

'Abhorrent' strip searches threaten right to counsel

By: Mass. Lawyers Weekly Staff March 5, 2015

The following letter to Daniel Bennett, secretary of the Department of Public Safety and Security, was submitted for publication in Lawyers Weekly by the author.

Dear Secretary Bennett:

As a former attorney with the federal Bureau of Prisons and a graduate of the corrections officer training program at the Federal Law Enforcement Training Academy, I am well aware of the security concerns present in correctional institutions throughout Massachusetts and the rest of the country. I am writing, however, to inform you of policy at MCI Norfolk that transcends any possible security concerns – specifically, strip searches of female attorneys that not only violate our rights, but also those of our clients.

Yesterday, I went to MCI Norfolk for an attorney visit. As usual, the metal detector alerted guards to the presence of my underwire bra. I immediately consented to a wand search, as I always do. The officers were completely respectful to me, as I was to them, but as the female officer began the search with a handheld scanner, Lieutenant Lucas announced that I would be denied entry unless I consented to a “pat search.” I respectfully objected, based on Section 486.07 of the DOC guidelines.

Without going into minute details, Lt. Lucas purported to confer with the shift commander, whose name I do not know, and returned with a copy of Section 486.07, having highlighted the provision stating that a pat-down may be required if the hand held scanner reveals “the presence of an unexplained metal object on the attorney’s person.” Although he knew, from the officers and his conversation with me, that this was an issue about an underwire bra, I reminded Lt. Lucas of that point and that it was not an “unexplained metal object.”

Lt. Lucas responded that he did not personally know whether I was, in fact, wearing an underwire bra, even though the prior searches showed exactly where the metal object was located and the officers told him as much. I asked Lt. Lucas whether all female attorneys wearing underwire bras are required to consent to a “pat search.” The answer was “yes.” A female officer separately told me that she conducts “pat searches” of female attorneys “all the time.”

When told I had to consent to a “pat search” or leave the premises, I relented, only to learn that at MCI Norfolk, a “pat search” is actually a strip search: The female officer took me behind the curtain, instructed me to lift my top to the level of my breasts, pull my bra away from my breasts, and “shake it.” Again, I refused, but for reasons that were unexplained to me, I was ultimately allowed to meet with my client – after waiting nearly two hours. (Unwarranted delays at MCI Norfolk are a constant problem, but I shall leave that for another day.)

While my personal experience is horrifying enough, I have since learned from other female attorneys that this is not uncommon, and that a number of female attorneys have actually agreed to this strip search for fear of not being allowed to see their clients.

This invasive and unconstitutional “policy” is simply unacceptable, and yet it persists despite past litigation and multiple written complaints. Not only is this abhorrent to the rights of women, but it is also chilling to the right to counsel, which is something that the defense bar will not tolerate.

I am happy to further discuss this matter with you or your designee, but if the situation is not resolved, I will not hesitate to turn to the courts for a remedy.

Thank you for your time.

Patricia A. DeJuneas

Boston

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