COVID & Cobain: coronavirus in jail | Jeffrey Hartman

By Jeffrey Hartman

(April 28, 2020, 11:06 AM EDT) -- I sat on a bench in Seattle a few winters ago. It was cold, rainy and perfect because Kurt Cobain lived and died next door. He was an antihero with no patience for lies and games. I started writing when I heard “Smells Like Teen Spirit” recently. Kurt’s lyrics are distinguished below.

I feel stupid and contagious

COVID-19 is one of those rare historical moments that highlights unity among Canadians with the promise of greater community. I experienced similar moments in Vancouver during the 2010 Olympics and Toronto for the Raptors’ title — you know, until the shooting.

These common experiences melt barriers between strangers and unite us in a true sense of community. A global health pandemic is, like Sidney Crosby’s goal, a great equalizer.

I turned the TV on the other day. Dodge or whoever told me now’s the time to buy a truck because we’re all in this together. I have nowhere to go and nowhere to be but I’m glad I’m not isolated alone. Then I went on Instagram and saw a small protest at Barton Street jail demanding COVID-19 protection for inmates. I read the comments against my better judgment: it was the usual criminals can burn in hell sort of thing.

Oh well whatever never mind.

I have been to Barton Street. It’s in Hamilton. The lobby is relatively nice for a jail but the range is a dump. It smells like stale sweat and something indescribable, perhaps hopelessness. Whatever the precise blend, it is not the kind of smell which, after two years less a day, would inspire me to be a better person. It is also not the kind of smell that would inspire me to perform my employment secure in the knowledge that I am doing anything meaningful for society.

That comment is directed at Ontario and not Barton employees.

The jails, they all fly flags. Canada and Ontario. Why? I look at those flags and wonder whose flags they are. They’re not flying for inmates who on good days receive constitutional treatment.

In R. v. Persad [2020] O.J. No. 95 Justice Andras Schreck described Toronto South Detention Centre (TSDC) as “unacceptable, shocking, deplorable, harsh, oppressive, degrading, disheartening, appalling, Dickensian, regressive and inexcusable.” He continued: “we have reached a point where the inhumane conditions at the TSDC go beyond being an unfortunate circumstance and can more properly be described as essentially a form of deliberate state misconduct.” He concluded that, contrary to ample judicial warning, Ontario has made a deliberate choice to operate TSDC in an unconstitutional manner.

Oh well whatever never mind.

I have been to TSDC as well. The lobby is very nice. There’s even a display area with the flags of Canada and Ontario. It’s the perfect place for our distinguished officials to pose for photos.
Our little group has always been and always will until the end

A client of mine called the other day from Port-Cartier Institution in Quebec. Correctional officers were not required to self-isolate after returning from travel and brought COVID-19 into the jail. But Bill Blair says things are great. Everyone is wearing masks and whatnot although I hear otherwise.

In reality, inmates, many of whom have mental health issues that are now going unaddressed, are locked in tiny cells all day without proper food, medication, shower and yard. They’re starting fires to obtain these necessities.

Blair or whoever also said inmates will get phone credits in lieu of in-person visits. That’s great, but he forgot to tell correctional officers this because fires also seem necessary to use the phone.

This reminds me of a client I have at Millhaven Institution. After months of begging for mental health care, he asked me whether he needs to harm himself to get some help. I said no, all you’ll get is a suicide assessment. But good news! I received an e-mail from Ontario’s regional deputy commissioner at 4:23 p.m. yesterday saying “In follow-up with Millhaven Institution, I am confident to advise that Mr. ______’s health concerns have been addressed appropriately and in a timely manner.” I just told Canada’s lawyer, who I actually quite like, that I will be calling our regional deputy as a witness at trial.

I wonder if the Dodge commercial plays in jail. That’s OK, it doesn’t need to, they already know we’re not all in this together. They already know that criminals can burn in hell while we condone deliberate state misconduct. They already know they’re not full Canadians and the flag isn’t for them. Maybe they saw Kawhi’s shot or Crosby’s goal but it meant less because they’re not in our little group. They never were and never will be.

A denial a denial a denial a denial a denial

Crime is bad. Criminals burning in hell is also bad, particularly if, as it seems, the fire started long before the crime.

You know we could reduce crime if we wanted to; it’s not hard to find out how. The truth is that we don’t want to. Perhaps we secretly need crime and criminals.

Oops deny deny deny deny.

Jeffrey Hartman is a Toronto-based criminal lawyer at Hartman Law, with a special focus on constitutional law, family law, civil litigation, prison law and police misconduct in Ontario. You can reach him at jeff@hartmanlaw.ca or call 416-316-2234.

Interested in writing for us? To learn more about how you can add your voice to The Lawyer’s Daily, contact Analysis Editor Peter Carter at peter.carter@lexisnexis.ca or call 647-776-6740.

© 2020, The Lawyer’s Daily. All rights reserved.