

# United States of America

## Amnesty International's Concerns on Police Abuse in Prince George's County, Maryland

There have been persistent complaints of excessive force by officers of Prince George's County Police Department, Maryland over many years. Cases of concern include police shootings; deaths in custody from dangerous restraint holds or other force and unresisting suspects mauled by police dogs. Most of the victims of alleged abuses have been members of the county's African American population. In November 2000 the US Department of Justice opened a civil rights investigation into the police department to determine whether it engaged in a "pattern and practice" of brutality and racial discrimination and whether remedial measures were necessary. In the summer of 2001 Amnesty International sponsored three sessions in which Justice Department investigators were invited to hear complaints from Prince George's County residents about alleged police misconduct as part of the ongoing civil rights probe. However, after 20 months of investigation, the Justice Department has not yet issued any public findings or recommendations to the police department.<sup>1</sup>

Although a number of reforms to the police department have been introduced in the past year and there has been a reported fall in complaints in 2001, cases of concern continue to be reported. Several suspects have filed lawsuits claiming they were bitten by police dogs, despite changes to the canine unit to prevent such incidents. In one such pending case a police officer is alleged to have released her dog on eight unresisting individuals, some of whom were lying on the ground in handcuffs, in six separate incidents between November 1997 and December 1999. In March 2002 a mentally disturbed man died from asphyxiation after being subdued by Prince George's County police officers -- one of several such cases in recent years. While the department has come under increased scrutiny in the past two years, Amnesty International believes more needs to be done to prevent human rights abuses and bring to justice those responsible for misconduct. For example, there should be better monitoring of officers accused of repeated acts of excessive force and stronger measures to tackle the "code of silence" in which officers fail to report wrongdoing or cover up abuses.

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<sup>1</sup>The Justice Department investigation was brought under the Police Accountability Act, incorporated into the Violent Crime Control and Law Enforcement Act of 1994 (Crime Control Act), which gave the Justice Department the authority to bring civil actions in federal courts against police departments engaged in a "pattern or practise" of abuses. The Department has investigated more than 18 police forces since the Act came into force, including Los Angeles, (California), New Orleans (Louisiana), New York City (New York), and Cincinnati and Cleveland (Ohio). In practice, the Justice Department has reached consent decrees: court-approved agreements on departments to change practices. The Justice Department investigation into Prince George's County Police Department started with the canine unit in 1999 and was extended to cover the whole department in November 2000.

This document outlines continuing areas of concern and Amnesty International's recommendations to the police, county and federal authorities.

## **Background**

Prince George's County is one of several counties bordering Washington, DC, the US capital. There has been a long history of complaints of brutality by county police towards members of the black community which thirty years ago was a small minority within the county but now makes up more than two-thirds of Prince George's population. Of the 1,369 police officers who make up the department, 700 are white and 575 black, with the rest Latino or Asian.<sup>2</sup> The large majority of complainants in police brutality cases in the county are black, with most cases involving either white officers, or a mix of white and black officers or others. This suggests problems of excessive force are not solely race-related but may also reflect a wider culture within the police force.<sup>3</sup> The main areas of concern in recent years have included the following:

### **Police dog-bite cases**

In June 1999 the US Department of Justice opened an investigation into claims that dozens of unresisting suspects, some of them teenagers, were bitten and seriously injured by police dogs from Prince George's County canine unit. In some cases officers allegedly ordered dogs to bite the victims after they had surrendered or were already subdued. In August 2001 police officer Stephanie Mohr was convicted of federal criminal civil rights charges and later sentenced to 10 years' imprisonment for setting her police dog onto an unarmed homeless man in 1995. Another officer was sentenced to 15 months' imprisonment for his role in the same incident. Mohr -- who is currently free on bail pending appeal -- is reported to be the first Prince George's County police officer to be convicted of a federal criminal violation. Since 1999 the county has paid out several million dollars in damages to settle more than a dozen excessive force lawsuits filed by victims against the canine unit.

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<sup>2</sup>Source: Second Semi-Annual Report to the Community on Prince George's County Police Disciplinary Actions and Complaints, July - December 2001.

<sup>3</sup>According to the Prince George's County Citizen Complaint Oversight Panel Annual Report for 2001, of the cases disposed of in 2001, 79% of complainants of police use of excessive force, improper language or harassment were black, 11% were white and 10% "other" (including Hispanic, Pacific Islander, Asian or race unknown). Sixty percent of the officers in the cases were white, 30% were black, 1% was Hispanic and 9% other. The largest single proportion of cases (21.71%) involved a black complainant and black and white officers, with the next single largest group (11.84%) a black complainant and a white officer. Seventy-three percent of complainants in the cases were male, 22% female and the rest unknown. Eighty-nine percent of the police officers in the cases were male and only 7% were female (another 4% of cases were administratively closed, with no information given on the officers' gender).

