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Hon Mark Mitchell
Minister for Police
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Tēnā koe Minister Mitchell

RE: Police Guidelines for Strip Searches not in line with legislation

1. Speak Up for Women (SUFW) is an advocacy group seeking to ensure sex-based rights for women and girls in New Zealand.
2. We would like to bring to your attention a concerning detail of the [Guidelines for conducting strip searches](#)¹ found on the NZ Police website.

In the section 'Preparing to conduct a strip search', it prescribes the following:

*Step 3: Note: The person conducting the search must be of the same **gender identity** as the person being searched. Avoid having more than two people present at the search (though this may be unavoidable if the person being searched is violently resisting - see step 1 in the table "Carrying out the search" below). In extreme and urgent situations where sufficient same **gender identity** constables, authorised officers or searchers are not available, a constable, authorised officer or searcher not of the same **gender identity** may be out of view of the person searched, but within immediate call of the person searching. The out of view person can respond and protect the person conducting the search if the person being searched becomes violent.*

Then, in the section 'Carrying out the search':

*Step 1: Do not attempt a strip search with only one person of the appropriate **gender identity** if the person to be searched is likely to resist or be violent. Keep the person under observation until others of the same **gender identity** authorised to search are available to assist. In extreme and urgent situations a second person not of the same **gender identity** may be out of view of the person searched, but within immediate call of the person searching. The out of view person can respond and protect the person conducting the search if the person being searched becomes violent.*

*Step 7: If circumstances arise requiring a person of the opposite **gender identity** who is present but not in view of the search to intervene to protect the person conducting the search, you must: stop the search, and before*

¹ <https://www.police.govt.nz/sites/default/files/publications/guidelines-for-conducting-strip-searches.pdf>

*resuming, keep the person under observation until other authorised persons of the same **gender identity** are available to assist with the search using reasonable force.*

3. Eight times, **gender identity** or **gender** is mentioned, yet not one mention of sex.
4. This appears to be a breach of the relevant legislation, the **Search and Surveillance Act, 2012**. Firstly, the *Guidelines and rules about use of strip searching* contains no reference to either gender identity or gender:

*“A strip search may be carried out only by a person of the same **sex** as the person to be searched, and no strip search may be carried out in view of any person who is not of the same **sex** as the person to be searched.”² ([Section 126 \(4\)](#))*

5. Additionally, the *Special rules about searching persons* [Section 125\(h\)](#)³, referred to in the guidelines in question, refer to sex, not gender:

“if the search is to be a strip search, [the person exercising the power] may request the assistance of another enforcement officer (whether or not employed or engaged in the same or a different law enforcement agency) who is—

(i) authorised under any other enactment to conduct strip searches; and

*(ii) of the same **sex** as the person to be searched;*

6. Gender identity is an ideological concept entirely separate from sex. Men can claim a female ‘gender identity’, as highlighted in the Stats NZ [definition](#)⁴ of gender:

“Gender refers to a person’s social and personal identity as male, female, or another gender, or genders that may be non-binary. Gender may include gender identity and/or gender expression. A person’s current gender may differ from the sex recorded at their birth and may differ from what is indicated on their current legal documents. A person’s gender may change over time. Some people may not identify with any gender.”

7. The fluid and entirely subjective nature of gender identity creates unworkable problems for employers, managers and clients. It is impractical and unsafe in real life scenarios to rely on a person’s selected gender identity to determine which staff can perform which tasks.
8. The use of gender identity as an identifier creates a conflict of interest in law. Namely a conflict with women’s rights. These guidelines could result in a breach of a woman’s legal right to have only persons of the **same sex** perform and/or view a strip search.
9. We seek assurance from you as Minister for Police that women being strip searched will be able to request **only women be present** during the search; women being **adult human females**, born female, sex: female.

² <https://www.legislation.govt.nz/act/public/2012/0024/latest/DLM2136825.html>

³ <https://www.legislation.govt.nz/act/public/2012/0024/latest/DLM2136824.html>

⁴ <https://www.stats.govt.nz/methods/information-about-the-standard-for-gender-sex-and-variations-of-sex-characteristics>

10. We consider these guidelines to be completely at odds with the legislation and we seek an **urgent review**.
11. We call on the minister to correct these guidelines, and any relevant training documentation, to reflect the law as it is written.
12. We request a meeting with you to discuss our concerns with this blatant breach legislation.

Ngā mihi

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