



"THIS IS
ABUSE THAT
DESTROYS
YOUR SOUL"

THE HARM OF ROUTINE
STRIP SEARCHES IN
OREGON'S PRISONS



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July 2024

"TO BE FORCED TO BE AT YOUR MOST VULNERABLE
IN FRONT OF SOMEONE WHO YELLS AT YOU,
WHO CONTROLS EVEN WHEN YOU USE THE TOILET,
IS DEVASTATING IN SO MANY WAYS.

NO ONE UNDERSTANDS HOW IT MAKES YOU FEEL
EXCEPT THOSE WHO HAVE LIVED IT."

*-Woman formerly incarcerated in
Coffee Creek Correctional Facility*

"FOR MANY YEARS, THERE WOULD
BE DAYS WHERE I MIGHT BE STRIP
SEARCHED SIX TIMES, AND IT BECAME A
RUNNING JOKE WITH MY SUPERVISOR
AND MANY OF THE OFFICERS."

*-Man formerly incarcerated in
Oregon State Penitentiary*

"I SAW A GIRL SAY,
'I'M NOT GETTING NAKED FOR YOU GUYS
ANYMORE, IT'S HUMILIATING.'"

-Woman incarcerated in CCCF

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INTRODUCTION

IN OREGON AND across the U.S., being strip searched is part of daily life for people held in prisons. In a strip search, adults in custody (AICs) are required to remove their clothing and submit to a close visual inspection by a correctional officer. The specific details of the process, discussed later in this report, are deeply unsettling. It is widely considered by those subjected to it as one of the most demeaning, undignified, and inhumane aspects of prison life.¹ For some, including those who have survived past sexual abuse, being strip searched can be profoundly harmful and traumatic.²

The harmful impacts caused by strip searching are well-documented. Critics of the practice, including social science experts, advocates, and incarcerated individuals, argue that strip searching is an unacceptable insult to human dignity; an intrusion akin to

sexual abuse; and a tool that prisons use as a deliberate means of controlling incarcerated people through humiliation and fear. The harm and trauma caused by strip searches impedes incarcerated people's ability to address issues like addiction and trauma, heal from prior abuse, and prepare for successful and healthy lives in the community.

Correctional officials typically justify strip searches as necessary to detect contraband and to ensure the security of institutions. Contraband includes not only drugs and weapons but any item that is prohibited for an AIC to have. Numerous studies indicate that strip searches are not an effective method detecting contraband, as discussed later in this report. Additionally, "numerous investigations of correctional facilities from across the country have shown that banned items are more often brought into jails and

1 See, e.g., Shakeil Price, *This is the Most Demeaning Act I Experience in Prison*, Prison Journalism Project, Oct. 4, 2023, <https://prisonjournalismproject.org/2023/10/04/prison-cavity-searches-completely-dehumanizing/>. Strip searches are sometimes called "body cavity searches" because they involve visual inspection of bodily orifices. Visual searches are distinct from body cavity searches which involve manual examination and physical touching by the person performing the search. This report focuses on the former (visual) type of strip search.

2 See, e.g., Women in Prison Advocacy Network, *Ceremonies of Degradation: Strip-searching in Women's Prisons* (2015) (hereafter *Ceremonies of Degradation*).

prisons by staff members than by visitors or imprisoned people.”³ Research on correctional practices indicates that with respect to strip searches, “the rationale of security [to justify strip searches] often conceals a disciplinary practice of power that heightens the level of control and adds to the punitive character of prison life.”⁴ In other words, the unspoken function of strip searches is reinforcing harmful power dynamics and values of domination and control that are deeply rooted in the traditional environments and cultural norms of prisons. Strip searches epitomize the lack of agency afforded to incarcerated people, even over the most intimate parts of their own bodies. Under this paradigm, the infliction of painful, frightening, and degrading experiences, like strip searches, serve to control incarcerated people by continuously demeaning them.

In Oregon, strip searches in prisons are vastly overused. This causes grave indignity and serious harm to incarcerated people. It is time for Oregon to abandon its outdated strip search policies and to implement common sense reforms that are grounded in respect for dignity, privacy, and autonomy.

This report begins with a brief overview of the historical context for the practice of routine strip searches in prisons, followed by a summary of Oregon’s current policies. Next, the report explains the serious negative impacts of strip searches, which is counter to rehabilitation and successful release to the community. The report concludes with a look at reforms in other states, followed by a list of our recommendations that Oregon should pursue. The scope of this report is strip searches of people in the custody of the Oregon Department of Corrections.

3 Elizabeth Weill-Greenberg, *Virginia Women’s Prisons Force People to Remove Pads, Tampons During Strip Searches*, The Appeal, Nov. 3, 2022, <https://theappeal.org/virginia-prisons-tampons-strip-searches/>.

4 Cristina Güerri, *Stripping the Self Away: Security, Control, and Punishment in the Practice of Strip Searches in Spanish Prisons*, in *Body Searches and Imprisonment* 180 (Tom Daems ed., 2023).

HISTORICAL CONTEXT FOR ROUTINE STRIP SEARCHES IN U.S. PRISONS

STRIP SEARCHING IS a longstanding practice within U.S. prisons, but its history is not a straightforward one. There is not a singular event or point in time that strip searches became a feature of prisons, but it is taken for granted today as an inevitable part of incarceration. The prevalence of strip searches today, despite their incredibly degrading nature, is part of the complex history of mass incarceration, as well as reflecting evolving attitudes towards the privacy rights of incarcerated people. Prison policies and practices have been shaped by court decisions over time. During slavery and “as late as 1871, prisoners were regarded as ‘slaves of the state.’ Their rights were limited to that which the state . . . chose to grant them.”⁵ Accordingly, civil and constitutional rights were not considered

to survive incarceration. Courts largely left it up to prisons to decide how to treat people in custody, leading to gross abuses. This “hands-off” approach prevailed in the courts for about a century. In the late 1960s to the late 1970s, amid a movement for prisoner’s rights, prison conditions were somewhat improved by court decisions increasingly recognizing the rights and dignity of incarcerated people.⁶

Unfortunately, in the 1980s, the War on Drugs saw courts rolling back these protections. Correctional approaches shifted more to focusing on managing safety risks, and less on rehabilitation. Mandatory minimum sentencing reforms caused overcrowding in prisons, which led to more intense security measures, like frequent strip searches.⁷ In the last several decades, there has been a

5 Teresa A. Miller, *Bright Lines, Black Bodies: The Florence Strip Search Case and its Dire Repercussions*, 46 Akron L. Rev. 433, 441 (2013) (citing *Ruffin v. Commonwealth*, 62 Va. 790, 796 (1871)).

6 *Id.* at 441-44.

7 *Id.* at 444; 451-52; 470.

trend towards increased deference to prison officials to decide what is reasonable in terms of balancing the privacy of individuals versus interests in security.⁸ A few decisions by the U.S. Supreme Court are noteworthy. In 1979, the U.S. Supreme Court upheld the practice of strip searching prisoners without reasonable suspicion of contraband.⁹ In 1984, the Supreme Court held that prisoners do not have an expectation of privacy in their cells under the 4th Amendment (though not dealing with body searches, the decision nonetheless diminished the importance of the privacy of

incarcerated people).¹⁰ And in a 2012 decision that disturbed many, including the dissenting justices, the Court upheld intrusive strip searches on a routine basis during jail intake without reasonable suspicion of contraband, even for arrests for minor offenses.¹¹

Today, there is growing recognition that strip searches are harmful and counterproductive. As discussed later in this report, several states have explored or adopted alternatives with the goal of reducing intrusive searches and contraband.

8 *Id.* at 455-57 (discussing *Turner v. Safely*, 482 US 78 (1987), a decision which has been criticized as influencing a return by courts to the “hands off” doctrine “by granting greater deference to prison officials to prison officials when prison policies or practices impinge on prisoners’ constitutional rights.” *Id.* at 455.)

