

Family of Ashley Smith requests criminal probe

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Hearing: Lawyer reveals Tuesday that family has sent letters to RCMP seeking investigation into Moncton teen's 2007 death

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TORONTO - The family of a young woman who choked herself to death in an Ontario prison in 2007 as guards looked on has asked the RCMP to conduct a criminal investigation into the "abuse" she suffered from federal prison staff.

The request for the probe was made in two letters addressed to RCMP Commissioner William Elliott on Oct. 15 and Oct. 29 by the parents of 19-year-old Ashley Smith, their lawyer Julian Falconer revealed on Tuesday during a pre-inquest hearing into the woman's death.

"This was a very difficult decision for the Smith family to make," he said outside the coroner's courts in Toronto. "It's their daughter. Why isn't she entitled to the rule of law just like everybody else?"

Smith fatally strangled herself by tying a piece of cloth around her neck while she was in a segregation cell at the Grand Valley Institution for Women in Kitchener, Ont., on Oct. 19, 2007.

Reports and a video later revealed prison guards assigned to watch over the troubled woman were instructed to not intervene until she had stopped breathing.

The family wants an investigation to centre on the orders given by management at the prison. The guards were charged with criminal negligence causing death but those charges were dropped during a preliminary hearing in 2008.

Falconer said the family would also like the RCMP to probe an incident that occurred in July at the Joliette Institution in Quebec, where according to a report, Smith was heavily medicated with antipsychotic drugs against her will to prepare her for an upcoming prison transfer. Smith was given four high-level injections over the course of two hours, despite showing no signs of delusions or psychotic behaviour.

"The system is so horribly broken and accountability needs to be created," he said.

RCMP spokeswoman Sgt. Julie Gagnon said the force has received the request and it is "currently under review."

The family has yet to receive an official response from the Mounties.

Smith had been incarcerated since the age of 15, when she was given a 90-day sentence for throwing crab apples at a postal worker in Moncton, her hometown.

Her continued imprisonment was the result of racking up multiple charges while she was incarcerated. In the 11 months she was in federal custody, she was transferred to nine prisons in five provinces. The common reasons behind the transfers were to ease staff fatigue and to deal with a shortage of beds.

Smith had a long history of self-harming behaviour, including cutting herself and banging her head against the wall. In the three years she spent at youth facility in New Brunswick, there were 800 reported incidents involving self-injurious attempts or assaults on staff.

In the last seven weeks of her life at Grand Valley, she had attempted to injure herself 49 times - the majority of those by tying a ligature around her neck.

The majority of the time she spent in custody was under physical constraints and by herself in a segregation cell. Inmates are only supposed to be kept in solitary confinement for a maximum of 60 days, but in Smith's case, that time was reset after every prison transfer.

The four-month Ontario coroner's inquest looking into Smith's death is set to begin in January, but currently is only focusing on the 13 weeks Smith was held in custody in Ontario between May 2007 and October 2007, prior to her death.

A hearing, which started Monday and concluded Tuesday, heard from lawyers representing the Smith family, the provincial advocate for children and youth and the female inmate advocacy group, the Elizabeth Fry Societies, who argued the inquest should be expanded to probe all the prison transfers in the 11 months Smith was held in federal custody.

They argue the frequent prison transfers thwarted any chance Smith had to seek treatment for mental illness and to maintain a relationship with her family, forcing her to act out.

A report released last week by a Correctional Service Canada psychologist suggests Smith's death may not have been a suicide as widely believed, but an accident.

According to Dr. Margo Rivera, Smith had believed staff at the prison would save her on the day of her death as they had in her previous, repeated attempts. The report also suggests Smith pretended to strangle herself for stimulation and attention.

On Tuesday, Eric Sibenmorgen, a lawyer for the coroner's office did not contest the request but said it should not overshadow the purpose of the inquest, which is to determine a cause of death, to identify circumstances leading to the death and to prevent future deaths.

"There's a risk of spending a lot of time looking at a lot of evidence about the transfers ... " he told the hearing. "It might look like we're trying to do that under a guise when we are really trying to look at the decision making of (Correctional Service Canada)."

It is outside of the provincial jurisdiction for a coroner's inquest to lay blame for a death.

Nancy Nobel, a lawyer for Correctional Service Canada, said the agency will not stand in the way of expanding the scope of the inquest but reserves the right to raise jurisdictional issues if they arise at a later date.

Ontario Deputy Chief Coroner Dr. Bonita Porter will make a decision by Nov. 15.