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## Via Email

Angela Constance MSP  
Cabinet Secretary for Justice and Home Affairs  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

10 April 2024

Dear Cabinet Secretary for Justice and Home Affairs,

### **HMIPS - Repeated Calls for the Cessation of Routine Body Searching in the Women's Estate of the Scottish Prison Service (SPS)**

I write to update you regarding the ongoing matter of routine strip searching (known as body searching) of women in prison custody in Scotland. I previously briefed you about this in January this year.

I have formally called upon SPS to reduce routine body searching as part of inspection activity over some years, making specific recommendations to review and discontinue this practice in the published inspections of HMP YOI Polmont as far back as 2018 and of HMP Edinburgh in 2019.

To be clear I accept that there can be a legitimate role for body searching when it is based on robust intelligence or reasonable grounds for suspicion, but I do not regard it as justifiable when it is based purely on routine random searching of a set percentage of prisoners.

You may recall that I previously shared with you a letter I submitted to SPS in October last year communicating renewed concern following on from the largely positive full inspection of HMP YOI Polmont in August 2023. Whilst conducting this I had been surprised and disappointed to find that women continued to be subject to body searching following visits at the rate of one in five randomly selected from those participating in the session, it is worth noting that there are usually small numbers in a session. This was taking place in accordance with SPS security guidance, but despite the on-site presence of equipment with the technological capacity to replace body searching with an electronic scan. It was also in contrast to the approach taken in some other prisons accommodating women.

The response, recently received from SPS is encouraging in its commitment to becoming a trauma-informed organisation and in going forward to review processes and guidance on the basis of the matters I raised. I am also pleased to have subsequently learned that HMP YOI Polmont have now reviewed this practice. I have attached the SPS response, along with my letter for reference.

This further communication is now prompted in response to my inspection of the newly opened Community Custody Units (The Lilius Centre, 27 to 29 February, and The Bella Centre, 5 to 7 March 2024).

As you know, these facilities are a key element of an innovative and forward-thinking model of custody for women in Scotland influenced by the Report of The Commission on Women Offenders in 2012. The small units accommodate women with lower risk profiles and focus on building independent living skills and connecting with communities in conditions of reduced restriction. In my Annual Report 2022-23, I referred to them as an example of much needed reform as follows:

*“Scandinavian prisons are often cited as the model for best practice, but when these new facilities have fully bedded in, Scotland has the potential to lead the way in managing women in custody”.*

As I stated in my letter to the SPS last October I was aware that central derogation from some elements of current body searching requirements had been submitted. I was therefore most surprised to find that body searching, the most intrusive measure available to find concealed contraband, was being undertaken as part of routine prison processes in the new Community Custody Units. I consider this to be disproportionate and unnecessary whilst undermining the trauma-informed approach outlined in the SPS Strategy for Women in Custody 2021-25 as it seeks to:

*“Establish conditions that will minimise the damaging effects of past trauma and custody and review and revise all processes and procedures to ensure that they minimise re-traumatisation”.*

There is no doubt that body searching is an invasive practice with potential to diminish the positive impact of substantial efforts that are made in the SPS to uphold the most fundamental human rights principle that people in custody are treated with respect due to the inherent dignity and value as human beings.

I would like to see it stopped and replaced with less invasive measures immediately in line with The United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) and Rule 20 of the Bangkok Rules.

Replacing this process with alternative methods is an aim specifically set out in the Bangkok Rules:

“Alternative screening methods, such as scans, shall be developed to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches”.  
[United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders \(the Bangkok Rules\) | OHCHR](#)

In terms of potential barriers to reform found in the legal position in relation to body searches, the relevant reference is the Prison and Young Offenders Rules (Scotland) 2011 as detailed below.

92. (1) Every prisoner and his or her property and accommodation may be searched in accordance with this rule.

(2) An officer may conduct a search of a prisoner at any time and this search may involve any number of the following processes —

- (a) a search of the prisoner’s person including the prisoner’s clothing prior to removal of the clothing under sub-paragraph (c);
- (b) a search of the prisoner’s clothing after removal of the clothing under sub-paragraph (c);
- (c) the removal of the prisoner’s clothing;
- (d) a visual examination of the external parts of the prisoner’s body after the removal of the prisoner’s clothing;

Thus, whilst the parameters for searching are set out, the specific circumstances in which body searching should occur are not specified, and therefore I do not believe the rules impede progress in eliminating this practice.

This issue is a longstanding one. Concern goes back to the Corston Report, commissioned in 2007 after six women took their own lives at HMP Styal over a 13-month period. The subsequent report was clear that a large proportion of women in custody have suffered abuse and that strip searching can have a re-traumatising effect.

More recently the Women’s Justice Leadership Panel report “The Case for Gendered and Intersectional approaches to Justice” published by the Scottish Government in August 2023 stated the following:

*“Lack of privacy, harsh lighting, strip searches and other unwanted physical contact are among aspects of the prison environment that can be triggering for those with histories of trauma, while research suggests that women are more likely than men to continue experiencing the trauma-related effects of prison after release.”*

Moreover, I would like to emphasise that there is little evidence to support the notion that routine body searching secures any significant preventative benefits.

I have made repeated calls for action to the SPS to cease this degrading practice in relation to women and ultimately for everyone in custody in Scotland. Achieving this would be a preventive measure that will eliminate what I believe is a foreseeable risk to encroachment on human rights. I am encouraged by the positive response from SPS but now seek that more urgent action is taken.

I intend to publish this letter.

Yours sincerely,

*Wendy Sinclair-Gieben*

Wendy Sinclair-Gieben,  
HM Chief Inspector of Prisons for Scotland,  
Chair, UK National Preventive Mechanism

Copy to      Teresa Medhurst, Chief Executive, Scottish Prison Service  
                  Linda Pollock, Deputy Chief Executive, Scottish Prison Service