9 *Bell v. Wolfish*, 441 US 520 (1979).

10 *Hudson v. Palmer*, 468 US 517 (1984).

11 *Florence v. Board of Chosen Freeholders*, 566 US 318 (2012) For further discussion of Supreme Court decisions involving strip searches by the state, see also, e.g., Herman Schwartz, *How the Supreme Court Came to Embrace Strip Searches for Trivial Offenses*, *The Nation*, Aug. 16, 2012, <https://www.thenation.com/article/archive/how-supreme-court-came-embrace-strip-searches-trivial-offenses/>; John W. Whitehead, A.B.A. Sec. C.R. & Soc. Just., *Upending Human Dignity and Shattering the Fourth Amendment: Strip Searches*, 39(3) *Human Rights* (2013), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2013_vol_39/may_2013_n2_privacy/upending_human_dignity_fourth_amendment/.

STRIP SEARCH RULES, POLICIES, AND PRACTICES IN OREGON PRISONS

STRIP SEARCHES OF people incarcerated in Oregon’s prisons are dictated by Oregon Department of Corrections (ODOC) regulations and policies.¹² The legislature has not addressed the practice of strip searching in prisons. Strip searching is not specifically required by Oregon law nor expressly mentioned in Oregon statutes. The ODOC regulations pertaining to searches are created under generic authorizing statutes.¹³ ODOC interprets its statutory mandates to “exercise custody” over incarcerated persons,¹⁴ and to provide for safety and security,¹⁵ as including

the authority to implement search policies. The stated purpose of ODOC search policies is “to maintain proper control over persons under [ODOC] supervision and to ensure the safety and security of its facilities.”¹⁶

ODOC regulations refer to strip searches as “unclothed” searches. In 2016, the ODOC dropped the term “skin search” from regulations in favor of the more euphemistic term.¹⁷ (At least one ODOC internal policy still refers to “skin searches.”)¹⁸ Regulations define an unclothed search as “a search procedure wherein the person being

12 OAR 291-041-0005(17)(d).

13 ORS 179.040, 423.020, 423.030 & 423.075.

14 ORS 423.020(1)(c).

15 ORS 423.020(1)(d); ORS 423.075(5)(d).

16 OAR 291-041-0005(2), (3).

17 PAR DOC 5-2016, (Mar. 24, 2016). The rule summary states, “These amendments are necessary to remove references to department policies that are internal management directives, and to reflect operational changes within the department.” *Id.*

18 DOC Policy 40.1.1, Escorting of Inmates (Jan. 17, 2013) at 2, <https://www.oregon.gov/doc/rules-and-policies/Documents/40-1-1.pdf>.

"BEING FORCED TO PULL OUT YOUR TAMPON, BENT OVER, AS SOMEONE WATCHES AND HAVE BLOOD DRIP DOWN YOUR LEGS AND ONTO THE FLOOR— THERE AREN'T WORDS! IT STRIKES TO THE CORE OF BEING A WOMAN. THIS IS ABUSE THAT DESTROYS YOUR SOUL. I'D RATHER BE BEATEN."

searched removes all of his/her clothing and is visually examined and clothing removed is carefully inspected before return and redressing, for the purpose of detecting contraband."¹⁹ This definition, also rather euphemistic, does not convey what a strip search actually entails nor does it fully capture the extremely intrusive and degrading experience.

A description of the steps of a strip search, as described by a woman formerly incarcerated in CCCF, is below. Though usually conducted in a private area, these searches may occur in the view of other AICs during emergencies (according to regulations and at the discretion of ODOC). Each correctional officer (CO) conducts searches slightly differently and may direct the steps in a different order. Even if a person has been strip searched hundreds of times, AICs are expected to listen carefully to the CO's orders and wait for instructions

before moving to the next step, or they may be reprimanded.

First, COs check each item of clothing one by one as AICs undress. AICs are instructed to remove an item of clothing, turn it inside out, shake it out, and wait for the CO to inspect it, before removing their next item of clothing. Some COs start with the person's shirt and work down, others start from the shoes and work up. Once the person is completely naked, they are ordered to turn their head from side to side so the CO can look inside and behind their ears. Next, the CO orders the person to open their mouth and move their tongue from side to side and up and down while the CO looks inside their mouth. Some COs also instruct AICs to place their fingers inside their mouths and run them along their teeth. This may happen at the beginning or at the end of the search, and AICs are not given the opportunity to wash their hands first. Next,

19 OAR 291-041-0005(17)(d).

the AIC is required to bend over and run their fingers through their hair. AICs with braids or their hair up are required to take it down.

Finally, the CO does a visual search of the person's naked body. It is reported by AICs and formerly incarcerated people that COs frequently make inappropriate comments about the person's body. Following the CO's orders, AIC puts their arms in the air and splays their fingers, then lifts each foot and wiggles their toes. Depending on the person's physical condition and abilities, some struggle to keep their balance during this step. People with larger chests or stomachs are told to lift those areas of the body for inspection. The CO orders the person to turn around, bend at the waist, squat down, spread their buttocks with their hands, and cough three times. Menstruating AICs who are wearing a tampon are required to pull it out in front of the CO and if they bleed on themselves or onto the floor, they are ordered to clean it up.

There are two other types of searches of AICs in ODOC regulations: the frisk or pat-down, aka "clothed search";²⁰ and the body cavity search, aka "internal search."²¹ Body cavity searches are not conducted routinely because they require reasonable suspicion²² to justify the search, and must be performed by a

medical professional.²³ AICs report that body cavity searches are conducted infrequently.

The rules provide that AICs are "subject to search" in these specific circumstances: (1) entering and leaving the prison, (2) entering and leaving special housing units, and (3) before and after contact with "persons outside the facility," i.e., visiting periods.²⁴ The type of search is not specified. However, an internal policy of the ODOC requires that AICs will be strip searched (a "thorough skin search") when leaving or returning to the facility.²⁵

ODOC rules contain limits, though few, on ODOC's authority to perform strip searches of AICs. Strip searches must be performed in a private area, except in case of emergencies.²⁶ They must be conducted by staff of the same gender as the AIC (except in emergencies). Any cross-gender searches must be documented. The rules also contain the following vague and permissive parameters on the authority of staff to search AICs: AICs "may be subject to search at any time; but no more frequently than is necessary to control contraband or to recover stolen or missing property";²⁷ and "[t]he type of search administered will avoid unnecessary force, embarrassment, or indignity to the adult in custody. Non-intrusive sensors and inspection devices may be used

20 OAR 291-041-0005(17)(a). Clothed searches were called "frisk searches" in regulations until 2016. PAR DOC 5-2016 (Mar. 24, 2016).

21 An internal search is defined as a "[d]igital intrusion of body orifices and interiors of rectum or vagina in search for contraband. Also used to describe more than sight inspection of nostrils, ears, and mouth." OAR 291-041-0010(17)(c). By rule, these must be performed by medical personnel and require reasonable suspicion to justify the search. OAR 291-041-0020(8).

22 Reasonable suspicion is "[a]n apparent state of objective facts and rational inferences drawn there from that would permit a reasonable and experienced correctional staff person to conclude that an individual or set of circumstances poses a threat to the safety, security, health and good order of the facility, or the safety and security of adults in custody, staff, visitors, non-employee service provider or the community, including, but not limited to, committing a crime or rule violation or conspiring or attempting the same." OAR 291-041-0010(16).

23 OAR 291-041-0020(8).

24 OAR 291-041-0020.

25 DOC Policy 40.1.1, Escorting of Inmates provides, "The escorted inmate(s) will be skin searched before departure and upon return to the facility. Searches will be conducted in accordance with the rule on Searches (Institutions) (OAR 291-041). The escorted inmate will undergo a thorough skin search prior to the transfer. Searches will be conducted in accordance with the rule on Searches (Institutions) (OAR 291-041)." <https://www.oregon.gov/doc/rules-and-policies/Documents/40-1-1.pdf>.

