

COVID-19: Inmate suit filed against federal government over Mission outbreak

A lawyer representing inmates at the COVID-19-infested Mission Institution filed a class-action lawsuit against the federal government Thursday for failing to protect the men inside.

Jeffrey Hartman, who specializes in prison law, said the suit was filed “because the government that maintains total control over these Canadians failed them.”

Hartman said 20 per cent of the medium-security prison’s more than 300 inmates had tested positive for the coronavirus as of Thursday.

“It is the worst outbreak in Canada and we expect the figure to rise because CSC just announced this week that all inmates will soon be tested,” Hartman said.

He said the federal government and the Correctional Service Canada knew “an outbreak would have devastating consequences but failed to take adequate steps to prevent and mitigate it.”

“Aside from obvious physical health consequences, inmates are now confined to 8 x 12 foot cells for 23 hours and 40 minutes per day, for days on end, with significant mental health consequences. At least one inmate has attempted suicide.”

Another inmate died earlier this month due to complications from the virus.

Todd Howley, the inmate plaintiff in the lawsuit, tested positive for the virus even though prison staff suggested it was just allergies when he first developed symptoms, according to the statement of claim.

“This action is brought on behalf of all people who are or were incarcerated in Mission Institution and tested positive for COVID-19 or had COVID-19 symptoms since November of 2019,” the document says.

“The government’s prison population is at heightened risk of infection due to population density, close living quarters, shared amenities such as telephones, underlying illness and health vulnerabilities, and often unhygienic and unsanitary conditions.”

The suit alleges that as early as the middle of March “CSC staff and inmates, originally in the food handling area, began to develop COVID-19 and flu-like symptoms.”

Howley had “sinus issues and headaches, as well as other symptoms related to the coronavirus.

The suit says even though the inmates were locked down about April 2, CSC staff continued to come and go from the prison.

“It was not until approximately April 20, 2020 that staff underwent rigorous decontamination on entering Mission Institution,” the suit says, adding that a hazmat team was finally brought in to decontaminate the buildings the same day.

Meanwhile because of the lockdown, Howley and the other inmates are “enduring severe lockdown conditions” including for at least a week in April, “a total deprivation of exercise, shower and telephone.”

Meals were small and not being served regularly - for a week, the inmates got McDonald’s meals. Inmates were not only unable to call family, but had trouble reaching their lawyers as well, the suit says.

The lockdown led “a high state of tension causing or exacerbating the risk of harm as well as mental health symptoms such as anxiety and depression.”

Howley and other inmates got sick because the CSC failed to take “adequate measures to protect the plaintiff and class from COVID-19,” then failed to “provide appropriate medical care in a timely manner or at all.”

The CSC violated its own regulations, as well as the Charter rights of the inmates, the suit said. Attempts should have been made to “depopulate Mission Institution by releasing low risk inmates on bail, parole, or through other legal mechanisms.”

The inmates are seeking damages and a declaration that their rights were violated as well as an order certifying the class action suit.

The CSC has not yet filed a response to the lawsuit.

Meanwhile, B.C.'s public health officer, Dr. Bonnie Henry said Thursday that the "challenging" Mission outbreak was up to 78 cases including both inmates and staff members.

In a statement provided before the lawsuit was filed, CSC communications adviser Martine Rondeau said "we are doing everything possible to prevent further transmission of COVID-19 including reviewing local infection and control measures in collaboration with several external experts."

"We have been making every effort to give inmates time outside of their cells. Staffing levels can fluctuate and we have called out for volunteers to work at the site," she said. "We also need to make sure that time out of cells is done safely to prevent further spread. This means making sure inmates remain at least 2 metres apart and that effective cleaning and disinfecting is done multiple times per day."

Kim Bolan
Vancouver Sun
Apr 24, 2020