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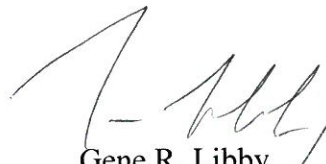
May 29, 2015

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Maine Public Radio	Morning Edition	<a href="mailto:morningedition@mpbn.net">morningedition@mpbn.net</a>
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Re: Yellow Ink in Biddeford / Captain Norman Gaudette

Please find enclosed my letter with respect to the recent reporting involving my former and current client, Norman Gaudette. He has reviewed and approved the release of the attached letter. The Gaudette family has been victimized by irresponsible reporting regarding an independent investigation by the Attorney General's Office which concluded in a Grand Jury finding there was insufficient evidence to even believe there was probable cause to charge him with a crime. I can stand silent no longer while a man and his family are pilloried by twenty-five-year-old allegations that were determined legally insufficient to support criminal charges. Captain Gaudette's story needs to be told. Hopefully, journalistic accountability will report the full story.

Sincerely,



Gene R. Libby

GRL/eb  
Enclosure

c: Norman Gaudette

## **RE: Biddeford Saco Courier Investigation Of Captain Norman Gaudette**

Violating numerous ethical tenets of journalism, the Biddeford Saco *Courier*, and specifically, two reporters, Molly Lovell-Keely and Ben Meiklejohn have engaged in a smear campaign against former Biddeford Police Captain Norman Gaudette. Sexual abuse, particularly of a minor, is a heinous violation of trust, and it is an allegation not to be taken lightly. There is a paramount duty to investigate these concerns when they arise, for the protection of our children. There is a concomitant duty, however, to investigate these allegations when they are made, for the protection of those falsely accused. Words do matter. Justice matters.

The reporters at the Biddeford Saco *Courier* have printed bald accusations, unsubstantiated half-truths, and they have manipulated headlines to generate an emotional public response. In short, these reporters have engaged in a shameful exercise of character assassination and their sensationalism, victimizing Captain Gaudette, must stop. As Captain Gaudette's attorney in 1990 and now, I am compelled to write to set the record straight.

### **The Investigation**

It must be known, at the outset, Captain Gaudette was subjected to this same scrutiny nearly twenty-five years ago. When memories were fresh, when the evidence was not stale, thirteen individual York County citizens determined that there was **NOT** sufficient evidence for those impartial jurors to determine that there was probable cause to believe Norman Gaudette *may* have committed a criminal act. Norman Gaudette has already undergone the very process that our democratic society has for scrutinizing these allegations—a criminal investigation. At that time, the State had the benefit of a complaining witness who has yet to be identified by the *Courier*. To protect this individual's privacy, I will refer to him only as "the Witness."

I represented Captain Gaudette in that investigation. As a former York County District Attorney, I had handled hundreds of sexual abuse investigations as a prosecutor and then later as a defense attorney. I hired a retired Portland police detective in 1991 to assist in the investigation. The Witness was located and interviewed. The Witness denied that he had been sexually abused by Captain Gaudette. The Witness not only denied the allegations, but reported that then-Detective Terry Davis offered to help him with pending criminal charges, assist him in the payment of fines, all in an effort to "get enough people [to testify] against Gaudette – who is the jury going to believe?" More on Detective Davis later.

The Witness appeared before the Grand Jury in 1991. A panel of jurors heard the testimony of the Witness and Captain Gaudette. They also heard Detective Terry Davis of the Biddeford Police who assisted the primary investigator, Detective Michael Pulire of the Attorney General's Office. The case was presented by Assistant Attorney General Eric Wright. The Grand Jury voted to return a "no bill." The Grand Jury found there was not sufficient probable cause to believe that a crime *may have been* committed by Captain Gaudette. Of course, none of the above facts have been printed by the *Courier* or other journalists who had picked up the story and spread it over the nation.

