# UNITED STATES OF AMERICA

## CRUELTY IN CONTROL? THE STUN BELT AND OTHER ELECTRO-SHOCK EQUIPMENT IN LAW ENFORCEMENT

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**KEYWORDS:** ELECTRO-SHOCK EQUIPMENT1 / RESTRAINTS1 / TORTURE/ILL-TREATMENT1 / TRIALS1 / MENTAL HEALTH / JUVENILES / DEATH IN CUSTODY / PRISONERS' TESTIMONIES / HUMAN RIGHTS INSTRUMENTS / PHOTOGRAPHS

**Cover photo: A stun shield in a county sheriff's office, 1999. The electro-shock, transmitted through the vertical strips, is activated from a button on the handles. The brand depicted is believed to be one that can deliver a 75,000 volt, 3-4 milliamp shock at 17-22 pulses per second. Stun shields are used in numerous prisons and jails in the USA, primarily in the forced removal**

**of inmates from cells, an operation known as “cell extraction”. This photo, and those on pages 5 and 35, are video stills, courtesy of Eurovision Productions.**

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# Cruelty in Control?

## The Stun Belt and other Electro-Shock Equipment in Law Enforcement

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## INTRODUCTION

"*In court Wednesday, the accused killer wore a gray sweater, concealing all but the bulge of a shock belt... Five bailiffs stood by, one in plain clothes, another with his hand on the button to send electric pulses through Overton should he make a drastic move.*" From news report of first day of Thomas Overton's trial, Florida, 20 January 1999[1]

On 18 March 1999 Thomas Overton was sentenced to death in Florida. Throughout his trial he had been made to wear a remote control stun belt, giving an officer the power to subject him to a 50,000 volt electric shock if the "need" arose. Accused and convicted of capital murder, Thomas Overton is a figure easily demonized. But a society's response to its criminal offenders provides an insight into its respect for fundamental human rights.

Execution is the most extreme penalty in a country which in recent years has seen a marked shift away from policies designed to rehabilitate criminal offenders, towards a much greater emphasis on punishment, incapacitation and human warehousing. Since 1980 the combined prison and jail population has more than tripled, and is now approaching two million inmates.[2] Even though huge sums have been spent on building new detention facilities, the expansion has not kept pace with this phenomenal growth, and overcrowding has contributed to dangerous conditions in many institutions. Such conditions, together with the pressure to substitute technology for staff in order to cut costs, has helped to fuel the development of new methods of inmate control. One such method comes in the form of electro-shock stun equipment, such as stun guns, stun shields, tasers and the stun belt.

[1] Jury told of alleged murder confession. *Miami Herald*, 21 January 1999.

[2] At midyear 1998, there were estimated to be 1,210,034 people in federal and state prisons and 592,462 in local jails (total inmates 1,802,496). Department of Justice, Bureau of Statistics, March 1999.

The use of electro-shock stun technology in law enforcement raises concern for the protection of human rights - not surprisingly, given that electricity has long been one of the favoured tools of the world's torturers.[3] Portable, easy to use, and with the potential to inflict severe pain without leaving substantial visible marks on the human body, electro-shock stun equipment is particularly open to abuse by unscrupulous law enforcement officials[4]. Of concern also is evidence which suggests that electro-shock devices may produce harmful or even fatal effects, particularly in the case of persons - diagnosed or undiagnosed - suffering from heart disease, neurological disorders or who are under the influence of drugs.[5]

International standards encourage the development of non-lethal weapons for law enforcement, in order to decrease the risk of death or injury inherent in the use of firearms and batons. But these standards state that new weapons must be "carefully evaluated" and their use "carefully controlled".[6] The US authorities have failed to live up to this standard as electro-shock weapons have proliferated around the country's law enforcement agencies, especially at local level, without rigorous independent testing, evaluation and monitoring.

Of additional concern is the export of electro-shock stun weapons from the USA to other countries where they may be used to commit torture and other cruel, inhuman or degrading treatment or punishment.[7] This will be examined as part of a forthcoming Amnesty International paper.

[3] In recent decades, torture by mains electricity or hand-operated generators has occurred in many countries. In the USA, for example, an investigation of Tucker Prison Farm, Arkansas, in 1966 revealed a hand-cranked telephone device used to torture inmates by electric shock. In 1989, allegations of systematic torture in Area 2 police station in Chicago carried out over a 20-year period came to light, involving at least 60 suspects who reported torture methods including electric shocks from a hand-operated generator. In February 1999, a coalition of lawyers and activists called for an investigation into the cases of 10 of the 60 who remain on death row, saying their prosecutions were built on confessions obtained by torture.

[4] "It's possible to use anything for torture, but it's a little easier to use our devices." John McDermit, head of Nova Products (US stun weapons manufacturer), quoted in Shock Value: US Stun Devices Pose Human Rights Risk. *The Progressive*, September 1997.

[5] Several deaths have occurred following use of stun weapons (see, for example, pages 30 and 37 of *USA: Rights for All* (AI Index: AMR 51/35/98, October 1998). For more on medical concerns relating to stun weapons, see *Use of Electro-shock Stun Belts* (AI Index: AMR 51/45/96, 12 June 1996), and *Arming the Torturers: Electro-shock Torture and the Spread of Stun Technology* (AI Index: ACT 40/01/97, March 1997).

[6] Principles 2 and 3 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

[7] See *Arming the Torturers*, op. cit.

This current report reiterates Amnesty International's call on all federal, state and local law enforcement and correctional agencies in the USA to suspend the use of **all** electro-shock weapons until and unless a rigorous, independent and impartial inquiry, including thorough medical evaluation, can prove that they are safe and will not contribute to deaths in custody or torture or other cruel, inhuman or degrading treatment or punishment. The organization is further calling on the US government to suspend the manufacture, promotion and transfer of such electro-shock weapons until such an inquiry has taken place.

The organization also renews its call for an outright ban on the manufacture, promotion, transfer and use of the stun belt. Amnesty International believes that uniquely amongst stun equipment, the use[8] of the stun belt, *even when not activated*, constitutes cruel, inhuman or degrading treatment or punishment as outlawed under international law. The stun belt is the main focus of this report.

## THE STUN BELT: CONTROL THROUGH FEAR

"*Electricity speaks every language known to man. No translation necessary. Everybody is afraid of electricity, and rightfully so.*"[9]

A stun belt is a weapon that is worn by its victim. Unlike when faced with other electro-shock devices, the prisoner or defendant is physically in contact with the stun belt the whole time it is used against them, which may be for hours at a time. This constant reminder of the belt's presence makes the threat of its activation all the more real. Its electro-shock can be set off by a law enforcement official operating a remote control transmitter up to 300 feet (90 metres) away, including as has happened in several cases, by accident. On activation, the belt delivers a 50,000 volt, three to four milliampere shock which lasts eight seconds. This high-pulsed current enters the wearer's body at the site of the electrodes, near the kidneys, and passes through the body, causing a rapid electric shock. The shock causes incapacitation in the first few seconds and severe pain rising during the eight seconds. The electro-shock cannot be stopped once activated.

[8] In this paper, the term "use" of a stun belt means the wearing of a stun belt by a prisoner. If activation of the stun belt is being referred to, that is specified.

[9] Dennis Kaufman, President of Stun Tech quoted in: Shocking restraint attracts criticism, *Sun-Sentinel* (Fort Lauderdale, Florida), 4 February 1998

That an electro-shock from a stun belt causes severe pain is not disputed. In many jurisdictions, law enforcement officers are given a shock from a belt as part of their training in its use. One officer in Maryland has recently described how it felt as if "*you had nine-inch nails and you tried to rip my sides out and then you put a heat lamp on me.*"[10] Another in Ohio said that "*it felt like every muscle in my body short-circuited at the same time.*"[11] It should be noted that prisoners, unlike officers who wear the belts for a few minutes in a training exercise, do not have the opportunity to prepare for the moment when the electro-shock will be delivered, and wear the belt for far longer.

In many US jurisdictions, before inmates are made to wear a stun belt, they are required to read, or have read to them, an explanation of its potential and the circumstances under which it may be activated. The description will leave the wearer in no doubt as to the pain and humiliation that could follow activation. For example, Gwinnett County Sheriff's Office in Georgia uses a form which advises the wearer that the belt "contains 50,000 volts of electricity".[12] The form states that activation will lead to (1) *immobilization causing you to fall to the ground*, (2) *possibility of self-defecation*, and (3) *possibility of self-urination*. It informs the wearer that activation could occur following (a) *any outburst or quick movement*, (b) *any hostile movement*, (c) *any tampering with the belt*, (d) *failure to comply with verbal command for movement of your person*, (e) *any attempt to escape custody*, (f) *any loss of vision of your hands by the custodial officer*, or (g) *any overt act against any person within a 50 foot vicinity*. The officer in charge has to record on another form information about the use of the belt including the amount of force needed to place the belt on the wearer on a scale from "none" to "physical restraint assistance required".[13] In some jurisdictions, officials make the prospective wearer watch part of a video which shows a series of about 25 corrections officers having the stun belt activated on them during training.[14] The video leaves the viewer in no doubt as to the potential of the stun belt to inflict severe pain (see Christopher Blackstock, page 17).

[10] New tool in courts: stun belts. *Washington Post*, 29 December 1998.

[11] Deputies say stun belts work to control prisoners. *The Columbus Dispatch*, 5 October 1998.

[12] This form is believed to be similar or identical to that used in the majority of jurisdictions employing Stun Tech's REACT belt, and is based on a sample form supplied by the company.

[13] This form is also based on one supplied by Stun Tech.

[14] This video is supplied by Stun Tech for training/promotional purposes.

Torture and other cruel, inhuman or degrading treatment or punishment are prohibited under Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights (ICCPR), the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international and regional human rights instruments. Article 10.1 of the ICCPR states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

The UN Human Rights Committee, the expert body which monitors compliance with the ICCPR, states that "the aim of the provisions of article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual." The Committee emphasises that the prohibition on torture or cruel, inhuman or degrading treatment or punishment in article 7 "relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim."[15] The fear of infliction of severe pain, in a setting of total powerlessness, is a leading component of the mental suffering of a victim of torture or cruel, inhuman or degrading treatment or punishment. The person to whom the stun belt is attached is under the constant fear of a severe shock being administered at any moment, for reasons over which he or she may have no control. This fear constitutes mental suffering.[16]

The reliance on fear for the stun belt to be effective has been repeatedly emphasised by its proponents, who sometimes euphemistically refer to "anxiety". For example, a state law enforcement official recently stated: "*It's psychological deterrence. The anxiety of having it on seems to be the most effective tool*."[17] Stun Tech Inc., until now the main US stun belt manufacturer, has emphasised the use of fear to control prisoners wearing the stun belt. The company's president has said that: "We don't recommend that it be placed on anyone who has a heart condition. The reason is that, if they have to wear it for eight hours, there's a tremendous amount of anxiety. The fear will elevate blood

[15] General Comment 20, 10 April 1992

[16] In line with a decision of the Human Rights Committee of 12 July 1990 (Communication No. 195/1985, UN document No. CCPR/C/39/D/1985, paragraph 5.5.), subjection to fear could also be considered a violation of the right to security of person set forth in Article 3 of the Universal Declaration of Human Rights and other international human rights instruments.

[17] *Washington Post*, op. cit.

*pressure as much as the shock will.''*[18] Literature distributed by Stun Tech states: *"After all, if you were wearing a contraption around your waist that by the mere push of a button in someone else's hand, could make you defecate or urinate yourself, what would you do from the psychological standpoint?''*

Whilst the threatened effects of uncontrollable urination and defecation are specifically humiliating, the constant subjection to a police or prison official who has the power to administer pain at will is also clearly degrading. Such permanent control deprives the prisoner of the possibility of self-control and thereby of a part of his or her humanity. The capacity to administer severe shocks at a distance makes the stun belt especially prone to arbitrary use and to misuse as an instrument of torture. This can include operators taunting wearers with the threat of activation, as has been alleged in several cases.

## THE STUN BELT IN THE USA - A GROWING CONCERN

[18] Quoted in Stunning Technology, *The Progressive*, July 1996. Stun Tech recommends that the stun belt not be used against pregnant women, or people with heart disease, multiple sclerosis or muscular dystrophy. In its promotional video, the company claims that "the technology we are using is not capable of giving someone a heart attack". Amnesty International knows of no rigorous independent studies to back up this claim. Nova Products claims that its stun devices are medically safe. An officer of the Maricopa County Sheriff's Office in Arizona, interviewed for Dutch Television in early 1999, when asked if his jurisdiction used their (Nova) RACC stun belt on people with heart problems, implied that there was no need to take this into consideration when he replied that the belt "*will not cause any types of problems, if you have heart problems it will not affect heart problems*."

"*Times have changed and so has technology. We have apparently progressed from the "ball and chain" to an electronic belt...*" Court of Appeal of California[19]

The Remote Electronically Activated Control Technology (REACT) belt is a product of Stun Tech Inc. of Cleveland, Ohio. Two versions of the belt are in use - the High Security Transport Belt (HTSB) and the Minimal Security Belt (MSB). The HTSB is designed for use with various other restraints such as handcuffs, wrist cuffs and shackles, whereas the MSB is designed for lower profile use such as in courtrooms. Stun Tech has claimed to have made about 90 per cent of the stun belts on the market, and to have sold about 1,400 belts to US law enforcement agencies. Nova Products, of Cookeville, Tennessee, offers the Remote Activated Custody Control (RACC) belt. Amnesty International understands that REACT and RACC devices are the only stun belts currently in use in the USA.

[19] *People v Garcia*, 56 Cal. App. 4th 1349, 5 August 1997.