Shortly after the Justice Department investigation into the canine unit opened, the Prince George's County police chief announced that the police department would revise its policies to train dogs to "bark and guard" rather than bite suspects. Police dog bites have reportedly dropped since then from 100 or more a year in the 1990s to 17 in 2000 and 20 in 2001.<sup>4</sup>

However, lawsuits have been filed in at least four cases alleging that county police officers released their dogs onto unresisting suspects between September 2000 and December 2001, raising questions about how far the revised policy has been adequately enforced. In August 2002 two police officers charged with assaulting Hector Millan, a burglary suspect, with a baton and police dog in January 2002 were acquitted of all charges by a county judge, after waiving their right to a jury trial. One of the officers acquitted in this case is also accused in a pending civil lawsuit of allowing his dog to attack a naked man sleeping in an abandoned building in November 2000. Meanwhile, the police chief has said he would again review the department's canine policies.

### ***Police shootings***

According to an investigation carried out by the Washington Post and published in July 2001, Prince George's County police shot and killed more people per officer than any of the 50 largest city and county law enforcement agencies in the country from 1990 to 2000.<sup>5</sup> During this period county police shot 122 people, 47 fatally. Eighty-four percent of those killed in cases where race was identified were black. Although nearly half of those shot were unarmed, the police authorities had ruled all the shootings to be justified. The Washington Post study also found that many officers had been involved in more than one questionable shooting but no action was taken against them, and some officers were promoted. The Washington Post investigation also found that police routinely charged those wounded in police shooting incidents with assault on a police officer -- in some cases there was evidence that such charges were brought to cover-up police misconduct.

International standards, such as those set out under the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by consensus by the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders on 7 September 1990),

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<sup>4</sup>According to an article in the Washington Post dated 30 December 2001, the reduced number of dog bites in Prince George's County remained higher than in some other police departments with canine units of similar size: Fairfax County (Maryland), for example, reported three dog bites in 2000 and Baltimore police recorded two.

<sup>5</sup>The county had the fifth highest number of shootings in the USA per resident, *Washington Post*, 1 July 2001.

provide that deadly force should be used as a last resort in self defence or to protect others against “imminent threat of death or serious injury” and “only when less extreme measures are insufficient to achieve these objectives”. The principles further state that “In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life” (Principle 9). The circumstances of many of the cases reported suggest that Prince George’s County police officers have used their firearms in violation of these standards. Cases which have caused wide community concern include the following:

- Prince Jones, an unarmed African-American college student, was shot dead in September 2000 after an undercover officer tailed his car for several miles, mistaking him for a black suspect in an earlier incident. The officer, who is African-American, reportedly fired 16 rounds into the back of Jones’ car when Jones allegedly discovered he was being followed and tried to ram the unmarked police vehicle. A Justice Department investigation found insufficient evidence to bring civil rights charges against the officer on the ground that he could have been acting in self-defence. The police department reportedly decided not to press internal police disciplinary charges against the officer but police chief, Gerald E. Wilson, said in May 2002 that he would “re-evaluate” the case. The same officer is reportedly a defendant in two unrelated civil lawsuits, one for alleged excessive force. The officer’s supervisor was charged with misconduct in a police administrative investigation for not calling off the pursuit of Prince Jones but she was cleared by a police hearing board in April 2002. A wrongful death lawsuit filed against the county on behalf of Jones’ family is pending.
- Gary Albert Hopkins Jr, a 19-year-old unarmed man, was shot dead by a police officer as he was leaving a party in November 1999. Police said he had been reaching for an officer’s gun but this was disputed by several witnesses. The officer - - who had other complaints of excessive force made against him - was charged with manslaughter. He was reportedly the first police officer in Prince George’s County to be charged for an on-duty shooting. He was acquitted by a county judge after a non-jury trial in February 2001. A lawsuit filed by Hopkins’ family against the county for wrongful death is pending.
- In June 1993, Archie Elliott, an African-American, was shot 14 times by two police officers as he sat in a police car with his seat belt on and his hands handcuffed behind his back. Elliott was also naked from the waist up and under the influence of alcohol at the time. The police alleged he was pointing a gun at them and that they acted out of self defence. Elliott had been searched before being placed in the police car. A Prince George’s County Grand Jury cleared the officers of any wrongdoing and a US Department of Justice Investigation found there were no grounds for bringing civil rights charges against them.

