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# amnesty international

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UNITED STATES OF AMERICA



AMNESTY INTERNATIONAL'S  
RECOMMENDATIONS TO  
THE UNITED STATES GOVERNMENT  
TO ADDRESS  
HUMAN RIGHTS VIOLATIONS IN THE USA

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# AMNESTY INTERNATIONAL'S RECOMMENDATIONS TO THE UNITED STATES GOVERNMENT TO ADDRESS HUMAN RIGHTS VIOLATIONS IN THE USA

## *Recommendations to address human rights violations committed by police*

Federal and state authorities should take immediate action to halt human rights violations by police officers. They should make clear that abuses including torture, brutality and other excessive force by police officers will not be tolerated; that officers will be held accountable for their actions; and that those responsible for abuses will be brought to justice. Victims of abuse by police officers should be guaranteed effective and timely reparation. International human rights standards should be fully incorporated into police codes of conduct and training.

1. The administration should seek, and Congress should provide, adequate funding to enable the Justice Department to fulfill its mandate under the Police Accountability Act provisions of the Violent Crime Control and Law Enforcement Act of 1994. The Special Litigation Section should be enabled to fulfill its task of pursuing "pattern and practice" lawsuits against police agencies nationwide which commit human rights abuses. The Justice Department should compile and regularly publish detailed national data on police use of force (including all police fatal shootings and deaths in custody), with analysis of patterns of conduct and policy recommendations.
2. The federal government should increase its use of Title VI of the Civil Rights Act of 1964 to seek to eliminate racially discriminatory treatment by law enforcement agencies. Funding should be contingent upon agencies which engage in discriminatory practices taking effective steps to eliminate them.
3. All human rights violations and other police misconduct should be fully and impartially investigated, in line with best practice for such investigations. All officers responsible for abuses should be adequately disciplined, and, where appropriate, prosecuted.
4. There should be greater transparency in the investigation of complaints of human rights violations. Complainants should be kept informed of the

progress of these investigations. The outcome of all criminal, disciplinary and administrative investigations into alleged violations, and into all disputed shootings and deaths in police custody, should be made public promptly after the completion of the investigation.

5. Police departments should provide information on the internal disciplinary process by publishing regular statistical data on the type and number of complaints and disciplinary action. They should also publish regular statistics on the number of people shot and killed or injured by police officers and other deaths in custody.
6. State and county authorities should be required to forward information on lawsuits alleging police misconduct to the police department and to relevant oversight bodies. They should regularly make public information on the number of lawsuits filed, and judgments and settlements.
7. Police departments should ensure that their policies on the use of force conform to international standards. All police departments should ban batons and choke holds.
8. The federal authorities should establish an independent review of the use of OC (pepper spray) by law enforcement agencies. Police departments which continue to authorize the spray should introduce strict guidelines and limitations on its use, with clear monitoring procedures.
9. Law enforcement and correctional agencies should suspend the use of electro-shock weapons such as stun guns and tasers pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of this equipment.
10. Federal, state and local authorities, including police departments, should ensure that training programs include: international standards on human rights, particularly the prohibition on torture and ill-treatment; how to deal with situations which have often led to excessive force, including pursuing a new way to cope with disturbed individuals; gender issues; and sensitivity to minority groups.
11. Police departments should establish early warning systems to identify officers involved in human rights violations. They should establish clear reporting systems and keep detailed records of every officer's conduct. They should conduct regular audits of these records in order to identify, and take remedial action in respect of, any patterns of abuse, including racial bias or other discriminatory treatment. These audits should be open to inspection or view by independent oversight bodies.

12. Police departments should issue clear guidelines requiring officers to report abuses, and officers with chain-of-command control should be held responsible for enforcing those guidelines and strictly enforcing penalties for failing to report, or covering up, abuses.

