct and proximate result of defendants' conduct and practices, plaintiffs suffered the following injuries and damages:

- a. Anxiety, fear, intimidation and humiliation;
- b. Loss of liberty interests;
- c. Unlawful search;
- d. Unlawful seizure; and
- e. Unlawful detention.

28. Because plaintiffs will attend Mumford High School during the upcoming

academic year, they will be subjected to defendants' policy, practice and/or custom of conducting sweeps without individualized probable cause or reasonable suspicion in the future.

**Cause of Action: Violation of the Fourth Amendment and 42 U.S.C. §1983**

29. Plaintiffs incorporate by reference all preceding paragraphs.

30. Plaintiffs bring this action under 42 U.S.C. §1983, alleging unlawful search and seizure in violation of the Fourth Amendment -- which applies to defendants pursuant to the Fourteenth Amendment.

31. The actions of defendants were taken under color of state law.

32. The actions of defendant officers violated the clearly established rights of plaintiffs under the Fourth Amendment to be free from unlawful and unreasonable searches, seizures and detentions.

33. It was clearly established on February 18, 2004, that mass, indiscriminate searches, seizures and detentions, without probable cause or reasonable suspicion, were unlawful.

34. Given the pre-planned nature of this sweep, no reasonable officer would believe that exigent circumstances existed which would negate the warrant requirement even if probable cause had been present.

35. The corporate defendants' custom, policy or practice of conducting random, mass searches, seizures and detentions that were not based upon probable cause or even reasonable suspicion is unconstitutional being in violation of the Fourth Amendment.

36. Defendants' custom, policy or practice regarding such operations was the motivating and driving force behind the conduct of the individual defendants which violated the clearly established rights of the minor plaintiffs.

37. The willful, wanton and deliberate abuse of authority by the individual defendants is sufficient to support an award of punitive damages.

38. As a direct and proximate result of defendants' conduct, plaintiffs suffered injuries and damages as stated in paragraph 27.

39. Plaintiffs and all other students attending Mumford High School are irreparably harmed by the existence and enforcement of defendants' unconstitutional policy, practice and/or custom of conducting mass search and seizure sweeps without probable cause or reasonable suspicion of individual wrongdoing.

40. No adequate remedy exists at law to redress this unconstitutional policy, practice and/or custom.

41. Injunctive relief would be in the public interest and would not cause substantial harm to others

42. Plaintiffs seek declaratory, injunctive and monetary relief under all applicable laws including, but not limited to, 42 U.S.C. §§1983 and 1988.

### **Relief Requested**

WHEREFORE, plaintiffs request that this Court:

- a. Declare the search and seizure sweeps unconstitutional on the grounds set forth above;
- b. grant judgment for plaintiffs;
- c. enter a preliminary and permanent injunction against enforcement and threat of enforcement of this practice on the grounds set forth above;

- d. award plaintiffs damages, punitive damages and costs under 42 U.S.C. §1983 and attorneys fees under 42 U.S.C. §1988; and
- e. grant other appropriate relief.

Respectfully submitted,

---

Amos E. Williams (P39118)  
Cooperating Attorney, American Civil Liberties Union  
Fund of Michigan  
615 Griswold, Suite 1115  
Detroit, Michigan 48226-3998  
(313) 963-5222

---

Michael J. Steinberg (P 43085)  
Kary L. Moss (P 49759)  
American Civil Liberties Union  
Fund of Michigan  
60 W. Hancock  
Detroit, Michigan 48201-1342  
(313) 578-6814

Counsel for Plaintiffs

Dated: June 10, 2004



**Jury Demand**

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully submitted,

---

Amos E. Williams (P39118)  
Cooperating Attorney, American Civil Liberties Union  
Fund of Michigan  
615 Griswold, Suite 1115  
Detroit, Michigan 48226-3998  
(313) 963-5222

---

Michael J. Steinberg (P 43085)  
Kary L. Moss (P 49759)  
American Civil Liberties Union  
Fund of Michigan  
60 W. Hancock  
Detroit, Michigan 48201-1342  
(313) 578-6814

Counsel for Plaintiffs

Dated: June 10, 2004