The Case of Richard Lapointe — A Lesson in Wayward Justice

By Matthew Salla

Introduction

A strong body of evidence suggests that coerced false confessions by criminal suspects lead to "miscarriages of justice," or the wrongful arrests, convictions, and incarcerations of non-guilty parties. It has been studied and demonstrated, for instance, that lay jurists overwhelmingly favor confessions as a criteria for conviction over other, ostensibly less "reliable," measures of guilt. Both administrators of criminal justice and lay jurors routinely "treat confession evidence as dispositive," to a point where "they often allow [confession evidence] to outweigh even strong evidence of a suspect's factual innocence." In what amounts to a paradox of sorts, we as a society are simultaneously suspicious of police tactics which elicit or coerce such false confessions, and yet we are overly-hasty in our acceptance of the end result of such tactics (the confessions themselves) once they appear before us (as jurors) in American courtrooms.

Taking into account the considerable body of evidence and criticism surrounding police tactics and false confessions, it is difficult to believe that judges and criminal prosecutors — both state actors bound by an oath to uphold justice — are not aware of the danger of injustice inherent in criminal cases where the accused individual's very liberty and livelihood rest on minimal, even nonexistent, substantive evidence supplemented only by a confession. Moreover, any such skepticism should be triggered where the case against an accused party is *built solely* upon such a confession, and where clear variables exist which are suggestive of either (a) police coercion, *or* (b) a defendant's susceptibility to manipulation or coercion-through-duress in the confession process. Where both of these variables are present, and other evidence of guilt is best characterized as "scant," particular attention to the potential for injustice should be allocated. Both of these variables are present in Richard Lapointe's case.

Richard Lapointe's prosecution for Denise Martin's murder

On July 4, 1989, 46-year-old Richard Lapointe, a Rockville, Connecticut resident, was helping his wife prepare an evening picnic in celebration of the holiday. His preparations were interrupted around 3:30 PM when he received a call from the Manchester Police Department asking if he would come to police headquarters and assuring him that he would not miss the celebration. Leaving the site of the picnic, Mr. Lapointe arrived at police headquarters sometime later, where he was immediately read his *Miranda* rights, whisked to an interrogation room, and presented with a series of graphic charts portraying fabricated forensic data purporting to link him to a gruesome act of murder-rape-arson. The victim of these acts was Lapointe's own 88-year-old grandmother-in-law, Bernice Martin, whom two years earlier had been strangled with an elaborately-tied ligature, stabbed nine-times in the back and one time in the stomach, raped with a "blunt object," and whose home was lit ablaze from three separate points of origin and burned to the ground by the perpetrator.

Eyewitnesses reported to the police seeing a "large man…running away from the scene of the crime." Richard Lapointe is 5 feet 4 inches tall and has been described by personal acquaintances as a man who by necessity "only walks and never runs."

Contrary to the content of the forensic charts shown to Mr. Lapointe during his interrogation, no physical evidence linking him to the murder of Bernice Martin existed at the time of the interrogation, nor has any been uncovered since.

The detective in charge would later rationalize the use of these falsified forensic charts by referring to them euphemistically as "devices for reducing the suspect's inhibition for telling the truth." The detective's duplicity was at least fruitful. During the course of what evolved into a continuous nine and one-half hour interrogation, the contents of which were not recorded, Mr. Lapointe signed not one but *three* contradictory confessions, each containing different factual accounts of the murder. Because Richard Lapointe could not read or write, each confession was prepared for him by his interrogators, ready-to-sign. The first confession, written in large block letters by an interrogator, read "ON MARCH 8, 1987, I WAS RESPONSIBLE FOR BERNICE MARTIN'S DEATH AND IT WAS AN ACCIDENT. MY MIND WENT BLANK." The final aspect of this first confession—that Mr. Lapointe's "mind went blank"—was not accidentally included by his interrogators: Richard Lapointe truly had no recollection of having committed this murder, or even of having been in the vicinity of Bernice Martin's home at the time of the attack.

