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THE BATTLE FOR RICHARD LAPOINTE'S LIFE

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Police have two imperatives when making a case: gather incriminating witnesses and physical evidence, and get a confession. A confession is always paramount, because even without witnesses or physical evidence most people, including those on juries, believe if a person confesses he must be guilty. When a confession is obtained, a conviction will follow. (Dennis, 1995)

I feel doubly obligated to speak when I think silence would mean some kind of complicity on my part. (Playwright Arthur Miller, speaking on behalf of Richard Lapointe, cited in Connery, 1996)

On May 6, 1992, I walked into Hartford Superior Courtroom A2 for the first time. I sat in the audience on the left side, behind the defendant, Richard Lapointe of Manchester, Connecticut, a 46-year-old, 5'4" dishwasher. I was there because a caller, asking to remain anonymous, begged me to look into this case.

So on this first day of Lapointe's murder trial, I was there. I opened my notebook and prepared to take notes. Then it hit me: I was sitting on the left side of that courtroom alone. Everyone else sat on the right, behind the prosecutor, who was going all out for the defendant's execution.

"Mister Magoo"

Sitting in front of me was Lapointe, a pudgy, unathletic little man with thick glasses and hearing aids in both ears. It was easy to see how, when growing up in Hartford's Charter Oaks housing project, Lapointe was given the nickname, "Mister Magoo." All of his life, he had fought valiantly to overcome the destructive effects of Dandy-Walker syndrome, a congenital brain malformation that even includes the absence of some of the connective tissue between the hemispheres in the cerebellar area.

It is sad that the condition was not diagnosed until Lapointe was 15 years of age. By then, a build-up of cerebrospinal fluid had enlarged his skull. It also damaged many of his physical and mental functions: eyesight, hearing, stamina, and muscle coordination as well as his ability to learn abstract concepts and carry out sophisticated social skills.

But Lapointe is a survivor. He came through five surgical operations in which shunts were installed and adjusted in order to reduce the abnormal fluid pressure in his skull. Then, in his concrete-thinking way of life, he survived by listening to and trying to be friendly with those in the community who appeared to be the power people – especially priests and policemen.

He married Karen, a young woman with cerebral palsy, and the couple became the parents of Sean, a son they loved deeply. Lapointe was a good breadwinner for his family, doing what he did best, washing dishes. Most other jobs were off limits because the lifting of more than 50 pounds could disturb his surgically implanted shunt system.

He was a faithful member of St. Bridget Roman Catholic Church and a regular member of the local Knights of Columbus. He was well-known around town as a man who walked

everywhere. He was odd but pleasant. He told the same corny jokes to anyone who would listen. He tried to converse with every police officer he met on the street and in the restaurant where he worked.

Above all, Lapointe was a family man with no criminal record and absolutely no history of violence. His wife corroborated that Lapointe never, ever struck her or their son. He avoided all confrontation by clinging to a simple axiom he had learned as a child: "It takes a bigger man to walk away." He had achieved a full life in the community in spite of his disabilities. But all these achievements were exploded by a 9.5-hour interrogation by the Manchester police.

A Horrible Crime on a Lovely Day

March 8, 1987, was an unseasonably warm Sunday. Townsfolk walked around without jackets and left their doors open. Richard and Karen Lapointe and their 8-year-old son, Sean, walked to mass at St. Bridget's. Afterward, the family enjoyed brunch at a nearby restaurant, My Brother's Place. Then, they walked across the street to the cottage apartment of Bernice Martin, 88, Karen's grandmother. Because Martin and the Lapointe family were avid Celtics fans, they sat around the television set and watched their favorite basketball team lose to the Detroit Pistons, 122-119, in overtime.

At 4 p.m. the Lapointes walked to their own home just 10 minutes away. Karen prepared supper, and Richard took their dog, Todo, for a walk. They sat down for supper. After finishing their meal around 6 p.m., Karen took Sean upstairs and got him ready for bed. Then Karen and Sean, who was in his pajamas, came downstairs, where they found Richard sitting in front of the television set.

The family watched TV until 8 p.m., when Karen's aunt called. She had been trying repeatedly to reach her mother by telephone. Would Richard walk over and check on her? Richard said he would.

