



**Testimony of Kimberly McCullough, Policy Director  
In Support of SB 495  
Senate Judiciary Committee  
February 21, 2019**

Chair Prozanski and Members of the Committee:

The American Civil Liberties Union of Oregon<sup>1</sup> supports SB 495, which would prohibit the use of police canines to intimidate, control or punish people who are incarcerated in Oregon jails and prisons. Included in this prohibition would be the use of dogs to extract individuals from jail and prison cells.

The use of a fierce animal to control an imprisoned person is inherently degrading, and there is a common understanding among the majority of corrections professionals that the use of dogs for cell extractions is neither necessary nor appropriate since there are always better and equally effective alternatives.

Using dogs for cell extractions also results in unnecessary injury to incarcerated persons, tends to escalate situations that would be better managed through the use of de-escalation techniques, and can be deeply traumatic for people who are being subjected to a canine cell extraction, other incarcerated individuals in the vicinity, and corrections officers.

Human Rights Watch issued a report in all the way back in 2006 titled "Cruel and Degrading: The Use of Dogs for Cell Extractions in U.S." At that time, HRW identified Iowa and Connecticut as the only two states in the U.S. that used canines for cell extractions. The report provides helpful context for this discussion, so we are submitting it with this testimony.

The ACLU of Oregon urges you to support SB 495. Please feel free to contact us if you have any questions, comments, or concerns.

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<sup>1</sup> The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 45,000 members and supporters statewide.



UNITED STATES

# Cruel and Degrading

The Use of Dogs for Cell Extractions in U.S. Prisons

HUMAN  
RIGHTS  
WATCH



## **Cruel and Degrading The Use of Dogs for Cell Extractions in U.S. Prisons**

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## Summary

*“Obviously a dog is more of a deterrent [than a Taser gun]. You get more damage from a dog bite. I think it’s right up there with impact weapons . . .”*

—Mike Knolls, Special Operations Unit, Utah Department of Corrections, October 26, 2005

One of the iconic pictures from Abu Ghraib shows an unmuzzled German Shepherd straining at his leash a few inches in front of a detainee, who is crouched in terror. Two Army Sergeants have been convicted in courts-martial of using their dogs to harass, threaten, and assault detainees. Yet five U.S. state prison systems—those of Connecticut, Delaware, Iowa, South Dakota, and Utah—continue to authorize the use of large unmuzzled dogs to terrify and even attack prisoners to secure their compliance with orders to permit themselves to be handcuffed and removed from their cells. While the prisoner tries to fend off the dog, officers move in to take hold of him, apply restraints and then remove him from his cell.

The use of dogs to threaten and attack prisoners to facilitate cell extractions has been a well-kept secret, even in the world of corrections. Human Rights Watch has spoken with more than two dozen current and former correctional officials who had no idea dogs were authorized, much less ever used, for this purpose. Many were, as one said, “flabbergasted.”

In three of the five states that authorize use of dogs in cell extraction, the policies appear to be used rarely if at all. In Connecticut (20 cases in 2005) and Iowa (63 cases between March 2005 and March 2006), use of dogs for this purpose is far more common.

Human Rights Watch knows of no other country in the world that authorizes the use of dogs to attack prisoners who will not voluntarily leave their cells. Dogs are often used in prisons in the United States and elsewhere to patrol perimeters and to search for contraband, a use that does not raise human rights concerns.

When Human Rights Watch began this research in 2005, two additional states, Massachusetts and Arizona, also permitted the use of dogs in cell extractions. In 2006, however, corrections departments in those states instituted new policies prohibiting such use of dogs. We welcome these decisions and urge the corrections departments of Connecticut, Delaware, Iowa, South Dakota and Utah to follow suit. If they do not do so, the respective state legislatures should enact legislation prohibiting the practice. The American Correctional Association, which publishes standards for professional corrections management, should include a prohibition on the use of dogs for cell extractions in its use of force standards.

## Cell Extractions

The use of force is inherent in the very nature of involuntary confinement. In prisons, “the responsible deployment of force is not only justifiable on many occasions, but absolutely necessary to maintain the security of the institution.”<sup>1</sup> The need to use force in a prison may sometimes include the forcible removal of an inmate from his cell, called a “cell extraction.”