Richard Lapointe trusted and idolized police officers. In his capacity as dishwasher at a local diner, he frequently encountered and interacted with local law enforcement officials. He simply could not believe that an officer would lie to him as he was being lied to by the Manchester PD. Nowhere is this fact better illustrated than in Lapointe's own words, made as he signed his third and final confession (a confession which was factually dissimilar to the prior two), he exclaimed: "if the evidence shows that I was there, and that I killed her, then I killed her…but I don't remember being there."

Contrary to Lapointe's "confessions" the evidence available to the Manchester Police at the time of Lapointe's arrest indicates he was not "there," and that it would have been "virtually impossible for Lapointe to have committed the crime in the time available to him." Lapointe's alibi, provided by his wife *prior* to there being any indication that her husband was even suspected of having committed these murders, accounted for his whereabouts — far from the home of Bernice Martin — for all-but thirty to forty-five minutes of the day in question.

As one person who reviewed the evidence deftly points out, the timeline available to the Manchester Police would have required that Lapointe, in this brief period of thirty to forty-five minutes: (1) walked the ten minutes to Bernice Martin's apartment, (2) had coffee with her (evidence suggests the killer sat down for coffee prior to the crime), (3) raped her with a blunt object and *then* masturbated on her bedspread, (4) bound her arms in an elaborate knot, (5) stabbed her ten times, (6) strangled her with an elaborately tied knot, (7) carried her 160-pound body to another location in the apartment, (8) set her apartment on fire from three separate points of origin, and (9) walked the ten minutes *back* to his apartment. All of this while being accompanied by his dog that he was taking for a walk at the time. By some accounts, the window proposed for Mr. Lapointe to have committed the crime was a mere *twenty minutes*—barely sufficient to account even for the walk to Bernice Martin's apartment and back. Without knowing a thing about Richard Lapointe, anyone can see that this fact pattern makes his commission of the crimes a factual impossibility.

However, we *do* know many things about Richard Lapointe. We know that he had no criminal background whatsoever. We know

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Lapointe cont. from p. 3

that he has been described by acquaintances as being "good natured" and that he had displayed no propensity for violence during the course of his life prior to the accusations. We know that there was no evident motive for him to have committed such uncharacteristically heinous and savage acts. We know that due to physical limitations resulting from his disability, he was "incapable of lifting more than fifty pounds," saying nothing for the fact that the police's scenario has him moving Bernice Martin's 160-pound body across her mid-sized apartment. We know that due to these same physical limitations, he is a man who does not run—he is 5′-4″ tall and a slow-moving man by many accounts, an attribute which fits *neither* the time frame proposed by the police *nor* the eyewitness accounts which place a "large man…*running* away from the scene of the crime."

Furthermore, we know that Richard Lapointe's physical limitations make it less likely that he committed the elaborate and "athletically" violent acts inflicted upon Ms. Martin. We also know that Mr. Lapointe's disability makes it more likely that he would confess to crimes he did not commit while under coercion and police-induced duress.

Lapointe has Dandy-Walker Syndrome, a congenital brain condition which causes a number of disabilities, "especially with respect to social understanding." One characteristic which experts identified in Richard Lapointe was his propensity for extreme "compliance" in social venues — that is, he had learned to cope with social situations and discrimination relating to his disability partially by projecting an exceptionally acquiescent demeanor. Taken with Mr. Lapointe's particular admiration for law enforcement officers, this is significant in-and-of itself. What's more, the detectives involved in questioning Mr. Lapointe were later forced to admit that they utilized questionable tactics and "ignored interrogation procedure."

In the course of their nine and one-half-hour marathon interrogation — during which time bathroom breaks were made conditional upon receiving a full confession — the detectives told Mr. Lapointe they "knew" he had committed the crime; they told him he had already taken and failed a lie-detector test (he had not); they told him that his wife and son would "go to prison or be taken away" if he did not confess; and finally they told him that he would not be allowed to go to the bathroom until he confessed. All of these accusations directed at a man whom they suspected on a meager hunch. Richard Lapointe ultimately confessed so that he could go to the bathroom, and signed the third confession so that he could finally go home to his wife and son after a grueling, nearly ten-hour long escapade.

