

UNITED STATES OF AMERICA
RIGHTS FOR ALL

"Not part of my sentence"
Violations of the Human Rights of Women in
Custody

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This is one of series of reports being issued by Amnesty International as part of a worldwide campaign against human rights abuses in the USA. An overview of the human rights concerns that are the focus of the campaign is provided in Amnesty International's report *United States of America: Rights for All*, AI Index: AMR 51/35/98.

The focus of the report is women who have been accused or convicted of breaking criminal laws. Amnesty International is releasing a separate report on the detention of asylum seekers in the USA, with specific reference to women who seek asylum.

This report is a condensed version of Amnesty International's report, *Not Part of Her Sentence: Violations of the Human Rights of Women in Custody*, AI Index:AMR 51/01/99. Sources of statistical and other information in this report that are not cited in footnotes may be found in the full report.

Cover photo: Eight days after giving birth, a shackled prisoner prepares to return to prison without her baby. She did not have a history of violence or attempts to escape. Providence City Hospital, Anchorage, AL, USA 1993.
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INTRODUCTION

"That was not part of my sentence, to...perform oral sex with the officers."
*New York prisoner Tanya Ross, November 1998.*¹

This report describes violations of the internationally guaranteed human rights of women incarcerated in *prisons* and *jails*² in the United States of America. The violations include rape and other forms of sexual abuse; the cruel, inhuman and degrading use of restraints on incarcerated women who are pregnant or seriously ill; inadequate access to treatment for physical and mental health needs; and confinement in isolation for prolonged periods in conditions of reduced sensory stimulation.

Amnesty International calls on the federal and state and local governments and authorities at all levels to take urgent action to ensure that the laws, regulations, policies and practices for which they are responsible rigorously conform to international standards and respect the human rights of women deprived of their liberty.

US RESISTANCE TO INTERNATIONAL HUMAN RIGHTS COMMITMENTS

The USA has played a leading role in the development of the international system of human rights protection over the past 50 years.³ However, it has been reluctant to submit itself to international human rights law and to accept the same minimum standards for its own conduct that it demands from other countries.

As described below, the USA has declined to ratify key human rights treaties, it has reserved the right not to implement important provisions of treaties that it has ratified and has refused to permit people within the USA to bring complaints about alleged violations of their human rights to international monitoring bodies.

The *International Covenant on Civil and Political Rights* (ICCPR) is the principal

¹Interview on Dateline NBC Television, November 1, 1998, National Broadcasting Co Ltd.

²*Prisons* are mainly operated by the federal government and state governments to hold people sentenced to imprisonment for longer than a year; *jails* are generally operated by local governments (county and city) and mainly hold people being detained before they are tried and people sentenced to imprisonment for less than a year.

³See Amnesty International, *United States of America: Rights for All*, AI Index: AMR 51/01/99, chapter 7.

international treaty setting out fundamental civil and political rights for everybody. One hundred and forty nations have ratified the treaty, that is, have agreed to be legally bound by its provisions which include the obligation to protect the right of every person not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (Article 7).

The USA became a party to the ICCPR in 1992 but it reserved the right to refrain from implementing certain provisions or to restrict their application. For example, the US government stated that the United States considered itself to be bound by the prohibition of "cruel, inhuman and degrading treatment or punishment" in the ICCPR only to the extent that this "means the cruel and unusual treatment or punishment prohibited by... the Constitution of the United States." That is, it was not willing to prohibit conduct that was not already prohibited by US law.

The ICCPR establishes a body of experts, the Human Rights Committee, who monitor governments' implementation of the treaty. Under a treaty called the (first) Optional Protocol to the International Covenant on Civil and Political Rights, the Human Rights Committee may consider complaints by individuals that a government which is a party to the Optional Protocol violated rights guaranteed by the ICCPR. Ninety-two governments have agreed to be parties to the Optional Protocol. The USA has not.

The *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Convention against Torture) requires governments to prohibit and punish torture in law and in practice. The USA ratified the treaty in 1994. As with the ICCPR, the government made a reservation stating that it considered itself obliged to prevent "cruel, inhuman or degrading treatment or punishment" only insofar as the term meant the cruel, unusual or inhumane treatment or punishment prohibited by the US Constitution.

The treaty has a provision under which governments may make a declaration to permit the Committee against Torture, which monitors implementation of the Convention by governments, to consider complaints by individuals that their rights under the treaty have been violated. Thirty eight countries have made such a declaration. The USA has not done so.