Cell extractions are security measures, not disciplinary mechanisms. In well-managed correctional systems, they are used only in response to an imminent and serious risk to the safety and security of an individual or of the institution. In such prisons, officers know cell extractions are rarely needed; in some prisons, however, the institutional culture permits cell extractions simply to show inmates “who’s in charge” or to retaliate against defiant inmates, even if there is no real emergency.

When the decision has been made that an inmate cannot be allowed to remain in his cell, properly trained staff will make every effort to avoid a forced cell extraction. Officers will talk with the inmate. Indeed, it may be necessary for corrections staff to talk to an inmate for a prolonged period and then allow the inmate a “cooling down” period to increase chances that forcible extraction will not be necessary. Counselors or mental health staff may be brought in to talk to the inmate. If verbal efforts fail, in many facilities pepper spray is used to overcome the inmate’s resistance.<sup>2</sup>

If officials decide to go ahead with a forcible cell extraction, the increasingly prevalent practice is to use a team of four to six specially trained correctional officers. They wear protective equipment that typically includes major torso padding, Kevlar sleeves, big black gauntlets, a helmet, a face plate, and a groin guard. The team lines up in front of the cell, and the officers ask the inmate one more time whether he is willing to “cuff up”—submit to restraint and leave the cell. If the inmate continues his resistance, the team enters the cell. Often, the first member of the team to enter

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<sup>1</sup> *Madrid v Gomez*, 889 F.Supp 1146, 1283 (N.D. Cal. 1995).

<sup>2</sup> Even if the inmate is in a cell with a solid door and has blocked the sally port with his mattress, there are devices to make sure the gas enters and overcomes the inmate.

the cell carries a large convex Plexiglas shield or a stun shield (a shield equipped with an electric current which stuns the inmate on contact) with which he pins the inmate against the wall. The other members of the team then gain control of and place restraints on the inmate's arms and legs. In most cases, a well trained cell extraction team is able to secure the removal of even a violent prisoner with minimal or no harm to him or staff.



## How Dogs Are Used in Cell Extractions

The dogs used for cell extractions typically are German Shepherds or Belgian Malinois—both large breeds of dog that usually weigh well over sixty pounds and stand over two feet high.<sup>3</sup> The dogs are usually imported from Europe and often undergo preliminary training with breeders or those selling the dogs. Prison handlers continue the training, using decoys to train the dog in “apprehension”—i.e. biting on command and releasing on command. Usually, a dog lives with its primary handler, and the two develop a close bond.

When a handler and his dog enter a cell block in connection with a possible cell extraction, the dog barks loudly and continuously, jumping up against the cell door and scratching at the window, as seen in two videotaped cell extractions with dogs that are available on the Human Rights Watch website.<sup>4</sup> The dog’s barking and presence outside the prisoner’s cell is intended to terrify and intimidate the prisoner into compliance with the order to “cuff up.” If the prisoner continues to resist, he knows the dog will be loosed on him. Some prisoners will wrap blankets, towels, and even toilet paper around their limbs to try to protect themselves from dog bites. When the guards open the cell door, the leashed dog enters the cell first. The dog handler is supposed to maintain his hold on the dog’s leash while it attacks the prisoner. But this is not always the case. As one prisoner in Connecticut described his experience: “The dog was barking uncontrollably and jumping up and out towards me. The k-9 officers released the dog leash, and the dog, a German Shepherd, charged me.”<sup>5</sup>

The dog is trained to bite whatever part of the prisoner it can grasp first. According to an Iowa corrections official, “[The dogs are] taught a deep—a full-mouth bite. The

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<sup>3</sup> As of August 25, 2006, 37 state prison systems have canine units. They are typically trained to sniff for drugs or other contraband and are sometimes trained and used for crowd control during riots.

<sup>4</sup> The videos are of cell extractions using dogs in Massachusetts on June 14, 2004 and in Connecticut on November 3, 2000.

