

What Scottsbluff Prosecutors Have To Hide

By Sidney D. Kirkpatrick

I have been following Jeff Boppre's case since 1991, have read the court proceedings, personally examined much of the evidence, interviewed the victims' families, and discussed the case with witnesses who testified at his trial. The accepted "facts" of the case didn't hold up to scrutiny back in 1991 and do not hold up today. For readers who may be unfamiliar with the tragic chain of events that landed Jeff in prison, let me briefly tell you what I know—not from the point of view of an attorney—but as a concerned citizen committed to seeing an innocent man set free.

The travesty of justice which landed Jeff in prison in March 1989 took place in Scottsbluff, on the rolling plains of the Nebraska panhandle. As anyone who has been there well knows, it's the kind of place where it's next to impossible to keep a secret. Most people know all their neighbors. Most belong to a church and send their children to the local elementary school. And most, at one time or another, have stopped for a cup of coffee at the Country Kitchen in nearby Gering, the restaurant where many residents first learned that their neighbor, Richard Valdez, had rented the old farm house near Mountain View Cemetery.

Twenty-five-year-old Valdez grew up in neighboring Banner County and hung around Scottsbluff until he graduated from high-school. A few years later he packed up and moved to Texas, only to return home with a fancy yellow sports car and large amount of cash, the result of a settlement he claimed to have received in an accident at a meat packing plant in Amarillo, Texas. But no one could be certain because the settlement seemed to be so grand and Valdez, who frequently returned to Texas to pick-up settlement checks, didn't appear in any way to be hurt.

His sports car and his health weren't the only things which raised interest in Valdez. Sharon Condon, Valdez's girl-friend, was nineteen years old. A Sioux Indian, Condon had grown up in Cherry Creek, South Dakota, and moved to Scottsbluff where her mother, Flora Yellow Boy, managed the Tip Top Apartments near the Union Pacific railroad depot. Condon was six months pregnant when she and Valdez started spending evenings in the farm house, and rumor had it that Valdez was not the father, and that the real father was

none other than Condon's ex-husband, at that moment living at the Tip Top helping to raise their two infant children.

About a month after Condon and Valdez became a couple, Valdez was alleged to have told his father that someone in Scottsbluff had threatened to kill him. Valdez refused to reveal the identity of the person who had threatened him, but promised that if something should happen to him in the near future, he would find a way to tell his father who was responsible.

Valdez's father thought little more about his son's promise until a week later. On that day, Monday, September 19, 1988, a few minutes after twelve noon, one of son's friends went to visit the farm house and found Valdez sprawled on his back across the kitchen floor in a pool of blood. He had been shot multiple times in the left arm and chest. Condon's half-nude body was slumped across a bed in another room, shot in the head and chest so many times that pathologists later had trouble differentiating entrance and exit wounds.

As word of the heinous double murder spread from one ranch to another, police searched the house and adjoining countryside for possible clues. \$11,000 in cash, three police band radios, lists of confidential police radio frequencies, and several thousand dollars worth of marijuana and cocaine were found in a rear room. Except for a handful of spent .32 caliber pistol shells and bloody footprints on the kitchen floor, investigators had very little go on.

According to press interviews, Sheriff Charles Fairbanks and investigator Alex Moreno immediately suspected that the murders were a result of a drug deal gone sour, or a possible love triangle involving Condon's ex-husband. While they discussed the possibilities, an excited crime scene technician was alleged to have reported evidence that had inexplicably been overlooked: Valdez, in his dying moments, had dipped his fingers into his own blood and written the letters of a man's name on the door jamb between the kitchen and living room. More letters had been written on the kitchen floor with a tube of mechanic's lubricant.