26 The rules do not define what situations constitute an emergency.

27 OAR 291-041-0020(4).

when appropriate.”²⁸ What is considered “necessary” or “unnecessary” is left to the discretion of ODOC.

The overall effect of ODOC’s regulations and policies is the overuse of strip searches and wide discretion to staff to conduct strip searches of AICs frequently and without necessity. Strip searches of AICs are routine practice. They are not limited to instances when officers observe something specific to justify the search. The rules allow individual facilities to decide how intrusive their search policies will be, for example, when to require strip searches versus frisk/pat-down searches; how frequently AICs are strip searched; and whether to conduct strip searches randomly or based on suspicion of contraband. ODOC rules do not require reasonable suspicion that an AIC is concealing contraband or poses a threat to safety before conducting a strip search.

AICs report that strip searches occur routinely and at the discretion of officers. At Coffee Creek Correctional Facility (CCCF), AICs are reportedly strip searched for various innocuous behaviors such as hugging another person, being handed a piece of candy, or sharing canteen items. Reportedly, the most common items recovered during a strip search at CCCF are food items, pens, hair clips, scrunchies, pictures drawn by children during visits, and photographs.

Apart from cross-gender searches and searches of transgender and intersex AICs, which require that staff be trained in how to conduct those searches “in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs,”²⁹ regulations do not set any standards regarding how staff will be trained to conduct strip searches. Anecdotally, a man who was formerly incarcerated at the Oregon State Prison (OSP) reported that new officers were sometimes trained to strip search as described in the following quote:

"I WAS STRIP SEARCHED SO OFTEN OVER THE 28 YEARS I WAS INCARCERATED THAT THEY WOULD ALSO COME AND GET ME WHEN THEY WERE DOING TRAININGS WITH NEW OFFICERS, AND STRIP SEARCH ME AS A TRAINING PRACTICE. I'M PRETTY SURE STRIP SEARCHES FOR TRAINING WAS [AN] INFORMAL [POLICY], OFF THE BOOKS."

28 OAR 291-041-0020(5).

29 OAR 291-041-0018.

Below is a summary of the circumstances in which strip searches are conducted most often, including anecdotes shared by people incarcerated and formerly incarcerated in ODOC facilities. The accounts of those with lived experience demonstrate that routine strip searches are conducted excessively, casually, and with no apparent concern for the negative effects these intrusions have on the wellbeing of AICs.

Visiting:

We often hear accounts from AICs describing how difficult and painful it can be to experience a strip search before and after visits with family and friends. People formerly incarcerated at both the men's facilities and the women's facility have reported that many AICs are deterred from visiting loved ones because the strip searches are too distressing. A selection of reports from AICs about strip searches at visiting are listed below.

- Officers will typically select several AICs for strip search before and/or after visiting, but not everyone. AICs may be picked at random

or based on the suspicions of an officer. AICs who are perceived as compliant or rule-abiding are sometimes singled out for frequent searches. Sometimes, AICs are singled out for repeated searches for no clear reason.

- According to AICs in CCCF, AICs are selected for strip search to fill a quota, and the searches are logged in a log book. Various situations can trigger a search; for example, any time an AIC goes to the bathroom during visiting, they are strip searched. A mother may be strip searched after a visit because her young child sat on her lap. Other times, there is no apparent reason for the search; for example, a woman reported being strip searched several times after visiting her elderly parents even though an officer was watching them throughout the visit.
- According to reports, at Oregon State Correctional Institution (OSCI), staff randomly select one out of every five AICs for strip searches after visiting periods using a "crocodile dentist" children's toy that is kept on the desk in the visiting room area:



"THEY BRING YOU OUT FIVE PEOPLE AT A TIME. EACH OF THE FIVE PEOPLE HAS TO PUSH A TOOTH. ONE OF THE TEETH MAKES THE MOUTH SHUT DOWN. THE PERSON WHO GETS THE MOUTH SHUT DOWN GETS STRIPPED. IT'S A DEMORALIZING, DEHUMANIZING THING, A GAME THAT MAKES YOU A PARTICIPANT IN YOUR STRIP SEARCH. IT'S BEEN GOING ON FOR A WHILE. [THE CO] IS ALWAYS LAUGHING ABOUT IT AND MAKING GUYS FEEL LIKE THEY HAVE TO PARTICIPATE IN IT, AS IF THEY THINK IT'S FUNNY TOO."



"IF YOU ARE IN VISITING AND YOU NEED TO USE THE RESTROOM, IT IS AN AUTOMATIC STRIP SEARCH BEFORE YOU ARE ALLOWED TO USE THE TOILET. AFTER THE VISIT, EXPECT ANOTHER STRIP SEARCH. MANY WOMEN WILL DENY VISITS RATHER THAN ENDURE A STRIP SEARCH. OTHERS, LIKE ME, WILL BE IN PAIN RATHER THAN ASK TO USE THE TOILET."

"AFTER VISITS WE ARE ALL IN AN EMOTIONALLY VULNERABLE STATE AS WE HAVE JUST PARTED FROM A LOVED ONE. SO MANY WOMEN TELL THEIR FAMILIES NOT TO VISIT BECAUSE IT'S JUST TOO MUCH TO HANDLE. SAYING GOODBYE AND THEN GETTING STRIPPED IS OVERWHELMING."

"I WAS CHOSEN MOST OFTEN WHEN MY GRANDMOTHER VISITED ME. MANY OFFICERS [KNEW THAT I] DID NOT HAVE DRUGS AND SO IT WAS A VERY EASY STRIP SEARCH BECAUSE THEY DIDN'T HAVE TO DO PAPERWORK BEFORE THEY WENT HOME AT 4 O'CLOCK."

Special Housing Units:

- Regulations provide for AICs to be strip searched upon entering and leaving special housing units, which includes disciplinary segregation units and mental health units.

According to AIC accounts, these searches are routine not only for AICs who are housed in the SHU, but for any AIC worker or volunteer entering or leaving the unit.

"WHEN I WAS A PLUMBER WORKING IN THE PHYSICAL PLANT, I WOULD HAVE TO GO IN AND OUT OF THE BEHAVIORAL HEALTH UNIT AND DISCIPLINARY SEGREGATION OFTEN [FOR WORK]. FOR MANY YEARS, THERE WOULD BE DAYS WHERE I MIGHT BE STRIP SEARCHED SIX TIMES, AND IT BECAME A RUNNING JOKE WITH MY SUPERVISOR AND MANY OF THE OFFICERS."

Entering and Leaving the Facility:

- Regulations allow strip searches of AICs leaving or entering the facility, and an internal ODOC policy further specifies that AICs “will be skin searched before departure and upon return to the facility” and that AICs “will undergo a thorough skin search prior to the transfer.”³⁰
- According to reports from AIC, AICs are routinely strip searched upon leaving and returning, including when returning from

medical appointments, even if they have serious medical conditions, have just given birth, or are recovering from major surgery.

“While I was working in the infirmary and a hospice volunteer...individuals would [sometimes] be stripped in and out when they came or left the institution for medical procedures or appointments.”

“WOMEN CANCELLED MEDICALLY NECESSARY PROCEDURES BECAUSE THEY WOULD BE STRIPPED A MINIMUM OF TWO TIMES FOR OUTSIDE APPOINTMENTS. IT WAS ESPECIALLY SO IF THEY WERE ON THEIR PERIODS. IT IS AN EVEN MORE DEMEANING PROCESS THEN.”

³⁰ DOC Policy 40.1.1, *supra* note 25.

Privileged Work Assignments:

- AICs in CCCF have shared that those who are assigned to certain incentive jobs known as “Workforce” jobs are strip searched on a regular basis when leaving work, even though these assignments are only given to people with a clean conduct record.³¹

“I worked for many years in Workforce and endured monthly strip searching. Even though all tools are checked, locked up, we go through a metal detector, have all our books searched, [and] get pat downs, we still have to be stripped to satisfy the log. There is no suspicion that anyone has taken anything they shouldn’t. We are just satisfying a quota. Many women refused the higher paying Workforce jobs because they couldn’t handle the strip searches.”