## Yellow Journalism

The term “yellow journalism” was coined in the 1890s to characterize sensational journalism brought about by a circulation war between Joseph Pulitzer’s *New York World* and William Randolph Hearst’s *New York Journal*. Yellow journalism at the time and today is considered unprofessional and unethical. Sensationalism in the *Courier* involves the repeated suggestion by these reporters that “multiple victims” exist, although unnamed, un interviewed, and nonexistent. These reporters unabashedly print rumors, trivial suspicions, hearsay, and other information which would never be admissible in a court of law. They appeal to emotions, manipulate the facts, and misrepresent and exaggerate their stories in violation of all journalistic ethics. The American Society of News Editors publishes a Statement of Principles for journalists. Article VI – Fair Play, require that journalists “observe the common standards of decency and stand accountable to the public for the fairness and accuracy of their news reports.” Article IV – Truth, and Accuracy prescribe that “every effort must be made to assure the news content is accurate, free from bias and in context, and that all sides are presented fairly.” Article V – Impartiality, “demands a clear distinction for the reader between news reports and opinion.” It would be a prudent exercise for Ms. Lovell-Keely and Mr. Meiklejohn to review and conform to these principles of ethical journalism. This is a crime against the public, the readers who trust that the information they are receiving has been vetted by the journalists printing it, but more importantly, against its victims. Imagine having a rumor, made even by someone who dislikes you, given the aura and authority of truth and substantiation to be called “news.”

Let me give you a few examples. On April 9, 2015, Ms. Lovell-Keely published an article titled “*Abuse Alleged Against Second Officer.*” The article reports allegations of Larry Ouellette against Captain Gaudette. “Ouellette said he and twelve or thirteen other alleged victims were supposed to testify about Gaudette’s abuse, but said a technicality forced the case to be dropped.” Of course the truth is that there was no “technicality.” There was no indictment. The Grand Jury chose not to believe the Witness, who testified at the grand jury hearing, and the jurors believed Captain Gaudette. What due diligence did the *Courier* use to investigate the assertion of the twelve or thirteen other alleged victims? They are unnamed, un interviewed, and without factual basis. Nonetheless, one is damned solely by the allegation. The *Courier* prints allegations of Larry Ouellette and then bolsters these allegations with vague references to multiple victims, without any journalistic support. This tactic is repeated over and over again.

Also on April 9, 2015, Mr. Meiklejohn reports of purported allegations by Robert Kalex. His allegations were also known in 1990 and investigated by the Attorney General. His allegations were also rejected as legally insufficient. They were so legally insufficient they would not even meet the low standard that there was probable cause to believe a crime may have been committed. Using the same tactic employed by Ms. Lovell-Keely, Mr. Meiklejohn writes, “Kalex said that there are a dozen more people he alleges are victims of either former Sergeant . . . or Gaudette.” A subtle, but effective technique to publish allegations with the assertion that there were “multiple” other victims to bolster the credibility of an individual whose allegations were rejected after an independent A.G. investigation.

The journalistic abuse continues. Mr. Meiklejohn presents a news story filtered with his personal opinion in violation of Article V of the Statement of Principles. He writes, "Kalex's account of his experiences with Gaudette is similar to the story told by Larry Ouellette, who also alleges he was abused by Gaudette." Clearly, an opinion by a reporter who has no criminal investigative experience and who bases his "opinion" on the twenty-five-year-old recollections of men whose credibility was so damaged at the time to be determined legally insufficient to support criminal charges.

The *coup de grâce* of the yellow ink is reported by Mr. Meiklejohn on May 14, 2015. "*Blowing The Whistle – A Former Detective Says The AG's Office Purposely [sic] Threw A Case Against A Former Police Captain.*"

### **Terry Davis**

Detective Terry Davis was supervised by Captain Norman Gaudette. He attributes to Davis, "We came up with numerous names. We interviewed people and ended up getting names. Collectively, we came up with about a dozen names." But no names, no interviews, no factual basis. Is this what we call journalistic fair play? Is this what we call journalistic truth and accuracy? No. It is called an abuse of the journalistic privilege – a smear campaign targeting a man who has already been exonerated multiple times after an independent A.G. investigation – twenty-five years ago.

The investigation of Captain Gaudette was performed through the Attorney General's Office. It was, and still is, a common practice to refer internal investigations involving serious allegations to the independent office of the Attorney General. Detective Michael Pulire was in charge of the investigation. Detective Pulire and Detective Davis were good friends. The Witness, who had recanted allegations of abuse by Captain Gaudette, was re-arrested for other criminal conduct. After the Witness recanted, he was again interviewed by Detective Pulire. He was also subject to repeated inappropriate pressure by Detective Davis. The Witness recounted to my private investigator, a retired Portland police detective, repeated attempts by Detective Davis to influence his testimony before the Grand Jury. He reported offers with assistance to pay his fines, offers of immunity (which police are legally prohibited from making to a criminal defendant), as well as stories of alleged abuse involving Larry Ouellette being repeated by Detective Davis (a clear violation of investigative standards). The Witness was told by Detective Davis to make a recorded statement against Captain Gaudette after being repeatedly told what allegations had been made by Larry Ouellette. The Witness was told by Detective Davis to be "authentic" and make it "sound good." The Witness claimed he was threatened with jail if he did not cooperate. None of these facts, of course, had been reported by the investigative journalists at the *Courier*. Detective Davis had a personal vendetta and professional jealousy of Captain Gaudette, which became clear during the investigation by the Attorney General's Office. Of course, Mr. Meiklejohn did not report on the motives of Detective Davis, but continued his campaign of character assassination. They have been much more interested in character assassination and smearing Captain Gaudette's good name and reputation following his years of public service.



