

Human Remains Prosecution

BY GREG GILLELAND

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A FEW YEARS AGO, as I was relocating from Houston to Bastrop, a murder occurred that occupied the next year and a half of my life and opened my eyes to a nationwide epidemic of missing persons and unidentified human remains.

On July 4, 2005, human remains were found at a rural illegal dumping area close to the Travis County line. The remains had been scattered by scavengers, but investigators were fortunate to recover a large portion. We had no idea whose body it was, although its condition suggested that it had not been exposed to the elements for very long.

Bastrop County Sheriff's Detective Clarence "Dexter" Yarborough was assigned to handle the investigation—his first murder. The remains were transported to the Travis County Medical Examiner, and, in a crucial move, Assistant Medical Examiner Dr. Elizabeth Peacock called in noted forensic anthropologist Dr. Harrell Gill-King of the Center for Human Identification (UNTCHI), housed within the University of North Texas Health Science Center, to examine them. Dr. Peacock was familiar with Dr. Gill-King's expertise and called him because a knowledgeable forensic examination of the remains would greatly assist the investigation.

GIVING A VOICE TO THOSE WITHOUT ONE

Dr. Gill-King and his colleague, Mark Ingraham, conduct-

ed a thorough forensic examination of the remains. The most significant finding was that two ribs had been broken, and it was Dr. Gill-King's opinion that the damage occurred prior to death, that the fractures were not due to post-mortem handling of the body or of scavenger activity. (This small piece of information became essential during later prosecution.)

Dr. Gill-King removed a section of bone from the femur for DNA identification comparison.¹ DNA was extracted from the bone by Dr. Jerry Planz, Ph.D., a medical examiner, and his staff at the University of North Texas. Information gathered from the DNA was ultimately entered into CODIS. In most cases, DNA results are entered into CODIS where they await a match with the samples submitted by family members.

At about the same time as the discovery of the human remains, three sisters from California and Kansas were searching for their brother, Shawn Reilly. The sisters had last heard from him after he was released from jail in Junction, Texas. He told them he would be moving to Bastrop and going to work at an auto-repair business. It was the last the Reilly sisters ever heard from their brother.



GREG GILLELAND
WITH RICK PERRY,
THE GOVERNOR OF TEXAS

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CALIFORNIA MAN

Shawn Patrick Reilly was a California man born in the Midwest but raised in central California. His father's death, when Shawn was in his late teens, seemed to spur a lifetime of substance abuse and drifting. He had a minor criminal history related to drugs.

In 2004, Shawn was arrested for DWI in Junction. He pled guilty and sat out his time in jail, where his cellmate was a man from Bastrop named Bill Reily.² They instantly became friends due to the similarity of their last names. Bill owned several highly successful car repair shops in Bastrop and Austin but had been busted moving 40 pounds of marijuana through Junction. Bill liked Shawn's strong personality and offered him a job in his drug-dealing operation. Soon Bill bonded out and returned to Bastrop; when Shawn was released from jail, Bill helped him move to Bastrop as well.

A CRUMBLING WORLD

Bill Reily's early addiction to heroin landed him in prison for much of the 1980s where he kicked his heroin and alcohol habits. Upon being discharged, he stayed clean and sober for many years. He married and raised a family, and he prospered as the owner of two car repair shops.

In 2004, Bill's nephew James was released from state jail after serving a crack possession sentence. Bill offered to give his errant nephew a job and a chance at getting sober, but soon Bill and his nephew were getting high together. At some point, Bill began dealing large amounts of cocaine, meth, and marijuana to afford his habit. By May 2005, Bill's world had crumbled: His wife had left him and filed for divorce; his house and Smithville ranch were in foreclosure. The car repair business had slowed dramatically due to his problems, but the dope-dealing business at the shop was going strong.

Harold Maurice "Mo" Hunter and James Bonee also "worked" at Bill Reily's garage. Hunter had no criminal history but was something of a drifter. James Bonee was from El Paso and had one prior trip to prison. Bonee was something of a mystery, though we later learned that he was related to the man in El Paso who supplied Bill's dope.

A FATEFUL MOVE

When Shawn was released from jail in Junction, he told his sisters where he would be living, omitting the details of the drug operation. Shawn and James Reily clashed immediately over several women who attended a party celebrating Bill's divorce. Shawn had already become a troublemaker in

Bill's eyes, and after dispatching James to whip Shawn to teach him some respect, Bill was further angered that Shawn had instead gotten the best of James in their altercation.

