

UNITED STATES OF AMERICA

Ill-treatment of inmates in Maricopa County jails, Arizona

In June 1997 an Amnesty International delegation visited Maricopa County, Arizona, to collect information on the treatment of inmates in the local jails and the conditions under which they are kept. The visit followed concern about allegations of ill-treatment of prisoners and the death of inmate Scott Norberg in Madison Street Jail on 1 June 1996, after he was placed in a restraint chair.

Maricopa County, covering the state capital Phoenix and the surrounding area, has one of the largest jail systems in the USA, which houses prisoners awaiting trial or serving sentences of up to one year. At the time of AI's visit the five jails in the county held more than 6,000 inmates. During their visit Amnesty International's delegates met with senior jail and other county officials, as well as attorneys representing inmates. They also toured Madison Street Jail (MSJ), which consists of a central intake area, where many of the allegations of ill-treatment took place, and which houses pre-trial adult inmates. At the time of Amnesty International's visit, 180 male pre-trial detainees and sentenced juveniles were held in the jail. Amnesty International's representatives also visited the First Avenue Jail (which houses sentenced male inmates and some pre-trial juvenile female inmates), and the controversial "In-Tents" facility situated in the desert outside Phoenix, where inmates live in tent accommodation. The facility was established in 1993 to alleviate overcrowding in the jail system.

The US Justice Department has also investigated conditions in the Maricopa County jails, issuing a report in March 1996 condemning conditions in Intake, Madison Street Jail and the In-Tents facility in particular, saying that unconstitutional conditions existed at the jails with respect to the use of excessive force by detention officers against inmates and "deliberate indifference to inmates' serious medical needs". At the time of Amnesty International's visit the Justice Department was still in negotiation with the county authorities to improve conditions in the jails and some improvements had been made, including to medical care.

Nevertheless AI remained concerned about aspects of the jail, including use of stun guns, the restraint chair and treatment of juveniles as well as other allegations of ill-treatment or use of excessive force covering an 18 month period up to the time of Scott Norberg's death.

Allegations of excessive force

Amnesty International's concern about the treatment of prisoners in Maricopa county jails arose from the death of Scott Norberg in Madison Street Jail in June 1996, and the Justice Department's findings, summarized in a letter to the Board of Supervisors in

March 1996, that the use of excessive force by detention officers in Intake, Madison Street and the In-Tents facility was "unacceptably prevalent". The Maricopa County Sheriffs Office (MCSO) team with whom Amnesty International's delegation met denied that excessive force had ever been "prevalent" at the jails and stated that there were adequate measures to identify and sanction any officers found responsible for misconduct.

However, during its visit Amnesty International received information on more than a dozen cases of alleged ill-treatment or use of excessive force, covering an 18-month period up to the time of Scott Norberg's death, which raise serious concerns about practices in the jail system at that time. Most of the incidents took place in the Intake section of Madison Street Jail. While the organization is aware that people being processed in the early stages after arrest may be disruptive or uncooperative, in the cases reviewed detention officers appeared to resort to levels of force out of all proportion to the threat posed by the inmate. Where cases were investigated, however, the use of force was usually found to be justified by the jail authorities, despite the questionable circumstances. Amnesty International's delegation was particularly disturbed by the inappropriate use of restraints in some cases.

One example is the case of Richard Post, a paraplegic who was admitted to the jail in a wheelchair in March 1996 and alleges that he was placed in an isolation cell for an hour without medical attention, despite asking for a catheter so that he could empty his bladder. He tried to seek attention by banging on the cell window and eventually blocked the toilet in the cell, causing water to seep under the door. Detention officers then removed him from his wheelchair and strapped him into a four-point restraint chair, with his arms pulled down towards his ankles and padlocked, and his legs secured in metal shackles. He claims that straps attached to the chair behind his shoulders were tightened round his chest and neck so that his shoulders were strained backwards, and that one guard placed his foot on the chair and deliberately yanked on the strap as hard as he could. It is further alleged that an officer threatened him with a stun gun while he was immobilized in the chair, while other officers looked on. For the first hour that he was in the chair he was denied the gel cushion he had with him, with the result that severe decubitus ulcers developed around his anus. The manner of his restraint is reported to have caused compression of his spine and nerve damage to his spinal cord and neck, resulting in significant loss of upper body mobility.