<sup>5</sup> Letter to Human Rights Watch from M.B., a prisoner in the Connecticut Department of Corrections, March 17, 2006.

dog opens his mouth real wide and gets as much as [he can] whether it's a thigh or whatever in his mouth."<sup>6</sup>

While the prisoner tries to fend off or wrestle with the dog, officers enter the cell, use whatever force remains necessary to subdue him, and put restraints on him. At some point, the dog handler will call off the dog, although the dog may remain in the cell.

When dogs were used for cell extractions in Arizona, the procedure was different. Instead of going into the cell with the dog, the dog handler would remain outside holding on to a thirty foot leash attached to a harness on the dog. The dog would be let into the cell, jump up on the prisoner, and bite him. Once the dog had a hold of the prisoner, the officers would pull on the dog's leash and drag the dog *and* the prisoner, gripped by the dog's jaws, out of the cell. A training video formerly used by the Arizona Department of Corrections shows a simulated cell extraction using this method; it is available on the Human Rights Watch website at <http://hrw.org/campaigns/us/2006/prisons1006/index.htm>.

During cell extractions using dogs, there is almost always an injury to the prisoner—"at the very least a puncture."<sup>7</sup> If the prisoner resists, he might suffer more serious muscle or tissue tearing. A former prison dog handler from Arizona told Human Rights Watch that most of the injuries he had seen were puncture wounds. But, he said: "The most common mistake is for the person who is being bitten to jerk back. This creates a tearing." He said that although people have been bitten pretty badly, he had never seen any unexpected injuries "like losing a limb, fingers or an ear."<sup>8</sup> A Iowa corrections official told Human Rights Watch that he was not aware of any serious injuries caused by the dogs.<sup>9</sup>

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<sup>6</sup> Human Rights Watch telephone interview with John Fayram, acting warden of Anamosa State Penitentiary, Iowa, December 12, 2005.

<sup>7</sup> Human Rights Watch telephone interview with senior correctional officer in a state which has been using dogs, and who requested anonymity, November 28, 2005.

<sup>8</sup> Human Rights Watch telephone interview with former corrections employee who requested anonymity, November 28, 2005.

<sup>9</sup> Human Rights Watch telephone interview with John Fayram, acting warden of Anamosa State Penitentiary, Iowa, December 12, 2005.

Some prisoners, however, have described long-term injuries as a result of dog bites that occurred during cell extractions. For example, one Connecticut prisoner wrote:

I freed my leg from the dog's mouth and I fell backward to the floor. The dog charged me again while I was down. I raised my left hand to block the dog's bite and it sank its teeth completely through my hand ... My left hand has suffered permanent damage. I lost a lot of feeling in my middle and ring fingers and I have a "pin & needles" feeling in my index finger and thumb. This is due to multiple nerves being severed from the dog bite. This information has all been recurred [sic] in my D.O.C. medical file.<sup>10</sup>

Prisoners also suggested that the handlers do not always have control over the dogs. A prisoner in Connecticut described an incident in which he was in a two-man cell while officers with a dog were involved in an altercation with his cell-mate. Although he was kneeling against the wall with his hands up, he was nonetheless attacked by the dog. "The k-9 bit me on my back by my lower left shoulder by the back bone."<sup>11</sup> The dog handler who participated in this cell extraction noted in his incident report: "Inmate [O] went toward the wall and to his knees. K-9 Rony had slipped out of his collar and bit inmate [O] on the back."<sup>12</sup>

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<sup>10</sup> Letter to Human Rights Watch from M.D., a prisoner in Connecticut.

<sup>11</sup> Letter to Human Rights Watch from I.O., a prisoner in Connecticut, dated February 2006.

<sup>12</sup> Ibid. Prisoner I.O. sent Human Rights Watch a copy of the incident report.

## Policy and Practice in Seven States

Human Rights Watch has identified seven states that have allowed the use of dogs in cell extractions: Arizona, Connecticut, Delaware, Iowa, Massachusetts, South Dakota, and Utah. As noted at the outset, Arizona and Massachusetts prohibited such use of dogs in 2006.

