

UNITED STATES OF AMERICA

Amnesty International's findings and recommendations relating to Valley State Prison (California)

Introduction

In November 1998 an Amnesty International delegation visited Valley State Prison for Women (VSPW), California. VSPW is the largest women's prison in the USA, housing more than 3,700 prisoners at the time of Amnesty International's visit. Amnesty International's delegates had access to all parts of the prison over two full days and spoke freely to staff and inmates. The delegates also visited a local hospital which has a special unit for women prisoner-patients.

The concerns described in this document cover sexual abuse of prisoners by male guards; the cruel use of restraints on pregnant and ill women; allegations of inadequate medical and mental health care; and conditions in the Security Housing Unit (SHU), a high security unit where women (many of them with mental health problems) are isolated in their cells for 22-24 hours a day in conditions of extreme deprivation.

Amnesty International's delegates were two staff members of the International Secretariat and Dr Silvia Casale, a prison consultant and UK member of the European Committee for the Prevention of Torture. Dr Casale's separate report "A visit to Valley State Prison for Women" (AMR51/55/99) is available from Amnesty International.

Background to VSPW

VSPW is situated in Chowchilla in central California, adjacent to the Central California Women's Facility (CCWF). Together, these two prisons house more than 7,000 incarcerated women and constitute possibly the largest women's prison complex in the world. VSPW opened in 1995 and houses minimum, medium and maximum security prisoners. The large majority of prisoners are in the prison's general population and spend most of the day outside their dormitories in work, training or recreational activities. The SHU in VSPW is the highest security unit for female prisoners in California, housing prisoners from across the state who are classified as a "threat to safety or security". Forty-six women were held in the SHU at the time of Amnesty International's visit, some for repeated, relatively minor, disciplinary infractions. Another 63 women were held in similar conditions in the Administrative Segregation Unit as short-term punishment, for "protective" custody, or pending hearings for disciplinary offences.

Amnesty International's concerns focus on issues within its mandate to oppose torture or other cruel, inhuman or degrading treatment or punishment. Amnesty International found much of the physical plant and some of the training and work programs available at VSPW to be of a high quality. However, the standard of custody and care at the prison were adversely affected by acute overcrowding, due to the enormous increase in the number of incarcerated women in California in recent years. At the time of Amnesty International's visit, the prison's population was double its design capacity. California has the highest number of incarcerated women in the USA, with more than 11,000 in state prisons (excluding county jails and federal

facilities) in 1998. Its prison population overall has more than doubled in the past decade to over 155,000 incarcerated men and women in early 1998. In California, as elsewhere in the USA, the majority of women in prison are serving sentences for non-violent offences, and many of them are imprisoned under legislation providing long prison terms for the possession or sale of drugs. (For more information on Amnesty International's concerns about women in prison in the USA see "*Not part of my sentence*": *Violations of the Human Rights of Women in Custody*, AI Index AMR 51/01/99).

The following findings and recommendations were enclosed in a letter to the California Department of Corrections, dated 2 March 1999. A copy of this letter is attached in Appendix 1.

Allegations of sexual abuse/staff and gender issues:

Both before and during its visit to the prison Amnesty International received reports from prisoners and other sources that inmates were the victims of sexual abuse by some staff. Inmates reported that it was common for some male officers to watch them dressing and undressing and, in breach of the approved procedure, to touch their breasts and genitals when conducting pat searches. It was also reported that some guards used sexually - and sometimes racially - offensive language towards inmates. At the time of Amnesty International's visit, we were informed, several guards were being investigated for sexual misconduct, including an alleged rape.

The Department of Corrections and senior management at VSPW have told Amnesty International that they do not condone or tolerate any form of sexual misconduct between inmates and staff and that all allegations are promptly investigated. However, Amnesty International believes that certain policies and operational procedures, particularly as regards the deployment of male staff, create opportunities for abuse, and that some procedures, for example pat searches conducted by male guards, are inherently abusive. These concerns are discussed below:

deployment of male and female staff:

It is the policy of the California Department of Corrections to employ both male and female staff in women's prisons. The senior management team told Amnesty International that they actively supported this policy on grounds of equal opportunities, as this enabled female staff to work in male institutions, and because they believed a gender mix of staff was inherently desirable, providing an opportunity to present positive male as well as female role models. In practice in VSPW we were told that only 25-27% of staff at the prison were women, although the authorities aimed to achieve parity with the state workforce which was 37-38% female. In fact, the overwhelming majority of the custody and supervisory staff at the prison are male, as more

women, we were told, are deployed in areas such as administration, nursing or teaching than in other roles.

