

Fact Sheet: Strip Searches in Federal Prisons Designated for Women

Strip searches are defined as the removal or rearrangement of some or all the clothing of a person to permit a visual inspection of a person's private areas, including their genitals, buttocks, breasts, or undergarments.¹ Strip searches are often experienced as sexual assault and can have detrimental effects on incarcerated women, non-binary and Two Spirit people. This sheet provides an overview of the key facts on this pervasive issue in Canadian federal prisons designated for women and provides context for CAEFS' position that the Correctional Service of Canada (CSC) end the practice.

Strip searching is inherently humiliating and is often experienced as sexual violence and can be (re)traumatizing for survivors of sexual violence.

- Most incarcerated women, trans, non-binary, and Two Spirit people have histories of experiencing sexualized violence:
 - Prior to incarceration, 80% of federally sentenced women had experienced physical abuse and 53% had experienced sexual abuse.²
 - Based on CSC's own research, compared to the average Canadian, women and gender diverse people in prison are more likely to have histories of sexual abuse.³
 - Sexual trauma is recognized as a significant determinant of young women's criminalization and is commonplace among incarcerated women.⁴
- The Supreme Court of Canada in *R. v. Golden* (2001) described the practice of strip searching as "inherently humiliating" and affirmed that for women, non-binary, trans, and Two Spirit people, strip searches are experienced as an act of sexualized violence:

*"Strip searches are thus inherently humiliating and degrading for detainees regardless of the manner in which they are carried out and for this reason they cannot be carried out simply as a matter of routine policy. The adjectives used by individuals to describe their experience of being strip searched give some sense of how a strip search, even one that is carried out in a reasonable manner, can affect detainees: "humiliating", "degrading", "demeaning", "upsetting", and "devastating" [...] Some commentators have gone as far as to describe strip searches as "visual rape" [...] Women and minorities in particular may have a real fear of strip searches and may experience such a search as equivalent to a sexual assault."*⁵
- As strip searches are often experienced as sexual assault and can trigger traumatic experiences of sexual assault, they may also result in self-injury. Self-injurious behaviour can lead to use of force and time spent in segregation or mental health monitoring.

Strip searches are ineffective in finding and preventing the introduction of contraband.

- There is no evidence that strip searches prevent the introduction of weapons and contraband or make institutions any safer. Rather, available information appears to suggest the opposite.

- In 2017, the Standing Senate Committee on Human Rights heard evidence relating to strip searches in Canada from Amanda George from Sisters Inside – an Australian organization which advocates for the collective human rights of women and girls in prison. As part of her evidence, Amanda George stated:

“[strip searches] have been around for a long, long time, but prisons have changed. There is much more visual surveillance of people in visits and of people going through into prisons. Strip-searches don’t find contraband. All of the freedom of information requests we have done have indicated that.”⁶

- A pilot project on strip searches was conducted in the state of Victoria, Australia in 2002. The State reduced the number of strip searches in the women’s prison by one third to determine if it would have an impact on the number of positive drug urine tests or the amount of contraband found. The impact was immediate: not only was the same amount of contraband found, but there was a 40% reduction in the number of positive urine tests. Evidently, fewer strip searches led to less drug use and self-medicating.⁷

Routine and randomized strip searches may result in a disproportionate number of strip searches in prisons designated for women, impacting timely parole.

- Despite being far less likely to be found with weapons and contraband, incarcerated women are much more likely to be strip searched than incarcerated men.⁸
- The practice of mandatory strip searching is utilized by some federal prisons designated for women, including the Grand Valley Institution.⁹ Randomized strip searching is operationalized through a tool that randomly assigns strip searches to a third of the population upon return from visits or outings.
- In its 2018-2019 Annual Report, the Office of the Correctional Investigator explained that:

“In September 2018, direction from CSC’s Women Offender Sector was provided to all Wardens of women institutions regarding the implementation of a “random calculator” to conduct strip searches.

The random strip search calculator was set at default of a 1:3 ratio. It was implemented as a means to standardize the random assignment of routine strip-searches. In more direct terms, the use of a random calculator for strip-searching at women offender institutions acknowledges that there was little consistency across sites in terms of the frequency, purpose or requirements of strip-searching.

Though concerning in itself, in practice the new strip search protocol could mean more routine strip searches at women offender institutions.”¹⁰

- People in maximum security reported to CAEFS Regional Advocates that they were subject to a routine strip search nearly every time they returned from attending programs in general population.¹¹ Similarly, those in minimum security have advised that they were strip-searched regularly upon returning from temporary absences (TA’s) and work releases.¹²
- Strip searches also impact timely parole. Given strip searches are routinely required when going to or returning from temporary absences, many prisoners unsurprisingly choose to not make use of temporary absences entirely or delay them during their menstrual cycle. This decision impacts prisoners’ ability to successfully pursue their correctional plans and undermines their chances of parole and successful reintegration at their earliest possible dates.

Some officials within the Correctional Service of Canada oppose strip searching.

- Staff in prisons designated for women have indicated to CAEFS that they would prefer not to have to conduct strip searches because it interferes with their ability to work with prisoners in constructive ways and that strip searching undermines rapport between staff and prisoners.¹³
- In 2005, the Deputy Wardens of Canada’s federal prisons for women—who were then responsible for managing the security of the prisons—recommended that all routine strip searches for women be ceased.¹⁴ However, over fifteen years later, the practice is still widespread.

CSC has the authority to stop the practice of strip searching.