The day after the party, Bill assembled Mo Hunter, James Reily, and James Bonee at the business, telling them Shawn had become trouble and that he wanted Shawn to "disappear." Bill distributed large folding knives to each man and told them the plan he had formulated.

The next day, Shawn, Hunter, James Reily, and Bonee loaded into Bill's huge truck and went to the ranch near Smithville under the guise of collecting temporary horse fencing to move back to the auto shop. Shawn was breaking down one of the panels when James Reily snuck up behind him with a knife. Just as Reily was about to strike, Shawn turned around and began grappling with his attacker.

The three men fought with Shawn, finally knocking him to the ground. To subdue him, Bonee kicked him in the ribs twice. After that, all the fight had gone out of Shawn, and it was easy for Hunter to straddle him and slit his throat. Bonee supervised the clean-up and wrapped Shawn's body in a blue tarp, securing it with duct tape, all the while wearing gloves to prevent fingerprints. Shawn's body was then loaded into the truck and driven across the county to the illegal dumping area, stopping only to get a 12-pack of beer.

REMAINS FOUND

About a month after the remains had been found, in August 2005, a Crime Stoppers tip was received through the Austin Police Department Homicide division. The unidentified caller possessed a wealth of knowledge about the murder, which all proved to be accurate.³ Detective Yarbrough quickly realized that the missing person reported by Shawn's family and the recovered remains were one and the same. The Crime Stoppers tip was so detailed, particularly as to where the remains were found and about the body being wrapped in a blue tarp with duct tape, that Yarbrough immediately recognized the two cases' similarities. Obtaining DNA samples from two of Shawn's sisters, Dr. John Planz and his staff at the University of North Texas quickly analyzed the mitochondrial DNA and affirmed Shawn's identity. A DNA analyst told me that there was a great deal of excitement at the UNT Center for Human Identification when CODIS found a match between Shawn Reilly's remains and the DNA samples from his sister, as such speedy matches are uncommon.

Detective Yarbrough quickly obtained arrest warrants for all four men named in the tip. James Reily was the first

person apprehended after a high-speed pursuit and an ill-fated attempt to fight the black-belt detective who arrested him. Once in custody, James sang like a canary for two days straight, stopping only to sleep. James's version matched the Crime Stopper tip verbatim. Soon after his arrest came the arrests of Mo Hunter and Bill Reily, each of whom gave full and complete confessions that were both written and recorded on DVD. James Bonee refused to give a statement of any kind when he was arrested.

After reviewing the case files and the DVD confessions, I concluded that a murder charge against James Bonee would be difficult without a confession but still possible. Texas laws requires that testimony from co-defendants be corroborated sufficiently to show the guilt of the non-confessing defendant.⁴ Our corroboration was that Shawn had suffered extensive rib injuries. Not only had defendants Hunter and James Reily confessed to seeing Bonee strike Shawn in the ribs, but also after the murder Bonee had bragged to Bill Reily about his actions.

DIVIDE AND CONQUER

After obtaining indictments of the four murderers, my trial partner, Kathy Holton, and I analyzed the evidence and decided that Bill Reily, the mastermind, and Mo Hunter, the actual stabber, were the most culpable. We knew that one or more of the defendants had to testify against Bonee, and we knew we didn't want to work with Mo Hunter if at all possible. We felt he was the most culpable out of the four because he actually stabbed Shawn.

As the spring of 2006 approached and I was preparing for James Reily's trial, his attorney indicated a willingness to accept a plea offer. After some negotiation, we agreed on 30 years, contingent upon his cooperation and testimony in the trials of Bill Reily and James Bonee. When Reily's plea day came in March 2006, with one of Shawn's sisters present, we took his confession and then put off sentencing for several months.

Mo Hunter had never been arrested in his life and was thus eligible for probation. Because we knew he actually stabbed Shawn, my offer was 50 years. (First parole eligibility in a non-capital murder occurs at 30 years; thus, for plea purposes, 60 years is generally considered the equivalent of a life sentence. By offering 50, I knew that the defendant's first parole eligibility becomes 25, and that five-year break was all I was willing to offer.) Hunter refused, telling others in the jail that because he was 50 years old, he was going to roll the dice with the jury.

Hunter had given a very detailed, well-taken confession, and abundant physical and circumstantial evidence corrob-

orated it. Two of Shawn's sisters attended the entire trial, and of course, the mere presence of an advocate for the victim is at once both inspiring to the State and noticed by the jury. In four days, Mo Hunter was convicted and sentenced to 99 years in prison. Shawn's sisters were pleased with the verdict and sentence and—being from California—shocked that a murder trial could last just four days from start to finish.

