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The Governor of Mendoza Province,
Mr. Julio César Cleto Cobos
Casa de Gobierno
Av. L. Peltier 351- 4to piso
5500 Mendoza
Argentina

London, 4 August 2005

Dear Governor,

I would like to thank you for the attention and assistance given to our representative to the United Nations in New York, Mr. Renzo Pomi, and our Researcher on Argentina at the International Secretariat, Ms. Virginia Shoppée, both members of the Amnesty International delegation that visited Mendoza last May. We greatly appreciated the information you and your cabinet members provided to our delegates with regard to our organization's serious concerns about the human rights situation in the province, presented for your consideration. We would also like to thank you for the authorisation given to our delegates to visit prisons, including the "Boulogne Sur Mer" Provincial Prison in Mendoza.

As you will know through the various communications Amnesty International has sent you, Mr. Governor, the prison situation and complaints of ill-treatment and cruel, inhuman or degrading treatment of detainees, along with the deaths of detainees in the prisons of Mendoza Province, have been a cause of serious concern for Amnesty International. Recent complaints of further human rights violations in the Provincial Prison lead us to present our concerns to you and request information on measures being taken in response to this ongoing and worrying situation.

In a complaint made to the Unit 1 District Attorney in Mendoza last July, human rights lawyers denounced situations such as that of Ricardo David Videla Fernández, one of the teenagers serving a life sentence in maximum security block no. 2 alongside adult detainees. On 22 June, Ricardo David Videla Fernández was found hanged in his cell by a belt. The complaint made to the District Attorney highlights the conditions in block 2, which was visited by the Amnesty International delegation. There is a high level of overcrowding, with three by three cells being shared by more than four people, a lack of lighting, toilets and mattresses, meaning that prisoners are sleeping on the floor. They have to use buckets and bottles to relieve themselves and may be shut in their cells for more than 20 hours a day. During a visit by members of the Local Committee for Prison Policy Monitoring (*Comisión Local de Seguimiento de Políticas Penitenciarias*) on 13 June, it was noted that Ricardo David Videla Fernández was being held in block 2 under the inhuman and degrading conditions that detainees in this block suffer and where, in addition, visits are restricted. Information was, moreover, obtained that groups of hooded prison guards were continuing in activity.

The Local Committee's report, whose main observations are included in the complaint to the District Attorney, indicates a lack of medical care, including with regard to prisoners requiring colostomy bags following surgery; the beating of prisoners, particularly during searches; deplorable hygiene

conditions; communal block showers and toilets in disrepair; the appalling quality of food; a lack of rehabilitation activities for prisoners and complaints of arbitrary punishments imposed by the guards.

The widespread knowledge of this alarming situation, which is in breach of the international agreements signed by the Argentine state, has been extensively covered in press reports as well as in the Ruling, File 8051/Gv, of the Judge for Criminal Matters (*Juez de Ejecución Penal*), Dr. Eduardo Félix Mathus, dated 14 July 2005. In this ruling, the judge called for all violations of prisoners' human rights to be corrected. His ruling included: "*To forthwith provide the minimum hygiene conditions necessary in the blocks of Boulogne Sur Mer (Unit 1) Provincial Prison, with the aim of eliminating the state of indignity, inhumanity and degradation suffered by those detained there*", and "*To provide, within a ten-day period and on the part of whomsoever is responsible, appropriate mattresses and bed linen necessary to the dignified accommodation of those detained in Boulogne Sur Mer (Unit 1) Provincial Prison*". Alongside this, the Judge ruled on access to drinking water and hot water; repair of electrical facilities; disinfection and cleaning of the establishment and an extension of the recreation hours, among other things.

Amnesty International is seriously concerned at the two riots that took place in the Provincial Prison during July, in which according to our information the prisoners took one prison guard hostage on each occasion. Amnesty International would like to draw the provincial authorities' attention to the December 2003 report of the UN Working Group on Arbitrary Detention in which, following a mission to Argentina from 22 September to 2 October 2003 to visit prisons, including those in Mendoza Province, the Group concluded that, "*[T]hese bad conditions, which go back a long way, may restrict and in fact are restricting the right to adequate defence in court of those deprived of their freedom. Although the Group is aware that the safety of its citizens is a major concern for the country, a lack of care and attention to the rights of detainees does not constitute an effective way of fighting this problem. Quite the opposite, it makes it worse.*"

Amnesty International notes with interest the press information from the Province listing the demands of prisoners, most of which reflect the ruling of the Judge for Criminal Matters, Dr. Eduardo Félix Mathus, and the request to the authorities, this August, by the families of those detained in the Provincial Prison, who called for real solutions to the prison situation and who denounced the actions of members of the prison service.

Amnesty International deeply regrets the fact that, despite the above recommendations of a provincial judge and the UN working group, in addition to the ruling of the OAS Inter-American Court of Human Rights dated 18 June 2005, the cruel, inhuman and degrading situation of prisoners in the Provincial Prison has shown no improvement.

It is particularly alarming that, following the visit of a delegation from the Inter-American Commission of Human Rights in December 2004, the Amnesty International delegation five months later was able to observe situations of detention that uphold the new complaints made by the Mendoza human rights lawyers' group, Drs. Carlos Varela, Diego Lavado, Alfredo Guevara, Alfredo Guevara Escayola and Pablo Salinas, mentioned above. This new complaint increases Amnesty International's concern because it would seem to offer confirmation that the immediate improvements that were required with regard to the situation observed by our delegates three months ago have not been made.

During their visit to the Provincial Prison, the Amnesty International delegates noted a high level of overcrowding, the incarceration of four people per cell with no mattresses or blankets, a lack of acceptable sanitary conditions and the alarming state of prisoners, including the extent of the desperation of one prisoner in Block 3 who had sewn his mouth up. The Prison Governor at the time, Mr. Sergio Miranda, the Undersecretary of Justice within the Ministry of Justice and Security, Dr. Alejandro Acosta, and the Director of the Prison Service, Ms. Maria Angélica Elorza, were immediately informed of these concerns verbally.

Article 18 of the Argentine Constitution, which is legally binding, establishes that, “*The nation’s prisons shall be clean and healthy, for the safety and not the punishment of prisoners detained in them [...]*”. Another obligation of the Argentine state, and one that applies to the whole nation, is that of compliance with the *United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment*, the *UN Minimum Rules for the Treatment of Prisoners* and the *UN Principles for the Protection of All Persons under any form of Detention or Imprisonment*. Amnesty International would like to know what measures are being taken to resolve this situation and to bring Mendoza Prison into line with the above Convention, Rules and Principles.

Amnesty International regrets that, despite our appreciation of the assistance our delegation was offered by your administration so that it could accomplish its tasks, we can see no progress or improvement in the described situations, which we had understood were being seriously considered by your administration in terms of a rapid solution that would fulfil the minimum requirements of the UN conventions.

We would like to thank you, Mr. Governor, for your attention to these serious complaints and for any information you can provide us on the steps being taken to comply with the relevant international agreements and on the investigations that must have been opened into the death of Ricardo David Videla Fernández.

We are sending a copy of this letter to the Undersecretary for Justice within the Ministry of Justice and Security, Dr. Alejandro Acosta, to the Director of the Prison Service, Mrs. Maria Angélica Elorza, to the national Ministers of the Interior and Foreign Affairs and to the Secretary for Human Rights. We would like inform you that the text of this letter will be made public.

Yours sincerely,

Tim Cahill
Acting Deputy Director
America Regional Program