The above policy is contrary to international human rights standards which provide that female prisoners should be attended and supervised only by female officers. International standards state that male staff such as doctors and teachers may provide professional services in female facilities, but should always be accompanied by female officers.¹ The UN Body of Principles for the Protection of All Persons Under Any Form of Detention states that measures which are designed solely to protect the rights and special status of women shall not be deemed to be discriminatory.²

Amnesty International believes that these standards are essential to protect female inmates from sexual abuse, as well as from infringements of their rights under international law to privacy and respect for human dignity.³ In reviewing US compliance with the provisions of the International Covenant on Civil and Political Rights, the UN Human Rights Committee expressed concern at the practice in US states of using male guards for female inmates, "which has led to serious allegations of sexual abuse of women and the invasion of their privacy". It called on the authorities to amend existing legislation "so as to provide at least that [male officers] will always be accompanied by women officers."⁴ Amnesty International is particularly concerned by the following:

- C -- male staff have unrestricted access to virtually all parts of VSPW, including sensitive areas such as inmate living quarters and areas where showers or toilets are situated. Even without misconduct, Amnesty International believes that it is inherently degrading for naked women to be exposed to the view of male staff while, for example, taking showers, as happens in the Security Housing Unit (SHU) and some other areas. In the SHU, the showers are situated on the tiers in the main unit in full view of custody staff. Although male guards were removed from the control booth following complaints that they could see directly into the showers from this position, women can still be observed

¹Rules 53(2) and 53(3) of the UN Standard Minimum Rules for the Treatment of Prisoners.

²Principle 5(2)

³Article 10 of the International Covenant on Civil and Political Rights (ICCPR), which has been ratified by the USA, states "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". Article 17 of the ICCPR provides that everyone should have the right to privacy without arbitrary interference.

⁴Human Rights Committee, Fifty-third Session, "Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant - Comments of the Human Rights Committee", ICCPR/C/79/Add.50, 7 April 1995.

by male guards in the unit itself. Two of Amnesty International's delegates were in the unit while women were showering and noted that the small modesty panels did not protect all women from exposure of their buttocks and lower body. Inmates in the SHU also complained that they are sometimes observed by male guards through their cell windows, while they are bathing, undressing or using the toilet in the cells.

- C --Dr Silvia Casale notes in her report that steps that have been taken to alert prison staff to the need for privacy in the reception area, where newly arrived inmates have to undergo strip searches. However, outside male escorting officers are allowed into the area to hand over documents and collect receipts, even though inmates in the reception tanks (in which they have to strip and squat in a line) are clearly visible. Dr Casale recommends that consideration be given to measures that would avoid the need for escort officers to enter the area where strip searching is visible. Amnesty International also received complaints from inmates that they were subjected to strip searches in the SHU while male guards were standing nearby (see SHU section, below).
- C --Although male staff are not allowed to conduct strip searches, they are required to carry out routine pat searches of clothed inmates, a procedure which we were told requires guards running the back of their hands up the inside leg to the crotch and around the breast area. Like some other procedures, this is a state-wide policy which does not take account of the specific gender-sensitive issues relating to a female population. Prisoners have reported that even when such searches are conducted in accordance with policy they can be traumatizing, especially in the case of women who have been physically and sexually abused before they were imprisoned (a significant proportion of the inmate population). Many of the prisoners Amnesty International interviewed said they were disturbed by having to be pat searched by male officers. As stated above, Amnesty International believes that such procedures are inherently degrading, in violation of international standards.
- C --Amnesty International is concerned that health care at the prison is provided almost exclusively by male doctors, although many of the support staff are female. Some prisoners told Amnesty International that they were disturbed by having necessary pelvic examinations and other intimate procedures conducted by male doctors, a concern enhanced by the background of abuse many of the women suffered prior to imprisonment. One prisoner alleged that some women had a problem with one doctor, who they believed had subjected them to unnecessary pelvic probes, but they were afraid to complain in case it affected their ability to receive care in an emergency. The prison staff said it was difficult to find female doctors to work in the prison. However, Amnesty International believes that more should be done to recruit female doctors to provide the prisoners with an option of being examined by a member of their own sex. (For more on medical care, see below.)

As noted in Dr Casale's report, there is wide adherence in Europe to international standards regarding the deployment of male staff in women's prisons. In the USA, we are aware that current anti-discrimination laws mean that male guards cannot be refused employment in women's prisons (nor can female guards in men's institutions). However, US courts have decided that significant restrictions can be placed on male duties.

