

No. 10-945

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IN THE  
**Supreme Court of the United States**

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ALBERT W. FLORENCE,  
*Petitioner,*

v.

BOARD OF CHOSEN FREEHOLDERS OF THE  
COUNTY OF BURLINGTON, *et al.*,  
*Respondents.*

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**On Writ of Certiorari to the  
United States Court of Appeals  
for the Third Circuit**

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**BRIEF OF CURRENT AND FORMER JAIL AND  
CORRECTIONS PROFESSIONALS AS  
*AMICI CURIAE* IN SUPPORT OF PETITIONER**

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## INTEREST OF *AMICI CURIAE*<sup>1</sup>

*Amici curiae* are corrections professionals with hundreds of years of collective experience in administering jails and developing and implementing standards for adult and juvenile detention facilities throughout the United States. They include current and former heads of county and state correctional institutions, a former state jail inspector, Past Presidents of the American Jail Association, consultants for the Department of Justice's National Institute of Corrections and numerous correctional institutions, and advisors on strip-search and other standards for the American Correctional Association. *Amici* have extensive first-hand experience with blanket, suspicionless strip-search policies such as the ones at issue in this case, as well as strip-search policies based on reasonable suspicion.<sup>2</sup>

As professionals who have dedicated their careers to correctional administration, *amici* have a substantial interest in ensuring that institutions are safely and properly run. They are committed to ensuring that jails and other institutions implement reasonable and effective policies that balance the need to protect the security and integrity of the institutions with the individual dignity of persons who have been arrested for minor offenses.

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<sup>1</sup>No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity other than *amici* or their counsel made a monetary contribution to this brief's preparation or submission. The parties have consented to the filing of this brief in letters filed with the Clerk of the Court.

<sup>2</sup>*Amici* are William C. Collins, Paul E. Downing, Robert J. Hall, Jr., James M. Hart, Jon D. Hess, Michael H. Lovelace, Mark D. Martin, Rod Miller, David M. Parrish, and Robert J. Reardon. See Appendix of *Amici Curiae*.

## SUMMARY OF ARGUMENT

Petitioner Albert Florence was arrested for a minor offense for which he was innocent. He was incarcerated for nearly a week in two county jails until he was taken before a judge who immediately recognized the arrest was erroneous and set him free. By that point, Mr. Florence already had been subjected to two invasive strip searches—notwithstanding jail officials’ acknowledgement that there was no reasonable suspicion that Mr. Florence posed any threat to the safety or health of the institutions.

*Amici* have dedicated their careers to improving the operation of correctional facilities, and several have participated in drafting the authoritative standards for correctional institutions on strip searching arrestees. *Amici* believe that jail administrators should be accorded substantial deference in the adoption and execution of policies and practices that are needed to maintain institutional security. Strip searches like the ones conducted on Mr. Florence, however, simply are not reasonable responses to the minimal risk that arrestees charged with minor offenses pose to a facility.

Suspicionless strip searches of all arrestees—regardless of the nature of the alleged offense or circumstances of the arrest—are inconsistent with the accreditation and certification standards in our profession. Such searches also are contrary to the policies of most correctional institutions, which employ less intrusive search methods at intake and require reasonable suspicion before strip searching individuals under arrest for minor offenses. Professionals and courts alike have acknowledged that strip-search policies based on reasonable suspicion have not led to an increase in security or health

problems in correctional facilities. Indeed, in *amici*'s experience, a blanket, suspicionless strip-search policy is actually less effective than alternative, reasonable-suspicion-based practices that have been used in correctional institutions for decades.

