



OFFICE OF THE ERIE COUNTY DISTRICT ATTORNEY

FRANK A. SEDITA, III
DISTRICT ATTORNEY

December 10, 2012

Lou Michel
The Buffalo News
One News Plaza
P.O. Box 100
Buffalo, New York 14240

Dear Mr. Michel:

On the afternoon of Friday, December 7, 2012, we discussed a story you were working on regarding alleged retaliation shootings. According to you, Ms. Tara Hall, who was the victim of a shooting on or about October 31, 2012, believes that shooting was in retaliation for her daughter's cooperation in the arrest of Christopher Pratt. According to you, Tara Hall claims that she asked for but was denied witness protection during a conversation with ADA Paul Glascott and Senior Victim Witness Aide Sharon Simon at the District Attorney's Office.

Based upon our conversation, I also understand that your story will discuss another alleged retaliation shooting, namely the August 5, 2009 homicide of Jamie Norton.

Based upon Friday's conversation, as well as several other conversations and electronic communications from last week, I further understand that the theme of this story is that the Erie County District Attorney's Office in general, and myself in particular, bear responsibility for these tragedies because of my prosecution policies. Specifically, police sources to whom who are granting the cloak of anonymity, have characterized me as a "cherry picker" that will not authorize a criminal prosecution unless the case is a "slam dunk." Somehow, my alleged reluctance to prosecute non-perfect cases (which I adamantly deny) has resulted in two shootings.

In addition to my previous emails, I am again happy to discuss the following upon the record, although I wish to emphasize that this story is smoke and mirrors and that, like the earlier story about supposed selective prosecution, does not deserve the credibility you and your newspaper are giving it. With that in mind, please be advised of the following.

Both Yasmine and Tara Hall were witnesses in the prosecution of Brionna Massey. These are the essential facts of that case: on June 23, 2011, in the vicinity of Genesee and May, Massey attacked Yasmine Hall with a box cutter, causing serious physical injury to her. The assault was witnessed by Tara Hall, the mother of Yasmine Hall.

The investigation, undertaken by the Buffalo Police Department, revealed little other than the eyewitness accounts of the victim and her mother. No other witnesses were questioned, no surveillance video was seized, no physical evidence was recovered, no forensic evidence was recovered, and no effort was made to question the defendant.

Perhaps the foregoing provides a little context for why your sources prefer anonymity.

Despite the lack of investigation, we did not hesitate to prosecute the case. I authorized an indictment for Assault in the 1st Degree and ADA Glascott tried the case. Our proof principally consisted of the eyewitness testimony of Yasmine Hall, as corroborated by the eyewitness testimony of Tara Hall. Brionna Massey was convicted Assault in the 1st Degree (as charged) and sentenced to fifteen years in state prison.

The Massey case was not a “slam dunk.” Although we did not have overwhelming evidence of guilt, we had in my opinion, sufficient evidence to go forward, to wit: the credible testimony of a cooperative victim who was able to identify her assailant, coupled with the credible testimony of a corroborating eyewitness. By his skillful trial advocacy, ADA Glascott confirmed the soundness of that judgment and achieved justice behalf of the Hall family.

The arrest of Christopher Pratt for a so-called “drive-by” shooting is a vastly different case.

On May 21, 2012, Linton Whitehead was shot once in the buttocks while standing outside a store at Genesee and May in the city of Buffalo. Yasmine Hall was once again present. She cooperated with the police and selected Christopher Pratt from a photo-array shown to her by the police. The police then arrested Christopher Pratt and charged him for Attempted Murder for shooting Lincoln Whitehead in the buttocks (he was treated and released from ECMC the night of the shooting).

There are similarities between the Brionna Massey stabbing case and the Christopher Pratt shooting case. Both occurred at Genesee and May in the city of Buffalo. In neither case did the police recover any physical evidence that linked the suspect to the crime. In neither case did the police recover any forensic evidence that could link the suspect to the crime. The police did not interrogate either suspect. In neither case did the police make an effort contact an Assistant District Attorney to discuss the evidence (or lack thereof), whether additional investigation should be done before an arrest, whether an arrest was appropriate, or whether charging Attempted Murder was appropriate.

There are also dissimilarities between the two cases. In contrast to the close and personal encounter she had with Brionna Massey, Yasmine Hall had only a brief opportunity to view the shooter fire from a speeding vehicle. In contrast to the corroboration provided by another eyewitness who identified Brionna Massey as the stabber, neither the victim (Linton Whitehead) nor the security guard (an off-duty Buffalo police officer) would or could identify Christopher Pratt as the shooter.

As you know, neither the victim (Linton Whitehead) nor the identifying witness (Yasmine Hall) appeared in court, causing the presiding judge to dismiss the case against Christopher Pratt. Their non-appearance and non-cooperation might best be explained by the Lincoln Whitehead’s disinterest in going forward (please note that he is under indictment for a violent felony offense) and Yasmine Hall’s reluctance to testify.

Despite these challenges and the lack of corroborating evidence, ADA Glascott diligently worked on the case in an effort to make it prosecutable. He had several conferences with the investigating officers, asking them to perform follow-up investigation tasks. No additional evidence was unearthed.

ADA Glascott and Senior Victim Witness Aide Sharon Simon also met with Yasmine Hall in an effort to persuade her to testify were we to obtain additional evidence.

ADA Glascott and Ms. Simon met with Yasmine Hall at the Erie County District Attorney's Office on August 2, 2012. A woman who identified herself as Yasmine's grandmother was also present. Tara Hall (who was known to Glascott from the Brionna Massey stabbing case) was not present. I believe this is significant because, according to you, Tara Hall claimed she requested witness protection but was denied the same at a recent meeting in the District Attorney's Office.