In Hawaii, for example, a court in 1998 upheld the right of the Department of Corrections to assign only female correctional officers to work a particular time of day when they might have unsupervised access to the inmates and be required to observe inmates in the showers and toilet areas. The Department's policy, the court decided, was "a reasonable response to the concerns about inmate privacy and allegations of abuse by male (staff)." In reaching its decision, the court took note that in a similar case in Wisconsin, ten years earlier, a court had held that a warden "made a professional judgment that giving women prisoners a living environment free from the presence of males in a position of authority was necessary to foster the goal of rehabilitation", particularly in light of the fact that many of the inmates had been physically and sexually abused by men.⁵

Some courts have also taken the view that pat searches should not be conducted by male guards. In the state of Washington, a court decided that such searches of women by men amounted to cruel and unusual punishment, in violation of the Constitution.⁶ Many of the women in the prison had been subjected to physical and sexual abuse prior to being imprisoned and they and experts testified that pat searches by men would traumatize them because it constituted continuation of the abuse. In the opinion of one judge, prisoners who had not been sexually abused prior to their imprisonment would also be substantially harmed by cross-gender searches.

Although other US states employ male guards in women's prisons, the proportion of male staff varies widely. A 1997 survey of prisons in 40 states found that on average 41% of the correctional officers working with female inmates are men. California had among the highest percentage of male officers working in female prisons, at 66%, and in VSPW in 1998 the percentage appeared to be even higher, according to the information given to our delegates (cited above).

⁵*Robino v Iranon*, 145 F.3rd 1109 (9th Circuit, 1998). The Wisconsin case was *Torres v Wisconsin Department of Health and Social Services*, 859 F.2d 1523 (7th Circuit, 1988).

⁶*Jordan v Gardner*, 986 F.ed (9th Cir., 1993).

We believe there is scope for increasing the percentage of female employees in the prison as well as modifying the duties of staff to avoid male staff being deployed in gender sensitive areas/functions.

investigation of complaints

The authorities told Amnesty International that all allegations of staff misconduct are promptly investigated and that inmates have the opportunity and are encouraged to report sexual abuse or other misconduct by staff. During 1998 VSPW installed a "drop box" for inmate complaints which are opened and reviewed by Investigative Services Staff who are not staff on the housing units. This is intended to provide a confidential procedure. However, prisoners told Amnesty International that they were afraid to use the drop boxes - mainly through fear of retaliation from other prisoners who would think they were providing information on issues such as drug dealing (the boxes were consistently referred to as "snitch boxes").

Amnesty International has received reports from a number of US states that inmates who have reported abuses have been victimised by prison staff. Officials at VSPW told Amnesty International that they did not consider staff intimidation of inmates who made complaints was common in the prison, and that staff cannot readily coerce inmates by measures such as denial of privileges because prisoners' rights are specified in writing. However, some prisoners told Amnesty International that staff had harassed and intimidated women who made complaints by repeatedly searching their possessions and abusing them verbally. One official said there had been some problems with staff reporting misconduct suffering from retaliation by other staff, although it was made clear to staff during training that they would be disciplined if they failed to report abuses.

The authorities told Amnesty International that allegations of serious misconduct, including sexual and physical assaults, are treated as "citizen complaints" and are reviewed by the Warden and investigated either locally or by the recently established Office of Internal Affairs (and referred to the District Attorney as appropriate). Less serious complaints are dealt with through an informal procedure involving the inmate and the immediate staff member concerned. If the complaint (or "602 appeal" as it is known) is not resolved at this level, we were told, the inmate could take the matter further. However, many prisoners told Amnesty International that they had no confidence in this procedure and that their complaints were often ignored. Although we were told that 602 appeals are reviewed by an appeals coordinator (one official serving the whole institution), there appears to be no adequate, formalized procedure for tracking or monitoring complaints at this level. Such a procedure is important to allow the institution to identify possible patterns of concern about procedures or individual staff members.

Prisoners complained that they did not get any feedback from the authorities about the outcome of their complaints against staff. Although state confidentiality laws apparently forbid information being made public about disciplinary action against individual officers (unless there is a State Personnel Board hearing), there appears to be no law preventing the authorities from informing complainants of whether their complaint was upheld or not. However officials confirmed that this information was not generally given to inmates. Amnesty International believes that complainants should always be given feedback about their complaint, including whether the complaint was sustained, unfounded or unsubstantiated.

