

Baumgartner, POLI 195 Spring 2013

The State Bureau of Investigation
Scandal

Reading: Raleigh N&O series from
August 2010

March 29, 2013

Before we start

- Feedback, comments on Greg Taylor
 - (His case was key to the crisis at the SBI we are discussing this week)
- Current events: Sen Goolsby's proposal to eliminate the RJA and speed up executions (link on class web page)
- Speaker on Wed, LaMonte Armstrong and his attorney Theresa Newman (read articles and video from class web page)

SBI Catastrophe

- Timing: N&O series appears in August 2010
- Investigative reporting, not an official investigation
- No one defends the SBI
- Calls for reform are immediate
- One more nail in the coffin for the idea of confidence in the system.
- But what should happen to all the cases that may have been affected

Michael Deaver, Blood-spatter expert

- Judge's order in famous murder case against a doctor: He gave "materially false" and "intentionally misleading" evidence.
- N&O lists 230 other inmates in prison linked to testimony by this agent. Many guilty ones may go free.
- Perjury by the forensic expert in a case with no other evidence, no eyewitnesses.
- Peterson is free from jail.
- But DA has not prosecuted Deaver for perjury.

The “Best and the Brightest”

- SBI says it will train all agents and have them pass the highest certification exams available in their respective fields.
- Ooops, 25 agents fail the tests, but continue to work. This can't be disclosed because these are “confidential personnel matters.”

Report only positive tests, not negatives

- Greg Taylor case:
- Was that spot of blood on his truck the victim's blood?
- Test it x times:
 - Human blood?
 - Consistent with the victim?
 - DNA match?
 - Or no match?
- OK to report that it was “consistent” even if later tests reveal that it is not, in fact, the victim's.
- No need to report the false test.
- 229 cases from 1987 to 2003 with such possibilities

Agent Mark Isley

- Fabricated evidence
- Planted evidence
- Coerced confessions

- Floyd Brown, with mental capacity of a 7 year old, was in jail for 14 years based on a long written confession. But Brown can't write.

What if your case was affected?

- Bill Dillon's experience:
 - Dog handler evidence is discredited
 - Florida conducts no review
 - Arizona re-tries everyone in all cases where this person testified
 - Not clear, certainly not automatic that reviews will occur.
 - Get a good attorney!

How deep does this crisis go?

- Basic culture:
- SBI has worked as part of the prosecution
- Difficult to design a system otherwise.
- After all, the defense can't send things to the lab for analysis. Only the prosecution deals with them.

Adversarial Justice

- Magistrate system: an investigative judge does the investigation
- Our system: a fight among equals.
- But they have to be equal, otherwise one side walks all over the other.
- A real crisis of confidence in 2010.
- Note the role of journalism in all this. Not from any internal investigation by the Attorney General's office.

The ironies of this week's news

- Goolsby bill advances and will probably be law before a month is out. (Will pass the Senate tomorrow, most likely)
- Delaware, state #3 in executions per capita, passes abolition through the house yesterday.
- Sledge case (attorney Chris Mumma) in paper yesterday because of snitch testimony being recanted. Prosecution fed details, offered reward, said witness was a suspect in the same murder and could be charged if did not cooperate.

Is Capital Punishment coming back in NC?

- Bill certainly calls for it to come back
- Public opinion supportive in the abstract.
- But not in these conditions:
 - LWOP and work for restitution: 68% opposed
 - LWOP and money saved used for crime prevention: 63%
 - LWOP and money saved for cold cases: 55%
- Can the inmate's rights under the 2009 law be taken away retroactively? If not, the game may be over. This will be litigated.

National trends clear?

- Six states have abolished
- But abolition bills have failed:
 - California, by referendum
 - Colorado, yesterday, when it failed in committee after the Dem Governor made it clear he might veto it
- Kind of like gay marriage? Backlash against a trend that is more powerful than the backlash?
- Or more like the reversal of a trend that has been going on for about 20 years, and the DP will come back?