

W16 – In-depth or investigative reporting

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The Virginian-Pilot

Virginia prisons strip-search policy

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An 8-year-old girl was strip searched at a Virginia prison. She was told it was the only way to see her dad.

<https://www.pilotonline.com/government/virginia/vp-nw-strip-search-20191206-wd2ejtrtqfgbvkbj7xzh7btemu-story.html>

An 8-year-old girl was stripped naked and searched by Virginia Department of Corrections staff after she was led to believe refusal would result in not being allowed to see her father.

State policy allows for such searches at the Buckingham Correctional Center in Dillwyn, about 60 miles west of Richmond, and other state DOC prisons. The girl was accompanied by her father's girlfriend, who is not her legal guardian. If they refused to be searched, they could have been banned from the prison.

"That's outrageous," said Daniel Macallair, executive director of the Center on Juvenile and Criminal Justice. "It's generally regarded in the criminal justice field that you do not strip search young children. ... I mean most adults, certainly most adults who work in the field of child welfare would know better, that this is an act of child abuse."

After being contacted Thursday by The Virginian-Pilot with questions about the incident, DOC Director of Communications Lisa Kinney said the department was just made aware of what happened and that the staff member who approved the search didn't have that authority.

"It is deeply troubling and represents a breach in our protocol. We sincerely apologize to this child and her family and will be taking immediate disciplinary action against the person responsible," Kinney wrote in an email.

The incident follows a push by DOC officials to promote the department as a model for corrections departments nationwide, and in the midst of a long-fought court battle over inmate healthcare and changes to visitation.

The strip search has haunted the girl, who already suffered from bipolar disorder, depression and ADHD, said her mother.

“She’s a minor, she’s a girl. She was traumatized,” her mother said. “She gets emotional, she will break down.”

She’s missed school because of it, her mother said.

Just after the visit, the girl texted her mom in shock.

“Hey Mom, am so mad the jail had to strip me with all of my clothes off this doesn’t make no sinc (sic)” the girl texted.

The names of the girl, her mother and father are being withheld by The Virginian-Pilot because she is a minor and because of the trauma she experienced.

“Did they make you take all of your clothes off,” her mother texted back just before calling her daughter.

“Yes all of my clothes off,” she responded.

The incident

The Nov. 24 visit to Buckingham Correctional Center started out as routine, said Diamond Peerman, who drove the girl the two-and-a-half hours from Hampton and is the girlfriend of the 8-year-old’s father. They stood in line with other visitors, and were circled by a DOC dog trained to sniff out drugs and other contraband.

The dog singled out Peerman, requiring that she be strip searched. Peerman asked if the 8-year-old would need to be searched, too. Initially prison guards said no, but after consulting with a captain, that decision was reversed, Peerman said.

They would have to consent to the girl being strip searched or visitation rights would be terminated. Peerman said she believed the girl had to be searched or she couldn’t see her dad anymore.

The DOC policy on employee, visitor and offender searches states: “If a visitor refuses to submit to a search, or if a parent or guardian refuses consent for the search of a minor, the individual shall not be searched by force, but shall be denied entry into the facility.”

ACLU of Virginia lawyers have examined the policy and interpret it to mean just what Peerman assumed that day.

“We would characterize that as a highly coercive policy,” said Bill Farrar, director of strategic communications for ACLU of Virginia.

Peerman says that when she was told the girl must strip and realized her lack of options, she cried.

The girl looked at her and asked what being strip searched meant.

"I told her, that means you have to take all of your clothes off or you're not going to be able to see your dad," Peerman said. "That's when she started crying."

Peerman said she told the DOC captain and other corrections officers that she was not the girl's legal guardian. They told her she had to sign the consent form anyway.

Performing the search without a legal guardian's consent is a clear violation of DOC policy, which states, "Searches shall be conducted on a minor (person under 18 years of age — not emancipated) only with the consent of and in the presence of the minor's parent or legal guardian." It also states that if they are not accompanied by a legal guardian and there is "reasonable belief to strip search a minor" that they should not be allowed to visit.

In her email, Kinney said that strip searching a minor was extremely rare and that in this case the department's procedures were not followed.

