

**Missing Documents in 1978 Murder Case
Douglas Stankewitz is Hoping to Win His Release After 45 Years in San
Quentin for a Murder He Says He Didn't Commit
May 22, 2023**

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Special to [ICT](#)

Missing documentation for the alleged murder weapon in a 45-year-old case could provide a boost to a Monache man's attempt to finally gain release from prison for a crime he has maintained he did not commit.

In response to an open records request from *ICT*, the Sacramento Police Department said it has no chain-of-custody records to show when or to whom a stolen handgun turned over to the department was released. Investigators in Fresno, nearly 170 miles southeast, say the gun was used in a 1978 murder in their jurisdiction.

Sacramento police have no record of the gun being sold or returned to its owner, officials said in response to *ICT's* request.

Attorneys for Douglas "Chief" Stankewitz, a Big Sandy Rancheria man convicted of killing a young newlywed with the gun after a carjacking, say the lack of a documented chain of custody bolsters their belief that the Fresno County Sheriff's Department had the gun as a "backup or 'throwaway' weapon" and used it to send Stankewitz to San Quentin Prison.

Stankewitz maintains he is innocent in the 1978 murder of Theresa Graybeal, 21, of Modesto, California. He received the death penalty until his sentence was reduced to life without parole, but has remained on San Quentin's Death Row. He is now awaiting a resentencing hearing ordered by a Superior Court

judge that his attorneys hope will win his release. Stankewitz was 20 when he was convicted; he turns 65 on May 31.

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Three co-defendants with him that night were convicted of lesser charges. Another co-defendant, Billy Brown, who was a minor at the time, received immunity for testifying against Stankewitz but later said he was pressured into making false statements against Stankewitz.

On May 11, the Sacramento Police Department responded to *ICT's* request for records, saying it has no documents related to the handgun's chain of custody, although it did identify the officer who took the handgun into custody in 1973.

"The Sacramento Police Department has no responsive records ... [and] ... is not in possession of any record that includes the information you seek," the department wrote in response to *ICT's* request for a copy of Report 73-17877, dated June 1973, of the gun's theft, as well as documents related to its recovery by police one month later and its eventual release from department custody.

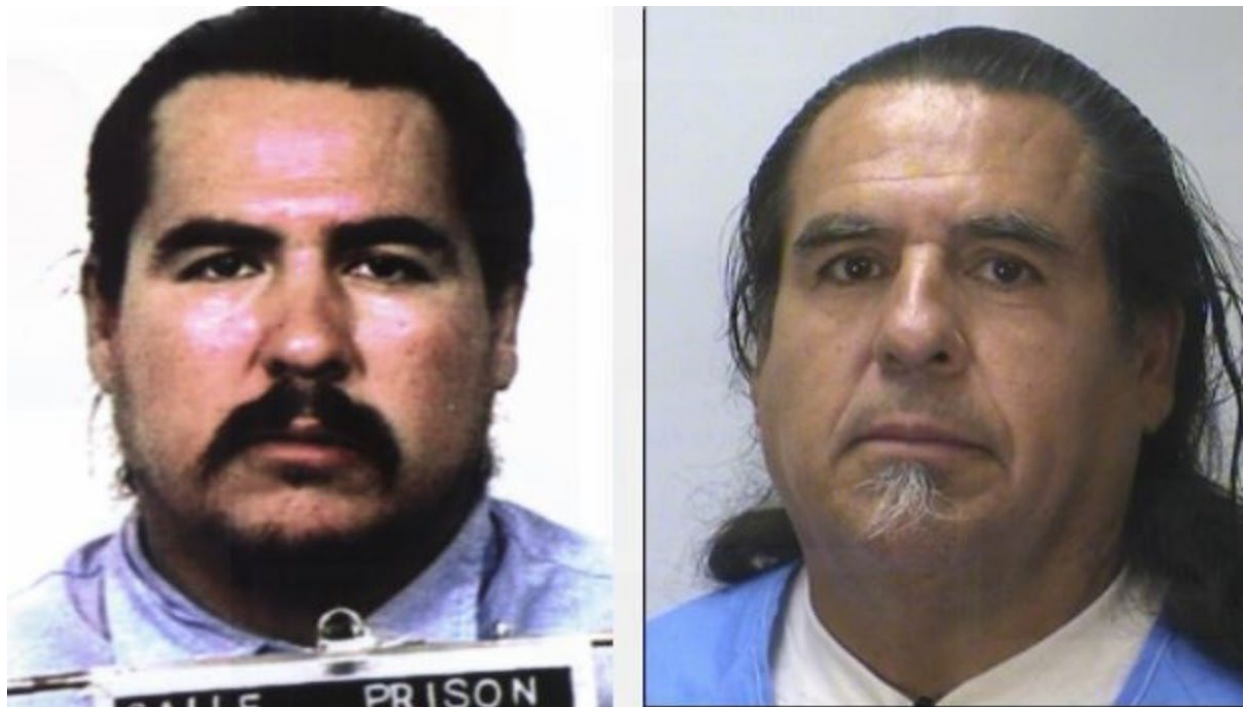
Fresno County Deputy District Attorney Kelsey Peterson said May 17 she would not comment about the case, but did say, "I know the defense has raised different things in their petition and I'm addressing all of those in my return."

