

## **ATTORNEY GENERAL'S INVESTIGATION**

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In March, 2007, three members of the Attorney General's staff visited Roosevelt County prior to the BOPP hearing to "investigate" Beach's claims of innocence. The following are comments on their investigation and their lack of real effort to get to the truth:

### **Joanne Jackson**

Joanne told the AG investigators that when she was outside the Buckhorn Bar that night she saw Kim's truck drive by and thought she saw a man chasing it, she was home by 11 o'clock because of her curfew.

At the time of the original investigation in 1979, Joanne went to the authorities and told them that her friend, Calib Gorneau, who lived near the park where Kim was killed, told her that he heard a female screaming "No, Gooch, no!" Like her sister, Joanne tried to throw suspicion elsewhere and Gooch Kirn was initially a suspect in this crime. She told this to the FBI in the presence of Dean Mahlum, Roosevelt County Undersheriff. At trial, Joanne was called by the defense to repeat this story and under oath she denied ever saying that. Timer Moses, Barry's attorney, never followed up and Dean, who was in the courtroom, never bothered to correct her. He certainly knew she did say that and that she was lying. Although Dean Mahlum claims to be certain of Beach's guilt, I wonder if he ever questioned in his mind why Joanne would deny what she told the FBI in his presence.

In her trial testimony, Joanne also said that she was home by about 12:30 with no mention of an 11 o'clock curfew. This is probably a lie, but a different lie than she told the AG investigators.

It would seem that a skillful investigator, trying to get at the truth, might have challenged her on this time discrepancy and also brought up the statement she gave to the FBI. Is it possible that the AG investigators were not trying to determine if Joanne was involved or had guilty knowledge, but were merely trying to clear her at all costs?

### **Roberta Jackson**

Like her sister, Roberta initially tried to deflect suspicion elsewhere. In the early days of the investigation, Greg Norgaard was also a suspect. Roberta told the FBI that Greg was crazy and said that Greg once pointed a gun at her and her sister and threatened to shoot them. Greg denies that this ever happened.

Like her sister and Sissy, Roberta said that she saw Kim's truck going by on Main Street with a man chasing it. Unlike the others, Roberta was positive that Kim was driving the truck. Also like her sister, Roberta observed the "curfew" and was home by 11 PM. In fact, Kim Nees was at the drive-in movie that night with Greg in his Mustang. According to two witnesses interviewed at the time of the crime, she and Greg were there until the show ended a little before midnight. One of these witnesses was the theater owner and the other was a woman who attended the movie with her husband and parked next to Kim and Greg. Obviously, Roberta is lying. She could not have seen Kim driving her truck on Main Street if she were home by 11 o'clock. From 8:45 until about 11:45, Kim was in a different place and in a different vehicle.

I would expect that professional investigators trying to get the truth would have known that what Roberta told them was simply not possible. Kim did not get into her truck that night until after midnight, long after Roberta claims she was at home and in bed. Is it possible that they did not study the case and the original investigation? Is it possible that they questioned these young women without any regard for what they put on the record earlier? Were they looking for the truth or merely going through the motions?

As a final insight, I might add this: During the investigation, I talked to Roberta in the presence of her mother, Alma Jean, now deceased. While I was talking to Roberta about her activities that night and what she may have seen, her mother suddenly chimed in by saying "I remember now. That's the night you girls came home early." She did not say anything about them being home for a curfew, but instead stated that they were home early. Until Dateline interviewed Joanne, there is no record of either of the sisters mentioning a curfew to anyone.

#### **Carl Four Star**

The questioning of Carl Four Star, a witness favorable to Beach was conducted far differently than the questioning of the young ladies suspected of being involved. With the young ladies, everything stated was accepted as fact without questions. With Carl, they went at him much like a suspect and questioned every detail of his account. The AG investigators then went and found a witness, Richie McDonald, to come to the BOPP hearing and say that he worked at A & S Industries and that it was so noisy that if Carl claimed to have overheard a conversation, then he must be a liar. McDonald, now a Deputy Sheriff, worked at A & S Industries briefly and was never assigned to the netting department. Montanans For Justice interviewed on videotape a supervisor of the netting department named Darryl Boyd. Mr. Boyd was familiar with Carl and the others who Carl claimed were working in the netting department at that time. Mr. Boyd had never heard of Richie McDonald and a check of McDonald's employment records show that his employment was brief and never in the netting department. Mr. Boyd also went on to say that the netting area was so quiet that he set up a radio so that the employees could hear music because the quiet was driving them crazy. Rita Weeks, now an administrator for the tribal court, told Centurion Ministries that she once worked in the netting department of A & S Industries and that it was very quiet there.