Suicide Watch

When a person is suspected of being suicidal, DOC rules provide for placing the person on “suicide watch,” which involves placing the person in segregation or other special housing unit and putting them under close observation. AICs from different facilities have reported that when a person is placed on suicide watch, they are routinely strip searched before entering special housing.

“[People on suicide watch] were stripped, and then placed in a suicide smock if [they] were still suspected of cutting themselves. Sometimes they

would just be left naked in the cell. They had a heavy cloth blanket that they were given, but they were nude otherwise.”

Group Searches

According to reports from formerly incarcerated people who served long sentences, searching AICs in a large group used to be common prior to the enactment of PREA in 2003. Today, ODOC regulations require strip searches to be conducted in a private area, but exceptions are still allowed in case of emergencies. Men from at least two different facilities reported undergoing strip searches in a large group after returning from wildfire evacuations in 2020.

“AFTER OUR RETURN FROM THE FIRE EVACUATION TO OSCI, STAFF HERDED US INTO THE LARGEST ROOM IN THE EDUCATION AREA AND STRIP SEARCHED US IN GROUPS OF ABOUT 10. SINCE THIS [IS] THE PREA ERA, THERE WERE CAMERAS EVERYWHERE. SO WE WERE NOT ONLY SEARCHED IN GROUPS, BUT WE WERE ALSO RECORDED ON THE INSTITUTION'S SECURITY CAMERA SYSTEM.”

³¹ At CCCF, Workforce jobs include the cosmetology salon and training program, the DMV call center, and Oregon Correctional Enterprises programs (scanning documents; graphic design; and sewing).

THE PROFOUND HARM AND TRAUMA CAUSED BY STRIP SEARCHES IS COUNTERACTIVE TO REHABILITATION AND SUCCESSFUL REENTRY

SOCIAL SCIENCE RESEARCH has demonstrated that strip searching people in custody causes significant harm. Many people sentenced to ODOC custody are expected to endure this degrading experience on a regular basis for years or decades. This runs counter to the goal of supporting AICs' engagement in rehabilitation and preparation for healthy and successful lives upon release, so that they do not commit further crimes and return to prison.

"I NOTICE THEY DO IT RIGHT BEFORE PEOPLE ARE GETTING READY TO [RELEASE]. THEY DRAG YOU OUT IN HANDCUFFS IF YOU REFUSE TO STRIP. IT'S SCARY, IT'S DEMEANING, IT'S TRAUMATIZING."

The psychological harm caused by strip searches

Strip searching can cause serious and lasting psychological harm, including post-traumatic stress disorder (PTSD).³² People who have experienced strip searching commonly report resulting feelings of humiliation, vulnerability, powerlessness, shame, and diminished self-esteem.³³ Other reported effects include “sleep disturbance, recurrent and intrusive recollections of the event, inability to concentrate, anxiety, depression and development of phobic reactions.”³⁴ Most studies on the impact of strip searches have looked at the experiences of women. However, it is well documented that strip searches can be harmful and traumatic for anyone, regardless of gender.³⁵ People who have been incarcerated in ODOC facilities for men report that men are also significantly impacted by strip searches, especially those who are survivors of sexual abuse. One researcher summarized the effects of strip searching as follows:

“Being strip searched leaves people disgusted and annoyed, or worse, degraded, humiliated, and paralyzed. Victims may feel helpless, indignant, and shocked, and may experience, for

several years, psychological symptoms of trauma similar to those endured by rape survivors. Even in prisons where inmates are strip searched so regularly that prison staff thought that inmates got used to it, the reality for many is that searches become increasingly hard to bear, and serve[] a symbolic function of reaffirming imprisonment, shame, and lack of status.”³⁶

Strip searches of people confined in prison can be particularly harmful because they occur within environments which are inherently coercive, controlling, and often rife with degrading treatment and abuse. “[S]trip searches of inmates constitute one part of a total system of control and isolation, and thus may have more profound, negative effects”³⁷ than strip searches in other contexts. The experience can perpetuate shame and self-loathing, remind AICs of their low status, and send the continuous message that they are not worthy of the basic respect and dignity that most people on the outside take for granted.³⁸ Further, people incarcerated in prisons often have no recourse when suffering from the effects of strip searches or when searches involve staff misconduct. AICs are subject to discipline if they do not comply with strip searches. The power dynamic between prison officers and AICs can cause AICs to feel coerced and afraid of retaliation if they resist or object to the search, and often they do not

32 Michael Grewcock & Vicki Sentas, *Strip Searches, Police Power and the Infliction of Harm: An Analysis of the New South Wales Strip Search Regime*, 10(3) Int’l J. for Crime, Just. & Soc. Democracy 201 (2021) (citing Cathy Pereira, *Strip Searching as Sexual Assault*, 27(2) Hecate 187 (2001)).

33 Daphne Ha, *Blanket Policies for Strip Searching Pretrial Detainees: An Interdisciplinary Argument for Reasonableness* *Interdisciplinary Argument for Reasonableness*, 79 Fordham L. Rev. 2721, 2740 (2011).

34 *Id.* at 2740, n 169 (quoting M. Margaret McKeown, *Strip Searches Are Alive and Well in America*, 12 Human Rights 37, 42 (1985)).

35 *E.g.*, Güerri, *supra* note 4, at 198 (Incarcerated men in one study “explained that strip searches are always humiliating moments that make them feel bad even days after the search.”).

36 Ha, *supra* note 33 at 2740 (internal quote marks and citations omitted).

37 *Id.* at n 182.

38 *Id.*

feel safe reporting incidents of abuse that arise from strip searches.³⁹ Moreover, mental health treatment and services for survivors of abuse and trauma are often sorely inadequate in prisons, leaving AICs who are harmed by strip searches with little to no support.

“Refusals of any kind could land you in segregation. It is why I was completely compliant. This constant threat makes it so easy for multiple types of abuse to occur. I never felt I could say no even if I knew it was wrong [A person who refused] was taken to seg [solitary confinement] and placed in a dry room [a cell with no sink or toilet]. There they were cuffed to the wall and given no food or water and threatened verbally until they succumbed to being strip searched.”

Belonging to a historically marginalized group may create additional potential for a person to be harmed by strip searches through staff discrimination and/or harassment. For example, research has demonstrated that people of color may be subject to discrimination in strip searches and searched more frequently.⁴⁰ As other examples, we have heard reports that transgender individuals in CCCF appear to be searched particularly often, and that person’s

weight can make them a target for harassment during strip searches.

Individual life experiences, circumstances, or characteristics may make a person more sensitive to the experience and “compound the psychologically damaging effects of strip searches.”⁴¹ Personal values or religious beliefs connected to nudity and modesty can intensify the humiliation of a strip search. People with physical disabilities or of advanced age may struggle or be unable to complete the physical movements of the search. Mental health conditions or neurodivergence may intensify a person’s distress. “Feelings of humiliation and helplessness may be amplified” for those experiencing physical conditions or infirmities, such as illness, pregnancy, postpartum, lactation, and menstruation.⁴² People in prison who are serving long sentences may also be susceptible to increased harm from repeated searches over time and/or discrimination.⁴³

“I know a woman with a colostomy bag and it was so demeaning for the COs to always question her about it. She would have to lift it which made the feces run back into the stoma. Horrible!”