Although shootings by Prince George’s County police have reportedly declined in recent years, the circumstances of some cases remain disturbing. Of the seven people shot

(two fatally) by Prince George's County police officers in 2001, five were reportedly mentally ill or disturbed. Ceaser Nathaniel Allen, diagnosed as suffering from paranoid schizophrenia, was fatally shot by officers in October 2001 as he stood in the road, allegedly brandishing a knife. He was shot 10 times by four police officers after pepper spray and pepper ball missiles reportedly failed to subdue him. According to reports, the police department has access to an outside squad of mental health experts, but they were not called out in this instance. Although the department has since introduced a range of non-lethal weapons for dealing with suspects who are mentally ill or high on drugs, such devices (which include pepper spray<sup>6</sup> and beanbag rounds) are often not effective in such cases. Amnesty International believes that police departments should explore ways of calming down disturbed suspects before resorting to the use of force, including training officers to deal with the mentally disturbed or people under the influence of drugs.<sup>7</sup>

### ***Deaths in custody***

Six people are reported to have died after being physically subdued or restrained by Prince George's County police officers in the past three and a half years. In three of the six cases, the medical examiner ruled the deaths to be "homicide" after finding that police were directly responsible. However, no police officer has been indicted, or even disciplined, in any of the cases, despite evidence of excessive force in some cases (see below).<sup>8</sup>

The most recent case is that of Jason D. Smith, a 20-year-old man who lost consciousness while being restrained by six officers in March 2002 and later died in hospital. According to press reports, his mother had called officers to her home because Smith was high on drugs (PCP and ephedrine) and behaving erratically. In May 2002 the medical examiner ruled the death to be a homicide, finding that Jason died from asphyxiation while being restrained. Police report that they were trying to place him in a "WRAP" restraining device, which they said was similar to a straitjacket and designed to prevent deaths from

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<sup>6</sup>Amnesty International also has serious concerns about the use of pepper spray. See page 14 for more on this.

<sup>7</sup>A number of US police departments have adopted the so-called Memphis Plan (first adopted by the Memphis Police Department in Tennessee) in which officers receive 40 hours of training from mental health specialists on how to deal with people suffering from mental health crises; such officers are often assigned to special teams on call at any time. This is reported to have led to a reduction in officer-involved shootings in some jurisdictions.

<sup>8</sup>A coroner's homicide ruling does not automatically imply criminal liability as there are instances in which police may use lethal force lawfully - however, several of the cases in which no indictments resulted indicate that the force used was excessive and multiple injuries were recorded in the autopsy reports.

choking or asphyxia, when he lost consciousness. His mother, who witnessed the end of the incident, claims Smith was hit as he lay on the ground. The six officers involved were placed on paid administrative leave pending a county and federal investigation. Another prisoner, Christopher Lee Anderson, died in June 2001 while being placed in the "WRAP" restraint.

In several earlier deaths in custody, the deceased showed signs of multiple injuries consistent with beatings, according to autopsy reports. The medical examiner ruled Elmer Clayton Newman's death in police custody in 1999 to be a homicide, listing cause of death as cocaine intoxication and "multiple neck and chest injuries related to restraint during police custody". Newman's injuries included broken ribs and two broken bones in his neck. The autopsy report in the case of Clarence Stewart, whose death in May 2000 was also ruled a police homicide, listed cause of death as heart failure triggered by "blunt force injuries" including head wounds and injuries to his back, shoulder, legs and arms; several of the wounds bore the imprint of a "linear, rod like blunt object" such as a police nightstick.<sup>9</sup> Both Elmer and Stewart had also been pepper sprayed during the incidents leading to their deaths.

The county state's attorney (prosecutor) was reported to be disturbed by the injuries inflicted in these and other cases but was unable to bring charges against individual officers because of what he called a "blue wall of silence"<sup>10</sup>. In Elmer Newman's case, for example, all five officers involved in the arrest denied inflicting the fatal injuries and there were no other witnesses, according to the police report. The county reached an out-of-court settlement with Newman's family, but no officers were disciplined. One of the officers in the case had been accused of brutality or misconduct in several other cases but had been exonerated by police internal inquiries.

### ***Other abuses***

There have been numerous other alleged abuses by Prince George's County police in recent years. For example, in June 2001 the Washington Post published a series of articles documenting several cases in which county police coerced people into confessing to crimes for which they were later exonerated. The Washington Post investigation found that suspects were subjected to prolonged interrogations -- up to 40 hours in some cases -- and deprived of sleep and access to attorneys, in violation of US law and international human rights standards. In response to the articles, the police chief said the department would move toward videotaping interrogations in which statements were taken, a procedure adopted by many other large police departments.

