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## Inmate search lawsuit settled

County to pay \$2.5M to people forced to strip under policy deemed unconstitutional

By **BRIAN NEARING**, Staff writer

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**SCHENECTADY** -- Schenectady County has agreed to pay a \$2.5 million settlement in a federal lawsuit over strip-searches at the county jail.



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Under the agreement, the county also adopted a policy to bar such searches of people accused of misdemeanors and other minor crimes.

"This has already been in place for quite a while now," County Attorney Chris Gardner said.

County legislators voted 13-2 on Tuesday to approve the settlement, which will cost county taxpayers \$130,000. The rest will be covered by the county's three insurance companies.

The settlement could cover up to 5,000 people who have been processed at the jail since July 2001, said Elmer "Bob" Keach, a lawyer representing two women who sued the county in 2004 after being strip-searched at the jail.

The women, Nichole Marie McDaniel, 19, and Lessie Lee Davies, 18, both of Schenectady, were jailed on shoplifting charges but had no history of violent or dangerous behavior.

"Officials at the jail can still search inmates on reasonable suspicion that they have something on them," Keach said. "But it is no longer a blanket thing that people are being subjected to the indignity of showing a stranger their body cavity."

Keach settled a similar class-action case over jail strip-searches with Rensselaer County for \$2.7 million. He also brought successful cases against Montgomery and Schoharie counties.

High courts have ruled it unconstitutional to conduct strip-searches on those charged with misdemeanor crimes or violations unless reasonable suspicion exists they are hiding contraband in their bodies.

In 2001, a federal judge ruled that the city of Schenectady's police department had an unconstitutional strip-search policy.

Gardner said the county settled under pressure from its insurance carriers, which said they would cover the county only up to \$2.5 million, not the \$4 million that

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was the limit of the insurance coverage.

That put the county at risk of losing even more taxpayer money if the county lost the case at trial, he said. The lawsuit was still in legal discovery phase when the settlement was reached, with no trial date set.

Montgomery County, which is fighting a similar lawsuit, spent \$800,000 in attorney fees before losing a federal appeal and is now considering a settlement.

U.S. District Court Judge Gary Sharpe will review the Schenectady settlement for approval. Keach and his co-counsels from Manhattan and Washington, D.C., have submitted legal bills totaling about \$650,000 that Sharpe also will review.

The lawyers' bills will be paid from the \$2.5 million settlement, with the balance being used to pay those eligible under the lawsuit. Keach said about 30 percent of those can be expected to apply, meaning that the average settlement will be about \$1,000 per person.

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