A few days after that trial, Bill Reily's attorney contacted me to say his client was ready to take my previous offer of 45 years and testify against Bonee. Kathy and I had a chilling meeting with Bill Reily and his attorney at the jail to prepare for his testimony. He spoke of the murder with the same detached demeanor that you might expect a person to describe how they crossed the street to get to work. Whereas James Reily showed a high degree of remorse and total willingness to accept whatever punishment was offered him, his uncle was absolutely matter-of-fact about the murder and the surrounding events. If Bill Reily were affected emotionally by his part in taking Shawn's life, it didn't show. After telling him I couldn't promise where he would serve his sentence (he wanted to be near his family in north central Texas at a non-maximum security unit) and that we would go no lower than our 45-year offer, he described how the group lived in the months preceding and following Shawn's murder. (After all of the trials were over, his attorney told me that Bill had noted that it would have been easy for him to "take us" with items in an antique weapons display near the conference room where we met. I had concerns about Reily's state of mind at the time we met, and had extra security nearby for his entrance and exit from the conference room.)

Our elected DA, Bryan Goertz, Chief Investigator David Lewis, Kathy, and I poured over jail records, checking disciplinary histories, visitors' logs, and phone logs. During this preparation we were approached by a child molester who had witnessed a threatening verbal episode between Bonee and Bill Reily. All the defendants had remained jailed since their arrest. Although they were separated in jail, there was a moment where Bill Reily and Bonee crossed paths, and Bonee threatened Reily—and I had a witness to this verbal assault. My witness was not a law enforcement employee but a fellow inmate charged with aggravated sexual assault of a child for orally assaulting his under-10 nephew. After consulting with victims in both cases and law enforcement, I decided to use his testimony and offer him probation; his case had a strong possibility for probation anyway because of the defendant's sad history.

In August 2006 we began the trial of James Bonee with

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all of Shawn's sisters present. As they had done in the trial of Mo Hunter, Forensic Anthropologist Dr. Harrell Gill-King and DNA guru Dr. John Planz testified as to their respective findings, but Dr. Gill-King's testimony took on new importance as his expertise now focused upon the manner and means of this defendant's actions.

The child molester witness testified as did Bill Reily. After two days of testimony, the case went to the jury at about 2:00 p.m. on a Thursday. After many painful hours of waiting, in the wee morning hours of Friday we received a guilty verdict. The defendant's attorney immediately revisited plea negotiations, and the next morning Bonee pleaded to 30 years and waived appeal.

One victim, four murderers, three confessions, two trials, four convictions of 99, 45, 30, and 30 years following 18 months of investigations and trials. While commenting to *Austin American-Statesman* reporter Miguel Lisano about the trials, I was aware that this case was the exception to the rule: Most unidentified human decedent and missing persons cases are not matched, and most are not solved.

UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER FOR HUMAN IDENTIFICATION (UNTCHI)

In 2006, about six months after competing the last of the trials, I was contacted by Austin documentary producer Mat Hames, who co-owns Alpheus Productions. He wanted to film a segment called "Skeletons in the Closet" for the PBS series *State of Tomorrow*, which deals with the importance of science in many aspects of our lives. The show would feature a segment on UNTCHI and Shawn Reilly's case to illustrate the lab's forensic capabilities.

There are three divisions in the Center for Human Identification. The Forensic Anthropology division, headed by Dr. Harrell Gill-King, one of the few board certified forensic anthropologists in the world; the DNA Human Identity division, headed by forensic DNA pioneer Dr. Arthur Eisenberg; and the Parentage/Relationship Division, which has been providing this form of DNA testing for over 15 years. The last division often provides analysis in criminal investigations. (There are also forensic odontologists affiliated with UNTCHI who are available to examine dental remains and records.)

LOCAL AND FEDERAL AGENCIES, DATABASES AND INFORMATION

Before handling Shawn Reilly's murder case, I was woefully unaware of the vast services UNTCHI offers. After

preparing with Dr. Gill-King, Dr. Planz, and their staffs for the Reilly trials, I discovered what a large number of unidentified remains exists in this country. Although I've worked as a peace officer and a prosecutor for over 25 years, I could not believe the nationwide numbers of missing children and adults.

One major repository for both found remains and missing persons cases has long been the National Crime Information Center (NCIC). New Jersey State Police figures based upon NCIC reports indicate that in mid-2008, there were 105,372 active NCIC missing persons cases, of which 7,048 are unidentified human remains cases.

- 22,490 were juvenile boys,
- 31,761 were juvenile girls,
- 27,553 were adult men, and
- 23,568 were adult women.

