Prisoners' class-action suit close to reality

For 10 days in January 2010, Kent Institution outside Agassiz was in tense lockdown as anxious guards searched the region's only maximum-security prison for a zip gun.

As they went from cell to cell, heavily armed and armoured tactical officers – a pilot unit deployed only at Kent - accompanied the guards and intimidated even compliant prisoners.

The prison was searched, with all inmates being made to strip naked in the yard as the tactical team provided "lethal overwatch."

Inmates were docile and offered no violent resistance, but the tactical team threatened them with assault rifles, according to the country's correctional investigator.

"They pointed live, charged firearms at the bodies and heads directly at inmates who were compliant, many of whom were already shackled," Howard Sapers said at the time.

"What doesn't make sense is the degree to which they used violence and they used firearms to deal with that situation."

It was a terribly egregious example of abuse of prisoners, in his view.

"These events should concern Canadians as the issues and questions raised in this report are disturbing," Sapers concluded in a scathing report.

"They cannot simply be explained as a 'deviation from policy,' contrary to the perspective of (the Correctional Service Canada). Rather, what happened at Kent Institution amounts to an abuse of correctional power and authority, systemic breakdowns in management authority and oversight, gaps in use of force review and reporting procedures, deterioration in dynamic security practices and principles, and violations of human rights law and policy. These are significant deficiencies that increasingly call into question the effectiveness of CSC's internal use of force review process."

Of course, like much that was critical of the Harper administration's penal policies, the issue disappeared.

But, after six years of obfuscation and delay, a landmark class-action lawsuit on behalf of those prisoners is close to being certified and the correctional service may be called to account.

"My present view is that this matter is likely suitable for certification as a class action, albeit in revised form, but there are two matters on which I will have to hear submissions before a final determination is made," B.C. Supreme Court Justice Murray Blok ruled.

He suggested the lawyers refine the pleadings and common issues and come back to him for certification, the first step for the prisoners in their fight for redress.

In addition to the various deprivations of imprisonment, the suit alleges the inmates were subjected to verbal and physical threats by tactical team members (including the pointing of firearms), they were not provided with necessary medications and the strip searches were conducted without adequate privacy barriers and in some cases with female officers present.

They claim unlawful imprisonment; negligence (against prison staff, administrators and tactical team members); misfeasance in public office; intentional infliction of mental suffering; negligent infliction of mental suffering; assault and violations of their charter rights.

Ottawa opposed the class action, claiming individual officers should not have their conduct scrutinized outside of the internal grievance process and that the correctional service has already amended its use of force and reporting policies and altered the structure of the response teams.

It has also claimed the class action would require the sharing of personal information of inmates with each other, which could pose a risk to the security of individual prisoners and their families.

"It's a green light," happy Abbotsford lawyer Tonia Grace said. "But it has taken us a long time to get to this point."

The federal government has not yet filed a defence to the allegations contained in the suit.

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