

STRIP SEARCHES: SEXUAL ASSAULT BY THE STATE

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I removed my clothes one piece at a time as requested. When we had stripped down to our underwear in the street, we were searched. I honestly felt the only way to prevent the search becoming more intrusive or sexual was to remain as quiet and docile as possible. I later wondered why I was so passive all I could answer was that it was an experience 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 (St Kilda Pedestrian).

We are strip searched after every visit. We are naked, told to bend over, touch our toes, spread our cheeks. If we've got our period we have to take the tampon out in front of them. It's degrading and humiliating. When we do urines it's even worse, we piss in a bottle in front of them. If we can't or won't we lose visits for three weeks (Fairlea Prisoner).

THE VOICES OF WOMEN HAVE RAISED AND CHANGED, THE PUBLIC discussion around sexual assault. The many manifestations and consequences of sexual assault, have affected the lives of most women. The definitions that the legal system has used to describe rape, incest and indecent assault have negated the reality of many women and men's experience of the spectrum of behaviour which is described as sexual assault.

It is interesting that the lowest incidence of sexual assault, that committed by strangers, has historically, received the greatest notoriety, while overwhelmingly the greatest incidence of sexual assault, those committed within families has been the most hidden. This perversity is easily explained by simply looking at in whose interests it is that the myth of the dangerous stranger is perpetuated, and who has the power particularly in the reproduction of culture to reinforce this myth. This paper will look at sexual assaults within the state controlled apparatus of prisons and police.

The acknowledgment that sexual assault does occur in institutions, for people with intellectual disabilities, prisons, psychiatric hospitals, youth training centres and police

stations, usually centres around the criminal acts of rape and sexual assault by individuals employed in those institutions. These offences, though they are rarely reported, are clearly understood as being 'crimes' for which the individual and not the state is responsible. At the same time as the state deplores 'unlawful' sexual assaults by its employees, it actually uses sexual assault as a means of control.

In Victoria, prison and police officers are vested with the power and responsibility to do acts which, if done outside of work hours, would be crimes of sexual assault. If a person does not 'consent' to being stripped naked by these officers, force can lawfully be used to do it (Office of Corrections, Director-General's Rule No. 2.11, Rule 3.4. Search and Apprehension of Prisons). These legal strip searches are, in the author's view, sexual assaults within the definition of indecent assault in the *Crimes Act 1958 (Vic.)* as amended in section 39.

Everyday, women and men experience these sexual assaults at the hands of the state. The state tries to deny that these acts are crimes, firstly by justifying them for a variety of purposes, secondly by labelling the victims as being of a class deserving of the treatment, and thirdly by completely ignoring the experience of the victim. The state goes to these lengths to justify giving itself these powers precisely because it knows they are crimes.

Prisons: Strip Searches

Prisons are places where each minute of the day one's life is controlled. Prisoners are to do what they are told, when they are told, and are punished if they do not.

What is a strip search then? You are told to remove your clothes one item at a time and pass them over. You stand naked. Open your mouth. Lift up your tongue. Take out dentures. Flick your ears. Stretch out your arms. Lift your feet. Lift your breasts, men their testicles. Spread your legs. Bend over to touch the floor and part your cheeks for inspection. If you are menstruating you remove the tampon in front of them and insert a new one. (Although the practice of tampon removal is not in the Director-General's Rules, it is still required of women prisoners.)

In 1988, eight women at Fairlea Prison went on hunger strike over conditions; in particular, strip searches. In 1989 women in G Division Pentridge protested over the 'squat and cough' routine of the search. The Coroner's finding regarding a woman who died at G Division that year said the:

squat . . . leads to allegations of degrading treatment and created further tensions between officers and prisoners (Record of investigations of death of Karen Watson).

After this inquiry, the 'squat and cough' routine was finally stopped.

Strip searches are done on prisoners whenever they have family and friends visit, and increasingly now after professional visitors (lawyers, housing and community workers). The practice of strip searching prisoners when they have professional visitors, in effect, punishes prisoners who are seeking information, support and assistance from outside organisations. This is quite contrary to Office of Corrections (OOC) policy which says:

The management of women prisoners should emphasise their continuing part in the community . . . The OOC has for many years actively encouraged the participation of community agencies in prisons, recognising their expertise and

commitment to providing support to prisoners (Victoria. Women Prisoners and Offenders Advisory Committee 1991).