### Arizona

In 1997, Terry Stewart, then director of the state's department of corrections testified in front of the state legislature that there had been 41 staff injuries during the 225 cell extractions conducted that year. Stewart explained that he was authorizing the training of dogs to conduct cell extractions in order to protect staff.<sup>13</sup> A former correctional officer and dog handler who worked for the Arizona Department of Corrections while Terry Stewart was the director said he used to use dogs for cell extractions approximately two or three times *per month*.<sup>14</sup> After the current director, Dora Schriro, took office in 2003, she sought to reduce the use of cell extractions in general and the number of cell extractions with dogs dropped dramatically. There were three cell extractions with dogs in 2004 and 2005.<sup>15</sup> Director Schriro instituted a moratorium on the use of dogs for cell extractions in 2005 pending the results of a complete review of the state's use of force policies.<sup>16</sup> On March 29, 2006 she made the moratorium permanent with a new departmental instruction prohibiting the use of dogs for cell extractions.<sup>17</sup>

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<sup>13</sup> Human Rights Watch telephone interview with Robert D. Myers, General Counsel, Arizona Department of Corrections, March 20, 2006.

<sup>14</sup> Human Rights Watch telephone interview with a former Arizona Department of Corrections employee who requested anonymity, November 28, 2005. The Department of Corrections was unable to locate statistics on cell extractions or cell extractions with dogs prior to 2003. Director Schriro took office in August, 2003.

<sup>15</sup> *Ibid.*

<sup>16</sup> Human Rights Watch telephone interview with Robert D. Myers, General Counsel, Arizona Department of Corrections, March 20, 2006.

<sup>17</sup> Letter to Human Rights Watch from Robert D. Myers, General Counsel, Arizona Department of Corrections, May 2, 2006.

## Connecticut

The Connecticut Department of Correction began using dogs for cell extractions in 1985. They were first used at Somers State Prison as a “visible deterrent, to assist staff and provide a non-lethal response to inmate generated violence within the facilities particularly when the inmate presents a high risk of injury to the public, to staff or other inmates.”<sup>18</sup> Under current policy, dogs may be used in a cell extraction “when verbal intervention has been exhausted and chemical agent cannot be used.”<sup>19</sup> The only statistics the Department of Correction provided Human Rights Watch on the frequency with which dogs have been used in cell extractions were for 2005. In that year, staff brought dogs onto the cell blocks for cell extractions twenty times. In eleven of these incidents, the dogs were directly involved in the cell extractions. In the other nine, the dogs were not sent into the cell.<sup>20</sup> It is not clear whether Connecticut permits the use of dogs for cell extractions when the prisoner is mentally ill. A Department of Corrections employee told Human Rights Watch that he “couldn’t imagine we would use dogs” for cell extractions of the mentally ill. “There is too much potential for things to go wrong because you cannot assume someone who is mentally ill will act in a rational manner.”<sup>21</sup> According to the department’s public affairs office, however, dogs may be used on prisoners with mental illness after a “direct mental health intervention has failed and the inmate is considered to be a threat to staff or his/her self.”<sup>22</sup>

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<sup>18</sup> Human Rights Watch email correspondence with Brian Garnett, Connecticut Department of Correction, “Response to Questions from Human Rights Watch,” December 20, 2005. On file with Human Rights Watch.

<sup>19</sup> Ibid. The use of dogs is governed by Administrative Directives 6.5, Use of Force and 6.11, Canine Unit, available at [www.ct.gov/doc](http://www.ct.gov/doc).

<sup>20</sup> Ibid. A dog was also used to apprehend an escaped inmate in 2005. In addition, according to Garnett, there were two incidents in which individuals were “inadvertently bitten” by dogs. “One involved an unruly inmate, the other a staff member who, while responding to an incident, accidentally came in contact with the dog.”

<sup>21</sup> Human Rights Watch telephone interview with official in the Connecticut Department of Correction who requested anonymity, November 28, 2005.

<sup>22</sup> Human Rights Watch email correspondence with Brian Garnett, Connecticut Department of Correction, “Response to Questions from Human Rights Watch,” December 20, 2005.

