"LIKE A DOG IN A BACK KENNEL"

Death Exposes Treatment of Prisoners Living with HIV/AIDS

by Rick Lines

On May 15, 1996, Billy Bell died from AIDS. He was 32, and a prisoner at Millhaven Institution in Kingston, where he had been chairman of the Inmate Committee. When he died, Billy was alone in his cell in the Regional Hospital Unit of Kingston Penitentiary. Billy, who was serving a five and a half year sentence, had been diagnosed with full-blown AIDS in early 1995, and soon thereafter with AIDS-related cryptococcal meningitis, which is usually fatal within one year.

After being diagnosed with AIDS, the treatment Billy experienced at the hands of Correctional Service Canada (CSC) had varied from the marginally acceptable to the horrific. He had experienced difficulty accessing proper pain management medication, lack of compassion from staff, and dangerous delays in the diagnosis of AIDS-related illnesses (it was a chaplin, not the prison health staff, who suggested that his chronic migraine headaches might be caused by the deadly meningitis.)

In December 1995 - six months before his death - Billy was sent to a halfway house in Toronto with no arrangements made to meet his special needs. The halfway house had no medical staff (Billy was on 15-20 different medications daily). They had never worked with someone as ill as he was, and were scrambling to meet both his needs and deal with the AIDS-phobia of the other residents. By January 1996, Billy's parole was revoked for being unlawfully at large - away from the halfway house. The reason? He and his family were forced to seek the medical care which CSC was unable to provide.

After having his parole revoked, Billy was returned to Millhaven, and was eventually sent to the hospital unit at Kingston Penitentiary, which houses chronically ill prisoners in the region. Billy knew he was dying, and was terrified at the prospect of dying in prison. Despite his expressed wishes that he not die alone, and assurances to his family that the prison would contact them so they could be by his side, on May 15th, 1995 Billy died alone in his cell. The circumstances so outraged one of the prison chaplains that he left a note on a colleague's door, stating "Billy Bell died tonight, like a dog in a back kennel." Another prison chaplain resigned over the treatment Billy received.

In September 1997, a Coroner's Inquest was held into Billy's death. In Canada, an Inquest is required following any death in custody. The purpose of the Inquest is to investigate and determine the cause of death, and to make recommendations for changes which would help prevent similar future deaths. While the decision of the jury is not legally binding, the Inquest provides an opportunity to highlight prisoners' rights issues and to publicly examine Correctional Service Canada's (CSC) AIDS policies.

At the urging of the Bell family, PASAN sought and received public interest standing at the Inquest. PASAN is the only community-based organization in Canada working specifically on issues of HIV/AIDS and prisons. Billy had been a client of PASAN since 1995, and the organization had maintained contact with his family after his death. PASAN was represented by the HIV and AIDS Legal Clinic of Ontario, a community-based clinic specializing in HIV/AIDS advocacy. By gaining standing at the Inquest, PASAN was allowed to cross-examine witnesses, and call their own experts.

While Billy's death highlighted problems across the board within CSC, PASAN chose to focus their case on the two key issues of palliative care and compassionate release.

It was clear to PASAN that the treatment Billy received during the later stages of his disease and his death did not come close to meeting the recognized standards of palliative care in Canada. Given that CSC's own mandate states that they will provide health care to a standard "comparable to that in the community", it was an obvious and important issue to highlight for the jury. To help illustrate and explain palliative care - and critique CSC's own narrow interpretation of the practice - PASAN called expert witness Dr. Frank Ferris, chair of the Standards Committee of the Canadian Palliative Care Association. Dr. Ferris was able to articulately and comprehensively present the philosophies and practices which define the standards of palliative care, and despite often intense cross-examination by CSC's counsel, he emerged as a major influence on the jury's eventual findings.

PASAN also wanted to address the issue of compassionate release. This was particularly crucial in Billy's case, as he was denied parole only 19 days before his death. While CSC has stated that they have a commitment to "recommend ... the release of inmates with progressive life-threatening diseases, including AIDS, earlier in the course of their disease, before they become terminally ill," it has been the experience of groups such as PASAN that this is just not the case. PASAN's Outreach Coordinator, Rick Lines, testified that in his experience, compassionate release doesn't really exist because CSC has no criteria nor application process to access it. Instead, Lines suggested that what CSC calls "compassionate release" [a practice where they sometimes release terminally ill prisoners a few days before they die] should more accurately be called "strategic release" [kicking the prisoners out so they don't die on CSC property, thereby prompting a Coroners' Inquest].

In her summation to the jury, PASAN's attorney, Ruth Carey, asked that the jury not only recommend that CSC implement a real compassionate release process, including criteria and application and appeal processes, but that they take compassionate release decisions out of the hands of the National Parole Board (NPB). PASAN suggested that compassionate release applications should instead be heard by tribunals combining representation from medical experts, community members, and the NPB.

After nine hours of deliberation, the jury returned with their recommendations. Although their decision did not go as far as PASAN had hoped, particularly in the area of compassionate release, their recommendations were broadly critical of CSC's standards of care for people living with HIV/AIDS. Indeed, many of their recommendations identified many of the same changes which PASAN and others have been demanding for years.

The jury's recommendation included:

That CSC "review and upgrade their palliative care approach" to meet "the principles and practices developed by the Canadian Palliative Care Association".

Make anonymous HIV testing "easily and readily available to all inmates and staff."

"CSC investigate needle exchange programs in other penal systems and consider a CSC pilot program."

"That CSC revise its Compassionate Release Program ... to increase the influence of the palliative care team in the Parole Board's decision-making process."

Despite testimony from CSC staff about the "changes" made in their AIDS-care programs since Bell's death, the jury's recommendations - particularly in the area of palliative care - clearly demonstrated that CSC's health care still falls far short of meeting Canadian standards.

While not going far enough in terms of the overall needs of prisoners, the jury's findings are very significant not only for their content, but because they were made by a group of random members of the Kingston community. Five average community members, after hearing testimony on the AIDS crisis in the Canadian prison system, developed recommendations which mirror many of the programs the AIDS movement has been demanding for years. While CSC has traditionally used fears of negative public reaction as an excuse to delay or deny innovative AIDS services, the results of this inquest clearly show that when given all the evidence, Canadians are willing to support comprehensive AIDS programs for prisoners.