



## **SPENCER COUNTY**

**VICTIM(S):**

Kathleen M. Kohm, 11

**PERPETRATOR(S):**

None ever criminally charged.

**DATE OF DEATH(S):**

April 5, 1981

### **MURDER IN A TOWN CALLED SANTA CLAUS**

No one could blame a parent or anyone for having an extra sense of security in a small Indiana town known by the name of Santa Claus.

Perhaps best known for the world-famous wooden roller coasters at nearby Holiday World, or as the town seemingly everyone wants a postmark from for their Christmas cards, in 1981 it was the scene of a sad and mysterious case.

No one knew that when eleven-year-old Kathy Kohm left her parents' home in the Christmas Lake Village subdivision, a gated development on the edge of Santa Claus, Indiana, that she would never be seen alive again. Still more baffling, no one could ever imagine the years of mystery surrounding her disappearance and death.

Kathy went jogging around 1:30 p.m. on Sunday, April 5, 1981, and was due back shortly. By 3:30 p.m., she still had not returned home and her parents were frantic. The Spencer County sheriff was notified, as were local volunteer firefighters, who joined with Christmas Lake Village neighbors in scouring the area for Kathy.

Four hundred volunteers came together the next night, Monday, April 6, 1981, as Kathy had been missing for more than twenty-four hours. Students from Heritage Hills High School, union miners, and ironworkers formed search parties to help. Police dogs were also used in a futile effort to locate Kathy's scent.

Outside of the view of many searchers, police began a grim task of dragging three of the lakes in the area, desperate for any information about

what had happened to Kathy. A psychic was also contacted, and she tried to do what she could, but her clues did not lead to Kathy either.

The Santa Claus town marshal told citizens that every lead had been followed, a State Police helicopter employed, every empty house within a fifteen-mile radius searched, cisterns probed, a telephone survey conducted of all Santa Claus residents, and as a last resort, a door-to-door survey conducted of homes searching for any clues. None of it had turned up anything.<sup>1</sup>

State Police Captain Wayne Hudson said, "This is a hard one to figure out. I just feel like she's got to be close by here, somewhere."<sup>2</sup>

Hudson said that "an abduction would be very difficult here," pointing out that the only two entrances to the Christmas Lake Village neighborhood was via two gated entrances.<sup>3</sup>

As the search wore on, the Christmas Lake Property Association offered a \$2,500 reward for information on Kathy's whereabouts. A special community prayer service was conducted, and a second psychic was contacted.<sup>4</sup>

On June 10, 1981, investigators thought they had caught a big break when a woman from the Christmas Lake Village area came forward and said she saw at least two people place the limp body of a girl into a car around the time that Kathy went missing.

Unfortunately, the witness had suffered a stroke within a short time later and "forgot" about the incident and did not immediately report it to police.

Before police could process the woman's statements, the case took another big turn.

Kathy's badly decomposed body was discovered at about 5:40 p.m. on Thursday, June 11, 1981, by Spencer County farmer Harold Byers and his fourteen-year-old grandson, Steve Byers. Byers said the body was spotted lying in underbrush along a fence row after the younger boy saw a pair of tennis shoes sticking out of the grass. She was found just 2.5 miles west of her home and near where searchers had tried to find her.<sup>5</sup>

An immediate link was made of the body's discovery to another incident that farmer Jack Harry recalled from the day Kathy went missing. He told police that on that same day, he assisted Evansville firefighter Stanton Gash in pulling his year-old Mazda 626 out of the mud along a disserted lane about 200 feet north of State Road 162, west of Santa Claus.

Harry said he used his tractor to pull Gash's car out of the mud about 380 feet from where Kathy's body was eventually found.

Indiana State Police acknowledged that Gash, a thirty-one-year-old married career firefighter, was a "suspect" and that his stuck car was the only link they could find between him and Kathy.

As police began questioning Gash for a second time about the details of how his car became stuck along the remote, nearly abandoned road, he was

rushed to Deaconess Hospital in Evansville suffering from an apparent drug overdose. State police placed a guard on his door at the hospital, although he had yet to be charged with anything.

Gash's latest behavior matched how he reacted a week earlier when detectives approached him about taking a lie detector test. Investigators had learned that Gash owned a second, summer home in the Christmas Lake area, and witnesses had placed him near the area when Kathy went missing.

When Gash was asked to take a polygraph test, he suddenly left town, and his wife reported him missing for one day on Thursday, June 4. She later withdrew the report after her husband called her from Georgia as he was en route to Florida on an unscheduled trip. In fact, Gash's wife confirmed she called the Evansville Fire Department and reported her husband as taking a sick day when he took off. Fire department officials said he was "absent without leave" since June 4.<sup>6</sup>

As events played out, Bill and Rosemary Kohm at least had some answer as to what had become of their beloved daughter.

"It's over," said Kathy's father, Bill. "We found her, not the way we wanted to, but now she can be buried."<sup>7</sup>

Kohm and his wife talked with reporters through their tears.