Richard arrived at the cottage and knocked on the front door. No answer. He found the door locked. He walked to a nearby cottage and asked to use the phone. He called both Karen and the aunt. The aunt told him to go back and try again, and she would drive over immediately.

When Richard returned to the Martin home, he saw smoke coming out from under the eaves. He returned to the nearby cottage and called 911. The recorded time was 8:27 p.m. The first volunteer fireman to arrive on the scene kicked the door open and crawled in on hands and knees. The smoke and heat forced him to retreat.

After breaking the windows to release the heat and gasses, two firemen crawled in. They found Mrs. Martin, pulled her out, and laid her on the grass. Her stomach was covered with a bloody sheet and she was naked from the waist down.

Later, the medical examiner described a brutal overpowering assault. Mrs. Martin had been beaten, raped with a blunt object, stabbed 10 times in the back and once in the stomach – a deep killing wound. Her hands and neck had been bound by strips of torn cloth. The cloth "ligature" around her throat had been cinched and knotted so tightly that the emergency medical personnel had a hard time removing it. Before leaving the crime scene, the murderer had set three fires within the cottage – his attempt to destroy any evidence he may have left behind.

Police Tricks on a Holiday

There is nothing more depressing to a police department than to be forced to close a high-profile case without making a single arrest. So, after 2 years and 2 months without a break in the Martin case, the captain in charge of detectives was replaced by a younger detective with fresh ideas.

The new detective focused on Lapointe. After all, Lapointe incessantly walked up to officers he saw on the street and in restaurants and asked whether they had solved the murder of his wife's grandmother yet. Sometimes he even asked if he was a suspect. (He had been interviewed and cleared shortly after the crime.)

To most officers, Lapointe was just being Lapointe; but the new chief of detectives saw his strange behavior as evidence of guilt. Consequently, the detective and his officers worked for days, planning an elaborate trap designed to catch a killer.

Then came July 4, 1989. For Lapointe it was a day off from work and a lovely time with his family. In the afternoon, he helped his wife prepare an evening picnic, which would be followed by watching a display of fireworks. Then came a call from the Manchester police. Would Lapointe come to police headquarters? He mentioned his picnic and the fireworks. The police said they would get him back in time for the picnic.

Lapointe was picked up and driven to the station because he did not drive. As soon as he arrived, he was read his Miranda rights. For most people this would have caused great consternation. They would have quickly asked for a lawyer, sat down, and shut up. Not Lapointe. Police officers were his friends. He signed a statement waiving all his rights to be represented by a lawyer and to remain silent. According to his way of thinking, he had not done anything wrong. Why would he need a lawyer? Why would he need to remain silent?

He was led past at least 15 large posters with faked data – all showing him to be the rapist-murderer of Bernice Martin. The police described the props in court as "devices for reducing the suspect's inhibitions for telling the truth." Because of his poor vision and reading ability, he failed to even notice any of the posters.

Next, he was taken to an interrogation room where three detectives conducted four, one-on-one interrogations from 4:00 p.m. until 1:30 a.m. the next morning. The first detective told him right away that the police had massive evidence showing that he had murdered his wife's grandmother.

Lapointe never dreamed his "friends" would lie to him, but he denied all accusations for quite some time. The detective increased the pressure.

Finally, Lapointe broke down and gave his first "confession." The detective printed it in large block letters: "ON MARCH 8, 1987, I WAS RESPONSIBLE FOR BERNICE MARTIN'S DEATH AND IT WAS AN ACCIDENT. MY MIND WENT BLANK." Obviously, when the detective came out with this confession, his fellow officers did not consider this much of a confession for such a murderous explosion of physical violence. So he returned to Lapointe in the interrogation room.

The second "confession" – different from the first – contained 157 words and ended with, "If the evidence shows that I was there, and that I killed her, then I killed her. But I don't remember being there." Still a weak confession, so another detective went in.

The third "confession" – different from the first two – was a 212-word statement that was again handwritten by a detective. This one was more detailed, but it matched the police reports on the crime. (During the trial, many forensic experts showed that the crime did not happen the way the police reported it.)

