

Ontario government facing lawsuits from inmates over 'unconscionable conduct' by Maplehurst jail guards

The Ontario government is facing at least five lawsuits - including a proposed class-action - from former Maplehurst prisoners who say they suffered serious abuse when they were collectively punished after an inmate punched a guard.

In addition to the five lawsuits that have already been filed, a letter authored by a Crown attorney reveals the province has been served notice that lawyers intend to sue in 11 other cases.

The proposed class action alleges Maplehurst jail staff carried out an "unlawful mass strip search, systematic assault and collective punishment" against an entire unit of inmates on Dec. 22 and 23, 2023. It's seeking \$30 million in damages on behalf of the 192 affected inmates - "all of whom were subjected to Maplehurst's illegal and unconscionable conduct."

The other four lawsuits, representing eight inmates between them, are each seeking \$1 million in damages for alleged Charter violations and other offences.

The civil lawsuits add to the widening impact of the Maplehurst incident, which has already compromised dozens of criminal prosecutions, triggered a damning internal probe, and led Ontario's Ombudsman to launch an investigation "due to significant public concerns about transparency, accountability and inmates' rights."

The province has not yet filed any statements of defence. The proposed class action still needs to be certified by a judge before it can proceed.

A spokesperson for the Ministry of the Solicitor General, which is responsible for provincial jails, declined to answer questions for this story, saying it would be "inappropriate to comment" since "these matters are subject to litigation."

An internal ministry investigation completed last year found the decision by senior Maplehurst officials to carry out the mass strip search was "unnecessary, excessive" and "not proportionate" to the threat posed by inmates.

Solicitor General Michael Kerzner has repeatedly declined to answer questions about the incident, saying he cannot comment while it remains "under investigation." Given the ministry's internal investigations have concluded, it's not clear to what investigation Kerzner is referring. His office wouldn't clarify.

As previously reported by the Star, the incident occurred two days after an inmate sucker-punched a guard, breaking his orbital bone. That inmate was immediately removed from the unit and subsequently transferred to a different jail. The other inmates were locked in their cells.

On the morning of Dec. 22, correctional officers from the jail's Institutional Crisis Intervention Team (ICIT) - an internal riot squad - threw flash grenades onto the unit and proceeded to carry out a mass strip search of every prisoner in each of the unit's six wings over the next two days.

Inmates were forcibly removed from their cells in their underwear, their hands zip-tied, while guards contorted their arms and wrists as they led them to a nearby hallway. There they were forced to sit cross-legged with their heads bowed while other guards trained pepperball guns at the backs of their heads.

"You guys want to assault staff, this will happen everyday," guards told inmates while they were seated in the hallway, according to one of the lawsuits. "You guys are the tenants, we are the landlords. We will make your time here hell."

Inmates were left in their underwear for up to two days after the search, while jail staff allegedly turned on industrial fans to blow cold air onto the unit.

"With no clothing or bedding, they were left to freeze in the cold cells," one of the lawsuits reads. "The sole purpose of the ICIT's actions were to intimidate, punish, and terrorize."

The proposed class-action alleges guards also "ransacked" inmates' cells, pouring condiments and shampoo on the floors and mattresses, throwing entire toilet paper rolls in the toilet and trashing personal items, such as family photographs.

The lawsuit also highlights allegations of an attempted coverup from the ministry's internal investigation, including that some video evidence may have been purposely destroyed.

"What happened to the inmates on Unit 8 at Maplehurst should never happen in Canada," said Louis Century, of Goldblatt Partners, one of three lawyers working on the proposed class action.

"The state wielded its tremendous power to systematically assault and collectively punish a group of human beings for something they did not do."

Geetha Philipupillai, also of Goldblatt Partners, and defence lawyer Gabriel Gross-Stein are also representing lead plaintiff Jamarey Chisholm, who, like more than 80 per cent of inmates in provincial jails, was awaiting trial and had not been convicted at the time of the incident.

The other four lawsuits were all filed by civil lawyer Christopher Stienburg, who declined an interview request.

The Star published some surveillance camera footage of the incident earlier this year after it was made an exhibit in a criminal case. A judge said the video shows Maplehurst staff "breaking the law by abusing the very prisoners they have a duty of care to protect."

The surveillance cameras did not record anything that occurred inside the cells, where many inmates say they were beaten and pepper sprayed.

The incident has already compromised more than 30 criminal prosecutions across the province, according to a recent Star analysis, as inmates seek to have their charges stayed or sentences reduced because the jail violated their Charter rights.

Additional restitution is necessary, Gross-Stein argued, not only to compensate the inmates allegedly abused by the state, but also to deter future abuses.

"This type of extreme state misconduct can only occur where an institution believes itself to be immune from consequences," he said, adding that a class action is a way to "counter impunity at Maplehurst and create meaningful accountability."

Brendan Kennedy

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