## Delaware

Under the rules of the Delaware Department of Corrections, dogs may be used during cell extractions. According to a state Department of Corrections media relations officer, no dogs have been used in a cell extraction in the past twenty years.<sup>23</sup>

## Iowa

The Iowa Department of Corrections began using dogs for cell extractions in 1994. The idea came from an officer who knew police forces were using dogs, and who thought corrections might be able to use dogs effectively as well.<sup>24</sup> He suggested the idea to a warden, and the use of dogs took hold. As of March of 2006, Iowa had fifteen canine teams (or fifteen dogs, each paired with a handler). Between March of 2005 and March of 2006, dogs were brought next to a cell 63 times for possible use in cell extractions. In 48 of these incidents, according to a prison official, the presence of the dog changed the prisoner's attitude so that force did not need to be used. In ten of the incidents, even though dogs were brought to the prisoner's cell, officers used other means of physical force to gain compliance from a prisoner. In five incidents, the dog was sent into the cell and bit the prisoner.<sup>25</sup>

Dogs will not be used for cell extractions in Iowa if the inmate is mentally ill: "The department has determined that when we know, when we're aware a person has a history of mental illness, canines don't get used in that situation . . . We don't want to aggravate a situation, if the person acting out isn't going to comprehend the meaningfulness of the dogs present."<sup>26</sup>

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<sup>23</sup> Human Rights Watch telephone interview with Beth Welch, Media Relations Unit, Delaware Department of Corrections, January 2006.

<sup>24</sup> Human Rights Watch email correspondence with John Fayram, acting warden of Anamosa State Penitentiary, Iowa, March 14, 2006.

<sup>25</sup> Ibid.

<sup>26</sup> Human Rights Watch telephone interview with John Fayram, acting warden of Anamosa State Penitentiary, Iowa, December 5, 2005.

## Massachusetts

Dogs had been used by the Massachusetts Department of Correction for extractions and other control purposes for more than fifteen years when the practice ended in 2006. Before a dog could even be brought onto a cell block in Massachusetts, the Commissioner of the Department had to be contacted for approval. In the two years prior to the rule prohibiting their use, dogs were brought onto the cell block four times, and were actually sent into the cell twice.<sup>27</sup> A videotape of one of those instances is available on the Human Rights Watch website. According to his lawyer, the inmate who was attacked by a dog in the videotape is mentally ill, and had been bitten by dogs prior to the incident in question.<sup>28</sup> On April 25, 2006 Commissioner Kathleen Dennehy issued a statement indicating that dogs would no longer be authorized for cell extractions.

## South Dakota

The South Dakota Department of Corrections has one dog trained to conduct cell extractions. According to the department's public information office, the dog has never been used for this purpose.<sup>29</sup>

## Utah

Utah has trained and deployed dogs in prison for over a decade for "patrol work, apprehension, and detection." According to an officer with the Special Operations Unit, which handles the dogs, in the past fifteen years they have only been used twice for cell extractions.<sup>30</sup>

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<sup>27</sup> Human Rights Watch telephone interview with Kathleen Dennehy, Commissioner, and James Bender, Deputy Commissioner, Massachusetts Department of Correction, December 16, 2005.

<sup>28</sup> Human Rights Watch telephone interview with Lauren Petit, an attorney with Massachusetts Correctional Legal Services, December 5, 2005.

<sup>29</sup> Human Rights Watch telephone interview with Dave Schiefen, South Dakota Department of Corrections, January 2006.

<sup>30</sup> Human Rights Watch telephone interview with Mike Knolls, an officer in the Special Operations Unit of the Utah Department of Corrections, October 26, 2006.