Meanwhile, across town, another detective on the case was utilizing similarly coercive techniques in his questioning of Richard Lapointe's wife, Karen Martin, who also has a disability. These exchanges *were* recorded. The tapes show that the detective told Mr. Lapointe's wife that she could be charged with hindering prosecution, and that she was at risk of losing custody of her preteen son unless she provided the police with "some very important details." This, presumably, was the false pretense under which the detective compelled Karen Martin to explain that Lapointe had left the home—*for an amount of time insufficient to have committed the crime*—in order to walk the family dog. It was *this* shockingly thin admission by Karen Martin, in tandem with Richard Lapointe's three "confessions," which constituted the key evidence of his "guilt" that the jury relied on to convict him.

So what content characterized Lapointe's three contradicting "confessions" – none of which he wrote and that weren't audio or video recorded or transcribed by a stenographer? Surely the "confessions" themselves must have been truly damning in order to move the case forward; in order for the prosecutors, the judges, and the jurors involved not to cry foul. Not so. The "confessions" themselves constitute the *most* glaring hole in the prosecution's case: the supposedly willful confessor, Lapointe, could not even accurately describe the facts surrounding his own alleged crime. In one of Mr. Lapointe's "confessions" he "admits" to having stabbed Bernice Martin while she was sitting on her couch. Coincidentally, the working theory for the Manchester Police, at the time of the interrogation, was that she had been stabbed while on the couch. Medical testimony later disproved this theory, establishing that she was actually killed at another location in the house and moved across the apartment. So not only was Richard Lapointe's alleged recollection of the facts incorrect, it also just *happened* to match exactly the theory being utilized by the interrogating detectives. Similarly, Lapointe "admitted" that he had committed the murder using "manual strangulation" — that is he used his hands to strangle Bernice Martin. *Again*, this was disproven by the medical examiner, who demonstrated *at trial* that the murder had been perpetrated through a method of "strangulation by compression"—in other words she had been strangled with an object. *Again*, Lapointe's erroneous "recollection" of the facts just *happened* to match the police interrogator's working theory of the crime. Finally, Lapointe "admitted" to having physically raped Bernice Martin, an account which coincidentally coincided with the Manchester Police's theory at the time. Medical testimony again later disproved this account, showing that she had not been physically raped, but rather had been raped with a "blunt object."

Other glaring discontinuities existed at the time of Lapointe's arrest:

- How had he lifted and moved Bernice Martin's 160-pound body?
- How had he arrived home after committing such an "athletic" crime without appearing "sweaty or disheveled?"
- Why were the killer's gloves, which were left at the scene, far "too large to have fit Lapointe's tiny hands?"
- How often is it that a killer commits a crime, laden with evidence of perverse enjoyment and clear premeditation (wearing gloves, having coffee, moving the body, burning down the house), and yet cannot remember *any* of the nitty-gritty details behind the enactment of that crime?
- How often is it that a killer willfully confesses, under duress, and yet cannot remember:

(a) *how* they committed the crime;
(b) *where* they committed the crime;
(c) with *what* object they committed the crime; and,
(d) *when* they committed the crime?

Richard Lapointe could not accurately describe a *single aspect* of the crimes he supposedly perpetrated.

A motion to suppress Lapointe's "confessions" as coerced was denied prior to his 1992 trial. Later in 1992 Lapointe was convicted of capital felony murder and eight related charges. In 1996 his convictions and sentence were affirmed on appeal by the Connecticut Supreme Court in a 5-2 decision. That same year, his case was denied review by the U.S. Supreme Court. Since then, attorneys representing Mr. Lapointe have filed two petitions for a writ of *habeas corpus* in an effort to have his convictions overturned. Although both petitions were denied by the same judge who presided over Lapointe's trial, on March 25, 2009 Connecticut's Appellate Court issued an opinion stating that it was wrong to dismiss Lapointe's *habeas corpus* petition that was based on suppression of exculpatory evidence and ineffective assistance of council during his trial and direct

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appeal. Consequently, a new *habeas* hearing was conducted in May of 2010, and the decision is still pending.

