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## Female inmates sue state, alleging invasive strip searches

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Two women incarcerated in a state prison in Grants allege in a new lawsuit they were subjected to abnormally invasive and unsanitary strip searches and then faced retaliation — the loss of credits for early release and other privileges — after reporting the incidents.

The American Civil Liberties Union of New Mexico, which filed the complaint Friday in state District Court, is accusing the New Mexico Corrections Department of violating the women's civil rights.

The complaint's allegations stem from contraband searches conducted in 2018 before the plaintiffs' visits with family members at the Western New Mexico Correctional Facility. Both women, who are longtime inmates at the prison and had been subjected to countless strip searches, said they had never experienced any so invasive, the suit says.

One of the women said she was ordered to put her fingers in her mouth after being forced to touch her genitalia, and wasn't permitted to wash her hands first. The corrections officer told her to proceed as ordered or she would not be allowed to see her daughter, who had driven to New Mexico from New York for the visit, the lawsuit alleges.

*The New Mexican* is not naming the women because of the nature of the allegations.

In addition to the state and the Corrections Department, the suit names officer Mary Spangler and Corrections Secretary Alisha Tafoya Lucero as defendants, along with six other workers. The plaintiffs are seeking an unspecified amount of damages, injunctive relief and legal costs.

After the incident, one plaintiff sought clarification of the state's strip search policy but was told it was closed to inmates.

Both filed internal grievances.

According to the lawsuit, their complaints were among several against Spangler, the corrections officer who had conducted their searches. Spangler was accused of violating the federal Prison Rape Elimination Act eight times between August 2017 and April 2019, the suit says, triggering an internal investigation.

But the investigation found all of the complaints against Spangler unfounded, the suit says.

Both plaintiffs later were found guilty of filing false reports.

They lost their early release credits for good behavior, often called “good time” credits, and were further sanctioned by being deprived of access to items such as makeup and yarn for knitting, the complaint says.

One of the inmates also lost her paid job as a peer educator with the University of New Mexico’s Project ECHO, in which she organized harm reduction workshops for fellow inmates, the complaint says, adding she continues to work without pay for the project.

The women appealed their cases. Tafoya Lucero, the corrections secretary, denied one appeal, the complaint says, and there was no reply to the other.

“This is a case that really demonstrates a problem we know exists in the prisons: the facilities’ retaliation against people for reporting violation of [the Prison Rape Elimination Act], and the control the corrections officers have over inmates’ rights,” said Lalita Moskowitz, an attorney with ACLU-New Mexico.

The women were found guilty of filing a false report “without due process, based on some confidential investigation,” Moskowitz said, adding this “really shows how much the department thinks it can get away with.”

The women’s lawsuit also cites a recent agreement in a long-running lawsuit over prison conditions. The revised Duran Consent Decree specifically bars the Corrections Department from retaliating against prisoners who file complaints under the federal prison rape law “in good faith.”

Corrections Department spokesman Eric Harrison, questioned about the lawsuit Monday, said in an email that “the Department takes allegations of this nature seriously, as retaliation of any kind is unacceptable and is not tolerated.”

Asked about whether inmates have access to the state's strip search policy, Harrison said the "procedures" for searches are posted inside the prison but "not the policies pertaining to the searches." The policies are confidential, he said.

However, a copy of the policy, obtained by *The New Mexican*, says it "should be made available to staff and inmates."

Harrison said the policy would be revised.

"Thanks for pointing this out and bringing it to our attention," he said. "We will need to get that changed — the policy is not available to inmates or to the public."

Harrison did not respond to follow-up questions on the agency's reasons for keeping the policy secret.

Alexandra Freedman Smith, lead counsel on the Duran case, said prisoner representatives added the provision on sexual abuse reporting to the revised consent decree because they'd received repeated complaints from inmates about reprisals.

"No one should feel like they can't report sexual abuse for fear of being disciplined," she said.

The Duran Consent Decree also seeks in part to prevent overcrowding of the state's prisons, she added, and removing good time credits from an inmate contributes to overcrowding.

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