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# Missing and Presumed Murdered

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Life was finally beginning to look brighter for Lou Alan Goettsch.

Always in need of money, he had received a \$3,000 workers' compensation payment in early 1981 for an injury sustained in the oil fields around Abilene, Texas.

It may have been a small amount, but it was the most the 21-year-old Goettsch ever had at one time since finishing three years of active duty with the U.S. Army in 1980.

He opened a checking account. (The bank misspelled his last name on the checks, but he was never a stickler for details, so he used them anyway.) He paid back money he had borrowed from a fellow oil field roughneck, and lent \$300 to another former workmate.

His biggest decision was to rent an apartment, moving from the trailer he had been sharing. He drove his battered pickup truck to the apartment complex, parked in the tenant's lot and delivered a \$350 check to the manager. He planned to move his possessions, all of which fit into the truck, later that day.

He never did.

On March 31, 1981, Goettsch disappeared and became a statistic—one of about 100,000 persons listed as missing in the United States on any given day. The vast majority of them reappear on their own, usually within a week.

But Goettsch didn't, making him another kind of statistic. To this day, Lou Alan Goettsch is among an estimated 21,000 persons throughout the nation who are missing...and presumed murdered.

The logic in that statistic is inescapable: Thousands of murderers are walking around free. Left in their wake are family members and friends who live daily with uncertainty. Their grief is grounded in cases that cannot be closed, bodies that cannot be buried, killers who cannot be brought to justice.

I learned about the disappearance of Goettsch during a late-night telephone call in May 1981. As a journalist then working in Washington, D.C., I specialized in investigating wrongdoing. I was used to late-night phone calls, frequently from anonymous sources. But this call was different. On the other end was Roger Goettsch, a golf course superintendent in Abilene. He is Lou Goettsch's brother. He is also my brother-in-law.

Roger, knowing Lou's transient lifestyle, at first thought little about having heard nothing from him in nearly two months. Finally, though, Roger was thinking of contacting the police.

I agreed that he should. Little did I suspect what would lay ahead. Over the next 14 years I would learn how local, state and federal law enforcement agencies handle and mishandle missing-and-presumed-murdered cases.

I would learn of the intractable dilemmas faced by prosecutors who wanted to bring charges against suspects, but worried about losing a no-body case, thus closing the door to charging the perpetrator again should physical evidence turn up later. I would learn how defense attorneys agonized over how to handle the rare no-body cases that reached trial.

## THE SEARCH BEGINS

When Roger Goettsch's call came in, Abilene police already had Lou Goettsch's name on file. Nearly six months earlier, at about 1 a.m. on the last day of 1980, he had been stopped for driving a pickup truck erratically. Police said Goettsch and his passenger, Roney Harper, acted suspiciously while being pursued. So police searched the pickup. They found marijuana.

Although Goettsch was an adult, Youth Division officers Melvin Martin and Lee Reed received the assignment to investigate his disappearance. Both had substantial experience with missing persons cases, but the almost two-month delay in reporting Goettsch's disappearance would only compound the difficulty of their task.

Yet even immediate top-notch police work in missing-and-presumed-murdered cases can fail to produce a resolution.

That seems to be true in the case of Rebecca Doisy. On Aug. 5, 1976, the 23-year-old Doisy ate dinner at a restaurant in Columbia, Mo. After that, she met Johnny Wright, 32, at her apartment. Then Doisy dropped from sight.

Doisy did not fit the profile of persons who disappear without a word. She was a dependable waitress at a Columbia restaurant and a reader for the blind. She used her earnings to support her painting, fiction writing, pets and studies at the University of

Missouri. Those off-and-on studies had brought her within a year of a bachelor's degree. Two days after Doisy and Wright had last been seen together, her sister contacted Columbia police, who learned that Wright, a part-time employee of the Columbia Public Works Department, had a long rap sheet. Furthermore, Wright, like Rebecca Doisy, seemed to have dropped from sight.

