

## Coroner plans detailed inquiry into Ashley Smith's death



Chris Wattie/Reuters

Coralee Smith, mother of Ashley Smith, pauses during a news conference in response to a federal report detailing the events surrounding her daughter's death, in Ottawa on March 4, 2009

Linda Nguyen and Carmen Chai, Postmedia News · Thursday, Nov. 11, 2010

TORONTO — A coroner's inquest into the choking death of Ashley Smith in a Kitchener, Ont., prison three years ago was greatly expanded Friday to include all of the time the young woman spent incarcerated.

"The expanded scope may assist the jury in making a determination about the manner of Ms. Smith's death," Dr. Bonita Porter, Ontario's deputy chief coroner, wrote in a long-

awaited decision. “Her state of mind is part of the circumstances of her death and will be relevant to the issue of ‘by what means’ the death occurred.”

The inquest will no longer be limited by age, geography, date or nature of the institution where Smith was held and allow a coroner’s jury to access documents, reports and evidence of Smith’s experiences while imprisoned in both youth and adult facilities across the country.

Smith, 19, was found dead in a segregated prison cell at Grand Valley Institution for Women in Kitchener, Ont., on Oct. 19, 2007. She had tied a piece of cloth around her neck and strangled herself to death.

Dr. Porter wrote that the scope had to be expanded so the inquest can fulfill its mandate of examining the cause of death and establishing how similar deaths can be prevented.

The inquest is not mandated to find fault.

The proceedings, slated to start in January, are expected to last at least three months.

Originally, the scope of the inquest was to only include the three months the young woman spent in Ontario at Grand Valley before she died.

On Friday, the Smith family said through their lawyer that they were “heartened” by the decision but agreed with Dr. Porter in that an inquest is still limited in its investigative powers.

“A commission of inquiry would be the only way to look at the systematic realities for the mentally ill in our prison system,” said lawyer Julian Falconer from Moncton, N.B., where he is visiting the family. “Ashley Smith was in essence tortured over an 11-, 12-month period and anyone who thinks this was one isolated incident that never happened before or ever happened again . . . nothing short of a royal commission of inquiry will be able to address that.”

Last week, Mr. Falconer and lawyers with the Canadian Association of Elizabeth Fry Societies and the province’s advocate for children and youth made submissions to Porter that the inquest should at least include the 11 months Smith was held in federal custody.

The lawyers argued that those months were instrumental in shaping Smith’s state of mind prior to her death, because she was shunted 17 times to facilities and institutions in five different provinces in what they called a failure of the prison system.

The majority of the prison transfers were a result of staff fatigue and a shortage of beds.

Throughout her incarceration, Smith was also kept shackled and in segregation. Inmates are only supposed to be kept segregated for a maximum of 60 days, but that time allowance was reset upon each of Smith's prison transfers.

The lawyers argued that Smith's history of self-harming behaviours, including self-strangulation, was the result of a lack of stimulation and a belief that the prison guards would save her before she hurt herself.

Reports later revealed that on the day of her death, prison guards were told ahead of time to not intervene until she had stopped breathing. Criminal charges laid against the guards were later dropped.

They also argued that the transfers resulted in her never being properly diagnosed with a mental condition, and prevented her from benefiting from therapy.

A report released in late October conducted by a Corrections Canada psychologist also suggests that Smith's death may not have been a suicide as widely believed, but an accident.

Her family has formerly requested a criminal probe by the RCMP into how Smith was treated in prison.

Smith was first incarcerated at 15 in her native New Brunswick for breaching her probation after an original incident in which she threw crab apples at a postal worker. She racked up institutional charges that saw her time behind bars continually extended.

According to prison documents, Smith was repeatedly pepper sprayed and drugged against her will and her requests for assistance were "routinely" ignored in these last months.

The documents, which chronicle Smith's life starting on June 14, 2007, revealed nearly 200 "use of force" incidents, 10 cases of involuntary body cavity searches and 90 instances where Smith's requests for programs, hospital treatment and calls to a lawyer were denied, said Kim Pate, executive director of the Canadian Association of Elizabeth Fry Societies, a non-profit advocacy group for federally sentenced women.

About 1,000 records have been reviewed so far since the remaining documents in Smith's file were released to the group from Corrections Canada in August.

“It’s clear there are many incidents, a multitude of instances of use of force against her, and we believe from the documentation that many of them were unjustified. We know there was forcible treatment — unlawful treatment — in situations where Ashley had the authority to withdraw consent and refuse treatment but she was forced,” Ms. Pate said, noting these latest records from Corrections Canada are “contrary to the impression that has been created.”