

EXCESSIVE AND DEADLY HEAT CONDITIONS  
IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE

This petition to the Human Rights Council is submitted by the National Lawyers Guild - Prison Chapter on behalf of all present and future prisoners incarcerated within the Texas Department of Criminal Justice (TDCJ), in the State of Texas, United States of America.

Over the past few decades, the Texas Department of Criminal Justice has adamantly fought the long saga of challenges to the conditions of confinement in regards to excessively high temperatures in the prison housing and work areas. In Texas, where during summer months indoor temperatures can reach over 100°F and consistently exceed 90°F, climate control is not a mere luxury but a human rights issue. It is common knowledge why human beings should not be confined in an enclosed space during temperatures above 90°F without access to cold drinking water. Such can cause severe illness, and eventual death. Yet, TDCJ has for decades subjected its prisoners to these inhumane conditions. As the effects of climate change increase, so do the inherent dangers of confining prisoners in cells that easily reach temperatures that pose a substantial risk of serious harm or death. TDCJ's blatant denial of climate controlled facilities is akin to rebuking the existential threat that climate change imposes upon humanity.

Rule 13 of the 'United Nations Standard Minimum Rules for the Treatment of Prisoners' (The Mandela Rules) states that: "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climate conditions and particularly to cubic content of air, minimum floor space, lighting, heat and ventilation".

This petition asserts that the degree to which TDCJ is in violation of Rule 13 constitutes cruel, inhumane and degrading punishment (See, ICCPR, art. 7; Universal Declaration of Human Rights, art. 5).

This issue has been compounded by the short staff / overcrowding epidemic in TDCJ because prisoners are forced to endure increased periods locked in their cells during excessive heat conditions. Prisoners have compared such to the "hot boxes" used as punishment in the days of slavery.

TDCJ claims that they provide certain "heat-mitigation" measures to limit the risks of excessive heat such as: cold showers, cold drinking water, personal fans, and temporary access to air-conditioned 'respite areas' outside the housing areas. However such measures are ineffectual for the following reasons.

In EXHIBIT A it describes the testimony of two experts on this matter. The first is Dr. McGeehin who was previously the lead scientist with the Center for Disease Control (CDC) regarding health effects from extreme heat. The other is Dr. Vassallo who is a licenced physician and a recognized expert in the field of thermoregulation and hyperthermia with 20 years of experience treating heat stroke and heat-related disorders.

In regards to 'cold showers', Dr. McGeehin testified that while showers are helpful "for the short term", "giving a person a shower and then putting them back into a very hot, humid environment has limited effect".

Dr. Vassallo confirms that "taking extra showers" does not reduce the health risks of extreme heat to a "statistically significant" degree. As a practical matter, while prisoners are on lockdown (for short staffing or any other reason) they are rarely permitted access to a shower. The same is true for cold drinking water - Prisoners do not have access to such while confined to their cells.

In regards to personal fans, Dr. McGeehin testified that the CDC does NOT recommend the use of fans when the temperature is above 95°F, and that peer-reviewed publications indicate that while fans may have a mitigating effect, they are actually counter-productive at high temperatures. Dr. McGeehin explained that "although fans provide a cooling effect by evaporating sweat, fan use can pose a significant risk when the heat index exceeds... 99 degrees Fahrenheit... because it serves to increase heat stress by blowing air that is warmer then body temperature over the skin surface". Dr. Vassallo added that "fans are not protective at temperature 90 degrees with the humidity of 35 percent or more".

This is extremely significant because while confined in a cell, a personal fan is the only "heat-mitigation" accessable to a prisoner during extreme heat and such is actually harmful. TDCJ's inadequate attempts to mitigate the heat has actually exasperated the dangers to prisoners.

In regards to 'respite areas', Dr. McGeehin observed that, while respite areas might theoretically be an effective measure, their effectiveness depends on being available to prisoners upon request. Dr. Vassallo testified that the respite areas are not "an adequate plan to deal with the heat risk" precisely because they are only temporary and so "the time [the prisoners] are not in air-conditioning, they are subjected to the temperature... which are risky and cause harm, including sickness, morbidity and mortality". Dr. Vassallo also noted that the harmful effects of excessive heat can begin to occur BEFORE an individual might feel the need to go to an air-conditioned space.

As a practical matter, prisoners have reported that it is near impossible to get permission to use the respite areas and that officers require the prisoner to already exhibit harm by the extreme heat before they can have any relief. Again, the dangers are compounded by short staffing because it is often hours before a prisoner can make contact with an officer while on lockdown.

As such, the current measures used to mitigate the extreme heat conditions in Texas prisons are inadequate to meaningfully reduce the serious risk of harm to prisoners. The only effective way to mitigate the risk is to prevent the conditions by mandating that all housing and work areas be air-conditioned. Without such measures to prevent the conditions that pose a serious risk to prisoners, rather than merely mitigating the effects, Texas prisoners will continue to endure excessive heat conditions that will only increase with the existential threat of climate change.

Respectfully Submitted,

NATIONAL LAWYERS GUILD - PRISON CHAPTER