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## SAN FRANCISCO

# City jail's blanket strip searches illegal

## Ruling on former policy means S.F. liable to ex-inmates

By Bob Egelko

CHRONICLE STAFF WRITER

San Francisco may have to pay millions of dollars to former jail inmates following a federal judge's ruling that the city's former policy of strip-searching new prisoners, regardless of the charges against them, was unconstitutional.

A lawyer for inmates who challenged the policy said Friday that U.S. District Judge Charles Breyer's ruling applies to as many as 27,000 people who were strip-searched at the city's reception jail between April 2002 and January 2004, when the policy was changed.

According to city statistics cited by Breyer, about 50,000 inmates per year are booked and temporarily housed in the jail before being transferred to other jails or released.

Settlements in other strip-search cases, including a \$15 million settlement in Sacramento last year, have amounted to about \$1,000 per inmate, said the attorney, Jeff Schwarzschild. He said Breyer's ruling made it clear that the San Francisco inmates were illegally searched and leaves the amount of damages as the main issue to be resolved.

A lawyer for the city had a

different assessment, saying the judge had narrowed the suit to between 7,000 and 9,000 inmates and allowed jail officials to try to show that particular strip searches were justified.

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He also noted that Breyer refused to find the strip searches to be in violation of a state law that provides damages of at least \$1,000 per victim. The judge instead invalidated the policy under constitutional standards, which allow strip searches only for specific reasons -- such as evidence that an inmate is concealing drugs or weapons -- but require proof of damages.

The suit is one of several filed in the last few years accusing jail officials in Northern California counties of routinely strip-searching inmates in violation of their constitutional rights. Suits are also pending against adult jails in San Mateo, Marin and Contra Costa counties, and against juvenile facilities in San Francisco, Contra Costa, Sacramento and Solano counties.

Breyer's ruling, issued Sept. 22, said the jail's former policy violated constitutional rules, defined by a federal appeals court in 1984, that allow a strip

longer than 24 hours and were to be transferred to other jails.

Hennessey's office defended the old policy, citing numerous instances in which inmates had smuggled contraband from the reception jail into other jails. But Breyer said the problem, while serious, does not justify a blanket policy of strip-searching inmates without regard to the charges against them.

That policy was clearly unconstitutional, and Hennessey and other city officials knew that or should have known it, the judge said. But he said the jail could still try to justify searches of particular inmates who were part of the suit.

On another issue, Breyer said the city was entitled to strip-search inmates who were sent to padded "safety cells" because they were dangerous to themselves or others. But he said other reasons for safety-cell assignments, such as bizarre behavior and grave disabilities, might not justify strip searches.

search only if a newly booked inmate had been arrested for a crime involving drugs or violence, or if guards have evidence that the inmate is concealing weapons or contraband.

Sheriff Michael Hennessey changed the jail's policy in January 2004 to conform to those standards. Previously, other categories of new inmates were routinely strip-searched, including all those who were held