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<sup>9</sup>Source: Washington Post, 4 July 2001: "Official Secrecy Shrouds Fatal Arrests. Prince George's Police Hamper Investigators"

<sup>10</sup> Source: Washington Post, 10 May 2002: "Prince George's Police Blamed In Man's Death."

Civil lawsuits filed over the past year reveal other incidents in which people were allegedly subjected to brutality and harassment. One lawsuit filed in January 2002 describes a 1999 case in which a 41-year old African American woman had traffic charges dismissed against her. It is alleged that the police officer involved followed her out of court, reissued her with tickets for the same offence, handcuffed her and locked her up without food or phone calls for 6 hours and told her he hated "you black people".

Another lawsuit filed in March 2002, alleges that a 54-year old African American woman was stopped by police for a minor traffic incident in March 1999 while she was driving her ailing 90-year-old father home. When she asked why she was kept waiting by the roadside as her father needed to get home, she alleges police handcuffed her tightly behind her back, causing extreme pain, and placed her in a police car before issuing her with traffic tickets. When she went to the police station to file a complaint, she was allegedly arrested for the earlier traffic incident, handcuffed and struck about the legs and thighs. She was held for about five hours before being transferred, still handcuffed, to a jail where she was held overnight before being released.<sup>11</sup>

### ***County and police investigations hampered by "code of silence"***

All police shootings resulting in death or serious injury and deaths in police custody are reviewed by Prince George's County state's attorney (the county prosecutor) and the county grand jury for possible criminal charges. Other serious cases (such as assaults and dog-bite injuries) are also routinely reviewed. However, criminal indictments against county police officers in such cases are rare and convictions even rarer. Four people have reportedly been indicted by Prince George's County grand juries since September 2000: one officer was acquitted (the officer charged with shooting Gary Hopkins Jr); another had the case against him dismissed and two others were brought to trial in the Hector Millan case in July 2002<sup>12</sup>. In both the Hopkins and the Millan cases, the officers involved waived their right to trial by jury and were acquitted by county judges. The federal authorities have also opened investigations into more than 30 cases involving Prince George's County police officers for possible federal criminal civil rights violations -- reflecting increased scrutiny of the department by the US Department of Justice. However, only one case to date has resulted in federal charges (the officer convicted in August 2001 of setting her dog onto a homeless man: see above).

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<sup>11</sup>Both lawsuits were brought by the Washington Lawyers' Committee for Civil Rights and Urban Affairs, which since last year has offered free legal aid to people who claim they were abused by county police officers.

<sup>12</sup> See page 3.

In practice, the state's attorney relies heavily on the police department's own investigations into police use of force, which have been frequently criticized as inadequate. The "code of silence" in which police officers fail to report misconduct, or cover up abuses, is reported to have hampered many investigations. The Washington Post investigation into police shootings published in 2001, for example, found that officers' Discharge of Firearms Reports (which each officer is supposed to fill out separately, immediately after a shooting) frequently contained identical narratives. In many cases, police accounts were at odds with witness statements and evidence revealed in autopsy reports but still no charges were brought. Records obtained by the Washington Post also found that officers were repeatedly exonerated in police disciplinary inquiries, despite being cited in numerous complaints and lawsuits alleging excessive force and other misconduct. In some cases officers were not disciplined, despite clear evidence that they had lied during investigations.

The Citizen Complaint Oversight Panel (CCOP: a civilian review body for Prince George's County Police Department, see below) has also expressed concern about officers falsifying reports. In its annual reports for 2000 and 2001 the panel stated that, over the years, it had reviewed cases in which officers involved in police internal investigations, as respondents or witnesses: "deliberately misrepresented the facts to the investigators". The panel also noted that the Internal Affairs Division<sup>13</sup> of the police department had sustained charges against police officers of making false statements. The CCOP recommended that officers who knowingly give false statements during an investigation should be dismissed from the police force and charged criminally "unless mitigating circumstances exist such as cooperating with the investigators after being confronted with a false statement and then breaking the code of silence". However, Amnesty International understands that these recommendations have not been followed.

There has also been wide criticism of a provision contained under the Law Enforcement Officers' Bill of Rights (LEOBR: part of Maryland state law) which allows police officers to wait for at least ten days before being questioned about any matter that could lead to a disciplinary action.<sup>14</sup> Known as "the 10 day rule", its intent is to provide officers time to consult with legal counsel after being notified of an accusation against them. However, many believe that this long delay can hamper investigations and facilitate the "code of silence" by allowing the officer ample time to review the case and confer with other officers, possibly to concoct a defence. The CCOP said in its annual report for 2000 that the practice "invites abuse". Proposals introduced into the Maryland state legislature in February

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<sup>13</sup> All complaints of county police misconduct in Prince George's County, whether internally or externally generated, are investigated by the Internal Affairs Division (IAD). See page 9 for more on this.