It is sad to say, but obvious, that the AG investigators found a liar to call Carl Four Star a liar.

### **Calib Gorneau**

Calib told the AG investigators that on the night that Kim Nees was murdered, he walked his girlfriend, Shannon O'Brien, home, kissed her goodnight and then headed home because he had a curfew. He said he saw Kim parked alone at the Exxon station at about 10:30 or 10:45. He got home at about 11:30 and his mother and brother were there. Shortly after, when he heard dogs barking, he and his mother went outside to investigate.

Let us look at some prior statements. In an FBI interview in June 18, 1979, Calib was at home at 11:30 and the rest of the family was asleep. In a subsequent FBI interview on June 19, 1979, he got home at 12:30. In neither interview, nor in several interviews with Centurion Ministries, was a curfew ever mentioned. It would seem that a lot of *ex post facto* curfews were imposed on the Poplar youth.

In his interview with AG investigators, Calib explained that a few months after the homicide (during hunting season), he found a broken necklace while walking his dogs and then turned the necklace into the authorities. In his FBI interview on June 18, 1979, Calib said that about 6:30 PM on the day after the murder, he located a pendant from a necklace and turned it into the authorities. In one report, the FBI even commented on the fact that two civilians turned in pieces of jewelry they said had been found in an area which had been thoroughly searched by the police.

To sum up: Calib saw Kim at the Exxon station at about 10:45 in her pickup. Kim was at the movie theater in another vehicle until almost midnight. Calib got home at 11:30 or perhaps 12:30 and his family was asleep...or his mother was awake and went outside with him to investigate the dogs barking. He found the necklace the next day...or three months later. Which is it?

It would have been nice if the AG investigators were as rigorous in checking out the truth of what Calib told them as they were in checking Carl Four Star's statements. It would have been a more honest investigation if they had done so. For example, Calib said that he got a ride home that night with Barry Buckles and Nolan Birthmark. I wonder if the investigators tried to check that out. Centurion Ministries spoke with Barry Buckles and he is absolutely certain that he and Nolan did not give Calib a ride home that night.

### **Maude Grey Hawk Kirn**

In her interview with the AG investigators, Maude indicated that early that evening, she was driving around and thought that Jordis Ferguson, among others, were with her. Jordis, in her interview, said that she was probably home all evening. Maude said that she parted company with Sissy Atkinson at the Buckhorn Bar and did not see her again that night. Sissy says that Maude dropped her off at home. Joanne Jackson told Dateline that when she and her sister were dropped off, Sissy and Rose

Failing were still in the car with Maude. There are a lot of little details that seemingly do not jibe. However, the AG investigators never followed up.

Finally, Maude said that she ended up with Rose, Denver Atkinson and Denver's friend, John Prescott. They went North of Poplar and hung out drinking and she got home around 4 AM. If the investigators were interested in the truth, before accepting Maude's account, they might have checked with John Prescott. He is very easy to find and has told Centurion Ministries that he was not with Maude that night.

### **Sissy Atkinson**

In her interview with the AG investigators, Sissy said that she was with Maude, Joanne and Roberta. After witnessing the accident outside the Buckhorn Bar, she got into the car with Maude and was dropped off at home. This was about 10:30 or 11 PM. While waiting outside the bar, she saw the Nees truck driving up Main Street with an unknown male chasing it.

There are some problems with this account. Maude, in her interview, said that she parted company with Sissy at the bar and never saw her again that night. This is a small discrepancy, but an indication that someone was not being truthful. This is compounded by the fact that Joanne told Dateline that when she and her sister were dropped off, Sissy and Rose Failing were still in the car. For investigators, this is worth a follow-up session. Also, seeing Kim's truck at a time when Kim was elsewhere in another vehicle was an impossibility that the investigators might have challenged or at least followed up on to see if Pam or someone else might have been in the truck at the time. Of course, when Roberta told them it was definitely Kim driving the vehicle, they should have known they were being lied to.

One must also add this comment: Sissy's older brother, J.D. Atkinson, gave Centurion Ministries a powerful statement implicating his sister and agreed to appear at the BOPP hearing. At the time of the hearing, J.D. was finishing up a prison term and residing in the transitional unit in Billings, still under the supervision of the Department of Corrections. The night before his scheduled appearance, J.D. was called by the AG investigators and told that if he appeared he might face perjury charges and be returned to prison. J.D. was frightened and upset by the threat, but ultimately was persuaded to appear and testify. In some jurisdictions, threatening and intimidating a witness is a crime. It is hard to believe that in Montana, this is acceptable behavior from the Department of Justice and the Attorney General's office. One can only wonder who gave the AG investigators their marching orders...