

March 18, 2003

The View From Here

Carroll in book about false charges

By CARL STROCK

I'm glad to see that Jack Carroll has a chapter of his own, even if a brief one, in a new book about false accusations of sex abuse written by Dorothy Rabinowitz, the Wall Street Journal columnist who won a Pulitzer Prize for her reporting on these matters.

Carroll, in case you have forgotten, is the Troy man I have written about many times who was convicted of sexually molesting a young girl, had his conviction overturned by the Court of Appeals, was retried and reconvicted and is now back in prison.

The first time he was convicted it was without the jury being able to hear a tape recording of him vehemently denying his guilt.

The second time it was with a Troy cop, a state police investigator and an assistant district attorney explaining to the jury that whenever he protested his innocence he was really making an "admission by denial" - and much other buffoonery and outright deception that was solemnly admitted into evidence.

The first time he was sentenced to 8 to 25 years. The second time - even though the most serious charge against him had been thrown out - he was sentenced to 10 to 20 years.

He could actually have walked away free before the second trial if he had agreed to plead guilty to a misdemeanor and accept as his sentence the three years he had already served, but he insisted on his innocence.

The only hard evidence against him, if you want to call it that, is the highly coached and rehearsed word of the girl who is the supposed victim - a girl who remembers exactly the elements required to support the criminal charges and nothing else.

Dorothy Rabinowitz uses his case to conclude a history of some of the more celebrated outrages that have been perpetrated during the past 20 years as our nation got swept up in panic over child sex abuse.

There is the famous case of the Amirault family of Malden, Mass. - mother, son and daughter operating a day-care center and accused of grotesque sex crimes involving animal mutilation and magic rooms after children in their care had been subjected to many hours of suggestive questioning by eager investigators, but without any physical evidence. (The son is still in prison, after 17 years, despite a recommendation by the state Board of Pardons and Paroles.)

There is the equally famous and heartbreaking case of Wenatchee, Wash., a town that was so swept up in hysteria that ultimately over 40 people were arrested on the most bizarre and implausible of charges and many of them spent years in prison before their convictions were finally overturned.

There is the case of a day-care worker in New Jersey, 24-year-old Margaret Kelly Michaels, accused also of fantastic and bizarre acts, like raping the children in her care with knives, forks and Lego blocks and forcing them to drink her urine and eat her feces - things that one would have expected to hear in a witchcraft trial in 16th or 17th century Europe.

One of the witnesses in that case, by the way, an alleged psychologist, though she is unlicensed, was Eileen Treacy, who also testified as an expert against Jack Carroll.

In overturning the New Jersey conviction and setting the young woman free after five years of imprisonment, an appeals judge wrote that in his opinion, "Ms. Treacy would have been able to elicit the disclosure [of sexual abuse] from many children . . . who had not been abused," so broad is her view.

In the Carroll trial Treacy found that the caring and nurturing behavior evinced by Jack Carroll was in line with the modus operandi of a sex abuser, to give you an idea of how she sees the world.

There is the case of the Florida cop accused of sexually molesting the young child of another cop, after he noticed the child had welts apparently from a beating and put the second cop on notice.

The prosecutor who made her fame in that case and who got the first cop sentenced to five life terms was Janet Reno, later to be attorney general of the United States.

I should add that the appeals lawyer who got the conviction reversed after the ex-cop had spent 12 years in prison was the same lawyer who got the New Jersey conviction reversed and also the same lawyer who now represents Jack Carroll. That is Robert Rosenthal of New York City, who is the understated hero of Rabinowitz's book if there is any hero.

I have been aware of these cases for some time, but I must say, to have them laid out in one place is chilling enough and helps me to see the matter of Jack Carroll as part of a larger pattern.

It's a pattern of a nervous society, of crusading investigators who do no real investigating but only manipulating, and of zealous prosecutors determined to get convictions regardless of the implausibility of the evidence.

The book is "No Crueler Tyrannies: Accusation, False Witness, and Other Terrors of Our Times," and I highly recommend it. (The allusion in the title is to a statement by the 18th

century French thinker Montesquieu: "There is no crueller tyranny than that which is perpetrated under the shield of law and in the name of justice.")

As for what Robert Rosenthal is doing for Jack Carroll, I can tell you that after losing at the first appellate level, he has asked permission to appear before the state's highest court, the Court of Appeals, and his request has been assigned to Judge George Bundy Smith, who will decide on his own whether or not to grant it, probably within a month or so.

The odds once again are poor. In 2001, the court received 2,840 such requests and granted just 43 of them.

The View From Here presents Carl Strock's personal commentary and appears on Tuesday, Thursday and Sunday. Strock can be reached at 395-3085. The opinions of the newspaper appear in editorials on the Opinion Page every day.