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August 18, 2006

LEWIS V. VAFIADES (1919-2001)
NICHOLAS P. BROUNTAS, RETIRED

G. Steven Rowe, Attorney General
Office of the Attorney General
6 State House Station
Augusta, Maine 04333-0006

RE: Sarah Cherry - Murder Case

Dear Attorney General Rowe:

Before giving our report, we feel it is necessary to make two important comments:

1. It was not our charge, nor do we in any way intend to express any opinion as to the innocence or guilt of Denis Dechaine. Further, we do not intend to express any opinion on his trial, any counsel who was involved at any stage of this case (other than specifically noted), or any Court ruling.
2. This report was not sent to you until this time because, at the request of Mr. Dechaine's counsel, we waited for all of his court proceedings to be resolved and any matters before the legislature to be finalized.

We have reviewed pertinent portions of the transcript of Mr. Dechaine's trial; various police reports, including those in question from the notebook of Trooper Hendsbee; the autopsy report; various pleadings filed in the case of James P. Moore v. Col. Craig A. Poulin, et al.; decisions of the Maine Supreme Judicial Court, Justices of the Maine Superior Court and Magistrate Cohen; Affidavits of Carol Waltman, Thomas J. Connolly, and Michaela Murphy.

We also considered the Affidavit filed by the Honorable Joseph H. Field.

Further, you made available to us your office's entire file in this matter which Justice Beaulieu reviewed for us.

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We also personally interviewed Troopers Hendsbee and Drake, as well as former trooper, now Sheriff, Mark A. Westrum, and Attorneys Eric Wright, Fern LaRochelle, and Williams Stokes.

By your letter dated October 23, 2004, you asked us to review the following allegations:

1. Following their investigation, law enforcement officers altered their notes and/or reports to falsely attribute incriminating statements to Denis Dechaine.
2. Prosecutors misled the jury with respect to Sarah Cherry's time of death.
3. At the time of trial, prosecutors and law enforcement officers had information about an alternative suspect which they should have shared, but did not share, with defense counsel.
4. In 1992, law enforcement officers, with the approval of prosecutors, inappropriately destroyed physical evidence, including a rape kit as well as hairs and fibers discovered at the scene where Sarah Cherry's body was found.
5. Prosecutors inappropriately failed to notify the court and defense counsel of a consultant's opinion regarding the reliability of an outside laboratory and DNA tests conducted in 1993.

Our sole purpose was to investigate the allegations detailed above, and to advise you, after our independent review, whether we found any of the allegations made against your office or law enforcement officers had any substantive merit.

After said review, we find that none of the allegations set forth to us in your letter dated October 23, 2004, have any substantive merit. The reasons for this finding are as follows:

1. After meeting with the officers involved with the initial phase of the investigation, and after reviewing copies of their original notes, we find that there is no basis in fact to believe Trooper Hendsbee or anyone else altered their notes setting forth statements allegedly made by Mr. Dechaine. What happened with regard to the notes was fully explained to us, and we

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find the explanations to be satisfactory. We find no dishonesty in any of the officers' testimony with regard to the preparation of notes. Whether or not any statements attributed to Mr. Dechaine were made was an issue for the jury or the Courts to decide.

2. We believe that the issue of whether the Prosecutors misled the jury was also a question for the jury or the Courts. However, based on our interviews and review of the records, we do not find that Mr. Wright acted in an inappropriate manner in regard to his presentation of the evidence.
3. The issue of alternative suspects has been discussed in various Court decisions. Based upon our review of the records and upon interviews we conducted, we did not find that there was inappropriate conduct on the part of the officers with regard to alternate suspects.
4. There has been much discussion about the destruction of physical evidence. Based on our discussion with law enforcement officers and the Prosecutors involved, we did not find that they deliberately or intentionally destroyed any evidence.
5. Finally, whether Mr. Stokes inappropriately failed to timely notify the Court and the defendant's counsel of a consultant's opinion is a close question. We understand from Mr. Stokes that at the time he received the report, he did not notify the Court or counsel for the Defendant. We understand further that Mr. Stokes did not believe the report was subject to the rules of discovery because it was received during the period of post-conviction review. Mr. Stokes also indicated that he questioned whether, in fact, the report was truly exculpatory of Mr. Dechaine.

It is also our understanding that the report was eventually given to the defense and that the report has subsequently been the subject of comment and litigation.

Better practice may have been for Mr. Stokes to have given this report immediately to Mr. Dechaine's defense counsel. However, we find that Mr. Stokes' action was not improper under the circumstances.

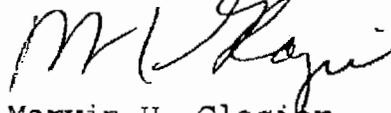
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At this point, we consider our review of this matter to be completed. Please feel free to contact us, however, if you require further clarification of any of the issues discussed in this letter.

Very truly yours,

The Honorable Eugene W. Beaulieu,
Charles H. Abbott, Esq.
Marvin H. Glazier, Esq.



BY: Marvin H. Glazier

MHG:djgc/las/ljb/sus

cc: Eugene W. Beaulieu, Justice Retired
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