The future of the REACT belt appears to be uncertain following legal action brought against Stun Tech by RACC Industries of Upper Marlboro, Maryland, the sole owner of the stun belt patent.[20] Stun Tech had the exclusive licence to make and sell stun belts, in return for royalty payments to RACC Industries. However, Stun Tech ceased making these payments when it redesigned its REACT belt into one which resulted in a noticeable bulge when worn under clothing (see page 18 for more on visibility issue). Stun Tech argued that this was therefore different to the original patent description of a device "adapted for concealment beneath garments...". In 1998 a federal court upheld a lower court decision that Stun Tech had infringed the patent agreement and prohibited it from making, using, selling or otherwise distributing its belts for the life of the patent.[21] According to information received by Amnesty International, this injunction was lifted when Stun Tech appealed to the US Supreme Court, which at the time of writing had not made a decision on the case. Amnesty International understands that Nova Products now has the licence to make and distribute the stun belt.

In a settlement reached in October 1998, the US government agreed to pay RACC Industries $50,000 to escape patent infringement liability for the REACT belts federal authorities have already purchased, and for the first 100 belts they purchase following the settlement.[22] The situation at state and local authority level is less clear. For example, in April 1998 Franklin County Sheriff's Office, Ohio, were in the process of placing an order for REACT belts with Stun Tech, when it was informed that the company was not allowed to sell them because of the patent dispute. It ordered RACC belts from Nova Products instead. Kodiak Police Department, Alaska, decided to stop using its REACT belt in early 1998 rather than pay extra fees to RACC Industries as a result of the lawsuit. Other jurisdictions have purchased REACT belts in recent months. For example, on 1 April 1999, the Duval County Sheriff's Office, Florida, was awaiting the arrival of a REACT belt it had bought. Likewise on 10 May, Daviess County Sheriff's Office in Kentucky had a REACT belt on order. Both counties were planning to use the stun belts - their first - in courtrooms.

There are no official national statistics on the use of the stun belt. Stun Tech has claimed that REACT belts have been worn by prisoners on over 50,000 occasions in the past five years. This may be an underestimation, given that there are well over 1,000 belts in circulation in more than 100 jurisdictions and a single belt can be used on many occasions during a year. For example, Franklin County Sheriff's Office in South Carolina has one stun belt which has been used some 30 times in its first year, according

[20] US Patent No 4,943,885 - "Remotely Activated, Nonobvious Prisoner Control Apparatus" - issued on 24 July 1990.

[21] RACC Industries Inc. v. Stun-Tech Inc, no 98-1186, Fed. Cir. [1998].

[22] RACC Industries v. The United States. US Court of Federal Claims, No 98-139C.

to a spokesperson in February 1999. A spokesperson for Franklin County Sheriff's Office in Ohio stated in February 1999 that at least one of the county's four new RACC belts is in use most days for transportation (particularly interstate extraditions) or in courtrooms.[23]

[23] However, some jurisdictions may use their stun belts infrequently. For example, at the time of writing, the two REACT belts owned by Multnomah County Sheriff's Office in Oregon had never been used. In April 1999, the county was seeking legal advice (relating to the potential for lawsuits following stun belt use or activation) as part of its consideration of whether to use one of its stun belts in forthcoming proceedings against a defendant who had previously assaulted his defence attorney.

Similarly, the true figure for the number of times stun belts have been activated is impossible to determine, given that some activations may go unreported, particularly those that occur outside of public view such as during transportation or within prison walls. Based on claims made by Stun Tech, the REACT belt has been activated at least 29 times, including several allegedly accidental activations.[24]

At federal level the US Marshals Service and the Bureau of Prisons (BOP) use the stun belt. The US Marshals Service is responsible for federal courtroom security and for the housing and transportation of individuals arrested under federal laws from the time they are brought into custody until they are either acquitted or convicted. The agency has a daily total of over 27,000 detainees under its jurisdiction in federal, state and local jails. According to Stun Tech, the US Marshals Service has bought 200 REACT belts. For its part, the BOP "routinely removes inmates from our secure institutions for medical treatment, inmate transfer, court appearance, etc... To increase security and reduce the risk to the community, staff, and inmates when escorting high risk inmates into the community, the REACT or "Stun Belt" was adopted."[25] At the end of 1998, there was a total BOP inmate population of 123,041 prisoners, 14 per cent of whom (14,281) were classified as high security inmates. According to Stun Tech, the BOP has 100 stun belts.

[24] Stun Tech has said that the problem of accidents has been addressed by the fitting of a plastic guard over the trigger button of new REACT belts and through additional training. Nova Products claims that there have been “no false or accidental activations” of the RACC belt, which is activated by two buttons pressed simultaneously. There is believed to be the possibility of accidental activation of stun belts via interfering radio signals.

[25] Reply to Amnesty International from the Assistant Director of the Bureau of Prisons, July 1996.

In a telephone survey conducted in January 1999, 20 state Departments of Corrections told Amnesty International that they currently authorize the use of stun belts, although the extent to which they are used varies from state to state (see table 2, page 44). The organization has been unable to systematically survey the use of the belt by law enforcement agencies at local level, for example county Sheriff's Offices, but it believes that its use by such agencies is far more common than at state level. For example, at state level in California and Ohio, the Departments of Corrections do not authorize the use of stun belts (or any other stun equipment) in their institutions. However, at least 18 counties in California and more than 20 in Ohio are believed to have stun belts for use in transportation and courtrooms, with some jurisdictions only recently added to the list. For example, in Ohio, the Sheriff's Offices in Greene County and Warren County both purchased stun belts in 1998. They have since trained officers in the use of the stun belts, and began using them late in the year. Of the 25 largest local jail jurisdictions in the USA in 1998[26], 15 are believed to have stun belts, as depicted in table 3 at the end of this report. Table 3 lists 112 local jurisdictions in 30 states reported to have, or to have had, the stun belt. This list does not claim to be exhaustive.

It appears that use of the stun belt is on the increase elsewhere in the USA. In mid-March 1999, the Florida Department of Corrections was planning to purchase some 85 Stun Tech REACT belts. It is considered likely that the Oklahoma Department of Corrections will soon authorize the purchase of stun belts, having recently incorporated them into its use-of-force policy. The Division of Pretrial Detention and Services of the Maryland Department of Public Safety and Correctional Services has recently purchased stun belts and in January 1999 was training officers in their use for transportation and court hearings. Prior to this no stun equipment was authorized at state level in Maryland. At local level in the state, the Sheriff's Office in Montgomery County was reported to have purchased three stun belts in 1998 for use in courtrooms and to have used them 10 times in the last three months of the year. Local jurisdictions elsewhere have adopted the device recently, including the Sheriff's Offices in Sweetwater County, Wyoming, and Hall County, Nebraska, which purchased stun belts in 1998, and in Prince George County, Virginia, which was planning to train officers in April 1999 in the use of its new REACT belt.

[26] US Bureau of Justice Statistics, March 1999. In 1998, these 25 jurisdictions accounted for 27 per cent of all jail inmates.

Some jurisdictions have been prompted to adopt the stun belt as a result of specific incidents such as a violent disruption in court, while others may have been motivated more by the anticipation of such incidents. Another driving force for the growth in use of the stun belt is its alleged potential to cut staff costs. Stun Tech's Instructional Guidebook for stun belt users emphasizes this: "*Overcrowded prison situations require mass transports on a daily basis, once again straining available manpower and budgets. Use of the REACT System can reduce security personnel requirements and save precious budget dollars... By implementing the REACT Belt System additional savings are realized because escort and/or security personnel can be reduced. Very often, one belt system may be purchased for the comparable overtime rate of 24 hours for one officer!*". The current cost of a stun belt is around US$700. In the 1998 appeal of Phillip Flieger (page 19), one of the arguments the county reportedly gave for using the stun belt was that it saved on staffing costs.

Private companies involved in the rapidly growing US incarceration business may have an even stronger interest in cutting costs in order to increase profits.[27] While Amnesty International does not know the extent to which the stun belt is being used in privately-run correctional facilities, it is concerned that the belt could become a favoured form of restraint in prisoner transportation by such institutions. Tens of thousands of inmates are held in private US jails and prisons, and many are held in states other than the ones in which they were convicted, increasing the need for interstate transportation. For example, the Northeast Ohio Correctional Center (NEOCC), a private prison in Youngstown, Ohio, opened in May 1997 and was rapidly filled with prisoners contracted out from the District of Columbia's Department of Corrections. The NEOCC, owned and operated by the Corrections Corporation of America (CCA), had at least one stun belt for use in transportation. An official security audit report of the NEOCC carried out in September 1998 in response to serious problems and alleged abuses in the facility, was critical of the fact that NEOCC had no policy on the circumstances in which the stun belt could be activated, and recommended that such a policy be written. The lack of policy was symptomatic of inadequate policies in several areas and the use of inexperienced staff - a result of the CCA's rush to open the prison which it had built on speculation without a prospective inmate population. The lack of adequate policies governing the use of the stun belt (and stun shields - see page 41) could have had profound ramifications relating to prisoner health; many of the first arrivals to the prison had serious medical conditions and yet their medical records had not been received at

[27] There are reported to be 163 private correctional facilities in the USA, compared with "one or two in 1984". As more prisons go private, states seek tighter controls, *New York Times*, 15 April 1999.

NEOCC. The report notes that 250 of the first 900 inmates "*needed chronic care for such pre-existing conditions as asthma, HIV* [-related illnesses], *diabetes, high blood pressure, and heart disease. In fact, management of chronic care cases remained a significant problem for a long period.*"[28]

[28] On 1 March 1999, a federal judge granted preliminary approval to a $1.65 million settlement on behalf of DC inmates held in NEOCC who had filed a class-action lawsuit against CCA in August 1997.

Although the use of the stun belt appears to be growing in the USA, acceptance of it by law enforcement agencies is as yet far from universal. In the telephone survey referred to above, several spokespersons for state corrections departments indicated to Amnesty International outright opposition to the stun belt, or departmental reluctance to embark on use of the device. A spokesperson in another state which has recently adopted the stun belt defensively stated that the department was "doing no more than the federal government and several other states are doing." Other jurisdictions have displayed a sensitivity to potential bad publicity surrounding its use. In late 1998 New York City Department of Corrections cancelled an order of 10 stun belts, and returned them to Stun Tech after the news of the order was investigated by a journalist and condemned by Amnesty International on a national TV program. Prior to this, a number of law enforcement officials had reportedly been trained in their use.[29] In March 1999, Latah County Sheriff's Office in Idaho told Amnesty International that it had stopped using the stun belt,"because they were not happy with it" after one was accidentally activated against Michael Allen Wachholtz just before his trial was due to begin in 1996.[30] In January 1999, a federal judge banned the use of the stun belt in courtrooms in Los Angeles County, California, following a highly-publicized activation during a trial in 1998 (see Ronnie Hawkins, page 22).

Proponents of the stun belt have sought to justify its use by saying that there is rarely need for the device to be activated given the psychological supremacy it achieves. Furthermore, they say, it is worn only by the most dangerous individuals. However, Amnesty International is concerned that as the stun belt becomes more acceptable to US society, it will become a more routine form of restraint in some jurisdictions. In some cases the decision to fit a defendant with the belt appears to have been based simply on the nature of the crime of which the wearer has been accused or convicted, rather than a credible evaluation of their dangerousness in custody or likelihood of escape. In some jurisdictions, whole groups of prisoners not considered to be a high security risk may become eligible for the stun belt. In El Paso County, Colorado, the Sheriff's Office considers the stun belt to be a "Level 1" restraint (the lowest), the same level as

[29] According to the US Bureau of Statistics (March 1999), New York City accounted for the second largest local jail jurisdiction in the USA in 1998 with an average daily inmate population of 17,524 (LA County in California was the biggest with 21,136). The stun belts were reportedly intended for use in New York City jails and courts and for transportation of certain inmates to court or hospital.

[30] Similarly, Lorain County Sheriff's Office in Ohio has not used its stun belt since it was activated, apparently due to a malfunction, against James Filiaggi on the first day of his capital murder trial in July 1995. Filiaggi, now on death row, sued Stun Tech in 1997 stating he was traumatized by the incident and could not participate fully in the proceedings, a claim denied on appeal by the Ohio Court of Appeals in late 1997. Lorain County Sheriff's Office still has a stun belt (reportedly a replacement for the malfunctioning one). As of January 1999, it had not been worn by an inmate since the Filiaggi incident.

handcuffs. Level 1 restraints "are generally used for transports and escorts, and for other situations when an inmate is compliant with no (or minimal) resistance."[31] In New Orleans, Louisiana, minimum security prisoners with HIV/AIDS are reportedly being made to wear the belt because of their HIV status and not their security status (see page 26).

[31] El Paso County Sheriff's Office, Detention Bureau. Policy and Procedure Manual, dated 28 October 1998. The stun belt is considered to be a "Level 3" restraint when activated. Level 3 restraints "may be used for noncompliance, physical resistance, threat of death or serious bodily injury to the themselves (sic) or others to include highly suicidal inmates, possible significant self-destructive behavior to others, or property damage." Amnesty International believes that the distinction in levels drawn between activation and non-activation is a false one, given that the threat of activation is always present.

An example of a category of prisoner against whom authorities may develop a tendency to use the stun belt increasingly routinely is the so-labelled "sexual predator". On 11 March 1999 Steven Klein, reportedly convicted of the attempted molestation of two boys in 1992, appeared in court in Florida, handcuffed and wearing a stun belt over his prison uniform. Having served his prison sentence, he was facing a civil commitment hearing under Florida's 1998 "Jimmy Ryce Act". This act provides for the indefinite confinement in treatment programs, after the expiry of their prison sentences, of convicted sex offenders deemed to be a continuing risk to society. Steven Klein is held, along with dozens of other sex offenders, in the Florida Department of Corrections' medium security Treatment Unit at the Martin Correctional Institution. According to an officer there in April 1999, it is the institution's policy to use the stun belt on any of these prisoners whenever they are transported out of the facility and during their court hearings. At his March hearing, Steven Klein's civil commitment trial was set for 19 July 1999. A stun belt was used in a similar trial in Washington State in mid-1998 (see page 20).[32]

Amnesty International acknowledges the serious crimes of which many stun belt wearers, some of whom are named in this report, have been accused or convicted. Furthermore, the organization recognizes the security risk, in court or during transportation, presented by a small minority of prisoners and defendants, and acknowledges that many law enforcement officers would not engage in arbitrary use of the stun belt. However, the organization believes that use of the belt violates international human rights standards applicable to *all* prisoners, and is open to abuse by officials who are less than scrupulous. It is also concerned that there is a risk that personal fears or prejudices, conscious or unconscious, on the part of those making the decision as to whether to fit a stun belt on any particular prisoner may lead to arbitrary use of the device in some cases. In the case of Wendell Harrison (below), for example, it is alleged that he was made to wear a stun belt because a sheriff's deputy had formed an unfounded personal fear of him rather than relying on any evidence of a genuine threat. Wendell Harrison, Jason Mahn and Craig Shelton (below) have all alleged that they were taunted by officials before or after being electro-shocked by the belt.

