

USA

Letter to Governor Jeb Bush

Governor Jeb Bush
PL 05 The Capital
400 South Monroe Street
Tallahassee, Florida
USA, 32399-0001

16 December 2003

Dear Governor Bush,

Amnesty International is deeply concerned by reports that police engaged in unwarranted and indiscriminate force against demonstrators during the Free Trade Area of the Americas (FTAA) demonstrations in Miami on 20 November 2003.

The organization's concerns include reports of the indiscriminate and inappropriate use of non-lethal weapons on non-violent protestors resulting in scores of injuries; the obstruction of those providing medical treatment; multiple and random arrests, including of legal observers and journalists and the denial of the right to freedom of expression and association. There have also been unconfirmed reports of ill-treatment of some of those arrested while they were detained in Miami Dade jail.

Amnesty International has gathered information from testimony given by alleged victims, some of whom suffered substantial injuries, from medical professionals who treated the injured, eye witness accounts, reports from organizations, media reports, video and photographic images. Testimony about the events surrounding the FTAA demonstrations has also been provided by local Amnesty International members who had been attending their own event on the day.

Amnesty International recognizes the challenges involved in policing large scale demonstrations and that some protestors may have been involved in acts of violence, obstruction or failure to disperse. However, many of the police actions reported appear to have breached standards on the use of force by Law Enforcement Officials set out under the United Nations (UN) Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles). These stipulate, among other things, that force should be used only as a last resort, in proportion to the threat posed, and should be designed to minimize damage or injury. The treatment also appears to have contravened US laws and guidelines on the use of force.

We are particularly disturbed by the array of non-lethal weapons, including kinetic impact devices capable of causing severe pain and injury, reportedly used to control what appears to have been a largely peaceful demonstration. In this regard, police tactics may not only have breached the above standards, but may have resulted in escalating the situation. Witness statements and other reports suggest that the police used weapons without prior warning, or without granting sufficient time for the demonstrators to disperse before opening fire. Some individuals describe having been fired upon whilst retreating. Amnesty International is also deeply concerned that those seeking to provide medical assistance to

those injured as well as legal observers and journalists, were also the victims of excessive force.

Amnesty International notes the announcement by Miami police chief John Timoney that his department will undertake a “comprehensive review of the entire FTAA operation” with the results made public. While a review undertaken by one of the major police departments involved is a welcome step this does not go far enough. We believe that the policing of the Miami demonstrations, and in particular the events of 20 November, should be the subject of an independent inquiry. Such an inquiry should examine police tactics and weapons used, as well as allegations of specific abuses, drawing upon testimony from independent experts and international standards on the use of force. Amnesty International urges that such an inquiry be carried out promptly, with its findings and recommendations made public in a timely manner. The issues of concern we believe such an inquiry should address include the following.

Indiscriminate and inappropriate use of weapons

The Miami police are alleged to have used a variety of weapons during the demonstrations, including rubber bullets, batons, pepper spray, pepper spray balls, tear gas canisters, concussion grenades, beanbags and taser guns. Witness statements suggest that these weapons were used indiscriminately against the crowds of demonstrators “for doing nothing more than trying to get out of the way” and that individuals were targeted for exercising their right to peaceful protest. Scores of people were reportedly injured as a result of police action.

- One witness described to Amnesty International how a crowd was fired upon by police rubber bullets and tear gas shortly after having been told they could stay as long as they remained peaceful. The witness then describes being hit on the back of the neck with a concussion grenade whilst turning to walk away.
- Another protestor told Amnesty International that she was shot as she tried to run from police. As she then tried to crawl away with the help of others, she was shot in the left side of her head by a rubber bullet, requiring four staples to her head. A friend was also reported to have been shot six times whilst trying to help.

