

# **Statement of Judy Haney to the Commission on Safety and Abuse in America's Prisons**

April 19, 2005

## **Introduction**

Good morning. I'd like to thank the Commission for inviting me to speak today regarding my personal experience of being strip-searched in Miami-Dade County.

I am the lead plaintiff in a federal class action suit filed against Miami-Dade County in March 2004 for the unconstitutional and unlawful practice of strip searching and visually inspecting the body cavities of women arrested for non-violent, non-drug or weapons related misdemeanors in Miami-Dade County Detention Facilities.

I am here to speak to you today about the details of my strip search, what it felt like, why I filed a class action suit, and what we discovered about Miami-Dade's practice of strip searching women prior to first arraignment.

What I hope the Commission will understand at the end of my testimony is that the type of strip search that I and thousands of women experienced was about humiliation and control, not about safety — just as rape is about violence and not about sex. I also hope that the Commission will understand that the people most likely to be subjected to this unconstitutional and unlawful abuse are very rarely privileged to seek a remedy. Finally, this practice is not limited to a county in South Florida but happens across the country.

## **Personal Account of Being Strip Searched**

On November 21, 2003, during the FTAA protests, I was arrested for Failure to Obey during a jail solidarity rally in front of the Miami-Dade County Pre-Trial Detention Center. Since I and the others I was arrested with were already in front of the jail, the police were able to arrest us and march us over to the Detention Center about 100 yards away, where the police handed us over to corrections officers for processing.

We went through the routine process of giving our names, having our pictures taken, being frisked and asked to empty our pockets and so forth. Then they marched me and the three other women I was arrested with into a hallway and sat us down on a bench. I thought we were just sitting waiting to experience the next dull aspect of being "processed."

The hallway was not that long, with doors on either end and several doors that appeared to open into small rooms. There were three female corrections officers in the hallway with us. They opened one door and removed a woman from that room and moved her to the room farthest from us. Then one of the guards took the first woman from my group into the room. I heard the guard tell her to remove her clothes. Hearing that startled and surprised me. We had not done anything that involved drugs or weapons; we were behaving peacefully and had been compliant with the requests of the corrections officers during the booking process. There had been no indication during our arrest and subsequent frisking and processing that the police or corrections officers considered us a threat in any way.

I leaned over to the young woman to my left and said in a very quiet voice, “Are they strip searching us? That’s unconstitutional.” I’m not sure I’d even taken a breath when the guard standing nearest came over to me and in a very severe tone asked, “Are you refusing?”

What happened next happened very quickly, but in my mind I had a lot to consider. I knew that the likelihood was close to zero that if I responded, “Yes, I’m refusing — this is an unreasonable search and is unconstitutional,” that the guard would say, “Oh, all right — we won’t do it then.” I did know from the experience of individuals that have been in similar situations and had refused to be strip searched that the price of refusal could be high.

A friend of mine in a similar situation in San Francisco refused to be strip searched, and she told me that the authorities responded by putting her in what I understand to be called a “cold room.” Her clothes were removed without her cooperation, and she was put naked in a bare room with a hole for a toilet and nothing to cover her except a small dirty mat that looked a little like a baseball catcher’s vest. The lights were bright, and there was a window looking into the room so that any one passing by could see her sitting there naked. It had a metal door and someone came by I think every 15 minutes to bang on it; their story was that she was behaving strangely and needed to be in that room for her “safety.”

With her story in my mind, I had a brief moment to consider — was I ready to go through that? If I refused, would they punish not only me, but the women arrested with me? While I was considering what I would do, the other women on the bench responded to the guard for me — saying in unison “No, she’s not refusing.” This all happened very quickly, and I knew that I wasn’t ready to risk the possible consequences of refusing to be strip searched as well as putting the other women in jeopardy.

When it came my turn to be strip searched, the guard led me into the same small room the others had been in; it was approximately 6' x 8' and had a bench along one wall. The guard stood in the doorway and ordered me to stand facing her and to remove my clothing piece by piece. As I did so, I handed a piece of clothing to her; she told me to put it on the bench. I started to fold my clothing and put it on the bench. She told me not to do that — just to drop my clothing on the bench. I proceeded to remove each piece of clothing and drop each piece on the bench. While I was removing my clothes, the guard continued to stand at the door and watched as another guard stood behind her in the hallway, also watching me.

