

It was hell: Former inmate sues N.B. government over segregation, access to meds

Every so often, Eric Robichaud dreams about being trapped in a small, grey room - cut off from other people, with nothing to do but stare at the ceiling.

When he wakes up, Robichaud is horrified to remember that this dream was his waking reality for five months at a New Brunswick jail in 2016.

The former inmate, who lives with anxiety and attention deficit hyperactivity disorder, said his mental health quickly deteriorated.

"It was hell," Robichaud said.

He describes the segregation cell he occupied at the Southeast Regional Correctional Centre in Shediac as windowless and cold.

Robichaud said his segregation stemmed from staff concerns about his taking his anxiety medication while in the general population.

The 39-year-old Baie-Sainte-Anne resident is now a lead plaintiff in a 2023 potential class action lawsuit against the province following his experience in 2016.

Though his time in segregation at the Shediac jail was almost a decade ago, CBC News has learned that lack of access to health services and medications in jail is a persistent complaint to the New Brunswick ombud.

#### Varied access

In 2014 and 2015, Robichaud was an inmate at the Dalhousie Correctional Centre and Madawaska Correctional Centre after being sentenced for attempted robbery.

At both jails, he was able to take a prescribed benzodiazepine - a common sedative prescribed for anxiety - without issue.

But this changed, Robichaud said, when he was remanded to the Southeast Regional Correctional Centre in 2016 on two assault charges.

At the Shediac jail, Robichaud claims staff were concerned about the drug potentially circulating to other inmates and decided he would only be allowed to continue his medication while in segregation.

That arrangement continued for five months, until Robichaud was transferred to the Dalhousie Regional Correctional Centre.

There, Robichaud said, he was able to resume living in the general population while continuing to take his medication.

#### 84 complaints in one year

Inmate complaints about access to health care and medications often land on the desk of the New Brunswick ombud.

In 2023-24, the most recent reporting year, Marie-France Pelletier's office fielded 84 complaints about access to health care, including medications, behind bars, she said.

The office doesn't track complaint outcomes by topic, but a spokesperson said by email that staff were able to find an informal resolution in most cases. Statistics on whether complaints are founded are not kept.

In 2018, Kim Adair-MacPherson, who was auditor general at the time, flagged major shortcomings in how New Brunswick's corrections system handles inmates with mental illness and addictions.

As part of that report, she recommended the province standardize the medications available across its correctional institutions. The province said in a statement that it has completed this step.

But Pelletier said she still gets complaints about access and has been working with correctional officials to find a solution.

"If it's just a question of ... one institution doing it differently than the other, that hardly seems like a good reason to not have access to the health that you need," Pelletier said.

The province declined several CBC News requests for an interview.

The province's policy on segregation lists "medical treatment format" as one of six acceptable reasons for segregation, but the only use related to medication included in the document is about inmates in detox or using a "high security opioid prescription."

A spokesperson for the province said the regional health authorities created their own policies on medication in jails. Responsibility for health services in corrections was transferred to the two authorities in 2022, the province said.

Both Vitalité Health Network and Horizon Health Network declined interview requests.

CBC News asked for copies of the current medication policies from both regional health authorities, and in response they sent emailed statements.

Vitalité oversees the Dalhousie and Madawaska correctional centres.

"When a patient enters a provincial correctional facility, they undergo an initial nursing assessment to review medications they were prescribed prior to admission," a Vitalité spokesperson wrote.

"Existing prescriptions, including medications for anxiety or addiction treatment such as methadone, must then be re-prescribed by the facility's physician."

But that can pose problems because there is no on-site physician. While a nurse is on site for 16 hours, the spokesperson said, inmates could face delays accessing medication or treatment that need a doctor's approval. Doctor visits usually happen weekly.

Horizon said physician visits to the Saint John Regional Correctional Centre, Southeast Regional Correctional Centre and New Brunswick Youth Centre/New Brunswick Women's Correctional Centre can happen weekly, biweekly or monthly, either virtually or in person.

Natasha Lemieux, Horizon's vice-president community, said in an email that a physician will write a prescription after an inmate interview and a thorough review.

"This history is compared to the history the patient's pharmacy provides, and what the patient's electronic health record shows," Lemieux said.

The provincial policy, which is no longer in effect, outlined a similar process but also included information on transferring inmate medications between jails and prescriptions to be issued when an inmate is released.

#### The 'revolving door' effect

Research by Martha Paynter, a University of New Brunswick associate professor of nursing, suggests inmates tend to have highly complex backgrounds and health-care needs.

Paynter says even a short period in jail can be destabilizing.

"You're arrested," Paynter said. "And so perhaps you're losing your job, and you're losing your house because you don't pay rent, and you're losing your children."

"We know those things all cause us all trauma. That's why people commit suicide. That's why people spiral into psychosis ... now you're not getting your proper psychiatric medication."

Paynter says that can lead to behaviours that result in further charges, making provincial jail a "revolving door".

According to the Department of Public Safety, 20% of people who were sentenced to jail in 2024 had been in custody within the past three years on other sentences.

That figure doesn't include those held in remand or serving sentences within the community.

Family physician Dr. Sara Davidson, who sees patients at the Riverstone Recovery Centre and Fredericton Downtown Community Health Centre, says some of the people she treats have spent time in jail.

She said access to medication and health services appears to depend on the jail, the doctor working there, and their perspective on what treatment is necessary while a person is in custody.

"It seems to be quite prescriber-dependent in terms of how some of that care rolls out - in good ways, and also in other ways that maybe [aren't] meeting people exactly where they are at," Davidson said.

"There's that lack of consistency across the board from a provincial institutional level."

On release, she said, inmates may face insecure housing, poverty, and domestic violence. Something as simple as not having a cellphone can feed into the revolving-door effect.

"You miss your followup check-in with your probation officer, or you miss your appointments ... and so you're picked up on breaches, and it just becomes this wild cycle that people really get deeply stuck in."

This has implications for New Brunswick's bottom line, as Adair-MacPherson warned in 2018, noting the cost to accommodate an inmate for one year was \$66,000.

"Not treating mental health and addiction issues can increase the vulnerability of individuals to negative outcomes, including re-offending, which in turn increases the cost to New Brunswickers," Adair-MacPherson wrote in 2018.

The Department of Public Safety reports that the cost as of 2022-23 had grown to \$88,300.

#### Lawsuit next steps

Robichaud said he hopes the potential class action will help New Brunswickers understand how many inmates have been through a similar experience - and how detrimental it can be.

"You're almost certain to go crazy after a while," Robichaud said. "You're pretty much like a confined animal."

Halifax-based People's Advocacy and Transformational Hub, known as PATH, filed the suit and is awaiting class certification.

The suit centres on extended stays in segregation, including for medical reasons.

The statement of claim contends Robichaud's experience constitutes "cruel and unusual punishment."

However, as noted by PATH's filing, "there is no absolute limit" in New Brunswick when it comes to the number of consecutive days an inmate may be kept in solitary confinement.

The province gave notice of its intent to defend against the action in March 2023. A spokesperson declined to comment on the case while it's before the court.

Legal director Emma Halpern said PATH is currently awaiting disclosure of plaintiff documentation from the province.

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