In relation to women, the most striking instance of the USA's resistance to international human rights commitments is its failure to ratify the *Convention on the Elimination of All Forms of Discrimination Against Women*. Ratification is the procedure that makes a treaty binding. One hundred and sixty-one countries have ratified the Convention. Under US law, the Senate must agree in order for a treaty to be ratified and this has not occurred, despite support for ratification from the President and many members of Congress and the public.

RECOMMENDATIONS ON ACCEPTANCE OF INTERNATIONAL HUMAN RIGHTS STANDARDS

The USA's reluctance to fully accept international human rights treaties and standards denies women in the USA rights and protections which the great majority of governments have agreed to recognise. The USA should:

- < Ratify without reservations the Convention on the Elimination of All Forms of Discrimination Against Women
- < Withdraw its reservations to the International Covenant on Civil and Political Rights and the Convention against Torture
- < Give people in the USA the right to request the international human rights protection mechanisms established under the ICCPR (the Human Rights Committee) and the Convention against Torture (the Committee against Torture) to consider complaints brought by individuals that the government has violated its obligations under the treaties.

PROFILE OF WOMEN IN CUSTODY

There are around 138,000 women in jails and prisons in the USA, more than three times the number of women who were incarcerated in 1985.⁴ Much of the increase is due to the so-called "war on drugs" conducted by federal and state government criminal justice authorities since the 1980s. About 40 percent of women in prison have been imprisoned for violating drug laws; only about 25 percent are in prison because they have committed a violent crime.

One of the most striking characteristics of incarcerated women is that the proportion who are of racial and ethnic minority background greatly exceeds their representation in the general population. The rate of imprisonment of black women is more than eight times the rate of imprisonment of white women; the rate of imprisonment of Hispanic women is nearly four times the rate of imprisonment of white women. The "war on drugs" has had a disproportionate impact on racial and ethnic minority women. For example, in New York, 77 percent of Hispanic female prisoners and, 59 percent of black female prisoners are incarcerated for drug offences, compared with 34 percent of white female prisoners.

For more than a decade, the number of women in prison and jails has increased at a faster rate than the increase in the rate at which men are being incarcerated but women still form only a small proportion - about eight percent - of the incarcerated population in the USA. Because women are such a minority, many authorities have not adapted their facilities and services to meet the particular needs of female inmates and have often treated them more poorly

⁴About 60,000 are in city and county local jails - most of these women are pre-trial or serving relatively short sentences. About 78,000 are in state and federal prisons serving sentences of longer than a year.

than male inmates.

It is important to note that women's right to equality does not necessarily mean that they should receive the *same* treatment as men. For example, the right to adequate health services requires that services are tailored to take account of the different health care needs of women (such as pregnancy), and men.

Prison authorities around the USA differ considerably in their responsiveness to developing programs specifically for women, as evidenced in the findings of a 1997 survey of 52 departments of corrections. Only 19 departments provided domestic violence programs developed specifically for women and only 9 departments offered programs for victims of sexual assault.⁵

A significantly under-served area of provision is facilities to enable incarcerated mothers of young children to maintain contact with them. There are estimated to be more than 80,000 mothers among the women in US prisons and jails. They have approximately 200,000 children aged under 18. All states have laws permitting the termination of parental rights of parents who are incarcerated.

In 1997-98, more than 2,200 pregnant women were imprisoned and more than 1300 babies were born to women in prison. In at least 40 states, babies are taken from their imprisoned mothers almost immediately after birth or at the time the mother is discharged from the hospital.

Women's prisons are often located in rural areas far from the cities in which the majority of inmates lived, making it difficult to maintain contact with their children and jeopardising the prospects of successful reunification. Fewer than half of the states offer community based facilities that allow mothers to live with their children while serving all or a portion of their sentence or part of their parole immediately after release.

In recognition of the benefit of supporting links between incarcerated parents and their children, the US Congress legislated in 1994 to allow the establishment of projects to promote the maintenance of ties between parents in prison and their children. However Congress has not appropriated any money to implement the legislation.

SEXUAL ABUSE

⁵ National Institute of Corrections, "Current Issues in the Operation of Women's Prisons," National Institute of Corrections, Longmont, Colorado, 1998.

I'm tired of being gynaecologically examined every time I'm searched.

Inmate at Valley State Prison for Women, California, speaking with an Amnesty International delegate, November 1998, about how some male guards conduct searches

Many women in prisons and jails in the USA are victims of rape and other forms of sexual abuse including, commonly, sexually offensive language; male staff touching female inmates' breasts and genitals while conducting searches and male staff watching women while they are naked.