The following anecdote about a woman who was strip searched after visiting with family while grieving the death of a family member

39 See generally Amanda George, *Strip Searches: Sexual Assault by the State*, in *Without Consent: Confronting Adult Sexual Violence* (Patricia Weiser Eastal ed., 1993); Jessica Hutchison, “*It’s Sexual Assault. It’s Barbaric*”: *Strip Searching in Women’s Prisons as State-Inflicted Sexual Assault*, 35(2) *Affilia* (2019), <https://journals.sagepub.com/doi/abs/10.1177/0886109919878274>; *Ceremonies of Degradation*, *supra* note 2 at 12 (“Likening strip-searching to sexual assault makes sense once it is acknowledged that if an individual, who was not an officer...performed the same act, his/her conduct would amount to a sexual or indecent offence. While strip-searching may be justified on grounds of prison safety, it also reflects the fact that women in prison are not afforded the same human rights protections as those in the community.”).

40 There are documented examples of strip searches on people held in custody being conducted in a racially discriminatory manner. *E.g.*, Tim Newburn et al., *Race, Crime and Injustice?: Strip Search and the Treatment of Suspects in Custody*, 44 *Brit. J. Criminology* 677, 679 (2004) (study finding African-Caribbean detainees were twice as likely to be strip searched as white Europeans).

41 Jude McCulloch & Amanda George, *Naked Power: Strip Searching in Women’s Prisons* 114, 115, in *The Violence of Incarceration* 107, 114-15 (Phil Scraton & Jude McCulloch eds., 2008) (hereafter *Naked Power*).

42 Ha, *supra* note 33 at 2740; Linda Moore & Phil Scraton, *The Imprisonment of Women and Girls in the North of Ireland: a “Continuum of Violence”*, in *The Violence of Incarceration* 124, 128 (Phil Scraton & Jude McCulloch eds., 2008); *Naked Power*, *supra* note 41 at 119.

43 Penal Reform Int’l Factsheet, *Body Searches: Addressing Risk Factors to Prevent Torture and Ill-Treatment*, <https://cdn.penalreform.org/wp-content/uploads/2016/01/factsheet-4-searches-2nd-v5.pdf>.

"I HAVE OBSERVED WOMEN BREAKDOWN EMOTIONALLY AFTER BEING STRIP SEARCHED. THEY CURL UP INTO A FETUS POSITION ON THEIR BUNKS AND SOB...SOME WOMEN CUT ON THEMSELVES. IT HAS BECOME A VERY EASY PRACTICE TO DO, AS UNLESS IT IS LIFE THREATENING, NO ONE CARES."

illustrates how individual circumstances can make a strip search profoundly traumatic.

"She was openly sobbing with her family the entire visit. Everyone was aware of her grief. When the visiting session ended the officer chose her along with three other women to be stripped. There was no suspicion of nefarious behavior. It was just to fill the quota. As soon as she heard her name called for a strip search she began to sob loudly. When the CO conducted my strip search she asked me to stay in case the woman did something and she would need me to get help. . . It was heart wrenching to listen to her sobbing the whole way through the strip search. She was in extreme pain from the loss of her loved one and now she was physically naked too, making her vulnerable in a way that's indescribable. It just eats your soul."

As discussed below, survivors of sexual abuse and domestic violence are also particularly susceptible to being severely harmed by strip searches.

Being strip searched is akin to sexual assault and retraumatizes survivors of past abuse.

Strip searches are characterized by an unwanted and coerced intrusion of privacy. Because of their inherently intrusive and controlling nature, strip searches are especially harmful for survivors of abuse.⁴⁴ A significant number of incarcerated people have prior histories of abuse. Large government studies in the late 1990s and early 2000s indicated that about 19% of incarcerated people were physically or sexually abused prior to their incarceration; 16% of incarcerated men; and up to 60% of incarcerated women.⁴⁵ Smaller and more recent studies have indicated much higher rates of abuse among incarcerated

44 *Naked Power*, *supra* note 41 at 114; Moore & Scraton, *supra* note 42 at 128.

45 Caroline Wolf Harlow, Bureau of Justice Statistics, Prior Abuse Reported by Inmates and Probationers (1999), <https://bjs.ojp.gov/content/pub/pdf/parip.pdf>.

"ONE GIRL SAID [AN OFFICER] ALWAYS STRIPPED HER WHEN SHE WORKED AT [OUTSIDE THE FACILITY] UNTIL SHE TOLD HER, 'I DON'T LIKE GETTING STRIP SEARCHED.' [THE OFFICER] SAID 'WHY NOT?' AND SHE SAID, 'BECAUSE IT REMINDS ME OF BEING MOLESTED.'"

women, of up to 94%.⁴⁶ Additionally, studies indicate that transgender individuals have rates of prior sexual abuse and assault of up to 66%, and are also more likely to be sexually assaulted during incarceration.⁴⁷ Research has also demonstrated that incarcerated survivors of abuse are retraumatized by strip searches, which impedes their ability to heal from past trauma and prepare for successful re-entry to their communities, as discussed below.

"If a CO made any comments about my body, weight, etc., it would make me crumble inside as my abuser would do the same things."

"Men are also harmed by strip searches in nearly all the same ways that women are. Many incarcerated men have been sexually abused."

Many incarcerated people, particularly women and survivors of abuse, have described strip searches as a form of sexual assault.⁴⁸ "Strip searches are broadly considered as constituting a sexually abusive and re-traumatizing practice within current literature. That is, they are (or can be) a form of sexual abuse in and of themselves, and/or may serve to reproduce or cause women to 'relive' past experiences of sexual and physical abuse."⁴⁹ It has been called sexual abuse by the state and "visual rape."⁵⁰ The profoundly destructive effects of sexual assault and abuse are well known. They include shame, loss of sense of safety, isolation, suicidal ideation, self-harm, substance abuse, depression, anxiety, flashbacks, post-traumatic stress, and symptoms of physical discomfort.⁵¹ Researchers and incarcerated individuals have pointed out that forcing someone to strip and

46 Mary E. Gilfus, *Women's Experiences of Abuse as a Risk Factor for Incarceration* (2002), https://vawnet.org/sites/default/files/assets/files/2017-08/AR_Incarceration.pdf.

47 U.S. Department of Justice, Office for Victims of Crime, *Responding to Transgender Victims of Sexual Assault* (June 2014), https://ovc.ojp.gov/sites/g/files/xyckuh226/files/pubs/forge/sexual_numbers.html.

48 See generally Pereira, *supra* note 32.

49 Mary Stathopoulos & Antonia Quadara, *Women as Offenders, Women as Victims: The Role of Corrections in Supporting Women With Histories of Sexual Abuse* 55 (2014), <https://correctiveservices.dcj.nsw.gov.au/documents/women-as-offenders-women-as-victims-the-role-of-corrections-in-supporting-women-with-histories-of-sexual-assault.pdf> (citing Pereira, *supra* note 32 at 188).

50 E.g., Paul R. Shulinder, *Visual Rape: A Look at the Dubious Legality of Strip Searches*, 13 J. Marshall L. Rev. 273 (1980), <https://repository.law.uic.edu/cgi/viewcontent.cgi?article=2382&context=lawreview>.

51 RAINN, *Effects of Sexual Violence*, <https://www.rainn.org/effects-sexual-violence> (visited June 21, 2024).

submit to a degrading visual inspection would be considered a criminal act and an extreme affront to dignity and violation of privacy outside the context of a government official carrying out a state function. For many forced to endure it, the fact that a correctional officer is carrying out the process hardly makes the experience any less harrowing.

“I cannot enjoy visitation because I am worried what is going to happen after they leave. I was stripped 4 out of the last 5 visits by my parents. The last one my mom came on a Sunday morning and it was so stressful the whole time, I was totally distracted. I am holding off on all visitations because I don’t want to freak out [from being strip searched] and go to the hole. I’ve been having nightmares. I was raped before I got here, and that’s been bringing up a lot of trauma from that. I’m just a lot sadder because that’s my only source of uplifting and joy is seeing my parents.”