"We always had hope that she was possibly alive. Actually, the longer it went on the more our hope grew because they hadn't found anything," Bill Kohm said.<sup>8</sup>

Rosemary Kohm thanked the community for their support in the search for the missing sixth grader. "We have a good family life, we're close, and we have the love of the Lord in our hearts ... He's a sustainer. We have given Kathy back to Him."<sup>9</sup>

As the Kohms moved forward with funeral plans for Kathy, police moved forward with their investigation, including serving search warrants on the Evansville fire station where Gash was assigned and both his Santa Claus and Newburgh, Indiana, homes. Among the items seized was a note police said was written by Gash that expressed "regret for an undefined action."<sup>10</sup>

Police dug deeper into Gash's past but found few clues. During his eight years as an Evansville firefighter, he had compiled a spotless record. He had attended Indiana State University for a little under three years before quitting to join a survey team, then becoming a firefighter.

One of his fire department colleagues, Captain Terry Rickard, said Gash had multiple physical problems, including a hernia and ankle problems, and was accident prone. "If anything was going to happen, it was going to happen to Stan Gash," Rickard said. "Bad luck just seems to follow him around."<sup>11</sup>

Evansville pathologist Dr. Albert Venables reported that the autopsy showed Kathy died of a single gunshot wound to the head with a small caliber

weapon believed to have been used to strike her in the left side of her head. No motive was disclosed for the murder, and conclusive evidence that Kathy was or was not sexually assaulted was not available, he said.

On Monday, June 15, 1981, 500 residents showed up at the community center in Santa Claus for a memorial service for Kathy. She was later buried at Calvary Cemetery in Ithaca, New York, near her extended family there.

As much work as police put into the case, making an arrest never came. Detectives seemed to all but suggest publicly that Gash was their man, but criminal charges were not forthcoming. They lacked evidence to make a charge stick.

Kathy's parents needed no more convincing. In 1983, Bill and Rosemary Kohm brought a civil suit against Gash for the wrongful death of their daughter. It would be the first such case of its kind in Indiana, where a person was sued in a civil action for a crime he or she had not been charged with criminally.

The case was moved to Warrick County because of intense publicity back in Spencer County, but because of the unique nature of the case, statewide and national media attention focused in on the courthouse at Boonville, Indiana. A crew from the ABC News program *20/20* stayed in Boonville throughout the trial for a story they prepared on Kathy's death. Attempts by Gash's attorneys to delay or throw out the case were unsuccessful, and jury selection got underway just before Thanksgiving 1983.

The Kohms' attorneys went straight to the heart of the issue by making farmer Jack Harry, who had assisted in pulling Gash's car out of the mud near where the body was found, an early witness. Harry told the court, "The location that he was, when he was stuck, was a perfect place to be hid," he said, drawing a strong objection from Gash's counsel.<sup>12</sup>

Harry said Gash was rushed and seemed more concerned about getting his car out of the mud at all costs than about not damaging the car. "It was more or less, 'Get it out now! Right now!'" Harry said.<sup>13</sup>

Kathy's parents also testified about the day's events leading up to her disappearance and realizing as they watched an NBA playoff game on TV that Kathy was late in getting back from her jogging.

Indianapolis pathologist Dr. John Pless testified that Kathy had been struck violently on the head before she was shot and likely was not killed on the site where she was found. Pless said the high level of decomposition of the body made making any final determination on a possible sexual assault of the girl impossible. Pless said Kathy's body was exhumed from the grave in New York and subjected to a second autopsy with the permission of her parents.<sup>14</sup>

Indiana State Police Lieutenant George Lewallen's testimony at least suggested a sexual assault was possible. He and Dr. Pless said Kathy's panties

were not found on her body, and instead were stuffed inside the pocket of an insulated vest she wore that day.

On the third day of the trial, Gash was called to the stand as a witness by lawyers representing the Kohm family. He was an uncooperative witness.

As Kohm attorney Hugo Songer started by asking Gash to give his name and address, Gash's attorney immediately interjected saying his client would not answer any more questions.

"On the advice of my counsel at this time, I'd like to exercise my rights under the Constitution of the United States," Gash said, and refused to testify citing the Fifth Amendment guaranteeing a person's right against self-incriminating testimony.

Gash's defense counsel, Jon D. Clouse, said emotional and physical problems caused his client to act irrationally after being publicly named as a possible suspect in the murder. He said the state had produced no conclusive evidence linking Gash to the crime. Gash's wife, Linda, and his brother both testified that they believed he suffered from emotional problems but was not a killer.

Before the case was given to the jury, Clouse tried one more time to get the matter dismissed, saying the state had not met its burden of proving a case against Gash. Warrick County Circuit Court Judge Donald Hendrickson denied the motion and sent the case to the jury. He also denied a request by Songer for the jury to visit the site where Kathy's body was found.

Jurors took about four hours to consider the evidence on Friday, December 2, 1983, before finding Gash liable for the death of Kathy Kohm. They had only to find that a "preponderance of the evidence" implicated Gash, instead of the higher standard of "beyond a reasonable doubt" required in criminal cases.

