

Prisoners' Justice Day, Aug 10th: 40 Years Since Edward Nolan Committed Suicide in Solitary Confinement in Millhaven Penitentiary

Ever since the suicide of Edward Nolan in a segregation cell in Millhaven Penitentiary on August 10th, 1974, Canadians have held a vigil to mark all prisoner deaths. Many prisoners fast and decline to work on that day, and many Canadians outside of prisons pray, meet, and call for a more humane correctional system.

Since Mr. Nolan's death, awareness of the link between solitary confinement, deteriorating mental health, and suicide in prisons has increased, but little has improved in 40 years. Recently, the segregation cells at Millhaven where Mr. Nolan died have been converted into a treatment unit housing seriously mentally ill inmates in conditions described by the Correctional Investigator as "grossly inadequate," indicating that the inhumanity of prison conditions is still being ignored: <http://www.cbc.ca/news/politics/mentally-ill-inmates-kept-in-grossly-inadequate-conditions-1.2554110>

While other countries, including the United States, are taking steps to address the problems of solitary confinement, Canada persists with practices which have been denounced as cruel: <http://www.theglobeandmail.com/news/politics/canadian-prisons-out-of-step-on-solitary-confinement/article10103358/>

This neglect is made worse by the fact that the percentage of prisoners battling mental illnesses has more than doubled between 1997 and 2008, making them more vulnerable to stressful environments: <http://www.oci-bec.gc.ca/cnt/comm/pdf/presentations/presentations20120318-eng.pdf>

Instead of the demonstrably dangerous use of solitary confinement being restricted, it has increased in Canadian federal prisons by 700 placements in the last 5 years: <http://www.lawtimesnews.com/201407074069/headline-news/prison-segregation-rising>

As early as 1976, the courts declared that the confinement of prisoners in solitary confinement at a British Columbia penitentiary violated Bill of Rights protections against cruel and unusual treatment: *McCann v. The Queen* [1976] 1 F.C. 570. But it is the recent surge of public inquiries, damage suits, and international human rights findings that might finally prompt some action to limit the use of segregation, particularly for those with mental health issues.

The 2007 suicide in solitary confinement of the troubled teenager Ashley Smith while guards waited and watched outside her cell shocked the public. A Coroners' Jury reporting in 2013 found the death to be a homicide and made 104 recommendations.

Since Ashley's death, we have learned about the suicide of Edward Snowshoe in solitary at a federal penitentiary in Saskatchewan, and a further Inquest has reported on the suicide of three separate prisoners within 8 months in the same unit of a federal penitentiary in British Columbia. Many more deaths in segregation cells across the country have gone unnoticed.

But, those who have been concerned with achieving humane prison conditions have called for changes. The Correctional Investigator has asked for a ban on the use of solitary confinement or 'segregation' for prisoners battling mental illness. In 2012, the United Nations Committee against Torture found Canada to have violated its obligations under the Convention against Torture by its use of prolonged solitary confinement of mentally-ill prisoners, recommending that Canada abolish the use of solitary confinement for persons with serious or acute mental health issues, limit its use generally, and ensure judicial oversight. In December 2013, the Coroner's Jury in the Inquest into Ashley Smith's death ruled it a homicide and made recommendations to prevent such deaths, such as by limiting periods of segregation to fifteen days. But despite the known risk to mental health, the government has not yet implemented the recommended limits to solitary confinement for federal inmates.

Courageous prisoners who have been subjected to protracted periods of solitary confinement have brought legal actions against both provincial and federal correctional authorities. Ms Bobby Lee Worm, represented by the British Columbia Civil Liberties Union, reached a settlement in her suit against Correctional Services of Canada. Christina Jahn suffers from a mental illness and has spent more than 200 days in segregation at the Ottawa Carleton Detention Centre. Her settlement with the Ontario government provides that "segregation for inmates with mental illness shall not be used unless the ministry can demonstrate alternatives to segregation have been considered and rejected." These settlements indicate that correctional authorities are aware of the damage caused to mental health through solitary confinement.

By law, correctional authorities owe a duty of care to those they are detaining. They should not subject individuals to conditions that endanger their lives or could result in permanent injury.

Since Edward Nolan's suicide in segregation 40 years ago, our knowledge about the detrimental effects of solitary confinement has increased. The practice is cruel. Canada has been asked to limit periods of solitary confinement, to ban it for those who are mentally ill, and to provide judicial oversight of its use. It is time to make these recommendations a reality.

Backgrounder by John Howard Society of Canada