Moreno is alleged to have taken only one look at the scrawled letters on the kitchen floor – JFF BOPE – to recognize the name of Jeff Boppre, a 25-year-old auto body repairman living with his parents on a farm within walking distance of the Valdez house, who drove a distinctive 1972 Chevrolet Monte Carlo, his pride and joy. He had been a thorn in the side of highway patrolman and the Scottsbluff police department for years. In addition, Moreno knew that Boppre had a previous criminal record for stealing automobiles, for which he had

served time in prison. As evidence later revealed, he was also a known drug user and the owner of a .32 caliber automatic pistol similar to the one which had been used to murder Valdez and Condon.

After a two day stake-out, Boppre drove into his parents' driveway behind the wheel of his Monte Carlo and was arrested pending an investigation into his activities on the night of the murders. Boppre freely admitted having visited the Valdez farm house on the night of the shootings, but swore he had only gone to buy drugs, and that Valdez and Condon were alive when he and his friend Alan Niemann had left. Boppre, Niemann, and a third friend, Kenard Wasmer, had then visited Boppre's girl-friend in Phoenix. Surely, he said, his friends would testify to the truth. Boppre further claimed to have first heard about the murders when he telephoned his parents from Phoenix, and his father recommended that he slip across the border into Mexico because the police had staked out the house. But Boppre ignored his father's advice and immediately returned home to clear up any misunderstanding.

Boppre's professed misunderstanding became a nightmare when County Attorney Brian Silverman questioned Niemann and Wasmer and then charged Boppre with double homicide. According to his supposed friends—Niemann and Wasmer—Boppre killed Valdez and Condon in cold blood, then used the trip to Phoenix to get rid of the murder weapon, which Niemann helped the police locate.

Boppre went on trial in March 1989. To a packed court, 23-year-old Niemann told how Boppre had bought cocaine from Valdez on the night of the murders. After getting high, Boppre allegedly asked Niemann to help him kill Valdez so that they could steal cash and drugs, only Niemann claimed he wouldn't do it. "But that didn't stop Boppre," Niemann testified in court. "He took his pistol and demanded that we drive back to the Valdez house."

While Niemann stayed in the car, Boppre allegedly stood on the kitchen steps and fired an entire clip of .32 caliber bullets into Valdez. Boppre then loaded a second clip into his pistol and went into the bedroom to shoot Condon, who was sitting on the bed. After returning to the car, Boppre allegedly told Niemann what it felt like to shoot the girl. The inflammatory statement, widely quoted by the press, virtually assured Boppre's conviction.

"I liked it," Niemann quoted Boppre telling him. "I think she was pregnant. You should have seen that bitch plead for her life."

Niemann said that before leaving the property and stealing drugs, Boppre broke the kitchen light-bulb to darken the house so that their bodies would not be discovered until the next day, when he would be Phoenix, long gone from Scottsbluff.

Boppre allegedly also asked 27-year-old Kenard Wasmer to kill Valdez, but Wasmer had also declined. According to him, when Boppre and Niemann returned from the Valdez house after the murders, Boppre wiped blood from his thumb onto the knee of his blue jeans. After smoking marijuana and snorting cocaine, which Boppre had allegedly stolen from the Valdez house, the three left for Phoenix in Boppre's Monte Carlo, stopping on the way for Boppre to purchase new clothes at a K-Mart, dispose of his old bloodstained jeans and shirt, and to throw his pistol into a large pool of drain water at the bottom of a canyon near Gallop, New Mexico. On their return, Wasmer alleged that Boppre had told him that police could do nothing without the pistol. "Jeff said that we were supposed to tell everybody that he sold his gun to Valdez a week earlier."

Boppre proclaimed his innocence in spite of the mounting evidence against him, which soon included the pistol that Niemann and Wasmer helped the police locate. It matched the serial numbers of the weapon owned by Boppre, and was identified as the murder weapon.

On the witness stand, Boppre swore that Valdez had been alive when he had last been with him at 11:30 p.m., that he hadn't seen the pistol since he had traded it to Valdez for drugs a week earlier, and further, that it was Wasmer and Niemann's idea that all three of them buy new clothes and drive to Phoenix. The only reason he once had the pistol, Boppre maintained, was because he had traded it for body work he had done for a friend who was strapped for cash. He hadn't, he said, ever even shoot it.