Conflicting testimony

Stankewitz was among a group of young people who kidnapped Graybeal in a Kmart parking lot in Modesto so they could drive her car to Fresno, 95 miles southeast, where they lived.

They picked up a friend in Fresno and drove the car in search of a drug buy, according to court documents. Graybeal was shot in the head in a vacant lot in Fresno, where they had stopped to drop her off.

Alexandra Cock, a member of Stankewitz's legal team, said it was Stankewitz's intent that Graybeal would be dropped off unharmed, and others testified he had told her so. Instead, Graybeal was shot after getting out of the vehicle.



Douglas Ray Stankewitz, 64, Monache, believed to be the longest-serving inmate on San Quentin Prison's Death Row, continues to fight his conviction in the 1978 slaying of 21-year-old Theresa

Graybeal. He originally received the death penalty but his sentence was later reduced to life in prison. (Photo courtesy of the California Department of Corrections)

Stankewitz maintains he wasn't the gunman, and conflicting testimony has surfaced about who else may have fired the shot and about the evidence supporting his conviction:

- Co-defendants Christina Menchaca and Teena Topping told investigators they didn't see who fired the gun.
- One of Stankewitz's trial attorneys, Roger Goodwin, wrote in 1989 that he failed to present mitigating evidence that could have helped his client's defense, leading to Stankewitz's death penalty being reduced to life without parole.
- Brown recanted in 1993, saying his testimony was coerced.
- An American Indian Movement official who later helped another co-defendant, Marlin Lewis, with tribal enrollment said in 2000 that Lewis told her that he, not Stankewitz, killed Graybeal.
- Roger Clark, a certified police procedures consultant and retired Los Angeles County sheriff's detective, determined in 2019 that the trajectory of the bullet indicated Stankewitz, at 6-foot-1 the tallest of the defendants, was too tall to have been the gunman.
- Investigators never determined what caliber of bullet killed Graybeal, according to the case file.

Unanswered questions

The lack of a chain of custody for the alleged murder weapon raises additional questions.

James Ardaiz, a retired state appeals court judge who as Fresno County district attorney prosecuted Stankewitz, told *ICT* earlier this year that the gun in evidence – a Titan .25 caliber handgun – was listed on a state law

enforcement database at the time as having been reported stolen on June 7, 1973.

But the Sacramento Police Department recovered the weapon on July 25, 1973, as indicated by the date and badge number of the receiving officer etched onto the holster in accordance with procedure.

The badge number etched onto the holster, 351, was assigned to Officer Robert Givens, the Sacramento Police Department reported in its response to *ICT's* public records request. A photograph of a Sacramento police officer by that name at that time was located on Calisphere, a statewide online archive managed by the University of California. However, attempts to contact persons by that name and approximate age in the Sacramento area were unsuccessful. Messages left on two phone message machines May 12 and 17 were not returned.

Despite the proper logging in of the weapon by the Sacramento department, there is no record of the handgun being released to its owner or to anyone else, leaving unanswered how the weapon could have ended up in Stankewitz's vehicle, as Fresno law enforcement reported.

There were no further entries in the state law enforcement database – the California Law Enforcement Telecommunications System, or CLETS – regarding the handgun until Feb. 10, 1978, when Fresno County Sheriff's Detective Thomas Lean III ran a report on it.

The report showed the gun had been reported stolen but not that it had been received by Givens or released by the department. Lean etched his initials and the date, 2-10-78, into the holster to indicate he entered the weapon into evidence at that time for the Fresno County Sheriff's Department.

Stankewitz's lawyers allege in their court petition for a hearing that the handgun had been kept by law enforcement as "a backup or 'throwaway' weapon," and that by 1978 had made its way into the possession of the Fresno County Sheriff's Department.

Lacking a weapon — and believing Stankewitz was the gunman because of previous encounters with him and members of his family — they used the Titan .25-caliber in their possession, the petition alleges.