<sup>14</sup>The rule also provides that nothing said by officers during this compelled questioning may be used against them in any criminal proceeding. However, the protection afforded officers from questioning for 10 days would also have an impact on any criminal investigation.



2002 to amend the 10 day rule state-wide and specifically in Prince George's County were unsuccessful.

### ***Adequacy of external oversight of complaints against the police/police use of force***

In Prince George's County, all complaints of county police misconduct, whether internally or externally generated, are investigated by the police department's internal affairs division (IAD). In 1990, the county created the Citizen Complaint Oversight Panel (CCOP) to provide external oversight of complaints made against Prince George's County police officers of excessive force, abusive language or harassment.<sup>15</sup> However, the CCOP has long been considered ineffective as it had no independent investigatory powers and could only review cases which had already been investigated by IAD and the county's Human Relations Commission (itself criticized for failure to conduct timely reviews)<sup>16</sup>. The CCOP had no power to interview witnesses or issue subpoenas and its recommendations were based solely on the written record prepared by IAD.<sup>17</sup> It also had no authority to receive complaints directly from members of the public.

In November 2001, the county passed legislation -- effective on 10 January 2002 -- which expanded the authority of the CCOP to

- review all complaints against a police officer for violation of any law or regulation, whether brought by a citizen, police officer or from any source;
- review all homicides that occur in police custody or as a result of an officer's use of force; and review all firearms discharges by police;
- conduct independent investigations concurrent with, or subsequent to IAD investigation, and to seek the issuance of a subpoena through the County Council.

The legislation also required the Chief of Police to forward to the CCOP within one business day a copy of any complaint and to notify the CCOP within 24 hours or by the next

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<sup>15</sup>The panel is composed of 7 county residents appointed by the County Executive and confirmed by the County Council.

<sup>16</sup>The Prince George's County Human Relations Commission is a department of the local government which seeks to eliminate discrimination in the community through advocacy, education, mediation, investigation of complaints and enforcement of discrimination laws.

<sup>17</sup>Although the CCOP was also supposed to receive the letter of findings of the Human Relations Commission's review of the case, these were rarely provided within the statutory time frame, according to CCOP annual reports, and in practice the CCOP was limited to the IAD reports.

business day whenever a police officer discharges a firearm with intent or someone dies in police custody as a result of an officer's use of force. Before this, there was no provision for general external review of police shootings or deaths in custody in Prince George's County.

These provisions are an important step forward in providing more public accountability in the investigation of complaints and in police use of lethal force. However, there remain limitations which could hamper the CCOP's effectiveness. Although the CCOP now has power to seek subpoenas when interviewing witnesses, it has no automatic subpoena power and police officers themselves are specifically exempted from the provision under the Law Enforcement Officer's Bill of Rights.<sup>18</sup> The police chief may also seek from the County Executive renewable 30-day exemptions from providing the CCOP with information on shootings or deaths in custody if this "would impede a pending criminal or internal affairs investigation". Amnesty International understands that while the Department is forwarding information on shootings and deaths in custody to the CCOP as required by the legislation, it is not forwarding information on other complaints and in recording details involving shooting incidents, the CCOP does not keep a racial breakdown of the complainant and officer.

The CCOP also notes in its 2001 Annual Report that the legislature did not address the resources necessary for the CCOP to perform its enhanced responsibilities. Amnesty International is seeking more information on how effective the reforms are in practice.

As before, the CCOP is empowered to make recommendations only, for example, on whether it agrees with the IAD's recommendation on the disposition of a complaint, reaches a different conclusion or believes the case should be reinvestigated. There has been criticism in the past of the high proportion of cases in which the CCOP's recommendations to the Chief of Police (who makes the final decision on cases) are disregarded. The CCOP Annual Report for 2001 reveals that (while the panel agreed with the IAD finding in 82% of cases reviewed) the police chief followed the CCOP's recommendation in only 32% of the cases where the panel disagreed with the IAD disposition and recommended a different finding or disciplinary measure.

### ***Other police reforms/outstanding concerns***

A number of additional reforms have been introduced by the county and police department over the past year, most of them set out in a 10-Point Plan proposed by County Executive Wayne K Curry in July 2001 or recommended by a Community Task Force on Police

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<sup>18</sup>The CCOP legislation specifically stipulates that provisions under the LEOBR -- which includes a provision that police officers are not required to give statements to anyone other than police investigators "are in no way supplanted" by the CCOP procedures. As noted in the CCOP 2001 Annual Report, the subpoena power provided to CCOP under the new legislation is more limited than that given to the civilian review authority for several other large US police agencies, for example in New York, Los Angeles, Philadelphia and Pittsburgh.