Boppre knew just how close he was to the electric chair when county attorney Brian Silverman reminded the jury in his closing arguments about the letters scrawled in blood beside Valdez. "Kenard Wasmer knew that he did it," Silverman proclaimed. "Alan Niemann told us that he did it. And most important of all, Richard Valdez told us who did it."

After nine hours of deliberation, a jury of twelve convicted Boppre of double murder. Later, at a separate hearing, when a panel of three judges passed sentence on Boppre, the prosecutor said he was shocked that Boppre didn't get the electric chair, but instead received two life sentences in prison. "Shooting a pregnant woman apparently isn't heinous enough," Silverman sarcastically told

the press. "Boppre would have had to first rape and sodomize her to have gotten the chair."

Justice had been served, or so most residents at the time believed. But stories about Richard Valdez, Sharon Condon, and their murder persisted, the result of two men who first pulled into the parking lot of the Country Kitchen in January 1990 driving Boppre's Monte Carlo. Behind the wheel was Denny Whelan, a private detective from Omaha. In the passenger seat was his son, attorney Mick Whelan. The car was down payment for legal and detective services on behalf of their otherwise indigent client, inmate Jeff Boppre.

Over the next decade and a half, and foregoing income for their services, Denny and Mick Whelan would make upwards of thirty trips to Scottsbluff, during which they interviewed over two hundred residents, collected evidence not presented at the trial, and re-examined the evidence which had been used to convict Boppre. Even after Denny Whelan's death from cancer in 2006, Mick carried on, pouring time and dollars into a cause that totally consumed him, his family, and many others, most notably Dan Curnyn, his chief investigator, and Misty Hernandez, Boppre's older sister. Together with Emilio Valdez, the uncle of Richard Valdez, and Flora Yellow Boy, the mother of Sharon Condon, what they found has led many residents to wonder whether Boppre had committed the murders at all, but instead was framed by a criminal syndicate who ran the drug trade on the Nebraska panhandle like the days when justice was dispensed by Wild West gun-slingers.

The first question that intrigued the Whelans was what motive Jeff Boppre had in murdering Valdez and Condon. If Boppre had come to Valdez's house to steal from him, as the prosecution argued, he left behind more than twenty-five thousand dollars in cash and drugs. Moreover, if Boppre had committed the murders, why had he returned home the minute he heard that the police were looking for him? Had he been cleverly framed by Niemann and Wasmer, who had testified against him?

After conducting their initial interviews, a picture emerged of Boppre and his friends that was strikingly different than the one which was presented to the press. Boppre was not the violent felon that the prosecution claimed, but a thief. As one friend said, he would have stolen everything in the Valdez house, right down to the carpet tacks, if he had had been given the opportunity. Yet he left behind cash and drugs which could have been easily obtained by merely reaching into Valdez's pockets. Boppre had also never been convicted of a

violent crime or had previously demonstrated violent behavior. Moreover, he had inexplicably made several cash withdrawals from his ATM after supposedly robbing the drug dealer. Why would he need more cash if he robbed and killed the drug dealer?

Wasmer, who invariably carried a hunting knife with him at all times, and Niemann, who enjoyed target practice with pistols, were considered the violent would-be assassins. People who knew them described the pair as killers for hire, in the employ of Nebraska drug dealers. Why they had come to Scottsbluff was never explained, but it coincided around the same time that Valdez transitioned up from selling marijuana to cocaine. At first they tried to befriend Jeff Boppre's brother, Danny, asking that he introduce them to Valdez, but Danny didn't want anything to do with them. They soon ingratiated themselves to Jeff with a seemingly endless supply of cash which they gave Jeff to purchase cocaine from Valdez on their behalf.

