

'It changes you': Ex-inmates launch class action over use of solitary confinement

Around-the-clock electric light, even at night. Mats on the floor in place of beds. Robes instead of clothing.

These are some of the conditions that former inmates say exist in solitary confinement at Nova Scotia's jails, conditions that have prompted them to file a proposed class-action lawsuit against the province.

The claim alleges that the use of solitary confinement for more than 15 days at a time constitutes cruel and unusual punishment, breaching the Charter of Rights and Freedoms.

"They never turn the lights off, and so there's no windows, you never see the outside, you never go to yard, you never get a breath of fresh air," Robert Bailey, one of two plaintiffs involved in the class action, told CBC's *Information Morning*. "It changes you."

'You lose track of time'

Bailey, who has been incarcerated in provincial institutions at different points for charges including breach of conditions, said he was first placed in solitary confinement at the Burnside jail because he was found in possession of a controlled substance.

Every subsequent time he went back to jail, he said he was put in solitary confinement. The nature of solitary confinement makes it difficult to say how long he spent there, he said.

"You lose track of time," he said. "I [went] into a different state of mind."

Bailey said he was placed in solitary confinement without anything to occupy his mind, such as a pencil or book, and was given a robe designed to prevent a suicide attempt, instead of his own clothes.

"[You're] completely left with nothing and ridiculed."

Department policies violate charter

Michael Dull, the lawyer for the proposed class action, said the focus on the case is to shine a light on what's happening in Nova Scotia's jails — including the way that practices around the use of solitary confinement constitute torture, according to the U.N.'s definition of confinement exceeding 15 days.

Nova Scotia's Correctional Services division does have policies dictating the allowable limits for some kinds of solitary confinement. A report in May by Auditor General Michael Pickup found that in nine of 47 cases, offenders were placed in solitary confinement longer than allowed by department policy.

But Dull said that since "administrative segregation" — solitary confinement that's not for disciplinary purposes — can be extended indefinitely, even the allowable limit for the use of solitary confinement violates the charter.

"Corrections has a policy that the auditor general found is not being met, so that speaks to negligence," said Dull. "But if the policy in and of itself is in breach of the charter — then the policy should be changed."

Solitary confinement counterproductive

Bailey said at the moment, the way solitary confinement is being used is putting inmates' well-being at risk.

"People that I've met, you know, at one time and then talked to them three months later, after they've been [in solitary confinement], they're not the same person."

"If there's no threat to anyone, and no violence, I don't believe putting [offenders] in such a severe, traumatizing situation is going to help them in any way."

In May, the Department of Justice agreed to all 12 recommendations made by Pickup.

As part of that, Nova Scotia's Office of the Ombudsman was to do regular review and audits to make sure the use of "close confinement" is properly approved and that inmates have access to recreation and showers.

In a statement, Justice spokesperson Heather Fairbairn said "close confinement is a measure of last resort. It is utilized in situations that protect inmates and staff."

She said once the province is served with the legal action it will consider what to do next.

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