

## **EXTERNAL**

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### **USA (New York State) Amnesty International calls for restriction of the role of male guards in female facilities**

Reports of sexual abuse and intimidation of female prisoners by male guards in New York jails and prisons point to the pressing need to restrict the role of male guards in female facilities.

Amnesty International has received information on recent cases of alleged sexual misconduct in women's correctional facilities which appear to be part of a wider problem of sexual abuse by male guards in New York. The state has taken many steps to prevent sexual abuse and to improve investigation of sexual misconduct complaints in its prisons, including improving training and supervision of staff. It has also introduced state-wide legislation in 1996 criminalizing all forms of sexual contact between staff and inmates in both prisons and local jails.<sup>1</sup> According to the Department of Correctional Services, a dozen state prison guards have been charged in connection with sexual offences since 1999 under the law. Despite these positive steps, however, rape and sexual abuse continue to be reported.

Amnesty International believes that the continuing problem of sexual abuse is fuelled by factors such as allowing unsupervised access of male staff to female facilities; insufficient disciplinary action against guards who engage in sexual misconduct; women prisoners not reporting sexual abuse from fear of retaliation; and allowing practices which are inherently cruel and degrading or are open to abuse, such as male staff conducting pat down searches of clothed women prisoners. Moreover, New York state is reported to have among the lowest proportion of women correctional officers in prisons in the USA -- at eight per cent. While the state has taken steps to improve sexual abuse in the state prison system, there is far less oversight in local and municipal jails.

· In July 2000, a guard at a woman's jail in Rikers Island in New York City was charged with the rape of a 34-year-old inmate. The guard supervised inmates who worked in the mess hall and kitchen of the Rose M. Singer Centre, which houses women. The inmate worked in the mess hall.

Local sources have told Amnesty International that sex between male guards and female prisoners at jails in Rikers Island occurs frequently, but that such accusations by female prisoners often go unreported: they usually end in the transfer of the male guard from that facility or other non-punitive measures. Furthermore, for many female prisoners, having sexual relations with a male officer is a means of not losing or even gaining privileges.

· In April 2000 a guard at Albion Correctional Facility, a state prison, was charged with third-degree rape and official misconduct. This resulted from a three-month sexual relationship with a female prisoner. According to information submitted to the court from the victim's attorney, during the three-month period, the guard was alleged to have attempted to rape the female prisoner and to sodomize her and commit acts of sexual abuse. The guard pleaded guilty to official misconduct as the sex was seen as "consensual".

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<sup>1</sup>The state prison system houses convicted prisoners serving sentences under state law; local and municipal jails house pre-trial detainees and short-term inmates.

Amnesty International believes that while the female prisoner had reportedly admitted that the relationship was consensual, sexual relations between an officer and an inmate cannot be consensual, because by law such an act constitutes statutory rape. Advocates of the 1996 bill argued that even if consensual, sexual contact is a crime because the inmate's subservient position behind bars makes consent impossible.

Amnesty International has also received information on the following cases:

- In September 1999, a prison guard was convicted of sexually abusing an 18-year old female inmate at Albion Correctional Facility. The guard had been charged with felony sodomy for allegedly forcing the female prisoner to perform oral sex in a staff bathroom, but was acquitted on this more serious charge despite DNA evidence. According to media reports, the prisoner testified that she spat the guard's semen into a lipstick tube and hid it in a locker after the assault; a forensic scientist testified that there was a "one-in-54 quadrillion chance" that the semen was not the guard's.
- In January 2000, it was reported that a Broome County Jail guard will get a conditional discharge and a \$1,000 fine under a plea agreement following charges that he had sex with two female inmates while on duty.
- In March 2000, Westchester County initiated a policy banning male correction officers from the 10 posts inside the living quarters of the female prisoners. This was in response to the January 2000 accusations made by female inmates that four correction officers were guilty of sex crimes including rape, sodomy and stripping on demand. The policy change was upheld by a county court despite a non-binding ruling by the federal Equal Employment Opportunity Commission in July that Westchester County effectively discriminated against male guards in banning them from women's quarters. An appeal by the Correctional Officers Benovolent Association is pending.