[32] Several states, including Washington, Arizona, Wisconsin, Kansas and California, have "Sexually Violent Predator" laws allowing for the involuntary confinement of certain sex offenders in treatment facilities after expiry of their prison sentences (see footnote 52). The US Supreme Court has ruled that such laws are constitutional. (*Kansas v Hendricks*, 1997).

Amnesty International's fears about the potential for arbitrary use of the stun belt have been fuelled by disturbing allegations it has received concerning Red Onion State Prison, a supermaximum security facility in Pound, Virginia, which opened in July 1998.[33] It is alleged that the stun belt is being widely used in the prison, and that several inmates have been arbitrarily electro-shocked after their arrival at the prison. Amnesty International wrote to the Virginia Department of Corrections on 27 January 1999 to call for an immediate and thorough investigation into the allegations. Also in January, a Human Rights Watch lawyer interviewed 10 inmates as part of that organization's investigation into allegations of the excessive use of firearms by prison personnel and the incarceration in Red Onion of less-than-supermaximum-security prisoners. During their interviews, all 10 were made to wear a stun belt by the prison authorities as well as being handcuffed and shackled. They had been told that if they stood up the belt would be activated by the guard standing outside the door with the remote control. An 11th prisoner who had asked for an interview changed his mind after learning that he would be made to wear a stun belt.

The vast majority of guards in Red Onion State Prison are white, drawn from the rural part of western Virginia in which the facility is situated. In contrast, some 75 per cent of the inmates are black, many from urban areas. There have been allegations of racist abuse by Red Onion staff against black inmates, some of it coupled with the alleged misuse of electro-shock weapons (for example, see page 40). Across the USA as a whole, a disproportionate number of jail and prison inmates are African American.[34] They are judged and imprisoned by an overwhelmingly white criminal justice and correctional system, a system which is increasingly adding electro-shock weapons, including the stun belt, to its armoury. For example, the Baltimore City Detention Center (BCDC), part of the Maryland Division of Pretrial Detention and Services, recently obtained three stun belts for use in transportation and courtrooms. The BCDC, one of the largest municipal jails in the USA, has an average daily inmate population of about 3,000. In 1997, 83.5 per cent of the year's intake of 42,026 inmates were African American and 15.9 per cent were white. Maryland's population as a whole is around 70 per cent white and 25 per cent black. In Florida, African Americans make up around 14 per cent of the state's population, but account for more than half of the inmates in the prisons run by the Florida Department of Corrections.[35] As noted above, in March

[33] There are over 50 "supermax" prisons in the USA. Many aspects of the conditions in them violate international standards and in some amount to cruel, inhuman or degrading treatment. Prolonged isolation in conditions of reduced sensory stimulation can cause severe physical and psychological damage. Red Onion prison, the first supermax to open in Virginia, will eventually house 1,267 inmates (926 in January 1999), with as many as 192 confined to segregation cells for 23 hours a day.

[34] For example, on 30 June 1998, 41.2% of the nearly 600,000 local jail inmates were black. US Bureau of Statistics, March 1999. Blacks make up about 12% of the population of the USA.

[35] On 30 June 1998, 55 per cent (36,669 out of 66,280) of Florida's DOC inmates were black.

1999 this same corrections department was planning to purchase some 85 stun belts. Nationally, there are no statistics on the racial breakdown of the use of the stun belt.

Source: Florida Bureau of Research and Data Analysis.

Children, at least those tried as adults, are not exempt from being made to wear the stun belt. In June 1997 at Fox Lake medium security prison in Wisconsin, 17-year-old Clark Krueger became the first US inmate to wear the stun belt on a prison work crew. In this setting at Fox Lake, the belt is used as a punishment for a breach of prison rules. Although sentenced as an adult, Krueger was still subject to anti-smoking rules applying to minors. His smoking earned him time in solitary confinement or on the work crew. Krueger opted for the latter and wore a stun belt, as well as leg restraints, while working on the crew.[36]

Jason Halda and Michael Watts, accused of killing a local police officer on 23 September 1998 in Manitowoc, Wisconsin, were made to wear stun belts during pre-trial proceedings when both defendants were aged 17. Both wore stun belts throughout their (separate) trials in January and February 1999, by which time they had turned 18.[37] At his sentencing on 7 April 1999 Jason Halda, who is reported to have learning difficulties, was shackled and wearing a stun belt. He was sentenced to life imprisonment without parole, in violation of the UN Convention on the Rights of the Child.[38] In January 1999 in Florida, the lawyer of 16-year-old Jermaine Jones was told by a court bailiff that the Collier County authorities were planning to make Jones wear a stun belt for his forthcoming murder trial.[39] It was the first time the lawyer had heard of the stun belt, but planned to object to its use on his client after learning about it. The county was also intending to seek the death penalty against Jones, in violation of international law banning the death penalty against those under 18 at the time of the crime. In the event

[36] Amnesty International is concerned that the use of the stun belt on work crews in Wisconsin is another sign of the device becoming a more routine form of restraint, not one simply restricted to high security prisoners. The inventors of the stun belt, in their patent application, anticipated the use of stun belts on work crews, including on prisoners "convicted of nonviolent or minor offenses". In 1996 Stun Tech was reported to have spoken with authorities in Florida, Louisiana and Alabama about using the stun belt to make their chain gangs chainless. In 1997, authorities in Queen Anne's County, Maryland, considered the introduction of chain gangs, and the use of stun belts instead of chains, but dropped both propositions after opposition for human rights groups and others.

[37] Jason Halda turned 18 on 4 December 1998, by which time he had appeared at three pre-trial hearings wearing the stun belt.

[38] Article 37(a) of the Conventions states: "Neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below eighteen years of age." Michael Watts had not been sentenced at the time of writing.

[39] The Bailiff Bureau of the Judicial Process Division in Collier County has a REACT belt for use in jury trials on defendants considered to be potentially violent or an escape risk. The wearer is made to watch the video of stun belt activations before they wear it (see page 4).

Jermaine Jones pleaded guilty in return for the death penalty being dropped, and therefore did not face trial. On 22 March 1999 he was sentenced to life without parole.

Amnesty International has documented cases of the inappropriate use of restraints against mentally ill and emotionally disturbed prisoners in the USA, and is concerned about the potential for the misuse of stun belts against inmates or defendants whose mental health problems may lead them to present unusual responses in custody situations. Stun Tech's promotional literature has listed possible uses of the stun belt thus: "for transportation details, inmate control, transportation of *mentally ill people* and in courtrooms." (emphasis added). There are large numbers of mentally ill inmates in US jails and prisons.[40] For example, the LA County jail system has been described as *de facto* the largest mental institution in the country.[41] LA County has 54 REACT belts which are believed to have been worn on more than 1,000 occasions. The county's belts are currently the subject of a ban following a controversial activation in court in 1998 (see page 22).

## IN THE DOCK: THE USE OF STUN BELTS IN COURT

"*A pain infliction device that has the potential to compromise an individual's ability to participate in his or her own defense does not belong in a court of law.*"[42]

The stun belt is now regularly worn by defendants considered to be a security risk at hearings and trials across the USA, on the grounds that the belt makes for a more compliant individual while being invisible to jurors and therefore less prejudicial to the defendant than the more traditional forms of restraint such as shackles and handcuffs. For example, Paul Dennis Reid was made to wear a stun belt throughout his murder trial

[40] "Far more mentally ill Americans -- more than 300,000 -- are in jails and prison on any given day than are in mental hospitals." *NBC news release*, 1 March 1999. "Clinical studies suggest that 6 to 15 per cent of persons in city and county jails and 10 to 15 per cent of persons in state prisons have severe mental illness." Lamb HR, Weinberger LE. Persons with severe mental illness in jails and prisons: a review. *Psychiatric Services*, 1998; 49:483-492. "Research shows... that the vast majority of the mentally ill who go behind bars are not being treated by the mental health system at the time of their arrest." Elliot Currie. Crime and Punishment in America, Metropolitan Books, 1998. The UN Standard Minimum Rules for the Treatment of Prisoners state that: "Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible" (Rule 82.1), and "Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management" (Rule 82.2).

[41] Torrey, EF. 1995. "Editorial: Jails and Prisons - America's New Mental Health Hospitals." *American Journal of Public Health*. 85(12), 1611-12.

[42] US District Court, Central District of California, 26 January 1999 (CV 98-5605 DDP)

in April 1999 in Davidson County, Tennessee, because the judge reportedly wanted "extra security", but did not want the defendant to wear "visible restraints".[43]

[43] *The Tennessean*, 22 April 1999. Davidson County Sheriff's Office uses the RACC belt for transportation and in courtrooms. On 20 April 1999, Paul Reid was sentenced to death. According to reports of the trial, details of his mental health featured prominently in the sentencing phase, with experts for the defence testifying that Reid is brain damaged, has paranoid schizophrenia, is "very ill-equipped to deal with reality", and had mental health needs from early childhood which were not adequately met. In juvenile detention by the age of eight, at 19 he was found mentally incompetent to stand trial for armed robbery, and at 20 was found to have borderline mental retardation. Under recent Tennessee legislation, Paul Reid, now 41, can choose between electrocution and lethal injection as the means of his execution.

Apart from the fact that the stun belt can instil fear in the wearer whether visible to the jury or not, thereby possibly interfering in the defendant's ability to participate fully in proceedings, the device is sometimes used in conjunction with mechanical restraints and other security measures. At his trial in January and February 1999 in Monroe County, Florida, Thomas Overton was made to wear shackles and a stun belt, as well as there being 10 to 12 officers in the courtroom and others outside. In Ohio, Gregory Curry wore shackles and a stun belt for his trial on 5 and 6 October 1998 in Warren County. In Clark County, Nevada, in September 1996, Patrick McKenna was made to wear leg restraints and a stun belt at the penalty stage of his capital trial. There were also several armed and uniformed Special Weapons and Tactics (SWAT) members in the courtroom.[44] In April 1995 James Oswald, a defendant in Waukesha County, Wisconsin, charged with killing a police officer, was made to wear a stun belt as well as shackles despite appearing in court in a wheelchair. The court apparently was not convinced that Oswald's disabilities were genuine. Oswald claimed he was electro-shocked twice. The authorities reportedly claimed that the stun belt was activated by accident once.

[44] On appeal in November 1998, the Nevada Supreme Court found that McKenna had not proved "actual prejudice" as a result of the security measures: "...the presence of the six SWAT officers did not force the jury to impose the death penalty." *McKenna v. State*, 114 Nev. Adv. Op. No. 115.

The stun belt regularly becomes the subject of courtroom argument when a defence lawyer objects to its use on the defendant. At a pre-trial hearing in Gwinnett County, Georgia, on 15 March 1999 Byron Fleming's lawyer argued that the use of the stun belt against his client was cruel, inhuman and degrading, was not based on demonstrated security concerns, and prejudiced the defendant's right to be presumed innocent. Fleming was also shackled, bound and handcuffed at the hearing. As in many jurisdictions, the initial decision to fit the defendant with the stun belt was taken by the sheriff's office, placing the onus for removal of the belt onto the defence lawyer. This task is made harder if a judge has a tendency to defer to the sheriff's office's decision without a hearing (see Flieger, page 19).[45] In the case of Byron Fleming, accused of killing an off-duty Gwinnett County deputy on 22 September 1998, the defendant was fitted with the stun belt and the other restraints by the co-workers of his alleged victim. Fleming had already appeared, thus restrained, at his first hearing on 25 September, at which his current lawyer was appointed. According to this lawyer, Gwinnett County Sheriff's Office informed him of its intention to make Byron Fleming wear the stun belt at all court appearances in his forthcoming capital trial. In late March 1999 the judge denied the defence lawyer's motion to have the stun belt removed, reportedly despite the absence of evidence that Byron Fleming posed a specific threat or had been disruptive in pre-trial detention.

Even if a defence lawyer is successful in arguing that there was no valid security reason to make their client wear a stun belt, the device is already likely to have been worn during that or previous hearings. Christopher Thomas Blackstock's attorney, argued that the use of a stun belt on his client at a pre-trial hearing in Gwinnett County in March 1997 constituted harassment, and was based on no more than an uncorroborated statement by another inmate whose alleged motivation was to better his position in the jail. The inmate alleged that Christopher Blackstock had threatened to overpower a jail guard who looked like him, steal his uniform and escape on the way to the hearing. Officials agreed that Blackstock had never been a disciplinary problem but that because he was charged with murder and a deputy's safety was at stake, the decision was made to use the stun belt. As a part of being made to wear the belt, Christopher Blackstock was shown a video of the device being activated against wearers. His lawyer, who had not been told of the planned use of the stun belt, says that when he visited his client in the holding cell prior to the hearing, Blackstock was "sobbing" in fear of the belt because of

[45] Note: In 1997 a California appeal court ruled that a trial court had not abused its discretion when Anthony Garcia was made to wear a stun belt during his trial on the request of the San Luis Obispo County Sheriff's Office. However, the appeal court noted that its ruling did not mean that stun belts could be used "at the simple request of the sheriff or prosecutor", but that there must be "a showing of good cause based upon a totality of facts and circumstances." *People v Garcia*, 56 Cal. App. 4th 1349 (1997).

what he had seen on the video.[46] At the pre-trial hearing, the judge agreed that the stun belt should be removed for the trial in the absence of firmer evidence that it was needed.