Richard Valdez also came into sharper focus as a result of Whelan's interviews. High-school friends of Valdez claimed that he had bought and sold marijuana in the area for years, and that his father had started him in the business. When Valdez wanted to move from marijuana to cocaine, his father allegedly lectured him not to become involved, telling him that some very important and influential men ran cocaine sales in the Nebraska panhandle, and that he and his son had been permitted to sell marijuana in the area because they kept their operation small and their clientele confined to the Tip Top Apartments, selling to the Latino and Native American community.

Valdez was further alleged to have gone into the cocaine business in spite of his father's objections, and that the reason he had first gone to Texas was to find a major cocaine distributor not connected with the established Nebraska panhandle cocaine pipeline. When Valdez returned from Texas he was allegedly making from \$3,000 to \$4,000 a week selling higher quality cocaine at lower prices than his competitors. The only reason he rented the remote farm house near the cemetery, witnesses said, was to sell cocaine in greater security and anonymity than he could at the Tip Top. After normal business hours, which were 10 p.m. to 3 or 4 a.m., Valdez and Condon returned to an apartment which they kept in town. The farm house was used exclusively for drug sales. It's doors were always kept locked, and in the week before the murders, Valdez had obtained a pistol, in case of trouble, which he was expecting. More than one of Valdez's friends would later sign an affidavit that the pistol he kept at the house was one and the same as that given him by Boppre—who was

strapped for cash—in return for drugs. These same witnesses claimed that Valdez wasn't worried about being killed by one of his clients, but by the police and those whom they were allegedly protecting, who had the farm house under surveillance.

Whelan also learned that there was a great deal of physical evidence that had also not been revealed at the trial. Among those items Whelan was able to track down were Condon's eye-glasses and other personal items which were found by her ex-husband in the grass on the road leading from the Valdez farm house. According to her ex-husband, Condon never went anywhere without her glasses, indicating to Whelan that the killer or killers had searched through her purse after the murders, dumping what they didn't want as they drove away from the crime scene—something that hadn't been testified to in court.

Additionally, behind the Valdez farm house, there was found a large hunting knife, similar to the one described as having been owned by Wasmer, raising further suspicions that more had transpired at the house on the night of the murders than Niemann had testified to in court.

Equally perplexing was a bullet hole in the kitchen window and a box of rifle shells and a telescope that was found in an abandoned shack just across a field with a direct view of the house. This suggested to the Whelans that Valdez had indeed been under surveillance at the time of the murder, may have been worried for his life, and may have tipped his father off to this fact.

Finally, there were large bloodstains not inventoried by police crime-scene technicians, which were found and sworn to by Condon's mother, Flora Yellow Boy, who cleaned the farm house after the police released the crime scene. The bloodstains led from the back of the house and into the kitchen, which raised serious questions about whether or not Valdez had actually been shot while standing at the kitchen door, as police alleged.

There was much other circumstantial evidence that suggested the murders had not occurred as Niemann and police investigators claimed at the trial. One of the most important was a pair of Kenard Wasmer's jeans and a towel which had been taken into evidence. Pathologists reported that the jeans and towel contained traces of Sharon Condon's blood. If Wasmer had not been in the farm house on the night of the murders, as he alleged in court, how did Condon's blood come to be found on his jeans and towel? Why didn't Boppre's court appointed public defender raise this question in court? Also found in Wasmer's possession was a Polaroid photograph of the murder weapon. Why

did Wasmer have the photograph? Who had taken it? Could Niemann and Wasmer have been ordered to come to Scottsbluff to kill Valdez? And if so, by whom?

