

# Gutierrez jury at impasse?

□ **Deliberations in sex abuse trial to continue Monday after jurors unable to reach a verdict**

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The Columbian

A tired jury in the Paul Gutierrez case went home late Friday without deciding whether the Vancouver School Board member was guilty or not guilty of sexually abusing his granddaughter.

There were indications the jury was deadlocked — at least temporarily.

Superior Court Judge Robert Harris ordered the eight-woman, four-man jury back to the Clark county courthouse Monday morning at 9 a.m. to resume deliberations. If the jury can't reach a verdict, prosecutors will decide whether to retry Gutierrez.

Jurors began deliberations in the emotional and dramatic case about 2 p.m. Friday. Harris told attorneys in the case about 9:30 p.m. that several jurors "have indicated they will not change their position."

Harris questioned the jury foreman. The foreman said there had been "very little progress" after 6 or 7 p.m. At 9:45 p.m., the jurors asked Harris if they could review large portions of testimony from the four-day trial — as much as five hours of videotape.

Harris denied the request. "It may well be that they're not able to move," Harris told defense attorney Steve Thayer and Deputy Prosecutor Kim Farr. "But that's another issue."

He then invited the jury into the courtroom, instructed them to read nothing about the case, to "think through quiet thoughts on your own," and sent them home for the weekend.

Earlier in the day, in a courtroom so full that people had to sit in the aisles, the two attorneys argued the fate of Gutierrez, charged with seven counts of child sexual abuse.

In an hour and 25 minutes of closing argument, Thayer and Farr dueled over the fate of the 68-year-old school board member.

Gutierrez, a longtime Vancouver educator, had been charged with fondling his granddaughter during a period of five years between 1987 and 1992. If convicted, he would face a prison sentence of at least 17½ years.

The girl, now 15, testified that she stayed at Gutierrez's home regularly beginning in fourth grade after her grandfather picked her up from dance classes.

She said the fondling took place in his bedroom as they watched television. The defendant's wife was either asleep in a living room chair or out of the home playing cards when the events took place, the girl said.

Gutierrez denied emphatically that any abuse took place.

In his closing argument, Thayer attempted to punch holes in the prosecution case, suggesting to jurors that the girl lied about the abuse to escape the strict Vancouver household of her mother and stepfather so she could live with her natural father in California.

He said the abuse complaints surfaced at about the time the girl's mother, Sandra Stokesbary, married her stepfather in 1991. It was at about the same time, he said, as the onset of puberty for the youngster accompanied by mood swings and depression.

## 'Lie ... out of control'

At first, Thayer said, the lie of sexual abuse was safe. She asked cheerleader friends not to tell and she elicited the same promise from her mother and a few school classmates.

But in January of 1993, she told a school counselor who, following the law, reported her accusations to authorities. "Once the lie got out of control, so did (the girl)," Thayer said.

The youngster attempted suicide by an overdose of aspirin. She spent five days in a psychiatric ward of a Portland hospital and 50 days in a Gresham treatment center.

She then moved to California to live with her father. She testified last week she was happy.

Thayer said the girl's abuse accusations made no sense because she "could have stopped going over to her grandparents' house. She would have changed dance schools. She would have done anything to get away."

If not that, she would at least have "done anything she could to stay out of her grandfather's bedroom."

And in any event, Thayer argued the girl would have reported the abuse.

He also claimed the girl should have remembered the first and last abuse episodes over that five-year stretch.

"She has maintained this lie so long she can't recant it now," the attorney said.

Prosecutor Farr told jurors Thayer's arguments were "an interesting bit of cultural theory. But that's not what happened."

Farr acknowledged that "kid's lie." But he said they "lie to stay out of trouble. If you don't think this is trouble for a 15-year-old, think again."

## 'We should be amazed'

Farr minimized the girl's reluctance to tell. "How many people have grown up and never told?" he asked the jurors. "We should be amazed children tell (about abuse) in the first place."

He said her vague memories about the instances of abuse could be expected. "Do you remember what you got for Christmas five years ago?" he asked. "Four years ago?"

Moreover, Farr said, "If you hate your stepfather, why don't you name your stepfather (as the abuser)?" If the goal was to go live in California, Farr asked, why would the girl turn down an invitation to live with her father as late as last year while she was recuperating from the suicide attempt?

He ridiculed the defense theories. "There are jumps (in logic) that would make you throw away a paperback novel," he said.