## ARGUMENT

### **EXPERIENCE SHOWS THAT SUSPICION- LESS STRIP SEARCHES ARE NOT NECESSARY TO ENSURE SECURITY OR HEALTH IN CORRECTIONAL FACILITIES**

The cornerstone of respondents' position is that blanket, suspicionless strip searches of every arrestee—regardless of the nature of the charge or circumstances of the arrest—are necessary to prevent disease from spreading, gangs from flourishing, and weapons and contraband from becoming readily available in jails. *See* Essex Cert. Opp. 6-7; Burlington Cert. Opp. 18-19, 24. That supposition, which both the majority and dissent below acknowledged was not supported by record evidence in this case, Pet. App. 24a-25a, 31a, is contrary to *amici*'s extensive, first-hand experience in administering correctional facilities. The consensus among corrections professionals, explained below, is that a reasonable, suspicion-based strip-search policy best balances the need to safeguard jails with the need to protect the privacy and rights of the accused.

**A. The American Correctional Association  
Rejects The Need For Suspicionless  
Strip-Search Policies**

The suspicionless strip-search policies respondents advocate are out-of-line with leading correctional standards. The American Correctional Association (ACA) is the oldest and largest international association dedicated to the administration of correctional facilities, and its accreditations and certifications are considered the benchmark for effective jail administration. The ACA rejects suspicionless strip-search policies like the ones at issue here. As the Court recently observed, professional standards like the ACA's inform its determination of "what is obtainable and what is acceptable in corrections philosophy." *Brown v. Plata*, 131 S. Ct. 1910, 1944 (2011).

1. The ACA *Performance-Based Standards for Adult Local Detention Facilities* (4th ed. 2004), which several of the *amici* helped develop, sets forth detailed standards for detention facilities seeking ACA accreditation. These standards are recognized as "the national benchmark for the effective operation of correctional systems throughout the United States," and "reflect practical, up-to-date policies and procedures that safeguard the life, health and safety of staff and offenders." See ACA, *Standards and Accreditation*, <https://www.aca.org/standards/faq.asp>; see also *Peterkin v. Jeffes*, 855 F.2d 1021, 1027 n.9 (3d Cir. 1988) (recognizing that the ACA "develop[s] and publish[es] the Standards for Adult Correctional Institutions . . . setting over 450 standards for evaluating every aspect of prison life"). As such, correctional facilities seek accreditation and certification from the ACA as recognition that those facilities comply with ACA standards. For example, the Fed-

eral Bureau of Prisons “utilizes ACA to obtain an external assessment of its ability to meet the basics of corrections,” and “continue[s] to prepare all activated facilities for accreditation with the American Correctional Association.” U.S. Dep’t of Justice, *Strategic Plan Fiscal Years 2000-2005* 79 (2000); *see also* U.S. Dep’t of Justice, *Strategic Plan Fiscal Years 2007-2012* 83 (2007).

Relevant here, ACA Standard 4-ALDF-2C-03 provides that “[a] strip search of an arrestee at intake shall *only* be conducted when there is reasonable belief or suspicion that he/she may be in possession of an item of contraband” (emphasis added). The ACA *Performance-Based Standards* accordingly reject the practice of blanket, suspicionless strip searches of individuals arrested for minor offenses. The ACA standards, including the strip-search standard, were developed with support from the American Jail Association, the National Sheriffs’ Association, and numerous state and local departments of corrections. *Performance-Based Standards*, *supra*, at xi.

2. Institutions also may receive an ACA certification of compliance with a smaller set of “core” jail standards. In 2010, the ACA published the *Core Jail Standards* (1st ed. 2010). “With the support of the American Jail Association, National Sheriffs’ Association, National Institute of Corrections, and the Federal Bureau of Prisons, these standards have been evaluated and tested and represent sound jail policies.” *Id.* at viii; *see also id.* at ix (listing participants in developing the *Core Jail Standards* from federal, state, and local corrections institutions). Included within these core standards, which some of the *amici* also helped develop, are strip-search standards. These, too, reject suspicionless strip searches like the

ones at issue here: “A strip search of an arrestee at intake is only conducted when there is reasonable belief or suspicion that he/she may be in possession of an item of contraband. The least-invasive form of search is conducted.” *Core Jail Standards, supra*, § 1-CORE-2C-02.