These questions came into sharper focus when Dan Curnyn and the Whelans began to look into how the police so easily located the murder weapon. According to Niemann's court testimony, Boppre's pistol had been disassembled and the individual pieces thrown into a muddy ravine, at night, along a deserted and otherwise desolate stretch of highway outside of Gallop, New Mexico. How had Niemann, uncertain of the time, without a road map, easily identifiable highway marker, and high on drugs, remembered exactly which ravine he had tossed the weapon? There are upwards of five-thousand such ravines on the outskirts of Gallop, and yet, Niemann, like a homing pigeon, led police directly to the ravine where police, without difficulty, found the parts of the weapon. As the Whelans would soon discover, a Scottsbluff police detective went on vacation, (in the midst of the county's most sensational investigation), and just happened to be driving on the same desolate stretch of road where, several days later, fellow detectives retrieved the pistol parts, which they miraculously found under water, and buried in six inches of mud. Was this mere coincidence? The Whelans suspected otherwise.

The most revealing evidence of conspiracy to convict Boppre was a crime scene video which state troopers shot at the Valdez house after the bodies were discovered. Even a casual viewer couldn't help but notice the condition of the kitchen door in the videotape. Niemann testified that Valdez opened the kitchen door for Boppre—thinking he had come to buy more drugs—at which point Boppre, standing outside, had shot Valdez at point blank range. But it was clear in the tape that the door had been kicked open from the outside and that wood fragments from the door jamb were found under Valdez's body. Broken glass had also been found under Valdez's body, contradicting Niemann's testimony that Boppre knocked out the light fixture after Valdez was shot and lay dying on the floor. Moreover, technicians videotaped the kitchen counters, but apparently failed to videotape the room where blood stains had allegedly been found leading into the kitchen. Had investigators purposefully avoided shooting videotape in this room? The truth, the Whelans discovered, was that crime scene technicians had videotaped the room, but these scenes had been edited out in the tape which was provided to the defense.

Other questions were raised by the Valdez autopsy report. Having read the report, and then viewed the position of Valdez's body on the kitchen floor in the

video, it was clear to the Whelans, and later to the specialists to whom they showed the evidence, that Valdez couldn't possibly have written the letters that police credited him with writing. He was dead within minutes of being shot, likely within seconds, and certainly long before Boppre had left the farm house. And yet, Valdez was alleged to have dipped his fingers in his blood, and while laying on his back, in the darkened house, wrote JEFF on the door jamb. Equally unbelievable was that he had done it using the back of his finger-tips, as the autopsy report clearly showed that blood was not on the upper pads of his finger-tips. Valdez then was alleged to have somehow found a tube of mechanics lubricant, and with two hands, or holding the tube in his fist, written Boppre's name on the floor.

It was inconceivable to the Whelans that a dying man, shot four times, whose arm were so riddled with bullets that one of them was completely useless, would have the strength and skill to carefully squeeze out a tube of mechanic's lubricant to spell his killer's name. Someone had held the dead man's hand and written the words. The same person or persons had scripted the bloody letters on the door jam. In their haste, or fearful that they would disturb the murder scene, they had thoughtlessly used the back of Valdez's hand and not the tips of his fingers.

There was one other very curious fact revealed in the autopsy report. Lacerations were discovered on Valdez's neck, as if he had been held down on the floor with a knife pressed to his neck. Was he questioned before his execution? If so, why? And by whom? Did whomever kill Valdez come to the farm house for something besides money and drugs? Could Valdez have some document or letter implicating those who may have wanted him murdered? Could this have been what Valdez alluded to in his conversation with his father?

While the Whelans were puzzling over the reasons why Boppre's court appointed attorney had not made more use of such available evidence to raise doubt at Boppre's trial, they heard rumors that a third person might have been with Valdez and Condon when the killer or killers came into the house. Unlikely though it seemed, the Whelans were not inclined to dismiss the rumor. Two of Valdez's friends had told the Whelans that the police had launched a county-wide manhunt for a hitch-hiker believed to have been in the vicinity at the time of the murders. With the sheer amount of evidence which Whelan knew hadn't appeared at the trial, it was only logical for him to conclude that the police had reason to suspect that there might actually have

been some unidentified person near the crime scene that night, and for reasons that weren't clear, decided to keep this evidence to themselves.