Although no use of force report appears to have been made in this case, an internal inquiry was held after his mother complained about his treatment. The sergeant who took the decision to place Richard Post in the restraint chair said that this was done for his own safety as he had been banging on the cell window threatening to harm himself. The inquiry concluded that the chain of events was "predicated by the belligerent and uncooperative behaviour" of Post and that the staff were left with "very little choice

in doing what they did". Amnesty International finds it highly questionable that no alternative measures were available to deal with the situation, especially as Mr Post was already incapacitated in a wheelchair. The use of restraints in this case and the manner in which they were applied, including the use of metal shackles in violation of jail policies, appears to have been unnecessarily punitive and to have amounted to cruel and inhuman treatment.

Scott Norberg died of asphyxia in Madison Street Jail on 1 June 1996, after being tackled by 14 detention officers and placed in a restraint chair with a towel over his face. Although Norberg was reportedly uncooperative and engaged in bizarre behaviour, his behaviour and initial "passive resistance" does not appear to have warranted the extreme degree of force used, especially as he was already had his hands handcuffed behind his back and was lying on his stomach on the ground when dragged by officers from his cell. The autopsy report showed that he sustained numerous contusions and lacerations to his head, face, neck, and limbs, as well as burn marks indicating that he was stunned numerous times with a stun gun on different parts of his body. There appears to have been no attempt to have used alternative measures to extreme physical force, nor any examination of his mental condition despite his disturbed behaviour. The decision to place him in the restraint chair rather than, for example, isolating him if his behaviour

disrupted other inmates, appears particularly questionable. The organization is concerned that he was placed in the restraint chair while already handcuffed behind his back, with his hands pulled upwards over the back of the chair rather than at the sides as indicated in the manufacturer's design, a position which would place great stress on the thorax. His face was then pushed downwards into a position likely to have further restricted his breathing without the additional use of a towel.

Other cases where the use of force appeared unjustified or to have been disproportionate in the circumstances, include Eric Johnson, who in November 1994 reportedly had his face slammed into a concrete wall and his arm broken by detention officers in Central Intake after he was verbally abusive when asking for food; and David Hoyle who allegedly sustained broken teeth and spine and knee injuries after being kicked and beaten and stunned repeatedly with a stun device by officers in December 1994. Hoyle alleges that after being injured he was strapped into a restraint chair for five hours until a nurse ordered his removal to the infirmary for X-rays. In February 1995, David Dalbec is alleged to have sustained a broken nose and other injuries after being picked up and thrown against a wall for persistently falling asleep during processing at Central Intake; a stun gun was also allegedly used to wake him up. Bart Davis is alleged to have been assaulted by detention officers in May 1995 and to have sustained a serious eye injury after being found smoking a cigarette in Central Intake; he further alleges that he was hit with a stun gun before and after being strapped into a restraint chair. In the Johnson and Hoyle cases there is video taped evidence of force being used.

The force alleged in these and other cases appears to have been excessive and to have amounted to cruel, inhuman or degrading treatment in violation of the USA's obligations under international human rights standards and treaties¹. The treatment also appears to contravene the United Nations (UN) Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These provide that officials "shall, as far as possible, apply non-violent means before resorting to the use of force ..." ² and that force should be used only when strictly necessary and must always be proportionate to the threat encountered and designed to minimize damage and injury.

¹The UN International Covenant on Civil and Political Rights to which the USA is a state party specifies that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 7) as does the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

²Article 4 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials [adopted by the Eighth UN Congress on the Prevention of Crime and treatment of Offenders on 7 September 1990].