Accountability which reported in February 2001. They include video-taping police statements in police shootings and in-custody death cases; the installation of video cameras into all police patrol vehicles; an intensively trained Special Investigative Response Team ready to respond to any critical incident;<sup>19</sup> police disciplinary hearings held in publicly accessible locations;<sup>20</sup> funding for an extra attorney and investigator at the State's Attorney's office; and the publishing of semi-annual reports giving information on police firearms discharges, deaths in custody, disciplinary actions and other data.

In January 2002, the County Executive reported that complaints of excessive force (based on cases reported to IAD) fell by 25% in 2001 over the previous year and were 66% lower than in 1994, a sign, he said, that reforms and increased scrutiny of the department were working. However, some important reforms have not yet been implemented. The number of civil lawsuits filed against the department (52 in 2001) also remains relatively high.

One of the proposals not yet implemented is upgrading the police department's Early Identification System (EIS), a computerized database for identifying and tracking the conduct of individual officers involved in misconduct complaints. This is of particular concern as many Prince George's County police officers have been cited in repeated complaints of excessive force or other misconduct and have escaped discipline or even been promoted. The EIS produces monthly lists of officers involved in two use-of-force incidents (including shootings) or complaints over a 60 day period or three in 90 days, who can then be subjected to special measures if necessary. However, a major weakness is that the EIS does not keep data beyond 90 days and the lists of officers identified each month are destroyed; officers who may exhibit problematic behaviour over a period of years, or who appear repeatedly on the EIS monthly lists, may thus escape monitoring. Other large police departments have introduced more detailed monitoring systems able to track officers over far longer periods.<sup>21</sup> Plans to upgrade the EIS were included in the County Executive's 10-Point Plan. Plans were

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<sup>19</sup>The SIRT includes 5 homicide detectives, 6 IAD detectives and 6 technical assistants who will investigate each shooting and in-custody death -- before such cases were assigned to whichever detectives happened to be on duty at the time.

<sup>20</sup>In the past police administrative hearing boards were technically open to the public but in practice took place behind closed doors at police headquarters and were not announced in advance as they are now.

<sup>21</sup>The Early Warning System contained in the Consent Decree negotiated between the Justice Department and the Pittsburgh Police Bureau, seen as a model for other police forces, for example, includes data on civilian complaints and lawsuits; hit and non-hit shootings; commendations and training; arrest record, race of arrestee; use-of-force incidents; traffic stops, searches and seizures. Any officer who within a 2-year period receives 3 citizen complaints of a similar nature or five of any kind shall at a minimum receive training, counselling, transfer or reassignment. The information is kept for 3 years on the EWS database and then maintained in an archive.

also underway to move the EIS from the police department itself to the county's Office of Law.

Other proposals -- such as reduction of the 10 day delay before officers give statements (see above) -- require legislative action to amend state law and have failed largely due to opposition from the police union. A proposal introduced into the Maryland state legislature in February 2002 to add a civilian to police hearing boards (bodies which hear testimony or other evidence relating to complaints) on cases involving excessive force was unsuccessful. Several other major police departments now have a civilian on police hearing boards, a measure intended to increase public confidence in the police disciplinary process.

### ***Public reporting on police use of force/complaints and disciplinary process***

Until recently, Prince George's County police department provided no regular public information on police use of force, shootings or deaths in custody. Under the 10-point plan, the department now issues semi-annual reports giving six-monthly data on the number of police shootings; in-custody deaths; canine deployments and dog bites; non-lethal restraints use (including batons, O.C. spray, and the Wrap restraint); traffic stops; complaints filed against police officers and disciplinary action; actions filed by outside agencies (e.g. the Justice Department). These statistics are compared against the previous year. At the time of writing two semi-annual reports had been issued during the course of this year, covering January-June 2001 and July to December 2001.

Amnesty International believes that the above reports are a necessary step in making the department more accountable. However, some information is lacking, for example on civil lawsuits filed against the department. The semi-annual reports for 2001 list the number of civil actions filed against the police and the number of cases "closed" or "dismissed". However, no information is provided on the number of lawsuits resulting in judgements or settlements against the county in police misconduct cases or on the amount paid out to alleged victims in such cases. Such data is regularly provided by other jurisdictions as a matter of important public concern.

