

EXTERNAL

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Californian Prisons: Failure to protect prisoners from abuse Amnesty International's continuing concerns

January 1997: Guards at Calipatria State Prison allegedly incited a white supremacist inmate gang to beat up two openly gay prisoners -- Eugene McCann and Jeffery McKilligan -- according to a lawsuit filed in April 2000.

April 2000: The trial opened in the case of eight guards indicted on federal charges of having incited violence by staging "gladiator style" fights among prisoners in Corcoran Prison's High Security Unit between 1988 and 1994 -- incidents during which guards shot dozens of unarmed prisoners, seven fatally.

These cases are two of a whole series of incidents in Californian prisons during the past decade, in which guards have been accused of failing to protect prisoners or deliberately setting them up for attack. Amnesty International is concerned that the prison authorities failed to enforce policies, procedures and laws which could have prevented these brutal acts. Although there have been some recent changes in policy, the organization remains concerned that the authorities may not be doing enough to prevent similar abuses from taking place.

The cases of concern include the following:

- In January 1997 guards at Calipatria State Prison allegedly incited a white supremacist inmate gang to beat up two openly gay prisoners -- Eugene McCann and Jeffery McKilligan -- which came to light in a lawsuit filed in April 2000. The lawsuit alleges that prison officials subsequently conspired to cover up the guards' role in the attack.

Prison guards are accused of having intentionally opened McCann and Mckilligan's cell so that a group of prisoners belonging to a white supremacist gang could attack them. On 24 January Mckilligan was stabbed; two days later both McCann and Mckilligan were attacked and severely beaten by the gang. The victims maintained that the guards knew in advance that the attack would happen and were motivated by a hatred of gays.

Amnesty International believes that these attacks are part of an institutional pattern of abuse in the Californian prison system that deny prisoners' rights to be free from torture and other cruel, inhuman or degrading treatment or punishment. Such treatment is contrary to international standards regarding the treatment of prisoners, including the International Covenant on Civil and Political Rights and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, both of which have been ratified by the US Government.

- In August 1999, Amnesty International wrote to the Californian Department of Corrections

about guards' failure to protect a gay prisoner who in July 1999 was strangled to death by another inmate known to be dangerous, after he was left alone with him for over an hour in the exercise yard of the Corcoran Security Housing Unit (SHU).

Anthony G. Delgado strangled fellow inmate Kevin Mahoney after being placed alone with him in an exercise yard inside the SHU. It is believed that Kevin Mahoney's homosexuality left him particularly vulnerable as a target for inmate assault. The guard in question was reported never to have manned the exercise yard before and, instead of supervising the whole yard, to have concentrated on supervising another group of inmates in an adjacent yard.

Amnesty International urged the Department of Corrections to ensure that the inquiry into the death of Kevin Mahoney include a thorough review of policy and practice related to a series of incidents, and that the findings of the inquiry, and of other related investigations, be made public.

In April 2000 the trial opened in the case of eight guards indicted on federal civil rights charges for having incited violence by staging "gladiator style" fights among prisoners in Corcoran Prison's High Security Unit between 1988 and 1994. The prison guards allegedly conspired to brutalize prisoners by setting up fights between rival gang members for "blood sport", and then shooting when fistfights broke out. Two prison guards who eventually became "whistle blowers" exposed a system that allowed use of deadly force to quell inmate fights and resulted in 31 inmate shootings between 1989 and 1995, seven of them fatal. However, the guards who reported the abuse were subsequently threatened, ostracised and forced to resign.

Four of the guards on trial face possible life sentences for civil rights abuses including the fatal shooting of inmate, Preston Tate, during one of the 1994 brawls, moments after a guard allegedly said: "*It's going to be duck hunting season*". The four other officers could receive a 10-year sentence over another 1994 fight. The guards were indicted in 1998 after years of internal investigations and legislative hearings produced no charges. State legislative hearings in 1998 criticized the Department of Corrections for failing to investigate or prevent abuses in prisons and for inadequate discipline and oversight.

Another disturbing case is the rape of prisoner Eddie Dillard by another inmate in Corcoran Prison in March 1993. Evidence was later uncovered suggesting that guards had deliberately set him up to be attacked by leaving him in the cell of a known sexual predator over a two-day period to punish him for kicking a female guard at another prison. However, a state criminal investigation into the allegations was abandoned in 1997 when prison guards refused to testify against their colleagues. Amnesty International wrote to the authorities to express concern at the dropping of the inquiry based on the "code of silence" among officers, especially as there appeared to be other evidence to support the victim's allegations.

The case was later reopened and four guards were eventually charged. However, both denied the allegations and they were acquitted by a jury at their trial in November 1999. The guards had been represented by their union and

the California Correctional Peace Officers Association who also waged a media campaign to support them throughout the trial. This case again illustrates the difficulties involved in bringing guards to justice for abuses in the California prison system.

The Californian Department of Corrections has been forced to change some of its procedures in recent years following mounting concern about the scale of abuses and cover-ups in the prison system. It has introduced several changes to its shooting policy and guards are now prohibited from shooting prisoners to break up fights. This has led to a drop in shootings since 1995 (prior to this more prisoners in California were shot by guards than the rest of the country put together). Other measures introduced include tightening use-of-force regulations -- four different bills were passed to improve training, clarify when use of lethal force is necessary and help guards use better judgement.

In a positive move in late 1998 the California Department of Corrections established both a centralized Office of Internal Affairs and an Office of Inspector General to investigate serious complaints of abuses in prisons across the state, rather than, as previously, leaving all internal investigations to the individual prisons. The Inspector General has a much broader role as well as more independence than the Office of Internal Affairs as he reports directly to the governor and has the power to make independent investigations and recommendations. *However, it is unclear what proportion of cases are investigated by either body or even how effective this step has been.* Amnesty International remains concerned that not enough is being done to protect prisoners from guards who incite attacks on prisoners by other inmates.

On 23 February 2000 it was reported that a riot broke out among 260 prisoners of known rival factions in the B yard at Pelican Bay State Prison. Guards shot 13 inmates, killing one, while apparently trying to stop this riot. Federal authorities charged two ex-Pelican Bay guards with arranging violent attacks on inmates; these indictments came only nine days after the conviction of another former Pelican Bay guard in a 1994 shooting. Amnesty International believes these shootings raise serious questions about the failure of the authorities in insuring a safe environment for prison and staff, about the use of lethal force on prisoners and the practice of placing prisoners from rival factions in the same yard together.

Amnesty International is once again asking the Californian authorities what measures have been put in place to ensure the protection of inmates from abuse, to ensure that correctional officers are under a duty to report abuse of prisoners by fellow officers and urging that any prison officer found to have been involved in abuse is removed from the prison system.

The human rights organization is also reiterating its call to the authorities to develop, implement and rigorously enforce standards for correctional facilities that are consistent with international human rights standards for the treatment of prisoners, and which forbid torture and cruel, inhuman or degrading treatment. The authorities should consider the adequacy of training and supervision given to wardens and guards in the Security Housing Units, including inmate classification and the manning of exercise yards.

Amnesty International is urging the authorities to take all measures to ensure that violence perpetrated by staff or inmates does not take place in correctional facilities, that alleged incidents be independently investigated and that those responsible be brought to justice.

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