These are some reports received by Amnesty International relating to the period 1997-99⁶:

- C Guards who were later dismissed or disciplined were found to have sexually abused female inmates in jails and prisons in Florida, Idaho, Illinois, Maryland, New Hampshire, Maryland, Michigan, Ohio, Texas, Virginia, West Virginia and Wyoming.
- C The US Justice Department initiated legal action against the states of Arizona and Michigan following investigations into state prisons that found evidence of systematic sexual abuse including sexual assault and male guards who, "without good reason," watched female inmates dressing, showering and using the toilet.
- C Prisoners and other sources reported that inmates were the victims of sexual abuse by staff at Valley State Prison for Women in California. Amnesty International delegates interviewed prisoners at the prison in November 1998 and were told that some male officers watched the women while they were dressing and undressing and, in breach of the approved procedure, touched prisoners' breasts and genitals when searching them.
- C In March 1998, the Federal Bureau of Prisons agreed to pay three women a total of \$500,000 to settle a lawsuit in which they claimed that correctional staff in federal institutions in California had committed and facilitated rape and other forms of sexual abuse against them between August and November 1995. The complaint included allegations that staff allowed male inmates to enter the women's cells in exchange for money and/or other favours and intimidated the women after they complained about their treatment.

Under international law, rape of an inmate by staff is considered to be torture. Other forms of sexual abuse violate the internationally recognized prohibition on cruel, inhuman or degrading treatment or punishment. Rape and sexual assault violate US federal and state criminal laws. In addition, 36 states, the District of Columbia and the federal government have

⁶Sources for these reports are cited in Amnesty International, *Not Part of Her Sentence*, AI Index: AMR 51/01/99.

laws specifically prohibiting sexual relations between staff and inmates. A number of the laws prohibit staff-inmate sexual contact regardless of inmate consent, recognizing that such sexual relations cannot be truly consensual because of the power that staff have over inmates. Fourteen states do not have laws criminalizing sexual relations between staff and inmates.⁷

In 1998, proposed legislation was introduced in the US Congress which would encourage all states to criminalize sexual conduct between correctional staff and prisoners, by financially penalizing states that do not have such laws. The legislation was not considered before the Congressional term ended and thus has not been enacted. Amnesty International has been informed that similar legislation may be introduced in 1999.

Jail and prison systems have grievance systems, but inmates have told Amnesty International that victims of abuse are often reluctant to complain because they anticipate they will not be believed by investigators or because they fear retaliation by the perpetrator or other staff. Amnesty International has received reports from people in a number of states that inmates who reported abuses have been victimised.

In its investigation of reports of sexual abuse in Michigan prisons, the US Justice Department concluded that "many sexual relationships appear to be unreported due to the presently widespread fear of retaliation and vulnerability felt by these women." Subsequently, Amnesty International and Human Rights Watch, another international human rights organization, received reports from prisoners and other sources in Michigan that some correctional staff had threatened or harassed prisoners who had complained.⁸ In November 1998 Amnesty International urged the Michigan Commissioner of Corrections to establish an inquiry into the allegations of retaliation. The Commissioner responded that departmental policy prohibits retaliation, that all allegations of misconduct are thoroughly and independently investigated and that investigations have not substantiated the assertion that there has been a pattern of abuse by staff. However, Amnesty International continued to be concerned about reports from the state and has written to the Commissioner requesting further information.

Federal and state laws prohibit rape and sexual assault and the policies of jail and prison

⁷Alabama, Kentucky, Massachusetts, Minnesota, Montana, Nebraska, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin (this state has a law prohibiting "abuse" of people in penal institutions). States which do not have criminal laws protecting staff from sexual contact with inmates may prohibit such contact through rules for staff. Amnesty International has been informed that this is the case in Massachusetts.

⁸ Human Rights Watch, *Nowhere to Hide: Retaliation Against Women in Michigan State Prisons*, Human Rights Watch, New York, 1998.

authorities generally prohibit sexual conduct that is not part of the duties of staff. However, the duties of male guards include conduct that is not prohibited by law but which greatly distresses female inmates, in particular searches for contraband which require guards to touch their bodies, and guards' surveillance of them when they are undressed.

Under anti-discrimination employment laws in the USA, prisons and jails cannot refuse to employ men to supervise female inmates (or women to supervise male inmates) and in many states there are few restrictions on their duties. A 1997 survey of prisons in 40 states found that on average 41 percent of the correctional officers working with female inmates are men.⁹

The employment of men to guard women is inconsistent with international standards set out in the *United Nations Standard Minimum Rules for the Treatment of Prisoners*. Rules 53(2) and 53(3) state that female prisoners should be attended and supervised only by female officers and that male staff, such as doctors and teachers who provide professional services in female facilities, should always be accompanied by female officers. The United Nations Special Rapporteur on Violence Against Women has called on all countries to "fully implement the Standard Minimum Rules for the Treatment of Prisoners and ensure that protective measures are guaranteed in all situations of custody."¹⁰ Amnesty International agrees: the nature and extent of sexual abuse of female inmates by male staff in jails and prisons in the USA, and the harm that sexual abuse causes, warrants strong and immediate action by authorities to provide the protection to which incarcerated women are entitled under international standards.

