

National Affairs by Claire Hoy ? Police failures undermined case

To determine just exactly what went wrong with the Crown's case in the celebrated Jian Ghomeshi sex assault case ? pretty much everything did ? a good place to start would be with former Toronto police chief (and now Liberal MP) Bill Blair.

Let us go back more than a year ago to just four days after the CBC fired their former star radio host in the wake of allegations of sexual assaults when Blair ? perhaps hoping to garner publicity for his subsequent political career ? called an extraordinary news conference to encourage more women to report Ghomeshi's abuses.

?Our first priority is their (women's) safety and their recovery,? said Blair, who ? even worse ? is currently Parliamentary secretary to the federal minister of justice.

Surely the job of the police is not be to rush to the closest television cameras and declare, absolutely, the truth of the accusations and the guilt of the accused.

Rather, one would hope, their job is to fully investigate the accusations and then, and only then, recommend to the Crown whether or not they constitute a possible crime.

Clearly, since the accusations had just been made public by a Toronto Star piece, neither Blair nor anyone in the force had investigated their veracity.

But that's not surprising, given the fact that in an even more frightening spectacle a few days later, Joanna Beaven-Desjardins, commander of Toronto's sex crimes unit, held her own press conference to announce that there were now three ?victims? willing to proceed against Ghomeshi. (I deliberately put quotes around ?victims,? not to lessen the seriousness of the charges, but to underscore the basic point that until accusations are proven in court, they're ?accusers,? not ?victims.?)

In any event, Beaven-Desjardin told the assembled media on more than one occasion ? as reported by National Post's super columnist Christie Blatchford ? that, ?we believe victims when they come in, 100 per cent. We believe them right from the onset, there's never a doubt about believing them? and ?it's all about the victims and moving them forward.?

This woman should not be holding that job. Imagine the reverse, if police declared they automatically believe the guy. They'd be fired on the spot. And properly so.

It is not her job ? or Blair's job ? to accept anybody's story at face value ? either the accused or the accuser ? without investigating the facts. Period. End of story.

Indeed, it was this distortion of our cherished legal concept of ?innocent until proven guilty? which was ultimately the undoing of the Crown's case because, when it finally got to court, Ghomeshi's defence lawyer Marie Henein systematically destroyed their testimony by demonstrating that they had either lied about the circumstances or omitted major events in the case.

Had the police done what they should have done from the outset ? and investigated fully, rather than accept a cursory version of events ? this likely could have been avoided and we likely would have seen a far different kind of trial.

As in any legal case, the credibility of the accusers is crucial to establishing the truth beyond a reasonable doubt. But, thanks to an appalling lack of thoroughness by the police, the Crown and the yes, the accusers' own lawyers in the case, Henein was able to shred their credibility.

This is not to suggest in any way whether Ghomeshi is or isn't guilty of the serious sexual assault charges against him. That is up to the judge, Justice William Horkins, who will report back March 24.

But we often hear about court cases where people end up being wrongly convicted and later on it comes out that the police, believing they had the bad guy, put their blinkers on and ignored any evidence that would undermine their preconceived conclusions.

However this case turns out, I would suggest the police ? and the Crown ? are guilty of the same thing here.

It is understandable that they want to treat women who claim to have been sexually abused with great care and understanding. But treating somebody with kindness doesn't mean their claims shouldn't be fully investigated. And it certainly doesn't mean ? or shouldn't ? that their claims should be accepted at face value just because they are women who are claiming abuse.

To be sure, women don't often offer false claims of this nature, but it does happen, and police have to accept the fact that, in each case, it is possible. That's their job. If their job was to decide guilt and/or innocence, then we wouldn't need the court system, would we?

The police no doubt thought they were doing these women a good service, but in fact they undermined their credibility by not pressing them on important details which the defence were then able to exploit to their own advantage.

They need to give their heads a shake and get away from social advocacy and back to doing their jobs.