Although the hunt for a potential witness was a long shot, the Whelans started going door to door on the road to the Valdez house asking if anyone had heard anything unusual or seen a hitch-hiker in the area that night. To their surprise, they got a positive response at the first house they came to. According to one of Valdez's neighbors, someone had pounded on their door at around 3:30 a.m. on the night of the murders shouting for help, but by the time they answered the door, the person had left. Another story that the Whelan's tracked down was a rumor that circulated in the local high-school, about a girl named Melissa Moreno (no relation to chief investigator Alex Moreno), who had told friends that she had been hiding behind the bed during the shooting. No one the Whelans spoke to knew where they could find Moreno, as she had disappeared from Scottsbluff immediately after the murders. Hoping to find her, Denny Whelan went out in search of Moreno while Mick Whelan and Dan Curnyn concentrated on tracking down Niemann and Wasmer, the two witnesses who had done the most to convict Boppre.

Locating Wasmer promised to be harder than Mick and Dan first suspected because Wasmer's agreement with the prosecution provided police protection and relocation, along with \$50 a month spending money and rent payments of \$180 a month for an indeterminate period of time. Charges of aiding and abetting had never been brought against him. In fact, police were alleged to have inexplicably taken him into protective custody the moment Boppre was arrested and kept him in seclusion throughout the trial. After he testified, police then escorted Wasmer out of town without allegedly obtaining as much as a forwarding address. Curnyn and the Whelans could only wonder why police had gone to such lengths to supposedly protect Wasmer when the supposed killer was safely behind bars. What did he know that hadn't been made public at the trial?

Niemann was much easier to find. Unlike Wasmer, he had been charged with stealing from the Valdez house, an act which he confessed to committing after Boppre had shot Valdez. Charges against Niemann had been reduced, but he was still sentenced to serve five years in prison at the Douglas County Correctional Center in Omaha.

In preparation with confronting Niemann, Mick Whelan interviewed several of Niemann's prison friends. As he quickly learned, Niemann had bragged about

the Boppre murder to his friends, and little of what he said had been reflected in the testimony he had previously given in court. According to these inmates, Niemann hadn't seen Boppre kill Valdez at all, but had agreed to testify against him as a result of an agreement with County Attorney Brian Silverman.

It took more than three months of careful patience and planning before the Whelans confronted Niemann. When they did, on November 1, 1989, Niemann recanted his testimony, first in front of two witnesses, and later in front of a court stenographer. Niemann stated that his testimony was the direct result of the use of threats, intimidation, and coercion by Brian Silverman. Further he stated that the County Attorney told him that if he did not testify the way Silverman wanted, he would be charged with two counts of murder. Silverman then gave him several typed pages detailing the exact information he wanted Niemann to testify to, and told him to "read and memorize these pages and get it right." Additional proof of what Niemann told the Whelans was also soon forthcoming in the form of audio taped interview sessions that had been made by police investigators, but had not been turned over to the defense.

With Niemann's help, the case against Boppre was coming apart at the seams. Whelan had more than enough evidence to warrant a retrial, if not just cause to have Boppre granted a pardon. But as important as this development was, it didn't explain who killed Valdez. Did Niemann and Wasmer commit the murders? And if so, why? Niemann himself wasn't willing to explain what had actually happened on the night of the murders unless he had a new arrangement with a high-ranking official from the State of Nebraska or the FBI, something that might take months, perhaps years to arrange.

While Denny was looking for Melissa Moreno, other, more disturbing evidence of police and prosecutorial misconduct began to emerge—not just in the Boppre conviction, but in investigations run by members of the same team of Scottsbluff officials who had been at the Valdez farm house on the day the murders were discovered. Among several cases that came to the Whelans' attention was that of a known drug dealer thrown off a grain elevator, who, like Valdez, was alleged to have been under surveillance by the Scottsbluff police just before his death. A second case involved a drug dealer who was allegedly killed in a highly suspicious truck accident, and a third case concerning a drug dealer found dead of smoke inhalation under peculiar circumstances. All of these cases involved members of the same Scottsbluff police investigative team.