The police, now claiming to have their murderer, did a strange thing. At 1:30 a.m., they let him go home! Unaware of his plight, Lapointe grabbed a few hours of sleep, woke up, and walked 2 miles to his dishwashing job that began at 5:30 a.m. That evening, after a full day's work, he was arrested.

Because Lapointe's own family lived 500 miles away in another state, and because they were poor, there was little they could do. As for his wife's folks, they believed the police reports saying that Lapointe confessed. So they pulled his wife and son away.

Bail was set at an unreachable \$500,000. This forced Lapointe to await trial in the Hartford jail for nearly 3 years, virtually without a visitor.

Calls for Friends

The first week of Lapointe's trial was bleak. Not one friend appeared in court to support him. During the weekend all I could think about was that friendless man sitting all alone in that courtroom – with the state claiming him to be the monster of Manchester. By late Sunday night and early Monday morning, my anguish peaked. I got out of bed and dialed into the answering machines of numerous persons who worked with people like Lapointe. In some instances I did more than share; I shouted.

By the time court sessions began, 8 people sat behind Lapointe. By the end of the 48-day trial, 40 new-found friends attended when they could. Every word of testimony and every legal argument took place with supporters sitting behind the defendant.

Friends were there when the jury – basing their decision on those three crazy, dissimilar confessions – found Richard guilty.

Friends were there when the jury decided that Richard's disabilities were a mitigating factor and that he should not be killed.

Friends were there when Richard received a horrible sentence of "life without parole *plus 60 years.*" And some of them wept.

Friends Remain

The judge and lawyers went on to other cases, but we who chose to become Richard's friends have not gone away. We organized as The Friends of Richard Lapointe and began meeting every other Wednesday in the community room of the Wethersfield Burger King.

We are a colorful group, having among us authors, businessmen and women, citizen advocates, teachers, secretaries, communication specialists, court monitors, detectives, home-makers, lawyers, literacy volunteers, nurses, professors, psychologists, and state employees. What we have in common is that we are all citizens whose sense of decency has been offended by what happened to Richard in a Connecticut court.

Since the trial 3 years ago, we have tried the case over and over again in our minds. We raise numerous questions that are yet to be answered. For example:

- If the officers thought they had the killer, why did they let him go home after the interrogation?
- Why didn't the judge suppress the three bizarre confessions? A retired chief of detectives, who is a key member of our group, has described Richard as a man who would have confessed to murdering Abraham Lincoln if the police had pressured him to do so.
- Why didn't the detectives record their interrogation of Richard as they did with others? There is no record – *absolutely no record* – of what went on during his interrogation. This forced the jury to observe a "swearing contest" between what skilled, articulate detectives described as happening in those interrogations and what Richard – who isn't the greatest talker – said.
- Most important, why can't the Manchester police department and the state's attorney do the honest and decent thing and admit they made a terrible mistake?

Friends Evolve Into a Citizens Group

To care for someone is to sometimes hurt. The Friends of Richard Lapointe have been branded as "misguided" time and time again by the state's attorney and the Manchester police. We, nevertheless, continued to agonize for our friend, and as we did, numerous community leaders joined our effort. A few examples:

- Peg Dignoti, executive director of The Arc of Connecticut, and her board of directors offered us a home base. They welcomed us in spite of the politically charged atmosphere of the case.
- Stephen Greenspan, a professor of educational psychology at the University of Connecticut, joined the group. He has searched the professional literature and uncovered numerous recent breakthroughs that cast fresh light on Richard's particular disabilities.
- Former veteran foreign correspondent for *Time* and *Life* Donald Connery joined us as soon as he heard about the group. After covering numerous false confession cases, including the nationally famous Peter Reilly case (1977), he has now become a dynamic leader in drawing legal and media attention to Richard's plight.
- Hartford newspaper columnist Tom Condon helped our cause greatly when his 15-page investigative report was published in *The Hartford Courant* (Condon, 1993). After that, numerous hard-hitting editorials appeared in many of Connecticut's major newspapers.

