

ACLU investigative
journalist
Curt Guyette
exposed the
Flint, Mich.,
water crisis

MISLEAD

BY AMY ROE
CONTRIBUTING WRITER

The American Civil Liberties Union of Michigan hired veteran investigative reporter Curt Guyette to document the impact of the state's controversial emergency manager law. The law takes away the power of locally elected officials and allows a state appointee to take complete control of financially troubled school districts and cities. The ACLU considers it the most extreme law of its type in the United States.

But in the course of reporting on the law, Guyette identified one of its most egregious outcomes: the story of how Flint residents ended up paying top dollar for toxic water that poisoned them and their children.

His reporting on the situation turned him into a national figure and earned him Journalist of the Year honors from the Michigan Press Association in January.

Amy Roe: What brought you to Flint?

Curt Guyette: Flint was under the control of an emergency manager who unilaterally made the decision to leave the Detroit regional water system and begin using the Flint River as the water source for a city of 100,000 people, with the stated intent of saving \$5 million over two years. The switch to the river was made in April of 2014, and as soon as the switch occurred, people began complaining about the quality of the water. It looked bad, smelled bad, tasted bad. People began getting sick, their hair starting falling out in clumps, they started getting these strange rashes that doctors didn't know how to treat. There was a problem with E. coli. To address the E. coli problem, they upped chlorine levels. Increased use of chlorine led to the creation of carcinogenic total trihalomethane (TTHM), a byproduct of chlorine. And the TTHM problem existed for months before the public was told about it.

A.R.: What is Michigan's emergency manager law?

C.G.: Most, if not all states, have some sort of law to address issues of cities, school districts, counties falling into

financial distress. Michigan had a law that was pretty moderate. They used to be called emergency financial managers. There was an EFM over Detroit public schools; this EFM tried to extend their authority to issues involving curriculum. The school board sued, said the EFM was overstepping its bounds, and won. In reaction to that, the governor and the Republican legislature passed a new, much more extensive law that really granted unchecked authority to what were then termed emergency managers.

A.R.: I imagine there was opposition to this law?

C.G.: A grassroots effort throughout the state — a reaction to how sweeping this law was, to how antidemocratic the law was — put the issue on a referendum, and voters went to the polls and overwhelmingly rejected the law. The reaction of the state was to have the Legislature, during a lame-duck session, pass a new law that was very similar to the one that had just been rejected by voters. Under Michigan law, if an appropriation is attached to a bill, it's not subject to a referendum. So they took a law — that was at heart antidemocratic, that had been rejected by voters because it is antidemocratic — and passed a new law that they made referendum-proof.

A.R.: So they just put some random appropriation on it?

C.G.: Yes, with the intent to make sure that it could not be rejected by the state. That strategy was mapped out in the governor's office. As soon as they (grassroots opposition) started gathering petition signatures, that's what (the governor's office) started to do.

A.R.: Can you talk about the role that grassroots organizing has played in Flint?

C.G.: Citizen action was the only recourse available to (Flint residents). The emergency managers were imposed on them. Their elected mayor and city council were effectively rendered powerless. In March of 2015, the City Council of Flint overwhelmingly voted to return to the Detroit water system, and the emergency manager overruled them, saying they could not afford to return to the Detroit system and there was no need to return to the Detroit system because the (Flint) water was perfectly fine. So, shut up and drink it. But people refused to shut up and drink it. They refused to accept the lie that their water was safe.

A.R.: When independent testing revealed the water was massively contaminated, rather than try to fix the problem, state officials

denied there was a problem and attacked those who were attempting to point it out. How did the emergency manager law play into this?

C.G.: One of the flaws of the emergency manager law is that there aren't any of the traditional checks and balances that help make democracy work. You had the appointed emergency manager make this disastrous decision to use the Flint River, and then the Michigan Department of Environmental Quality, which is supposed to oversee and ensure that cities are properly conducting their water tests, under the control of another appointee of the governor, helped to try and cover up the truth. At one point, when they were doing the lead tests, the MDEQ sent an email to the city of Flint saying we've been analyzing your tests so far and there are a number of samples that have come back over the action level; you better hope that no more tests are over the limit, or else the city overall is going to be out of compliance. After receiving that warning, all of the subsequent tests came back under the action level, 30 tests in a row, under the action level. According to Marc Edwards, one of the pre-eminent water specialists in the United States, statistically, the odds of that happening, if the tests are legitimate, is almost zero.

A.R.: Can you explain how this is a racial justice and economic justice issue?

C.G.: The way that the emergency manager law has been applied in Michigan, the cities and school districts that have been taken over by the state have been almost exclusively places with African-American majority populations and high rates of poverty. So they are taking over cities and school districts that are poor and black.