The use of strip searches on prisoners seeking support and assistance is currently the subject of joint protest by community, church and legal organisations.

Strip searches are also done on family and friend visitors to the prison either by a process of selection, or randomly. Visitors who refuse the strip when asked do not get to visit at all. While the Director-General's Rules say a non-contact visit can be offered, they frequently are not. More often than not, the visitor is met down the road by police for a car search. The visitor's refusal to strip is seen as being motivated by something to hide rather than any concerns about dignity, fear, humiliation or cultural and religious issues (Easteal 1992, p. 108). The attitude of the state is that friends and family of prisoners should be treated like prisoners.

it is the feeling of most if not all the women prisoners that the searches are far too often and very degrading for our families to be put through. Most of the women of the unit (Banksia, maximum security Barwon Prison) have no visits at all because of this fact. We had an Open Day with a band but it was a disaster because of lack of visitors (*Barwon Times* 1991, p. 24.).

In May this year in Fairlea, there were sixty women inside. Over a one-month period, 386 strip searches were conducted (Victorian Office of Corrections response to Freedom of Information request 6/10/92). That same month the author read with concern an article in *The Age* about the simultaneous strip searching of women in prison in Northern Ireland. There was no outrage though at the simultaneous strip searching and urine testing of all women in Victoria's gaols on a Sunday night in April 1992.

The latest prank of the OOC is to force prisoners to give urine samples. For this, a prisoner is strip searched, redresses and urinates into a bottle in front of the officer. For strip searches or urine tests there is no absolute requirement that the officers be of the same gender as the prisoner (Victorian Office of Corrections, Director-General's Rules No. 2.11; Search and Apprehension of Persons Rule 3.1 and 3.3).

Any prisoner who refuses to strip search is charged with an offence. Force can and has been used to accomplish the strip and search. A prisoner who refuses or who cannot urinate within three hours of being ordered to, loses contact visits for three weeks. For three refusal offences, prisoners lose contact visits for twelve months (Victorian Office of Corrections, Director-General's Rules No. 4.5, amended 22/4/92; and principal Rules 2.11 and 3.11). In reality there is no choice but to submit to these assaults and to this humiliating and degrading treatment.

The 'choice' that the 74 per cent of women in Victorian prisons who are mothers have is that, unless they submit to these sexual assaults, prison regulations say prisoners only get to see their children for a weekly half-hour visit through glass:

The pram is wheeled up to the front door by the officer. When I inquired of him why I couldn't take my son to my husband his only reply was 'You might get drugs passed to you.' 'So strip search me then', I scream. 'Don't use my son against me. Placing my son in the pram I will myself not to cry, I won't give the officer the pleasure of seeing me fall apart. Keeping my eyes focussed on my son is the only way I stop myself from breaking.

As the officer wheels the pram away, Michael turns and looks back at me, he does not understand and neither do I. Why can't I be treated with dignity, to be respected and allowed to be me . . . Back in my room my mind is a whirl. I realise the contradiction of it all. I can clean their toilets, wash their walls, I can even wander around the administration area with all types of people coming through the gates, but I cannot be trusted to hand my son to my husband simply because I may get drugs. I have no drug history and to be honest would not know what they look like, but because I am in prison I will always be a drug taker (Hawthorn Community Education Project c.1992, 'No Title' by Sarah).

On perhaps an even bleaker note, some 70 per cent of women inside are survivors of incest and sexual abuse (Queensland. Women's House Survey 1989). The OOC runs programs for women who are survivors. These programs are to increase confidence, self-esteem, body image and develop assertiveness. Yet these same women regularly get strip searched by the OOC without their 'free agreement'. They can be forced to submit, and it is illegal for them to resist. Until late-1991, even women who were being internally examined in outside hospitals could be required to wear handcuffs during the internal, in front of an officer. Now it is in front of the officer without handcuffs.

The prison environment that this abuse occurs in is one where the woman is completely powerless. There is no real accountability in prisons. It is a closed hypermale military environment demanding a slavish submission to hierarchy and authority.

Under the new regime of Unit Management in prisons, the officers who strip prisoners, search prisoners and inspect prisoners' urine technique are also their welfare officers, the people prisoners are supposed to confide in, be counselled and supported by. These officers are also the people who can charge prisoners with offences and report on their behaviour at regular meetings which determine prisoners' education and recreation privileges and accommodation.