3. *Amici* fully endorse the ACA strip-search standards, which reflect the best practices for prison administration and the measured judgment of the correctional community. The ACA standards were “the work product of corrections practitioners, particularly those employed in jails,” and were drafted “with all of America’s jails, regardless of size, in mind” following “rigorous field test[ing].” *Performance-Based Standards, supra*, at viii. The standards properly balance the need to protect the security and integrity of the institutions with the individual dignity of persons who have been arrested for minor offenses. In *amici*’s view, there is no better measure than the ACA standards to determine “what is acceptable in corrections philosophy.” *Plata*, 131 S. Ct. at 1944.

**B. Leading Correctional Facilities Apply  
A Reasonable-Suspicion Standard For  
Strip Searches Of Individuals Arrested  
For Minor Offenses**

In line with the ACA standards, leading correctional facilities apply a reasonable-suspicion standard in lieu of suspicionless strip-search policies like the ones at issue in this case. The practice of these facilities undermines respondents’ argument about the purported necessity of strip searches for all arrestees. *Cf. Johnson v. California*, 543 U.S. 499, 508 (2005) (relying in part on how “[v]irtually all other States and the Federal Government manage

their prison systems”); *McKune v. Lile*, 536 U.S. 24, 35 (2002) (relying in part on the experience of the “Federal Bureau of Prisons and other States”).

1. Federal corrections policies, guided in large part by the ACA standards discussed above, have not adopted the suspicionless strip-search policies urged by respondents. For example, Federal Bureau of Prisons policy provides that “[d]etainees charged with misdemeanors, committed for civil contempt . . . or held as material witnesses may not be [strip] searched visually unless there is reasonable suspicion that he or she may be concealing a weapon or other contraband.” Fed. Bureau of Prisons, Program Statement No. 5140.38, Civil Contempt of Court Commitments § 11 (2004). By contrast, for detainees charged with more serious offenses, the Bureau’s receiving and discharge procedures require that “[i]nmates shall be visually [strip] searched and screened with a hand-held metal detector[.]” Fed. Bureau of Prisons, Program Statement No. 5800.12, Receiving and Discharge Manual § 124 (1997).

Similarly, the Department of Justice as well as the Department of Homeland Security’s principal investigative arm, the Immigration and Customs Enforcement agency, have developed standards “based on the American Correctional Association Standards” that were “designed for use in reviewing non-federal facilities that house federal detainees to ensure these facilities are safe, humane, and protect detainee’s statutory and constitutional rights.” Office of the Fed. Det. Tr., Federal Performance-Based Detention Standards Handbook 1 (2011). The standards direct “[t]he facility director [to] ensure[] that a detainee search program exists that preserves constitutional rights.” *Id.* at 99. The standards refer to ACA

standard 4-ALDF-2C-03, which provides that “[a] strip search of a detainee at intake shall only be conducted when there is reasonable belief or suspicion that he/she may be in possession of an item of contraband.” *Id.*

Immigration and Customs Enforcement (ICE) policy does not permit blanket strip searches of detainees: “Staff may conduct a strip search only where there is reasonable suspicion that contraband may be concealed on the person.” ICE Detention Standard: Searches of Detainees 5 (2008). Before strip-searching a detainee for contraband, “an officer should first attempt to resolve his or her suspicions through less intrusive means, such as a thorough examination of reasonably available . . . law enforcement records; a pat-down search; a detainee interview; or (where available) the use of a magnetometer or Boss chair.” *Id.* at 5-6; *see also* Pet’r Br. 5-6 (describing Boss chair used by Essex County). ICE policy specifically governing admission and release standards also requires that officers have reasonable suspicion to strip search a detainee, and officers must employ less intrusive search methods before resorting to a strip search. *See* ICE Detention Standard: Admission and Release 4-5 (2008). Both ICE Detention Standards documents also refer to ACA standard 4-ALDF-2C-03. *See* ICE Searches of Detainees 2; ICE Admission and Release 2.