13. State and federal authorities should establish independent and effective oversight bodies for their respective police agencies. In order to be effective, these bodies should:

- have the authority to investigate or review complaints of human rights violations by the public against the police;

- be able to conduct regular audits of the police internal complaints and disciplinary process and, where necessary, conduct their own investigations;

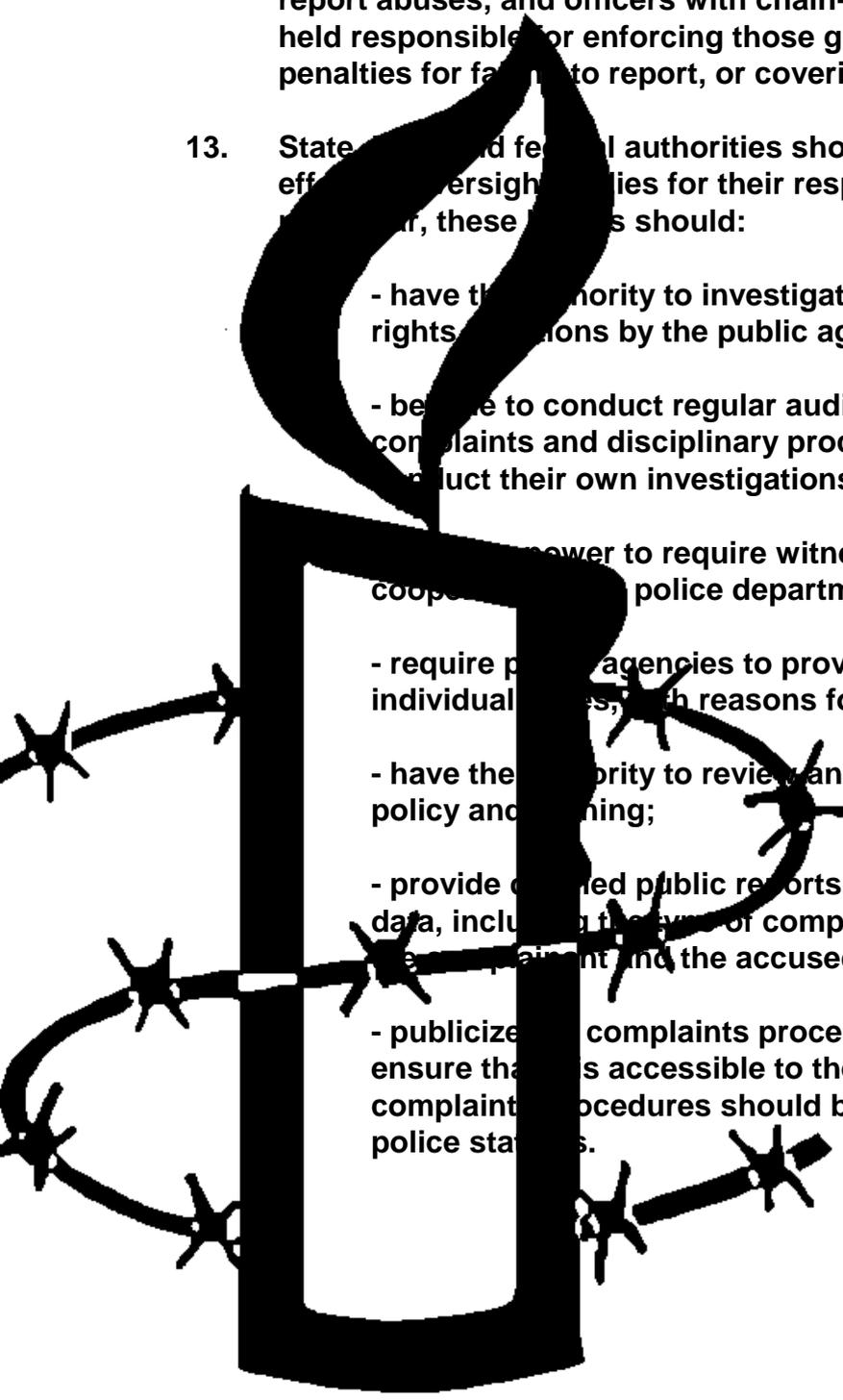
- have the power to require witnesses to appear and to insist on cooperation from police departments and individual officers;

- require police agencies to provide information on action taken in individual cases, with reasons for inaction;

- have the authority to review and make recommendations on policy and training;

- provide detailed public reports, at least annually, giving relevant data, including the type of complaint and the race and gender of the complainant and the accused officer.

- publicize the complaints procedure within the community and ensure that it is accessible to the public; information about complaint procedures should be prominently displayed in all police stations.



## ***Recommendations on the treatment of inmates in Prisons and Jails***

Federal, state and local authorities should develop, implement and rigorously enforce standards for correctional facilities that are consistent with international human rights standards forbidding torture and ill-treatment.

