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## **TEENAGERS' ARRESTS AN 'AMERICAN NIGHTMARE'**

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Timothy Brown and Keith King, ages 14 and 17, never quite fit the part of calculating cop killers.

But the execution-style murder of Broward sheriff's Deputy Patrick Behan demanded solution. Nothing outrages a police department like a cop killer on the loose. And after an eight-month investigation of the Behan slaying, the two mentally impaired street punks were all the detectives had.

Brown and King went to prison for the 1990 murder, the payoff of a pressure-cooker case that consumed 80 officers and offered six-figure rewards posted on billboards. The convictions fueled a series of investigative articles in The Herald last year.

"It's the great American nightmare," said Tim Day, attorney for Brown. "You have a high-profile case that can't be solved, but you have tremendous public pressure to solve it. And you have two pathetic, defenseless people who are used as scapegoats to put an end to the case."

The case against Brown and King was never strong. And there was a competing theory: that a lone gunman, perhaps even a law enforcer, had shot Behan.

But it took a bombshell - a new suspect, reportedly caught by undercover agents admitting the crime on tape - to persuade investigators to reopen the Behan case a few months ago.

Sources say Andrew Johnson, a one-time Broward sheriff's detention deputy, admitted he shot Behan in a revenge killing that missed its intended target. He has not been charged and may never be.

Corroborating his statements will be difficult. Unlike convicts Brown and King, he is protected by a presumption of innocence. Bringing him to trial would be tantamount to acknowledging a grievous error that put two teenagers in prison, one for life.

Behan died in the wee hours of Nov. 13, 1990, shot point-blank in the head as he sat in his patrol car outside a Circle K convenience store on Hallandale Beach Boulevard in Pembroke Park. He was the fourth South Florida police officer and the second Broward sheriff's deputy murdered in that violent year.

Prosecutors say justice prevailed. The convicted killers say they fell beneath the wheel of a system that demanded justice where none was available.

Sheriff Ken Jenne, discussing the case at a news conference a week ago, said his agency would find the truth.

"Were they wrongly convicted? We don't know," Jenne said of Brown and King. "We take this as a very serious accusation. And we are investigating it very seriously."

Among the lingering problems in the Brown and King convictions:

- \* Witnesses saw one man, not two boys, fleeing the scene of the crime.
- \* Behan never unstrapped his holster, leading investigators to suspect that the assailant might have been someone he trusted.
- \* No scientific evidence linked either Brown or King to the murder.
- \* Both teens said detectives shackled and beat them to extract false confessions. Key points in their statements failed to mesh with known facts. For instance, Brown said he and King threw the murder weapon into a rock pit. A search by the sheriff's dive team produced no gun.
- \* Prosecutors claimed Brown and King carried out the shooting on a bicycle. Witnesses saw no bicycle.

"[Detectives] kept asking me if I was sure I hadn't seen any kids on a bike. I kept telling them no," said Phillip Howard, a key witness who was on the street near the Circle K that night.

"I'm glad to find out that something is finally happening to help those two people because they didn't do it and [Brown] shouldn't be in jail," he said.

Others, including a tow truck driver who was inside the Circle K at the time, remain convinced the killers were found.

"I think they have the right guys," said Stephen Antonio. Like Howard, he did not see the shooter.

Here is an account of the crime and the questions it raised, culled from court documents and interviews with many of the principal characters over the past year. The record is murky in places; some key witnesses are dead, reluctant to talk or missing.

#### THE MAKING OF A CRIME

Deputy is found bleeding

after a single shot is heard

The murder case began with the smallest of crimes. Just before 1 a.m. on Nov. 13, 1990, a neighborhood crack addict swiped a carton of Doral menthol cigarettes from the Circle K.

At 1:30 a.m., Patrick Behan, 29, walked into the store for a cup of coffee. Behan volunteered to report the shoplifting and went back to his patrol car to write it up.

Just after 1:40 a.m., a shot was fired. A clerk, Tim Van Hoesen, and a customer - Antonio - ran from the store to find Behan slumped over the wheel, bleeding from a gunshot wound to the left cheek. They saw no gunman.

Edward Davis, a pedestrian, was a block from the Circle K when he heard the shot. He ran toward the store and clearly saw "a lone black person run from an area behind [Behan's] cruiser to a 'gap' between the Circle K and the wall behind it," according to court papers.

A second witness, Eddie Lopez, also saw a lone black adult running from the scene, according to court documents.

The Circle K was soon ablaze in crime-scene lights.

Rescuers airlifted Behan to Memorial Regional Hospital in Hollywood. He died an hour later.