A number of states and the Federal Bureau of Prisons have introduced special measures aimed at handling complaints and preventing sexual abuse. For example, in 1998 the Federal Bureau of Prisons agreed to provide all inmates with the telephone number of the Inspector General of the Department of Justice, to whom they can report sexual assaults, threats or other ill-treatment; to provide medical and psychological care to an inmate reporting to be the victim of sexual assault; and to develop a training program for all Bureau of Prison staff "which will address Bureau policies and procedures concerning sexual assaults, sexual contact, sexual misconduct, confidential reporting, sexual harassment and other issues arising out of the special needs of female prisoners."⁷ We are aware that the National Institute of Corrections also provides training and advice to correctional authorities on the prevention of sexual misconduct in women's prisons.

Recommendations:

-- While acknowledging that there are constraints under US law, Amnesty International believes that there is scope for modifying the duties of male staff as indicated above. We urge that measures are implemented to avoid male staff being deployed in sensitive areas and in gender-sensitive roles.

-- Male officers should not be allowed to pat search female inmates

-- Steps should be taken to ensure that male officers are not deployed in areas where women prisoners can be seen in showers, bathing, dressing or undressing or using the toilet and that male staff are not present while women are being strip searched. Measures should be taken to ensure that no men are present in the reception area where strip searching is visible.

-- Active steps should be taken to recruit female doctors and female custody staff

⁷These measures were introduced as part of the March 1998 settlement of *Lucas v White* (Case no. C96-02905 US District Court of Northern California)- a lawsuit in which three women reported sexual abuse at the Federal Detention Center, Pleasanton, California.

-- Sexual abuse should be widely defined to include sexual assault and threatened sexual assault; sexual contact; and sexually explicit language and gestures, and effective action should be taken against staff found guilty of abuses.

--- We would urge the Department of Corrections to look at models in other jurisdictions with a view to using the most effective approaches to safeguard against and investigate allegations of sexual abuse. Victims of sexual abuse must be provided with appropriate care and redress. As far as practicable, reports of abuse by inmates and staff should be treated in strict confidence, and inmates and staff must be informed that they have a right to protection from retaliation. Disciplinary and/or legal action, as appropriate, should be taken against any member of staff who seeks to deter inmates and staff from reporting abuse or who in any manner harasses or intimidates inmates or staff who report abuse.

Use of restraints

The DOC told Amnesty International that prisoners are placed in mechanical restraints for transportation and in other circumstances as part of their "normal operating procedure". This blanket policy applies equally to pregnant or seriously, and even terminally, ill prisoners who are transported to hospital in restraints and are shackled while they are in hospital, regardless of their individual security needs. Amnesty International believes that this is another example of a policy which does not take account of the specific needs and profile of the female inmate population.

Amnesty International visited Madera County Hospital where prisoner-patients from VSPW are held in a specially designated secure ward. Despite the presence of four armed guards in the ward, each inmate was chained to the bed by her ankle. One of the prisoners showed Amnesty International her shackle which was a chain about 18" long. She could lie on her side but she could not roll over. Prison officials explained that the shackle is removed only if a doctor informs them that it is interfering with medical treatment or is injurious to a woman's health. Staff reported that even a terminally ill or dying woman would remain in shackles unless there was a medical reason for removing the restraint. Dying itself does not present a medical reason, apparently. Pregnant women are unshackled once a doctor makes a diagnosis that they are in labour, and they are shackled again after the birth and immediate recovery period. It is hard to see how seriously ill women, or women about to give birth (or who have just given birth) would present a security risk requiring mechanical restraint, especially in a locked ward closely supervised by armed guards. Prison staff confirmed that the shackles were applied regardless of the security status of the inmate.

As well as appearing cruel and unnecessary, the shackling of a heavily pregnant woman during movement or transportation also carries a risk of injury to the woman or her foetus as she is unable to protect herself by putting out her hands if she falls.

Amnesty International has also received a report from a lawyer of an incident in 1998 in which custody staff overruled a request by medical staff to remove a restraint. The lawyer said she saw a woman in the hospital having a seizure and that guards refused the request of nursing staff to remove the leg shackle.

Amnesty International believes that the routine shackling of pregnant and ill prisoners in the above circumstances constitutes cruel, inhuman or degrading treatment. Such treatment is also in violation of international standards which require that restraints should be used only as a precaution against escape, or to prevent damage or injury, or on medical grounds, as provided under Rule 33 of the UN Standard Minimum Rules (SMR). A similar standard is provided by the American Correctional Association (ACA) which also provides that restraints should not be applied for more time than is absolutely necessary.⁸ The SMR further provide that "chains and irons shall not be used as restraints".

