



TRUTH & JUSTICE

Jeff Deskovic

Frank Sterling Is Exonerated **Part 1**

On Feb 28th, 2008, I wrote an article in *The Guardian* about my friend, Frank Sterling, who had been wrongfully convicted in Rochester for a murder he did not commit. I am overjoyed to announce that, on April 28th, 2010, Sterling was exonerated after serving nineteen years in prison. DNA proved his innocence. He was represented by Rochester attorney, Donald Thompson, who was assisted by The Innocence Project.

In 1991, Sterling was convicted of murdering seventy-four year old Viola Manville. Sterling's brother went to prison after he attempted to rape Manville a few years earlier. When her murdered body was discovered, Sterling's brother told other prisoners Frank killed her in revenge for sending the brother to prison. Police heard these rumors and focused on Frank.

The police interrogated Sterling for nearly twelve hours after he was already tired and worn down from driving a truck the previous thirty-six hours. Eventually, police had him hypnotized and obtained a false confession.

The police preserved only the last twenty minutes of a videotape of this false confession which his defense attorney showed the jury. On the tape, it is obvious Sterling was not in a normal state of mind. For example, the police fed him information which he then regurgitated immediately afterward; he very rarely ever said anything on his own; when investigators asked him questions, he would respond "yes" but not elaborate; at still other times, he did not know



Conference following Sterling exoneration (from left to right) Innocence Project co-founder, Peter Neufeld, Frank Sterling, Innocence Project staff attorney Vanessa Potkin, and attorney Donald Thompson

the answers to obvious questions, such as whether any of the victim's blood got on his clothes, what clothes he was wearing, whether he still had the BB gun used as a weapon in the crime; etc.

Police said Manville's murder happened in the morning. Once they learned Sterling had an alibi for the morning -- he was at home watching cartoons -- they changed the time frame of the murder and said Manville was killed in the afternoon.

All these factors, in isolation, and certainly when viewed collectively, should have sent up plenty of red flags to the trial judge.

Prior to sentencing, Sterling's attorney presented evidence that an alternate suspect, Mark Christie, had confessed to four different people he committed the murder. Prosecutors dismissed his statements as boasting and the judge agreed.

Six years later, Christie was convicted of killing four year old Kali Ann Poulton. Sterling went back to court and asked the judge to reconsider Christie's previously discounted statements. The court denied his request.

Sterling unsuccessfully appealed his case several times. He also made numerous attempts to have evidence

tested for DNA. The Monroe County District Attorney's office opposed his requests.

Eventually, after prolonged haggling over which items would be tested, the prosecutor's office relented. Eleven items of evidence were tested. The DNA results excluded Sterling. Two "touch DNA" tests revealed DNA which matched Christie who then gave a detailed confession to a defense investigator, and repeated his confession to the District Attorney's office.

As a result, the District Attorney agreed that Sterling's conviction should be overturned and his indictment dismissed.

This case presents several important lessons.

First, it is bizarre and incredible police would have a suspect hypnotized and then interrogated. It boggles the mind to think a prosecutor would build a case on such evidence, a trial judge would allow it, a jury would convict on it, and an appellate court would uphold that conviction.

Second, it makes no sense the prosecutor tried to block Sterling's efforts to have evidence tested for DNA. The prosecutor has nothing to lose: either DNA would prove Sterling was the perpetrator or that they locked up the wrong man. Likewise, it makes no sense the courts sided with prosecutors in resisting DNA tests. As a result, Sterling spent nineteen years in prison needlessly.

Continued on page 21

Frank Sterling Is Exonerated

Continued from page 8

Third, it makes no sense the trial judge denied Sterling's motion for a new trial before he was sentenced in view of Christie's confessions to four different people it was he who murdered Manville. Surely that confession might raise a reasonable doubt in the collective mind of a new jury.

Fourth, each time an innocent man is convicted, the real perpetrator is free to strike again, which is what happened in this case. Had the police done their job properly, Kali Ann Poulton would be alive today. I wonder if her family is aware of this.

Fifth, the Monroe County District Attorney has an abysmal record. That office wrongfully convicted Betty Tyson, John Duval, Douglas Warney, Freddie Peacock, and now Frank Sterling. All were convicted based on coerced, false confessions. Hence, it is plain to see all convictions from that office should be

reviewed by an outside agency to determine if other wrongful convictions are lurking in Monroe County.

Sixth, DNA evidence has overturned twenty-six wrongful convictions in New York. It is imperative all interrogations be videotaped from beginning to end, with the camera focused on both the interrogators and the suspect. Sterling's interrogation lasted eleven hours and forty minutes. Yet, police taped only the final twenty minutes.

Videotapes prevent police from omitting details in their testimony about confessions, and help prevent wrongful convictions. Videotapes also protect honest police officers from false allegations of coercion.

The New York State Legislature still has not passed this reform. Nor have most states. This is a systematic defect in our criminal justice system which must be remedied without delay.