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The View From Here

Cops on stand again at new Carroll trial

By CARL STROCK

Jack Carroll, the Troy man whose conviction of sexually molesting a young girl was overturned by the Court of Appeals, is headed back to trial this week, and it should be an interesting proceeding.

Interesting not least because the Rensselaer County district attorney is pursuing the matter at all, after having been implicitly reprovved by the high court for misrepresenting matters the first time around, but pursuing it the DA is, so here we go for a second time.

The most serious charges against Carroll, of rape, were dismissed out of hand for lack of evidence, so the new trial will only be on the lesser charges of sex abuse, but those are still serious enough to put him away for a long time if he is convicted of them, so this is nothing to take lightly.

I will be most interested to hear the testimony of the two cops who supposedly investigated the charges against Carroll the first time, in 1997, arrested him, and testified against him.

Those two were Detective Steve Weber of the Troy Police Department and Senior Investigator Ed Girtler, now retired, of the state police, both specialists in sex-abuse cases, with many hundreds of cases under their belts.

They testified that Jack Carroll had conceded during a lengthy interrogation on March 18, 1997, that the girl who accused him was not lying, which was of course tantamount to saying he confessed, and they also testified that he never denied the accusations, and I will be most interested to hear if they repeat that testimony, since Weber later admitted to me in an interview, after Carroll was in prison, that it was not true.

I proposed as much to him, during an interview at Troy police headquarters on Aug. 25, 1999, and he said of Carroll, "He did not confess - right."

Far from it. "We tried to get him every way we could," he recalled, "and he wouldn't go for it" - even though Girtler was, in Weber's words, "a master at obtaining confessions."

The business about Carroll's having said the girl was not a liar, if he ever said it at all, was taken out of context and was by no means an admission of guilt, I suggested.

"I don't disagree with you," Weber said, as he reflected back with apparent pride on this case.

A neutral observer might wonder if these seasoned investigators didn't tape-record or videotape their interrogation of this supposed sex monster so there would be an indisputable record of who said what, but they did not, and as Weber told me, for the same reason that they scarcely took any notes - because it would not be in their interest.

In the first trial a defense attorney asked Weber why he would not make notes of such an important conversation, and Weber replied, "Makes my job easier and your job more difficult," which I think is interesting.

It means, as far as I can figure, that without notes he can characterize an accused's statements any way he wants and a defense attorney can't contradict him. That's how it makes his job easier and the defense attorney's job harder.

I asked Weber if the reason he had not tape-recorded or videotaped the interrogation was the same reason that he gave for not taking notes and he replied, "Absolutely."

And he added, "I don't like to audiotape or videotape my interviews. It would open up a whole new can of worms."

And think about that, too: How would it open a can of worms for a cop to tape-record an interrogation of a criminal suspect? Would it do so if the suspect confessed, as Weber and Girtler allege in this case? I hardly think so. And it wouldn't open a can of worms if during a three-hour grilling the suspect never denied the charges against him, as they allege.

It would open a can of worms only if the suspect vigorously denied the charges and the cops later tried to claim otherwise.

Or if they browbeat him for three hours without instructing him in his right to remain silent or have a lawyer present, as Jack Carroll claims actually happened.

It wouldn't open a can of worms at all if they conducted the interrogation as they claimed. It would be very much in their interest and the interest of justice to have such an interrogation accurately recorded.

Just think of a cop saying otherwise.

And think about a cop saying - not just off-handedly in a newspaper interview but under oath in a trial - that not keeping notes "makes my job easier and makes your job more difficult."

Now, as a matter of fact, Ed Girtler did take some rudimentary notes during the interrogation of Jack Carroll. Not much, just a few convenient things like Carroll allegedly saying the girl was not a liar and about Carroll's being allowed a soda and cigarettes.

If Carroll sat in the state police barracks in East Greenbush for three hours protesting, "I didn't do, I didn't do it," as Weber later characterized his position to me, why wasn't that made note of? Weber told me, "My job is to take notes about what the bad guy says that incriminates him, not what exonerates him."

(And you thought the policeman was your friend.)

This is what I had in mind when I said a little while ago that Weber and Girtler *supposedly* investigated the charges.

They didn't really investigate them, in the sense of try to ascertain whether or not they were true. They accepted the charges, and then tried to nail the accused.

"My job is to believe the victim first and then try to prove it beyond a reasonable doubt," Weber told me candidly enough, and he added with authority, "Kids don't lie about sex abuse" - which is also an interesting statement after all we have learned from such fiascos as the McMartin preschool trial in California and the Wenatchee witchhunt in Washington. We know that kids can very readily be induced to lie about sex abuse.

There is one more little matter which I think is revealing of how Weber and Girtler conducted themselves in this case, and again I will be eager to see if it's repeated in the new trial.

They said that during the course of their interrogation, Jack Carroll asked to go outside to his truck to get some cigarettes and they allowed him to do that.

A little thing, but one that Girtler nevertheless made note of.

At the trial he was asked why he would note such a seemingly trivial detail even though he did not note any protestations of innocence, and he responded: "Because in previous trials it is a very important question that the defense attorney asks . . . Because they want you to think that you are browbeating them or trying to coerce a confession out of him if you don't let him have a break or something like that."

You see? It's to make a good impression later on, at trial. That's why Girtler would make a note of letting a guy go get cigarettes.

It's to show that the cops were reasonable fellows and not brutal third-degree thugs. The accused wants a smoke, they let him have a smoke.

The only trouble is, Jack Carroll doesn't smoke. I've been around him quite a lot and have gotten to know him and have never seen him smoke.

His parents, his brothers, his kids, his girlfriend say he has never smoked. He's a self-described health nut, who works out religiously and has the upper body to prove it. He coached hockey before he got arrested as an alleged child molester. He watches his diet. At Clinton Correctional Facility he served as trainer for other inmates in the recreational yard.

Weber and Girtler, I guess, didn't think of that. They wanted to look good at trial, so they said they let him smoke. It shows you how they operate, doesn't it?

Now here is another little matter. Trish D'Angelis, the assistant district attorney who is prosecuting the case on behalf of District Attorney Ken Bruno, knows all of this, and nevertheless is marching right ahead with a new trial, planning to put Weber and Girtler back on the stand to testify once again, as she assured the judge in a hearing the other day.

The DA's office is a public office, supported by public money to do the public's business, which is prosecuting the criminals the cops have caught.

Why in the world is the DA's office in Rensselaer County going after a defendant with witnesses it has every reason to believe have already testified falsely? That's what I'd like to know.