A manhunt eventually turned up Wright in St. Louis. He denied knowledge of Doisy's whereabouts, offering to take a polygraph test. He failed miserably.

Police had no body and no other physical evidence that Doisy had been harmed. But Columbia police detective Chris Egbert believed it was only a matter of time before he would find the victim's body and be able to make an arrest. Later developments, though, would make Egbert question his initial optimism.

Law enforcement agencies moved quickly, too, in the most famous missing-and-presumed-murdered case of all—that of Teamsters Union leader Jimmy Hoffa, who disappeared July 30, 1975.

Hoffa's wife, Josephine, last saw him about 1 p.m., when he left his house for a meeting at a restaurant near Detroit. He telephoned his wife 90 minutes later to say he was being stood up by Tony Giacalone, an alleged organized crime boss. After another hour, Hoffa called a friend again complaining about being stood up. There is no public record of further calls.

By evening, Josephine Hoffa was distraught at the failure of her husband to call or come home. The FBI and the Bloomfield Township (Mich.) police department entered the case the next morning, July 31. Hoffa's unlocked car was in the restaurant parking lot.

Despite the almost immediate notification, hundreds of law enforcement officers failed to find Hoffa. Twenty years later, Hoffa is presumed dead. But no body has surfaced, and nobody has been arrested.

Picking up a cold trail in the Goettsch case, Martin and Reed looked for answers as time permitted. The more answers they found, the more they started thinking like homicide detectives. If he left voluntarily, why would he fail to touch the \$1,079 in his bank account? Why would he cut off communications with the Australian girlfriend, whom he met while on Army maneuvers?

After a month of looking, the Youth Division officers wrote in a report: "[There were] so many problems with this investigation from the start. ... There were no known close associates to him to interview. ... His involvement with drugs is still not well-known or defined at this time."

Among Goettsch's acquaintances, Roney Harper and Kelly Joseph seemed like obvious people to interview. Harper and Goettsch had been arrested together on a marijuana charge. Word on the street

suggested that Harper carried a grudge, believing Goettsch had set him up for the arrest. Joseph had been seen with Goettsch and Harper on numerous occasions. They denied knowing Goettsch's whereabouts.

Reed and Martin continued to check leads, but those leads decreased in quantity and quality each week—despite local news coverage, periodic features about Goettsch on the Abilene police "Crime Stoppers" television program, the use of psychics, as well as reward money totaling \$11,000.

Hoping for assistance, Abilene police posted Goettsch's disappearance to a statewide network of law enforcement agencies, and from there to the FBI's National Crime Information Center (NCIC). Within that computer network's missing persons file, Goettsch fell into the "endangered" category.

## SHARING RESOURCES

Throughout the nation, law enforcement agencies searching for matches between missing persons and unidentified bodies are supposed to check NCIC. Many detectives do that. For example, on afternoon the Abilene police received a call from a detective in Alexandria, La. He said NCIC had suggested a possible match between Goettsch and a body in the Louisiana jurisdiction. But after noting striking similarities, the Louisiana detective discovered on tooth failed to match on dental charts. Then other differences became apparent, making it unlikely the body was Goettsch's.

Names of persons missing and presumed murdered are supposed to be entered into the NCIC network without fail by local and state law enforcement agencies. It does not always happen. Roy Weise, who heads an FBI unit that assists local police in use of the NCIC, says if police fail to enter a case, the nearest FBI office can intervene. But if the FBI has no knowledge of an unentered case, the intervention authority is useless.

Even if police enter a report into the system, the information sometimes is flawed. William D. Haglund, chief medical investigator within the Medical Examiner Division of the Seattle-King County Department of Public Health, says information on NCIC is too often imprecise or plain wrong. Family members or friends may unknowingly supply incorrect information; police department typists may make transcription errors.

In some jurisdictions, legislators have discerned a problem in the handling of missing persons cases by local police, so have tried to mandate effective procedures. In 1983, the New Jersey Legislature, for example, approved the Missing Persons Unit Act. The Legislature, deciding that many police departments lacked resources to deal with cases involving foul play, created a state unit to track missing persons and unidentified bodies.