RECOMMENDATIONS TO PROTECT WOMEN IN CUSTODY FROM SEXUAL ABUSE

Rape and other forms of sexual abuse committed against inmates by staff constitute acts of torture or cruel, inhuman or degrading treatment. Amnesty International recommends that all authorities responsible for jails and prisons should take the following measures to protect female inmates from sexual abuse.

- < Provide that female prisoners should be supervised only by female staff, in accordance with the Standard Minimum Rules.
- < Explicitly prohibit all forms of sexual abuse, including not only physical assault but all sexual contact between staff and inmates.
- < All inmates should be informed that they have the right not to be sexually abused and

⁹ "Female Offenders: As Their Numbers Grow, So Does The Need for Gender-Specific Programming," *Corrections Compendium*, March 1998.

¹⁰ *Report of the Special Rapporteur on violence against women*, E/CN.4/1998/54, Recommendation 1.

- the right to complain if they are abused.
- < All complaints of sexual abuse must be investigated independently, promptly and thoroughly in line with best practice for the investigation of sexual assault.
 - < Victims of sexual abuse must be provided with appropriate care and redress.
 - < Inmates and staff who report abuse should be protected from retaliation.

RESTRAINTS

"The doctor came and said that yes, this baby is coming right now, and started to prepare the bed for delivery. Because I was shackled to the bed, they couldn't remove the lower part of the bed for the delivery, and they couldn't put my feet in the stirrups. My feet were still shackled together, and I couldn't get my legs apart. The doctor called for the officer, but the officer had gone down the hall. No one else could unlock the shackles, and my baby was coming but I couldn't open my legs...Finally the officer came and unlocked the shackles from my ankles. My baby was born then. I stayed in the delivery room with my baby for a little while, but then the officer put the leg shackles and handcuffs back on me and I was taken out of the delivery room."

"Maria Jones" describing how she gave birth while an inmate of Cook County Jail, Chicago, 1998.

Around the USA, it is common for restraints to be used on sick and pregnant incarcerated women when they are transported to and kept in hospital, regardless of whether they have a history of violence (which only a minority have) and regardless of whether they have ever absconded or attempted to escape (which few women have).

On 18 November, 1998, Amnesty International delegates visited Madera County Hospital in California, where female prisoners are taken when they are seriously ill or in labour and for a short period after giving birth. The ward is locked. Inside the ward are four armed guards. Yet every inmate is chained by a leg to her bed. An inmate showed the Amnesty International delegates her shackle. She could lie on her side but she could not roll over.

The New York City Department of Corrections' policy prohibits the use of restraints on pregnant inmates admitted to hospital for delivery "unless the inmate attempts to escape at the hospital or the inmate engages in violent behaviour at the hospital which presents a danger of injury."¹¹ However, Amnesty International has received reports that six New York City prisoners, none of whom had attempted to escape or had a history of violence, were restrained

¹¹ City of New York Department of Corrections Directive 4202 (19 June 1989).

while in hospital for delivery in 1998. One woman reported that she gave birth alone in the labour room as she screamed and lay handcuffed to the bed. Another woman reported that she was shackled to the bed after the birth of her baby by caesarian section even though a doctor had requested that, because of her surgery, she be allowed to walk around. This is the report provided of how another of the women was treated:

"While inducing her labor she was put into handcuffs. They took the handcuffs off when the baby was about to be born. After the baby was born she was shackled in the recovery room. She was shackled while she held the baby. Had to walk with shackles when she went to the baby. She asked the officer to hold the baby while she went to pick something up. The officer said it was against the rules. She had to manoeuvre with the shackles and the baby to pick up the item. In the room she had a civilian roommate and the roommate had visitors and she had to cover the shackles, she said she felt so ashamed....She said she was traumatized and humiliated by the shackles. She was shackled when she saw her baby in the hospital nursery (a long distance from the room). Passing visitors were staring and making remarks. She was shackled when she took a shower; only one time when she was not." ¹²

Amnesty International considers that there is no sound reason for authorities to routinely shackle and handcuff pregnant women or women who have just given birth and who are under armed guard. The use of restraints in these circumstances is cruel and degrading. It also endangers the woman and her child, as described by physician Dr Patricia Garcia

"Women in labor need to be mobile so that they can assume various positions as needed and so they can quickly be moved to an operating room. Having the woman in shackles compromises the ability to manipulate her legs into the proper position for necessary treatment. The mother and baby's health could be compromised if there were complications during delivery, such as haemorrhage or decrease in fetal heart tones." ¹³

RECOMMENDATIONS ON THE USE OF RESTRAINTS

< In accordance with international standards, jails and prisons should use restraints only

¹²The women were interviewed by Reverend Annie Bovian, of the Women's Advocate Ministry in Courts and Jails, an organization assisting incarcerated and women released from custody in New York.