Amnesty International is also concerned that all women in Ad-Seg/SHU are also routinely placed in restraints whenever they leave their cells, a practice which seems excessive in relation to security needs (see comments on the SHU below). Amnesty International's delegates observed women being led up and down metal staircases in the unit wearing flip-flops (strapless rubber sandals), with their hands cuffed behind their backs, which could cause risk of injury through falling.

Recommendations:

-- The California DOC should amend its policies on the use of the use of restraints to prohibit their use on pregnant women when they are being transported and when they are in hospital awaiting delivery; on women who have just given birth; and on seriously ill inmates when they are being transported to and when they are in hospital.

--- In other cases, restraints should be used only when they are strictly necessary to prevent escape, injury or damage, in accordance with international standards. Chains and leg irons should not be used as restraints.

Medical care

⁸Standards for Adult Correctional Institutions, 3rd Edition, 1990, 3-4183 (Ref.2-4185).

Perhaps the most common concerns of the prisoners we interviewed related to delays in receiving medical attention and the quality of medical attention.

With respect to delays, women reported having to wait 4-6 weeks to be seen by a doctor in the prison, and delays of some times months to see a specialist doctor outside the prison. Dr Follett told us that because of the number of people who want medical attention, he and other health care staff prioritise requests so that urgent cases are seen promptly; some prisoners may have to wait "a couple of weeks."

Prisoners informed us that despite the various exemptions, the fee they are required to pay for medical care is a disincentive to women who have little money, particularly in view of the very low level of pay for prison work .

With respect to the adequacy of medical care, several women reported that they were given analgesics for extended periods before being referred for specialist assessment of persistent painful conditions, and that doctors were required to prescribe less expensive "generic" medication (eg for skin conditions) although it might far less effective in treating their conditions than prescribed "named" varieties. Some inmates or their attorneys alleged there were instances of neglect of life-threatening conditions. One inmate, for example, told Amnesty International that she did not get an annual check-up despite having had a hysterectomy due to cancer; she was also reportedly not given a mammogram for a breast lump despite a history of breast cancer in the family. Several prisoners alleged that in October 1998 a woman had given birth to a still-born baby after having bled for about two weeks without adequate attention.

Several women also told us they wanted help to deal with problems arising from their having been physically and sexually abused prior to their incarceration but that little was available apart from medication and psychiatric assistance for women with serious mental illness. Dr Kunkel acknowledged to us that in view of the small number of mental health staff and the large number of women with mental health problems, the main form of assistance that can be provided is pharmacotherapy and a limited amount of individual therapy, and that no group therapy was currently provided.

Comments and recommendations

On the basis of its visit, Amnesty International is not able to assess the merit of the prisoners' complaints about access to and adequacy of medical care. The organization notes that there has been concern about medical services for California women prisoners for some time, as described for example in the report of the Female Inmate Health Issues Task Force, 1996. Your letter to Amnesty International of April 17, 1998 informed us that the guidelines contained in the settlement agreement in Shumate v Wilson are used at Valley State prison for Women and that

the health care provided at VSPW is comparable to health care provided in the community. However, there is a very important element of the Shumate v Wilson settlement agreement that is not present at VSPW: expert, independent monitoring of the implementation of the guidelines and the standard of health care. Amnesty International considers that the medical care provided at Valley State Prison for Women and indeed all correctional facilities should be subject to periodic external review, as is the case in some other jurisdictions such as Florida.

Amnesty International urges California to provide medical care and treatment whenever necessary free of charge, in accordance with Principle 24 of the *Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment*.

Amnesty International further considers that services should be provided for women experiencing mental health problems as a consequence of having been abused, in order to address their health needs and to promote their effective rehabilitation.

The Administrative-Segregation and Security Housing Units (Ad-Seg/SHU)

Amnesty International was extremely concerned by the conditions in Ad-Seg/SHU, especially given the length of time (months or even years in some cases) which prisoners may be confined in the SHU unit. At the time of Amnesty International's visit 46 women were in the SHU and 63 in Ad Seg, most in cells by themselves. The inmates have no work, education or other programs and are locked in their cells for 22-24 hours a day. The cells are furnished with a concrete bed, table and stool and a wash basin and open toilet. The narrow windows at the back of each cell are frosted over so there is no view of the outside. The cells in the SHU have solid steel doors, cutting off contact with other inmates, with windows through which the guards can view the prisoner. The inmates take all meals in their cells and are generally allowed out only for showers, non-contact visits and exercise for 10 hours a week (alone or in small groups) in a bare yard surrounded by high walls. Outdoor exercise is not allowed every day, contrary to international standards (see below).

