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## Margie Grafton, Tim Palomo, Grant Self and John Stoll:

These Kern County residents were accused of having formed a "sex-ring" to sexually molest boys over an interval of several months in the mid-1980's. John Stoll had rented his poolhouse at the back of his house to Grant Self, a homeless man. Unknown to Stoll, Self was a convicted child molester. John had recently been divorced after a long and bitter custody fight. His wife is reported to have spent time in a psychiatric institution and is alleged to have had difficulty separating reality from fantasy. In 1984, Stoll's ex-wife and a pastor that she was dating filed a complaint against him for allegedly abusing their son. An unrelated charge was made against Grant Self. Margie Grafton and her boyfriend Tim Palomo were also charged. They had often visited Stoll to enjoy his swimming pool. The prosecutors may have concluded that the four defendants might be involved in a sex-ring, because they all had apartments in the same property.

Children were interviewed and asked repeated, direct, leading and suggestive questions by Deputy Erickson. He did not follow the California Commission's "*Peace Officers Standards and Training*" manual on interview methods. He said that he had never heard of the POST manual; he had never taken the training courses recommended in the document. Recent research shows that the types of questioning used by Erikson will often cause the children to disclose details about events that never happened. <sup>2</sup> Unfortunately, these findings were not available to the Kern County officials at the time.

John Stoll was charged with 70 felony crimes; the other three defendants were charged with fewer. Their trial in the *Kern County Superior Court* started on 1984-SEP-24. Four children gave testimony. Child "A" answered that he didn't know or didn't remember to almost all of the questions raised by the defense attorneys. Child "V" admitted during questioning by a defense attorney that it is OK to lie, that it is OK to make mistakes while testifying. He said that he did not know what the oath was. At one point, he denied that any sodomy had occurred. In violation of court orders, he spoke to his mother and to a prosecutor overnight. The next day, he "*recalled*" acts of sodomy. One of the children testified that he had been in the Stoll house five times. Actually, he had never been inside. Under cross-examination, he was unable to describe a single item in the house.

There was no physical evidence to support the charges. The children rarely agreed on the details of various alleged molestations (e.g. time, place, adults present, children present). Some of the acts that the children testified about were physically impossible to commit. The defense attorneys asked that the children be medically examined. The court denied their request. No medical

examinations were ever performed on any of the boys. This was indeed unfortunate, because anal rape of a small child by an adult will cause obvious wounds that are easily detectable. A medical exam might well have proven that no sodomy actually occurred. The prosecution made many references to kiddie-porn -- photographs taken of the sexual molestations. As in other MVMO cases, no such photographs were ever found and introduced into evidence. The prosecution produced at court numerous erotic magazines such as Playboy and Penthouse. Some were found in rooms not rented by the defendants. This probably had the effect of prejudicing the jury. In fact, the magazines could have been used as an indicator that the defendants were **not** pedophiles. If an adult male enjoys "girlie magazines" they are probably sexually attracted to adult women; this would make it more probable that they were not attracted to little boys.

The defense attorneys were not allowed to present the POST manual as evidence. They had hoped to demonstrate the flawed nature of the child interview techniques. Stoll's defense was poorly prepared; his lawyer only had 24 days to assemble the defense; he was unable to locate two defense witnesses and to obtain copies of some records in time for the trial. The judge denied the lawyer's request for a delay in the trial. During the trial, John Stoll ran out of money. His lawyer repeatedly asked to be relieved of the case; these requests were denied. Dr. Roger Mitchell, a clinical psychologist, had conducted psychological tests on Graton and Palomo. He would have been able to give expert testimony on whether these defendants were sexual psychopaths, but his testimony was not allowed.

Following the trial two children, "J" and "C," admitted in public statements that they had lied during the preliminary hearing and the trial.

*"As early as 1986, a yearlong investigation of the Kern County cases was done by the California Attorney General's Office. The investigation concluded that local authorities had used 'suggestive' questioning that led children to give answers that they wanted. At that time, the 'attorney general said there was both a shortage of corroborating evidence and that some alleged victims were simply parroting what they were told in questioning or what they heard other children say'."* 15

All four defendants were convicted and received long sentences. Margie Grafton and her boyfriend Tim Palomo had their convictions overturned after eight years in jail by a *California Appellate Court*. The basis for dismissal was that a psychiatric profile which suggested that she was innocent was kept from the jury. They have not been retried. If they were retried at this time, the result would undoubtedly be an acquittal. The children's testimony could be easily shown to be suspect; there is no hard evidence to show that they are guilty, and no hard evidence to show that abuse actually occurred. Grant Self and John Stoll continued to rot in prison. 6,7

By 2004-MAR, Grant Self had been released from prison and is now "*...in a state hospital for mentally ill offenders. He can be kept there until authorities decide he is not a danger to others.*" <sup>16</sup> John Stoll remained incarcerated until 2004-MAY.