¹³Dr Garcia is an obstetrician and gynaecologist at North Western University's Prentice Women's Hospital. Her statement was provided to Amnesty International by Chicago Legal Aid to Incarcerated Mothers, December 1998.

when restraints are required as a precaution against escape or to prevent an inmate from injuring herself or other people or damaging property. In every case, due regard must be given to an inmate's individual history.

- < Policies on the use of restraints should prohibit their use on pregnant women when they are being transported and when they are in hospital awaiting delivery; on women who have just given birth; and on seriously sick inmates when they are being transported to, and when they are in, hospital.

HEALTH

On the night of April 20th, 1997, Arizona jail inmate Annette Romo, who was pregnant, began bleeding. "I told the guard and she said medical was not in at that time of night and there was nothing she could do. As the night went on the bleeding got worse and so did my stomach ache. I didn't sleep at all that night and when the guard passed by me I was crying and I told her the bleeding was getting worse and that I couldn't stand the stomach cramps I was having. She again told me there was nothing she could do." Annette Romo's bleeding continued through the night and the next day when she collapsed and was rushed to hospital and underwent surgery. "I still to this day have dreams about what happened...It was the worst thing I have ever experienced. If they would have only helped me when I first asked all this would not have happened nor would I have had to lose my baby."

Letter to Amnesty International, 22 February, 1998.

International standards specify that medical care must be provided to people who are detained or imprisoned whenever necessary, free of charge.¹⁴ The US Supreme Court has also ruled that inmates have a right to adequate medical care for serious medical needs. Despite these international and national legal standards, many prisons and jails have failed to provide adequate health care, as the following cases illustrate.

California In 1995, women at two prisons in California (Central California Women's Facility and California Institute for Women) began legal action to obtain improved health care services.¹⁵ The lawsuit cited a number of cases of poor medical treatment including:

- C Clarisse Shumate, who was suffering from sickle cell anaemia, heart problems, pulmonary hypertension and asthma, and experienced delays and interruptions in the

¹⁴ Principle 24, *Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment* and Rule 25(1) *Standard Minimum Rules for the Treatment of Prisoners*.

¹⁵ *Shumate v Wilson*, US District Court, Eastern District of California, No CIV S-95-0619 WBS JFM.

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- provision of medication;
- C Beverly Tucker had long-standing blood-clots in her legs but was not given prescribed medication for the condition. As a result of her condition, she had to have a foot amputated.

In 1997 the women and the state of California agreed to settle the legal action on the basis of a number of undertakings by the state about health care services in the prisons.¹⁶ The state's compliance with the agreement is being assessed by an independent monitoring team. In 1998, the first assessment by the team found that of 57 substantive provisions of the settlement agreement, the state had failed to comply with eleven, in whole or in part, at one or both prisons. Lawyers for the women contend that there are additional areas where the finding of compliance is in error.¹⁷

Florida A study of medical care over a five-year period (1992-1996) in a Florida jail holding men and women concluded that there was a persistent pattern of medical ill-treatment which in some cases amounted to torture under international law.¹⁸ These are two of the cases reported by the study:

- C a pregnant prisoner who suffered a miscarriage at the jail waited six or seven hours before medical personnel sent her to the hospital although she was bleeding profusely;
- C another pregnant prisoner suffering from serious vaginal discharge wrote to an independent jail monitor appointed by a court that she was seen by an obstetrician one month into her incarceration but a month later had still not received any treatment. She said that at sick call the jail doctor refused to see her. "I'm constantly having headaches, stomach cramps, and can't sleep," she wrote. "I'm very scared for my baby and myself...Please help me!! Help my baby!"

¹⁶The document containing the settlement states that the agreement is not to be construed as an admission of liability and that California does not admit that what it undertakes to do differs from the then current policy and practice. The women prisoners considered that the settlement required California to significantly improve health care provision.

¹⁷*Assessment Report on the Compliance of The California Department of Corrections with the Settlement Agreement in Shumate v Wilson*, 18 November 1998; Letter in response from E Alexander on behalf of counsel for the women prisoners, dated 5 January 1999.