1. The authorities should make clear that brutality and excessive force will not be tolerated and should establish independent bodies to investigate allegations of abuse thoroughly and impartially. Officials responsible for cover-ups -- including failure to report misconduct -- should be disciplined and, where appropriate, prosecuted.
2. The authorities should take all measures to make sure that sexual abuse of inmates, including rape, does not take place in correctional facilities. All alleged incidents should be independently investigated and those responsible brought to justice.
3. Federal, state and local authorities should ensure that adequate medical care is provided wherever necessary, free of charge. Health care and treatment should conform with professionally recognized standards. Medical personnel who have grounds for suspecting that torture or ill-treatment have taken place should be required to report cases to independent authorities.
4. Measures to prevent and punish torture and ill-treatment, including rape and other sexual abuse, of women should include an explicit prohibition of sexual abuse by staff; informing staff and inmates of inmates' rights and that offenders will be subject to punishment; restricting the role of inmates with regard to female inmates in line with Rule 53 of the Standard Minimum Rules for the Treatment of Prisoners; investigating all complaints in line with best practice for the investigation of sexual assault; protecting women who make complaints from retaliation; and providing appropriate redress and care to victims of abuse. The routine use of restraints on pregnant women should be prohibited, and women should never be restrained during labour; restraints should only be used on pregnant women as a last resort and should never put the safety of a woman or the foetus at risk. Health care for female inmates should meet recognized community standards and should recognize the needs of women.
5. Children in prisons and jails should be completely separated from adults, unless it is considered in the child's best interests not to do so.
6. The authorities in charge of supermax units should amend their policies to ensure that no prisoner is confined long-term or indefinitely in conditions of isolation and reduced sensory stimulation. The authorities

should improve conditions in such units so that prisoners have more out-of-cell time; better access to fresh air and natural light; improved exercise facilities; increased association, where possible, with other inmates and access to work, training or vocational programs; and are not housed in windowless cells. The mentally ill or those at risk of mental illness should be removed from supermax units. The authorities should establish clear criteria for and regular review of placement in supermax units.

7. The authorities should ban the use of remote control electro-shock belts by law enforcement and correctional agencies. Law enforcement and correctional agencies should suspend the use of other electro-shock weapons pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of the equipment.

8. The relevant authorities should establish an independent review of the use of OC (pepper) spray by law enforcement and correctional agencies. Those who continue to authorize the spray should introduce strict guidelines and conditions on its use, with clear monitoring procedures.

9. Four-point restraints should only be used when strictly necessary as an emergency short-term measure to prevent damage or injury, and in accordance with international and US professional medical standards. The federal authorities should institute an urgent national inquiry into the use of restraint chairs in prisons and jails.

10. Federal and state authorities should establish and fund agencies completely independent of correctional authorities to monitor conditions in prisons and jails, with powers to take action to remedy problems.

11. The federal government and Congress should use their legislative, financial and other powers to encourage, and if necessary require, recalcitrant states to comply fully with international standards for the protection of the rights of people in prisons and jails.

12. The federal government should review the impact of legislation which restricts inmates' access to courts, including the Prison Litigation Reform Act. Congress to amend provisions that have unduly restricted inmates' ability to use the courts to end ill-treatment. The federal government and Congress should provide the necessary additional funds to allow the Justice Department to fulfill its mandate under the Civil Rights of Institutionalized Persons Act of 1980 to investigate conditions in correctional facilities and to take action when necessary.