The weekly roundabout of the 'strip as the price to get visits', followed by courses to develop confidence and assertiveness, followed by a literal stripping of these qualities is sadistic, and may indeed constitute a 'cruel and unusual punishment' under the International Covenant on Civil and Political Rights (United Nations 1976). And why is this sexual assault and humiliation legal? Because the victim is a prisoner. She may be in for social security fraud, drugs, spouse murder, credit fraud or another offence, but she loses her humanity, her individuality, her right to freedom from assault, humiliation and fear, and her right to resist those assaults.

Of course, in the time-honoured tradition of government there are reasons provided for practices that would in other circumstances be illegal. The main reason given is drugs. These strip searches and urine tests are ostensibly designed to detect and stop drugs and other contraband.

Drugs raise interesting issues in the context of women prisoners. As we know the vast majority of women inside are victims/survivors of sexual, and physical abuse. For women who are survivors of sexual and physical abuse, legal and illegal drug use has been seen as self-medication (Barnacle [forthcoming]). In Australia and the USA, 84 per cent of participants in Odyssey House programs reported a history of sexual abuse as children. A Queensland study indicated that 70-80 per cent of women in prison were incest survivors (Queensland. Women's House Survey 1989).

As well as the majority of women inside being survivors, many women's offences are drug or alcohol related. There is a clear and established nexus between sexual abuse and drug use, yet in the state's pursuit of the drug-free prison, women are subjected to further abuse while at the same time they are offered programs to deal with their own history of sexual assault.

Clearly these searches and public urination exacerbate a prisoner's poor self-image and self-esteem, increase fear and create a perfect scenario for further self-medication. Apparently the OOC does not think urine testing is too bad. In the report, *Strategies to Reduce Drugs in Prison*, it was said that 'urines are no more invasive than that relating to the regulation of breath tests' (Abbot 1990).

Police: Strip Search

The police power to strip search is on the basis of their forming a reasonable belief that a person is in possession of concealed drugs (Victorian Chief Commissioner of Police Standing Orders 9.11(g)). The police are totally unaccountable in their use of strip searches. When the Victoria Police were asked to provide information on the number of strip searches done by police, they replied 'There is no requirement for such searches to be centrally documented therefore no statistical data exists' (Letter from Victoria Police to Western Suburbs Legal Service on 4 November 92 in response to Freedom of Information request).

This power gives the police carte blanche to harass, abuse and assault women whom they identify as deserving—in particular, any woman walking in St Kilda, where street prostitution occurs, is fair game. These searches are rarely carried out in police stations. They occur in back lanes and in doorway recesses. Perhaps it is because of the poor lighting in these areas the police are taking a more hands on approach? According to a member of the Prostitutes Collective of Victoria:

I had to strip down to my undies, they made me go out the back of the light, I was a bit scared, I wet myself literally because I knew what they'd do next. Only one guy searched me internally, but he did me anally and vaginally. I had nothing on me, they told me to run off home.

These internal searches are completely illegal, but what woman is going to be believed making such serious complaints against police. And who working legally or illegally in the sex industry can afford to stand up to police?

These strip searches, when they do happen in police stations, usually go far beyond the legalised indecent assaults. Reports of women getting interviewed while naked and having photographs taken in front of groups of officers while naked are documented (Federation of Community Legal Centres (Vic.), Police Issues Group 1991).

Further terror tactics and sexual assaults by police have been documented in a book on police shootings in Victoria released in October 1992. In this book, a woman disclosed that, after being punched by police, she had a shotgun put between her legs. In the same raid, an eighteen-year-old man was punched, had his pants pulled down and had a gun up his behind (Fitzroy Legal Service 1992).

Conclusion

Examples of police and prison officers abuse of power must not focus on the few bad apples in the barrel argument. Abuse of power comes as no surprise. What must be acknowledged is that, in giving prison and police officers the power to strip search and to use force, they are being given them the right to sexually assault. In doing this, any right of the victim to resist, to complain and to have their experience of the assault legitimated is removed. If this idea seems wrong, reserve judgement until you have experienced a strip search.

Acknowledgment

Thanks to workers and management committee of Essendon Community Legal Centre, members of Corrections Working Group and Police Issues Group of Federation of Community Legal Centres, Women inside and out, Prostitutes Collective of Victoria, Office of Corrections Resource Centre.

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