In too many instances, though, sophisticated state and federal police agencies have no opportunity to handle—or mishandle—a case in NCIC because nobody files a report for weeks or months, as in the case of Goettsch. No legislation, no matter how well-drafted, can solve that problem.

Delays tend to be especially prevalent when missing-and-presumed-murdered cases involve a once-romantic couple. The remaining partner would be the most likely to miss the disappeared partner. But if the remaining partner is the murdered, a timely call is unlikely—unless the plan is to deflect suspicion. When family, friends and work colleagues begin to wonder about somebody’s whereabouts, they are likely to assume the romantic partner has called already.

Sometimes a concerned citizen is unable to file a report because of police procedures requiring a prescribed relationship with the alleged missing person.

In Goettsch’s case, his relative encouraged rather than discouraged further inquiry. But as the years passed, police had arrested nobody and prosecutors had charged nobody.

### THE PROSECUTOR GETS INVOLVED

In cases like Goettsch’s, police and prosecutors ideally should work together as soon as possible.

“Police and prosecutors have to decide how to handle a case like this—as a missing persons matter or a homicide investigation,” says James Eidson, prosecutor for Taylor County, Texas, which includes Abilene. “The techniques are different. In a missing persons case, you disseminate as much information as you can. But if it’s a homicide, you want to hold back some information to help evaluate the credibility of suspects later on.”

Abilene police had little contact with local prosecutors as the Goettsch case dragged on. Then, about 10 months after Goettsch’s disappearance, police received a promising tip from an anonymous caller: Roney Harper and Kelly Joseph allegedly had committed the murder and disposed of the body near a local lake. A drug deal gone bad, the caller suggested. After the telephone tip, police interviewed Harper and Joseph separately, but decided against follow-up lie detector tests.

That decision in 1982 took on unexpected importance 11 years later. On Sept. 10, 1993, a man placed a call to sheriff’s deputies in rural Walker County, Ga. Obviously drunk, the man confessed to murdering Goettsch in Abilene. His name: Roney Harper. Within days Harper was back in Abilene, being interrogated by Reed and other officers.

On Sept. 17, 1993, Harper signed a confession. His motive for murder was simple, Harper said: He thought

Goettsch was an undercover narcotics agent.

“On April 1, 1981,” Harper told police, “I ran into Lou at the gas station. I had seen him off and on but we hadn’t talked since I got busted. I really didn’t like him. Lou knew I smoked pot and he told me he had a good deal for me. He told me he could get a quarter pound of dope for me for about \$500 or \$600. I told him I was interested.

“He was moving, so his truck was full of stuff. So I followed him over to his house. I picked him up in my car and we went to make a deal. ... I deal with a lot of bad people so I carry a shotgun on me most of the time. ... I had a belt tied to my leg and I carried it stuck into the belt under my pants. I was wearing really baggy coveralls that day. I was scared and leery of Lou so when we got out [at the remote destination] I made sure I had the shotgun. It was loaded.”

In the remainder of his confession, Harper related how he shot Goettsch four times, then kicked him repeatedly until all signs of life had been extinguished.

Two days later, Harper said, he returned to the murder scene, a remote, undeveloped field: “He was still there laying in the same position where I had put him. ... He was still clearly visible. ... I looked around and then I left. I never touched him or anything.”

After Goettsch’s disappearance became public knowledge, Harper said, “Several people asked me if I killed him, but I wouldn’t tell them yes or no. I lived [in Abilene] for seven [more] years. I was always scared someone would find him. Finally I moved out of state to get away from here.”

Abilene police took Harper to the site he seemed to remember so vividly from 12 years earlier. But Harper either could not or would not locate the remains, assuming any had survived the elements.

That left prosecutor Eidson with a dilemma. Abilene police believed Harper’s confession. But without a body or other physical evidence, would a grand jury indict Harper? If an indictment could be obtained, would a judge or jury convict? Eidson had never before handled a murder prosecution in which there was no body.