Amnesty International raised concern about conditions in SHU-Ad Seg at the meeting with the Department of Corrections following its visit to VSPW. The prison authorities said that the conditions were deliberately severe in order to deter inmates from repeated, serious rule violations. They said that some inmates preferred to be alone or to avoid work or other programs and it was necessary that they should not want to "like" to be in the SHU.

Amnesty International recognizes that it is sometimes necessary to segregate prisoners for safety or disciplinary purposes. However, it believes that conditions in the unit go beyond what are necessary for such purposes and that many of them are gratuitously harsh. There appears to be no legitimate penological purpose, for example, to having the windows clouded so

that there is no view to the outside, or for the lack of any recreational equipment in the exercise yard. Some of the conditions are also directly contrary to the UN Standard Minimum Rules for the Treatment of Prisoners (SMR), which require daily outdoor exercise and adequate access to fresh air through an opening window in areas where prisoners are required to live or work. Although prisoners in the SHU are allowed some possessions in their cells, including a radio or small TV, the opportunities for activity and for contact with others are severely limited. Studies have shown that prolonged isolation in conditions of reduced sensory stimulation can cause marked psychological and physical harm.⁹

Both the UN Human Rights Committee and the UN Special Rapporteur on Torture have expressed concern about conditions in other high security units which are similar to those in the VSPW SHU.¹⁰

Amnesty International found the security measures applied in the SHU to be extraordinarily high for the population confined there. They appear to follow statewide rules designed originally for high security units in maximum security prisons for men. All custody staff, for example, are required to wear special protective (stab-proof) jackets while escorting the prisoners or patrolling the unit. Amnesty International was told that the psychiatric and medical staff also voluntarily wear protective jackets if they need to talk to prisoners at their cell doors, even though the women are locked inside. Armed guards oversee the exercise yards and the control booth inside the unit. As noted above, the women are placed in mechanical restraints and strip searched every time they leave their cells; they are also strip searched again after returning from visits and the exercise yard.

Amnesty International considers that many aspects of the security procedures imposed go beyond what is appropriate or necessary, and some breach international standards on human dignity and privacy and are open to abuse. For example, the rules require that SHU inmates be "in full view" at all times and they are not allowed to cover their cell windows. As noted above, some prisoners have complained that male guards peer at them while they are on the toilet or undressing.¹¹ The siting of the toilet and washbasin at the front of the cell either side of the door makes such viewing particularly easy. Prisoners told Amnesty International that some women

⁹See, for example, *Madrid v Gomez* 889 F. Supp. 1146, N.D. Cal. 1995. UK prisoners held in conditions similar to those in US SHU units have suffered disorders including acute anxiety, weight loss, muscle wastage, memory loss and anaemia: see Amnesty International, *UK Special Security Units - Cruel, Inhuman and Degrading Treatment*, 1997 (AI Index:EUR 45/06/97).

¹⁰Human Rights Committee Comments of 6 April 1995, UN Doc. ICCPR/C/79Add.50, and UN Doc. E/CN.4/1996/35.

¹¹The delegates were told, however, that some guards allow inmates to cover the cell windows while they are bathing.

deliberately expose themselves to male guards for extra provisions and that several guards have encouraged this.

As noted elsewhere in this letter, the showers are in view of the custody staff and some women's bodies are exposed while they are taking showers.

The constant exposure and lack of privacy has reportedly contributed to severe stress in some cases; some prisoners said they found the frequent strip searches stressful and humiliating and, although they were conducted by female guards, male guards were often standing nearby. One woman said she had not taken exercise during four months in the SHU because she did not want to undergo the strip searches before and after each visit to the yard.

Length of SHU terms

Amnesty International is concerned at the length of time prisoners may be assigned to the SHU. At the time of its visit most prisoners were assigned to the SHU for disciplinary offences carrying determinate SHU terms. Many of the prisoners had received consecutive sentences for misconduct while in the unit, which considerably extended the time served in the SHU. According to the SHU roster, more than half the women in the SHU in November 1998 were serving SHU terms of a year or more, in one case for as long as 54 months. We were told that inmates could accumulate SHU terms up to a "maximum" release date, which is the date at which the inmate is due to be discharged from prison. Prisoners can also be assigned to the SHU for an indeterminate period, for general behavioural difficulties.

