

Lawyers for accused in Toronto terror plot charge authorities with abuse

Keith Jones
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Lawyers for the accused in the alleged Toronto terrorist conspiracy have charged authorities with violating their clients' rights and subjecting them to various forms of abuse, including sleep deprivation and violence.

Fifteen of the 17 accused are being held at the Maplehurst Correctional Center in Milton, Ontario. The two who are not being held at Maplehurst were already in jail at the time of the June 2-3 police-intelligence operation that authorities are claiming averted a terrorist atrocity.

The 15, almost exclusively young men or boys, have been denied the right to meet with their lawyers in private. They are being held in isolation in small, windowless cells that are lit at all times, and are permitted just 20 minutes of exercise, alone, per day.

Lawyers for several of the accused claim that guards are waking the detainees every 30 minutes, have ordered them to remain silent and with their eyes turned toward the floor at all times, and are giving them just five minutes to eat their meals.

Guards are also said to have manhandled and roughed up some of the detainees. When moving them about, the detainees are shackled at their hands and feet, then forced to march bent over at a 90-degree angle at the waist.

David Kolinsky, the lawyer for Zakaria Amara, said a guard had pinned his client on the ground, poked his finger in his cheek and brushed his eye, after Amara, who is ticklish, laughed while being searched. When astride Amara, the guard reportedly exclaimed, "Is this funny?"

Kolinsky said that keeping people in solitary confinement is known to cause depression and suicides and "is normally a form of punishment" reserved only "for people who misbehave and are violent against

other offenders."

"Under the convention against torture and other cruel and unusual punishment the instances of mistreatment that defence counsel have cited as going on at the jail constitute torture," affirmed Rocco Galati, lawyer for 21-year-old Ahmad Mustafa Ghany.

Arif Raza said while that his client, Saad Khalid, has not been physically abused, he has been disturbed by hearing guards "screaming and shouting" at other inmates. Raza said that while he was not necessarily charging that this was the case at Maplehurst, fascist regimes have employed such tactics to terrorize detainees and induce them into making confessions.

Alex Neve, the secretary general of Amnesty International Canada, supported the lawyers' contention that forcing detainees to live in artificial light 24 hours per day could constitute a serious abuse. "Leaving lights on 24 hours a day can quite clearly be the kind of circumstances that make it impossible to sleep. Sleep deprivation has frequently been criticized by ourselves, UN human rights experts, [and] by psychologists as being a cruel form of treatment that if it goes on for an extended period of time can be tantamount to torture."

Canadian authorities have denied the charges of abuse. Ontario Correctional Services Minister Monte Kwinter said that the accused in the alleged terrorist plot have not been deliberately woken or kept awake. If their sleep has been disturbed, it may be, he said, by the passing of regular prison patrols.

Kwinter conceded that the accused have not been permitted to meet with their lawyers in private. He justified this denial of what is a long-established right of all persons under arrest, by citing a court order that the accused in the Toronto terror plot not be allowed to meet with anyone alone.

Correctional Services spokeswoman Julia Noonan said it was a common prison practice to dim, not turn off, the lights in inmates' cells. "Sometimes," said Noonan, "when individuals come into custody, if they've never been in custody before they may be surprised. It's not like being at home."

The treatment of the accused by Ontario's prison system is in keeping with the manner in which state authorities have conducted themselves since the June 2-3 police raids.

The accused's right to be presumed innocence has been gravely compromised by a propaganda blitz that saw the unsubstantiated allegations of Canada's national security agencies trumpeted by Conservative cabinet ministers, including Prime Minister Stephen Harper, other politicians, and the media as essentially proven. Moreover, crucial facts that raise question marks over the claims of the Royal Canadian Mounted Police and Canadian Security Intelligence Service have been largely buried by the press. (See "Why did Canada's security agencies allow the alleged terror plot to grow?")

Now, the prosecution or Crown, with the support of the legal counsel of just one of the accuseds, has succeeded in winning a court order that forbids the media from reporting on any of the court proceedings involving the accused.

Defence lawyer Rocco Galati said it was an abuse for the state to seek such a ban: "After they've had 10 days with the media, feeding the media whatever they want to feed the media, denying us disclosure of evidence and doing what that need to do to conduct a trial in [the] parking lot of this courthouse, they now have the audacity to request a blanket publication ban of all proceedings from today's date."

"I want the public to know exactly the allegations against my client. I want the public to see the bail hearing."

According to, David Paciocco, a legal expert cited by Canwest News Service, it is highly unlikely, due to the size and complexity of the case, that the accused in the Toronto terror plot will go to trial before the summer of 2008. And even when the case does come to trial, much of the state's evidence may never be disclosed to the defence or public, as the Crown will likely make repeated use of provisions of the Anti-Terrorism Act of 2001 that greatly expand the state's right to keep

evidence secret in the name of national security. "These trials," said Paciocco, "are going to be very different from the kind of trials we're accustomed to seeing."

"It's going to be a nightmare for defence counsel trying to get access to information."



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