In several cases, a judge has only agreed to remove a stun belt from a defendant following an incident in which it was activated, suggesting that the belt was seen by the court as an acceptable restraint in theory, so long as it was not activated. For example, the stun belt that Juan Rodriguez Chavez was wearing at his capital trial in Dallas County, Texas, in 1996 was activated, apparently by accident. The judge ruled that the defendant would not have to wear the belt for the remainder of the trial.[47] Instead, sheriff's deputies shackled the defendant's ankles and placed his left leg in a security brace. At a hearing on 4 March 1999, a judge in Santa Ana, Orange County, California, ordered bailiffs to remove the stun belt that Charles Ng was wearing and replace it with waist and leg chains as well as wrist cuffs. The judge was reportedly concerned that the stun belt would otherwise have to be activated to control the defendant, because of the latter's emotional state. Charles Ng had been found guilty of capital murder the previous week.

[46] Gwinnett County Sheriff's Office possess the Stun Tech demonstration video (see page 4), but in January 1999 a spokesperson declined to inform Amnesty International if it currently shows it to inmates before fitting them with the stun belt.

[47] On 7 April 1999, the Texas Court of Criminal Appeals denied Juan Rodriguez Chavez's appeal that the trial court was wrong to dismiss a motion for mistrial after the stun belt was activated. The appeal argued that the fact that the jurors had learned that he was wearing a stun belt impaired their impartiality. Juan Rodriguez Chavez remains on death row.

In contrast, an emotional and physical outburst by defendant Michael Leon Bell in a Stanislaus County, California, courtroom on 8 April 1999 led to him being fitted with a stun belt for the remainder of his trial. Bell had been found guilty of first-degree murder a week earlier. At the sentencing phase on 8 April, his mother testified on his behalf but broke down in great distress when asked about the fact that her son was facing a possible death sentence. According to reports, Michael Bell jumped to his feet and had to be restrained by several deputies. The following day, as a result of the incident the defendant appeared in court in a wheelchair, his wrists and ankles shackled, and wearing a stun belt. Testifying for the defence, a neuropsychologist reportedly stated that Michael Bell, 28, suffers from a number of mental problems, including a brain disorder which makes it difficult for him to control his emotions.[48] On 19 April, the jury recommended that Michael Bell be sentenced to death.

The stun belt is not always as invisible to onlookers as is sometimes claimed by law enforcement officials. Stun Tech has itself emphasised this. The company's Instructional Guidebook for stun belt users says that its Minimal Security Belt (MSB), recommended for use in courtrooms, is "*somewhat bulky*" and "*if worn underneath clothing it would remain 'OBVIOUS' to any on-looker, that the individual was wearing something of significant size*". The manual "*strongly*" suggests that the MSB be worn outside clothing and states that "*the fact of the belt being exposed and open to view does not 'impugn' a jury*". The manual goes on to say that any use of the belt other than outside clothing "*is at the discretion of the agency, but remember that the belt is of significant bulk so as not to remain undetected if worn beneath clothing*" (original emphasis). However, it seems that most defendants are made to wear the device under their clothing. In September 1997, for example, while addressing a court in Texas about his concerns relating to his treatment, Dudley Vandergriff reportedly took off his coat and pulled up his shirt to show the stun belt he was being made to wear by US Marshals.

[48] Killer misses penalty phase. *Modesto Bee*, 10 April 1999. It has been suggested that the prospect of extreme sentences such as the death penalty may increase the likelihood of disruption by defendants. In March 1999, an officer at Sacramento County Sheriff's Office, California, in support of the county's use of the stun belt in courtrooms, suggested to Amnesty International that its use quells potential violent reaction from defendants in such cases "*when they hear "guilty*"". If this view becomes common within law enforcement agencies, it could prove to be another factor in a more routine use of stun belts on defendants charged with certain crimes.

While the vast majority of stun belts in use are REACT devices, which by Stun Tech's own admission are likely to be visible to onlookers, the RACC belt, too, may be noticeable, even if concealed beneath clothing. At the trial of Norris Young in Douglas County, Georgia, his defence lawyer objected that the "noticeable bulk" of the RACC belt could be seen under his client's jacket. At jury selection, a potential juror asked "*I've got one question... The first day we came in, he* [Young] *had something hid under his coat right back here* [indicating], *and I just wondered what it was... I mean you're in a courtroom and you see something bulky under somebody's jacket, you know, I just wondered*...". In a letter to his lawyer in October 1997, Norris Young recalled his anxiety during the trial that any action of his might be misinterpreted by the officer with the remote control, causing that officer to activate the stun belt. In April 1998, the Georgia Supreme Court denied an appeal that the use of the stun belt on Norris Young had prejudiced his right to a fair trial.[49]

The visibility issue is a matter for concern because the sight of a stun belt used on a defendant has the potential to raise in a juror's mind the notion that the defendant is particularly dangerous. This concern is heightened in capital cases, in which jurors will decide whether a convicted defendant should live or die, a decision which may turn on their perception of what threat the individual in question poses to society. However, Stun Tech has encouraged law enforcement agencies who use the stun belt to believe that an onlooker who sees the device on a defendant would not view it as a form of restraint. In its training video, it states: "*Whereas handcuffs and shackles, when used in a courtroom, would prejudice a jury because of symbolism, the belt even if seen doesn't indicate any type of restraint whatsoever*."

[49] *Young v. State* 269 Ga. 478; 499 S.E.2d (28 April 1998)

In May 1998, the Washington (State) Court of Appeals granted Phillip Duane Flieger a new trial, stating that the stun belt could in fact be even more prejudicial than other forms of restraint. Phillip Flieger had been made to wear a stun belt under his shirt at his trial in Franklin County in April 1996. His trial lawyer had argued that it should be removed because it prejudiced his right to a fair trial. The judge refused, saying that if the Sheriff's Office determined that its use was necessary, then in the absence of evidence to the contrary, the court should "respect the wishes of the Sheriff's Office". The judge noted that the stun belt was less "obtrusive" than shackling or other restraint methods, but even after two jurors admitted to the court that they had seen the stun belt and had discussed it, they were allowed to continue on the jury and the belt remained in place[50]. However, the Court of Appeals ruled that the trial court had abused its discretion in not conducting a hearing into the need to use the stun belt against Flieger, and ordered a new trial: "*The record demonstrates that the jurors were aware of the shock box* [sic] *and were speculating about it. Its use may have suggested to the juror that Mr. Flieger was a dangerous person who could not be trusted or controlled, even in the presence of an armed officer. The use of the shock box may be even more prejudicial than handcuffs or leg irons because it implies that unique force is necessary to control the defendant.*"[51]

The visibility of the stun belt also came to the fore in a recent civil commitment case in Washington State. In April 1998, shortly before he was due to be released from prison after serving his sentence for a rape committed in 1986, the state filed a petition to confine Casper Ross to McNeil Island Corrections Center under the state's Sexually Violent Predator Act[52]. At the subsequent hearing in May and June 1998, Pierce County jail authorities insisted that Casper Ross wear ankle shackles, reportedly county policy for such cases. According to information received by Amnesty International, no evidence was presented that Casper Ross was disruptive or an escape risk. When the defence lawyer pointed out that the state was going to call Ross as a witness, and that the shackles would therefore be visible to the jury and should be removed, the judge stated that "*the jail authorities assured us that they had the alternative, which is a little more*

[50] The judge himself indicated the visibility of the stun belt when he noticed a photographer in the courtroom, and asked "Who's the photographer? With whom are you with? I don't want any pictures of that box in the newspaper on the back of the defendant." (sic) From trial transcript, as cited in appeal brief.

[51] *State of Washington v. Flieger*. 91 Wash.App. 236, 955 P.2d 872 (28 May 1998).

[52] Under the act, a "sexually violent predator" is a person who has been convicted of or charged with "a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility." The statute allows the state to initiate the involuntary commitment process when a person's sentence for a sexually violent offence is about to expire. Once a year after commitment, the mental condition of the inmate is evaluated until they are considered safe to be returned to the community.

*Draconian if it's used, but it's some sort of thing that is worn*." Casper Ross was then fitted with a stun belt, apparently for the whole hearing. The judge noted that the stun belt was visible, and the defence lawyer stated that it was equally as obtrusive as the shackles. However, rather than have the stun belt removed, the judge ordered that Ross be sat in the witness box before the jurors entered the room (the stun belt was less visible when Ross was seated). Casper Ross was committed to McNeil Island, and in February 1999 filed an appeal on this outcome, including on the stun belt issue.

Various convicted inmates have argued on appeal that the use of stun belts in earlier proceedings was prejudicial to them or caused them to be unable to participate fully in proceedings. Of such appeals known to Amnesty International, including in California, Colorado, Florida, Georgia, Idaho and Ohio, the majority have been denied by the higher court. This may itself be a sign of the tolerance that US society has developed for the use of the stun belt, including an unwillingness to acknowledge the psychological impact it may have on a defendant. Two cases, from Colorado and Florida, are given below.

The appeal brief of Roy Allan Melanson in 1996, argued to the Colorado Court of Appeals that for a defendant to provide testimony at trial "*requires lucidity and clarity of mind*," and asked "*What normal person can maintain this state of mind with the constant fear of extreme pain and total incapacitation lurking in the back of his mind?*" Melanson, who is now 62 years old, had not attended his Gunnison County trial, in part, he said, out of fear of wearing the stun belt. In his absence this was explained to the trial court in an affidavit: "*...throughout all my pretrial hearings... I was required by my accusers to wear a security belt which totally destroyed my ability to understand the proceedings due to the mental stress and strain of concentrating on the 50,000 volts of electricity contained in the stunning device of the belt... I was constantly worried that if I were to move my hands or body in the wrong manner, my accusers who controlled the activator button could have at their discretion kill* [sic] *me because I do have a heart condition... No amount of precautions by the Court to cover up the electronic belt with a coat for arrivals and departures by me before the jury will eliminate the mental burden placed on me...*" Roy Melanson's appeal also argued that his disciplinary record gave no justification for the use of the stun belt. The appeals court rejected this and ruled that the use of the stun belt against the defendant had not deprived him of his right to be present at his trial or to be presumed innocent.[53] Roy Melanson, convicted at his 1993 trial of a murder committed in 1974, is serving a life sentence. In February 1999, he recalled to Amnesty International his fear of the stun belt: "*To me, this mental restraint was far worse than being beaten. The mental pain and suffering last far longer.*"

[53] 937 P.2d 826; 1996 Colo. App

In 1998 the Supreme Court of Florida ruled on the appeal of Jason James Mahn, sentenced to death in 1994. One of the issues the appeal raised was the use, and activation, of a stun belt during Mahn's trial in Escambia County, Florida, in November 1993. Mahn, then aged 20 and with a history of serious mental and emotional instability[54], had been made to wear a stun belt because he had been disruptive during a previous trial. During a break in jury selection Mahn was electro-shocked by the belt outside the courtroom. The defence noted for the record that after the incident Mahn was emotional, crying, and sitting with his head on the table. He refused to return to the courtroom for the rest of the day. On the following day, he returned to the trial. His defence lawyer asked that the stun belt be removed and reported that the guards in charge of the stun belt transmitter had been taunting the prisoner with the device. The judge denied the request for removal of the belt. However, the next day the judge reversed his decision and ordered that the belt be replaced by leg shackles. He hinted that there may have been an abuse of the stun belt when he explained that "*after I got out of court yesterday, someone that is in my opinion unimpeachable and has no reason to exaggerate or otherwise, heard a comment... that makes me question whether or not someone should have their hand on a button with somebody else on the other end of an electronic device*." The judge noted the fact that any decision to activate a stun belt is "*very, very subjective... and that bothers me a lot*."[55] The 1998 decision of the Florida Supreme Court did not discuss the issue, which it said was procedurally barred because it was not properly preserved for review on appeal.[56]

In January 1999, a federal court banned the use of the stun belt in Los Angeles County, following a highly-publicized activation in court . Importantly, the judge accepted that the stun belt could violate a defendant's civil rights just by the wearing of it, *even if not activated.* This case, and others involving activation in court, are described below.

**Activation of stun belts during judicial proceedings**

_ The stun belt that Jeffrey Lee Weaver was wearing in court in Broward County, Florida, was activated on 15 April 1999. Jeffrey Weaver was made to wear the stun belt on the order of the judge because, acting as his own lawyer, he would be moving around the courtroom and therefore could not be shackled. According to the Chief of Court Services at the Sheriff's Office, the REACT belt was activated during jury selection when

[54] The Supreme Court noted that "Mahn was far from a normal nineteen-year-old boy at the time of the killings" and acknowledged his "unrefuted, long-term substance abuse, chronic mental and emotional instability, and extreme passivity in the face of unremitting physical and mental abuse...".

[55] Trial transcript 574-575, as cited in appeal brief.

[56] 714 So. 2d 391; Supreme Court of Florida, 16 April 1998.

a deputy accidentally pushed the button on the transmitter. The jurors were not in the courtroom at the time. A lawyer who was in the courtroom told Amnesty International that when the belt was activated, the defendant shouted in pain, repeatedly banged his hands on the table at which he was sitting, and tried to pull the belt away from his body. The lawyer described how Weaver's hands were visibly shaking for 10 minutes afterwards. Having witnessed the activation, the lawyer told Amnesty International that, while recognizing the need for adequate courtroom security, he now feels that the stun belt, even if effective, is inappropriate to this end. In contrast, the Chief of Court Services has said that he wants judges in the county to allow the "more routine" use of the device in courtrooms against certain defendants. Jeffrey Weaver is accused of killing a Fort Lauderdale Police Department officer on 5 January 1996. Described as a "drifter" from North Carolina, 37-year-old Weaver, who recently gained his high school diploma while in jail, began representing himself at trial after a disagreement over strategy with his then defence lawyer. At the time of writing, he was still on trial, wearing the stun belt in court and facing the possibility of the death penalty.

_ Whereas the incident involving Jeffrey Weaver gained little publicity, the activation of a stun belt against Ronnie Hawkins in a California courtroom in 1998 focussed national and international attention on the potential for abuse of this hi-tech method of control.