The Whelans first delved into what was the most recent of these cases, the death of Valdez associate Steve Schlothauer, who was killed in the same county as Valdez about a month earlier. Local firemen had found the 39-year-old known drug dealer dead on the floor of his burning trailer home in Minatare, Nebraska. Neighbors had reported seeing a man named Roger Sishc climbing out of the rear window of the trailer. Sishc, aged 42, admitted before a coroner's jury that he had started the fire in Schlothauer's trailer, but claimed to have done so as a matter of self defense. Sishc said he had driven to Schlothauer's trailer house in order to complete an automobile trade. Their conversation soon became a heated argument. Thinking that Schlothauer might become violent, Sishc allegedly removed himself to the bathroom and locked the door. Before making his escape out the tiny trailer window, he set fire to the bathroom to create diversion. While Sishc was escaping, Schlothauer—according to Sishc—must have accidentally knocked himself unconscious and died of carbon monoxide poisoning.

Absurd as this defense sounded, Sishc boasted to several witnesses that he would be acquitted as soon as his case reached trial. This is precisely what happened on June 13, 1989, when Judge Robert Hippe, the same judge who presided over the Boppre case, granted a verdict of not guilty. And this before the defense was even asked to present their side of the case.

The Whelans investigated further to try and find out what happened in Schlothauer's trailer house that night. Once again they learned that a great deal more evidence existed which did not find its way into court. Most notably this included empty gasoline and insecticide cans found next to the trailer, and the unexplained appearance of county attorney Brian Silverman, who arrived at the trailer house before it was declared a crime scene.

According to neighbors in the trailer court, Silverman removed a safe from Schlothauer's trailer and put it into the back of his car. Instead of taking the safe over to the police station, as police procedure would have required, Silverman drove it to the home of his neighbor, who used a blow torch to help Silverman open it. When Silverman eventually turned the safe over to police it was empty, and thus deemed irrelevant to the investigation. Even more curious, Schlothauer's trailer home caught fire a second time a few hours after Silverman allegedly opened the safe. The trailer house burned completely to the ground this time, making a thorough investigation of the case impossible.

Schlothauer's friends, interviewed by the Whelans, were immediately forthcoming about why the safe may have been removed. According to them, Schlothauer, like Valdez, had thought that his life was in danger, due to his suspicion that his trailer home was under surveillance. To protect himself, Schlothauer was alleged to have had in his possession an audio cassette with the voice of the man he claimed ran the cocaine trade on the Nebraska panhandle. He played this tape for a number of people, including his friend Pete Marez. On the tape, Schlothauer and two others were negotiating the price of a pound of cocaine. After Schlothauer played the tape for Marez, he asked his friend if he recognized the voices. Marez did. One of the two men negotiating the cocaine sale with Schlothauer was alleged to be County Attorney Brian Silverman. Could this have been what Silverman was looking for in Schlothauer's safe? If Silverman hadn't found it in the safe, could he have ordered the trailer house burned to make certain that it wouldn't be found? Could Schlothauer have given the original, or a duplicate, to his friend Valdez, with whom he wanted to go into business?

The Whelans weren't shocked at what Marez had told him because they had already begun, by this time, to probe into some of the other unusual occurrences which informants recommended they investigate. Among the most important were a pair of suspected drug couriers who inexplicably jumped in front of Union Pacific trains within six months of one another. Like Valdez, both victims were major marijuana dealers who had recently decided to go into the cocaine business, and both were alleged to have been under surveillance by the Scottsbluff police department.

When the Whelans had started their investigation, it had looked to them as if police and county officials had not been diligent about investigating the deaths and murders of drug dealers on the panhandle. Now it looked as if the police and county officials themselves may have been involved in the murders, or somehow had a reason for protect the killers.