- Strip searches in Canadian federal institutions can be conducted routinely where “the inmate has been in a place where there was a likelihood of access to contraband that is capable of being hidden on or in the body.”¹⁵ In practice, this means strip searches can occur before or after escorted temporary absences (e.g. seeking medical treatment); unescorted temporary absences (e.g. going home to visit family); work release; personal visits within the prison or traveling to and from the Minimum Security Unit to the main compound.¹⁶
- Non-routine strip searches can also be conducted in the following two circumstances:
 - where a staff member “believes on reasonable grounds that an inmate is carrying contraband or carrying evidence relating to a disciplinary or criminal offence, and that a strip search is necessary to find the contraband or evidence”;¹⁷
 - or “where the Institutional Head is satisfied that there are reasonable grounds to believe that (a) there exists, because of contraband, a clear and substantial danger to human life or safety or to the security of the penitentiary, and (b) a frisk search or strip search of all the inmates in the penitentiary or any part thereof is necessary in order to seize the contraband and avert the danger.”¹⁸

Evidently, both these circumstances provide CSC staff and Institution Heads with significant discretion regarding whether a strip search is necessary or whether less invasive means are available.

- Given the language regarding strip searching is permissive rather than obligatory, ending the practice of strip searching does not necessarily require legislative change. While a prohibition against strip searching should eventually be prescribed in legislation, policy directives from National Headquarters instructing CSC staff and Institution Heads to use alternative methods could put a stop to the practice in prisons designated for women.

Ending the strip searches is consistent with Canada and CSC’s legal obligations and policy objectives.

- CSC has a positive obligation under the *Corrections and Conditional Release Act* to provide ‘safe and humane custody and supervision’ of incarcerated people and to be sensitive to the unique needs of Indigenous people, women, and those with mental health issues.¹⁹ The CCRA also establishes that CSC will use “the least restrictive measures consistent with the protection of society, staff members and offenders.”²⁰ The continued use of strip searching ensures that CSC cannot and will not meet these statutory objectives.
- Discontinuing strip searches aligns with the spirit of *Creating Choices* - a 1990 CSC Task Force mandated to examine ‘correctional management’ of federally sentenced women. *Creating Choices* stressed that prisons designated for women should not be security-driven but should instead focus on more supportive and dynamic interventions.²¹
- Further, the 2019 Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls called upon CSC “to eliminate the practice of strip-searches” (Call for Justice 14.13).²²
- Strip searches also put at risk a person’s rights under the *Canadian Charter of Rights and Freedoms*, namely their section 7 rights to life, liberty and security of the person, and their section 12 right to not be subjected to any cruel and unusual treatment or punishment.
- The recurrent, widespread use of strip searching in Canadian prisons designated for women is also implicated by international agreements to which Canada has signed on:
 - Rule 52(1) of the *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* stresses that strip searches should be undertaken only if absolutely necessary.²³
 - Rule 20 of the *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)* highlights the harmful psychological and possible physical impact of invasive body searches and advocates for alternatives. Rule 19 also stresses that special sensitivity should be demonstrated in the

case of women prisoners as the experience “may be extremely distressing and traumatizing if they have been victims of sexual abuse in the past”²⁴

CAEFS Recommendations

- End the practice of strip searching in all federal institutions

¹ Kim Pate, “When strip searches are sexual assaults” (October 14, 2011) The Hill Times [Pate].

² Canadian Human Rights Commission, *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*, Ottawa: Canadian Human Rights Commission, 2004.

³ Correctional Service Canada, “Women offenders”, available online: <https://www.csc-scc.gc.ca/publications/005007-3012-en.shtml>

⁴ CAEFS (2021), *Sexual Coercion and Violence in Prisons Designated for Women*, p 8, available online: https://ac935091-bf76-4969-8249-ae3a107fca23.filesusr.com/ugd/d2d30e_b783e9490a454f78b3a47d0e226fa152.pdf [CAEFS Sexual Violence Brief].

⁵ *R v Golden*, 2001 SCC 83, para 90.

⁶ *Proceedings of the Standing Senate Committee on Human Rights*, Issue No. 19 – Evidence – June 7, 2017, 42nd Parliament, 1st Session (December 3, 2015 - September 11, 2019), available online: <https://sencanada.ca/en/Content/Sen/Committee/421/RIDR/19ev-53404-e>.

⁷ *Ibid.*

⁸ Pate.

⁹ *Ibid.*

¹⁰ Office of the Correctional Investigator, *Annual Report 2018-2019*, p 117, available online: <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20182019-eng.pdf> [OCI Annual Report 2018-2019]

¹¹ CAEFS Sexual Violence Brief, p 11.

¹² *Ibid.*

¹³ Pate.

¹⁴ Pate.

¹⁵ *Corrections and Conditional Release Act* (S.C. 1992, c. 20), s 48 [CCRA].

¹⁶ CAEFS Sexual Violence Brief, p 8.

¹⁷ CCRA, s 49(3).

¹⁸ *Ibid.*, s 53.

¹⁹ *Ibid.*, s 3(a).

²⁰ *Ibid.*, s 4(c).

²¹ OCI Annual Report 2018-2019, p 119.

²² *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019) “Calls for Justice” at p 198, available online: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls_for_Justice.pdf?fbclid=IwAR0yVRw8LNQX4nLnOcRKB7qQd1wCYMybSO6LpRpy18M_4Lp3NswEI2WEMg

²³ UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, A/RES/70/175, Rule 52(1).

²⁴ UN General Assembly, *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)*, A/C.3/65/L.5, Rules 19 and 20.