"Our procedure states that only a parent or legal guardian can approve the strip search of a minor; in this case the adult visitor who signed the consent for the minor to be strip searched wasn't the minor's parent or legal guardian," Kinney said in the email. "The staff member who authorized the search of the minor following a K-9 alert didn't have the authority to do so. We take this matter very seriously and as mentioned above will be taking immediate disciplinary action against the person responsible."

By the time two female corrections officers took them to a bathroom, the girl had stopped crying and was resigned to taking her clothes off.

First Peerman was searched — taking all of her clothes off before being told to bend over and cough. Then it was time for the girl.

After taking off her clothes and also being asked to bend over and cough, she was slowly handed back her clothing, piece by piece. One of the corrections officers asked, "How old are you, sweetheart?"

"I just looked at her and I'm like, 'That's not even appropriate to be asking her right now,' " Peerman said. "Why would you ask that when she's naked?"

The officers then searched Peerman's car. No contraband was found and the two were allowed to visit with the girl's father but only through glass. They were denied a contact visit.

Later, the girl's mother called the DOC captain, who she said cursed at her, telling her Peerman signed the papers. She said the captain eventually hung up on her.

The policy

Martin F. Horn, a professor at the John Jay College of Criminal Justice and Executive Director of the New York State Sentencing Commission, said in very rare circumstances there may be need to strip search a minor but that DOC's actions were draconian.

“It seems to me the prison had options available to them that were less intrusive and that those would be preferable,” he said.

While he could not speak about the specifics of this incident, Farrar said there is no reason DOC should ever strip search children.

“Policy or not, there is never a circumstance where a child should be subjected to invasive, traumatizing, humiliating searches by a stranger, whether or not they’re trying to get to a loved one who is incarcerated,” he said. “That should never happen.”

The strip search policies “are in place to keep offenders, visitors, and staff as safe as possible by reducing the contraband (e.g., drugs, cell phones, weapons) smuggled into the state’s prisons,” Kinney wrote in an email. “Strip searches are requested when a K-9 has alerted on a visitor. Visitors are always free to deny the strip search request and leave the facility.”

The California Department of Corrections and Rehabilitation drafted regulations in 2015 that would allow for children to be strip searched but were quickly rejected by the public.

“I remember the debate here and it was just considered an absolutely outrageous practice because it traumatizes kids,” Macallair said. “Being subjected to that type of an intrusive search body search by an adult in a uniform is quite frightening and certainly something that if you’re a parent you wouldn’t want to subject your kids to.”

The 8-year-old’s mother said her daughter misses her dad but won’t be visiting him anymore because of how she was treated.

“Her and her dad have a good relationship ... because she gets to go see him every weekend,” the mother said. “But, at the same time, she went through something that traumatized her. I’m not sending her back there.”

Virginia Gov. Northam suspends policy that allowed 8-year-old girl to be strip searched, says he was “deeply disturbed”

<https://www.pilotonline.com/government/virginia/vp-nw-northam-suspends-search-policy-20191206-zy6qc6eigfhr1bdspmw2s5mnim-story.html>

Gov. Ralph Northam has suspended a portion of a Virginia Department of Corrections policy that permitted strip searches of minors.

An 8-year-old girl was strip searched in late November at Buckingham Correctional Center in Dillwyn before being allowed to visit her father.

“I am deeply disturbed by these reports — not just as governor but as a pediatrician and a dad,” Northam wrote in a statement sent Friday morning to The Virginian-Pilot. “I’ve directed the Secretary of Public Safety and Homeland Security to suspend this policy while the department conducts an immediate investigation and review of their procedures.”

Friday evening, Del. Lee Carter, D-Manassas, tweeted that he planned to draft legislation that would “prohibit all strip searches of minors under 14, and of minors 14-17 without parental consent.”

DOC policy allowed for strip searches of minors but Director of Communications Lisa Kinney said the staff member who approved the search of the girl didn’t have that authority.

The search also was performed without the consent of a parent or guardian — a clear violation of the existing policy. Kinney said the DOC would be taking “immediate disciplinary action against the person responsible.”

The girl was accompanied by her father’s girlfriend, Diamond Peerman, who is not her legal guardian. They were circled by a dog trained to sniff out drugs and other contraband, and it singled out Peerman.