¹⁸M Vaughn and L Smith, "Practising Penal Harm Medicine in the United States: Prisoner Voices from Jail," *Justice Quarterly*, 16(1), forthcoming, 1999.

Virginia At the beginning of 1998, 40 women at the Virginia Correctional Center for Women signed a petition describing common delays in getting access to emergency care, doctors, medication, and treatment for chronic illnesses. The complaints included that the facility, which housed around 800 women, did not have a gynaecologist on staff and that a woman bled to death, after complaining that she was bleeding profusely from the rectum and being told by staff to elevate her feet. Linda Dennett, the mother of a prisoner, reported that her daughter's psychiatric medication had been discontinued when she was transferred from jail to prison in July 1997. Six months later, the medication had not been restored. According to Linda Dennett, "I don't worry about trouble as much as I do about suicide."¹⁹ Prison officials denied claims that services were inadequate.²⁰

In January 1998, the Chairman of the Virginia State Crime Commission, a prison oversight body, wrote to the Department of Corrections, expressing concern that long-standing problems in health care services for female inmates appeared not to have been successfully resolved. It asked for a report on investigations into inmate health care complaints and inmate deaths during 1997. At the end of 1998, the Crime Commission had not issued a report of its review. Amnesty International has made a number of requests to the Commission for information about the review and at February 1999 had not received a response.

Perhaps the most commonly cited barrier to effective access to health services by incarcerated women is that prisons and jails employ too few medical staff. As a consequence, inmates have to wait lengthy periods to be seen initially and to receive follow-up care. Some may not be seen at all. In a recent national jail survey, fewer than half the women received a medical examination to determine their health status after they were taken into custody.²¹

Women who receive treatment also experience significant and serious delays in ongoing medical supervision and follow-up care. In a 1996 study of women in prison in California, Florida and Connecticut, 42 percent of women receiving medication for physical disorders, and 31 percent of those receiving treatment for mental health disorders reported that they were not receiving medical supervision.²² The effects of the lack of medical supervision, the study noted,

¹⁹L LaFay, *The Virginian-Pilot*, January 26, 1998.

²⁰ "Abysmal medical care reported by women at Goochland", press release from ACLU National Prison Project, January 21, 1998, Washington DC.

²¹C Harlow, "Profile of Jail Inmates 1996," Bureau of Justice Statistics Special report, US Department of Justice, 1998.

²²L Acoca, "Defusing the Time Bomb: Understanding and Meeting the Growing Health Care Needs of Incarcerated Women in America," *Crime and Delinquency*, Vol 44, No.1, January 1998.

included "physical deterioration of prisoners with chronic and degenerative diseases, such as kidney disease and cancer, and over medication of prisoners with psychotropic drugs, resulting in lethargy and/or problems with speech and gait (shuffling)."

Another common barrier to medical attention is that inmates in many prisons and jails must obtain the permission of non-medical staff in order to be attended by a doctor. Prisoners and lawyers have told Amnesty International of cases where non-medical staff refused permission because they thought a prisoner was lying about her condition, or delayed calling for medical assistance because they did not think immediate attention was warranted.

In violation of international standards, many prisons and jails charge inmates for medical attention.²³ Although inmates who have no money are exempt, charges may deter poor prisoners from seeking help for what might be serious matters. Prisoners interviewed by Amnesty International in California said that the payment requirement is a significant deterrent for women who have a small amount of money, even those who have prison jobs for which the maximum rate of pay is 33 cents per hour.

In some states, private companies have taken over prison health services. There have been a number of reports that inmates have died because essential medical services were restricted in order to save money. For example, in 1996 Melody Bird, an inmate in Pinellas County Jail, Florida, complained of serious chest pains and difficulty breathing. Nurses at the jail believed she was having a heart attack but were not permitted to call for an ambulance to take an inmate to hospital without prior approval from the medical director of the company contracted to provide health care services at the jail. They contacted the medical director but did not receive permission to call an ambulance for 13 hours. Melody Bird died before reaching the emergency room. After her death, it is reported, "company nurses came forward to say that they had been pressured to avoid sending inmates to the emergency room because of the expense." As well, it was discovered that the company sometimes paid the medical director bonuses to keep inmates out of the emergency room. Several authorities are reported to have ended contracts with private companies because of concerns that their services were of poor quality.²⁴

²³In a recent survey of prison authorities, 27 states reported that they charge inmates for some forms of medical attention: "Inmate Health Care, Part I," *Corrections Compendium*, October 1998.

