

What does the bold and courageous verdict of homicide mean in the coroner's inquest into the death of Ashley Smith? Who is responsible for her death? And what good would it do to reopen criminal proceedings for the three front-line staff and one correctional manager originally charged in the case?

These individuals are merely agents of an aggressive order, "necessary" and arguably "proportional" to the demands of a diffuse and coordinated violent apparatus (*dispositif*). How else are we to understand the video evidence presented at the inquest, much of it resonant with Hollywood depictions of counter-insurgency tactics in the war on terror? Doing justice to Smith becomes surreal, impossible in the face of a faceless, anonymous system. Ethically and juridically we enter a grey zone: nobody is responsible, agents were just following orders.

If we look at our federal correctional system, it appears that we are at war with those who are most vulnerable among us—those who have a mental illness, our youth, the poor, Aboriginal peoples. And while we can expect high rhetoric from government officials, much hollow talk of "victims' rights," Ashley Smith is not and cannot be a victim in their eyes: she is collateral damage in a war being waged in our correctional facilities and in our communities.

Since Smith's death, the federal Conservatives have passed omnibus bills that have imposed harsher sentences on young offenders and the unconstitutional use of mandatory minimums, which have increased our prison population to an all-time high, disproportionately affecting Aboriginal peoples and persons requiring mental health care. Concerning the use of force, physical and/or chemical restraints, and solitary confinement, Bill C-10 changed the wording of the law from the use of "least restrictive measures" to what is deemed "necessary and proportionate."

While the principle of “least restrictive measures” was based on a response to an individual in particular circumstances, the shift in language ushers in a dangerously subjective and open-ended culture of corrections. “Necessary” for what? “Proportionate” to what? And according to whom? Will necessity and proportionality vacillate if the facility is over-crowded and under-staffed? At what point does a therapeutic approach cross over into management techniques, economic efficiencies, or torture, called for and justified by the system itself? The case of Ashley Smith demonstrates that we have crossed this line.

Stuart J. Murray, PhD
Associate Professor
Canada Research Chair in Rhetoric &
Ethics
Carleton University

Dave Holmes, RN, PhD
Professor
University Research Chair in Forensic
Nursing
University of Ottawa