Ronnie Hawkins, 48, was convicted in April 1998 of second-degree burglary and petty theft for stealing over $200 worth of aspirin from a store which he said he needed to ease pain caused by the AIDS virus. Because he had prior felony convictions, this offence was classified as a felony under "three strikes" policy and at his sentencing hearing on 30 June he was facing 25 years to life in prison. He was shackled and chained at the hearing and had also been fitted with a stun belt under his jail-issue clothing because, according to court officials, he had been violent in jail and had disrupted previous court proceedings. Ronnie Hawkins was acting as his own lawyer at the June hearing in the Municipal Court of the Long Beach Judicial District. When the judge grew angry with his repeated interruptions she warned him that he was wearing a "very bad instrument". According to reports, Ronnie Hawkins was being loud, but not abusive; nor was he making any threatening or aggressive movements. After further interruptions by Hawkins, including complaining that activation of the stun belt against him would be unconstitutional, the judge ordered a Los Angeles County bailiff to set off the device. According to reports, Hawkins grimaced and his stiffened limbs shook as the eight-second shock of 50,000 volts hit him. He later said: "*It was like a stinging in my spine and then a lot of pain in my back. I was paralysed for about four seconds*." When Ronnie Hawkins appeared again in municipal court on 29 July, he was not made to wear a stun belt. Instead his left hand was cuffed to a waist chain.

In November 1998 Amnesty International submitted a special petition (*amicus curiae* brief) in support of a federal lawsuit that Ronnie Hawkins had filed in July against the judge, Los Angeles Municipal and Superior Courts and the County of Los Angeles (see also page 30). The lawsuit also sought a class action injunction against LA County using the stun belt against any of the 20,000 to 22,000 detainees in the Los Angeles County jails. Hawkins argued that making a person wear a stun belt, not just the activation of it, violates the US Constitution.

In January 1999, federal Judge Dean Pregerson of the Central District of California issued a preliminary injunction banning the use of the stun belt in courtrooms in Los Angeles County. He noted that "*the stun belt, even if not activated, has the potential of compromising the defense. It has a chilling effect... An individual wearing a stun belt may not engage in permissible conduct because of the fear of being subjected to the pain of a 50,000 volt jolt of electricity. For example, a defendant may be reluctant to object or question the logic of a ruling - matters that a defendant has every right to do. A defendant's ability to participate in his own defense is one of the cornerstones of our judicial system. A pain infliction device that has the potential to compromise an individual's ability to participate in his or her own defense does not belong in a court of law. Further, if the defendant is shocked by the stun belt, the defense is likely to be even more compromised. First, it is unreasonable to expect a defendant to meaningfully participate in the proceeding following a shock. Second, having been shocked for a particular conduct the defendant may presume that other conduct, even if appropriate, may result in other shocks.*"

LA County has appealed the ruling. Amnesty International will once again support Ronnie Hawkins with an *amicus* brief, which at the time of writing was scheduled to be heard on 28 May 1999.

_ A stun belt was activated in another California courtroom one week after the Ronnie Hawkins incident. Brian Hill, also facing the possibility of 25 years to life in prison under "three strikes" legislation, was representing himself at trial in Alameda County Superior Court in Oakland on charges that he assaulted a sheriff's deputy in 1997 at Oakland's North County Jail. During jury selection on 7 July 1998 the stun belt which he was wearing was activated. Witnesses saw Hill fall backwards in his chair and convulse for a few seconds. He was taken to hospital and released back to North County Jail the same day. Brian Hill claimed the shock was an intentional, retaliatory act, which formed part of a pattern of harassment against him for complaining about jail conditions. The Sheriff's Department denied this and claimed the activation had occurred when a deputy leaned over in his chair and accidentally pushed against the button on the transmitter.

_ Barrington Wilson, a defendant facing rape charges, is reported to have been electro-shocked at two separate trials in 1997 and 1998. Barrington, 22, was made to wear a stun belt during his first trial in Dade County, Florida, in September 1997 after he had displayed bizarre behaviour during an earlier competency hearing, which included talking to an imaginary person called Frank, and throwing faeces at the judge. His lawyers, who argued that Wilson was mentally incompetent to stand trial, state he sat "still and quiet" during the trial (to the extent that he did not assist his defence counsel). Then as the prosecutor began to make her closing arguments, Barrington Wilson suddenly stood up and picked up a chair as if to throw it. Officials activated the stun belt and the defendant sprawled across the table and fell to the floor. He did not attend the following day's proceedings at which he was convicted. At his second trial which began on 28 October 1998 and lasted for about a week, Barrington Wilson was shackled and made to wear a stun belt. When he caused another disturbance during the proceedings, the belt was again allegedly activated against him. Amnesty International has no further details of this second activation.

Barrington Wilson was allegedly subjected to severe sexual and other abuse as a child in his native Nicaragua, including being beaten, tied up and hung up outside his house. Around the time of his arrest he was said to be hearing voices, and displaying disturbed behaviour including eating his faeces. He is currently serving two life sentences.

_ During the prosecutor's closing argument at the capital trial of Roy Hollaway in Las Vegas, Nevada, in October 1997, the stun belt that the defendant was wearing was activated. The electro-shock caused Roy Hollaway to fall from his chair and "shake uncontrollably" on the floor. An officer claimed that he had inadvertently set the stun belt off when he leaned across a desk and touched the remote control switch. Just over an hour later the jury sentenced Roy Hollaway to death for the murder of his wife. It is not clear why the authorities felt it necessary to put a stun belt on Roy Holloway as he was a cooperative defendant, to the point of his own self-destruction. He had represented himself during the proceedings, and had urged the jurors to give him the death penalty. He had intended to plead guilty in order to facilitate this outcome. However, he learned that if he did this the penalty would be decided by a three-judge panel, and he was led to believe that such a panel might be less likely to give him a death sentence than if he opted for a jury trial. Hollaway, who had earlier been through several psychiatric examinations and been found competent to represent himself, therefore chose to plead not guilty and face a jury.

_ In September 1997, Kenneth Deputy was electro-shocked by a stun belt in Kent County Superior Court, Delaware. According to reports, he was made to wear a stun belt at this and an earlier trial due to his verbal outbursts in court. The stun belt was

reportedly activated during an outburst at the judge in the second trial. He reportedly said that the electro-shock was very painful and left "little burn dots" along his left hip and lower back.[57] The stun belt he was wearing was one of six owned by the state Department of Corrections, which uses the devices on certain inmates during transportation and in courtrooms.

Wendell Harrison was electro-shocked by a stun belt during his trial in August 1996 in Kern County, California. He and his trial lawyer allege that he was made to wear it not because of any serious misconduct on his part, but at the request of a sheriff's deputy who stated that he, the prisoner, had not answered her when asked if he needed to use the toilet and also that she did not like the way the prisoner had looked at people in the courtroom. Wendell Harrison's lawyer, who has told Amnesty International that his client had displayed no aggressive behaviour, objected to the stun belt, but the judge ruled that it should be used. After it had been fitted, Wendell Harrison alleges that the deputies in the courtroom pointed the remote control at him and simulated activating the control belt and mimicked a person receiving an electro-shock. The following day, 2 August, during the lunch break, the bailiff activated the belt against him outside the courtroom, causing him "*excruciating pain as if a long needle had been inserted up through* [my] *spine and into the base of* [my] *skull*". His trial lawyer has said that his scream could be heard in the courtroom. The lawyer objected to the continued use of the belt, and the judge agreed that it should be removed for the remainder of the trial. In 1998 Wendell Harrison stated that he was still suffering from nightmares and loss of sleep as a result of the incident. He is currently serving a life sentence.

## A RESTRAINT TOO FAR: THE USE OF STUN BELTS IN TRANSPORTATION

[57] The Stun Tech Instructional Guidebook for stun belt users states that "*applications from the belt will leave two marks per contact* [there are two contacts]... *Due to duration and contact size, the marks left as a result of application will be significant in size and remain evident for various amounts of time depending on skin sensitivity*."

"*The inmate begged the transport officer to turn off the belt as he lay in a heap on the floor. After the eight-second time was over the subject had to be helped back onto the table. It was then learned that the subject had urinated himself*."[58]

While restraints during the transportation of prisoners are allowed under international standards, in order, for example to prevent escape, such restraints must comply with the international ban on torture or other cruel, inhuman or degrading treatment. The stun belt does not meet this minimum standard.

However, stun belts are used - coupled with other forms of restraint including shackles, chains and handcuffs - when transporting certain prisoners outside of US prisons and jails, such as to hospital or court. During transportation, unlike in courtroom settings, the stun belt wearer is out of public view. This increases the potential for unscrupulous officers to misuse the stun belt, such as through taunting of, or arbitrary activation against, the prisoner. Investigation into allegations of such abuse is correspondingly more difficult, given the lack of witnesses.

On 13 November 1998, Amnesty International wrote to the Sheriff of New Orleans Parish (Louisiana's equivalent of a county) after learning that the stun belt had been introduced earlier in the year into the Old Parish Prison, the maximum security facility of Orleans Parish Prison. The belt was apparently being used against all Old Parish Prison inmates when being transported to and from the facility, and while in the holding cells at the Louisiana Medical Center of New Orleans ("Charity Hospital").

Amnesty International expressed particular concern about reports that the stun belt is being routinely used on inmates from the segregated HIV/AIDS unit, OPP-D-1, which is housed in the Old Parish Prison. As HIV/AIDS prisoners are assigned to OPP-D-1 because of their HIV status and not because of their security status, inmates of various security ratings are housed in the unit. The result is that pre-trial, minimum and medium security level prisoners in OPP-D-1 are effectively being forced to wear the stun belt because of their HIV status — equivalent prisoners without AIDS/HIV in other Orleans Parish Prison facilities are not made to wear the stun belt. It follows, therefore, that they are being subjected to what Amnesty International believes is cruel, inhuman and degrading treatment, as well as being arbitrarily labelled as high security prisoners, because of their HIV status.

[58] From undated letter of thanks to Stun Tech from Kankakee County Sheriff's Department, Illinois. According to the letter, the prisoner was electro-shocked by the stun belt after he had made repeated verbal threats and then charged at an officer. The incident took place in 1993 at a hospital to which the prisoner had been taken for treatment. Kankakee County Sheriff's Department continues to use the stun belt for the transportation of certain prisoners. On 15 January 1999, it told Amnesty International that there had been two stun belt activations since it began using the belt in 1993.

OPP-D-1 inmates are reportedly required to sign a waiver consenting to the use of the stun belt on them, or they will not be taken to the C-100 Clinic at Charity Hospital to receive treatment they need on a regular basis. Stun belts have allegedly been activated on at least two occasions against OPP-D-1 prisoners, including against one individual held in a hospital holding cell. Amnesty International has no further details on these allegations.

Amnesty International pointed out that there is medical evidence suggesting that electro-shock devices in general may produce harmful or even fatal effects, particularly in the case of persons suffering from heart disease. The organization wrote that it would therefore appear, at the very least, to be entirely inappropriate to use the stun belt against prisoners with HIV/AIDS or other inmates suffering from serious health problems.

To date, Amnesty International has not received a reply to its letter, which urged that the use of stun belts against all prisoners be stopped. On 5 March 1999, legal arguments on the case were presented before a New Orleans judge by a lawyer representing OPP-D-1 inmates. At the time of writing, she had not made any ruling.

_ Craig Ryan Shelton, an inmate in Hutchinson Correctional Facility, a Department of Corrections prison in Reno County, Kansas, claims to have been electro-shocked by a stun belt while in a prison van and a mental health unit.

Craig Shelton states that on 2 April 1996 he was transported from Hutchinson to Larned Correctional Mental Health Facility, Kansas, for treatment. He says that he was shackled, handcuffed, fitted with a stun belt, and secured with a seat belt. He states that at the time, he did not know what the stun belt was, "but I would soon find out." He was separated from the two officers by a steel mesh. He alleges that when the officers drove up to the weapons-issuing unit of Hutchinson, one said to the other: "We really don't even need weapons today because this guy is going to be full of juice". Craig Shelton says that as the van moved onto the highway he began to doze off.

"*I woke up a short time later to a very intense shocking pain running through my body. This electrical current was so intense that I thought that I was actually dying. I had not been causing any trouble, I was belly chained, shackled, seat belted in, and there was a fence between the officers and me, so there was absolutely no reason for them to be using this device on me. The rest of the trip to Larned Correctional Mental Health Facility is kind of a blur to me... However, I think they shocked me a second time while I was still in the van. When we arrived at Larned, I was unloaded from the van and taken to a holding cell... Once I was in the cell, several officers came into the cell and again I*

*was shocked by the stun-belt. This electrical blast knocked me to the floor, and I could hear the officers that were around me laughing and making jokes...*"

Craig Shelton claims that in June 1997 he was again fitted with a stun belt and taken in a van from Hutchinson to Larned. He says that he saw an officer pressing the remote control button, but that all he felt was "a slight tingle". He surmises that the battery pack was running low.[59] After his return to Hutchinson, Craig Shelton claims that one officer told him that the stun belt should not have been used on him and that it had been used "out of spite". Shelton also claims that the officer informed him that a prisoner is supposed to sign a form before being made to wear the stun belt, but that this did not occur.

These allegations reached Amnesty International in late 1998. On 7 January 1999, it wrote to the Kansas Department of Corrections calling for an investigation. No reply had been received at the time of writing.

## FINDING HUMANE ALTERNATIVES TO THE STUN BELT - A QUESTION OF INTERNATIONAL STANDARDS

"*Is strapping the Belt on someone a violation of individual rights? Unequivocally, the answer is NO".* Stun Tech Instructional Guidebook for stun belt users.

It is a fundamental principle of international law that *all* prisoners have the right, *at all times*, to be free from torture and other cruel, inhuman or degrading treatment or punishment. Amnesty International believes that the stun belt flouts this principle and that the legitimate security needs of law enforcement officials in controlling prisoners and defendants must be met in ways which do not involve the infliction of such treatment.

[59] Stun Tech states that the belt will not work as intended if "both contacts are not contacting the body tightly enough" or "the battery is not charged or has too low of a charge." The company states that the REACT belt has to be charged for eight to nine hours to become fully charged. This charge will then last for 72 hours, unless it has been activated more than twice in 24 hours.