Peerman said a captain insisted the girl be strip searched and that she believed the girl would not be able to see her father again if they refused.

The two were made to remove all their clothes and searched, and their car was examined. They were then allowed to have a non-contact visit with the 8-year-old’s father. DOC officials did not find contraband items on either of them.

The suspension was a good first step by Northam, Peerman said.

“It feels good that they did it but (the strip search) shouldn’t have been done anyway,” Peerman said. “There’s no reason for them to strip search a child.”

Because Peerman is not the girl’s parent or guardian, they should have been turned away and not allowed to visit.

DOC operating procedure specifically states that while parents or legal guardians can allow minors to be accompanied by adults other than themselves, “this consent does not include strip or body cavity searches of the minor. ... If there is reasonable belief to strip search a minor that is not accompanied by their parent or legal guardian, the minor and the accompanying adult shall not be allowed to visit.”

The 8-year-old and her immediate family members are not being named by The Virginian-Pilot in order to protect the girl’s identity.

The girl’s mother said she doesn’t know what to think of the policy suspension. She said she plans on filing a lawsuit, though she has not yet contacted a lawyer.

She pointed out the suspended policy didn't allow for her daughter to be strip searched under the circumstances on Nov. 24 anyway. She said her daughter is afraid to take her clothes off now, even to shower.

"The system is really crazy," she said. "The policy was broken before they made her go through a strip search."

Virginia prison threatens to permanently ban women from visiting loved ones if they don't consent to strip searches

<https://www.pilotonline.com/government/virginia/vp-nw-doc-strip-20191219-xwdvuazt7zcgjgtpcfs7mkpkm4-story.html>

Four women say officials at Buckingham Correctional Institution told them they had to consent to a strip search immediately after detection dogs alerted guards to the presence of drugs or they would lose all visitation rights.

None of the women had drugs on them, but most were on or near their period at the time and believe the dogs may have confused that with the smell of drugs.

A representative from the state agency that oversees the Department of Corrections says that shouldn't be happening.

"It is not DOC policy to permanently ban anyone solely based on their compliance or non-compliance with a strip search," said Jacquelyn Katuin, a policy advisor for Brian Moran, secretary of Public Safety and Homeland Security. "If this is happening, it is wrong. We are currently reviewing DOC visitation policies to ensure they are accommodating visitors while ensuring the safety and dignity of families, inmates, and our staff."

Each of the women signed a consent form believing that to refuse the strip search would mean a permanent ban from the prison. All were taken to a bathroom and searched, including being asked to squat and cough. Most of them also had their cars searched.

They were then allowed to have non-contact visits.

"Submit to an invasive search or risk never seeing your loved one again. I don't think that's a real choice," said Nicole Tortoriello, a women's rights lawyer with the ACLU of Virginia. "Certainly no one wants contraband entering these facilities, but these policies go way too far in the name of security, really providing a barrier to people who are incarcerated to maintaining connections with friends and loved ones."

The women's experiences are similar to that of an 8-year-old girl who was strip searched at the Buckingham prison last month. The woman who was accompanying her believed that to refuse would mean the girl could not visit her dad again.

Kimberly Garrett, who was strip searched at Buckingham in 2016, said she always knew getting strip searched was a possibility.

"But when it happened, I just started crying," she said. "It really was not something I wanted to do. And I didn't know that I would burst into tears."

Lisa Kinney, director of communications for the DOC, said in an email that permanently revoking visitation privileges for not consenting to a strip search was not a department policy. There are no permanent bans, she said

After The Virginian-Pilot reported on the search of the 8-year-old, Gov. Ralph Northam requested a review of the DOC's strip search policy and halted its use on children.

About 4,000 people visit DOC facilities every weekend, Kinney said. There have been 326 strip searches of visitors this year by DOC officials. At Buckingham, there are 35 incident reports "indicating a staff member or visitor was strip searched," she said.

Asked on Thursday how many strip searches turned up contraband, the DOC had not yet responded.

Prisons are allowed to ban people for refusing a strip search under the DOC's policy, said Tortoriello.

"The effect is certainly to intimidate visitors and make it a very difficult process for people trying to visit the facilities," Tortoriello said.

Banning visitors, aside from being inhumane, can have an impact on the inmates, she said. Maintaining family and community connections helps people leaving prison reenter society.