Some of these unidentified remains and missing persons cases result from Alzheimer's and other mental and physical diseases, suicide, homelessness, drug abuse and alcoholism, catastrophes and accidents, or a person's desire to disappear. But many are the result of criminal activity. As I sat in a lecture during a UNTCHI conference and watched the endless parade of faces and stories of the missing persons and the found remains cases, both solved and unsolved, I was truly overwhelmed by the gravity of the problem. Likewise, I have been struck by the number of cases solved with UNTCHI's investigative efforts. It seems that nearly every week I read of the center's involvement in criminal cases and natural disasters.

I was asked to lecture at UNTCHI's 2008 Human Remains Identification seminars for homicide investigators, crime scene technicians, and medical examiners in Fort Worth and Baltimore. In preparation, I developed the opinion that there are a great number of un-apprehended and indeed unknown serial killers in this nation flying well under the radar of public and law enforcement attention. Consider the numbers: At any given time in America, there are roughly 100,000 missing persons. Medical examiners, coroners' offices, and even police evidence rooms hold untold hundreds of human remains from which DNA has never been extracted and for which a meaningful forensic or criminal investigation has not been performed. The details of some of these deaths will never be known, but forensic examination of many show signs of violent deaths. The first step in solving these homicides is finding out who the victim was in life, then working back to investigate his life circumstances. Without some link between missing persons' cases and the actual remains of human decedents, most of these cases will remain unsolved. Identifying the remains is the essential step in investigating these homicides.

Beginning in 2003, President Bush's DNA Initiative was launched to address the longstanding and related problems of missing persons' cases and unidentified human remains. The National Institute of Justice has funded efforts to maximize the use of DNA technology in law enforcement, especially in these co-existent areas of missing persons and unidentified decedents cases. UNT is a partner in this initiative, along with the FBI and the California Department of Justice. Together, these three agencies, under NIJ guidance, are working together to educate law enforcement about the assistance available from their agencies. These DNA labs also actively work to solve cases on a nationwide basis. The National Institute of Justice refers to missing persons and unidentified human remains cases as "the nation's silent mass disaster." Along with funding the investigatory and educational efforts, NIJ is also promoting legislation to improve investigations in adult missing persons cases.

New Web sites have been launched and old Web sites reinvigorated to use all available resources on this issue. For example, the Department of Homeland Security has millions of immigrants' fingerprints that are searchable in its database. To access the Department of Homeland Security database you must contact a member of the Homeland Security Information Network, which is comprised of many members of the federal, state and local law enforcement communities. The Armed Forces DNA Identification Laboratory (AFDIL) accumulated hundreds of thousands of searchable DNA profiles in its database (www.afip.org/index.html). All of these records are available for human remains investigations. Other helpful organizations include:

- ViCAP, which stands for Violent Criminal Apprehension Network, is an FBI-administered database and Web site (www.fbi.gov/wanted/vicap/vicap.htm) that allows law enforcement to enter the facts, details, and evidence related to unsolved violent crimes. Crimes and evidence are then compared. What started over 10 years ago as FBI-supplied software for law enforcement agencies has become a nationwide data information center designed to collect, collate, and analyze crimes of violence, specifically murder.⁵

ViCAP was instrumental during the investigation into Texas serial killer Rafael Resendez-Ramirez. The FBI's Web site states, "When Texas authorities first learned that two Texas cases were possibly linked by a common offender, ViCAP was contacted. Based on certain behaviors and methodology of the offender in their two cases, ViCAP was able to tell them of a similar case in Kentucky that had occurred two years before. Investigators followed up with a DNA analysis that

matched the cases, and this became the catalyst for authorities to realize they had a national serial offender on the loose. ViCAP assisted the investigation by providing the Texas authorities with other possibly related cases occurring elsewhere in the United States."⁶

Sue Stiltner, a longtime FBI analyst, has been working with the development and implementation of the ViCAP program for most of her career. She told me of some of their successes, and her enthusiasm for ViCAP is contagious. All of our law enforcement agencies need to be entering eligible cases into this database.