The Whelans now had Niemann's recanted testimony and more than two dozen other witnesses prepared to raise enough significant questions about the Boppre investigation to overturn the case. But the Whelans wanted more. They had to locate Melissa Moreno to find out what she had or had not seen in the Valdez's house on the night of the murders.

More than a year after their investigation had begun, Denny Whelan had a promising lead. His break came when he interviewed a high-school music

teacher who told him about an unusual emotional outburst by one of her former students during choir rehearsal on the day after the Valdez and Condon murders. According to the teacher, her student, 15-year-old Melissa Moreno, in tears, confessed that she had been at the Valdez house many times doing drugs with Valdez and Condon. On the night of the murders, she, Condon and Valdez were sitting in the bedroom when they heard something in the kitchen. The sound might have been the kitchen door being kicked in. Condon told Moreno to hide while Valdez checked it out. She heard voices of people talking in the next room. Sometime later, the lights went out and the shooting started. At 3 a.m., when the terrified girl was sure that it was safe to leave the bedroom, she ran over to a neighbor's house and banged on the door. When no one answered, she took off across the fields until she came to the main road, and hitch-hiked home. When Whelan asked why the high-school music teacher hadn't come forward sooner with this information, she replied that she had, saying that she contacted the police immediately. An officer, Alex Moreno, who was the chief investigator at the Valdez and Condon crime scene, arrived at school and escorted Melisa into his vehicle.

Three other students in the high-school choir came forward to substantiate the music teacher's account, one of whom told Whelan that Melisa had described the murder in graphic detail right down to the moment a chunk of Sharon Condon's face hit the carpet beside the bed. Melissa's physical appearance also supported her claims. She had cuts on the bottom of her feet, which may have come from the broken light bulb on the kitchen floor, a fact not revealed to the press or known to the public until after Boppre's arrest. Her legs were also scratched, from what may have been a frantic barefoot dash across a farmer's field to a neighbor's house.

With the music teacher's help, and leads provided by other choir members, the Whelans traced the girl's movements after the murder from Scottsbluff to a small town in Colorado, and then to Minatare, Nebraska, where they arranged for a meeting. Having heard that Melissa would deny any involvement, Denny Whelan went into the meeting without any preconceived notion that she might someday appear on a witness stand on Boppre's behalf. As he imagined, she initially denied being anywhere near the Valdez farmhouse on the night of the murders. When Whelan asked where she had been, she showed him to the door. But not before she provided him with the ammunition that he and his son would later use to try and reopen the case. "The police sent me to a foster home outside the city until the trial ended," she said. Several meetings later,

and in front of court stenographer, Melissa Moreno said this and much more. “I know for a fact that Jeff Boppre did not kill Valdez and Condon.”

Given the overwhelming evidence the Whelans collected, it would seem to be a foregone conclusion that the Boppre case would be reopened and that a major investigation would be launched into police corruption in Scottsbluff County. But after more than two decades Jeff Boppre still languishes in prison. The evidence custodian in the case, Jim Lawson, became the Scottsbluff Sheriff. Chief investigator Doug Warner was promoted to Nebraska Attorney General Jon Bruning’s office. County Attorney Brian Silverman became a Nebraska state judge and the president of the Nebraska District Judges’ Association.

Several of the judges who have reviewed the evidence have privately admitted that the murders couldn’t possibly have occurred the way witnesses testified at the trial. But this, they say, doesn’t mean that Boppre definitively didn’t commit the murders. It only means that the crimes didn’t happen the way the jury was told. What is not said, and perhaps more important, is that several law enforcement officials in Nebraska may have a vested interest in seeing that this case is not reopened. So long as Boppre is behind bars attention will not be focused on the very embarrassing and potentially indictable offences perpetrated by those who prosecuted him.

Sidney D. Kirkpatrick is a New York Times best-selling author. His latest book, *Hitler’s Holy Relics*, is a true-crime thriller set in World War II.