The next day, amid a flurry of tips, a man named Robert McGriff told investigators 14-year-old Timothy Brown had bragged at a local hangout called the Godfather about shooting the deputy.

Investigators now had a suspect.

Brown had grown up about a mile from the Circle K and had amassed 20 arrests for auto theft, burglary and the like. He dropped out of school in the sixth grade and spent his days roaming the streets.

Detectives questioned Brown. They contend he admitted the crime but was too drugged out to make a formal statement. Brown says he denied the murder.

In any case, lead sheriff's investigator Richard Scheff let Brown go, thinking the youth was clearly under the influence of drugs at the time.

"I wanted to be sure in my mind and in my heart that we were going to arrest - if we arrested somebody - the right person," Scheff testified later.

Investigators combed the streets of Hollywood and Pembroke Park, looking for a lone gunman. Then-Sheriff Nick Navarro released a composite sketch on Nov. 26. He said multiple witnesses had described a man fleeing the scene: black, 23 to 25 years old, average height, 185 pounds, muscular build.

(The sketch and accompanying description bear little resemblance to Brown, King or new suspect Andrew Johnson, all three of whom are black.)

A troubling suspicion loomed: that Behan had been shot by someone he knew.

Behan had parked facing the street, standard procedure to avoid being caught off guard. Either Behan had become sloppy, investigators reasoned, or he had been surprised by someone he trusted.

Publicly, lead investigator Scheff said no deputy was a suspect in the Behan murder. But according to court and sheriff's records, investigators checked the weapons of several officers and questioned at least two deputies about the Behan case.

The link was an emotionally unstable former Circle K clerk, Jackie Bain. Interviewed Nov. 15, Bain told detectives a jealous boyfriend had shot and killed Behan to avenge a sex-for-protection racket involving Bain and several deputies.

Several sheriff's employees were disciplined after an internal investigation.

But detectives concluded that the jealous boyfriend story was bogus. Bain kept changing her account, at one point claiming that she herself had killed Behan.

The investigation stagnated. Detectives revisited old leads. One such lead involved Tim Brown.

A few neighborhood kids had told investigators of Brown bragging at the Godfather about the shooting. Another name - Keith - kept coming up as a possible accomplice.

One youth, Solomon Gibbs, claimed he had heard Brown's remarks. Shown a photographic lineup on April 26, 1991, Gibbs identified "Keith" as Keith King.

#### THE ROLE OF KEITH KING

Youth said he 'made up stuff'

because of threats and fear

Keith King was at his foster mother's home in unincorporated Broward on June 4 when two Broward Sheriff's Office detectives knocked on the door. Detectives James Carr and Eli Thomasevich had a warrant for King's arrest on sexual battery charges.

King, a scrawny teen weighing 130 pounds, had already been charged as a juvenile with fondling children who shared his foster home. But someone in the state attorney's office had arranged to have the charges dropped in juvenile court and refiled in adult court.

That way, King could be charged as an adult and detectives could arrest him again and interview him with fewer restrictions, said Randy McCoy, a private investigator who worked on King's defense.

King said he was taken into an interview room, chained to a chair and shown photographs of the crime scene.

Detective Carr beat him, punched him in the face, yelled at him and told him that Tim Brown had blamed him for killing the deputy, King said.

Carr, Thomasevich and Scheff declined interview requests from The Herald.

The detectives kept repeating, "You're going to fry in the electric chair, you're going to fry," King said last week.

"They scared me so bad. [Carr] stuck a gun in my face and said, 'This is the type of gun you used, right? Right?' " King said. "I was so scared he was going to kill me. I said yes and made up stuff."

In his formal confession to police, King gave this account:

King was visiting at Brown's house on Mayo Street in Hollywood when Brown told him, "I'm gonna hurt somebody." Brown said his victim would be "a police officer" and showed King the handgun he planned to use.

Brown hopped on his bicycle. King climbed on the handlebars. They rode to the Circle K. Brown approached the deputy, drew the gun from his pants and shot Behan. Then he climbed on the bicycle and rode away. King ran off in another direction.

The confession raises questions.

King said they met after the shooting at Brown's home on Mayo Street. When police went to the Mayo Street home, a tenant said Brown's family hadn't lived there for a year.

King told detectives he then walked to his home in unincorporated Broward along U.S. 441, a distance of at least 15 miles.

"There is no way Keith walked home along 441 - with the biggest dragnet in Broward County going on - without someone seeing him," said McCoy, the private investigator. "He is a diabetic who tires easily, it's 2 or 3 a.m. in the morning, and Keith has a very visible limp. Someone would have seen him."

TIM BROWN IS ARRESTED

Other teen's confession

put police on his trail

On July 16, on the strength of King's confession, detectives arrested Tim Brown.