Initially, on the face of it, it takes away democracy. At one point, more than half of the African-Americans living in Michigan had had their democracy taken away from them. Unfortunately, Flint is the starkest example of how terribly wrong things can go when you deprive people of their democracy. They got poisoned. The whole town got poisoned. Because democracy was replaced by an austerity-driven autocracy. With all the vast unchecked powers that these emergency managers have, the law specifies one thing that they cannot do, which is miss a bond payment. So, the banks get paid at all costs, even if it means poisoning a town's water supply.

A.R.: One thing that surprised me is that Flint residents were actually paying a lot for their water. How did this happen?

C.G.: It happened because Flint used to

have 200,000 people. A very strong industrial tax base, because it was the birthplace of General Motors. Because of the decline of the auto industry, that tax base was greatly eroded, and it lost half of its population. But you still have the same amount of aging, deteriorating infrastructure that needs to be maintained. Since the 1970s, the federal government has cut back by about 75 percent the amount of money it allocates to support replacing and maintaining infrastructure, so the burden falls on ratepayers. That's a big part of it. Also, Flint loses an incredible amount of water to water main breaks. So they're paying to treat the water, and they're paying to treat the water as sewage without even getting to actually use it. It's just wasted. They are paying some of the highest water rates in the nation: \$150 a month average for a family of four. For water that's still not safe to use.

A.R.: Now we're seeing investigations that show other cities may have been able to cheat on their water tests. How widespread might this be?

C.G.: There's very high motivation to cheat on these water tests because if it's determined that lead levels exceed the federal action level, then they have to start replacing these lead service lines, and that's a tremendous expense. It averages \$3,000 to \$4,000 a line.

A.R.: In Oregon and Washington, there have been news reports of lead contamination found in schools and elsewhere. What do you tell people who are concerned about their water safety?

C.G.: You can test the water yourself. And really, there's no safe level of lead. Especially if you have younger children or are pregnant, absolutely you don't want there to be any lead in your water. It's very tough for low-income people. Personally, I've been buying filtered water since my kids were born, in the 1980s, just out of concern. But not everybody can afford that. You almost have to, because the costs are so great. What lead does to kids, at even very low levels, it causes lower IQs, behavioral problems, learning disabilities. In communities of color especially, those are the kids that end up in the school-to-

prison pipeline. All moral and ethical issues aside, the costs to society are tremendous.

A.R.: A number of nonprofits like the ACLU are funding investigative journalists now. Do you think the concept of who is or is not a journalist is changing?

C.G.: There's a lot of great work being done by nonprofit organizations, ProPublica, Mother Jones magazine, but they're set up to be journalistic operations. What I'm doing is a step beyond that in that the ACLU is proudly an advocacy organization. But that the bottom line is still the same. If you are calling yourself a journalist, then credibility is paramount. You have to play it straight. In some ways, you have to be even more diligent in terms of ensuring accuracy and fairness, because you are going to be under heightened scrutiny.

A.R.: What's next for the people of Flint?

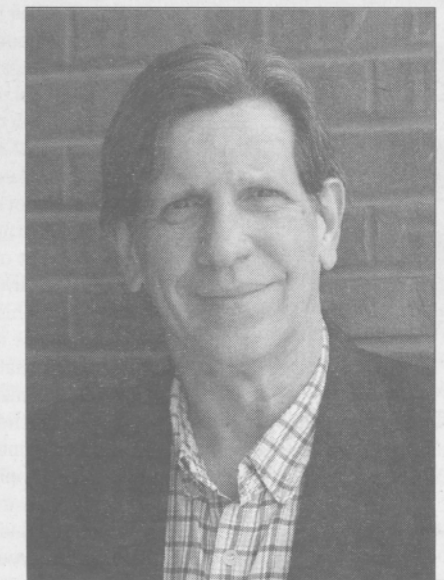
C.G.: There are class action lawsuits, there are individual lawsuits, and there is relentless struggle. There are health problems. There are the problems with the kids who have been affected by lead contamination. But there are also things like property values. Try selling a house in Flint. Who wants to buy a house in a city that has a poisoned water supply? The plumbing in their houses has been wrecked. What do you do if you are living in a house worth \$10,000, but it would cost \$20,000 to replace the plumbing?

A.R.: It reminds me of Hurricane Katrina, except this is an entirely man-made disaster.

C.G.: It's a totally avoidable man-made disaster. It just goes to show how short-sighted austerity can be. That \$5 million they said they were going to save by using the river for two years is going to be a rounding error. It's almost impossible to calculate all the costs associated with this. There is no dollar value on taking away a child's IQ points.

Amy Roe is the senior writer for the ACLU of Washington.

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ACLU REPORTER

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