There has long been criticism of the secrecy surrounding civil lawsuits filed against Prince George's County in police misconduct cases. Prince George's County juries are reported to have awarded \$6.5m in damages in police misconduct cases in 2000, but this does not include the much larger number of cases which are settled out of court.<sup>22</sup> For years, the

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<sup>22</sup>Although the \$6.5m in jury awards is partly accounted for by huge sums paid out in one or two individual cases, this is still a disturbingly large amount. As a comparison, in 2001 the city of Miami (which has been dogged by allegations of police use of excessive force and is currently under investigation by the Department of Justice) paid out just under \$98,000 in judgements in police misconduct civil lawsuits and just over \$1m in settlements. Los Angeles, in 1998, is reported to have paid out \$3.74m in damages resulting from both judgements and settlements in cases involving the Los

county has refused to disclose the sums paid out in damages to victims in out-of-court settlements, either in individual cases or in aggregate figures.<sup>23</sup> AI believes that the county should make publicly available data on the total amounts paid out each year in judgements and settlements in police misconduct lawsuits, in line with many other jurisdictions, as well as a breakdown of the type of cases involved. At the time of writing, the Washington Post was suing the county to try to obtain that information. Amnesty International submitted its own request for this information to the county law office on 2 August 2002 and is currently awaiting a response.

Although the semi-annual reports give the number of fatal and non-fatal police shootings over a six-month period, no further information is provided. It would be useful to provide a periodic breakdown of shooting cases by race, ethnicity and sex of the officer and suspect, as is done by some departments.

It remains to be seen how far the CCOP's expanded remit will enable it to report on deaths in custody and police shootings, hitherto excluded from its jurisdiction. Amnesty International believes that the police and county authorities should make public the outcome of all criminal, disciplinary and administrative investigations into cases of alleged police ill-treatment, deaths in custody and disputed shootings promptly after completion of the investigation, unless doing so would jeopardize any ongoing criminal proceedings.

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Angeles Police Department (a police force which is some six times larger than Prince George's County Police Department).

<sup>23</sup>Indeed, secrecy is often a condition of the settlement. For example, the Washington Post reported in December 2001 that 17 excessive force cases had been settled out of court against Prince George's Police Department's canine unit over the past four years; in 14 of those cases county attorneys required the plaintiffs to sign agreements promising to keep the terms of the settlements secret (Washington Post 30 December 2001).

## **Non-lethal weapons**

In the past two years, the Prince George's County Police Department has reported training officers in a range of so-called "non-lethal weapons" or restraint devices in order to reduce the need for lethal force, particularly in the case of people who are under the influence of drugs or mentally or emotionally disturbed. These devices include the WRAP restraint (similar to a strait jacket); containment nets; beanbag devices; pepper spray (an inflammatory agent derived from cayenne peppers which inflames the mucous membranes and causing gagging and shortness of breath); pepper ball guns (guns that shoot pepper spray) and Taser stun guns which were issued to all 50 patrol squads following the October 2001 fatal police shooting of Ceaser Allen, a mentally distraught man wielding a knife.

International standards encourage the development of non-lethal incapacitating weapons, in order to reduce the risk of death or injury. However, the standards also state that these should be "carefully evaluated" and that "the use of such weapons should be carefully controlled."<sup>24</sup> Amnesty International welcomes initiatives to avoid the use of firearms, but remains disturbed by some of the devices referred to above.

Prince George's County Police Department is one of a growing number of US police agencies to introduce the powerful M-range of Tasers, which shoot two wire-trailing darts across a range of up to 21 feet and transmit powerful electrical pulses into the target's body, causing instant incapacitation. Although the manufacturers of Tasers insist that their products are safe, there is evidence suggesting that electro-shock devices may produce harmful and even fatal effects, particularly in the case of persons suffering from heart disease, neurological disorders or who are under the influence of certain types of drugs.<sup>25</sup> Amnesty International calls for all stun weapons to be suspended for use by law enforcement officials until a rigorous, independent investigation has been conducted into their medical and other effects.

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<sup>24</sup>Principles 2 and 3 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

<sup>25</sup>Medical concerns relating to stun equipment are cited in several AI reports, including *Use of Electro-shock Stun Belts* (AI Index: AMR 51/45/96, 12 June 1996); *Arming the Torturers: Electro-shock Torture and the Spread of Stun Technology* (AI Index: ACT 40/01/97, March 1997) and *Cruelty in Control? The Stun Belt and other Electro-shock equipment in Law Enforcement* (AI Index AMR 51/54/99). See also opinion that "certain medical conditions, including drug use and heart disease may increase the risk that the Taser will be lethal": Terence B Allen, MD, *Discussion of Effects of the Taser in Fatalities involving Police Confrontation* in *Journal of Forensic Sciences, USA*, 1991, pages 956-958).