For over a decade, the United States Marshals Service has rejected a policy of indiscriminate strip searches, in favor of one based on reasonable suspicion: “Strip searches on prisoners in custody are authorized when there is reasonable suspicion that the prisoner may be (a) carrying contraband and/or weapons, or (b) considered to be a security, escape,

and/or suicide risk.” U.S. Marshals Serv., Policy Directive, Prisoner Custody–Body Searches § 9.1(E)(3) (2010); *accord* U.S. Marshals Serv., Policy Directive No. 99-25 (1999).

The Bureau of Indian Affairs (with the assistance of *amicus curiae* Mark Martin) also recently developed draft standards for Native American jails that would permit strip searches of arrestees only “when there is reasonable belief or suspicion that he/she may be in possession of an item of contraband. The least invasive form of search is conducted.” Bureau of Indian Affairs, Office of Justice Servs., BIA Adult Detention Facility Guidelines 22 (2010 Draft).

Finally, the National Institute of Corrections of the Department of Justice published a comprehensive handbook for jail administrators, co-authored by *amicus curiae* Mark Martin, that was “intended to serve as a basic desk reference for general information about sound correctional practice that should apply to jails,” irrespective of institution-specific factors. Mark D. Martin & Thomas A. Rosazza, Nat’l Inst. of Corr., *Resource Guide for Jail Administrators* 4 (2004). This guide reiterates the federal government’s strip-search policy: “Strip searches require reasonable suspicion that an inmate possesses weapons, drugs, or other contraband. Requiring all newly admitted inmates to be strip searched on the assumption that they may be in possession of contraband is illegal.” *Id.* at 113. With regard to arrestees being admitted to the jail, “reasonable suspicion of possession of contraband must be determined on a case-by-case basis. *Therefore, many arrestees accused of nonviolent misdemeanors are excluded from strip searches.*” *Id.* (emphasis added).

2. Further, as petitioner explains, the majority of Americans live in states that prohibit suspicionless strip searches. Pet'r Br. 15-17 (discussing state laws); *id.* at 15 n.6 (listing state statutes); *see also* 37 Tex. Admin. Code § 265.2(b) (“When facility personnel reasonably believe it to be necessary, inmates should undergo a thorough strip search for weapons and contraband which may pose a threat to the security or safety of the facility.”); Wis. Stat. Ann. § 968.255(2)(d) (strip searches permissible only where arrest is for felony or specific class of misdemeanors or minor offenses where there is probable cause the individual is concealing contraband). Notably, some jurisdictions have explicitly adopted the ACA standards discussed above. *See* Mont. Admin. R. 20.27.238(2) (“Facility policy, procedure and practice [for private institutions] must require that all pat searches, frisk searches, strip searches and body cavity searches are performed in accordance with ACA standards.”).

Local officials also are advised to adopt suspicion-based strip-search policies. A publication of the National Institution of Corrections co-authored by *amicus curiae* Mark Martin provides a checklist to help ensure that “the jail’s policy prohibit[s] the blanket strip search of all arrestees and allow[s] their strip search only based upon reasonable suspicion that the arrestee is concealing contraband.” Mark D. Martin & Paul Katsampes, Nat’l Inst. of Corr., *Sheriff’s Guide to Effective Jail Operations* 50 (2007).

In light of this consensus, *amici’s* view is that requiring strip searches to be based on reasonable suspicion would have minimal impact on most correctional institutions, while at the same time improving corrections administration for those facilities that have not adopted reasonable and best practices.