## Views of Corrections Professionals and Experts

Officials in states that use dogs to help remove prisoners from their cells insist the dogs make for “a safer situation overall.”<sup>31</sup> They claim that the availability of dogs for cell extractions deters prisoner misconduct and that simply bringing barking dogs to the cell front often prompts an inmate to change his attitude from defiance to compliance. They also insist that the use of dogs reduces the risk of injury to officers who participate in the cell extraction.<sup>32</sup> For example, an Iowa official told Human Rights Watch that prior to the use of dogs, officers “were going in cell-after-cell, day-after-day ... people were getting hurt, twisted ankles, bit.”<sup>33</sup> He believes that after dogs were brought onto the cell blocks, the incidence of forced cell removals decreased dramatically because prisoners did not want to confront the dogs.<sup>34</sup>

The corrections profession does not share the view that dogs should be used in cell extractions. Forty-five state corrections agencies and the Federal Bureau of Prisons maintain order and secure prisoner compliance without using dogs for that purpose. Two of those states, as noted above, previously used dogs for cell extractions, but concluded the practice was unnecessary. Kathleen Dennehy, Commissioner of the Massachusetts Department of Correction, explained that she ended the use of dogs for cell extractions because she concluded there were acceptable and effective alternatives. “There are other ways to compel inmates to cuff up than sending in an animal to rip his flesh.”

Human Rights Watch interviewed ten directors of corrections agencies, corrections officials from another five states, and eight nationally and internationally recognized

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<sup>31</sup> Human Rights Watch email correspondence from John Fayram, acting warden of Anamosa State Penitentiary, March 14, 2006.

<sup>32</sup> For example, according to Robert D. Myers, General Counsel, Arizona Department of Corrections, Terry Stewart first authorized the use of dogs in the Arizona Department of Corrections in 1998 in order to prevent the high number of staff injuries that had taken place during cell extractions. Human Rights Watch telephone interview with Robert D. Myers, General Counsel, Arizona Department of Corrections, March 20, 2006.

<sup>33</sup> Human Rights Watch telephone interview with John Fayram, acting warden of Anamosa State Penitentiary, Iowa, December 12, 2005.

<sup>34</sup> The department does not maintain statistics that would confirm Fayram’s belief in the decline of cell extractions after the department began to use dogs.



independent experts and consultants in the field of corrections and use of force to explore their views concerning the use of dogs for cell extractions. With one exception—the director of the Iowa Department of Corrections—no one we interviewed thought the practice necessary or justifiable.<sup>35</sup> As one individual with extensive corrections experience told Human Rights Watch, the use of dogs is “just not warranted in the closed environment of a prison cell. It’s a level of aggressive control that isn’t necessary. There are ways to ensure compliance and adherence to policy and process that are more effective and less damaging, physically—and potentially psychologically—to an inmate, other than using a dog.”<sup>36</sup>

Steve Martin, a national expert in use of force policies, is “dead set” against the use of dogs. He insists that even if an attack dog is highly trained and effective, it is simply not as controllable and predictable as other tactics. Moreover, he has never “seen or heard of a situation in which there isn’t an equally effective means [other than using dogs] to neutralize an inmate and protect his safety and that of others.”<sup>37</sup> He points out that once a dog enters the cell, there will always be some injury to the prisoner from the dog’s bite. Moreover, if the prisoner resists and tries to defend himself from the dog, the harder the dog will bite.

A retired senior corrections official and use of force expert shared his view:

In my experience, the use of non-lethal, low impact weapons such as, but not limited to, chemicals properly used, electronic control devices, pressure point control tactics and empty-handed control techniques used by organized, trained, forced cell entry teams in various combinations are adequate to effectively and immediately control an inmate in his/her cell without harm to all involved. These methods have been proven effective throughout the nation under all conditions. The only time they have not been effective is due to poor technique which can easily be remedied. It is my understanding that a trained

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<sup>35</sup> Most of the people we spoke with, including consultants as well as current corrections officials, did not want to be cited by name for fear of antagonizing colleagues or losing possible consulting contracts.

<sup>36</sup> Human Rights Watch telephone interview with a corrections mental health expert who requested anonymity, November 19, 2005.