The International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture (CAT) unequivocally forbid torture or other cruel, inhuman or degrading treatment or punishment. While torture has been defined under such instruments[60], the UN General Assembly has not defined the term "cruel, inhuman or degrading treatment or punishment". Nevertheless, governments have agreed that this term should be interpreted so as to extend "the widest possible protection against abuses, whether physical or mental".[61] However, the USA takes an inward-looking approach which can limit rather than extend protection for those in custody. For whilst it has ratified both the ICCPR and the CAT, it considers itself bound by articles prohibiting torture and other cruel, inhuman or degrading treatment only to the extent that cruel, inhuman or degrading treatment meets the definition of "cruel and unusual punishments" under the US Constitution.[62]

This resistance to international human rights standards was also demonstrated in the federal court ruling on the Hawkins case in 1999 (see page 22). In his particular case, Ronnie Hawkins claimed that the use of the stun belt against him amounted to torture in violation of customary international law and US international obligations. Judge Pregerson dismissed this part of the lawsuit, stating among other things that he was "*hesitant to interfere in an area that is traditionally entrusted to the legislative and executive branches. It is these two branches which must interpret what international obligations the United States will undertake and how to implement them domestically*." He noted that the US Senate had ratified the ICCPR and CAT with the express proviso that the treaties did not take primacy over domestic law. Furthermore, he said, Congress had not enacted the necessary legislation to alter this state of affairs.

[60] The Convention against Torture defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

[61] Footnote to Principle 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; likewise Article 5, Commentary (c), of the Code of Conduct for Law Enforcement Officials, adopted by UN General Assembly resolution 34/169, 17 December 1979.

[62] See: Double standards: the USA and international human rights protection. Chapter 7 in *Rights for All*, AI Index: AMR 51/38/98, October 1998.

The USA is one of only two countries known to Amnesty International to be using the stun belt.[63] The fact that the vast majority do not use it suggests that there are viable alternatives which can be explored by US authorities. Moreover, the many jurisdictions inside the USA which have not found it necessary to resort to the stun belt, including more than half of state departments of corrections, are daily demonstrating that there are other options when transporting prisoners or controlling disruptive or dangerous defendants.

In the case of courtroom use, as noted by Judge Pregerson in the Hawkins case, the US Supreme Court has identified three options available to courts faced with disruptive defendants: (1) citing the defendant for contempt; (2) removing the defendant from the courtroom unless and until they act appropriately; (3) permitting the defendant to remain in court, but having him or her bound or gagged. The judge wrote that because of these options, being deprived of the use of the stun belt "*will not substantially harm*" the work of the police or courts. In contrast, "*individuals who will be subjected to these devices potentially face deprivation of constitutional rights*."

In extreme cases, Judge Pregerson noted, a video or telephone link could allow a defendant to continue participation from, for example, a holding cell. The American Civil Liberties Union, in expressing its concern over the Ronnie Hawkins incident, also suggested that "[d]efendants or others who interrupt court proceedings may be removed from the courtroom and even required to view proceedings by video." When extreme circumstances demand it, this is surely a better use of modern technology than strapping an electro-shock device to the defendant.

Many defence lawyers, with long experience of working in courtrooms with a variety of clients, have spoken out against the stun belt. Michael Mears, a lawyer in Atlanta, Georgia, with 22 years of experience in capital cases, told Amnesty International in April 1999 that he considers the stun belt to be a "barbaric" form of restraint which amounts to a form of psychological torture. He stated that, in his experience, defendants seldom cause serious problems in courtrooms, and he stressed that no restraint should be used unless, in *exceptional* cases, the defendant's prior behaviour in custody genuinely warrants it. He and other defence lawyers faced by potentially aggressive clients have argued that their clients should not be made to wear a stun belt. On 27 August 1998, Gregory Curry punched his lawyer in court in Warren County, Ohio. Six weeks later, Curry became the first defendant to wear the county's recently acquired stun belt. His

[63] In 1997, evidence emerged that a US supplied remote control electro-shock stun belt was being tested in South Africa, a country with persistent problems of torture and ill-treatment of detainees in police custody and in the prison system. Subsequent information from prison officials in March 1999 has confirmed that a stun belt is now being used at CMAX maximum security prison in Pretoria during the transportation of prisoners to court.

new lawyer objected to the use of the belt, saying that its intimidation of the defendant could prejudice the trial. He said that, if necessary, Gregory Curry could be restrained without resorting to the stun belt.

As noted in the introduction, Thomas Overton was made to wear a stun belt at his trial in Florida in early 1999 at which he was sentenced to death. One of his trial lawyers, Manuel Garcia, told Amnesty International in March of his belief that the stun belt was unnecessary in this case, or others. "*I do not believe that the use of the shock belt falls within what one would describe as reasonable precaution taken against a potentially dangerous defendant. Aside from being a barbaric way to deal with a human being, the belt is easy to notice, even if only because the lengths taken by officials to conceal it from jurors themselves become noticeable, such as through additional or incongruous clothing used to cover it. In the case of Thomas Overton, the fact that he was going to be made to wear the belt during his trial became common knowledge through reports in the media well before proceedings started. So much for a concealed restraint! There are adequate options without resorting to this technology, not least the proper training and resourcing of court bailiffs. However, I guess it becomes easy to use such a device on a person already labelled as a monster by society*." Perhaps a society which believes certain of its members can by their actions forfeit their right to life and be executed by the state, more easily tolerates the use of a law enforcement device on prisoners which can cause them severe pain and humiliation at the touch of a button.

In Franklin County, Washington State, the Sheriff's Office purchased stun belts after an incident in court in 1995 in which Antonio Gonzalez Ibarra pushed his attorney from a chair and lunged at a deputy prosecutor. The defence attorney in question, now himself a deputy prosecutor, opposed and continues to oppose the use of the stun belt in courtrooms because he believes it can prejudice a jury and psychologically hinder a defendant from participating fully in proceedings. He believes there are adequate alternatives for courtroom security available without resort to the stun belt. The deputy prosecutor told Amnesty International in March 1999: "*As a defence attorney, when I had a potentially disruptive client, I would notify the relevant officials in the court to be on the lookout. Antonio Ibarra was a client with mental problems, whom I had not realised might act up in court. But it was not a dangerous situation. He was unarmed and there were two security officers in the courtroom who were able to restrain him. In my experience, the need for special security measures in courtrooms is rare, and can be met in ways other than the threat of electro-shock. Adequate security staffing is an important factor.*"

Some law enforcement agencies have no doubt been attracted by the stun belt manufacturers' promise to offer the ability to control inmates while cutting staff costs. But Amnesty International believes that the use of the stun belt carries the real cost of raising society's tolerance for cruelty and humiliation towards those accused or convicted

of certain crimes. While such an approach may be popular with certain members of the public, media and legislature, it has unquantifiable effects on the culture of violence and respect for human rights into the longer term.

Major Mark Kellar of the Planning and Evaluation Bureau of the Harris County Sheriff's Office, Texas, told Amnesty International in March 1999 that Harris County, which had the fifth biggest jail population in the USA in 1998, does not use the stun belt and does not favour the development of such forms of restraint. He stated that in his experience the use of such devices encourages an over-reliance on them, and the mere fact of their availability increases their usage.[64] He emphasised that the most important factor in secure movement of potentially dangerous inmates is "properly trained staff". He stated that Harris County uses handcuffs and leg restraints when transporting a high-risk inmate, and that there has never been a need for other measures.[65]

The humane treatment of prisoners, especially in the huge numbers currently being incarcerated in the USA, requires adequate funding and the appropriate training of those who oversee them, including on how to deal with emotionally disturbed or mentally ill inmates and defendants. In March 1999, Dr Armand Start, former Medical Director of the Texas and Oklahoma Departments of Correction and currently Associate Professor at the University of Wisconsin Medical Department, told Amnesty International of his belief that the increasing adoption of stun weapons, including the stun belt, in the USA is symptomatic of a law enforcement system looking to the "easy management" of warehoused prisoners: "*Officials are looking to easy ways to control prisoners, rather than to humane ways. The humane ways require specific training of officers - that takes time and energy - and also require the development of a prison climate that is less oppressive and less provocative*."

Dr Start also told Amnesty International that he knows of no medical evidence that the safety of stun weapons, including stun belts, has been scrutinized by "reputable" science, and emphasized that stun weapons are inherently open to abuse. This concern, shared by Amnesty International, is reinforced by continued allegations of the misuse of such equipment. Some recent cases of the alleged misuse of stun shields, stun guns and tasers are given in the following section.

[64] A deputy in Vanderburgh County Sheriff's Office in Indiana told Amnesty International in April 1999 that changes being instituted following the appointment of a new Sheriff in January may encourage deputies to be less hesitant about using the stun belt on certain inmates, because "it's there to be used".

[65] The other county sheriff's offices in the largest 25 local jail jurisdictions which do not use the stun belt are: Cook County (IL), Philadelphia County (PA), Shelby County (TN), Orange County (FL), Tarrant County (TX), Bexar County (TX), Hillsborough County (FL) - see table 3, page 47.

## ALLEGATIONS OF TORTURE OR ILL-TREATMENT WITH OTHER STUN WEAPONS

"*Furthermore our jails are not the world's prisons, where political prisoners are unjustly confined for speech critical of the ruling regime. Amnesty International's fine work in shining a bright light on those dark corners is worthy of the highest respect. But its outrage seems misplaced when the issue is the restrained, occasional use of a stun gun against a violent inmate.*" Editorial, Kentucky Post, 9 February 1999[66]

In addition to seeking a ban on the use of the stun belt, Amnesty International believes that the use of all other electro-shock weapons, including stun guns, stun batons, stun shields and tasers[67], should be suspended pending a rigorous inquiry into their use and effects. No such inquiry has yet been carried out.

[66] In response to Amnesty International's letter of 15 January 1999 to the Kenton County authorities concerning the alleged excessive use of stun weapons in Kenton County Jail (see page 35).

[67] Another product currently undergoing testing is the Sticky Shocker or Electric Stun Projectile. Unlike the taser - which fires out wires which attach to clothing or skin with barbs, and through which the electro-shock is carried to the target - the Sticky Shocker or Electric Stun Projectile is wireless. A projectile is fired from a launcher sticking to its target with a glue-like substance or to clothing via barbs. According to the National Law Enforcement and Corrections Technology Center "The projectile incorporates a battery pack and associated electronics that impart a short burst of high-voltage pulses capable of penetrating several layers of clothing" which "will disable individuals or cause extreme discomfort."

In Maricopa County, Arizona, all jail custody staff were routinely equipped with stun guns from 1994 onwards, as part of a pilot study sponsored by the Science and Technology Division of the National Institute of Justice and the National Sheriff's Association to evaluate the effectiveness of non-lethal weapons. The Justice Department's Civil Rights Division began a separate investigation into alleged abuses in the Maricopa jail system in 1995 and subsequently found a serious problem of excessive force by guards, including misuse of stun guns, which they attributed in part to the "easy availability of these weapons".[68] The Justice Department's report noted with concern that stun guns were used to gain compliance from passively resisting inmates or against prisoners who were already restrained. Amnesty International also reported similar complaints, including inmates being repeatedly shocked with stun guns and one instance of a gun being used to rouse a prisoner from sleep.[69] In 1997, Maricopa County amended its policies, discontinuing the use of non-lethal weapons solely to gain compliance or as a substitute for "hands-on control".

The original pilot study, conducted by researchers at Arizona State University, had aimed to determine whether non-lethal weapons such as stun guns and pepper spray were more effective than other methods of force in reducing injuries to staff and inmates. The results of the study, reported in September 1997,[70] were largely inconclusive and the study itself had some serious limitations. It did not look at abuses, for example, and was based primarily on self-reporting by custody staff.[71] It did, however, find a growing

[68] US Department of Justice, Civil Rights Division letter to Maricopa County Board of Supervisors, 25 March 1996.

[69] See *Ill-treatment of inmates in Maricopa County jails, Arizona* (AMR 51/51/97, August 1997). On 7 January 1999, Maricopa County and its insurance company paid $8.25 million to settle a wrongful death lawsuit filed by the family of Scott Norberg who died in Madison Street Jail in June 1996 after being hit more than 20 times with a stun gun prior to being put in a restraint chair with a towel over his face.

[70] *Safety and Control in a County Jail: Nonlethal Weapons and the Use of Force* - a report submitted to the Maricopa County Sheriff's Office, National Sheriff's Association and the National Institute of Justice by John R Hepburn, Marie L. Griffin and Matthew Petrocelli, University of Arizona, September 1997

[71] The study was based primarily on surveys of staff views on the usefulness of such weapons, and on jail use-of-force reports (which were themselves criticized as inadequate in the Justice Department's report). It did not look at whether or not the force used in the first place was justified, or excessive, nor did it have access to comparative data such as use-of-force reports for an earlier period and, by its own admission was unable to provide conclusive evidence that use of stun weapons or pepper spray reduced injuries to staff or inmates, or resulted in a reduction in inmate misconduct. Injuries to inmates were recorded in 20 per cent of cases in which stun weapons were used. Although jail staff reported that they believed that stun weapons or pepper spray served to reduce injuries to staff and inmates, the study admitted that there was no way of knowing "how much injury, if any, would have occurred if the weapons had not been introduced". The study is cited in the promotional materials of Nova Products, because it was that company's stun weapons that were selected for the pilot project.

acceptance among officers of stun weapons over the period studied (1994 to 1996), which were used to control inmates in more than 50 per cent of all use-of-force incidents, often in addition to hands-on force. Amnesty International does not know how often stun weapons are currently used in the Maricopa County jail system, although county staff continue to be trained in the use of, and equipped with, such devices. However, the frequency with which stun guns were deployed during the period of the study, and the allegations of abuse which subsequently emerged, demonstrate the risks associated with such weapons.

