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## **Olympia posts papers about city jail lawsuit**

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OLYMPIA - In an unusual move, the City of Olympia has posted documents on its website relating to the case of Cynthia Brown, who sued the city in September after being illegally strip-searched and shot with a Taser in the city jail in 2008.

Councilwoman Rhenda Strub said she had the documents posted after three women came to the last Olympia City Council meeting, on March 8, to voice concerns over strip-searches of female inmates at the jail. One of the three said it happened to her in 2006 and that it has happened to others, according to a meeting video. Another person on the video said it happened to her friends.

City Manager Steve Hall and Police Chief Ronnie Roberts are expected to address the situation at tonight's City Council meeting, which will begin at 7 p.m. at the old City Hall, 900 Plum St. S.E.

Hall and Roberts did not return phone calls seeking comment Monday. But in a staff report, Hall said the 2008 incident "is not consistent with the city's values and expectations." He said he has asked Roberts, who became chief in January, to do his own review of policies and procedures.

"Again, the city made a mistake," Hall wrote. "We regret the actions, and we issued a written letter of apology."

The city posted 104 pages of documents late Friday afternoon, including:

- The Olympia Police Department's internal investigation into the 2008 incident after a complaint from Brown. The investigation found it was unlawful for Brown to be strip-searched in front of a male officer and "not appropriate and excessive" to use a Taser on her. But it states that corrections officers were following the department's policy at the time.
- An e-mail to Brown from then-Police Chief Gary Michel apologizing for her treatment in the jail.
- Updated police department policies for conducting strip searches that require them to be conducted by an officer of the same sex as an offender and in a private location.

Strub said she didn't feel free to discuss Brown's case last week because of Brown's pending lawsuit against the city. So she met with the city's outside counsel on the case, Donald Law, to go through records and identify what could be released to the public. Then, she had the documents scanned and placed on the city's website.

She said she was satisfied with the way police handled the situation after the initial incident in the jail.

"I'm very impressed with the way the system worked to correct a problem," she said. "I was alarmed to hear what happened in the jail to Ms. Brown, but relieved to see that within three months of it being reported, a complete investigation had been conducted and had been reviewed by our police auditor, and Ms. Brown received a letter from the chief of police apologizing to her and thanking her for bringing this to his attention."

### **CASE DATES TO 2008**

According to the public documents:

Brown was arrested and taken to the city jail Aug. 19, 2008, for investigation of criminal trespassing at the Family Support Center, 108 State Ave. Brown "said she wasn't going to spend a night on the streets and that the people at the Homeless Service Office were not helping her," according to the incident report. "She said she was ready to go to jail and she wasn't going to leave until we took her." Brown was "very belligerent" and "yelling and screaming."

When Brown attempted to enter the Family Support Center, she was arrested. The Family Support Center had taken out a trespass warning that day, prohibiting her from entering the building.

Brown was brought to the jail, where there were three male corrections officers – James Roberson Sr., James Roberson Jr. and Michael Renard, a cadet. Roberson Sr. ordered Brown to go to the jail shower and remove her shirt and pants and place them in a bag. Brown was required to change into jail clothing.

Brown asked that a female officer be present to watch her change her clothes. But Roberson Sr. told her a female officer was not available. Roberson Sr. threatened to use a Taser on her if she didn't remove her clothes, but she continued to resist his order, according to Roberson Sr.

After Roberson Sr. shot her with the Taser, Brown disrobed "while the male officers watched."

The investigation agreed with Brown that her civil rights were violated by shooting her with a Taser and forcing her to change in front of male officers after she requested the presence of a female officer.

But it adds that the corrections officers were following "expected procedures." It says that department policies were changed as a result.

## **APOLOGY, POLICY CHANGES**

Police reviewed Brown's case after receiving a complaint from her Dec. 31, 2008. The internal investigation was completed Feb. 26, 2009, and reviewed by Erin Nolan, the city's police auditor at the time, who found it to be complete in a June 29, 2009, report. (The city no longer employs a police auditor.)

As a result, the department maintains it has changed its policies. In a Jan. 29, 2009, e-mail, the corrections staff was told that all arrested persons are to be "pat searched and outer clothing removed down to a single layer of outside clothing" such as shirt and pants, by the arresting officer. An arrested person would be pat-searched and sent to the shower room to change into a jail uniform after the shower door is secured.

"At no time will a corrections officer observe any arrestee change from their street clothes into the jail uniform or from their jail uniform to their street clothing."

The department issued new guidelines on strip searches with an implementation date of Dec. 10, 2010.

"One officer of the same sex shall conduct strip searches in a private location," the policy says. If an offender is uncooperative and a strip search can't be completed, the inmate is to be isolated until a strip search is completed.

The new policy adds that corrections officers "must have reasonable suspicion to believe a strip search is necessary to discover weapons, criminal evidence, contraband or other items."

Michel, the former police chief, apologized to Brown in an e-mail dated April 22, 2009.

"Please know that we treated your concerns very seriously," he wrote. "In fact, as we were reviewing your allegations, we recognized that we made several errors and have taken several steps to correct them."

## **LAWSUIT, OTHER CLAIMS**

Brown named the city and the three corrections officers in her lawsuit, filed Sept. 29. The suit claims the city violated her civil rights and that the strip search was illegal. It asks for compensatory and punitive damages in amounts to be determined at trial.

A trial date is set for Oct. 31 in U.S. District Court in Tacoma, said Law, the city's outside counsel on the case.

Edwin Budge, one of two attorneys representing Brown, said he wasn't aware the documents were posted until he heard it from a reporter. But he said a limited reading of them "100 percent confirms that the misconduct at that jail occurred in the way that Ms. Brown said it occurred.

"The command to strip was illegal, the tasing was illegal, and forcing her to remove her clothes in front of them was illegal."

State law says that only members of the same sex may conduct strip searches. No one may be strip-searched without a warrant, the law says, unless “there is a reasonable suspicion to believe that a strip search is necessary to discover weapons, criminal evidence, contraband, or other things concealed on the body of the person to be searched.” Also, no one is allowed to observe a strip search unless it is necessary to ensure safety, or if the offender asks for a person to be there.

The Fourth Amendment to the U.S. Constitution protects citizens from “unreasonable searches and seizures.”

Law, the city’s outside counsel, said “the problem we’re talking about was solved more than two years ago.”

Brown is not the first woman to sue the city, claiming to have been illegally strip-searched at the jail.

In September 2009, three women who were arrested during protests at the Port of Olympia against the Iraq War in November 2007 filed a suit alleging they were told to undress to their underwear during searches at the city jail, exposing their breasts to men there. That suit is pending.

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