While measures have been taken by the jail authorities to address the issue of force, including the weekly Use of Force Review Board meetings established in November 1995, the establishment of a Jail Crimes division (part of the MCSO called in to investigate allegations of criminal misconduct), and an Internal Affairs Bureau, which investigates allegations of misconduct, including excessive force, that may not amount to a criminal offence, as well as an inmate grievance procedure, Amnesty International was not able to obtain a breakdown of the number of officers disciplined for excessive force. Senior officials told Amnesty International's delegates that tough measures are taken against officers who use excessive force and that officers are disciplined. They also said that three detention officers had been criminally charged in the past two years. However, as far as Amnesty International is aware, none of the officers involved in the above cases appears to have been disciplined. An internal investigation into Scott Norberg's death found that no officers had engaged in any misuse of force, although the case is currently under review by the federal Justice Department and the Maricopa County Attorney.

Several of the above cases alleged the abusive use of stun guns, including repeated shocks to inmates, the use or threatened use of a stun gun on a prisoner already restrained, or inappropriate use such as to arouse an inmate from sleep. Concern about the use of stun guns was also cited in the Justice Department report of March 1996. MCSO staff explained that all jail guards carried stun guns as part of a three-year pilot study set up by the National Sheriff's Association, funded by the National Institute of Justice, and that injuries to staff and inmates had been reduced since they were introduced. They also said that the threat of its use had "reduced altercations during the three years of its operation". Although Amnesty International has not seen the final results of this study, the organization remains concerned that guards in a custodial setting should routinely carry these weapons for control purposes. Although jail policies state that the stun devices are "designed to incapacitate without injury" there has been little independent medical research on the effects of the use of electric batons, and they clearly have a potential to be easily misused through prolonged or repeated application. Research conducted by United Kingdom Home Office scientists on stun guns indicated that they can cause high levels of pain and even death through ventricular fibrillation in certain circumstances.³ Stun weapons have been banned for law enforcement and corrections use in Canada, Belgium, Denmark, Finland, Germany, Greece, the Netherlands, Norway, Luxembourg, Spain, Sweden, the United Kingdom and other

³"Electric Shock Devices and their Effects on the Human Body", M. N. Robinson, C. G. Brooks and G D Renshaw, *Medical Science and Law* (1990), Vol.30, No 4, cited in an Amnesty International Report: *USA: Use of electro-shock stun belts* (AI Index: AMR 51/45/97, June 1996)

countries.⁴ Some US states, including New York, Illinois, New Jersey, and Washington, DC, have also banned the use of such weapons.

⁴Amnesty International Report: *Arming the Torturers*, January 1997 (AI Index: ACT40/01/97, March 1997)

The Restraint Chair

Amnesty International is disturbed by cases suggesting that four-point restraint chairs have been used in an inappropriate and inhumane manner in the jails. MCSO staff told Amnesty International that there were some 16 chairs in the Maricopa jail system, the majority in Madison Street Jail or Central Intake. They also said that the chairs had been used to restrain inmates about 600 times between January and early June 1997, typically for 2-3 hours although longer in some cases.

Amnesty International acknowledges that there may be occasions when it is necessary to restrain prisoners for their own protection, or to prevent injury to others, as a short-term emergency measure when no alternatives are available. However, Maricopa County jail's policy on the use of restraints appears to be exceptionally broad, stating that restraining devices will be used as a "*precautionary measure for the protection and welfare of personnel or inmates, or in situations authorized by the facility commander*" [Policy Number DH-8 (2)]. The frequency with which the restraint chair has been used, and some of the specific instances cited, also suggest that it has been used as a front line of control rather than as a last resort when other methods have failed or would clearly be inadequate. It also appears to have been used as a punitive measure in several of the cases cited above, in violation of US and international standards. The use of metal restraints in the case of Richard Post appears to have been unnecessarily punitive and to have violated jail policies (which authorize the use of soft restraints when someone is restrained for longer than 15 minutes) as well as international standards.