These risks were further illustrated by a recent Justice Department report into the Daviess County Detention Center in Owensboro, Kentucky. The April 1998 report found that jail staff "misuse and abuse weapons such as pepper spray, stun shields, and stun guns, resorting to them early and often, for both management and punishment." The report cites a case in which a guard used a stun gun to awaken an inmate who had "passed out". It also found that staff in the jail's juvenile wing regularly used stun guns and pepper spray "to control uncooperative youth and break up fights". The report was critical of the fact that, except for an initial training session on the physical operation of these weapons, the jail did not provide its staff with any other guidance or training on their use. Furthermore the jail, in which severe crowding was reported to be creating "a dangerous situation for inmates", did not provide a meaningful system for inmates to report physical abuse by staff. The report also cited an example of how one officer instructed another how to write a use-of-force report "so it would show that the marks on (the inmate's) faces [sic] was caused by a fall and not being assaulted."[72]

As noted in the stun belt section above, there are large numbers of mentally ill and emotionally disturbed inmates in US prisons and jails. The federal investigators at Daviess County Detention Center, for example, observed several "acutely mentally ill individuals at the main jail, obviously in need of psychiatric evaluation and treatment, being left for days at a time in "observation" - in a cell by themselves. One inmate was observed singing for hours on end, and eating his own faeces." Amnesty International is concerned, particularly where staff are inadequately trained, that stun weapons may sometimes be used by correctional officers to respond to the unusual behaviour of such inmates, or others who display emotionally disturbed but non-threatening conduct. In 1996 in Muncy Prison, Pennsylvania, staff reportedly used a stun shield to subdue a woman prisoner who was in great distress and refusing to comply with orders of prison guards after being informed of the scheduled date of her execution. After corresponding in 1998 with the state authorities, Amnesty International remains concerned that the

[72] Letter from the Justice Department to County Court Judge on the Daviess County Detention Center, Kentucky, 10 April 1998.

device appears to have been used to secure the woman's compliance with orders, rather than to protect staff.

The following allegations of abuse by stun weapons in US local, state and private facilities in 1998 and 1999 serve to reinforce concern over the use of such weapons.

**Local jails**

A number of inmates have made allegations of the misuse of stun weapons in Kenton County Jail, Kentucky. Tim Hollingsworth alleged that jail guards had used excessive force in a confrontation with him in April 1998, including by electro-shocking him more than a dozen times with a stun gun, including after he had been shackled. A Justice Department investigation found that his civil rights had not been violated during the incident. Otis Brock, a 17-year-old in the juvenile wing of the jail, alleged that deputies beat, kicked, verbally abused and used a stun gun twice on him in December 1998 when he refused to move from an isolation cell. The results of a Justice Department investigation into the allegations was still pending in March 1999.

James Brock filed a lawsuit in March 1999 alleging that he was electro-shocked with a stun gun while hogtied[73] in a cell at Kenton County Jail on 6 March 1998. Earlier he had been arrested for drunk and disorderly conduct by Covington police, allegedly placed in the back of their vehicle, sprayed with chemical mace, hogtied and shocked with a stun gun. On arrival at Kenton County Jail, James Brock claims that he was left in a holding cell hogtied. He says that he was yelling for assistance because he was in pain and having difficulty breathing. He alleges that officers repeatedly electro-shocked him with a stun gun to make him stop yelling.

On 29 January 1999, 48-year-old mentally ill Kenton County Jail inmate, Michael Labmeier, died after a confrontation with jail staff who were trying to remove him from an isolation cell in order to take him to hospital for a psychiatric evaluation. Jail officials said they believed the fact that he was overweight and had a heart condition caused his death.[74] The exact circumstances of what happened during the incident remain unclear. At first it was reported that pepper spray had been sprayed into Michael Labmeier's face and that a stun gun had been activated to warn him to cooperate, but that he was not actually electro-shocked by it. However, in March it emerged that one of the officers

[73] A restraint hold where the suspect's ankles are bound from behind to the wrists. Amnesty International has called for hogtying to be banned (see *Rights for All*, op.cit.).

[74] At the time of writing, Kenton County Jail was the subject of a $1 million lawsuit brought by the family of James Franklin, a 68-year-old diabetic who was found dead in an isolation cell in June 1998, allegedly as a result of serious medical neglect. According to reports, one deputy was demoted for falsifying information in a written report after Franklin died. Another deputy was fired.

had replaced his original written report of the incident with a revised version. His original report, which he had thrown away, was later discovered. It clearly states that the prisoner had been "tazed" (ie electro-shocked) with a stun shield during the attempted cell extraction.[75] In contrast, the revised report indicated the use of an *inactive* stun shield. There are other disparities between the two reports. While both state that the prisoner's legs were shackled, the discarded report claimed that three sets of handcuffs were used on him, whereas the second report refers to one set. The second report indicates that Michael Labmeier was hogtied. Amnesty International has obtained copies of the two reports.

The organization has also obtained a copy of a taped interview, conducted on 25 February separately from the official investigation, in which the officer who filled out the two reports is questioned about the incident and his reporting of it. He claims that he had initially assumed that an *active* stun shield had been used against Michael Labmeier because he had heard the command to activate the shield, and he himself was inadvertently struck on the hand by the shield and electro-shocked by it when the officers entered the cell. However, he threw this report away and filed a revised version when he was advised by another officer that the stun shield had not been activated against the inmate. The interviewee, who appeared unable to fully clarify the activation issue, denied that he had been pressurized into changing his report. There follow some extracts from the interview in which the questioner repeatedly attempts to establish whether an active stun shield was used. The officer stated that Michael Labmeier was naked apart from his underwear.

Q: Why don't you tell me what you remember what happened when the cell was opened.
A: *We opened the door, we walked in. The taser shield was activated. We took him, put him on the bench, and -*
Q: Who put him on the bench?
A: *Everybody that went in: there were six or eight of us that went in.*
.....
Q: Did you push him up against the wall with the taser shield?
A: *We had it up against him. But that was it...*
.....
Q: How long would you say that the taser shield was held on him?
A: *Um... probably five to 10 seconds at the most...*
.....
Q: It was held five to 10 seconds. Did he holler or scream or anything?
A: *He screamed a little bit, but I think that was just because of the handcuffs and everybody grabbing him this, that and the other.*

[75] The staff in Kenton County jail refer to the stun shield as the "taser shield".

.....
Q: You said it was held against him for five to 10 seconds when it was activated when you first went in.
A: *Uh-huh* (affirmative).
Q: OK, so it was used. Right?
A: *Uh-huh* (affirmative).
Q: And it was activated when it was used.
A: *Uh-huh* (affirmative).
.....
Q: You were next to somebody who used that shield; you saw it being used; you saw it activated; you felt it activated; and you saw the results that could only come from it hitting someone's skin when it was activated in terms of the scream and violent reaction.
A: (affirmative)
Q: OK. So how could you come to any conclusion other than the fact that it was used?
A: *Because I didn't use it.*

While not wishing to prejudge the outcome of any investigations into the incident or whether the use of the stun shield, pepper spray, or other methods of restraint contributed to Michael Labmeier's death, Amnesty International believes that the interview illustrates the potential for abuse inherent to electro-shock weapons and the difficulty of substantiating allegations of abuse. The results of the autopsy and the Kenton County Police Department investigation were pending at the time of writing.

_ During 1998, there were disturbing allegations of torture and other serious ill-treatment of Immigration and Naturalization Service (INS) detainees held at Jackson County Correctional Facility, a jail in Marianna, northwestern Florida.[76] The INS itself had been sufficiently concerned by the allegations that it transferred all 34 of its detainees out of the jail in July.

Affidavits from 17 of the 34 transferred INS inmates[77], taken by lawyers at the Florida Immigrant Advocacy Center (FIAC) in Miami, describe abuses the prisoners say they were subjected to in Jackson County Correctional Facility between August 1997 and July 1998. The alleged abuses include shocks from electro-shock shields, beatings and other physical ill-treatment, denial of medical care, excessive periods of punitive solitary confinement, and verbal - including racist - abuse. According to the inmates, such treatment was meted out arbitrarily or as punishment for, for example, intervening in a fight or complaining about racist insults by prison personnel. Extracts from five of the affidavits are given below, highlighting the allegations specific to stun weapons:

[76] The INS sends its detainees, including asylum-seekers, to county jails when its own facilities are full.

[77] The 17 detainees were from Cuba, Bahamas, Honduras and Bangladesh.

➢ *The first time I saw this, an inmate had epileptic seizures, he kept begging for some medication, banging on the glass window. Then four or five officers came in with the electric shield... threw him to the floor and handcuffed his hands behind his back, and then they put the shield on him and they hit him. The guy was screaming. If they can do that to a guy from their own country then you can imagine what they do to us, the immigrants.*

➢ *Officers came at me with an object about 3 feet* [0.9m] *high and about 1½ feet* [0.45m] *wide, it's got wavy lines running through it, it's like a shield. And they pushed that against my body and when they hit me with that I felt nothing but electricity running through my body. It made an electrical noise. They hit me with this twice, the first time they hit me with this I buckled, the second time I fell to the floor. I was hollering up a storm, screaming for help but nobody helped me.*

➢ *When you're in solitary at Jackson they only let you take two baths a week and you have only five minutes to do it. If you go over the five minutes then the officer uses a round, short flashlight object to zap you with... They would hit you in the legs, buttocks and all with this when you were in the shower.*

➢ *We saw them shock the* [Haitian] *detainee on his body with an electric shield, also with an electric gun... The gun has sticks by which the electricity was released... The Haitian detainee was shocked about three times. While being shocked, the Haitian detainee was handcuffed, his hands to his legs, laying on his side on the floor...*

➢ *They told me to lay down on the concrete slab, it's a bed made out of concrete. There are four rings at each corner... They told me to lay on my stomach and when I asked what for,* [an officer] *pushed me down and put the shield on me and electrocuted me. I couldn't move my muscles. They handcuffed my hands to the rings and then they put shackles on my feet and put handcuffs around the shackles on my feet to insert them in the rings. They hit me with the shield one time and left it on. I thought I was being killed. Then they left me for about 17 hours. When I told them I need to urinate they told me "when you were a child did you never piss on yourself." And that's what I had to do.*

Amnesty International wrote to local and federal authorities calling for an investigation. On the question of electro-shock weapons, the Jackson County Correctional Facility administrator replied that "the use of restraints, chemical agents and electronic restraint device (sic) may only be authorized by a Supervisor and each employee is trained by a certified instructor in their use. These devices/agents are under lock and key and are controlled by the Supervisor. We have local policies that define if and when they may be used. Records are kept at the facility and if these methods are

used, a medical review is conducted. We are continually reviewing our restraint policies to make necessary changes if conditions warrant."[78]

The INS responded to Amnesty International that INS policy prohibits the use of electro-shock weapons in Service Processing Centers (INS detention facility) and contract detention facilities. It said that local jails are not formally bound by this prohibition, but that the INS "makes all efforts to ensure that detainees in local jails are not subject to electronic weapons." In December 1998, the Department of Justice wrote to Amnesty International that the Criminal Section of its Civil Rights Division had opened an investigation of allegations of excessive force. The letter reported that the Federal Bureau of Investigation had completed its preliminary investigation, the results of which were under review by the Criminal Section.

Amnesty International is concerned that the federal investigation apparently took several months to get underway, and was still in the "pre-investigation stage" in November 1998. Upon inquiring in early April 1999, Amnesty International was informed that both the civil and criminal investigations were "ongoing" and that no further details were available. The authorities were unable to comment on allegations received by Amnesty International that, as of 6 April 1999, none of the detainees who had given the affidavits had been interviewed by federal investigators, with the possible exception of one man who has since been deported.

Neither FIAC nor Amnesty International expects the detainees' allegations to be taken at face value, which is precisely why the organizations called for an investigation. But it is essential that such an investigation be conducted promptly, both because it becomes harder to conduct a proper inquiry as time passes, but also because the allegations concerned detainees who were still in the jail, not just those transferred out by the INS.

**State prisons**

Inmates at the supermaximum security Red Onion State Prison in Pound, Virginia, which opened in July 1998, have alleged widespread excessive force by guards, including with electro-shock weapons. It has been alleged that prisoners have been electro-shocked to intimidate new arrivals and as punishment for minor infractions of prison rules and for verbal insolence. Amnesty International wrote to the Virginia Department of Corrections in January 1999 concerning the alleged excessive use of stun

[78] According to a Miami newspaper, the administrator has stated that his staff use the electro-shock shield to subdue disruptive inmates, and has admitted that officers have chained inmates to a concrete bed in solitary confinement. He denied however that any inmate was shocked while handcuffed. *Miami New Times*, 30 July - 5 August 1998

belts and other electro-shock weapons (see page 12). Amnesty International's concerns have been reinforced following an April 1999 report issued by Human Rights Watch which includes allegations of abuses that organization has received involving tasers and stun guns in Red Onion. These include:

· an inmate electro-shocked with a taser after he displayed reluctance to strip and permit a visual body search, in the presence of female staff, after his arrival at the prison with other new inmates in September 1998. After the incident, an officer allegedly screamed in the inmate's ear, "Boy, you're at Red Onion now" and then told the other officers to "get that nigger out of here". According to Human Rights Watch, the prison warden acknowledged that a taser had been used because the inmate hesitated to strip and thus "was failing to obey instructions";
· an inmate electro-shocked for refusing to return a paper cup when ordered to;
· an inmate electro-shocked because he had his arm hanging through the food slot in his cell door and did not remove it fast enough when told to do so;
· inmates electro-shocked when already handcuffed during cell extractions.[79]

_ There were allegations of excessive force, including via the use of stun shields, during cell extractions at the supermaximum security Colorado State Penitentiary in 1998, in which most inmates are held in their cells for 23 hours a day. There were reported to have been 65 "forced cell entries" during the first six months of the year.