²⁴The account of Melody Bird's treatment is in M Petersen, "Managed Health Care in Prisons Gains Favor, but Draws Concern," *New York Times*, 26 December, 1996. See also, for example, "Death, Neglect and the Bottom Line," *St Louis Post-Dispatch*, 27 September, 1998, an investigation into Correctional Medical Services Inc, reportedly the largest private health care provider in US prisons and jails; "Suicide in Jail Leads County To Cancel Pact," *New York Times*, 20 June, 1996; A Lomax, "Managed Care Infects Prison Health Services," *Prison Legal News*, volume 8, Number 10, October

Reports received by Amnesty International indicate that women's mental health needs are often unmet because prisons and jails are commonly able to treat only the most serious disorders and cannot offer the counselling services that would benefit many women. California psychiatrist, Dr. Terry A. Kupers, has noted that "many prison mental health services are limited to a psychiatrist who visits periodically to prescribe strong anti-psychotic medications...But there is no place for a woman who has been massively traumatized and feels depressed or angry to talk through her traumatic memories in a therapeutic setting."²⁵ Studies indicate that many incarcerated women experience mental health problems linked to having been victims of physical or sexual abuse.²⁶

Various sources have expressed concern to Amnesty International that psychotropic drugs - medication for the treatment of serious psychiatric illness - are sometimes used improperly to control and sedate inmates rather than as medication for psychiatric conditions. In a recent study, women in a California prison reported that they were pressured into taking psychotropic medication while detained in jail before being tried. A number stated that drugs were often ordered by people - including correctional officers - who are not qualified to diagnose the psychiatric conditions for which the medications are appropriate treatment and who are not legally permitted to prescribe medications.²⁷ Some of the women in the study reported that the amount and mixture of drugs made it difficult for them to comprehend what was happening and adversely affected their ability to function during their trial. Lawyers in California, Illinois and Pennsylvania have also told Amnesty International that they have had clients who were so heavily drugged the lawyers had considerable difficulty communicating with them. A lawyer representing inmates at Valley State Prison for Women has drawn the issue to the attention of the United Nations Special Rapporteur on Violence Against Women:

"Rather than consistent treatment, women are prescribed heavy doses of psychotropic medications...I interviewed one mentally disabled woman who was so heavily drugged

1997.

²⁵ T Kupers, *Prison Madness - The Mental Health Crisis Behind Bars and What We Must Do About It*, Josey Bass, California, 1999 (forthcoming), 132.

²⁶ C Harlow, "Profile of Jail Inmates 1996," US Department of Justice, Washington DC, 1998. In a 1996 survey of jail inmates, 48 percent of jailed women reported having been physically or sexually abused before they were incarcerated; 27 percent had been raped.

²⁷ K Auerhahn and E Leonard, "Docile Bodies? Chemical Restraints and the Female Inmate," Paper presented at the American Society of Criminology, Washington, DC, November 1998.

that she shook almost uncontrollably and could hardly speak throughout the interview. The relative incapacitation that accompanies such high doses of psychotropic medication renders women extremely vulnerable to sexual abuse and harassment." ²⁸

RECOMMENDATIONS TO ENSURE ADEQUATE HEALTH CARE

- < Local, state and federal authorities should ensure that prisons and jails provide adequate physical and mental health care services for inmates, free of charge.
- < Health care should accord with professionally recognized standards for services to women and be subject to periodic, external review.
- < The federal government should establish an inquiry into mental health services for women in jails and prisons. One element of the study should be the use of psychotropic medication.
- < People suffering severe mental illness should be placed and treated in mental health institutions, not in jails and prisons.

WOMEN IN HIGH SECURITY UNITS (SUPERMAX)

In the past few years, many US states have built "super-maximum security" (supermax) facilities designed to house prisoners in long-term isolation in particularly restrictive conditions.²⁹ Prisoners in these units may be confined for nearly 24 hours a day in sealed, sometimes windowless cells with solid doors, with no work, training or other programs. The facilities are designed to minimize contact between staff and inmates, and prisoners are often subjected to regimes of extreme social isolation and reduced sensory stimulation. The length of time inmates are assigned to such facilities varies, but some prisoners spend years, or even their whole sentence, in isolation.

The large majority of prisoners in supermax units are men. However, several states have similar facilities for women prisoners. As well as harsh physical conditions, the operation of some high security units for women violates standards on privacy and human dignity, as the women are able to be observed at all times by male guards. The isolated nature of these units can increase opportunities for abuse.

²⁸ Cassandra Shaylor, Memo to Radhika Coomaraswamy, UN Special Rapporteur on Violence Against Women, May 18, 1998.