Rule 33 of the UN Standard Minimum Rules for the Treatment of Prisoners (SMRTP) states "*Instruments of restraint, such as handcuffs, chains, irons and straitjackets, shall never be applied as punishment. Furthermore, chains and irons shall not be used as restraints*". The SMRTP also require that restraints be used restrictively "*if other methods of control fail, in order to prevent a prisoner from injuring himself or others*", or on medical grounds on the order of a doctor, and that in the former case the medical officer should be consulted at once by the director of the institution. The American Correctional Association in its 1990 standards also specifically prohibits the use of instruments of restraint "as punishment" and prohibits their use in any case "...for more time than is absolutely necessary".

MCSO staff told Amnesty International that the chairs were used for "suicide prevention" in about half the cases. However, it appears that supervisors rather than a doctor or psychiatrist generally make the decision to place an inmate in a restraint

chair. Furthermore, 15-minute observations are conducted by detention officers, not trained medical staff (although Amnesty International's delegation was told that a registered nurse checks on inmates when they are first placed in the chair). These provisions also contravene relevant standards.

In its Standards for Health Services in Correctional Institutions, the American Public Health Association (APHA) states that restraints may be necessary when inmates pose great risk to themselves or others but should only be instituted when all other attempts to calm the inmate have failed and only on the order of a psychiatrist, physician or licensed health professional. Both the APHA and the National Commission for Correctional Health Care provide that restraints should be checked every 15 minutes by mental health, nursing or "health trained" staff. The APHA standards also provide that restraint orders should be reviewed by a psychiatrist every two hours and must be automatically terminated after four hours unless renewed, with a maximum limit of eight hours. Some jurisdictions specify considerably lesser limits.⁵ Amnesty International is concerned that Maricopa County jail policies place no time limit on the use of restraints, despite the recognized health risks involved in immobilizing prisoners in restraints for prolonged periods.

Other observations on facilities in the jails

Conditions in the Madison Street Jail housing sections observed by Amnesty International's delegates appeared to be clean and orderly, though sparse. However, they were concerned about some of the conditions, particularly those under which juveniles are held. In the section visited, Amnesty International's delegates were told that 13 juveniles were in close custody and were allowed out of their cells for only one hour a day, individually in a day room; there were others who were out of their cells for four hours a day; only 14 in that section were out of their cells all day. Amnesty International is aware that children in the adult jail system have been charged with, or convicted of, serious crimes, and that some may present disciplinary problems in jail. However, international standards place a special obligation on states to ensure that children in confinement are treated humanely with the object of rehabilitation, and it is not appropriate or humane to house children in solitary confinement or deny them access to programs or recreation for extended periods. Amnesty International's delegates noted that the jail was in the process of enhancing the educational and training facilities available to juvenile inmates and was installing computer terminals in a new classroom area.

⁵Amnesty International was told that Maricopa jail inmates in the restraint chair were previously checked by a RN (Registered Nurse) every six hours, but that this was being changed to every hour.

Amnesty International was disturbed by the deprived conditions under which female juvenile detainees were housed in the First Avenue Jail. At the time of Amnesty International's visit there were four female children in the jail awaiting trial, aged 16 and 17. They were the only females in that facility and each was confined to a small cell containing just a bunk, toilet and sink, which afforded no privacy and were open to view through the barred cell doors. Amnesty International's delegates were told that a roof recreation area in the First Avenue Jail had been closed off and that there were currently no outdoor exercise facilities available to any inmate in that jail. It appeared that the female juveniles spent virtually all day in their cells, without any recreational facilities. It was unclear what access, if any, they had to educational programs. The "day room" to which they had access for between one and two hours a day to make phone calls, was just another sparsely equipped small cell in the same narrow and enclosed corridor.