SHU terms are imposed through an internal hearing by the Institutional Classification Committee (ICC) and have to be approved by the departmental Classification Services Representative (CSR). They are reviewed every four months. Dr Casale expresses concern in her report about the sentencing of prisoners to such long terms of segregation through a non-judicial proceeding. This is contrary to practice in some other jurisdictions. Amnesty International agrees that this raises serious questions about the "due process" involved.

The authorities told Amnesty International that the SHU regime was necessary to protect both staff and inmates from the small percentage of highly assaultive and predatory inmates in the system. However, some prisoners appear to have received long SHU sentences for relatively minor disciplinary infractions. Although the SHU roster showed that a significant proportion of women were serving SHU terms for offences such as "battery" or assault" on an officer or inmate, these did not necessarily involve weapons and some included relatively minor acts. One inmate said she had received an 18 month consecutive SHU term for throwing a cup of cold water at (but not hitting) a staff member. Although Amnesty International did not have an opportunity to check the record in this case, it looked at some records which indicated that "battery" or "assault" could include "gassing" (ie throwing liquid such as urine or an unknown

substance), or spitting. One woman had received a 9 month consecutive SHU term for spitting at (and not hitting) a guard. Another inmate said she had received a consecutive SHU term for issuing a verbal threat toward a guard when she lost her temper. Inmates could also lose "good conduct credits" (thus extending their stay still further) for rule violations such as covering up their cell windows. Officials told Amnesty International that an inmate's stay on the unit could be extended if she "acts out" (misbehaves).

Concerns about mentally ill prisoners in the SHU

Amnesty International is further concerned that a significant proportion of women in the SHU suffer from emotional or mental health problems which may make it especially difficult for them to cope with the conditions imposed in Ad-Seg/SHU. Some have histories of sexual and physical abuse, depression, and attempted suicide. This is of particular concern, given evidence that SHU-type conditions are likely to exacerbate mental illness.¹²

Amnesty International was told that all prisoners undergo a mental health evaluation by the prison mental health staff before being sentenced to a SHU term. However, in practice it appears that only acutely ill prisoners qualify for exclusion, or removal, from the SHU. We were told that many of the women in the SHU are in the prison's "clinical case management system" (CCCMS) having already been diagnosed as having mental health problems. Treatment in such cases appears to be largely confined to the prescription of psychotropic drugs. We were told that other treatment, such as individual or group therapy, was generally unavailable due to lack of resources.

The prison psychiatrist told Amnesty International that any inmate suffering from a mental health crisis, such as psychotic decompensation, would be transferred to the Enhanced Out-Patient (EOP) unit in a neighbouring prison. However, Amnesty International is concerned about the adequacy of the monitoring of SHU inmates for mental health. Although we were told that CCCMS prisoners in the SHU are required to be seen daily by a licensed psychiatric technician, there was some uncertainty as to whether this occurs (see Dr Casale's report). It also appears that much of the monitoring consists of staff asking inmates through the cell door if they are OK, a procedure that seems inadequate as inmates who are mentally ill may not necessarily seek help or may be reluctant to speak out. Inmates who are not already classified as in need of monitoring rely primarily on either self-referrals or referrals by custody staff. This

¹²The federal district court in *Madrid v Gomez* ordered the removal from the Pelican Bay SHU of mentally ill inmates "who the record demonstrates are at a particularly high risk for suffering very serious or severe injury to their mental health ...". It defined such inmates as "the already mentally ill, as well as persons with borderline personality disorders, brain damage or mental retardation, impulse-ridden personalities, or a history of prior psychiatric problems or chronic depression."

appears to fall short of international and US professional correctional health care standards.¹³ According to inmates and their attorneys, many of the prisoners are reported to have deteriorated while on the unit, crying or shouting uncontrollably, banging their heads against the cell walls, or committing acts of self-mutilation.

meals in the SHU

Several prisoners reported that some inmates regularly missed meals because they did not wake up in time to receive their meal tray. Prison officials said that this was because they were not standing at their cell door with the light on when the trays were passed round, as required under the SHU rules and that the prisoners "know the rules". However, prisoners said that inmates who were asleep, or on psychotropic drugs, sometimes failed to hear the announcement and did not get to the door in time. They said that, even if a guard had only passed to the next cell, they would be too late to get their tray. One woman said "many a time" prisoners stand at their cell door just after the food trolley has passed and "plead for a tray but are refused". Another alleged that some inmates did not get some meals for weeks and that "they ask for food". Prisoners said it would help them to prepare for mealtimes if they were allowed to have watches or clocks in their cells.