Amnesty International believes that allegations of sexual abuse of women prisoners in the USA nearly always involve male staff who, contrary to international standards, are allowed unsupervised access to female jail and prison inmates. Rule 53 of the UN Standard Minimum Rules provides that no male member of staff shall enter part of the institution set aside for women unless accompanied by a woman officer and that "*Women prisoners shall be attended and supervised only by women officers*".

In addition to rape, a form of torture under international law, Amnesty International maintains that there are practices which are inherently cruel and degrading or are open to abuse, but which are still allowed in New York. This includes allowing male staff to conduct pat down searches of clothed women prisoners for contraband and allowing male staff to patrol areas where women have an expectation of privacy, such as shower rooms and sleeping areas. And while male officers are not allowed to strip-search female inmates, local organizations report that in emergency situations where no female guards are available, such searches are permitted.

Reverend Annie Bovian, Director of Women Advocate Ministry in Courts and Jail in New York, told Amnesty International that "*as long as you have male correction officers in a female facility, you are going to get some officers who are going to take advantage of the situation*". She insists that the only means for eliminating the situation is not to allow male officers in close proximity with the female inmates.

Amnesty International is calling on the Department of Corrections to ensure female prisoners are supervised only by female staff as required under international standards, and that preventive measures are in place so that women are not afraid to report abuses through fear of reprisals. The organization is also urging the authorities to ensure that all employees are aware of state law criminalizing sexual relationships between male guards and female inmates and that any allegations involving a possible violation of the law be investigated thoroughly with those

responsible brought to justice. The authorities should also take concrete steps to prevent sexual abuse and to improve the investigation of sexual misconduct complaints.

Amnesty International is also asking to be informed of the outcome of any investigation carried out into the allegations reported.

## **Background**

Men form a very large proportion of the staff in women's facilities in the USA. A 1997 survey of prisons in 40 states found that on average 59 per cent of the correctional officers working with female inmates are women.<sup>2</sup> According to the Women in Prison Project of the Correctional Association of New York (a state monitoring body) New York state has among the lowest proportion of women correctional officers in prisons in the USA at only 8 per cent. This is compounded by the fact that most female officers do not want to be limited to women's facilities. The Women in Prison Project argues that the state should offer incentives and benefits to encourage female staff to work in women's facilities.

New York is also one of six states which routinely permits male officers to pat frisk female inmates<sup>3</sup>. In 1998 six women inmates filed a lawsuit challenging routine body searches by male correctional officers in New York State Prisons. The law suit contends that "pat frisks" -- highly intrusive clothed body searches performed by male officer searching for small items of contraband -- was a "form of legalized sexual molestation". Most of the plaintiffs said that officers sometimes groped them in the procedure but that they were too scared to complain for fear of retaliation. The lawsuit argued that the pat frisks, when performed by male officers, inflict particularly severe trauma on many women who have been victims of physical and sexual abuse.<sup>4</sup> The women sought to have only female correction officers conduct routine pat frisks, as is the case in most parts of the country. The case is still in litigation.

Legislation is currently being considered which would prohibit male correctional officers from pat-frisking female inmates except when an officer has probable cause to believe that a pat-frisk is necessary to protect the immediate safety of other inmates or prison employees or to prevent escape.

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For further information, please see Amnesty International's report: *USA: "Not part of my sentence", Violations of the human rights of women in custody*, March 1999.

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<sup>2</sup>Female Offenders: As their numbers grow, so does the need for Gender-Specific Programming", *Corrections Compendium*, March 1998

<sup>3</sup>The other states are Connecticut, Kansas, Michigan, New Hampshire and Pennsylvania. Telephone survey by NIC Prisons Division and Information Centre, 1 January 1999.

<sup>4</sup>Canadian researchers Jan Heney and Connie Kristiansen argue that the powerlessness that most women feel as a result of their previous abuse and exploitation is further exacerbated by procedures such as body searches and pat-down by male officers. It is suggested that female officers be responsible for the more personal searches and that male officers be especially sensitive to duties that involve contact with women. (*"The victimization and Re-Victimization of female offenders..."*, The American Correctional Association, 1999)