Other independent reports, video footage and photographic material studied by Amnesty International confirm an apparent pattern of indiscriminate or inappropriate use of police weaponry in contravention of the principles of necessity and proportionality. A number of people reportedly sustained head injuries after being struck by rubber bullets, which appear to have been used in many instances as a weapon of first resort, in contravention of international standards. Amnesty International is also concerned at reports of people being doused with large quantities of pepper spray or sprayed at close quarters, both of which are contrary to recommended guidelines. Several witnesses describe unresisting demonstrators being drenched in spray; others were reportedly sprayed in the face at very close range, despite the risk of eye damage if used at a distance of less than two feet. There also appears to have been little or no regard for decontamination procedures; indeed, there are disturbing reports that a medical centre, where people were having pepper spray washed off as well as being treated

for other injuries, was itself sprayed by a police officer (see reference to the Wellness Center, below). We are further concerned by allegations that some police officers deliberately struck people in the head with wooden batons, in direct contravention of police guidelines. The organization would appreciate a full account of weapons used during the demonstrations and details of the context in which each was used.

Obstructing those providing medical assistance

Amnesty International has also received information and testimony indicating that those seeking to provide medical assistance to the injured were also subjected to attack, obstructing their work and hindering badly needed medical treatment.

- A street doctor reports one victim being shot in the back by a rubber bullet, whilst receiving treatment for a previous wound caused by a rubber bullet to the head. This doctor was also shot himself, once in the arm and once in the leg despite clearly displaying the red cross symbol. He also reported having medical equipment confiscated whilst helping the injured.
- Another medical professional confirmed being bombarded with rubber bullets, pepper spray and tear gas whilst trying to help the injured.
- One victim describes how a police officer sprayed pepper spray inside the Wellness Center, set up to provide medical care, whilst she was receiving treatment for her injuries. The attack on the Wellness Center was corroborated by other testimony.

Multiple and random arrests

Around 250 people were reportedly detained during the demonstration and the following day, most released on misdemeanour charges including "disobeying" police orders to disperse, unlawful assembly and resisting arrest. Among those arrested were at least eight legal observers representing the National Lawyers Guild and independent journalists covering the events. According to accounts we have received, it appears that many people may have been arrested solely for exercising their right to peaceful protest. We are also concerned that other organized legal gatherings, including by the local branch of Amnesty International and the AFL-CLO Union, were obstructed by police despite their having arranged permits in advance.

The arrest or obstruction of persons exercising their right to demonstrate peacefully and lawfully would constitute a violation of the rights to freedom of expression and association guaranteed under Articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) and enshrined in the US Constitution. The Basic Principles affirm this right, noting that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights".

Allegations of ill-treatment in Dade County Jail

An inquiry should also look into allegations that a number of people arrested during the demonstrations were ill-treated in Miami County Jail. These include allegations of detainees being denied timely or adequate medical attention, sprayed in confined spaces with pepper spray, subjected to water hoses and denied water and food for hours at a time.

Amnesty International has longstanding concerns regarding the policing of demonstrations and use of various types of weaponry in the USA and many countries worldwide. The organization is therefore calling on all governments to rigorously train all law enforcement officials in a differentiated range of methods of using force that are consistent with international human rights standards. We should appreciate information as to the extent of training provided to police officers in Miami to ensure that all officers are aware of, and act in accordance with such standards.

Amnesty International is also advocating for regulations requiring all weapons that launch kinetic impact devices, such as rubber bullets, to be treated for practical purposes as firearms, and therefore to be used only by trained firearms officers and then strictly in accordance with the UN Basic Principles on the Use of Force and Firearms. There should also be strict rules for the reporting to superior officers, and monitoring by them, of every launch of a kinetic impact device.

Amnesty International is calling for a suspension on the use of high voltage electro-shock stun weapons, including tasers, whose medical and other effects are not fully known, pending a rigorous and independent inquiry by appropriate medical, legal, police and other experts based on international human rights standards.

Following the events at the FTAA demonstrations, I would urge that the authorities in Miami consider these recommendations seriously, in order to ensure that similar abuses do not occur at future demonstrations. I look forward to receiving your response to the issues raised in this letter and hope that you will instigate a full, public inquiry into the policing of the demonstrations.

I am sending copies of this letter to the Justice Department's Civil Rights Division, Manuel Diaz, Miami City Mayor, Alex Penelas, Miami-Dade County Mayor, John Timoney, Miami Chief of Police and the Miami-Dade County Independent Review Panel.

Yours sincerely

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