“This kind of case is rare,” he says. “They aren’t a major topic at prosecution seminars.” He checked the Lawyers’ Handbook for Texas Criminal Practice, turning to the “Sufficiency of Evidence” section. There he found this summary of state legal precedent:

“In a murder prosecution, proof of the corpus delicti by extra judicial confession alone is insufficient to sustain a conviction; however, if there is some independent evidence corroborating the confession, the confession may be used as evidence in establishing the corpus delicti.”

A second line of cases contained this summary:

“Uncorroborated confession is not sufficient to prove that a crime was committed, and unless corroborated so as to show a crime was committed, no conviction will stand.”

All Eidson had at that point was an uncorroborated confession, and its validity would soon be in question. He was not alone in his dilemma. Prosecutors around the nation express frustration as suspects in missing-and-presumed murdered cases escape indictment.

In the Rebecca Doisy case, for example, Columbia detective Egbert and Boone County, Mo., prosecutor Joe Mosely were certain that they should seek an indictment of her acquaintance, Johnny Wright. Nine years after Doisy’s suspicious disappearance, the dogged Egbert, still without a body, received new information from Wright’s former roommate. Still without any physical evidence, Egbert convinced Mosely to file a murder charge against Wright.

By then, however, Wright had disappeared, seemingly for good. Egbert speculates that Wright might be dead. But even if police find Wright, conviction would be uncertain without Doisy’s body.

Absent a body, a prosecutor needs every advantage to establish the *corpus delicti*, the objective proof that a crime has been committed or a *prima facie* showing that the alleged victim met death by a criminal agency. The body of the victim is helpful; the absence of the body makes it difficult to establish either that the victim is dead or died as the result of a crime.

Occasionally circumstances coalesce so that prosecutors can go after suspects on charges other than murder. Charging a suspect with conspiracy to commit murder is an option under certain circumstances. In one no-body case on record, the prosecutor, lacking a strong *corpus delicti*, filed kidnapping and aggravated assault charges instead.

It worked. In the Goettsch case, though, nothing worked out neatly.

## THE DEFENSE MAKES PLANS

After Harper took up residence in the Abilene jail, unable to post \$50,000 bond, a local lawyer appointed to represent him paid a call. Jeff Johnson, a solo practitioner, says that by then Harper had recanted his confession. Harper also refused police requests to undergo a polygraph test and hypnosis.

Never having defended a no-body murder case, Johnston studied statutes and case law to understand what the prosecutor would have to prove. He decided to move slowly. Maybe word would leak whether the prosecutor had evidence beyond a recanted confession. If Johnson had known about Michael C. Eberhardt, a Lancaster, Calif., lawyer, he might have placed a call to that West Coast town.

Eberhardt gained national attention with his 1994 novel “Body of a Crime,” in which he casts as his protagonist a fictional defense attorney who accepts a no-body murder case. The plot is no coincidence. In 1982, Eberhardt began defending a real-life no-body murder case, representing Steven A. Jackson, 27, charged with killing acquaintance Julie Church, 23.

“A no-body murder case is the ultimate legal challenge for a criminal [defense] attorney,” Eberhardt says. “They’re extremely rare, and the DA’s office doesn’t file such a case unless the circumstantial evidence against the defendant is overwhelming. What attorney—who loves the law, loves hunting for that one clue that could unlock a case, loves the battle between two lawyers who’ve done their homework—wouldn’t want this case?”

Eberhardt says a defense attorney cannot afford to be overconfident about the prosecution lacking a body: “They don’t have to produce a body. Without it, of course, it’s more difficult to prove she’s dead. That’s why a district attorney will rarely file a case like this, because once they decide to prosecute, that’s it. They’ve got to get a conviction or the defendant goes free forever.”

Part of the defense pretrial strategy might include opposing requests by the prosecutor for delays on the grounds of adequate preparation. Eberhardt says prosecutors “try to get more time for two very important reasons. First, the longer the delay, the more time the prosecution has to find a body. And, second, if they can’t find the body, the alleged victim would be missing longer, making the jury more inclined to assume she’s dead.”