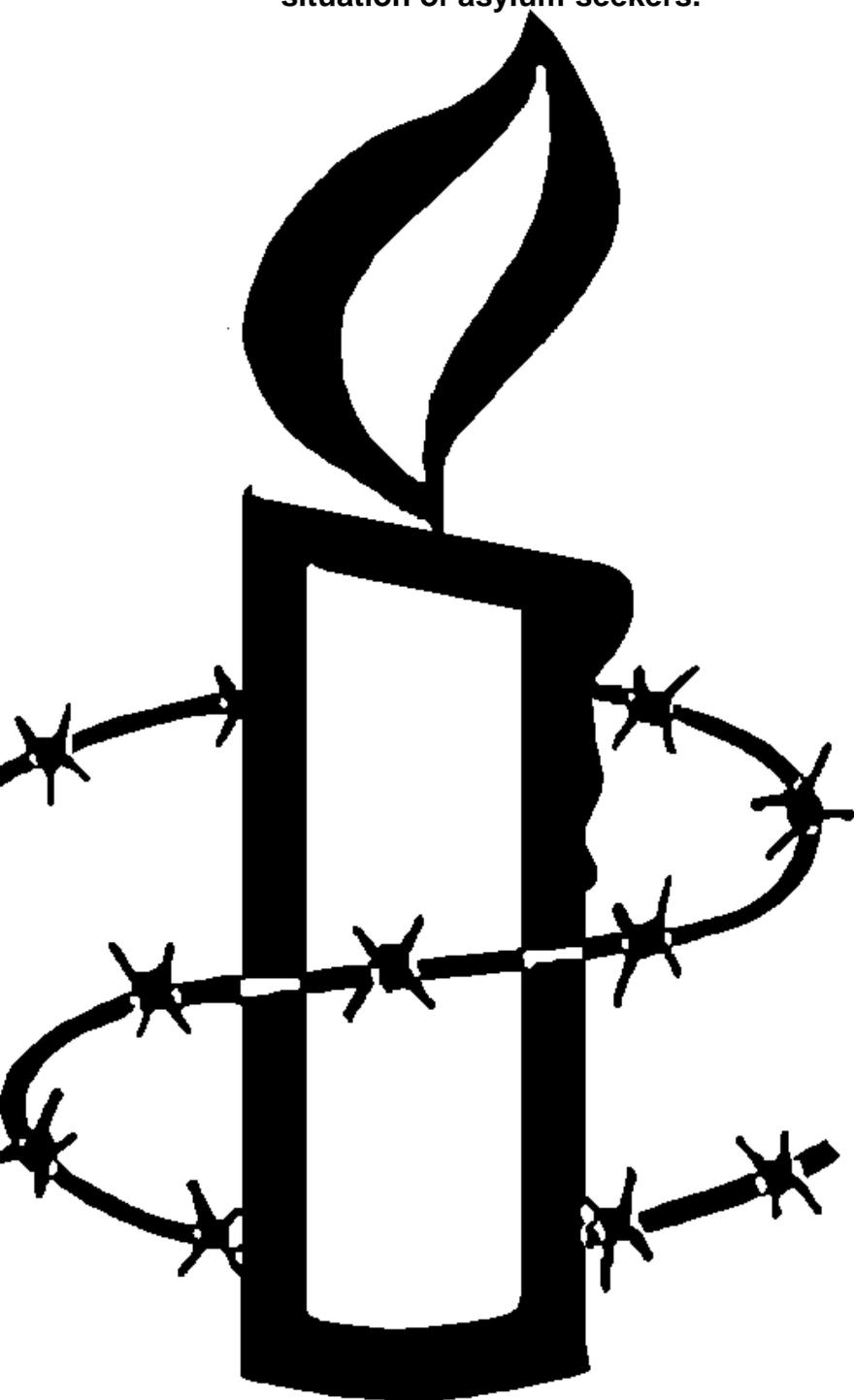
## ***Recommendations regarding the Treatment of Asylum-Seekers***

International standards guarantee everyone the right to seek and to enjoy asylum from persecution and provide that no one should be returned to a country where they would be at risk of human rights violations. They require that the detention of asylum-seekers should normally be avoided. If detention is necessary, it should be demonstrated by means of a prompt, fair individual hearing before a judicial or similar authority whose status and tenure provide the strongest possible guarantees of competence, impartiality and independence. The decision to detain should be reviewed regularly by an independent body. Asylum-seekers should be advised of the reasons for their detention, of their rights and release options, and of access to assistance.

In line with these minimum international standards, Amnesty International believes that the US authorities should institute systems to differentiate between asylum-seekers and other migrants, and should treat them in line with international standards for the protection of refugees, whether they are in private or public facilities. In particular:

1. The practice of holding asylum-seekers in jails should be ended. If detention is necessary and justified, asylum-seekers should be detained in facilities appropriate to their circumstances, in line with international standards.
2. Asylum-seekers should be allowed adequate access to counsel and others who could provide assistance at all stages of the asylum procedure. NGOs should be given ready access to any facility where asylum-seekers are detained.
3. Children seeking asylum should be detained only as a last resort and in facilities appropriate to their status as children. They should not be separated from their families. Guardianship arrangements should be made to protect their interests.
4. Asylum-seekers who have demonstrated a "credible fear" of persecution should be released unless there are exceptional and compelling reasons to keep them in detention. An INS appeal against a decision to grant asylum may never be used to justify continued detention. A procedure for examining the validity of detention (the so-called "pre-screening process") should be stipulated in binding regulations and should require any detention of asylum-seekers to be justified in line with international standards.
5. The INS, as the body responsible for protecting the rights of asylum-seekers, should be publicly accountable for its fulfilment of this obligation. Conditions of detention for asylum-seekers -- regardless of

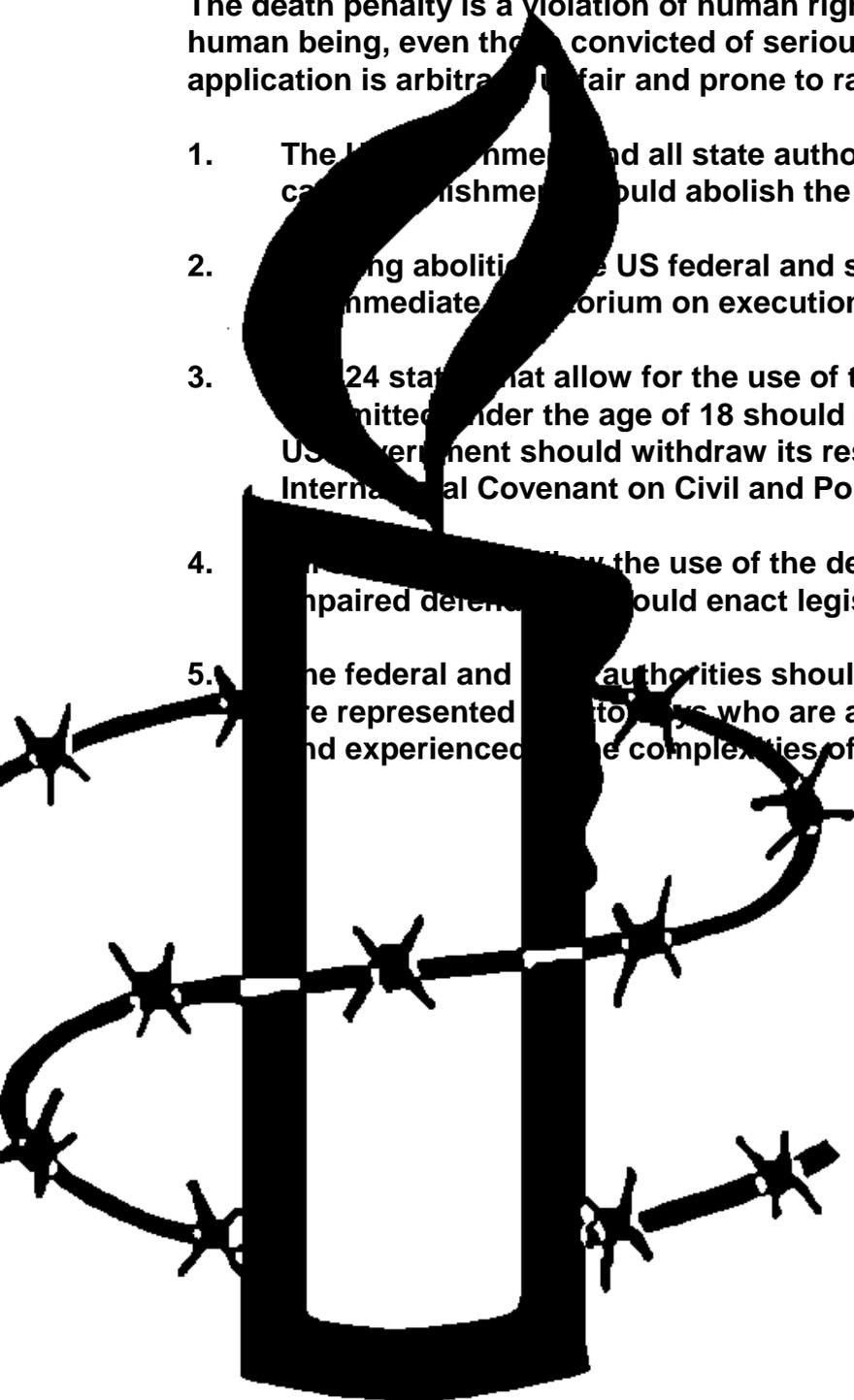
**the type of facility in which they are held -- should be monitored by an independent and impartial body, using standards appropriate to the situation of asylum-seekers.**



## ***Recommendations on the Death Penalty***

The death penalty is a violation of human rights, rights that belong to every human being, even those convicted of serious crimes. In the USA its application is arbitrary, unfair and prone to racial bias.