<http://scocal.stanford.edu/opinion/people-v-stoll-30875>

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Wrongly convicted face uphill battle to obtain compensation

BY MARIE C. BACA, California Watch

Jeffrey Rodriguez was in line at the Department of Motor Vehicles when he was identified as the man who robbed an employee at an auto-parts store the night before. He spent more than five years in a Santa Clara County jail before being released in February 2007 -- declared factually innocent of the crime, his arrest and conviction expunged from the record.

Related Info

THE LOCAL ANGLE

Local people have had different experiences with the Victim Compensation and Government Claims Board.

JOHN STOLL

The state paid John Stoll \$704,400 in 2006, after his 1985 convictions in Bakersfield on charges he molested six boys were overturned.

Stoll was one of 46 people charged in eight alleged child molestation rings in Kern County in the 1980s. Kern County Superior Court reversed his convictions in 2004, saying authorities used improper interview techniques to procure testimony against him, making it unreliable.

A hearing officer recommended paying Stoll's claim, saying a preponderance of the evidence showed Stoll did not commit the crimes he was charged with or contribute to the bringing of his arrest or conviction, reports show. The attorney general's office supported Stoll's claim.

BRUCE SONS

Bruce Sons of Bakersfield, whose 1995 conviction of first-degree murder in the death of CHP Officer Richard Maxwell was vacated eight years later, was denied his claim for \$132,500.

A July 2008 hearing officer report recommended rejection because Sons failed to prove by a preponderance of the evidence that he did not commit the crime for which he was incarcerated or contribute to being arrested or convicted.

Sons also didn't appear at the hearing on his claim -- a "significant" detail -- or produce any witnesses supporting his claim, the report states.

Sons' original conviction was overturned because the prosecutor withheld key evidence about Maxwell's propensity toward violence. Sons was retried three times. At the fourth trial, in 2006, he was acquitted of first- and second-degree murder but convicted of voluntary manslaughter. He was sentenced to time served and released from custody.

GRANT SELF

Grant Self was denied compensation late last year, after Kern County Superior Court reversed his 1985 molestation convictions in 2008 based on what it considered the unreliable testimony of the alleged victims due to improper law enforcement interviewing techniques.

The attorney general's office argued against Self's claim, in part saying his case was different than Stoll's because Self had a history of sexually abusing children, the allegations in the 1985 case were similar to past ones against him and Self has "shown a pattern of lying and deception" since the mid-1970s. (Grant pled guilty to contributing to the delinquency of a minor in 1976 and to one count of lewd and lascivious acts against a child in 1979).

Grant argued, among other things, that the same interview techniques from the Stoll case were used in his; the victim's testimony was inconsistent; Self's prior convictions were irrelevant; and that he passed polygraph examinations.

Grant was denied compensation on the grounds he failed to prove by a preponderance of the evidence he did not commit the crimes with which he was charged, a hearing officer report says.

-- The Californian and California Watch

But when Rodriguez, now 32, applied for compensation from a state fund for the wrongly convicted -- \$138,100 in his case -- a three-person state panel denied his request. As he soon found out, there are degrees of innocence in California.

Rodriguez is one of 44 Californians released from prison since 2000 who have been denied money after a hearing before the state's victim compensation board, which can award \$100 a day for each day spent behind bars after a wrongful conviction.

Out of the 132 people who have filed claims during that timeframe, 11 former inmates have been awarded compensation, with payments ranging from \$17,200 to \$756,900, for a total cost to taxpayers of more than \$3 million.

Fourteen former inmates are awaiting a hearing. Those who received compensation typically relied heavily on DNA evidence, which may not be as readily available to inmates who lack legal resources.

"The whole process is a mess," said Jeff Chinn, assistant director of the California Innocence Project, a nonprofit legal clinic based out of the California Western School of Law in San Diego, which frequently handles compensation claims on behalf of the wrongfully convicted. "Our clients are asked to prove things far beyond what is reasonable."

The Victim Compensation and Government Claims Board, a three-person state administrative body, must approve compensation claims before they are sent to the state Legislature for a final vote. Officials for the board said they analyze each case fairly and permit evidence that typically would not be considered in a criminal or civil trial, such as hearsay.

"We create a high barrier for people to cross, but it's no more complicated than the other government claim processes," board member Bill Leonard said. "I don't believe these claimants are at more of a disadvantage than, say, victims of violent crimes seeking compensation."

But advocacy groups that work with the wrongfully convicted said the board sets requirements that are nearly impossible to meet and implements them inconsistently. Chinn said the process is so subjective that "basically no one knows what it takes to be successful."