Defense attorneys find themselves fighting the prosecution’s hypothesis that if the missing person has been out of touch with family and friends, that person must be dead. In the Goettsch case, during a probable cause hearing Oct. 12, 1993, defense attorney Johnson took issue with police testimony that their inability to locate Goettsch alive meant he had been killed. “The FBI has a whole list of people they can’t find,” Johnson told the presiding justice of the peace. “Just because they can’t be found doesn’t mean they’re dead.”

Johnson’s argument failed. The justice of the peace ruled that Harper’s confession, despite the recantation, was sufficient to continue holding the accused on a murder charge. That was far short, however, of establishing the *corpus delicti*.

## LITTLE PRECEDENT TO FOLLOW

With Harper in jail and the speedy trial clock ticking, prosecutor Eidson plus his assistants Sandy Self and Curtis Tomme did their homework in the statutes and case law.

Both the prosecution and defense found themselves

studying the California case of *People v. Leonard Erwing Scott*, 176 Cal. App.2d 458 (1959).

It occurred during the 1950s, after Los Angeles prosecutors filed charges against Scott for allegedly killing his wife, Evelyn. Although they lacked any physical evidence of Mrs. Scott's remains, the prosecutors believed the defendant's behavior after the disappearance established beyond a reasonable doubt that Scott had committed murder. The jury agreed, as did the appellate court.

Even though Scott's conviction provided a positive precedent for prosecutors of no-body murders, other decisions give pause, including a ruling by the Oregon Supreme Court in *State of Oregon v. Lerch*, 677 P.2d 678 (1984):

"A confession of a defendant ... [is not] sufficient to warrant his conviction without some other proof that the crime has been committed."

The court noted that in most jurisdictions, it is not enough for the prosecution to introduce evidence establishing the reliability of the confession. Rather, most jurisdictions require independent proof of the corpus delicti; the corroborating evidence must prove commission of the crime.

As the court noted, "Jurisdictions differ widely in their formulations of the amount of proof required. Some require only 'slight' evidence, others a 'substantial' amount, and some phrase the requirement as one of a 'prima facie showing.'"

In Goettsch's case, Eidson worried whether there was any chance of Harper's recanted confession standing alone.

"The law [in this jurisdiction] requires independent corroboration if you can't find the remains," Eidson says. "That's what we were seeking—corroboration." Eidson decided to convene a grand jury, as much to investigate as to indict. He asked Kelly Joseph, by then living in the Houston area, to appear. Maybe Joseph knew something that could help overcome Harper's recanted confession. After hearing him and other witnesses, the grand jury refused to indict Harper.

Detective Reed, Martin (by then Abilene's police chief) and Goettsch's family were crestfallen. To their minds, closure had been denied while a confessed murderer had been set free.

## THE CHALLENGES OF TRIAL

If Harper had been brought to trial, defense attorney Johnson was planning to suggest Goettsch had made many enemies in Abilene; several might have had motive to kill him. Those motives could have been linked to allegations of drug dealing by Goettsch: "We would have dragged his name through the mud," Johnson says.

In addition, Johnson says, he would have attacked the validity of Harper's confession and Harper's capability of committing murder: "Perhaps we would have talked about Harper's small-man complex, combined with the machismo influence by alcohol the day he called the sheriff's office in Georgia. We would have cast doubt on the motive—a Class B misdemeanor for marijuana possession just isn't enough to kill for. Harper is not smart enough to concoct a murder plot. Besides, if he's a cold-blooded murderer, it is inconsistent that he would stay clean for the next 12 years."

Johnson never had to mount a defense. But California lawyer Eberhardt did have to put one on for his client Jackson. That the case would be unusually difficult became clear during jury selection in Lancaster Superior Court.