There have long been rules by which California law enforcement agencies dispose of weapons no longer needed as evidence. They can be destroyed by crushing, melting or shredding. They can also, according to the California Commission on Peace Officer Standards and Training, be "[converted] to agency use" or "[transferred] to a crime lab or other agency for official use."

Ardaiz called the allegation that the gun was planted "just ludicrous."

"Their argument is that this gun was not used to kill the victim, that this gun was planted," Ardaiz said in an earlier interview.

"That's the essence of their argument. The reality here is, Douglas Stankewitz left the Sacramento area prior to the killing of Theresa Graybeal. The gun in question was stolen in Sacramento several years before. The gun in question was never in the possession of the Fresno County Sheriff's Department [prior to the murder]," Ardaiz said.

"The gun was in Sacramento, where Douglas Stankewitz's mother and family were. All co-defendants indicated the gun was received from Douglas Stankewitz's mother. There was only one gun, they said Stankewitz had the gun, and Stankewitz killed Theresa Graybeal."

What's ahead

Stankewitz's legal team has requested a hearing so they can introduce evidence not presented in earlier hearings, in hopes the evidence will lead to Stankewitz's release.

Fresno County Superior Court Judge Arlan Harrell had scheduled a status conference for May 4, but rescheduled it for July 27 to give lawyers for both sides additional time to prepare.

Of the five co-defendants who were there when Graybeal was killed, only one other than Stankewitz may be alive. Lewis died in 2000. Brown died in 2006. Topping died in 2015 or 2016. *ICT* could not confirm Christina Menchaca's whereabouts.

TIMELINE

1978: Douglas "Chief" Stankewitz, then 20, is convicted of the murder of Theresa Kay Graybeal and is sentenced to die in the gas chamber at San Quentin Prison.

1982: Stankewitz's sentence is overturned because of doubts he had been competent to assist in his own defense. He remains in San Quentin pending retrial.

1983: Stankewitz is again found guilty and sentenced to death.

1989: Stankewitz's retrial attorney, Hugh Goodwin, acknowledges in the first of two sworn written statements that he failed to introduce Stankewitz's mental health history, including psychiatric and psychological evaluations, that might have spared him the death penalty.

1993: Billy Brown recants his testimony as a minor that Stankewitz killed Graybeal, saying it was coerced.

2000: Marlin Lewis tells Laura Wass, a regional director of the American Indian Movement, that he, not Stankewitz, shot Graybeal. She recounts her conversation with Lewis in 2020 during an interview with an investigator assisting Stankewitz's legal team, and signs a sworn statement.

2012: Based partly on Goodwin's sworn written statements, the penalty phase of Stankewitz's sentence is reversed.

2018: Several prison guards and prison chaplains write letters of support for Stankewitz, describing him as courteous, helpful and respectful to prison staff and other inmates.

“When Chief is released, he will be a positive contributing member of society,” retired San Quentin Chaplain Earl A. Smith Sr. writes. Prison Rabbi Paul Schleffar writes that Stankewitz “demonstrates maturity, a commitment to personal growth and if released to a life outside prison, will be a positive force in his family, community and hopefully the workforce moving forward.”

2019: Roger Clark, a certified police procedures consultant and retired Los Angeles County sheriff’s detective, examines the evidence and determines that it was carelessly handled and not verified according to procedure.

2019: Stankewitz’s death sentence is reduced, without a hearing, to life without parole. Stankewitz chooses to stay in his cell on Death Row, saying it’s safer there than among the general population.

2021: Stankewitz petitions for a resentencing hearing, contending he was entitled to one when his death sentence was reduced. Had the court heard mitigating evidence at that hearing, he might have received a sentence of life with possibility of parole, attorney Alexandra Cock said. With time served, he would have been immediately eligible for release.

June 28, 2022: California’s 5th District Court of Appeal rules that Stankewitz is entitled to a hearing. The appellate court vacates Stankewitz’s sentence of life without possibility of parole – he is still convicted of murder – but he remains in San Quentin pending resentencing.

Sept. 29, 2022: Fresno County Superior Court Judge Arlan Harrell schedules a resentencing hearing for Jan. 20, 2023; it is postponed because of scheduling conflicts. Stankewitz’s legal team will present evidence, including an updated probation officer’s report, that they believe will warrant a lesser sentence and immediate eligibility for parole.

Feb. 2, 2023: Harrell grants Stankewitz’s legal team’s request that the evidence be analyzed by an independent crime lab. The crime lab determines the handgun in evidence is not the gun used to kill Graybeal.

May 4, 2023: Harrell reschedules the status hearing for July 27, 2023, to give lawyers for both sides additional time to prepare.



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