Amnesty International is also concerned that male guards can enter the female inmate area unaccompanied by female staff. Such practice is contrary to international standards which state that men and women should so far as possible be detained in separate institutions, and that no male member of staff shall enter part of an institution set aside for women unless accompanied by a female officer. Amnesty International's delegates noticed that male guards also worked in the women's section of the In-Tents jail, without being accompanied by female officers.

"In-Tents"

Amnesty International's delegates were given a tour of the In-Tents facilities. At the time of their visit the In-Tents area housed some 800 male and 214 female prisoners, all sentenced. Some 300 inmates were on work release, returning to tents at week-ends. Most of the other inmates were assigned to some work duties for part of the day, sometimes in shifts running from 2am to 11am. Prisoners not on work duty had access to a day room for meals, showers and television, but spent most of their time confined to the tents. MCSO officials told Amnesty International that inmates liked being in the tents as they were outside a lot of the time.⁶ However, some serious concerns have been raised about conditions in In-Tents by the Justice Department and others, which include the following.

The Tents are situated in the desert and become intensely hot during the summer months. The single fans which were situated in each tent on the day Amnesty International's delegates visited were totally inadequate. There are some 25 inmates to a tent, sleeping in double bunks and there was very little space between the top bunk and the top of the tent, allowing little air to circulate. Amnesty International's delegates were told that prisoners have to breathe in dust from the desert which frequently sweeps through the tents area, and by sources outside the jail that there was a problem with sanitation and with vermin and rodents, although this was denied by the guards the delegates spoke with. However, it is clear that the tents provide serious environmental hazards which make them unsuitable for inmate housing.

A major concern is the security of both staff and inmates in the tent areas. There are no video cameras in the tents and no sight lights, and if the flaps of the tents are down guards are unable to see into or through the tents, putting them into a potentially hazardous situation if they need to go in to check or respond to an incident. Although MCSO officials told Amnesty International that the tents were "low maintenance", others have said that the In-Tent facilities require greater security than hard cell facilities because of their open design, ready availability of materials that can be used as weapons (including rocks, tent poles, etc) and lack of segregation between violent and non-violent inmates. Amnesty International was told that there were regular bouts of inmate-on-inmate violence in the tents. Yet, alarmingly, the tents have no mechanism to alert prison staff in case of an emergency. Traditional facilities would have some form of alarm system to ensure a swift response. In May 1996 Jeremy Flanders sustained a near-fatal head injury after he was assaulted with a tent stake and thrown from his upper

⁶Amnesty International's delegates were not able to verify this by talking directly with inmates from In-Tents. The tour involved a tour and view of the facility but did not allow inmate interviews.

bunk by other inmates; according to a lawsuit filed in the case, guards failed to respond to calls from other inmates to stop the attack.

The security risks are increased by the fact that the In-Tents facilities are chronically understaffed. At the time of the attack on Flanders it is alleged that only three detention officers were on duty, two in the office area, with only one patrolling the tents area. At the time of Amnesty International's visit the staffing had been increased. Amnesty International's delegates were told that 17 officers were on duty at each of the three shifts, with three to five officers patrolling the tents area at any one time. However, the tent patrol still seemed inadequate given the number of prisoners in tents and the related security problems.

Chain gangs

Maricopa County operates three chain gangs, two for male and one for female sentenced prisoners. Amnesty International's delegates were told that there were 15 inmates in each gang, chained together by the left ankle in groups of five, and that soft straps are used to attach the prisoner's ankle to the metal chain, which is about five to six feet long and attached to a line. Prisoners work from 5am to 10am in summer and for about five hours in winter, carrying out tasks such as breaking rocks or clearing rubbish from the highway. The jail authorities said that prisoners who commit disciplinary offences in prison may volunteer to work on a chain gang as an alternative to being placed in "lockdown" for 23 hours a day, and that once they have served a maximum of 30 days, they return to general status. This was the only circumstance in which prisoners work on a chain gang in the Maricopa County jail system. The authorities told Amnesty

International's delegates that prisoners preferred to be on the chain gang rather than in lockdown and there was a waiting list for it.

