

Inspector's overview

Prisons do a lot of strip searches but find very little

Illicit drugs, weapons, mobile phones, and other contraband are dangerous in prisons. The Department of Justice (the Department) takes the risks very seriously, and the Auditor General (OAG, 2017) and the Crime and Corruption Commission (CCC, 2018a; CCC, 2018b; CCC, 2018c) have called for increased vigilance.

The Department relies heavily on strip searching to reduce the flow of contraband. Unfortunately, it is ineffective. The numbers in this report speak for themselves. Almost 900,000 strip searches were conducted on prisoners in the past five years. Only 571 contraband items were found. In other words, the hit rate was only one in 1,500 searches.

Furthermore, according to Departmental records, most of the 571 detected items were not drug or weapon related.

On average, male prisoners are strip searched 31 times a year, roughly once every 12 days. On average, fewer strip searches are conducted on women, but practices vary widely.

Thirty-two prisoners were searched more than 200 times in a year – more than once every second day. Out of these searches – over 8,900 in total – only one item of contraband was found.

Strip searches cause harm

The Department requires most strip searches to be 'half and half', so the person is not fully naked. However, it remains a distressing, humiliating, and degrading experience. For people with traumatic backgrounds, it is likely to be even worse. It is well-known that prisoners are more likely than people in the community to have been victims of violence or sexual abuse, and to have mental health conditions such as post-traumatic stress disorder, so the risk of further harm is high.

In its 'Women's Standard', the Department recognises the risks of harm to women from strip searching. Harm to male prisoners from strip searching receives less attention. But in the aftermath of inquiries such as the Royal Commission into Institutional Responses to Child Sexual Abuse, this needs to change. The Royal Commission shed disturbing light on the extent to which young males have been victims of violence and sexual abuse, and the high representation of such people in prison.

In line with the Women's Standard, the Department has imposed limits on strip searching at three women's prisons; the privately-operated Melaleuca Remand and Reintegration Facility, Boronia Pre-release Centre, and Wandoo Rehabilitation Prison. However, it has not imposed any such limitations at the main publicly-operated women's prison (Bandyup) or at mixed gender regional prisons, some of which had high rates of strip searching. Therefore, practices with respect to the strip searching of women depend more on location than risk.

Significantly, we found that the reduction in strip searching at Melaleuca and Wandoo did not lead to an influx of drugs.

Recommendation 6 calls for consistent application of the Women's Standard in relation to strip searching. Although Department says it supports the recommendation, I note that it has not actually committed to implementing the Women's Standard across the board. It has simply said, as with a number of other recommendations, that it is developing a new policy.

Almost all strip searches are routine, not intelligence-based

Only three per cent of strip searches were based on intelligence or a reasonable suspicion that the person was carrying contraband. The rest were 'procedural' or routine, such as when a person was moved from one secure location to another, or after a social visit.

We concluded that routine strip searching is excessive, and that procedural requirements generate pointless, repetitive and dehumanising searches. For example, when people are being moved between secure facilities in secure conditions, they will often be strip searched multiple times. In August 2017, a Kimberley Aboriginal man with an intellectual impairment was strip searched three times within just two hours even though he had never left secure conditions. He was moved from Broome Regional Prison to Hakea Prison and then to Casuarina Prison. On entering Hakea just before 4.00 pm, he was strip searched. He was strip searched again as he left Hakea at approximately 5.20 pm. When he arrived at Casuarina he was subject to another routine strip search (5.51 pm). It is also likely he was strip searched in the morning before he left Broome, but this is not recorded. By the last strip search he had had enough. He refused the search and became non-compliant. In the ensuing restraint by eight officers, his clothes were cut from him, completing the last strip search. He was then charged with resisting staff and received seven days' loss of gratuities as punishment.

All these searches were in line with policy. However, it should not be necessary to conduct multiple routine strip searches when people are being moved in secure conditions between secure places. For example, if transport vehicles are properly searched before a person is moved, they should not contain any illicit items.

Routine strip searching practices also varied between prisons in ways that had no objective basis. In other words, the extent to which people were strip searched depended more on location than on risk. In our view, there is no justification for this. I am pleased that the Department has accepted that greater monitoring is required (Recommendation 7).

Recommendation 8 calls for routine 'procedural' strip searches to be phased out. This needs to be read with Recommendation 10, which calls for the greater use of scanning technology (see below). Under these proposals, strip searching would have to be intelligence-led, and would become a back-up rather than a front-line mechanism.

The Department has not supported either of these recommendations. However, it is undertaking a review of its searching policy and has said this will reflect international standards as well as 'safety and security impacts'. If a new policy is implemented that is in line with international standards, and if the findings of this report are treated seriously, there should be a significant reduction in routine strip searching.

There is no evidence that strip searching has a deterrent effect

The purpose of a strip search should be to locate contraband or other illegal items. If this was the only goal, there would be no reason to continue strip searching given the very low hit rate. However, some staff and Departmental officials felt that strip searching also deters people from bringing contraband into a prison.