Another woman threatened with a visitation ban said strip searches are frustrating, embarrassing and intimidating. She asked that her name not be used because she works in a prison in another state.

"I understand why it's important, but they just automatically assumed guilt," she said. "I don't know what that dog picked up."

Scanned then searched

Most of the women interviewed for this story say they were taken through a body scanner prior to being strip searched.

When asked about the scanners, Kinney said that a strip search is only requested when a K-9 alerts on a visitor or a pat down reveals something suspicious.

“At facilities where there is a scanner, strip searches aren’t requested,” Kinney said in an email.

But Leslie Greiner was strip searched this fall after going through the prison’s body scanner.

“You step on this thing that sort of moves you through it. You hold your hands up and your feet are spread apart,” said Greiner, who went to visit a friend.

Usually corrections officers quickly move you through the scanner and to your visit, but not this time.

“I’m just waiting and waiting, maybe 15 or 20 minutes, and watching other people coming and going past me and not quite understanding what was happening,” Greiner said. “And then they approached me and they said, ‘Ma’am, I’m sorry but we need to do a strip search.’”

Greiner asked why and was told they thought she had something in her vaginal cavity. Greiner said she told the corrections officers her period was coming in a week.

Female officers watched as she slowly took off her clothing, then bent down and coughed several times. After the search, she used the bathroom and officers insisted on seeing what she had passed. They did not find any contraband.

Greiner says that when she was told she had to consent to the search, her understanding was that she would not be allowed in that day, not that she would lose visitation privileges forever.

“I was trying to make light of it and make jokes,” she said. “They don’t like jokes.”

Do dogs make errors?

Kari Anderson was on her period when a dog indicated she was carrying contraband on Feb. 23. She was told that if she didn’t submit to a strip search immediately, she would lose her visitation rights.

The dog handler took her to a room at the prison and asked why the dog alerted on her.

“I said your dog alerted in error. And he said, ‘My dog doesn’t make errors,’” Anderson said.

She was given DOC form 445-F1-5-16, “Consent for Strip or Body Cavity Search.”

There are boxes to check indicating the person’s status, including adult, employee and minors. There are also boxes specifying whether it is a strip search or body cavity search.

If the request is refused, “Offender visitors will have your visit terminated and your case will be reviewed for suspension of Visiting Privileges,” the form states.

“They put a piece of paper in front of me and said, ‘We have to strip search you and if you decline then you can never come back to this facility and see your husband again ... That’s not something I wanted to happen, and I didn’t have anything to hide, so I signed it,’” Anderson said.

As soon as they told her to take off her clothes, she burst into tears. When it was over, she was denied a contact visit. She could only see her husband behind glass.

The women interviewed all said they didn't understand why they weren't allowed a contact visit after undergoing a strip search. Kinney said something could still be hidden.

"A strip search is visual only," she said. "A visitor who was alerted on by the drug dog could have something hidden in a body cavity that we wouldn't see during a strip search, which is only a visual search; no one is touched during a strip search."

Anderson was so horrified by what happened, she sent a letter to Moran, DOC Director Harold Clarke and Chief of Corrections Operations David Robinson. She provided a copy to The Pilot.

No one responded.

"The dog is always going to be praised for the find, no matter whether he finds something or not," Anderson said. "So let's just say the day he did hit on me, if he was praised for alerting on me and there were no drugs, then he was praised for alerting on the wrong thing."

That could mean the dogs are alerting on women menstruating, she said.

A well trained detection dog doesn't mistake smells, said Bill Heiser, owner of Southern Coast K9 in Florida. He has worked with and trained dogs for more than 25 years.

It's a simple formula to train the dogs repeated over and over again — seek out the stimulus, respond to it and get a reward.

"A dog doesn't profile. It's not going to look at someone and say, 'Oh, he's a dope head.' It's doing what it's trained to do," Heiser said. "He's going to go where the smell is emitting from. That's where the reward is."

Anderson says she approached Clarke and Robinson at a public forum on May 14 and described her humiliating experience.

"It was just met with complete and utter arrogance," she said. "Harold Clarke completely interrupted me, stopped me in my tracks, and told me that the people in the facility were completely trained ... and that a lot of people go through a lot of hard work and dedication to make sure that the dogs are highly trained and effective, and he just cut me off and they both laughed."