<sup>37</sup> Human Rights Watch telephone interview with Steve Martin, December 8, 2005.

attack dog is designed to grab, rip and tear until the dog is mortally wounded or called off by the handler. ... [W]hen this option is used to extract an inmate from a cell it is my opinion that the risk of harm to the inmate does not justify its use because other, less harmful, options are available and effective. Therefore, the additional risk of harm is not justified according to reasonable security needs of any correctional agencies.<sup>38</sup>

Patrick McManus, a court monitor, special master, and former corrections commissioner said he was extremely troubled by the idea of “sicking dogs on inmates.” He explained: “I cannot picture a responsible corrections person letting a dog loose on a person in a cell.” Nor could he imagine a situation when a dog would truly be necessary.<sup>39</sup>

Former New Jersey Commissioner of Corrections Devon Brown echoed the view that dogs are simply not necessary: “Why put someone at risk of being bitten by dogs when you have trained staff to perform [the cell extraction] function?”<sup>40</sup> Commissioner Brown also echoed many others in pointing out that cell extractions, with or without dogs, are often unnecessary: “Why put anyone in harm’s way if you can wait him out?”<sup>41</sup> As Steve Martin said: “The inmate is locked up and isn’t going anywhere. He can usually be talked down or simply out-waited.” Massachusetts’ Commissioner Dennehy agreed: if staff are well trained in de-escalation, “there is rarely any need for a forced cell extraction in the first place.”<sup>42</sup>

Implicit—and sometimes explicit—in many of the statements to us was the notion that dogs are different; they cannot simply be considered as another way of exercising force over a prisoner; that there is something inherently troubling about the use of a trained attack dog to bite prisoners, regardless of the necessity for the cell extraction. Jeffrey Schwartz, an expert and frequent consultant on use of force,

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<sup>38</sup> Human Rights Watch email correspondence with a former senior corrections official, November 21, 2005.

<sup>39</sup> Human Rights Watch telephone interview with Patrick McManon, December 12, 2005.

<sup>40</sup> Human Rights Watch telephone interview with Devon Brown, Commissioner of Corrections, New Jersey Department of Corrections, December 18, 2005.

<sup>41</sup> Ibid.

<sup>42</sup> Human Rights Watch telephone interview with Kathleen Dennehy, Commissioner, Massachusetts Department of Correction May 5, 2006.

explained his aversion to the concept of using dogs for cell extractions: “This is about who we are, what we are about.”<sup>43</sup> Another corrections consultant explained that the public already thinks prisons are brutal and brutalizing places; using dogs for cell extractions just confirms that view.

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<sup>43</sup> Human Rights Watch telephone interview with Jeffrey Schwartz, February 14, 2005.

## Standards Governing Use of Force in Prisons

The Eighth Amendment of the U.S. Constitution prohibits “cruel and unusual punishment,” interpreted to reflect evolving standards of decency. Prohibited punishment includes excessive or unnecessary force by prison staff that is not “applied in a good faith effort to maintain or restore discipline” but instead is done “maliciously or sadistically to cause harm.” There is no jurisprudence on the constitutionality of using dogs for cell extractions.

State and federal correctional policies regarding use of force typically reflect three key principles: 1) force should only be used when necessary; 2) the nature or amount of force used should be proportional to the need, i.e., no more than necessary; and 3) physical force should not be used as punishment.<sup>44</sup> Use of force policies also typically enumerate the kinds of force that may be used—e.g., some permit the use of electronic stun devices, others do not. As noted above, there is a pervasive view within corrections that the use of dogs for cell extractions is not a necessary or appropriate option because there are always better and equally effective alternatives. There is also a sense that there is something inherently wrong or distasteful in using an animal for this purpose.

International human rights law illuminates why the use of dogs in cell extractions is wrong. The International Covenant on Civil and Political Rights, which the United States has ratified, mandates that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” Human Rights Watch believes that deliberately instilling terror into an inmate by exploiting the primal fear of aggressive dogs and deliberately permitting a snarling, barking dog to bite the inmate cannot be squared with fundamental human dignity.