Research has found that women who have survived abuse “experience strip searching as dehumanizing, humiliating, degrading, and as a replication of the violence they experienced in the community.”⁵² Strip searching “replicate[s] the dynamics of abuse by incorporating elements of coercion, degradation and invasion of personal privacy. For women who have been victims of abuse, the process can be unbearable as they are once again placed in a position of helplessness and lack of control.”⁵³

These impacts are important not only for the suffering they cause, but because they interfere with AICs’ ability to move

beyond the past and create better futures for themselves and their families. Survivors of sexual abuse “often struggle with issues of shame and self-blame which undermine their sense of capability and autonomy.” These feelings can be triggered by strip searches and undermine efforts to heal from past trauma.⁵⁴ Further, a survivor’s negative reaction to being strip searched can incur discipline and further trauma:

“Prisons are a place where power, control and surveillance are every day aspects. Punitive practices such as strip-searching can exacerbate the trauma from sexual abuse and cause victims/survivors to respond in ways that draw further punitive responses from prison staff. The cycle of trauma and traumatic environments can undermine [their] capacity to feel safe and to face the responsibility of their offending.”⁵⁵

Additionally, “due to the high levels of past sexual abuse among female prisoners, strip searches have the capacity to negatively impact (including re-traumatize) female prisoners more significantly than other parts of the population and may jeopardize [their] attempts at rehabilitation.”⁵⁶ As one expert explained,

“[A] female prisoner and sexual assault victim/survivor . . . describes her experience of prison strip-searches ‘as similar to sexual assault. I felt the same helplessness, the same abuse by a male in authority, the same sense of degradation and lack of escape.’ This

52 Hutchison, *supra* note 39.

53 *Ceremonies of Degradation*, *supra* note 2 at 2.

54 *Naked Power*, *supra* note 41 at 113.

55 Mary Stathopolous, Penal Reform Int’l, Addressing the Needs of Women in Prison With Histories of Sexual Abuse (Dec. 4, 2013), <https://www.penalreform.org/blog/addressing-histories-sexual-abuse-women-prison/> (visited June 21, 2024).

56 Queensland Ombudsman, The Strip Searching of Female Prisoners Report: An Investigation Into the Strip Search Practices at Townsville Women’s Correctional Centre 5 (2014), https://www.ombudsman.qld.gov.au/ArticleDocuments/239/The_strip_searching_of_female_prisoners_report.pdf.aspx.

suggests that strip-searches reproduce the dynamics of sexual assault. Consequently, strip-searches can be retraumatizing, and have been linked to post-traumatic stress disorder, none of which is conducive to women successfully engaging in therapeutic work.⁵⁷

The retraumatizing impact of strip searches can make it difficult or impossible for survivors of abuse to address the trauma that in many cases led to their incarceration in the first place, and impede their ability to prepare for a successful reentry. “This can have seriously adverse impacts on the emotional and psychological states of women in prison, and can serve to increase the risk of self-harm and further substance abuse. As such, strip-searches exacerbate existing health and safety issues instead of addressing them.”⁵⁸ Strip searches can echo the profound harms of prior abuse, keep survivors stuck in feelings of helplessness and worthlessness, and cause them to engage in unhealthy coping strategies including self-harm, substance use. According to a woman formerly incarcerated in CCCF, the humiliation and re-traumatization of strip searches is a cause of anorexia and bulimia among survivors who struggle with disordered eating as a coping mechanism.

Strip searching damages rehabilitation efforts and impedes preparation for successful reentry to the community.

The negative impacts of strip searching can undermine the rehabilitative work that AICs engage in during incarceration through programs, classes, counseling, etc.⁵⁹ Its negative effects can directly counteract the goals and self-improvement that AICs are working on, such as healing from trauma, increasing confidence and self-worth, learning healthy coping skills, and maintaining positive social supports.⁶⁰ And, the psychological harm can be lasting, affecting the person long after they are released from prison and making successful reentry more difficult.⁶¹ Strip searching, especially together with other indignities of the prison environment, can degrade a person’s sense of self and autonomy, wherein AICs may “develop a kind of tolerance which stops [them] questioning insensitive, degrading and abusive behaviour.”⁶²

“They will pick on people who don’t make a fuss, or people who shower more often and are easy.”

Several studies have found that some women stop or reduce visiting with loved ones to avoid the negative impacts of strip searches.

57 Stathopoulos & Quadara, *supra* note 49 at 55 (internal quote marks and citations omitted).

58 *Ceremonies of Degradation*, *supra* note 2 at 11.

59 Women in Prison: A Report by the Anti-Discrimination Commission Queensland 72-73 (2006) (hereafter Women in Prison Queensland Report), https://www.qhrc.qld.gov.au/__data/assets/pdf_file/0018/5148/WIP_report.pdf.

60 *Id.*

61 Hutchison, *supra* note 39 at 84.

62 Phil Scraton & Linda Moore, *The Incarceration of Women: Punishing Bodies, Breaking Spirits* 39, 45 (2014).

This causes them to become isolated, hampers their ability to stay connected to important supports, and can also harm their families and children.⁶³ “This can have damaging impacts on the rehabilitation of women in prison, as they are unable to forge positive relationships with the very people who can support them after their release into the community.”⁶⁴

Strip searching also may impede rehabilitation by triggering drug use to cope with the harmful effects of the experience and making recovery from addiction more difficult. The practice may “perpetuate a vicious cycle” for people suffering from addiction, who “may experience powerlessness, lowered self-esteem, mental anguish, and suicidal thoughts, which increase the need for drugs.”⁶⁵ Additionally, for survivors of abuse, “continuous abuse in the form of routine strip-searches” leads to “increase[ed] potential for further substance abuse.”⁶⁶ “There is a clear and established nexus between sexual abuse and drug use, yet in the state’s pursuit of the drug-free prison, [survivors of abuse] are subjected to further abuse . . . [Strip searches] exacerbate a prisoner’s poor self-image and self-esteem, increase fear and create a perfect scenario for further self-medication.”⁶⁷

“It’s affecting my mental health and past trauma and bringing up a lot of yucky stuff.”

“WOMEN COME BACK VERY ANGRY AFTER BEING STRIP SEARCHED AND THEY OFTEN PICK A FIGHT WITH SOMEONE. IT IS USUALLY A VERBAL FIGHT BUT I KNOW THEY ARE JUST LASHING OUT AT ANYTHING TO DISCHARGE THE EMOTIONS THAT HAVE BUILT UP.”

63 Hutchison, *supra* note 39 at 84.

64 *Ceremonies of Degradation*, *supra* note 2 at 11-12.

65 Ha, *supra* note 33 at n 182.

66 *Ceremonies of Degradation*, *supra* note 2 at 24.

67 George, *supra* note 39.

Strip searching perpetuates toxic and abusive dynamics within prisons.

Strip searching has a negative impact on the prison environment as a whole, reinforcing dynamics of fear and domination and undermining the potential for staff to extend compassion to AICs and treat them with dignity. Strip searches create opportunities for sexual harassment, sexual abuse, retaliation, and other staff misconduct.⁶⁸ The practice also implicitly encourages staff to look down on AICs as “less than” and to treat them poorly, with impunity.⁶⁹ The environment and social expectations within prisons inevitably influences the behavior of officers and may override the good intentions or values of any one individual. The normalization of prison practices that degrade AICs, like strip searches, “may lead to indifference, mistreatment, and even intentional harassment by officers.”⁷⁰ For example, in our most recent report about CCCF conditions, *Death By a Thousand Cuts* volume 2, AICs reported that a certain officer was known for frequently strip-searching women and humiliating them. The CO reportedly would laugh at AICs, mock people for wearing a tampon, and make sexual comments such as “spread those cheeks.”

“Some COs get on a power trip. They know they have ultimate power.”

“The comments made by the COs while you are naked are degrading! Comments about weight gain/loss, body type,

hygiene, menstruating, the list goes on: ‘You look like you’re gaining weight, better lay off the Little Debbie’s.’ ‘You need to shower!’ ‘No one wants to look at that!’”

