

Amnesty International

USA

California:

Transgender woman ill-treated and raped in jail

AI Index: AMR 51/142/2005 – External

Kelly McAllister, a white transgender woman, was ordered out of her parked truck on 16 August 2002 by deputies from the Sacramento County Sheriff's Department (SCSD). When she refused she was reportedly beaten, pepper-sprayed, hog-tied,¹ dragged across the pavement face down and eventually put in a patrol car. She says her repeated requests to use a toilet were refused and, while she was still in the car, she defecated in her clothing.

Kelly McAllister was charged with assaulting the police and taken to Sacramento County Main Jail. Sheriff's deputies, jail personnel and other inmates reportedly subjected her to humiliating and threatening treatment, including transphobic² verbal abuse, such as calling her a "she-male". She says she was strip searched by male guards.

Following a separate incident on 6 September she was returned to Sacramento County Main Jail for three days, during which time she was put in a bare, cold basement cell. When she complained, guards reportedly threatened to strip her naked and put her into a metal restraint chair.

Kelly McAllister states that she suffered more transphobic verbal abuse. Later, guards put her in a cell with a male inmate, who was much taller, heavier and stronger than her. She alleges that the inmate repeatedly struck, choked, bit and then raped her. Hospital medical staff who treated her injuries confirmed that she had been sexually assaulted.

Kelly McAllister filed a complaint about the rape, which the SCSD investigated. The accused inmate accepted a plea of "unlawful intercourse in jail" and was sentenced to three months' imprisonment. However, the SCSD did not investigate the alleged abuses by its own deputies and corrections officers.

AMNESTY INTERNATIONAL'S CONCERNS

The principle of "due diligence" in international law means that any State must take appropriate steps to:

- prevent abuses;
- investigate them when they occur;
- prosecute alleged perpetrators and bring them to justice in fair proceedings;
- ensure adequate reparation for the victims, including rehabilitation and redress.

By failing to protect Kelly McAllister in custody and by putting her at particular risk by holding her in a cell with a male prisoner, the authorities are responsible for her alleged ill-treatment and, in the case of the rape, torture. Furthermore, the SCSD has yet to conduct a thorough investigation into Kelly McAllister's allegations of police abuse or the actions of its deputies leading to her rape.

¹ The wrists are handcuffed behind the back, and the ankles are tied together with a strap linking the wrist and ankle restraints.

² Transphobic means values or behaviour expressing prejudice towards transgender people.

Amnesty International is also concerned about the reported transphobic abuse by Sheriff's deputies, which could have sent the wrong message to inmates that Kelly McAllister could be abused with impunity. Sacramento County Main Jail has reportedly recently adopted policies and procedures regarding the detention of transgender individuals.

Amnesty International is further concerned about the cruel and dangerous restraint methods allegedly used during Kelly McAllister's arrest and the use of pepper-spray. Police should only use force when strictly necessary and then it should be proportionate

BACKGROUND

Police abuse of lesbian, gay, bisexual and transgender (LGBT) people in the USA remains a serious problem, despite significant progress in the recognition of LGBT people's human rights. Amnesty International (AI) has documented abuses including profiling, discriminatory enforcement of certain laws and regulations, and sexual, physical and verbal assaults. AI's findings suggest that police tend to target individuals who do not conform to gender "norms" and that transgender people suffer egregious police brutality, including torture.

For further information see: www.amnestyusa.org/outfront

WHAT YOU CAN DO

Please write letters to *Sheriff Lou Blanas* and *Captain Mark Iwasa*:

- Express concern at allegations of ill-treatment of Kelly McAllister by Sacramento County Sheriff's Department deputies, corrections officers and inmates in August and September 2002;
- Urge them to investigate thoroughly the culpability of deputies and corrections officers at the Sacramento County Main Jail for the rape of Kelly McAllister by another inmate;
- Call for an immediate and full investigation into the allegations of use of excessive force during arrest;
- Express concern at the alleged use of pepper-spray and hog-tying during arrest, noting that Amnesty International has called for hog-tying to be banned as it can lead to death from "positional asphyxia", and for police agencies to stop using pepper-spray or to introduce monitoring procedures, strict guidelines and limitations on its use;
- Ask that the results of any investigation be made public, and that any law enforcement official found guilty of abuse be appropriately disciplined;
- Urge the Sacramento County Sheriff's Department and the Sacramento County Main Jail to implement effectively new guidelines that have reportedly been developed regarding the detention of transgender individuals.

SEND LETTERS TO:

Sheriff Lou Blanas

Sacramento County Sheriff's Department
711 G Street, Sacramento, CA 95814

Fax: +1 916.874.5332

Email: sheriff@sacsheriff.com

Salutation: Dear Sheriff Blanas

Captain Mark Iwasa

Sacramento County Main Jail
651 I Street

Sacramento, CA 95814-2400

Fax: +1 916.874.8984

Email: iwasam@sacsheriff.com; or
miwasa@sacsheriff.com

Salutation: Dear Captain Iwasa