

## Yukon to place strict limits on solitary

Introduced after case of Indigenous man who was repeatedly kept in isolation, toughest bill in country caps segregation at 15 days

PATRICK WHITE

Decades after Nelson Mandela spent lengthy periods in solitary confinement while imprisoned, the Yukon government is invoking the late South African leader as it pushes through a correctional bill that could set the toughest rules in Canada concerning the practice.

The proposed legislation, which entered second reading

last week, would place strict limits on the way the territory segregates prison inmates, a practice known as solitary confinement if the placement exceeds 22 or more hours a day. The form of imprisonment has been found to cause lasting physical and mental damage to prisoners, prompting national and international bodies to call for severe restrictions on its use or an outright prohibition.

Most influential among them

is the United Nations General Assembly, which passed the Nelson Mandela Rules in 2015. Mr. Mandela called his time in solitary “the most forbidding aspect of prison life.”

The Mandela Rules implore governments to ban prolonged solitary confinement, defined as a term exceeding 15 days, and to create an independent body to oversee the practice. To date, no jurisdiction in Canada has managed to implement the section of

the Mandela Rules regarding solitary confinement to the satisfaction of civil-rights groups. Yukon could be the first.

Yukon has a troubled recent history with solitary confinement. The Globe and Mail reported extensively on the legal odyssey of Michael Nehass, a Tahltan First Nation man with mental-health issues who spent five years at Whitehorse Correctional Centre awaiting trial for assault charges. During his incarceration,

he was repeatedly placed in solitary confinement and, on one occasion, dragged naked before a judge for a routine video hearing.

In 2017, a judge declared a mistrial in the Nehass case, saying he was mentally unfit to participate in his own sentencing proceedings.

The Yukon government ordered an inspection of WCC in the wake of Mr. Nehass's release.

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## IS leader dies in U.S. raid on Syrian compound, Trump says

ADRIAN MORROW  
U.S. CORRESPONDENT  
WASHINGTON

The reported death of Islamic

[ FOLIO ]





## Solitary: Fifteen-day cap met with resistance from current, former prison staff

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A subsequent report recommended that the territory immediately limit placements in solitary confinement to 15 days.

In an interview with *The Globe*, Yukon Director of Corrections Andrea Monteiro said that the territory wanted to be proactive in dealing with solitary confinement. "We are looking at improving the legislative framework, which would actually position the Yukon government as a leader in segregation reform."

Similar recommendations have been made by the federal correctional Ombudsman, the John Howard Society of Canada and various other groups with an interest in prison rights. Over the past two years, courts in B.C. and Ontario have declared that the legislation authorizing solitary confinement in federal prisons violates the Constitution's Charter of Rights and Freedoms and ordered Ottawa to pay out millions of dollars in class-action lawsuits brought by inmates.

Earlier this year, the federal government passed legislation that eliminates segregation units and replaces them with Structured Intervention Units, where inmates would spend at least four hours a day outside cells. But critics say it simply creates a regime of "segregation light" that isn't subject to binding independent oversight, as called for by the courts and the Mandela Rules.

Under the Yukon system, a prisoner's term in segregation would be limited to 15 consecutive days, up to a total of 60 days in a calendar year. The prison could exceed those limits only with the consent of an independent arbitrator, who the bill says could not be a government employee.

The bill would also ban the segregation of prisoners who are

The bill would also ban the segregation of prisoners who are pregnant, suicidal, mentally ill or in need of medical observation.

Correctional systems elsewhere will be watching the bill's progress closely.

"The courts have been pretty clear on current practices, and any jurisdictions that ignore the recent activity in the courts are risking further litigation," said Howard Sapers, the former federal correctional ombudsman and an adviser on the Yukon bill.

The territory has a few advantages over other jurisdictions as it seeks to reform prison practices. For one, it only has one prison, giving it a degree of agility unavailable in places such as Ontario, which oversees 25 correctional institutions.

Elsewhere, the hard 15-day cap has been met with stiff resistance from current and former prison staff, who say it potentially jeopardizes the safety of employees and inmates. Some inmates specifically request segregation for their own protection. Others need more than 15 days away from the general prison population to correct behavioural problems, according to one former warden.

"In a few cases, the complexity or seriousness of the circumstances means the problem cannot be effectively solved in only 15 days and so a release is forced, often contrary to the inmate's best interests," said Glen Brown, a criminology instructor at Simon Fraser University and former Correctional Service of Canada warden.

Over all, Mr. Brown described the bill as a "terse and perfunctory" attempt to comply with the non-binding Mandela Rules.

But that far-reaching approach is precisely what Mr. Sapers says is worthy of admiration.

"My experience in the federal sphere, sadly, is that the government was quite content to be reactive, to not get ahead of these things," he said. "It's nice to see a jurisdiction that wants to be proactive."

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Amanda Howard corresponded with Mr. Milat almost monthly since 1997. She said Mr. Milat would never have made a deathbed confession.

"He died in a very painful way, but he was happy that he was able to take these secrets to his grave," Ms. Howard said.

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