**C. Use Of A Reasonable-Suspicion Standard  
Has Not Led To An Increase In Security  
Or Health Problems**

1. The successful operation of facilities using a reasonable-suspicion standard and other less intrusive search methods rebuts hypothetical security concerns unsupported by evidence. The elimination of suspicionless strip-search policies has not resulted in increases in disease, gang activity, or contraband. To be sure, at one time many jail administrators assumed that suspicionless strip searches were necessary. A report by the Department of Justice and the National Institute of Corrections (authored by *amicus curiae* William Collins), for example, noted that before the adoption of a reasonable-suspicion standard for strip searches in jails around the country, many correctional officials “passionately believed that not being able to strip search all arrestees entering the jail would result in major security problems because of dramatic increases in contraband entering the jail.” William C. Collins, Nat’l Inst. of Corr., *Jails and the Constitution: An Overview* 28 (2d ed. 2007). After assessing the shift to suspicion-based policies, however, the report concluded that “these problems did not develop. The legal rulings did not cause the catastrophe many predicted.” *Id.* at 29.

This also is borne out by the experience of jail administrators. In an article published in the *Correctional Law Reporter*, a former jail administrator described many jail administrators’ unfounded assumption that suspicionless strip searches will reduce contraband. Based on his experience and discussions with other administrators, however, he found that “[w]e really have not seen an increase in the

entry of contraband in those facilities that use a constitutionally valid strip search policy. I defy any jail administrator to ‘show me the money’ (actually the data) that their policy led to an increase in contraband entering through the initial booking process.” Don Leach, *Arrestee Strip Searches: An Administrator’s View*, Corr. L. Reporter, June-July 2010, at 13.

This view is consistent with the experiences of *amici*. For example, David Parrish, former administrator of the Hillsborough County Jail, a 4,000-bed facility in Florida, long believed in routine, suspicionless strip searches for all arrestees admitted to his facility. After implementing a reasonable-suspicion standard, however, Mr. Parrish—who reviewed each day’s incident reports in the jail he administered for twenty-seven years—witnessed no increase in the amount of contraband smuggled into the jail. Other *amici* have had similar experiences.

2. Assessments of facilities that have transitioned from suspicionless to suspicion-based strip-search policies suggest an obvious explanation for the lack of increased contraband: individuals arrested for minor offenses are *de minimus* sources of contraband. From 1993 to 1998, officers at the Nassau County Correctional Center strip searched all new admittees. See Resp’t Br. Opp’n Cert., *Nassau County v. Shain*, 537 U.S. 1083 (2002) (No. 02-541), 2002 WL 32135398, at \*7. Out of approximately 75,000 strip searches conducted during this period, only sixteen searches (0.02%) were shown to uncover contraband or weapons. On three occasions, items were retrieved from the admittee’s body or body cavity. But in all three cases, the admittee had a drug or felony history that would have justified a strip search under the

reasonable-suspicion standard. *Id.* at \*7-8. In the other thirteen searches, the contraband was found in or on the shoes or outer clothing; thus, a pat-down or clothing search would have sufficed. *Id.* at \*8. Accordingly, out of 75,000 strip searches of new admittees during a five-year period, the county “could not point to even one case where a strip search performed without colorable suspicion was required to uncover a weapon or other contraband from a body or body cavity.” *Id.*

Similarly, the district court in *Dodge v. County of Orange* examined data from approximately 23,000 bookings over a four-year period in the Orange County Correctional Facility (OCCF), a large jail outside New York City. 282 F. Supp. 2d 41, 69 (S.D.N.Y. 2003). The court uncovered only one instance (0.004%) where contraband would have entered the jail had the arrestee not been strip searched where there arguably was no reasonable suspicion. *Id.* at 69-70. “As these statistics demonstrate, it is simply not true that there was any dramatic increase—or any increase at all—in the amount of contraband at OCCF or in the amount that was recovered at Booking and Receiving (and thus, hypothetically, could have come from new arrivals) after the *Dodge* injunction [imposing the reasonable-suspicion standard] was entered.” *Id.* at 65.