²⁹ Although the term "supermax" is not the official term given to all such units, it has become a generic term used by experts in the field (and by the National Institute of Corrections in a 1997 survey) to describe high security facilities designed to manage or control inmates classified as requiring (on security or disciplinary grounds) the maximum restrictive custody arrangements.

Amnesty International believes that conditions in many US supermax facilities violate international standards for the humane treatment of prisoners and exceed what is necessary for security purposes. Studies have shown that prolonged isolation in conditions of reduced sensory stimulation can cause significant mental and physical damage. Both the UN Human Rights Committee and the Special Rapporteur on Torture have expressed concern about conditions in such facilities.³⁰

The US authorities have defended the use of supermax facilities as being necessary to control extremely violent or disruptive prisoners. However, many inmates assigned to high security units do not appear to fit these criteria, or to warrant such an extremely punitive environment. For example, some prisoners have been sent to such units for repeated minor rule violations. In many states, mentally ill or disturbed prisoners are held in supermax units, despite evidence that the conditions are likely to exacerbate their illness. According to prison experts, mentally ill prisoners are often more likely than other inmates to end up in such units because of behavioural problems and because prisons lack adequate mental health treatment programs. Women prisoners, especially, rarely fit the criteria commonly given by the authorities as justifying their incarceration in such units (a history of prison gang related activities, escapes or violent assaults).

Although few studies have been undertaken of women in supermax facilities, the evidence in some states bears out the above concerns. A 1996 survey of 14 women held in a special unit in Colorado State Penitentiary (CSP), an otherwise all-male facility, found that 11 of the women were serving sentences for minor, non-violent felonies such as theft, forgery and substance abuse.³¹ Many of them had been sent to CSP for relatively minor disciplinary infractions and some were mentally ill. Yet their conditions were extremely punitive and included 23 hour cell confinement, with solitary exercise taken in a small cell equipped, like the men's units, with only a chin-up bar bolted to the wall. No outdoor exercise was provided. The shower unit had glass windows and exposed the women to the view of the predominantly male guards.³²

In November 1998 an Amnesty International delegation visited the Security Housing Unit (SHU) in Valley State Prison for Women, California where 46 women classified as a "threat to safety or security" were locked in small, concrete cells for 23-24 hours a day with no

³⁰HRC Comments of 6 April 1995, UN Doc CCPR/C/79/Add.50 and UN Doc. E/CN.4/1996/35

³¹The study was conducted by the Prisoners Rights Project at the Rocky Mountain Peace and Justice Center, Boulder, Colorado.

³²In January 1999, after six years of housing women in CSP, the Department of Corrections transferred all female inmates to the Denver Women's Correctional Facility where they continue to be held in isolation.

work, education or other programs. The narrow windows at the back of each cell are frosted over so there is no view of the outside. The cells have solid steel doors, cutting off contact with other inmates, with a window through which guards can view the prisoners at any time. The women take exercise (alone or in small groups) in a bare exercise yard with no equipment, surrounded by high walls. The women are placed in mechanical restraints such as handcuffs and strip searched whenever they leave their cells.

Other features of concern include:

- The rules require that SHU inmates be "in full view" at all times and they are not allowed to cover their cell windows, even when using the toilet. Some women have complained that male guards peer at them while they are on the toilet or undressing. The constant exposure and lack of privacy has reportedly contributed to severe stress in some cases.
- Some prisoners are assigned to the unit, or have had their stay extended, for relatively minor disciplinary infractions. For example, several women had received long, consecutive SHU terms for throwing liquid at a guard, spitting or issuing a verbal threat. Some women were serving several years in the SHU, due to accumulated disciplinary sentences.
- Many of the women in the SHU suffer from mental disabilities and histories of abuse, depression and suicide. However, they receive no treatment for these problems apart from "drug therapy". Many of the women are reported to have deteriorated while on the unit, crying or shouting uncontrollably, banging their heads against the cell walls, or committing acts of self mutilation.

RECOMMENDATIONS CONCERNING HIGH SECURITY UNITS

- < State and prison authorities should urgently review their criteria for confining prisoners in supermax units; they should amend their policies to ensure that no prisoner is confined long-term in conditions of isolation and reduced sensory stimulation.
- < The authorities should immediately improve conditions in such units so that prisoners receive more out-of-cell time, improved exercise facilities and adequate access to natural light and fresh air.
- < Security measures should be applied in a way that does not violate standards requiring that prisoners be treated with respect for their human dignity.
- < Inmates who are mentally ill or disabled, or at risk of mental illness, should not be placed in supermax units. All prisoners in segregation should have their physical and mental health evaluated by qualified health personnel in accordance with professional health standards, and should receive adequate treatment.