Investigators deliberately avoided interviewing him at the juvenile home where he was being held in connection with a burglary and attempted robbery because they thought employees might invoke his right to remain silent.

They waited until Brown's incarceration ended and picked him up outside.

"I certainly didn't want to put myself in the position where I wasn't going to get an opportunity at all to speak with him," sheriff's investigator Scheff testified at a pretrial hearing.

Chuck Morton, the Broward state attorney prosecutor, cited another reason: A then-pending U.S. Supreme Court case raised doubts about whether they would be able to use a confession taken at a juvenile facility.

Brown's mother, Othalean Brown, arrived at the station but wasn't in the room during her son's confession. She says she wasn't allowed to see him. Scheff testified later that she did not want to see him.

"I came to the station, but they told me to wait, he was being questioned," Othalean Brown said last year. "They never let me see him."

Othalean Brown says that, given a chance, she would have told her son not to say a word without a lawyer present.

Florida courts have consistently held that parents who wish to see their child in a juvenile case must be allowed that contact before questioning can begin.

Brown's account of what followed sounds strikingly similar to King's, as if they had compared stories. The men claim they have had no contact since their arrest.

According to Brown, detectives Carr and Thomasevich shackled his legs to a chair and got in his face, "yelling and yelling," telling him over and over that he had killed the deputy. Carr hit him several times, Brown said in a prison interview last year.

"They told me if I told them I did it, I could go back to juvie [juvenile hall]," rather than face adult prison, Brown said. "I thought I'd get to go home."

Brown said Carr coached him on the facts of the crime.

"He told me, 'You came on a bike, you all saw him sitting there and shot him, right?' " Brown said. "They told me, 'It was a dare, right? You did it for no reason, right? You called Keith's bluff, right?' "

Brown said he gave police an alibi: He was with a friend, Keith Maddox, the night of the shooting. Maddox confirmed the story to police.

But in his official, taped confession, Brown told a different story. Brown claimed King was the gunman.

Brown said he was with King at a home on Wiley Street. They got high and hopped on a bicycle to go to the Circle K. King produced a gun and boasted that he was going to kill somebody. Brown "called his bluff."

King jumped off the bicycle, limped to the police car and shot Behan. They jumped on the bike, crossed the street and King fired the gun again, Brown said. The teens threw the gun into a submerged rock pit nearby, according to the confession.

Like King, Brown would later recant his confession.

Like King's, Brown's formal statement contained inconsistencies. Among them: Brown said two shots were fired. Witnesses said they heard only one.

Sheriff's officials aren't commenting on details of the Behan investigation.

The BSO homicide division has lost credibility in the past two years over new evidence that cleared two convicted murderers, one of whom died of cancer on Death Row. Scheff, investigator in the Behan case, was accused of lying on the witness stand in one of those cases and later cleared. Both cases involved DNA. DNA is not an issue in the Brown and King convictions.

#### DEFENSE FAILS AT TRIAL

Timothy Brown convicted  
of first-degree murder

Tim Brown went to trial in October 1993. Prosecutors pinned their case on Brown's confession. Defense attorneys pinned theirs on Jackie Bain, the Circle K clerk with a history of mental illness.

The defense fell apart, jurors said, when Bain took the stand.

"I was thinking maybe they got the wrong guy. I was willing to listen," juror Diane Nickum said, recalling the verdict just after the trial. But "the more we realized that Jackie Bain's testimony was not credible," the clearer Brown's guilt became.

On Oct. 21, 1993, Timothy Brown was convicted of first-degree murder. Jurors had deliberated for 14 hours.

Recent developments lent new credence to at least one part of Bain's story: the notion that the gunman might have been a law enforcement insider.

Sources said Johnson, the new suspect, told undercover agents he plotted to kill a sheriff's deputy, Brian Montgomery, because Montgomery was threatening to block Johnson's bid to become a road patrolman. He stalked his victim to the Circle K and realized too late that his gun was aimed at the wrong man, the sources said.

On March 18, 1994, Keith King pleaded guilty to manslaughter. With Brown already in prison as the gunman, prosecutors had a weaker case against King.

King says he took a polygraph test, claimed innocence and passed. McCoy, the private investigator, says he has the results. Brown, too, has offered to take a polygraph test.

Brown's conviction has survived appeal.

Judge Barbara Pariente, now a Florida Supreme Court justice, offered a lone dissent to a 1995 ruling by the Fourth District Court of Appeal affirming the conviction.

Citing Brown's age, his IQ of 56 and the "coercive" aspect of his interrogation, Pariente concluded: "I have serious doubts about the voluntariness of [Brown's] statement."