Voir dire began April 26, 1983; before ending Feb. 6, 1984, it had consumed 129 court days. Not surprisingly, the prosecution wanted to eliminate jurors unwilling to convict without a body. Eberhardt wanted to eliminate jurors who had formed an opinion about guilt based on heavy local media coverage or who harbored racial bias. (The defendant was black, the alleged victim white.)

When Eberhardt compared his case to the standard of *Scott*, he realized that the circumstantial evidence against Jackson seemed minimal. As for a motive, none seemed obvious.

Some of his confidence evaporated with the prosecutor's opening statement, which suggested strong circumstantial evidence from a variety of witnesses, as well as a possible motive: spurned romantic or sexual overtures.

Eberhardt wanted to avoid making an opening statement. "I didn't know from minute to minute what would happen. I worried about a body turning up. That's not to say my client did it, but the prosecution had people working full-time looking for a body," he says.

"Would they find Church's body after we'd told the jury she was probably walking around no more dead than they were? If they found her body, would it be a mutilated mess, belying my efforts to show my client incapable of violence?"

"Or maybe we'd get lucky and Julie Church would walk through the door, and the case would be won. Anything could happen in a no-body case."

After agonizing, Eberhardt made an opening statement. The prosecution's case would likely last months, he calculated. Witnesses would be called, all saying they had not seen or heard from Church. How many jurors could resist that kind of psychological barrage? The chances were high that the jurors would already have made up their minds that Church was dead

before Eberhardt had a chance to suggest otherwise. An opening statement would give the jury a mental hold on the defense case.

The prosecutor indeed called witness after witness to testify they had not seen or heard from the alleged victim. A few of those witnesses said they heard Jackson confess to murdering Church. The prosecutor also produced evidence that Jackson had schemed to dispose of Church's car. Eberhardt in turn tried to cast doubt on the details, eliciting contradictions and suggesting reasons why witnesses might have lied.

Some of the most challenging jousting occurred with police detective Lou Danoff on the stand. The real-time testimony is compelling, but the way that Eberhardt adapted it for his novel is indeed instructive:

The prosecutor in "Body of a Crime" has the detective explain how he has checked city and county morgues plus hospitals looking for the alleged victim's body, has checked every state to determine if a new driver's license has been issued in her name, and so on. Gingerly, the defense attorney begins his cross-examination. After a few minutes, he asks the detective, "I wonder if you'd tell us why you contacted all of these morgues."

Detective: "We wanted to know if any of them had received Robin Penrose [the name used in the novel] or anyone who had matched her description."

Defense attorney: "And none of them had?"

Detective: "That's right."

Defense attorney: "So the fact that you didn't find her at any of these morgues only proves she wasn't dead?"

Detective: "It proves she wasn't in a morgue."

Defense attorney: "So she could easily be alive and not at one of those morgues."

Detective, showing irritation: "Yeah, I guess so."

"Yeah, I guess so" is a response dripping with frustration. That is the theme in missing-and-presumed-murdered cases—frustration for everybody working in the criminal justice system. Without a body, justice is difficult; closure is impossible.

In the actual Jackson case, the family of Julie Church finally received a closure of sorts. In January 1992, seven years after Jackson's acquittal, a resident of California's Antelope Valley was digging a drainage ditch in his yard when he unearthed human bones. Working with a forensic expert at the Los Angeles County coroner's office, deputies matched Church's dental records with the teeth in the unearthed skull.

No longer would the Church case be filed as missing and presumed murdered. She was no longer missing; he remains suggested murder by strangulation. Who had killed her?

That might forever remain a mystery. The spot

where her bones turned up was approximately 150 yards from the house occupied by Jackson at the time of her disappearance.

## EPILOGUE

The site where Lou Goettsch's remains might be buried is currently under excavation for a commercial development. If his remains turn up, detective Reed says he hopes to see Harper charged with murder, again, and tried in court.

But there is unintended irony in Reed's statement. Before conducting a trial, authorities would have to arrest Harper. Yet despite their belief in his original confession, neither Abilene police nor the Walker County, Ga., sheriff's department knows Harper's whereabouts. He has become a missing person of sorts.