



# THE PLAIN DEALER

## Lies put man on death row, three claim

Portage investigator used coaching, threats to get confessions, men say

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Ten years ago, Butch Wolcott told a packed courtroom a gripping story. Wolcott was one of a group of young punks led by a hellion named Tyrone Noling. One day as Wolcott waited outside, Noling forced his way into the home of an elderly couple in Atwater Township, then shot them dead. Wolcott even described for the jury the smoking gun Noling carried as he fled the house.

Today, Wolcott lives on the Hawaiian island of Oahu; Noling is on death row in the Ohio State Penitentiary in Youngstown.

But Wolcott can't find peace in paradise. Noling is innocent, Wolcott says, condemned to die because of the lies Wolcott told a decade ago. Two other men who pleaded guilty to taking part in the slayings also say Noling is innocent. All have claimed in affidavits that their testimony was coerced and coached by an overzealous investigator for the Portage County prosecutor's office.

But prosecutors, who once built a case on the men's damning confessions, now dismiss what they have to say as self-serving fiction.

A Plain Dealer examination of the investigation into the murders of Bearnhardt and Cora Hartig raises serious doubts about the testimony the government used to sentence Noling to death.

The case against Noling is shot through with inconsistencies. A psychologist hired by prosecutors to assess Wolcott and who helped him try to remember details of the murders says he's not sure those memories are true.

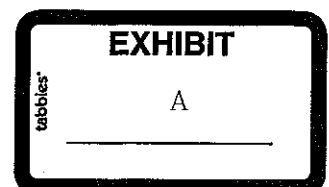
Though Noling was an incorrigible thief, the slain couple wasn't robbed. Noling's guns weren't used to kill the Hartigs. A cigarette butt found in the driveway yielded DNA that didn't belong to Noling or members of his gang. Except for the flawed and conflicting statements of Wolcott and others, no evidence points to Noling as the killer.

It wasn't like Bearnhardt Hartig to leave his garage door open and the riding mower outside. He and his wife, Cora, both in their 80s, kept their house and lawn tidy. So after seeing the orange tractor in the drive for several days, neighbors called the sheriff on April 7, 1990.

The Hartigs' living room was littered with papers when deputies arrived, like a filing cabinet had exploded. A few feet away in the kitchen, Cora lay on her side, her pink sweatshirt stained rusty red. She'd been shot five times.

On the floor in front of her was her husband. Like his wife, it looked as if he'd been sitting in a chair when someone fired three bullets into him.

Cora's wedding band was on her finger, Bearnhardt's wallet in his pocket, filled with cash. Watches and other jewelry sat untouched. Deputies found \$160 in a vanity beneath the bathroom sink. The killer had opened the doors, but left the money behind.



Deputies found no witnesses or fingerprints and struggled to pin anything down -- even the date of the murders. They guessed the Hartigs had been at the kitchen table, perhaps talking with someone they knew, when they were shot. There was no sign of a break-in or scuffle.

The same week the Hartigs were killed, Noling was robbing old people in nearby Alliance. He left his fingerprints everywhere, his victims terrified but alive. He stole jewelry, cash and VCRs. During one home invasion, he accidentally fired a bullet into the floor. He asked the 74-year-old woman who lived there if she was OK. She told detectives the gunshot scared him more than it did her.

A natural suspect

but no murder weapon

Police quickly homed in on the 18-year-old with a thick file in juvenile court. Noling was living in a house with Gary St. Clair, a 21-year-old high school dropout; Joey Dalesandro, 18, who drove a baby blue Olds; and Wolcott, a 14-year-old runaway from Akron.

Noling was the alpha dog and butted heads with Wolcott from the day they met. Skinny and small for his age, Wolcott talked his way out of trouble. But he couldn't charm Noling. Once, Noling hogtied him and left him bound for hours; another time, he put a gun to Wolcott's head.

Police raided the house and found a diamond-studded Rolex and other booty from the Alliance heists strewn about. They dragged Noling out of an attic crawl space. He confessed to the robberies within hours.

News of the Hartig killings had broken the night before. Given his history, Noling was a natural suspect.

Noling led deputies to the guns he'd used in the robberies -- a sawed-off shotgun and a Browning .25-caliber handgun he'd taken from one of the homes. The Hartigs had been shot with a .25, and authorities thought they had their killer, but a ballistics test proved Noling's gun wasn't the murder weapon.

DNA tests showed a cigarette butt police plucked from the Hartigs' driveway didn't match Noling or any of his cronies. With no evidence linking Noling or the others to the crime scene, the murder investigation stalled.

Noling pleaded guilty to the Alliance robberies and was sentenced to five to 25 years.

In 1992, Ron Craig, an investigator for the Portage County prosecutor, picked up the Hartig file. He zeroed in on Noling's old cohorts.