A witness to the encounter who did not wish to be identified for fear of retribution confirmed her account.

Kinney said neither Clarke nor Robinson remember meeting Anderson.

"They vehemently disagree with the idea that they would ever react this way to someone who came to them about a strip search," she said in an email.

Anderson says she understands that prisons have to watch for people bringing in drugs and other contraband. That happens and it's a real concern.

But she thinks there has to be a way to do that while allowing people to keep their dignity and not feel like they are being punished themselves.

"Treated like a criminal"

Garrett visited Buckingham Prison on June 5, 2016, a week after her brother's friend tried to visit and was banned after refusing to be strip searched.

The friend, who asked that her name not be used, said she is still banned today. "I told the handler I was on my period and that was why he's sniffing my crotch so much," the woman said in an interview.

It was when the dog smelled her bag of quarters, which visitors can have to use in vending machines, that she realized she would be asked to consent to a strip search.

"Here I am on the sidewalk getting sniffed by a dog, and then all of the sudden they want me to get naked in front of strangers," the friend said. "I asked if there was any way to preserve my modesty, and they just looked at me."

After she refused the search, she called the prison to see if she could visit the next day.

"That was the first time I had heard that my visitation was in jeopardy for an extended period of time," the woman said.

She has not been allowed to visit her friend or other prisoners since.

Garrett has been visiting her brother in prison for two decades, since she was in the fourth grade. A government contractor, Garrett says she has a security clearance and has never taken drugs.

When the dog indicated she had contraband that day in 2016, she began shaking and crying. Corrections officers presented her with a form to sign consenting to the search.

Garrett, who had just finished her menstrual cycle, says it was her understanding that if she refused to strip, she wouldn't be allowed back.

"I knew that if I didn't sign this thing, if I didn't go through with it, I'd never see my brother again," she said. "They made a comment about how they were nervous about me hyperventilating."

Two female guards led her to a bathroom. They didn't seem to be trained to do the searches, calling on a radio for instructions several times, she said. They also opened up the door several times while she was undressing and naked.

“I know one time I like didn’t have any warning and like trying to maintain as much decency as I could, covering myself up,” she said. “They didn’t wash their hands before putting on the gloves and they didn’t really pay attention to what articles of clothing they were touching in what order. I personally would not go from someone’s shoes to someone’s underwear when I have to touch every inch and feel it up.”

Garrett wrote an account of the search for her records just after it happened and contacted state Sen. Jennifer McClellan, who was a delegate at the time. Garrett provided a copy of her account to The Virginian-Pilot in an email.

“I was treated like a criminal and violated with the threat of extreme punishment — never seeing a loved one again,” she wrote in the letter. “I don’t want to have to tell my brother that I am the reason I can’t see him again.”

McClellan’s office confirmed the meeting and said they passed along Garrett’s concerns to the DOC at the time. McClellan’s chief of staff, Abbey Philips, said in a statement that they were also requesting a review of the strip search policy as well as seeking more transparency about the policies.

“Senator McClellan has advocated on behalf of constituents for a compassionate and transparent visitation policy, which allows family members and loved ones to safely visit,” Philips said.

“Violated”

Jenny Richter came from Germany to visit her fiance in August 2018. Because of the length of the trip, she was given a longer two-day visit. The first day went off without a hitch, but on the second day, the dogs indicated she had contraband.

She didn’t understand — she’d already gone through a body scanner. Richter was also on her period.

“They said either you strip, or you refuse to strip then we will let you go, and then you can never come back to any prison in Virginia to visit your fiance. Even if he’s transferred,” Richter said.

When she stripped, they made her squat and cough as she pulled open her body cavities.

Officials then told her she could have only a one-hour visit behind glass, not the all-day, in-person visit she was promised.

Richter provided copies of emails to Moran, Clarke and Robinson where she described what happened to her.

“I did not fly around the world to attempt to smuggle drugs into a prison,” Richter wrote. “I understand that contraband is a very real issue plaguing the facilities, but I as a visitor have rights too and I have dignity and I feel both were violated.”

Robinson responded that he would have the incident looked into. She never heard back.