

## *Chapter 1*

### The Attack at Walker Arena

ROBERT J. Warren Jr.'s headlights caught something strange in the inky darkness as he drove southwest on Route 11 in upstate New York at around 10:15 on the evening of August 28, 1986. Warren hit the brakes on his GMC pickup and managed to screech to a stop a few feet before he would have struck a man sitting partly in the roadway.

The 24-year-old Warren had been heading home to Morristown, New York, after dropping off his wife at her parents' house in nearby Winthrop. He was now alone in the truck as he studied the man, who looked to be in his mid-20s with a medium build, dark hair, a scruffy beard, a dark jacket and beige work boots.

Seconds later, the man jumped up and ran over to the truck.

"Do you have a problem? What are you doing?" Warren asked.

The stranger in the road said he was going to the village of Potsdam, about 10 miles up ahead, and asked if Warren could give him a lift. In the mid-1980s, it wasn't considered uncommon or particularly unsafe to pick up a hitchhiker heading toward Potsdam, home to a college and a university. In this rural region just south of the Canadian border, public transit was all but nonexistent. Young adults often used their thumbs to get from one distant town to another.

Warren invited the man to get in.

The hitchhiker climbed onto the passenger seat and introduced himself. Warren only caught his first name: "Brian." The man smelled of booze, but he seemed friendly, if perhaps a bit wired. As Warren resumed driving toward Potsdam, his passenger did most of the talking, making a point to

## A STRANGER KILLED KATY

brag that his family was prominent in the Potsdam area and owned numerous businesses there. Warren heard him say something about being related to the Snells.

The hitchhiker also let it be known he had spent much of that day drinking, snorting coke and smoking marijuana, and he still had about 4 ounces of pot on him.

“Do you want to smoke a joint?” he asked.

Warren shook his head. “No,” he said, “I don’t do that anymore.”

Warren was a bit amused by all of this until the hitchhiker confessed he had a violent confrontation that evening at Chateau’s Restaurant and Bar in Winthrop. He got into an argument with a man who accused him of stealing three dollars left on the bar. Then, the hitchhiker said, he “shot him in the leg,” adding that this “guy would be dead by 4” that morning.

As if to offer proof, he said he was packing .25-caliber and .357-magnum handguns. He asked if Warren wanted to see one.

Warren’s hands tightened on the steering wheel. “No,” he said.

By the time the pickup entered Potsdam’s village limits around 10:30 p.m., Warren couldn’t wait to get rid of his passenger. Warren pulled the vehicle to the curb at the corner of Elm and Market streets near Robinson’s Market in the heart of downtown. After quick goodbyes, the hitchhiker jumped out, crossed Market Street, and disappeared into crowds of young people heading in and out of the restaurants and bars.

Thoroughly shaken, Warren decided he had to warn the cops before this man killed someone. Although there was a village police station around the corner on Raymond Street, Warren continued on Route 11, going past the Clarkson University campus and driving south for several more miles until he pulled into the driveway of a New York State Police barracks. It was just before 11 p.m.

A trooper on duty made Warren write out a statement describing the encounter with the hitchhiker. Warren wrote down as much as he could recall. Warren didn’t have a last name for “Brian,” but he remembered other details, such as the reference to the Snells and how the man was wearing a silver-colored watch with a silver elastic band.

At that point, state police had no report about any bar altercation or anyone being shot that night in Winthrop. And with Warren’s somewhat

vague description, police didn't have much to go on. However, troopers said later, they relayed Warren's statement to Potsdam police and kept an eye out for anyone matching the hitchhiker's description in hopes of questioning him.

Unfortunately, the timing couldn't be worse for locating a stranger in Potsdam. Thousands of out-of-towners had arrived that Thursday for the fall semester at Clarkson and at the State University College at Potsdam, adding another 8,000 or so students to the village's permanent population of about 10,000. With most classes not starting before Tuesday, thousands of students had descended on downtown bars and restaurants.

Police patrolled the village streets until well after midnight, but none of the officers recognized anyone matching the description of the hitchhiker.

In the hours that followed, police would wish so desperately they had.

Potsdam Police Officer John Kaplan began his shift the evening of August 28, 1986, at around 8. He zipped up his denim jacket, grabbed a two-way radio, and headed out the door of the police station. Kaplan walked briskly to Market Street, the main thoroughfare in the business district, to begin his patrol of downtown and nearby streets. By then, the sun had disappeared behind the long row of sandstone and brick buildings, and the temperature had dipped to 50 degrees Fahrenheit. A light breeze made it seem even chillier.

The 25-year-old rookie cop, who grew up in Potsdam and graduated from Potsdam State in 1982, was assigned this evening to work a "foot beat." With his youthful looks and casual clothing, he blended in easily with the college students. He could remain unnoticed until he had to respond to an incident. Backing him up were two uniformed officers circling the village in a marked patrol car.

Kaplan spent much of his time on the lookout for underage drinkers trying to slip into the bars. The previous November, the New York State Legislature raised to 21 the legal age to purchase alcohol in New York. Underage drinkers tried to get around the law by using fake IDs—or by borrowing a legitimate ID from someone 21 or older.

Strangely, while it was illegal for bars to serve an underage person, it wasn't against state law at the time for someone under 21 to drink the alcohol. The students only got in trouble for underage drinking when they used

a fake ID; for that, they could face a \$100 fine. It could turn into a felony charge if they altered the birthdate on a driver's license. When Kaplan saw someone using a fake or borrowed ID, he confiscated it, but he didn't always ticket the offender. He often issued a warning if the person seemed genuinely remorseful and promised not to try this again. Like many police officers in the 15-member department, Kaplan wasn't a big fan of the new drinking law. If people were old enough to vote or to serve in the military, