

Bill Rea ? Show me the perfect system

If you are looking for perfection, be it either in people or in the systems we use to get us through the day, then I have to wonder just what you are doing on this planet. Because what you seek is not available here.

That thought was on my mind a lot last Thursday, as I heard so much reaction, most of it negative, to the news that Richard Kachkar was found to be not criminally responsible for the tragic death two years ago of Toronto Police Sergeant Ryan Russell.

This decision was the result of the findings of a jury, who spent about eight weeks hearing an overwhelming amount of evidence that the rest of us were only exposed to portions of.

I have heard comments that the late Sergeant Russell and his family deserved better. My contention is they received all that the system had to offer, as unsatisfactory as that might have been, and that was an honest verdict.

The problem is this man died in the service of his community. It shouldn't have happened, but he and his family knew that becoming a police officer carries with it a certain amount of risk, and the trouble with worst-case scenarios is they sometimes come true. Alas, a woman lost her husband as a result and a little boy lost his daddy, creating ordeals that neither should have had to go through. And nothing is going to change that, including the verdict of a jury.

But it is also accepted in our society that if a person cannot understand the possible criminal implications of his or her acts, that person can't be held responsible as a criminal. My understanding of the law (admittedly, a layperson's understanding) tells me a criminal act has to be either deliberate or the result of conscious decisions adding up to negligence. And the jury that was charged with determining the facts in this case acted accordingly. Whether I agree or disagree with the verdict is irrelevant, because I know those 12 people were privy to details that I was not. For that reason, if no other, I accept their judgment.

I have noted, with a certain amount of satisfaction, that there has been very little criticism of the jury. To my mind, they were just playing their role in the system, and it seems most people are willing to agree they performed their function conscientiously.

The problem, according to the views of some I have heard, is with the system.

Well be assured, they are not alone. Off the top of my head, I can think of two problems with the system.

One of them (the more minor of the two) is it sometimes gets things wrong. Most of us think we can cite cases in which people who really deserved to get slapped got off easy, or at least appeared to. Occasionally, they get off all together. We sometimes hear a lot of these cynical comments when people accused of heinous crimes are found to be not guilty. That doesn't necessarily mean they didn't do it; simply that guilt had not been proven.

In such cases, the person who's accused doesn't answer for the act, and neither does the person who is actually responsible.

Sometimes, they are the same person.

I am neither dumb enough or naïve enough to believe there aren't a number of people walking free in our society who should be locked up. Consider all the unsolved murders we hear about. Those responsible have not yet been brought to account. Perhaps they will never be. The system has failed.

And my first problem with the system also covers the other end of the spectrum. If the bad can guys get off too lightly, then the good guys can get nailed, and there are plenty of cases like that too.

This is an issue I have written about many times, because it's one that strikes home with me. In my line of work, I have covered cases in which I have seen people sent to prison when I believed they were innocent.

My personal feelings aside, there are plenty of documented cases of people who have been convicted of crimes and later determined to be not guilty. Sometimes, those people have been wrongly convicted of murder. Names like Steven Truscott, David Milgaard, Donald Marshall, Guy Paul Morin, Robert Baltovich and others readily spring to mind. And the really frightening part is those are examples we found out about (Truscott was sentenced to be hanged). How many people in our society are doing time for crimes they did not commit, with no one looking into those cases? In some of these instances I listed (not all), the actual murderer has never been found. We still don't know for sure who killed Lynne Harper (Truscott case), Elizabeth Bain (Baltovich) or Christine Jessop (Morin). It scares me that there are those in our society who are dumb enough or naïve enough to believe there aren't cases like that. Even more upsetting, I have had conversations with people who couldn't care less, believing that as long as someone was convicted, who cares who really did it.

In those cases I have cited, those responsible have not yet been brought to account. Perhaps they will never be. The system has failed.

So all we have to do is fix the system. And that brings us to my second, and more serious, problem with the system.

Has anybody got a better system to recommend? I don't have a clue when it comes to improving what we've got.

There are those who would advocate the death penalty for people who take life. And our society could have ended up spending the

last 50-some-odd years trying to apologize to the stone that might have marked Steven Truscott's grave. I'll pass, thank-you. There was a time when I might have advocated the type of judicial system depicted in the motion picture Ben-Hur. But then, anyone who has seen the film of course knows Judah Ben-Hur was innocent. So exactly what does that accomplish? Or we could just toss the judicial system aside, and let the general public deal with these matters. As a journalist, I don't want to cover lynchings. And as a human being, I don't want to live in a society that would permit them. If there is one positive thing to say about this system of ours, such as it is, is that it is evolving. It's a work in progress. It's getting better because the people who make it up (meaning us) are getting better too. The sad part is people like Ryan Russell and their families have to get hurt in the process. If anyone out there has an idea on how to avoid situations like that, there's a whole world waiting to hear from you