- National Missing and Unidentified Persons System. NamUs is another creation of the NIJ, serving as the first nationwide online repository at www.namus.gov. Launched in 2007, it is comprised of two databases of unidentified decedents and missing persons reports. The unidentified decedents database is available and searchable by medical examiners and coroners to enter case data, but the search capability of the missing persons database is currently under development, with the goal that by the end of 2009 both databases will be linked and allow searches by law enforcement, families, medical examiners and coroners, victims advocates, and even the public to search for links between missing persons and unidentified decedent files.
- The National Center for Missing and Exploited Children. NCMEC also assists law enforcement in the recovery and identification of missing persons with its large databases and ability to publicize cases and coordinate law enforcement response. (www.missingkids.com)

THE IMPORTANCE OF PROSECUTOR INVOLVEMENT

I encourage prosecutors to make sure your law enforcement agencies are aware of the many resources available in missing person and unidentified human remains cases. For example, while participating in the Baltimore UNTCHI seminar (for investigators and medical examiners/coroners' offices from locations throughout the United States east of the Mississippi River), I learned that many departments have unidentified human remains for which no forensic or DNA investigation has been conducted. Because it is easy (and free of charge) to send these remains to UNTCHI for examination and DNA extraction, there is no excuse for any jurisdiction in our country not to submit remains to get that data entered into CODIS.

I have also learned of the interstate nature of many murders that result in unidentified human remains cases and

missing persons' cases. Our mobile society sometimes means that people go missing in one state and their remains are found in another state where they had no prior connection. That's the beauty of these private and governmental agencies working together to solve these cases. Through the use of labs such as UNTCHI, FBI and CalDoj, along with the databases such as ViCAP and NamUs, and organizations including the National Center for Missing and Exploited Children, we can solve many of these cases, lock away dangerous offenders, and give survivors of these crimes answers and perhaps closure.

I will always remember the moving comments given by keynote speaker and victims' advocate Jan Smolinski at the Baltimore UNTCHI seminar last August. Jan is the mother of a missing son, and she and her detective husband are outspoken advocates not only in their search for their son Billy, but also for reform and increased law enforcement efforts in these cases. The Smolinskis' son went missing as an adult. There is perhaps a pervasive attitude in law enforcement that many adults who go missing do so to "fall off of the grid" or voluntarily disappear. Absent criminal charges against the missing person, they are likely to be categorized as someone who wanted to disappear. I spoke at length with the Smolinski family about their Herculean efforts to locate their missing son and the many stumbling blocks that had been placed in their way by various governmental agencies to get their son's disappearance adequately investigated. It was simply heartbreaking.

CONCLUSION

Since I met the folks at UNTCHI, I have been impressed with the work they do and their dedication with which they do it. Although their plates are full to the brim, they are actively seeking more forensic and DNA analysis of human remains and samples from their families. Every time I read in the news about bodies being identified, I know it is either my friends from UNTCHI or their like-minded colleagues from the FBI or the California Department of Justice.

The National Institute of Justice has put in place massive funding to attack this problem, but the solution to the problems of missing persons and unidentified human remains begins at the local level, with law enforcement agencies and medical examiner's offices submitting samples of the remains (both newly found remains and remains that have been kept in evidence rooms) and DNA samples from family members of missing persons.

I feel like I have been living in The Matrix all of my law enforcement years and just awoke to find the truth: People,

both adults and children, go missing at a staggering rate every day, and very little is done to solve these disappearances. Likewise, many remains of human beings have not been connected with these missing persons' cases, thus depriving their survivors of the chance to lay those remains to rest and find closure. After my work on these murder cases with UNTCHI and teaching at and attending its recent seminars, I am convinced that there are killers (and in some cases, serial killers) roaming our land looking to kill again. We as prosecutors can urge our local agencies to get involved with this nationwide referendum on missing persons and of course assist them in the prosecution of killers once some of these crimes are solved.

ENDNOTES

- ¹ As an aside, UNT researchers prefer to receive an agreed-upon remains sample and extract the DNA or bone window themselves in a very controlled and sterile environment to prevent contamination. They ask that cuttings or samples not be taken by outside agencies and that the entire section of remains to be sampled be submitted to them.
- ² The Reilly sisters have asked that I point out that they are not related to Bill Reilly or his nephew James; indeed, their names are spelled differently.
- ³ Because the identity of Crime Stoppers tipsters is protected by law, I do not know who the tipster was, but reasonable deduction would conclude that it was someone very close to this group, maybe a female companion of one of the killers.
- ⁴ Tex. Code Crim. Proc., Art. 38.14.
- ⁵ Cases examined by ViCAP include: solved or unsolved homicides or attempts, especially those that involve an abduction; are apparently random, motiveless, or sexually oriented; or are known or suspected to be part of a series; missing persons where the circumstances indicate a strong possibility of foul play and the victim is still missing; unidentified dead bodies, where the manner of death is known or suspected to be homicide; and sexual assault cases.
- ⁶ From www.fbi.gov/hq/isd/cirg/ncavc.htm.

NDA CAPITAL CONFERENCE

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