While Amnesty International accepts that some prisoners may prefer to join a chain gang than be locked down for 23 hours a day, the introduction of chain gangs appears to serve no legitimate penological purpose, other than as a punishment and to demonstrate to the public a "get tough" policy toward offenders - prison officials said that jail inmates were seen working around the county and "the public loves it". It was not suggested that prisoners on the chain gangs posed a special security risk that required this level of restraint. Indeed, Amnesty International's delegates were told that most inmates in the system are serving relatively short sentences for relatively minor offences. Furthermore, the chain gangs are imposed specifically as a form of punishment, which is contrary both to US and international standards.

Amnesty International was told that the jail planned to introduce chain gangs for juvenile offenders as an alternative to lockdown, for periods of up to 60 days. Amnesty International was told that the work involved would be "educational", in that they would assist in landscaping a park which would involve learning new skills. However, Amnesty International believes that putting juveniles to work in chains is not consistent with respect for their dignity or the purpose of rehabilitation. If chain gangs in juvenile cases are applied as an alternative punishment for disciplinary offences, this, too, would be contrary to standards relating to juveniles in custody, including the UN Rules for the Protection of Juveniles Deprived of their Liberty, which state, among other things, that "Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction"(Rule 67).

Amnesty International's recommendations to the authorities

Following its visit, Amnesty International wrote to the Maricopa County Board of Supervisors (the County governing body) and the Maricopa County Sheriff urging the following:

- ◆ that they make it clear to all jail employees that the use of excessive force or other ill-treatment of those in custody will not be tolerated and that officers found guilty of misconduct, including the failure to report the improper use of force, will be adequately disciplined;
- ◆ that the County and Sheriff's Office review the policies and guidelines on the use of force in the Maricopa jail system to ensure that they conform to international standards on the use of force by law enforcement officials;

- ◆ that they review their policies on stun guns and cease issuing them to all detention officers;
- ◆ that stringent investigations are undertaken of any allegation of misuse of stun guns, whether or not these are reported in the Use of Force reports;
- ◆ that an urgent review of the use of restraint chairs in the county jails be conducted with a view to restricting their use to the most urgent and exceptional cases;
- ◆ that policies be revised to ensure that use of restraints are applied in a manner at least consistent with US and international standards;
- ◆ that use of the restraint chair be recorded in all cases and monitored and reviewed by the Use of Force Review Board;
- ◆ that all juveniles in the jail system be given the opportunity to engage in educational programs, training and other rehabilitative treatment;
- ◆ that arrangements be made for the pre-trial female juvenile detainees currently in First Avenue Jail to be housed in a more appropriate and humane environment, consistent with the special needs of children for rehabilitative treatment and other programs;
- ◆ that international standards regarding male guard access to female prisoners' quarters be strictly applied in the Maricopa County jail system, especially given the special protections required in the case of vulnerable young inmates, and the general lack of privacy afforded to these particular detainees;
- ◆ that steps are taken to ensure that jail inmates, including those in the First Avenue Jail, receive adequate exercise in the open air, in accordance with international standards (these provide that every prisoner who is not employed in out-door work shall have at least one hour of suitable exercise in the open air daily if weather permits, and that young prisoners, and others of suitable age and physique, should receive physical and recreational training during the period of exercise and that suitable space and equipment should be provided;
- ◆ that they cease to authorize use of the In-Tents area as a regular detention facility because of its unsuitability as a humane alternative to housing inmates in suitable, purpose built, jail facilities;

- ◆ that they cease using chain gangs in the Maricopa Jail system which Amnesty International considers cruel, inhuman or degrading treatment, in violation of international standards on the treatment of prisoners.