“[They make] you put your fingers in your mouth at the end of the search than at the beginning of the search. You may have handled a bloody pad or tampon first. They just laugh like it’s the funniest joke ever.”

“THERE WERE SOME WOMEN THE OFFICERS PICKED ALL THE TIME BECAUSE THEY TARGETED THEM OR LIKED THEM. ONE CO ALWAYS PICKED THE SAME PERSON TO STRIP. SHE HAD TO FILE A GRIEVANCE TO GET IT TO QUIT.”

68 Erin Daly et al., *Women’s Dignity, Women’s Prisons: Combatting Sexual Abuse in America’s Prisons* 26 CUNY L. Rev. 260 (2023); Penal Reform Int’l, *supra* note 43 (“Body searches represent a high-risk situation for abuse, ill-treatment or even torture, and may also be misused to intimidate, harass, retaliate or discriminate.”)

69 Women in Prison Queensland Report, *supra* note 59.

70 Ha, *supra* note 33 at 2743 (discussing the outcome of the Stanford Prison Experiment).

RESEARCH INDICATES THAT ROUTINE STRIP SEARCHING IS NOT AN EFFECTIVE SECURITY PROTOCOL.

ROUTINE STRIP SEARCHING is standard practice in Oregon prisons, justified as necessary for safety and security. However, numerous studies “indicate the use of strip-searching in prisons is not able to fulfil its function as a security process,” and that the “detection rate from strip-searches is exceedingly low.”⁷¹ In fact, national standards do not endorse routine strip searching and instead recommend that prisoners only be strip searched when there is a reasonable belief that the person has contraband.⁷²

There is ample data to demonstrate that strip searching is not effective at detecting contraband. For example:

- “[O]ver a one-year period in a Victoria [Australia] maximum security prison there were 13,000 strip searches in a population of 100 [female] prisoners. In two randomly selected months, no contraband was found in one month and two cigarettes were found in another.”⁷³
- In a pilot conducted by a women’s prison in Australia, strip searches went down from 21,000 to 14,000, but the same amount of contraband was seized (five items).⁷⁴

71 Stathopoulos & Quadara, *supra* note 49 at 55.

72 Federal Performance Based Detention Standards Handbook 25 (May 2022), <https://www.usmarshals.gov/sites/default/files/media/document/detention-standards.pdf> (“A strip search of general population prisoners is only conducted when there is reasonable belief that the prisoner may be in possession of an item of contraband. The least invasive form of search is conducted.” These standards are based on the American Correctional Association standards. *Id.* at iii).

73 McCullough & George, *supra* note 41 at 118.

74 *Id.* at 119.

"[T]HE INSTITUTION RARELY GOT ANY DRUGS FROM STRIP SEARCHES, SINCE EVERYONE KNEW THE AREAS AND THE PROCEDURES THAT WOULD END UP GETTING THEM STRIPPED, AND THEY WOULD MAKE ADJUSTMENTS [IF THEY WANTED TO CONCEAL DRUGS]. I FEEL LIKE FOR THE MOST PART THIS PROCEDURE IS AN OUTDATED AND INEFFECTIVE WAY TO REDUCE DRUGS ENTERING THE PRISON."

- Data from two women's prisons over a seven-month period showed that out of 841 strip searches, only three searches revealed contraband items.⁷⁵
- In a review of 18,889 strip searches of 200 women over a one-year period, only one item of contraband was found.⁷⁶
- When 23,000 people were strip searched upon entering a jail facility over a four year period, drugs were discovered five times, "[and] in four of these five instances there may have been reasonable suspicion to search, leaving only one instance in 23,000 in which the [routine] strip search policy arguably detected additional contraband."⁷⁷
- When a jail in California performed body cavity strip-searches of 75,000 new inmates over a period of five years, "[i]n 16 instances the searches led to the discovery of contraband.... 13 of these 16 pieces of contraband would have been detected in a patdown or a search of shoes and outer clothing. In the three instances in which contraband was found on the detainee's body or in a body cavity, there was a drug or felony history that would have justified a strip search on individualized reasonable suspicion."⁷⁸

75 Alexandra Alvaro, *Female Inmates in Tasmania Subjected to 841 Strip Searches*, ABC News, Sept. 2, 2021.

76 McCullough & George, *supra* note 41 at 118.

77 *Florence v. Board of Chosen Freeholders*, 566 US 318, 349 (2012) (J. Breyer, dissenting) (citing *Dodge v. County of Orange*, 282 F Supp 2d 41, 69, 70 (S.D.N.Y. 2003) (internal quote marks omitted)).

78 *Id.* (citing *Shain v. Ellison*, 273 F3d 56, 60 (CA2 2001)). Other courts have reported similar statistics. *E.g.*, *Bull v. City and County of San Francisco*, 2006 WL 449148 (N.D. Cal.), *aff'd in part*, 539 F3d 1193 (9th Cir 2008); *Mary Beth G. v. City of Chicago*, 723 F2d 1263 (7th Cir 1983) (nine incidences of contraband discovered in 1800 searches over a two-month period); *Giles v. Ackerman*, 746 F2d 614 (9th Cir 1984)(only 11 persons out of 3,500 searched had concealed anything warranting a report); *John Does 1-100 v. Boyd*, 613 F Supp 1514 (D. Minn. 1985) (13 incident reports of contraband over an 11-year period and all of the items were found in clothing, not through a strip search).

PRACTICES IN OTHER STATES

THE MOST PROMINENT method of reforming strip searches in prisons has been the adoption of body scanners as an alternative. Several states have implemented body scanners in prisons, and in many cases have explicitly expressed an intention to reduce intrusive searches.

Washington

In 2019, Washington state piloted the use of body scanners at the Washington Corrections Center for Women (WCCW). The resulting report concluded that body scanners are a “much more effective, thorough” method of searching for contraband than strip searches, and much less time consuming for staff. They reported a 500% increase in the contraband found using body scans compared to strip searches (from two per month on average, to ten per month on average). The report states that the increased discovery of contraband not only improved safety and security of the facility, but likely saved lives through preventing overdoses.⁷⁹ In 2022, Washington expanded the pilot program to a men’s prison and to continue at the women’s facility, in the “Drug Free Prisons Act.” This pilot scheduled

to conclude on June 30, 2024.⁸⁰ The stated intent of the Act is “to protect human dignity by reducing or eliminating strip searches, and to increase public safety by reducing access to drugs and alcohol in correctional facilities and to increase substance use disorder diagnosis, treatment, and services.”⁸¹

Under the expanded pilot, when drugs are detected during a body scan, the incarcerated individual will undergo an assessment for substance use disorder and receive treatment, including medication-assisted treatment (MAT). The law also directs the DOC to “distinguish between incarcerated individuals who have symptoms indicating a substance use disorder and incarcerated individuals who transport substances for other individuals and do not have symptoms indicating a substance use disorder.”⁸²

79 Washington Department of Corrections, Body Scanner Pilot: An Alternative to Strip Searches of Incarcerated Individuals (2019), https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=2019%20Legislative%20Report%20-%20Body%20Scanner%20Pilot%20-%20ESSB%206032_00fd3ade-dc5b-4c78-aebc-d16c9a989dee.pdf.

80 RCW 72.09.775.

81 S.B. 5695, 67th Leg., Reg. Sess. (Wa. 2022), <https://lawfilesext.leg.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5695-S2.SL.pdf?cite=2022%20c%20160%20C2%A7%202>.

82 *Id.*

Connecticut

In Connecticut prisons, AICs are required to be strip-searched in specific circumstances: when entering or leaving facilities; entering restrictive housing units; if they have “participated in a significant incident,” when submitting to urinalysis; after contact visits; during a “planned general facility search”; and during emergencies. However, outside these circumstances, COs may not strip search unless they can demonstrate reasonable suspicion that the AIC is concealing contraband. The CO must document their reasonable suspicion in a report submitted to their supervisor, who must authorize the strip search in advance. Even with these limits, Connecticut prisons reportedly overuse strip searches. In 2023, legislation was introduced⁸³ that would have required probable cause instead of reasonable suspicion, in an effort to reduce strip searches. The state’s Department of Corrections (DOC) opposed the changes. The version of the bill that passed did not include these reforms, and instead required DOC to study the costs of installing body scanning machines.