The Forum

With no government grant and no income other than day-to-day donations, The Friends went out on a long, shaky limb. We rented one of the largest auditoriums in Hartford for Saturday, September 6, 1995. Within 2 hectic months, we prepared and carried out a first-ever public forum on "Convicting the Innocent." To our surprise, leading experts on coerced confessions dropped what they were doing and traveled to speak on behalf of Richard and others. Not one of them charged an honorarium or a fee for service.

False confession expert Richard Ofshe came from Berkeley, California. Playwright Arthur Miller pulled away from the filming of *The Crucible* in Salem, Massachusetts. Hugo Adam Bedau and Constance Putnam, two of the three authors of the definitive best seller on "wrong man" capital cases (Bedau, Putnam, & Radelet, 1992), traveled from Boston. Attorneys, advocates, and forensic evaluators from Georgia, Missouri, South Carolina, and most of the New England states participated as well. The forum costs came to over \$13,000, but with everyone pitching in, we broke even.

Also, court reporters from Hartford's well-known Cunningham Group worked pro bono, recording every word spoken at the forum. Connery (1996) edited a book that contains the entire contents of these proceedings.

Court Appeal

We were greatly encouraged that the Connecticut Supreme Court recognized the constitutional issues in the case and chose to conduct a seldom-held *en banc* hearing – one in which all seven justices presided. So on February 16, 1996, the defense appealed to the justices to overturn the earlier trial.

The defense argued that the police illegally held Richard "in custody" during the 9.5-hour interrogation. The prosecution argued that he was not held illegally and that the officers told Richard repeatedly that he could leave at any time he wanted. But there was *absolutely no record* showing what the police said or did not say during the complete interrogation.

Consequently, the defense voiced amazement that "in this modern age of electronics," there was no video or electronic record (not even a tape from a \$25 recorder from Radio Shack) of what really went on between Richard and his interrogators. The prosecutor countered by saying that "recordings may be a good thing," but there is no law saying that a taping must be conducted – and on that point she was correct.

Richard Remains in Prison

Richard has now entered his seventh year in prison. For him, getting caught in the clutches of the criminal justice system happened quickly. His getting out, however, has become a long and hard ordeal. Even so, The Friends of Richard Lapointe keep working.

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AUTHOR'S UPDATE

Since the submission of this report, numerous advances and setbacks have taken place:

- The Connecticut Public Television production "A Passion for Justice" that focused on Mr. Lapointe's situation was awarded an Emmy as the outstanding documentary film in the Northeast region of the United States.
- On June 30, 1996, "60 Minutes" Mike Wallace narrated a segment on the case entitled "Did He Do It?"
- Five days after the "60 Minutes" segment, on July 5, the State Supreme Court of Connecticut handed down a ruling against Richard. In the 5-2 ruling, justices upheld that there was no law calling for the electronic recording of police interrogations. The justices also believed that the detectives did not lie when they testified that Mr. Lapointe was told repeatedly that he was not "in custody," and he was free to leave the police station at any time during the 9.5-hour interrogation. But one of the two dissenting justices wrote:

This case highlights the need for the state to prove the voluntariness of a confession beyond a reasonable doubt – the police interrogation of the defendant, who suffers from a mental impairment and an unduly submissive personality (commencing at approximately 4:30 p.m. and concluding at 2 a.m.), which produced three equivocal and highly suspect confessions that were subsequently relied upon to convict him. Accordingly, I dissent.

- Dr. Stephen Greenspan is working with attorneys in preparation for a habeas corpus hearing during which several scientific discoveries on Dandy Walker syndrome that have been published since the trial will be described.

- DNA testing was in its infancy at the time of the murder in 1987. Consequently, The Friends of Richard Lapointe are vigorously pursuing the use of the latest DNA techniques. To date, 29 persons have been found innocent through such tests, and 27 have been found guilty.

Much evidence is available showing that Mr. Lapointe never could have murdered Bernice Martin. The only problem is that none of it can be applied at the appellate levels; it can only be used when Mr. Lapointe receives a retrial. As I noted in the August 8th edition of the Darien News Review, "Getting an innocent man out of prison is almost as hard as getting a cow to fly backwards." --Bob Perske