The jury awarded Kathy's parents damages in the amount of \$5,000. The jury had to determine the "pecuniary value" of Kathy's life, which under Indiana law is defined as actual cash value of services related to a person's death. Therefore, the award could only be based on actual expenses incurred by the Kohms because of the death, and the jury settled on the \$5,000 figure which represented the cost of her funeral and related services.<sup>15</sup>

Gash left the courthouse refusing to respond to reporters' questions. His attorney, Clouse, said he planned to appeal.

The Kohms told reporters they were pleased with the outcome. "It wasn't the money," Rosemary Kohm said. "No amount of money will bring my baby back. We have fought so hard to get that man to serve some sort of sentence. He deserves to be six feet under."<sup>16</sup>

The Kohms said they planned to share the findings of the court with prosecutors back in Spencer County in hopes of jump-starting the criminal investigation into Kathy's murder.

One juror, who asked not to be identified, told the *Evansville Press*, "It did look kind of bad [that Gash did not testify]. If his story was true, and he was innocent, he should have testified."<sup>17</sup>

In April 1985, the Indiana Court of Appeals upheld the civil ruling against Gash and ordered him to pay the Kohms the \$5,000 fee.

Writing for the court, Judge Wesley W. Ratliff, Jr., said that "from this evidence, the jury could have inferred Gash had the opportunity to kill Kathleen ... The evidence of his opportunity, inconsistent statements and flight together with the inevitable inference of guilt drawn from his exercise of his Fifth Amendment right" means that "a reasonable inference on Gash's liability could be drawn."<sup>18</sup>

*Evansville Press* editor Tom Tulley wrote a thought-provoking essay following the completion of the civil case. In it he asked, "Is the news media guilty of fostering assumed guilt" on men like Gash, who was never criminally charged? "Did we as readers base our interest in the case on an assumption. An assumption that Stanton Gash is guilty but unpunished?"<sup>19</sup>

Tulley added, "Certainly, if Stanton Gash is guilty of the crime so many are *assuming* he is guilty of, there is no penalty, no punishment, too severe. But if those assumptions are false, then no more horrible wrong—short of death itself—has ever been done to a man."<sup>20</sup>

From there, the case went silent for many years until the front pages of the *Evansville Courier & Press* on December 23, 1999, carried the news of the death of Gash, now fifty years old, at his Satellite Beach, Florida, home.

As with much of his life, Gash's death was surrounded with mystery as the Brevard County (Florida) Sheriff's Department investigated the death. They reported Gash had not suffered a gunshot wound, or any other visible signs of trauma, despite being found dead on the floor of his living room.<sup>21</sup>

After Gash's death was learned, Indiana authorities revealed they had been to his Florida home on December 6, 1999, to obtain a DNA sample from him. Newly elected Spencer County Prosecutor Jon Dartt had authorized reopening the evidence in the Kathy Kohm case in hopes of using new DNA science to link a suspect to the case.<sup>22</sup>

While in Florida, detectives gathered samples of Gash's hair, blood, fingerprints, and saliva under a court-approved order.

Florida authorities eventually ruled Gash's death a suicide due to a drug overdose.

Hopes of solving the case were dashed for the last time in April 2000 when Prosecutor Dartt issued a statement that said the eighteen pieces of

evidence collected at the time of Kathy's death were too deteriorated to be effectively tested for DNA. Therefore, no DNA link could be made between the evidence and Gash, or presumably any other suspect.<sup>23</sup>

Officially, Spencer County authorities planned to leave the case open and pledged to investigate any further evidence they could.

Gash's long-time attorney, Jon C. Clouse, told reporters that there were two possible reasons for his client to have killed himself after all these years.

"One is that he was a guilty man finally succumbing to his conscience," Clouse said. "Or two, he was a man hounded by law enforcement, lawyers and media."<sup>24</sup>

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## Endnotes

1. *Spencer County Journal-Democrat*, April 9, 1981.
2. *Evansville Courier*, April 8, 1981.
3. Ibid.
4. *Spencer County Journal-Democrat*, April 16, 1981.
5. *Evansville Courier*, June 12, 1981.
6. Ibid.
7. *Evansville Courier*, June 13, 1981.
8. Ibid.
9. *Evansville Press*, June 12, 1981.
10. *Evansville Press*, June 12, 1981.
11. Ibid.
12. *Evansville Press*, Nov. 29, 1983.
13. Ibid.
14. *Evansville Press*, Nov. 30, 1983.
15. *Evansville Courier*, Dec. 3, 1983.
16. *Evansville Press*, Dec. 3, 1983.
17. Ibid.
18. Associated Press, April 18, 1985.
19. *Evansville Press*, Dec. 3, 1988.
20. Ibid.
21. *Evansville Courier & Press*, Dec. 23, 1999.
22. *Evansville Courier & Press*, Dec. 24, 1999.
23. *Evansville Courier & Press*, April 5, 2000.
24. *Evansville Courier & Press*, Dec. 26, 1999.