In writing his dissent in 1996 to the affirmation of Lapointe's convictions, Connecticut Supreme Court Justice Robert Berdon cited U.S. Supreme Court Justice William J. Brennan regarding compelled self-incrimination: "I am unwilling to accept the risk of an erroneous determination that [a] confession was voluntary when it may in fact have been coerced…[to think otherwise] we must be prepared to justify the view that it is no more serious in general to admit involuntary confessions than it is to exclude voluntary confessions…compelled self-incrimination is so alien to the American sense of justice that I see no way that such a view could ever be justified." Justice Berdon and his colleague Justice Joette Katz were the only members of the Connecticut Supreme Court who were not comfortable allowing Richard Lapointe to be convicted on the sole basis of involuntary confessions, where the accused individual's particular disability inhered in him an "unduly submissive personality" particularly disadvantageous in the apparently unbridled and unpredictable bailiwick of the police interrogation room.

In the State of Connecticut crimes such as those alleged of Mr. Lapointe qualify for the death penalty. Richard Lapointe was spared this fate thanks in part to expert testimony in the punishment phase regarding his disability as a mitigating factor. Ironically, Lapointe's I.Q. (Intelligence Quotient) is actually above the Supreme Court's "cut-off," under which it is "cruel and unusual" and therefore illegal to submit someone to the death penalty. The Connecticut Supreme Court addressed the issue of Lapointe's I.Q. while making its decision not to overturn his conviction, and it is difficult to believe that their bias regarding the correlation between disability and I.Q. did not play a role in their finding that his confession was "voluntary." To this court, maybe, the term "intellectual disability" is synonymous with the term "low I.Q." and any further understanding is merely auxiliary. Either way, the legal system found Richard Lapointe's disability sufficient to save him from the death penalty and yet insufficient to warrant a more nuanced investigation into the context, circumstances, and police tactics inhering in his alleged "confession" to Bernice Martin's murder. So rather than enjoying the freedom that is his birthright, away from the spotlight and far from the beguiling glare of legal mysticism, Richard Lapointe has instead emerged as an unfortunate and lasting lesson in the arbitrariness of American justice.

We know the facts of Richard Lapointe's case and they are sufficient in-themselves to establish his innocence. However, further examination yields a picture of police manipulation, discrimination, and a true miscarriage of justice which will be twenty-two-years-old this Independence Day, and an innocent man will have spent nearly one-third of his lifetime deprived of his fundamental liberty, far from his wife and son.

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Defamation Conviction For Criticism Of Scientific Report Overturned

Genetically modified crops are not permitted to be grown in Peru, and their illegal introduction into the food supply is a controversial issue in the country.

Two prominent people in the public debate about the issue are Antonietta Ornella Gutiérrez Rosati, a biologist at the La Molina National Agricultural University in Lima, and biologist Ernesto Bustamante Donayre, scientific director of the private genetic-screening firm BioGenómica.

In early 2008 Gutiérrez accused Bustamante of defamation — a criminal offence in Peru — for publicly criticizing her published report that genetically modified maize was found in plots 120 miles north of Lima.

Bustamante was prosecuted and in April 2008 he was convicted of defamation. He was fined 5,000 soles (US$1,800) and his travel was restricted.

After his conviction more than 650 scientists from around the world signed a public petition supporting Bustamante's right to publicly question Gutiérrez's findings. Biochemist Paul Englund with Baltimore's Johns Hopkins University said after Bustamante's conviction, "He's someone that speaks his mind honestly, based on data. It's outrageous that he's being criminally prosecuted for it."

Bustamante's conviction was overturned on appeal in late December 2010. The appellate court found the trial court had not demonstrated Bustamante had sufficient motivation to harm or defame his alleged victim. Afterwards Bustamante told reporters, "It would have been nice to have a judge come out and say, 'Yes, science should not be taken to court.' That's for us scientists to state and to express and to fight for."

The conclusions of a government study of the crops in question may affect the ultimate outcome of the case.

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