Amnesty International urges the authorities to investigate these claims and to ensure that prisoners do not miss meals through no fault of their own, and are not withheld food as a punishment.

Recommendations

Amnesty International believes that the totality of the conditions in the Ad-Seg/SHU housing unit amount to cruel, inhuman or degrading treatment in violation of international standards; this conclusion is based on a combination of factors, including the physical conditions in the unit; the length of cellular confinement and reduced social or sensory stimulation; the paucity of the exercise facilities; the length of time inmates may be confined to the unit (in some cases for minor disciplinary infractions); and the fact that many of the inmates in the unit have a history of mental health problems. Amnesty International urges the authorities to:

¹³The National Commission on Correctional Health Care (NCCHC) standards require that inmates in administrative segregation should be evaluated by qualified health personnel at least three times a week, and prisoners in disciplinary segregation should be seen daily (Standards for Health Services in Prison, 1997, pages 45 and 53). Rule 32(3) of the UN SMR requires prisoners in close confinement to be visited daily by the medical officer to assess their physical and mental health.

-- undertake an urgent review of the custody arrangements and the criteria under which inmates are confined to SHU; the authorities should amend their policies to ensure that no prisoner is confined long-term in conditions such as those described above.

-- immediately improve conditions in the unit so that prisoners receive more out-of-cell time, improved exercise and occupational facilities and adequate access to fresh air.

-- review the security measures applied in the unit and ensure that they are conducted in a manner that does not violate standards requiring that prisoners be treated with respect for their privacy and human dignity.

-- Inmates who are mentally ill or at risk of mental illness should not be placed in the SHU. All prisoners in disciplinary or administrative segregation should have their physical and mental health regularly evaluated by qualified health personnel in accordance with professional health standards, and should receive adequate treatment.

Appendix 1

Letter from Amnesty International to the Director of the California Department of Corrections:

Ref.: AMR 51/31/99

Mr C.A. Terhune
Director
Department of Corrections
1515 S Street
PO Box 942883
Sacramento, CA 94283-0001
USA

2 March 1999

Dear Mr Terhune,

This letter encloses Amnesty International's findings and recommendations following its visit to Valley State Prison for Women (VSPW) in November 1998. I also enclose a

separate report by Dr Silvia Casale who formed part of Amnesty International's delegation as an independent expert adviser. Dr Casale has wide experience of the operation of prisons in the United Kingdom and in other countries in Europe and we trust you will find her comments to be constructive.

I should like once again to take this opportunity on behalf of Amnesty International to thank you and the warden and other senior officials at VSPW for the very high level of cooperation our delegates received during their visit to the prison. Prison staff at all levels were helpful in providing information and documentation requested. Our delegates had access to all parts of the prison and could talk freely to both staff and inmates. They were also grateful to be given facilities to interview a number of prisoners in private.

As you know, Amnesty International asked to visit the prison after receiving allegations of ill-treatment of prisoners, including sexual abuse and medical neglect. Our concerns were based on Amnesty International's mandate to promote the observance of international human rights treaties and standards in relation to prisoners, in particular those prohibiting torture or cruel, inhuman or degrading treatment or punishment. Our report focuses on the above issues and other treatment falling within Amnesty's mandate, including conditions in the Security Housing Unit and use of restraints. Many of the concerns we highlight arise from statewide policies which we believe do not take account of the specific needs and profile of the female inmate population. Dr Casale also draws attention to these concerns, as well as to broader operational issues, and provides examples from other jurisdictions.

It was not within the scope of Amnesty International's investigation to look comprehensively at the operation of VSPW. However, I would like to comment that Amnesty International was impressed by many aspects of the prison, in particular the quality of much of the physical plant and the programs and training available. However, as Dr Casale notes in her report, the increase in the number of incarcerated women in California has created enormous pressures affecting the standard of custody and care provided by the prison service. This is an issue which we believe should be a matter of serious concern for the legislature, state executive authorities and those responsible for seeking and providing funding.

As you will recall, Amnesty International's representative Angela Wright met with you and senior VSPW officials following the visit to the prison and gave some initial feedback on the delegates' observations. We were grateful for this opportunity and for the willingness expressed by yourself and senior management at VSPW to consider the findings and recommendations provided in the attached reports. We look forward to your response, in due course.

I am sending a similar letter and the attached reports to Acting Warden of VSPW Raymond L. Middleton, with a copy to Attorney General Bill Lockyer.

Yours sincerely,

Javier Zúñiga
Program Director
Americas Regional Program