As the dissent below explained, other federal lawsuits involving strip-search policies like the ones at issue here have not resulted in a single documented example of anyone concealing contraband during arrest for a minor offense with the intent of smuggling contraband into the jail. Pet. App. 30a (Pollak, D.J., dissenting) (discussing *Bull* and *Powell* cases).

The dissent’s observation is consistent with *amici*’s experience in state and local facilities. *Amicus curiae* Robert Reardon, who is the current Director of Corrections in Lafayette County, Louisiana and who previously administered the Hennepin County Jail in Minneapolis, Minnesota, did not observe any increase in the amount of contraband being smuggled into the Hennepin County Jail when it transitioned from a suspicionless strip-search policy to one based on reasonable suspicion. In fact, after more than twenty years in corrections, Mr. Reardon has never once observed an incident of the type that concerned the court of appeals below—*i.e.*, a situation in which an incarcerated person “induc[es] or recruit[s] others to subject themselves to arrest on non-indictable offenses to smuggle weapons or other contraband” into a jail. Pet. App. 23a. That is true even though Hennepin County suffered from a serious gang problem at the time Mr. Reardon administered the jail there, countering the panel majority’s speculation that the “presence of gangs” in New Jersey jails increases the risk of individuals purposefully subjecting themselves to arrest in order to stow contraband such as weapons or drugs. *Id.* at 20a.

**D. Experience Shows That A Strip-Search Policy Grounded On Reasonable Suspicion Is Superior To A Blanket Policy Of Strip Searching All New Admittees**

Collectively, *amici* have hundreds of years of experience conducting or overseeing strip searches, monitoring contraband found during strip searches, and setting the policies governing contraband and strip searches. Yet none of the *amici* ever observed a single incidence of an incarcerated person “inducing or recruiting others to subject themselves to arrest on

non-indictable offenses to smuggle weapons or other contraband.” Pet. App. 23a. In light of this fact, and for the reasons that follow, *amici* believe that a strip-search policy grounded on reasonable suspicion is reasonable and effective.

*First*, strip searches based on reasonable suspicion promote correctional diligence and ensure that limited resources are properly allocated to focus attention on individuals who present the greatest risk. Strip searches are resource intensive. In *amici*’s experience, a single strip search can take at least five minutes, and significantly longer if the individual being searched is not cooperative. The process requires at least one officer to be present, but many facilities—such as the one formerly administered by *amicus curiae* Jim Hart in Tennessee—require that two officers be present during a strip search. One officer conducts the search and the other protects the safety of the searching officer and serves as a witness. This is a time-intensive process that detracts from officers’ availability to attend to other tasks, which is a significant consideration in resource-deprived jails.

Further, strip searches “are not fun tasks” for corrections officials. Leach, *supra*, at 14. Thus, mandatory strip searches often are assigned to the most junior, inexperienced officers. In the experience of *amici*, the sheer volume of searches can cause even the most conscientious officer to become less thorough.

By contrast, when a jail implements a reasonable-suspicion strip-search policy, it forces corrections officers to justify and, in most cases, document the reasons for the strip search. Such a policy imbues the strip-search procedure with a heightened sense of

importance and forces the officer conducting the search to focus on the reasons necessitating the strip search of an arrestee. The officer conducting the search therefore will be able to utilize the institution's scarce resources on those arrestees that, in the officer's professional judgment, require the most scrutiny.

*Second*, blanket search policies “over-correct” for a problem that exists in only the rarest of cases. Individuals who are arrested for minor offenses—such as the minor charge for which petitioner was arrested—usually lack advance notice of the arrest, and thus have no opportunity to hide contraband. Similarly, “one who is arrested for an outstanding parking ticket is much less likely to be carrying a dangerous weapon than is one who is arrested for an armed robbery.” Robin Lee Fenton, Comment, *The Constitutionality of Policies Requiring Strip Searches of All Misdemeanants and Minor Traffic Offenders*, 54 U. Cin. L. Rev. 175, 185-86 (1985). In *amici*'s collective experience, it is highly unlikely that a person arrested for a misdemeanor or traffic violation will try to smuggle contraband or weapons into a correctional facility. Even more unlikely is the prospect that a person would purposefully subject themselves to arrest with the aim of bringing in contraband.