Craig went after Wolcott first. He told the 16-year-old that a witness had seen Dalesandro's blue Olds on the Hartigs' street the day of the murders and that they'd found a cigarette butt in the driveway they could link to Wolcott, according to Wolcott and a lawyer and family friend who sat in on some meetings.

Neither was true. There was no witness and the butt didn't have Wolcott's DNA, but police are allowed to lie to suspects during investigations. Prosecutors gave him a choice: Testify against Noling and go free. Refuse and be charged in the killings. Wolcott took the deal.

"I sold my soul that day," he says now. And, Wolcott says, Craig helped him do it.

But Wolcott couldn't provide the details prosecutors needed to make the case. He couldn't remember the date of the drive to the Hartigs. He couldn't describe the exterior of their neat ranch though he claimed to have waited in the couple's driveway while Noling and St. Clair forced their way past Cora.

The Portage County prosecutor's office hired Alfred Grzegorek, a Stow psychologist, in 1992 to help. Grzegorek's charge was to conduct a psychological assessment of Wolcott and determine why the 16-year-old couldn't remember much about the killings.

In his report, Grzegorek wrote that Wolcott "was quite clear with me that he is extremely frightened that he will not be able to recall enough to win the immunity recommendation premised on his cooperation in the

investigation "

Wolcott, he wrote, had begun to think he was "going crazy," not certain if his recollections of the murders were real or imagined.

Recently, the psychologist said he isn't sure, either.

It's true, Grzegorek said, that people sometimes recall a traumatic event slowly because remembering it all at once would be overwhelming. But the psychologist said he was never sure if Wolcott's memory problems were the result of trauma or if he was simply unable to remember the crime because he wasn't there.

"I could never figure that out, to be honest with you," Grzegorek said in an interview with The Plain Dealer.

The psychologist warned prosecutors in 1992 not to press Wolcott too hard or he might fill the gaps in his story with information gleaned from suggestions and hints made by investigators or Grzegorek himself.

"One of the worst things you can do is create a memory that in fact really isn't there," Grzegorek says today.

The sessions with Wolcott reached a point, he said, where he didn't think he could elicit any more information without contaminating Wolcott's recollections with memories that weren't his own.

"There is a point beyond which you shouldn't do much more," Grzegorek said.

The psychologist's reservations don't give Prosecutor Victor Viglucci pause. "This case does not trouble me in the least," he said. "There was overwhelming evidence of Noling's guilt. I'm not interested in helping these people rewrite history."

Men say they were

coached, threatened

Wolcott now says he reacted as Grzegorek feared he might and pieced together his statement using cues from investigators.

In 1992, he repeatedly asked investigator Craig if he could take a trip to the Hartigs' house to jog his memory. Grzegorek went along.

The visit was anticlimactic -- no long-buried memories came flooding back.

But Wolcott had gotten what he'd needed. He now says he asked to visit the house so he could tell a more convincing story and keep his immunity deal.

With Wolcott's confession as leverage, Craig went after Dalesandro and St. Clair.

The three men now tell similar stories of their interrogations by Craig. They said he threatened them with the death penalty or life in prison, twisted their words and, when they eventually agreed to testify against Noling, provided them with details of the killings.

St. Clair said Craig showed him a videotape of the crime scene and photos of the victims, and drew a diagram of the house showing where the bodies were found. Wolcott was taken to the Hartigs' home and said he was also left alone with evidence files. Dalesandro said Craig told him facts about the crime and coached him on what to say.

Prosecutor Viglucci would not allow Craig to be interviewed for this story, but defended his veteran investigator.

Craig did nothing underhanded, the prosecutor said. There are transcripts of the interrogations, which prove Craig had nothing to hide, Viglucci said.

But there were off-the-record meetings between the suspects and the investigator as well. And it was during those sessions, the men say, that Craig supplied them with information about the case and helped them build their statements.

Undocumented chats happen, Viglucci admitted; sometimes people feel more comfortable with the tape recorder off. But such tactics are ripe for abuse, say experts who study false confessions. It's the time when witnesses can be bullied, their recollections contaminated with facts they couldn't come up with themselves.

That's what Wolcott and the others say happened.

It's not what witnesses get right that determines whether their confessions are reliable, but what they get wrong, experts say. Wolcott couldn't describe the Hartigs' place until Craig drove him there. He couldn't provide directions, either.

Wolcott told them Noling had ripped the telephone cord out of the wall and trussed up the Hartigs with it. But the phone was intact and the Hartigs hadn't been tied.

All the confessions should be classified as "untrustworthy" and "unreliable," said social psychologist Richard Ofshe, an expert in false confessions hired by Noling's appellate lawyers to review the men's statements.

"Coercive interrogation tactics" were used to elicit all their declarations, he wrote in a report that has been filed with the court. Their recollections were deliberately contaminated during extensive sessions with Craig, Ofshe wrote.

Ofshe also concluded that any memories Wolcott had about the crime weren't his own, but were created from suggestions and coaching provided by his interrogators.