Ohio

In 2022, the DOC announced the installation of one body scanner in each of the state’s prisons, with the aim of reducing contraband.⁸⁴ The initiative was predicted to reduce the need for physical searches, but the outcome is unclear.

California

California regulations require that body scanners “shall be used on inmates when they leave a visiting area, upon conclusion of a family visit, upon returning to a yard or facility from vocational or educational classes, upon entering or exiting a secure perimeter, and prior to placement into restrictive housing.”⁸⁵ Strip searches may be performed routinely “for inmate movement into or out of high security risk areas,” but otherwise there must be reasonable suspicion that the AIC is concealing contraband or has been in an altercation.⁸⁶ It is not clear to what degree the use of body scanners has impacted the frequency of strip searches.

New York

In 2023, New York expanded the use of body scanners to all state prisons, with the intent of reducing intrusive searches and contraband.⁸⁷

It seems apparent that body scanners are a less intrusive search method, that can be effective at reducing contraband while reducing the use of strip searches. However, a thoughtful approach to body scanners is needed. The responsible and humane use of body scanners requires safeguards to protect incarcerated people from certain risks, such as unnecessary intrusions of privacy via detailed imaging of body parts; staff errors in reading scans; and exposure to radiation.

83 R.B. 1196, Gen. Assemb., Jan. Sess. (Ct. 2023), <https://www.cga.ct.gov/2023/TOB/S/PDF/2023SB-01196-R00-SB.PDF>; Jaden Edison, *House Advances Bill That Requires Study, Not Limits, of Strip Searches*, Connecticut Mirror, May 30, 2023, <https://ctmirror.org/2023/05/30/ct-strip-search-prison-end-bill-study/>.

84 Andrew Welsh-Huggins, Associated Press, *Ohio Prisons Ramping Up Fight Against Flow of Contraband*, Apr. 12, 2022, <https://www.pressdemocrat.com/article/news/ohio-prisons-ramping-up-fight-against-flow-of-contraband/>.

85 C.C.R. 15, § 3287, <https://www.law.cornell.edu/regulations/california/15-CCR-3287>.

86 *Id.*

87 Raga Justin, *State Expands Body Scanners in NY Prisons, Targeting Visitors and Employees*, Times Union, May 4, 2023, <https://www.timesunion.com/state/article/ny-expands-use-body-scanners-prisons-visitors-18074088.php?IP-ID=Times-Union-HP-state-package>.

RECOMMENDATIONS

GIVEN THE IMMENSE HARM that strip searches cause to people sentenced to ODOC custody, they should be used rarely and only as a last resort. Policies for searching AICs should be grounded in values of dignity and respect for privacy and autonomy. Significant limits and requirements for the use of strip searches are needed to protect AICs from further harm. Alternatives like body scanners must also include protections to prevent abuse and needless intrusions of bodily privacy. With these considerations in mind, we propose the following recommendations.

1. Strip searches should require probable cause, prior approval, and reporting.

The CO must document their probable cause in a report submitted to their supervisor, who must authorize the strip search in advance, and report the outcome of the search.

2. The state should track the number of strip searches conducted on people in ODOC custody and the outcome of each search, and make this data available on the ODOC's online public facing dashboard.

3. Body scanners should be implemented but include safeguards.

Body scanners are a more humane alternative to strip searches and are more effective at detecting contraband. Limits should include:

- Body scanner searches should require probable cause, prior approval, and reporting. Policy should also make clear that refusing a scan does not constitute probable cause.

- Monitor the number of body scans per AIC and impose limits to ensure safe levels of radiation.
- Allow medical exemptions to body scanners. Those exempt from body scanners should not automatically be strip searched instead; only if circumstances warrant it.
- Ensure staff are adequately trained to read scans accurately, avoid false identification of contraband, and to enforce safe radiation limits. (There have been reports in other states of staff misreading the scans and identifying menstrual products as contraband).⁸⁸
- AICs who refuse a body scan or strip search that lacks probable cause should not face discipline, retaliation, or coercion.

4. Train staff to treat AICs with dignity and implement broader efforts throughout ODOC to foster a culture of respect for dignity, privacy, and autonomy.

5. Avoid overreliance on other harmful protocols designed, purportedly, to promote deterrence of contraband.

ODOC should also take steps to ensure that other harmful protocols are not overused as a substitution for strip searches. For example, ODOC should minimize the use of pat-downs, which can also be harmful and intrusive, and minimize the use of harsh punishments for contraband, such as solitary confinement.

6. Reduce contraband by addressing staff shortages and improving security protocols for staff coming into the facility, including but not limited to staff submitting to body scans and more frequent searches of items staff bring into facilities.

7. Reduce drug contraband by ensuring all AICs have access to substance use treatment and adequate mental health services.

The need for addiction treatment and mental health services far outweighs the resources that are currently available to AICs in Oregon prisons. DOC should address the root causes of substance abuse by expanding access to services instead of the current punitive approach to drug use.

8. Limit punitive responses when searches reveal addiction-related contraband or harmless items.

When drugs for personal use are discovered through searches, ODOC should focus on assessing the person's need for services and support and helping them enroll in appropriate treatment. When searches yield prohibited but harmless items such as food, children's drawings, etc., ODOC should refrain from gratuitous punishment.

⁸⁸ Sarah Vogelsong, *Female Workers Sue Virginia Department of Corrections, Claiming Body Searches Discriminate Against Women*, *Virginian-Pilot*, Feb. 8, 2024, <https://www.pilotonline.com/2024/02/08/female-workers-sue-virginia-department-of-corrections-claiming-body-searches-discriminate-against-women/>.

CONCLUSION

THE PERSISTENCE OF routine strip searches in U.S. prisons is reflective of outdated approaches to correctional policy. It is part of the history of mass incarceration in this country, which evolved from slavery. During slavery, and continuing in its wake, people in prisons had a social status resembling that of enslaved people: deprived of even the barest entitlement to physical autonomy, dignity, safety, or privacy. The casual violence, indignity, and dehumanization of routine strip searching of people in state custody should be left behind as an ugly relic of this shameful past.

Reforming strip search policies is an opportunity for Oregon to embrace a forward-looking and compassionate approach to caring for people in custody and to demonstrate a commitment to treating all people with dignity. We encourage state leaders to adopt the recommendations above so that adults in custody are able to create positive futures, heal from past trauma and addiction, and prepare for healthy lives in the community. ■



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OJRC is a Portland, Oregon, 501(c)(3) nonprofit founded in 2011. We work to promote civil rights and improve legal representation for communities that have often been underserved in the past: people living in poverty and people of color among them. Our clients are currently and formerly incarcerated Oregonians. We work in partnership with other, like-minded organizations to maximize our reach to serve underrepresented populations, train public interest lawyers, and educate our community on civil rights and civil liberties concerns. We are a public interest law firm that uses integrative advocacy to achieve our goals. This strategy includes focused direct legal services, public awareness campaigns, strategic partnerships, and coordinating our legal and advocacy areas to positively impact outcomes in favor of criminal justice reforms.

THE WOMEN'S JUSTICE PROJECT (WJP) is a program of OJRC. It is the first and only program in Oregon to exclusively address issues related to women in Oregon's criminal legal system. Since 2014, WJP staff have been providing direct legal services and other supports to people incarcerated in Coffee Creek Correctional Facility (CCCF), Oregon's only women's prison. The WJP advocates for more just and humane treatment of women in the criminal legal system. In pursuit of our efforts, we document and track women's experiences, develop creative litigation opportunities, advocate for legislative and other reforms, and provide public education.