The Covenant, as well as the Convention against Torture (also ratified by the United States), both affirm the right of inmates to not be subjected to treatment that

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<sup>44</sup> See Appendix for relevant provisions from Standard Minimum Rules for the Treatment of Prisoners, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (which applies to prison officials as well as police).

constitutes torture or is otherwise cruel, inhuman or degrading. We believe that the use of dogs in cell extractions is degrading and could even be inhuman, depending on the extent of injury from the dog. The use of a fierce animal to control an imprisoned person is inherently humiliating, denying an inmate's personhood. Terrifying an inmate into compliance also denies his personal integrity. It reduces the inmate himself to an animal crouched in fear in the face of attack.

The principles of proportionality and necessity also come into play here. International human rights law instruments limit the staff use of force in prison to situations when it is necessary, and then permit only so much force as is necessary.<sup>45</sup> In light of alternative methods to maintain control over an individual inmate who is locked in his cell, it is difficult to conceive of situations in which the use of an attack dog for a cell extraction could ever pass the tests of necessity and proportionality.

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<sup>45</sup> Standard Minimum Rules for the Treatment of Prisoners, Rule 54(3), adopted Aug. 30, 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders; The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principles 4,5, and 15, adopted Sept. 7, 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders; and Code of Conduct for Law Enforcement Officials, Article 3, adopted Dec. 17, 1979 by General Assembly resolution 34/169.

## **Conclusion**

There are basically two categories of prison abuse: conduct which is sanctioned by express policy and misconduct that violates policy. The use of dogs to assist in cell extractions is an example of the former. As such, it is also is easy to eradicate – a mere stroke of the pen can suffice.

The goal of protecting staff or deterring inmate misconduct cannot justify the use of dogs to terrorize and even bite prisoners. Security and control can be maintained while treating inmates at all times, and in all circumstances, decently, humanely, and justly.

## **Acknowledgments**

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## Appendix

### I. Standard Minimum Rules for the Treatment of Prisoners

[http://www.unhchr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhchr.ch/html/menu3/b/h_comp34.htm)

*Rule 54(3):*

Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

### II. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

[http://www.unhchr.ch/html/menu3/b/h\\_comp43.htm](http://www.unhchr.ch/html/menu3/b/h_comp43.htm)

*Principle 4:*

Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

*Principle 5:*

Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- (b) Minimize damage and injury, and respect and preserve human life;
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.

*Principle 15:*

Law enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened.

### **III. Code of Conduct for Law Enforcement Officials**

[http://www.unhchr.ch/html/menu3/b/h\\_comp42.htm](http://www.unhchr.ch/html/menu3/b/h_comp42.htm)

*Article 3:*

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Commentary:

(a) This provision emphasizes that the use of force by law enforcement officials should be exceptional; while it implies that law enforcement officials may be authorized to use force as is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders, no force going beyond that may be used.

(b) National law ordinarily restricts the use of force by law enforcement officials in accordance with a principle of proportionality. It is to be understood that such national principles of proportionality are to be respected in the interpretation of this provision. In no case should this provision be interpreted to authorize the use of force which is disproportionate to the legitimate objective to be achieved.



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## Cruel and Degrading

### The Use of Dogs for Cell Extractions in U.S. Prisons

One of the most iconic images from Abu Ghraib is of a detainee crouched in terror before a snarling dog barely restrained by its Army dog handler. Yet Human Rights Watch has discovered that in the United States, five U.S. state prison systems permit the use of large aggressive dogs to terrify and even attack prisoners. An additional two states just ended the practice.

The dogs are used to help officials conduct a forced cell extraction. If a prisoner will not voluntarily leave his cell when ordered to do so, correctional officers may bring a trained attack dog to the cell front to terrify the prisoner into compliance. If the prisoner still refuses, the dog is let into the cell to bite the prisoner. While the prisoner tries to fend off the dog, correctional officers are able to get restraints on him and forcibly extract him from his cell. The dog is then called off. Human Rights Watch knows of no other country in the world that officially permits dogs to be used in prisons this way.

This appalling practice has been a well-kept secret in the United States, even within the world of corrections professionals. With this report, Human Rights Watch hopes to prompt the states which permit the use of dogs in cell extractions to repudiate this cruel and degrading practice.

*A German Shepherd being trained as an attack dog in California in 2002. German Shepherds are the breed of dog most commonly used in cell extractions.*

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