

# 'NO-BODY' MURDERS

GUILTY VERDICTS CAN HAPPEN EVEN WITHOUT PHYSICAL EVIDENCE OF DEATH

By **Glennnda Chui**  
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Gilroy restaurant owner Young Kim disappeared more than four years ago. Now, in a Santa Clara courtroom, prosecutors are trying to prove his wife paid \$100,000 to have him killed.

But they lack a key piece of evidence: Kim's body, which has not been found.

It's the kind of predicament authorities may face if they fail to find Laci Peterson, the pregnant Modesto woman who vanished on Christmas Eve, and if they decide to charge someone with her murder.

To win a conviction in a case like this, prosecutors have to prove a series of things beyond a reasonable doubt: First, that the missing person is dead. Second, that he or she died as a result of foul play. And third, that the defendant did it.

As far back as colonial times, juries have been convict-

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ing killers based on witness testimony or a defendant's own bragging. Nowadays, they may consider high-tech tests on decade-old bloodstains.

Santa Clara County prosecutor Randy Hey said he considers one of his career highlights a conviction in a so-called "no-body" case. While trying a San Jose man for a drug-related murder, Hey realized the defendant's 19-year-old girlfriend had vanished years earlier.

He went back and investigated Adrienne Gilliam's disappearance and, in 1988, got a conviction against Gary Johnson, then 38.

"I was never able to establish how he killed her, where he killed her, what happened when he killed her," Hey said.

But he turned up one key piece of evidence. Years after Gilliam's disappearance, Johnson attacked another woman and told her "he would do to her what he had done to Adrienne," Hey said.

"That was the extent of my evidence," he said.

No one keeps statistics on "no-body" murder charges or convictions. But there are a lot of them on the books, said Peter Keane, dean of the Golden Gate University Law School and a former criminal defense attorney.

Santa Clara County prosecutor Peter Waite is using circumstantial evidence to try to prove his case against one of the people accused of killing Young Kim.

## Financial records

The evidence includes financial records and witnesses who say the defendant, 39-year-old Gustavo Covian, told them about the killing, Waite said.

Young Kim was last seen driving away from the Gavilan Restaurant, the Hollister truck stop he owned with his wife, in November 1998. His wife, Kyong Kim, reportedly told police she found his car at their house later that day, but she did not report him missing for 16 days.

Covian went on trial last week in Santa Clara County

Superior Court. His wife, Maria, and brother, Ignacio, are also charged in the case and will be tried separately; so will Kyong Kim.

## Evidence of death?

In opening arguments, defense attorney Thomas Worthington insisted that there is no evidence that Young Kim is dead — let alone that Gustavo Covian killed him.

While police searched Covian's home and dug up a creek bed where Kim's body was supposedly buried, Worthington said, they never found one bit of evidence — not a hair or a fiber or a spot of

In criminal cases, there's no set time after which missing people can be considered dead, legal experts say.

blood.

He said Kim and his wife had been having marital problems and financial difficulties. Both of them were having affairs. It's entirely possible, Worthington said, that Young Kim took off and is hanging out with a girlfriend in Mexico.

The Kim case is among at least three ongoing cases in California in which a victim's body was never found.

Bruce Koklich, 43, is scheduled to go on trial in Los Angeles County on Monday on

charges of killing his wife, Jana Carpenter-Koklich, 41, daughter of the late former state Sen. Paul Carpenter, D-Cypress. She vanished 18 months ago.

And Joseph Eli Morrow, 54, was arrested in the Philippines last month and charged in the murder of his wife, Donna Morrow, who vanished 11 years ago after a violent argument in Menlo Park.

In civil court matters, a person who goes missing for seven years is generally presumed dead. But there is no such rule when it comes to criminal cases, legal experts say.

## Due date is key

In the case of Laci Peterson, where no suspect has been named or charges filed, investigators will be watching to see what happens as the due date for her baby, which is around Valentine's Day, approaches this month. She was eight months pregnant when she vanished — the day her husband, Scott Peterson, told police he was fishing in Berkeley.

"We're all going to look for that due date," said Karyn Sinunu, a Santa Clara County prosecutor who is not involved in the case. If Peterson got mad at her husband over his now-publicized affair and took off — a possibility that can't be ruled out — "it seems pretty unbelievable that she would not make contact with her sis-

ter, her mother, her friend, when it's time to deliver that baby," Sinunu said.

When San Francisco attorney John O'Sullivan took the job of defending Mark Christopher Crew, a 33-year-old truck mechanic accused of killing his new bride in 1982 after fleeing her out of her life savings, "people said it was a piece of cake because there was no body," O'Sullivan recalled.

He found out otherwise.

In gruesome testimony, a friend of Crew's said that Crew had told him about the murder: He had taken Nancy Jo Crew to a remote area, shot her and left her to die. Later, he returned with another friend and found her still alive; they cut off her head, put the head and body in separate barrels, filled them with cement and dumped them off the Dumbarton Bridge.

"There were very diabolical, almost surrealistic statements as to how they tried to get rid of the body," said O'Sullivan, whose client was convicted and sentenced to death. "I think when jurors hear that, their apprehensions about not having a body are overcome."

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