**Private facilities**

_ Allegations emerged in late September/early October 1998 that, following an attack on a prison guard in August, up to 20 Wisconsin inmates were subjected to torture and ill-treatment, including being kicked, slammed into walls, subjected to racist abuse, and electro-shocked by stun guns and stun shields, in Whiteville Correctional Facility, Tennessee, run by the Corrections Corporation of America (CCA). Inmates said that members of a Special Operations and Response Team (SORT), called into investigate the attack on the guard, had carried out the torture and ill-treatment as they questioned prisoners. One prisoner said that he was handcuffed, stripped, forced to kneel on the floor, sexually assaulted with a shampoo bottle by a guard and shocked with a stun gun. An 18-year-old inmate alleged that he was taken to a room, handcuffed behind his back, stripped, kicked and shocked on his stomach and testicles with a stun gun. He also alleged that he was shocked on the back with a stun shield, and saw other inmates being shocked on their backs with stun shields. In total, at least six prisoners have alleged that they stun weapons were used against them, with four alleging that they were shocked on their genitals with stun guns. In October, the Wisconsin Department of Corrections (WDOC) accepted CCA claims that no abuse had taken place and that stun shields had

[79] Red Onion State Prison: Super-Maximum Security Confinement in Virginia. Human Rights Watch.

not been used. According to reports, however, after further information came to light, the WDOC conducted its own investigation and in November concluded that 15 to 20 inmates had been abused over a four-day period in August, and that CCA employees had attempted to cover it up. The abuse is the subject of a federal investigation.

An official review into the CCA's Northeast Ohio Correctional Center (NEOCC) in Youngstown, Ohio (see page 10), reported on cell searches conducted in March and April 1998 following two murders in the prison. It found that "*the manner of the searches went well beyond common or necessary correctional practice and seemed intended to systematically degrade and humiliate all the inmates*." The report describes how "*emergency teams heavily outfitted in riot gear, after performing a customary strip search of each inmate, refused to allow the inmates to at least cover themselves with shorts and led them shackled and naked out of their cells where they forced them to lie on the floor in groups or to kneel, leaning with their face against the wall for 30 or 60 minutes while the cells were searched.... Inmates who objected were forcibly removed to segregation by the special operations and response teams (SORT), at times with the use of stun shields. Official NEOCC reports account for more than 40 forcible moves during this period.*" The report also states: "*The harsh and unusual manner of these widespread, systematic searches left a deep scar of humiliation on the population, which is made up primarily of African American prisoners. Numerous inmates complained bitterly, often comparing their treatment to that recently dramatized of slaves on the ship Amistad*."

A former typist at the prison said that during the cell searches, she and other secretaries were forced to inventory male prisoners' property while they knelt naked in front of them. She stated that if the inmates spoke out they were electro-shocked with a stun shield. "*They were dragging guys down the hall naked... they were handcuffed and ankle-cuffed*."[80]

The official report into the NEOCC found that its policy on the use of stun shields allowed officers to employ them "to enforce institutional regulations and/or orders". The report found that this provided too much discretion on their use.

On 17 March 1999, Amnesty International wrote to the President of CCA, citing the above cases and seeking information on company policy regarding electro-shock stun weapons, and urging that the company suspend their use in the facilities under its control. The organization had not received any reply at the time of writing.

[80] Employees criticize privately run prison. *The Plain Dealer*, 30 August 1998.

## RECOMMENDATIONS

"*The Special Rapporteur is concerned at the use of practices such as chain gangs, of instruments of restraint in court and of stun belts and stun guns, some of which can only be intended to be afflictive and degrading, others of which have the same effect. He urges the Government to use all means, including judicial ones, to review the compatibility of such measures with the affected persons' civil rights*." UN Special Rapporteur on Torture[81]

[81] UN Doc. E/CN.4/1998/38, 24 December 1997, paragraph 203. In his 1999 report, the Special Rapporteur "regrets the absence of any detailed responses [from the US government] to his communications from 1995 onwards. He trusts that by the time of his next report he will have received responses on those communications....". E/CN.4/1999/61, 12 January 1999, paragraph 752.

The use of electro-shock weapons is just one of Amnesty International's concerns relating to restraint techniques employed in the USA. The cruel use of restraints, resulting in unnecessary pain, injury or even death, is widespread in the US prison and jail system. Restraints are deliberately imposed as punishment, or used as a routine control measure rather than as an emergency response. Amnesty International continues to campaign on its concerns over the abuse of various restraints, including the restraint chair, gas and chemical sprays, hogtying, and shackles used against pregnant women.[82]

In the case of electro-shock weapons, Amnesty International urges federal, state and local authorities to:

- ban the use of remote control electro-shock stun belts by law enforcement and correctional agencies;
- prohibit the manufacture, promotion and distribution (both within and from the USA) of such stun belts;
- suspend the manufacture, use, promotion and transfer (both within and from the USA) of all other electro-shock weapons, such as stun guns, stun shields and tasers, pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of the equipment. This inquiry should assess their medical and other effects in terms of international human rights standards regulating the treatment of prisoners and use of force; the inquiry should examine all known cases of deaths and injury resulting from the use of such weapons. The results of such an inquiry should be made public without delay.

Amnesty International is calling on US companies to:

- immediately and permanently cease production and distribution of the remote control electro-shock stun belt;
- suspend all manufacture, promotion and transfers (both within and from the USA) of all other electro-shock stun weapons pending the inquiry noted above.

[82] See, for example, pages 65-73 of *Rights for All*, op. cit.

## Appendix: Survey of the use of stun belts and other stun equipment in the USA

**Notes and Key:** _ Given the absence of official statistics, coupled with ongoing changes in the weapons used in different jurisdictions, this survey is an indicator of the issue but should not be seen as definitive. _ Survey does not include privately-run facilities. _ "Yes" = specified stun device is authorized. If authorized, but not currently used, this is footnoted where known. _ "No" = specified stun device is neither authorized nor used. Does not necessarily indicate a legislative ban. _ According to Nova Products promotional material, stun *guns* are illegal for police in Michigan, Hawaii, Rhode Island, New Jersey, Massachusetts and Washington DC. While Amnesty International understands that in Massachusetts **all** electro-shock stun weapons are banned under a 1986 law, the organization does not know if the ban on stun guns in these other jurisdictions covers other stun weapons such as the stun belt. _ "U" = unknown at time of writing. _ "State level" = state Department of Corrections (DOCs) or equivalent. Information gained from telephone survey of DOCs conducted in January 1999. _ "Local level" (expanded in Table 3) = local law enforcement agencies (eg County Sheriff's Office). Information gained from media reports, Stun Tech sales claims, court reports, and limited AI telephone survey.

### TABLE 1: Federal

| FEDERAL AUTHORITY | STUN BELT | STUN SHIELD / STUN GUN / TASER |
|---|---|---|
| Bureau of Prisons | Yes | No |
| US Marshals Service | Yes | Yes: Stun guns |
| Immigration and Naturalization Service | No | No |

### TABLE 2: State and local

| STATE | STUN BELT | | STUN SHIELD / STUN GUN / TASER |
|---|---|---|---|
| | State level | Local level | State level (local level not surveyed) |
| Alabama | Yes | Yes | Yes: stun guns / stun shields |
| Alaska | Yes | Yes | Yes: stun guns |
| Arizona | Yes[83] | Yes | No |
| Arkansas | Yes | Yes | Yes: unspecified |
| California | No | Yes | No |
| Colorado | Yes | Yes | Yes: stun guns / stun shields |
| Connecticut | No | U | No |

[83] Stun belt used by Interstate Compact Team, for transportation of inmates between states.

| STATE | STUN BELT | | STUN SHIELD / STUN GUN / TASER |
|---|---|---|---|
| | State level | Local level | State level (local level not surveyed) |
| Delaware | Yes | U | Yes: stun guns / stun shields |
| Florida | Yes | Yes | Yes: stun guns / stun shields |
| Georgia | Yes | Yes | Yes: stun shields |
| Hawaii | No | U | No |
| Idaho | No | Yes (see table 3) | No |
| Illinois | No | Yes | No |
| Indiana | Yes | Yes | Yes: stun guns |
| Iowa | No | Yes | Yes: stun shields |
| Kansas | Yes | U | Yes: stun guns / stun shields / tasers[84] |
| Kentucky | No | Yes (see table 3) | Yes: stun guns / stun shields / tasers |
| Louisiana | Yes[85] | Yes | Yes: stun shields |
| Maine | No | U | No |
| Maryland[86] | Yes | Yes | Yes: stun shield |
| Massachusetts | No | No | No |
| Michigan | No | U | No |
| Minnesota | No | U | No |
| Mississippi | No | U | No |
| Missouri[87] | No | U | No |
| Montana | No | U | No |
| Nebraska[88] | Yes | Yes | Yes |

[84] Tasers and stun guns authorized, but unclear if in operation in any DOC institutions.

[85] The department's "use-of-force" policy notes that "use of an electronic restraint belt is appropriate when transporting an inmate whose medical condition is not conducive to full use of restraints...". Amnesty International is concerned by this, given the unknown medical effects of the belt, but understands that the belt is not currently being used in DOC facilities.

[86] Division of Corrections does not use stun equipment. In January 1999 the Division of Pre-trial Detention and Services was training officers in the use of the stun belt, and in April in the use of the stun shield.

[87] In a letter dated 14 April 1999, Missouri's DOC Director wrote: "the use of any electric shock or stun device in our Department is expressly disallowed".

| STATE | STUN BELT | | STUN SHIELD / STUN GUN / TASER |
|---|---|---|---|
| | State level | Local level | State level (local level not surveyed) |
| Nevada | No | Yes | Yes: tasers |
| New Hampshire | No | U | No |
| New Jersey | No | U | No |
| New Mexico | No | U | Yes: stun guns / stun shields / tasers |
| New York | Yes | Yes | Yes: stun guns / stun shields |
| North Carolina | No | Yes (see table 3) | No |
| North Dakota | No | U | No |
| Ohio | No | Yes | No |
| Oklahoma | Yes[89] | U | Yes: stun guns / stun shields / tasers |
| Oregon | Yes | Yes | Yes: stun shields / tasers |
| Pennsylvania | No | U | Yes: stun shields |
| Rhode Island | No | U | No |
| South Carolina | No | Yes | Yes: stun batons[90] |
| South Dakota | No | Yes | Yes: stun shields |
| Tennessee | No | Yes | Yes: stun guns / stun shields / tasers |
| Texas | No | Yes | No[91] |
| Utah | No | U | No[92] |
| Vermont | No | U | No |
| Virginia | Yes | Yes | Yes: stun guns / stun shields / tasers |
| Washington | Yes | Yes | Yes: stun guns / stun shields |

[88] At state level, DOC recently authorized the acquisition of stun equipment, but as of January 1999 had not purchased any as DOC use-of-force policy had not yet been updated to include such equipment.

[89] Stun belt in "use-of-force" policy, but as of January 1999, department not authorized to purchase.

[90] In maximum security unit inside Kirkland Correctional Institution

[91] Texas Department of Criminal Justice reportedly stopped the use of stun shields after the death of Harry Landis, a corrections officer, during stun shield training in December 1995.

[92] Special Operations Unit have tested taser, but has never been used.

| STATE | STUN BELT | | STUN SHIELD / STUN GUN / TASER |
|---|---|---|---|
| | State level | Local level | State level (local level not surveyed) |
| West Virginia | No | Yes | No |
| Wisconsin | Yes | Yes | Yes: stun guns |
| Wyoming | Yes | Yes | Yes: tasers |

## TABLE 3: Local US jurisdictions reported to have, or to have had, stun belts

| STATE | JURISDICTION (County Sheriff's Office unless otherwise stated). Names in bold were in the largest 25 jail jurisdictions in 1998 (ranking in brackets). List does not claim to be exhaustive. |
|---|---|
| Alabama | Etowah County, Gadsden Police Department |
| Alaska | Anchorage Police Department, Kodiak Police Department (ceased use in 1998) |
| Arizona | Cochise County, Cocomino County, **Maricopa County** (7), Pinal County |
| Arkansas | Washington County |
| California | **Alameda County** (17), Fresno County, Kern County, **Los Angeles County** (1), Merced County, **Orange County** (12), Riverside County, **Sacramento County** (21), **San Bernardino County** (13), **San Diego County** (10), San Luis Obispo County, Santa Barbara County, **Santa Clara County** (14), Santa Rosa County, Siskiyou County, Sonoma County, Stanislaus County, Tullare County |
| Colorado | Adams County, El Paso County, Gunnison County, Larimer County |
| Florida | **Broward County** (15), Collier County, **Dade County** (4), **Duval County** (25), Escambia County, Gadsden County, Hamilton County, Marian County, Monroe County, Palm Beach County, St Lucie County |
| Georgia | Clayton County, Douglas County, **Fulton County** (16), Gwinnett County, Monroe County |
| Idaho | Latah County (ceased use, no other local Idaho users known) |
| Illinois | DuPage County, Jackson County, Kankakee County |
| Indiana | Tippecanoe County, Vanderburgh County |
| Iowa | Blackhawk County |
| Kentucky | Daviess County (REACT belt on order May 1999) |
| Louisiana | Caddo Parish Sheriff's Office, **Orleans Parish** Sheriff's Office (8) |
| Maryland | Harford County, Montgomery County, **Baltimore City** (18) (municipal jail, run by state DOC - see p. 13) |
| Nebraska | Hall County |
| Nevada | Clark County |
| New York | Dutchess County; **New York City DOC** (2) (cancelled order after training officers, see page 10) |
| | |

| | |
|---|---|
| N. Carolina | Forsyth County (ceased use, no other local North Carolina users known) |
| Ohio | Ashland County, Clermont County, Clinton County, Fairfield County, Franklin County, Greene County, Guernsey County, Hamilton County, Holmes County, Huron County, Lake County, Licking County, Lorain County, Muskingum County, Portage County, Richland County, Ross County, Sandusky County, Seneca County, Stark County, Summit County, Van Wert County, Warren County |
| Oregon | Jackson County, Multnomah County |
| S. Carolina | Franklin County |
| S. Dakota | Pennington County |
| Tennessee | Davidson County, Knox County |
| Texas | **Dallas County** (6), Jasper County (on loan from Jefferson County during a 1999 trial), Jefferson County |
| Virginia | Central Virginia Regional Jail (Orange Co.), Henry County, Pittsylvania County, Prince George County |
| Washington | Clark County, Franklin County, Pierce County |
| W. Virginia | Grant County |
| Wisconsin | Manitowoc County, **Milwaukee County** (24), Outagamie County, Washington County, Waukesha County |
| Wyoming | Laramie County, Sweetwater County |