California is one of 27 states, along with the District of Columbia, that pay compensation to victims of wrongful conviction.

More than 200 people in California have been wrongfully convicted of crimes since 1989, according to an American Civil Liberties Union estimate. Innocence advocates note that the vast majority of the exonerated face a life of poverty once they are released because they can't find a job after living years behind bars.

Under state law, claimants must prove three points to receive compensation: that they did not commit the crime or that the crime did not take place; that they did not intentionally contribute to their own arrest by "voluntarily" or "knowingly" pleading guilty to the crime; and that they experienced financial losses as a result of their incarceration.

#### VICTIM'S DESCRIPTION CHANGES

When Rodriguez emerged from prison in 2007, he was a shadow. He'd lost so much weight that his family barely recognized him, and it took months before he could look at a police car and not feel dread. He gorged on junk food.

Never mind that junk food had inadvertently helped lead to Rodriguez's conviction. During the investigation, a stain on his pants was identified as motor oil from the auto shop he'd allegedly robbed. Rodriguez's lawyers had the pants retested after his conviction, and the stain, it turned out, was probably residue from fried chicken that Rodriguez had eaten the night before his arrest.

But in Rodriguez's case, a ruling of factual innocence from a Santa Clara County Superior Court judge was insufficient for the board to rule in his favor.

A July 2009 report by hearing officer Dorothy Y. Le suggested that the decision was made in part because the victim of the robbery still believed Rodriguez was guilty.

But the victim's description of the robber had changed significantly from the day of the crime to Rodriguez's eventual conviction. He was first described as clean-shaven, then not. He went from wearing a hooded sweatshirt to wearing a leather jacket.

The confusion was significant enough that a jury voted 11-1 in favor of Rodriguez's acquittal. Prosecutors nevertheless retried the case. Rodriguez's attorney scaled back his defense when the family ran out of money, and the second jury voted for conviction.

In 2009, Santa Clara County settled with Rodriguez for \$1 million in response to a lawsuit that alleged prosecutorial misconduct, among other things. Rodriguez used some of the money to buy a home in Los Banos, where he now lives with his girlfriend and their young son.

Although the \$1 million payment may lessen sympathy for Rodriguez, the Santa Clara lawsuit was focused on punishing county prosecutors for alleged errors during the trial. Rodriguez still had a right to seek compensation from the state for his wrongful imprisonment.

He says he tries not to think too much about the time he spent in prison, or about his older son, whom he no longer sees because the boy's mother left him and remarried.

"I lost five years of my life," he said. "There's nothing that will ever make up for that."

#### DOES RACE PLAY A ROLE?

In the case of Kevin Baruxes, a now-32-year-old with an Aryan symbol tattooed on his head, evidence that the woman he was convicted of raping was a habitual liar and was "90 percent sure" that he wasn't her attacker was enough to win his release from prison and his compensation claim.

The board recommended that Baruxes, whose case also was represented by the California Innocence Project, be awarded \$258,700 for serving 7.5 years in prison.

But for John J. Tennison and Antoine Goff, two African-Americans who spent 13 years

each in prison after a 1989 gang killing in San Francisco, a ruling of factual innocence and a finding that the prosecution had failed to disclose critical evidence wasn't enough to sway the compensation board.

The judge who reversed Tennison and Goff's conviction (and called them "innocent men" in a news conference) had ruled that the prosecution did not disclose a secret payment fund for witnesses to the murder. Prosecutors also failed to mention that another man had given a taped confession to police. And they didn't disclose the results of a polygraph examination given to one of the witnesses after she recanted -- or that two eyewitnesses had contradicted two young girls who testified.

But the compensation board's report refers to the confessed perpetrator as the "purported admitted murderer" and states that the confession doesn't necessarily mean that Tennison and Goff were innocent. The board voted against compensation.

"After all I went through, I thought getting the \$100 a day would just be a matter of procedure," Goff said. "But when they denied me, it brought me back to reality. "

In all cases, the compensation board's final decision rests in the hands of its three board members. But the claim undergoes a review process by staff members before the board considers the case. Since 2000, the board's staff has rejected 47 cases without recommending a full hearing.

Although the individuals whose claims went to a hearing were about evenly divided between those who were white and those who were black or Latino, white claimants were more likely to win the approval of the board. Of the 10 individuals whom the board has approved for compensation, seven are white and three are black or Latino.

Linda Starr, legal director of the Northern California Innocence Project, which assisted Rodriguez with his exoneration and compensation claim, said marginalized communities often have less access to legal resources, which could account for the discrepancy.

"It's unlikely that this is a case of, 'This person is this color, so I'm going to deny them,'" she said. "But, 'This person is this color, and for some reason, I don't believe what they say,' is always an issue in our legal system."

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