

Testimony for SB 138

The Supreme Court ruled in 2012, via the Florence decision, that anyone placed in local jails, specifically into general population, to include misdemeanants, should be strip searched. The U.S. Supreme Court's Florence decision holds that jails do not violate privacy rights by routinely strip-searching anyone that is placed in general population, even those arrested on minor offenses. The decision only means that strip searching offenders who commit minor crimes under certain circumstances does not violate federal constitutional privacy rights. Currently Ohio law, ORC 2933.32, is more restrictive providing more protections than the Supreme Court requires.

The court held that jail administrators may require all arrestees who are committed to the general population of a jail to undergo visual strip searches not involving physical contact by corrections officers. To perform the searches, officers may direct the arrestees to disrobe, shower, and submit to a visual inspection. As part of the inspection, the arrestees may be required to manipulate their bodies. The current Ohio law combines strip searches and cavity searches. Cavity searches are much more intrusive than strip searches. The changes being requested are about "strip searches" mainly. There must be separate definitions and designated protocols.

The officer must direct the search of the offender. The officer directing the search must be vigilant of what's been hidden in an ear, hair, mouth, nose, vagina, rectum, underarm, under a breast or roll of fat, etc. Frequently during searches the inmate who's hidden contraband on themselves becomes scared, threatened, or anxious that things will be found. They attempt to distract the officer with threats, arguing, other distracting behavior, or resistance. The officer must also search the removed clothes for contraband. This is a complicated task that all officers receive training on.

Preventing the introduction of contraband and more specifically dangerous drugs like heroine is a critical problem in Ohio Jails. Strip searching all those placed in general population will help jails find contraband, thus preventing overdoses and deaths.

Ohio case law and ORC had a prohibition concerning the routine strip search of pretrial and sentenced misdemeanants. Therefore, most misdemeanants were/are aware of this and do hide contraband/drugs in their clothing, on their person and in body cavities. Normally a correctly executed strip search would expose/identify some of the contraband/drugs. Today in Ohio jails, prisoners are attempting to smuggle in drugs at what seems to be an unprecedented rate. Opiate related deaths and over doses are at an unprecedented rate. The Supreme Court Florence decision allows the necessary strip search of all persons that will be place in a jail's general population.

The new body scanners cost almost \$200,000.00 to purchase, with expensive maintenance agreements. Most counties can't afford them. Strip searches at booking need to occur routinely mainly because it's a best practice.

Jails are a twenty-four hour a day operation, seven days a week. Jail staff must have the support to conduct strip searches.

Ohio jail standards, 5120:1-8-01 Reception and Release delineate searches, to include strip searches, showers at booking, inmate separation by sex, and inmate supervision.

(6) (Important) Inmates shall be searched and all unauthorized items shall be confiscated. Confiscated items shall be listed in an inventory by objective description and secured.

(7) (Important) The jail shall develop and implement policies and procedures governing strip searches and body cavity searches during reception in consultation with the county prosecutor, city attorney or law director consistent with section 2933.32 of the Revised Code.

Security standards, 5120:1-8-03 Security, guides specific protocols, practices, and activities. Clearly the professionals drafting the standards understood that some security tasks would require same sex tasks. For example, strip or cavity searches under ORC 2933.32 requires a same sex person perform those functions. Searches in a jail seem to occur routinely as noted in standards 5120:1-8-01(6)(7)

The Prison Rape Elimination Act (PREA) Ohio law, and best practices prohibit cross gender strip and cavity searches.

Pat down searches occur daily in a jail. A single inmate can be searched multiple times during a day. Pat searches can occur when leaving a unit, entering a unit, entering or leaving an area with a unique function such as food service, laundry, medical, a staff office area, etc. A pat search requires intimate touching through the clothed body of the breast, buttocks, and genital area.

Many offenders both male and female have been sexually abused at various times in their lives. A trauma informed jail understands that a correctly performed pat search or strip search can still trigger uncomfortable reactions and feelings. Staff is trained to recognize someone that is “triggered” and talk them through the process.