To the contrary, “the majority of contraband enters in two primary ways: community released inmates and staff.” Leach, *supra*, at 13; accord William R. Bell, *Practical Criminal Investigations in Correctional Facilities* 8-14 (2002) (listing ways contraband enters a facility and not including intentional arrest for a minor offense); *Prison and Jail Administration* 76-77 (Peter M. Carlson & Judith Simon Garrett eds.,

1999) (stating that “most serious contraband such as drugs is introduced by inmate visitors,” and not listing intentional arrest for a minor offense as a method of introducing contraband).

*Third*, even assuming that a person would theoretically subject themselves to arrest solely as a means to smuggle contraband, a “pat search” will uncover the vast majority of contraband. Pat or “frisk” searches are those in which “jail staff touch and feel the inmate’s fully clothed body to detect contraband . . . . Pat searches are the least intrusive type of search and may be conducted on a routine and random basis to maintain security and control.” *Resource Guide for Jail Administrators, supra*, at 113.

In *amici*’s experience, pat searches and the use of metal detectors are extremely effective in discovering contraband. In cases where reasonable suspicion is a close question, the use of a pat search often will provide the basis for reasonable suspicion (either due to the discovery of weapons or contraband or suspicious behavior during the pat search).

*Finally*, the reasonable-suspicion standard is both effective and easily implemented. It allows law-enforcement officers to assess whether a strip search is necessary in a given case, drawing on their training and experience. As this Court has emphasized, when assessing reasonable suspicion, law-enforcement officers “make inferences from and deductions about the cumulative information available” and “draw on their own experience and specialized training” to analyze factors that “might well elude an untrained person.” *United States v. Arvizu*, 534 U.S. 266, 273 (2002) (quoting *United States v. Cortez*, 449 U.S. 411, 418 (1981)). Many jurisdictions employ checklists to help properly determine whether rea-

sonable suspicion exists. For example, *amicus curiae* Paul Downing and other correctional and legal professionals developed a checklist to assist in determining reasonable suspicion for Indiana institutions. As Indiana is one of only three states with term limits for sheriffs, the checklist was designed to provide guidance for newly-elected and inexperienced sheriffs and has served this purpose well. In 2003, this checklist was provided to the Chief Jail Inspectors in those states with Jail Standards and Inspections programs. Jail administrators and correctional officers thus have the experience and tools to recognize the factors that create reasonable suspicion.

\* \* \*

As corrections professionals, *amici* agree that corrections administrators should be accorded deference in the adoption and execution of policies and practices that in their judgment are needed to maintain institutional security. At the same time, “[c]ourts may not allow constitutional violations to continue simply because a remedy would involve intrusion into the realm of prison administration.” *Plata*, 131 S. Ct. at 1928-29. In this case, the record provides no support for policies that undisputedly imposes a dramatic intrusion on personal privacy—especially since corrections professionals have rejected such policies and corrections institutions have successfully instituted less intrusive policies that are more effective. Accordingly, the reasonableness scale tips decidedly against the strip-search policies and practices at issue in this case.

**CONCLUSION**

For the reasons set forth above, the judgment of the United States Court of Appeals for the Third Circuit should be reversed.

Respectfully submitted,

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## **APPENDIX**

**APPENDIX OF AMICI CURIAE**

**William C. Collins** has nearly forty years of corrections experience, including as a former Senior Assistant Attorney General for Washington State where he was in charge of the Corrections Division and served on the Corrections Standards Board, an agency responsible for developing standards for the jails and prisons throughout the state. Mr. Collins currently is a lawyer and consultant who advises the National Institute of Corrections and has served on numerous committees of the American Correctional Association (ACA), including its Standards Committee. He has published extensively on corrections law and practice.