In September 1995, four months before Noling's murder trial, prosecutors sent Wolcott to the psychologist one last time. According to Grzegorek's report, while Wolcott's "memory . . . is more complete than it was in 1992," Wolcott admitted that "there are still a lot of things about [the day of the murders] that are a puzzle" and "it's still very hard to realize it's true." Later, Wolcott began to cry and told Grzegorek that he just wanted the ordeal to end.

Prosecutors put Wolcott on the stand in January. Jurors never heard from the psychologist.

Authorities fail

to find the gun

In 1996, with three confessions in hand, prosecutors offered to take the death penalty off the table if Noling admitted to pulling the trigger. He refused and told his lawyers he was innocent.

They didn't call a single witness in his defense or suggest another possible suspect, even though police had questioned one. (See sidebar) Instead, his lawyers argued the government hadn't proved its case. Prosecutors had no murder weapon, no hairs or fibers - nothing, attorney George Keith told the jury.

The defense pounded on prosecution witnesses Dalesandro, St. Clair and Wolcott.

St. Clair was key. Prosecutors expected him to say that he'd watched Noling execute the Hartigs. They'd warned St. Clair that he would face "the maximum" sentence if he didn't tell what he knew. But he recanted on the stand, saying Noling was innocent - they all were. "Gary St. Clair is your reasonable doubt," attorney Keith argued.

Defense lawyers also pointed out that police never found the murder weapon. During the investigation, Wolcott, St. Clair and Dalesandro had told investigators that Noling carried only two guns - the sawed-off shotgun and a stolen .25 that was not the gun that killed the Hartigs.

But at trial, Dalesandro and Wolcott testified that Noling had a second .25 he'd used on the couple. After the

shooting, they said, he stashed it in the glove compartment of Dalesandro's car. Noling called him days later from jail and told him to get rid of it, Dalesandro said

Dalesandro claimed he sold it to a fence, but the fence, who'd turned over Noling's two guns earlier, was unable to lead police to the weapon.

"The government needs a second gun," Keith told jurors. "Joey Dalesandro . . . tailors his testimony, whatever they need. If they needed a pink elephant they could interview him about an hour and he could remember a pink elephant "

Dalesandro now says he lied about the second gun at investigator Craig's prodding.

What jurors didn't hear was that, according to the account Alliance police Detective William Mucklo recently gave The Plain Dealer, officers searched Dalesandro's car the day of Noling's arrest and didn't find a gun.

Today, Prosecutor Viglucci dismisses evidence of the fruitless search. Maybe, he says, the detective has a faulty memory

After a day of deliberation, the jury found Noling guilty. "I didn't do it," he told the judge before he was sentenced to death. "Someday, maybe someday, the truth will come out."

In 1997, a year after the conviction, St. Clair and Dalesandro, who pleaded guilty to lesser crimes involving the murders, signed affidavits stating Noling was innocent. So did Wolcott. St. Clair is serving 20 to life for the Hartig murders while Dalesandro is in prison on unrelated drug charges.

Viglucci dismisses their recantations. The three are lying, he says, to save themselves and a friend. If Noling is exonerated, then St. Clair and Dalesandro might be able to clear their names too.

That's not true of Wolcott, who, because of his immunity deal, didn't spend a day in prison

"I don't know about Wolcott," Viglucci said when asked why Wolcott would swear Noling is innocent. "Friendship? Fear? Who knows? There's a myriad of possible reasons. For me to say that I'd lose sleep over that? Nope, I wouldn't."

The prosecutor expressed surprise that anyone would believe Wolcott, but his testimony was key to the government's case.

Wolcott, now a 31-year-old artisan who builds wooden floors for a living, says he has a moral obligation to tell the truth. "I did the most evil thing imaginable. I have to go to sleep each night knowing that."

It's long past time, he says, to get some rest.

Courts so far reject

the recantations

Court after court has rejected Noling's appeals. Judges say the recantations aren't credible, even though they've refused to let Wolcott and the others tell their stories in a courtroom.

In March, U.S. District Judge Donald Nugent denied Noling's request for an evidentiary hearing that would have allowed them to testify.

Nugent has yet to rule on the case, but wrote that the court was not concerned with Noling's guilt or innocence, but "solely the question whether his constitutional rights have been preserved." If Noling loses there, he can appeal the decision. As a last resort, he can ask the U.S. Supreme Court to hear the case. If it refuses, the state will set an execution date.

Because the courts have rejected the recantations, Noling worries that without proof someone else pulled

the trigger, he's a dead man.

Noling has had nothing but time to think about his case and imagine Wolcott in his tropical paradise. He said he blames Craig and prosecutors, not Wolcott.

Four thousand miles away, Wolcott said he wishes he could travel back in time, to the moment he agreed to take the deal and testify against Noling.

He would whisper into the ear of the boy and tell him to think hard about what he was about to do. Don't think about survival, he would tell the boy. Think about what's right.

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