I go into this detail because it's important to understand that this is not the doctor's office, the gym, or the spa. It is a highly controlled process in which every movement is controlled by a person who has the authority of force over you. There is no consent, no agency.

After I removed all my clothes, the guard told me to turn around, bend all the way over, and spread my cheeks. I'm not sure that I can really convey the emotional and physical complexity of the situation. Bending over and "spreading my cheeks" exposed my genitalia and anus to a complete stranger, who had physical authority over me, so that she could visually inspect my body cavities. The only way I could cope with this was to stay very focused in my head and just separate from my body. The feeling was sort of like floating while also feeling like a big lump.

The guard's next set of instructions were to squat — and then — to hop like a bunny. Remember, I'm still "spreading my cheeks," so I can't use my arms to balance or assist me in the hopping process. Hopping-like-a-bunny was physically very difficult for me to do since I've had bad knees for over thirty years. I didn't do it to the guard's liking, so I had to do it over several times — even though I explained to her that I physically couldn't do it. When that process was complete, the guard then told me to turn around and to remove my navel piercing. I explained that it was unlikely that I would be able to remove it since it wasn't made to be removed. Using a threatening tone of voice she told me to remove it or she would "cut it out." I tried to remove it, but I just couldn't unscrew the jewel. The guard then left and returned with large clippers and cut the navel ring off me. She then told me to put my clothes back on.

I stood, bent over, and hopped naked under orders and in view of at least two guards in a small room with a door open to a hallway that passersby could see in for about 10 to 15

minutes. My genitalia and anus were exposed and viewable to anyone passing through the hallway for over 5 minutes. I would ask the Commissioners to take a moment and imagine what that feels like.

## **The Class Action Suit**

After getting out of jail on bail 36 hours later, I spoke with the men who were arrested at the same time and inquired if they had been strip searched — they had not. This is when I started to believe that I would consider legal action against the county. To perform an unreasonable strip search which in effect is visual rape is outrageous enough, but to do it to women only and not to men arrested on the same minor non-violent charge revealed the practice to be doubly unjust.

I did additional research and discovered that Florida state law had specific guidelines regarding strip-searches, none of which were followed in my case or in the case of the women arrested with me. At this point, I spoke with other activists who'd had similar experiences and who referred me to an attorney who specialized in these types of cases. I retained the law offices of Mark Merin of California and then later added Randall Berg of the Florida Justice Institute.

After filing the complaint, my attorneys discovered that indeed women arrested for minor offenses, which were not drug or weapons related, were routinely strip searched prior to first arraignment and that men were not subject to the same process. Additionally, they discovered that the practice had been going on for seven years despite being in violation of state and federal law. The reason Miami-Dade gave for engaging in this was that, due to overcrowding, they were housing pre-arraignment arrestees with the general population, and they were concerned about contraband. However, Miami-Dade did no study prior to instituting the policy that would indicate that strip searching pre-arraignment misdemeanants would reduce contraband in the jail.

## **A Widespread Practice**

During the process of the suit, we identified a potential class size of ten- to twenty-thousand women who were subjected to these dehumanizing searches over a four year time period. Yet we know that the practice lasted seven years. That means that it is likely that over 20,000 women were subjected to these searches. These women may be elderly, physically or

mentally disabled, menstruating, or pregnant while they were forced to expose themselves and hop around.

The other thing that my attorneys discovered that I think it's important that the Commission know, is that prior to filing the complaint, no one knew about this practice. My attorneys, the Florida Justice Institute, a firm that deals specifically in prisoner's rights, had not known about the practice, and public defenders in Miami-Dade didn't know about the practice. If we hadn't filed the lawsuit, this practice would most likely be continuing today.

Miami-Dade has stopped strip searching pre-arraignment misdemeanants, as has Sacramento, San Francisco, and New York City. But it took class action lawsuits to make that happen. These searches happen on the door step of the prison system, not deep inside. If this level of humiliation is happening to pre-arraignment misdemeanants, what's happening to the women who are deeper inside the system?