While it is always difficult to measure preventative effects, we found no evidence that strip searching has a deterrent effect. There was no relationship between the volume of strip searches and the number of positive drug tests of prisoners. Nor was there any increase in contraband finds, using other processes, when strip searching stopped at certain facilities. These findings are consistent with research in other countries.

We have recommended that the strip searching of prisoners should not be used as a deterrent (Recommendation 4). The Department has not supported this, saying simply that strip searching will continue to be used to maintain the good order and security of a prison and that it is drafting a new policy. With respect, it is difficult to reconcile this stance with the evidence.

Strip searching must not be used to punish or control prisoners

Around 15 per cent of respondents to our staff survey said they had observed strip searching being done to 'modify behaviour'. This suggests that the aim was to punish or control a prisoner, not to locate items. Searches conducted for such reasons would breach Departmental policy. They would also potentially constitute an assault on the grounds that they were not lawfully carried out.

Recommendation 5 states that strip searching must not be used as a means of punishment or control. The Department has supported this. However, without providing any contrary evidence, it has rejected the idea that strip searches are sometimes being used in breach of policy.

I hope that, despite rejecting our evidence, the Department will take action to identify and address potential breaches of policy.

We were concerned about practices for strip searching visitors

Visitors present an obvious potential risk for contraband entering prisons. Departmental policy requires that visitors are only strip searched when there are sufficient grounds to justify this. However, its own records say that two thirds of such searches were 'routine'.

The Department has supported our recommendation that it should not routinely strip search visitors. However, it has also denied that this happens, attributing its records to poor record keeping.

We were also concerned at the differences between facilities. During 2016, visitors to Roebourne Regional Prison were strip searched at an extraordinary rate. Senior Departmental representatives said the prison had a problem with a particular hard drug. But the evidence does not support this, and no contraband was found in visitor searches.

As with other aspects of strip searching, the Department needs to ensure that its practices in relation to visitors are evidence-based, consistent, and properly recorded.

The Department is reluctant to trial technology

It is unlikely that technology such as body scanners and x-ray devices will eliminate strip searching entirely. However, their use can reduce the volume of routine or unnecessary strip searches. Technology is also likely to exceed, or at least match, the detection rate of strip searching.

It is almost impossible to find small contraband, or contraband which is hidden internally during a strip search. In July 2018, a prisoner was received into Hakea Prison from court. During the day, while in the custody of police and custodial contractors, he was subject to at least two strip searches and multiple pat searches. He was also strip searched on arrival at Hakea. But it was only later that staff located a live 9mm bullet in a washing machine. In other words, multiple strip searches had failed to find the bullet. Alternative methods, like a hand held or walk through metal detector, or a full body scanner would likely have detected it.

All of us experience screening at airports and on entering public buildings such as the Department of Justice's head office in Perth. It seems most unlikely that I could smuggle a bullet into such places and it is difficult to understand why prisons do not have at least the same technologies and safeguards.

Recommendation 10 calls on the Department to 'use new technology to reduce the reliance on strip searching'. It has not supported this on the basis that the technology currently available is limited and costly. I am disappointed by this response. Technology will not be perfect, but it is obvious that strip searching has some very serious limitations. It also carries a financial cost, which we conservatively estimate as at least \$1 million a year.

We are not alone in calling for a rethink and improved practices. In its recent report on drugs and alcohol in prison, the Auditor General commented: 'While considerable work is done in this area, the Department of Justice needs to increase its focus to be effective. We found that strategic direction is lacking, processes are not followed, approaches need to be evaluated for success, and some prisons need to be better equipped' (OAG, 2017). Similarly, in its report on misconduct risks in Western Australian prisons, the Crime and Corruption Commission said that the Department 'cannot reliably detect drugs and other contraband entering prisons either by visitors, staff or mail delivery, using the current systems and technology' (CCC, 2018c).

I would therefore have expected the Department to at least be trialling new technologies, and to be resourced by government to do so. Other jurisdictions, including New South Wales, the United Kingdom and several Asian countries are making use of new technologies, and obviously believe the benefits will significantly outweigh the costs. The maximum-security John Morony Correctional Centre in New South Wales began using x-ray technology last year. The United Kingdom has embarked on a *10 Prisons Project* targeting prisons with high rates of drug use and violence. In recognition of the failure of traditional methods of detection, all these prisons will use x-ray body scanners to reduce the flow of drugs and phones.

Summary

It is clear that change is needed in relation to strip searching. It would be naïve to think it could suddenly be stopped, but just as naïve to think it 'works'.

Although I am disappointed with some of the Department's responses, I hope that the government will seriously revisit the trial use of technology. I also welcome the fact that the Department is crafting a new policy for strip searching, and that this will align with international standards. This should, of itself, trigger a change in practice.

But culture will often trump policy in a prison context. It will be difficult to change the current culture of frequent strip searching, belief in its effectiveness, inconsistency between prisons, and poor recording. To be effective, the Department will need to implement a program of cultural change, and monitor practices at the various prisons.