1. The US Government and all state authorities whose laws provide for capital punishment should abolish the death penalty for all crimes.
2. Pending abolition the US federal and state governments should impose an immediate moratorium on executions.
3. The 24 states that allow for the use of the death penalty for crimes committed under the age of 18 should raise the minimum age to 18. The US Government should withdraw its reservation to Article 6(5) of the International Covenant on Civil and Political Rights.
4. Pending abolition the use of the death penalty against mentally impaired defendants should enact legislation to prevent this practice.
5. The federal and state authorities should ensure that capital defendants are represented by attorneys who are adequately trained and resourced, and experienced in the complexities of capital proceedings.



## ***Recommendations on International Human Rights Standards***

In order to live up to its stated commitment to universal human rights, the USA should:

- 1. Ratify, without reservations, human rights treaties that it has not yet ratified. In particular, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, the Convention relating to the status of refugees, the American Declaration of the Rights and Duties of Man and other Inter-American human rights treaties.**
- 2. Withdraw reservations to the International Covenant on Civil and Political Rights and the Convention Against Torture, in particular those that restrict the implementation of Articles 6 and 7 of the International Covenant on Civil and Political Rights and Articles 1, 3 and 16 of the Convention Against Torture. It should also withdraw reservations that restrict the fulfillment of international obligations in its domestic law.**
- 3. Ratify the first Optional Protocol to the International Covenant on Civil and Political Rights (allowing the right of individual petition to the Human Rights Committee) and recognize the competence of the Committee against Torture to receive and act on individual cases; on ratification of the American Convention on Human Rights, recognize the competence of the Inter-American Court of Human Rights.**
- 4. Submit to the Committee against Torture the USA's initial report on its implementation of the Convention against Torture, which was due in November 1995.**
- 5. Support an Optional Protocol to the Convention on the Rights of the Child which prohibits the recruitment of people under 18 years of age into governmental or non-governmental armed forces and their participation in hostilities.**

## ***Recommendations on the supply of Police, Security and Military Equipment and Expertise***

In order to reinforce the USA's stated commitment not to contribute to human rights abuses in other countries through the supply of military, security and police equipment or expertise, certain immediate changes are necessary in US law and its implementation. In light of its prominent role in the global arms market, the US government should:

1. Provide clear, detailed, regular and comprehensive information about all selective and completed transfers of arms and security equipment, technology, expertise, training and services by both private companies and government agencies. All companies involved in such transfers to foreign customers in third countries should be publicly registered with a US agency and subject to the same rules as those that govern all transfers from the USA.
2. Adopt a binding Code of Conduct, based on international humanitarian law and human rights standards, to monitor and control all US transfers of military, security and police equipment, services and expertise. All proposed transfers including those brokered through third countries and those involving licensed production arrangements in other countries, should require prior public scrutiny and approval. If there is good reason to assume that a transfer will contribute to human rights abuses or breaches of international humanitarian law, it should not be approved.
3. Strengthen the capacity to monitor the end uses of US transfers of military, security and police equipment, services and expertise in order to ensure that if such transfers are subsequently used to facilitate human rights abuses or breaches of international humanitarian law, further supplies of such transfers can be halted. All end-use certificates should require recipients to undertake in advance not to use the transfers for human rights abuses or breaches of international humanitarian law; failing this the contracts for the supply of those types of transfers can be rendered null and void and further equipment, spare parts, training and repair services halted.
4. Prohibit the manufacture and export of equipment solely used for executions or for torture or other inhuman or degrading treatment (including remotely controlled electro-shock stun belts). Suspend the manufacture, use or export of any type of equipment where credible evidence has shown that it may inherently lend itself to human rights abuse, subject to a rigorous, independent and impartial inquiry into that type of equipment.
5. Promote the inclusion of the above provisions in international binding agreements. Sign and encourage ratification of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the Ottawa Convention).