**Paul E. Downing** has over twenty years of corrections experience, including as the former Director of Detention Services for the Indiana Department of Corrections and as a Detention Inspector responsible for the inspection and certification of detention facilities in Indiana. He is the past Chair of the Indiana Jail Standards Committee and past regional director of the National Jail Inspectors' Association. Mr. Downing currently is a consultant with DLZ Indiana, LLC, which provides assistance to Indiana county jails and other institutions.

**Robert J. Hall, Jr.** has over thirty years of corrections experience and is the current Captain–Jail Administrator of the Grand Traverse County Sheriff's Office in Michigan, responsible for all operations of the 194-bed county jail. He is a Certified Jail Manager with the American Jail Association and has developed training programs for law enforcement agencies in eight Michigan counties. Captain Hall

also assisted in the development of the *ACA Core Jail Standards*.

**James M. Hart** has over thirty-five years of corrections experience, including as the former Jail Administrator for a 489-bed county jail in Chattanooga, Tennessee, and as the Commanding Officer at the 150-bed Marine Corps Brig at Quantico, Virginia. Mr. Hart is a Past President of the American Jail Association and previously served on the ACA Board of Governors. He serves on the ACA Policy and Resolutions Committee and currently is a jail management consultant for Tennessee's ninety-five counties. He also served as a member of the committee that developed the *ACA Core Jail Standards*.

**Jon D. Hess** has over thirty years of corrections experience and currently is the Undersheriff of Kent County, Michigan, responsible for operations of a 1,500-bed county jail. During his career in corrections he has been a corrections officer and Captain, Certified Jail Manager, a Past President of the American Jail Association, and a member of several committees of the National Institute of Corrections.

**Michael H. Lovelace** has nearly thirty years of corrections experience and currently is the Sheriff of Marquette County, Michigan, responsible for all operations of a 60-bed Community Corrections Detention Center and an 80-bed county jail. During his career in law enforcement Sheriff Lovelace has been a Deputy U.S. Marshal, a Past President of the Michigan Sheriffs' Association, and currently serves as Chairman of the Marquette County Law Enforcement Administrators Association.

**Mark D. Martin** has over thirty years of corrections experience, including as the former chief of the

Nebraska Jail Standards program. He has provided technical assistance and consultation to state, local, and tribal jurisdictions in over forty states, has published extensively with the National Institute of Corrections, and has developed model jail policies, training programs and correctional standards. Mr. Martin currently is president of a corrections consulting company and serves on the Advisory Committee to the ACA Design Guide for Adult Local Detention Facilities.

**Rod Miller** has forty years of corrections experience, including as President of Community Resources Services, Inc., a non-profit that provides training and other services relating to prison and jail administration. He has provided jail training and planning assistance for institutions across the country and has published extensively on corrections issues. Mr. Miller participated in the development of the ACA *Core Jail Standards* and the ACA *Performance-Based Standards for Adult Local Detention Facilities*.

**David M. Parrish** has over thirty years of corrections experience, including as the former Commander of the Department of Detention Services for the Hillsborough County Sheriff's Office in Tampa, Florida, where he was responsible for an accredited 4,190-bed jail system. He is a Past President of the American Jail Association and chaired the Jail Managers' Certification Commission. He currently is a consultant on numerous jail-related matters. Mr. Parrish is the recipient of the ACA's highest recognition, the E.R. Cass Award, and he participated in the development of the ACA *Performance-Based Standards for Adult Local Detention Facilities*.

**Robert J. Reardon** has over twenty years of corrections experience and currently is the Director of Corrections of Lafayette Parish Sheriff's Office in Lafayette, Louisiana, where he oversees a 1,350-bed county jail. Director Reardon is a former Regional Training Initiative Member with the National Institute of Corrections.