Amnesty International is also concerned by the potential health risks caused by pepper spray, particularly when used in large quantities, or in combination with other restraints which can inhibit breathing. Although pepper spray has been promoted as a safer and more effective alternative to mace or impact weapons, some research studies have found that it can be harmful to people with respiratory problems such as asthma, and heart disease.<sup>26</sup> Studies have also warned that pepper spray may not be effective against subjects who are extremely agitated or under the influence of drugs, possibly leading to over-use of the spray to dangerous levels. Pepper spray was demonstrably ineffective in the case of Caesar Allen (above) who was reportedly pelted with four cans of pepper spray and 15 rounds of pepper balls before being shot.<sup>27</sup> Amnesty International has called for an independent, national inquiry into police use of pepper spray and, in the meantime, for police departments to either cease using pepper spray or to introduce strict guidelines and limitations on its use, with careful monitoring procedures.

Amnesty International is also disturbed by reports of two deaths of prisoners held in the WRAP restraint since its introduction by Prince George's Police Department in mid-2000. AI is concerned that the device may cause compression of the chest, one of the factors which can lead to positional asphyxia. Deaths from positional asphyxia have been found more likely to occur in the case of people who are extremely agitated and under the influence of drugs. AI urges an urgent review of the WRAP restraint procedure by Prince George's County.

Amnesty International recognizes the difficulties encountered by police officers when dealing with highly disturbed individuals or others who engage in threatening or non-compliant behaviour. However, Amnesty International urges police departments to emphasise in their training programs that force should be used only as a last resort if other means of achieving a legitimate objective are ineffective; and that any force should be designed to minimize damage or injury. Other measures for dealing with the mentally ill or those under the influence of drugs, such as special crisis response teams trained to de-escalate a situation, should be considered.

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<sup>26</sup>Since the early 1990s more than 90 people in the USA are reported to have died after being subjected to pepper spray. While most deaths have been attributed by coroners to other causes, such as drug intoxication or positional asphyxia, or are unexplained, pepper spray has been found to be a factor in several in-custody deaths. (See, for example, Amnesty International's report: "USA – Rights For All", Index number: AMR51/35/98, October 1998)

<sup>27</sup>An internal memorandum from one of the largest suppliers of OC pepper spray some years ago concluded that serious health risks may ensue if someone is sprayed with more than a single-second burst; many US law enforcement agencies, and policies and guidelines issued by the International Association of Chiefs of Police recommend limits of between one and three second bursts of OC spray.

## ***Amnesty International's Recommendations For Police Reform***

In its report, "Rights for All" (AMR51/35/98), October 1998, Amnesty International made a series of detailed recommendations to the federal and state government and to local authorities in the USA to combat police brutality. Amnesty International urges the Prince George's County authorities to implement these recommendations, with particular reference to the following:

- State, local and federal authorities should ensure that ill-treatment and excessive force by county police officers will not be tolerated; that officers will be held accountable for their actions and those responsible for abuses will be brought to justice.
- International standards on the use of force and firearms, and on the prohibition of torture and ill-treatment and discriminatory treatment should be fully incorporated into police codes of conduct and strictly enforced.
- The outcome of all criminal, disciplinary and administrative investigations into alleged violations, and into all disputed shootings and deaths in custody, and the reasons for any decisions taken, should be made public promptly after completion of the investigation.
- The authorities should provide public information on the number of civil lawsuits alleging police misconduct filed annually, and on the number of settlements and judgments in such cases and the amount paid out in settlements or judgements each year.
- State, local and federal authorities should establish independent and effective oversight bodies for their respective police agencies. These bodies should have adequate resources to fulfil their mandate and the power 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 complaints procedures should be prominently displayed in all police stations.

In addition, all police departments should:

- Introduce training programs designed to minimize the risk of unnecessary force and death or injury in certain common situations, including vehicle pursuits, foot chases and coping with mentally ill or disturbed individuals.
- Have effective early warning systems to identify and deal with officers involved in human rights violations or other abuses. They should establish clear reporting systems and keep detailed records in order to identify and take remedial action in respect of any patterns of abuse, including racial bias or discriminatory treatment.
- Issue clear guidelines requiring officers to report abuses, and officers with chain-of-command control should be held responsible for enforcing those guidelines. There should be strong penalties for failing to report, or covering up, misconduct.
- Suspend the use of electro-shock weapons such as stun guns pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of the equipment.
- Ban inherently dangerous restraint procedures such as those which carry a risk of positional asphyxia.
- Introduce strict limitations and guidelines on the use of OC pepper spray and other chemical agents with clear monitoring procedures