Yasmine's grandmother claimed that Yasmine was being threatened and that "word on the street" was that Yasmine would be the target of retaliation were she to testify. Neither Yasmine nor her grandmother, however, could tell us who made the threats, when they were made, where they were made, or their nature (i.e. what was said). Yasmine's grandmother did, however, accuse ADA Glascott and Ms. Simon of non-empathy because they reside in the suburbs.

Neither Yasmine Hall nor her grandmother made any request for witness protection or relocation. Tara Hall could not have asked for witness protection or relocation at the meeting because she did not attend the meeting. No other requests--whether in the form of a telephone call, a letter, or an electronic communication--were made for witness protection or relocation.

When I interviewed ADA Glascott and Ms. Simon, I asked whether our office ever provided any information to the shooting suspect (Christopher Pratt) or his attorney (Franklin Pratcher) that revealed either the name or address of Yasmine Hall or Tara Hall. We did not reveal that information to anyone.

ADA Glascott did, however, inform me that the Buffalo City Court paperwork (a copy of which is provided to us, the court, and to the defendant), in addition to the usual documents (e.g. the accusatory instrument, defendant's criminal history, etc.), included a copy of Yasmine Hall's statement, which in turn, contained her address. I find this troubling because we have advised police agencies not to attach witness statements to court paperwork.

I trust the Buffalo Police Department is investigating the October 31, 2012 shooting of Tara Hall. Although I do not usually comment upon ongoing investigations, I can inform you that no police agency has provided us with any information, let alone credible evidence, concerning the shooting of Tara Hall. Specifically, we have not been provided with any information, let alone credible and admissible evidence, that tends to establish that Tara Hall was shot in retaliation for her Yasmine Hall's cooperation in the Christopher Pratt matter.

The fatal shooting of Jamie Norton occurred in August of 2009. Although I am not permitted to comment upon grand jury testimony in the absence of a court order (to do so is a felony pursuant to Penal Law 215.70), I have never disputed reports published in the Buffalo News that Ms. Norton was shot soon after giving grand jury testimony in a homicide case. I have, however, questioned the theory that Ms. Norton's homicide was in retaliation for her grand jury testimony.

Unlike a public trial, the grand jury is a secret proceeding; no one, other than those who Ms. Norton might have told, could have known of her testimony. Moreover, according to the sworn statements of the eyewitnesses, Ms. Norton's shooting (as well as the shooting of others) was the product of a botched robbery attempt.

We have not been advised of any credible evidence (as opposed to theory, suspicion, and claims) that Ms. Norton was murdered because she testified. Indeed, Ms. Norton never requested witness protection or relocation, and in discussing her living arrangements with ADA assigned to the case, assured us that she would remain far away from the neighborhood where she met she demise.

The senseless and tragic shootings of Tara Hall and Jamie Norton are serious crimes. We will certainly prosecute the perpetrators once the police investigation provides us with sufficient credible and admissible evidence that proves who

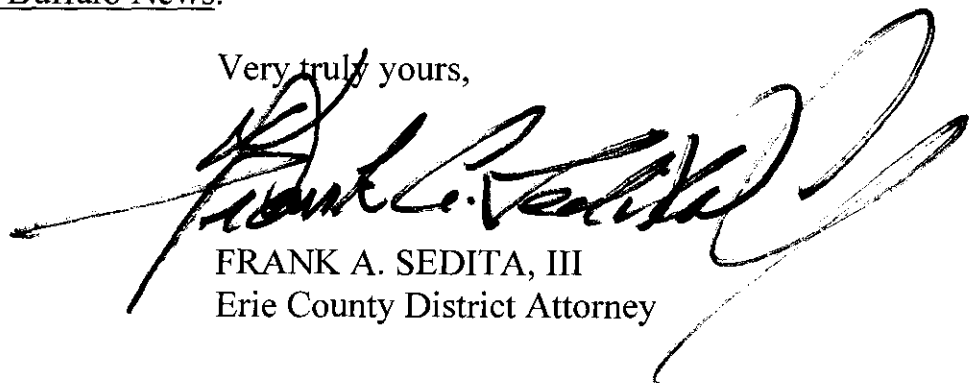
committed these crimes. To date, the police agency responsible for investigating these crimes has provided us with no evidence, credible or otherwise, that would prove who committed these crimes or why they were committed.

We do not make important prosecution decisions on the basis of rumor, suspicion, or theory. We examine whether there is enough credible and admissible evidence to support criminal charges before we bring them. To prosecute someone for a crime without sufficient credible evidence is, in my view, reckless, unfair and unethical. To do so would also run contrary to the most fundamental rules of law.

We do not live in a police state, where the authorities make an accusation (anonymous or otherwise) against a citizen and the citizen is expected to prove his innocence. In an enlightened society, and more specifically under the laws of the state of New York, once the police make an accusation, it is up to a prosecutor to prove the defendant's guilt beyond a reasonable doubt, in an open courtroom, where witnesses are subject to questioning from the accused.

I understand that the newspaper business is different than the prosecution business and that the standards for publication differ from the standards for prosecution. Despite those differences, I hold out hope that unsubstantiated claims and theories, especially when made by anonymous sources, are considered neither trustworthy nor newsworthy by The Buffalo News.

Very truly yours,

A large, stylized handwritten signature in black ink, which appears to read "Frank A. Sedita, III". The signature is written over the typed name and title.

FRANK A. SEDITA, III
Erie County District Attorney

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