The naiveté of the *Courier's* investigative journalism is shameful. The Grand Jury is a closed process. Defendants are not entitled to be represented by counsel before a Grand Jury. I have appeared before hundreds of grand juries as prosecutor, but never as a defense lawyer. I have had clients testify before grand juries in a number of cases. Captain Gaudette testified before the Grand Jury without my presence because he wanted the Grand Jury to know the allegations against him were false. As a criminal defense attorney, letting your client appear before the Grand Jury is fraught with risk. The Grand Jury believed Captain Gaudette and refused to indict him.

However, this is what Mr. Meiklejohn reported in his May 14, 2015 article (*Blowing The Whistle*), "You're not going to believe what just took place . . . then all of a sudden appears (attorney) Gene Libby walking with Gaudette and his wife," Davis said, "and they walked right into the jury room and closed the door." This type of reporting is, in a word, preposterous. I have never appeared before the Grand Jury as a criminal defense attorney, and I did not do so in this case. The suggestion that I walked into the Grand Jury room with Captain Gaudette and his wife is pure fiction: the product of a devious mind and decades-long vendetta to smear Captain Gaudette.

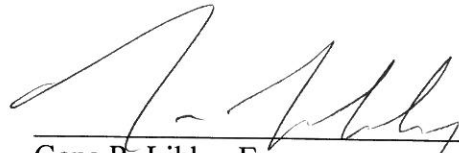
What happened before the Grand Jury is simple, the Witness was not believed. Nor was Detective Davis believed. His personal and professional bias was made known to the Grand Jury by Assistant Attorney General Eric Wright, and clearly was a factor in the Grand Jury's decision to return no charges against Captain Gaudette.

Now, Detective Davis has created another fiction – the great cover-up by Eric Wright in the Attorney General's Office. There was no cover-up. Davis alleges and the *Courier* published slander against me and my client by writing, "It was obviously worked out with Gene Libby and the Attorney General." What are the facts that support this assertion? It appears the only due diligence done by the *Courier* is to check to see whether the person making the allegation (Detective Davis) has a pulse. If they do, the *Courier* will publish anything about anyone, including Captain Gaudette's attorney. In order to explain the jury's exoneration of Captain Gaudette, the Grand Jury process becomes corrupted by the very person who attempted to manipulate it – Terry Davis.

Maine, like all civilized societies, protects its citizens from stale claims through a statute of limitations. In this case, the statute of limitations expired over twenty-five years ago. Statutes of limitations are enacted to protect individuals from stale claims, fading memory, and the loss of critical evidence over time which may be central to an individual's defense. The reason for this is simple: A long-dormant allegation often has "more cruelty than justice." *Halsbury's Laws of England*, Fourth edition. It is time for the yellow ink to stop. Words can hurt. We have a judicial system that is designed to investigate and prosecute criminal violations. In 1991, a Grand Jury made a determination that the allegations by the Witness did not support charging Captain Gaudette. Then known allegations by Larry Ouellette and Robert Kalex were deemed insufficient even to allow the allegations to support criminal charges. Stop the journalistic abuse of Captain Gaudette and his family.

Yesterday, I read the latest in Mr. Meiklejohn's continuing effort to smear Captain Gaudette in the *Courier's* article "*Officers: Man Who Committed Suicide Was Abused.*" The article begins with an aged photo of Captain Gaudette. The article reports the death of Michael Frenette in a so-called suicide by police. The article then suggests that there was a report of abuse by Mr. Frenette. The juxtaposition of the picture, the reported suicide, and the unsupported allegation all make it appear that Captain Gaudette is somehow responsible for the death of Mr. Frenette. What is happening in Biddeford these past few weeks looks like mob justice. Neither Norman Gaudette nor myself have any desire to quiet victims of heinous and unforgiveable abuse. What we seek, is to avoid creating new victims in the quest for retribution.

Dated: May 29, 2015



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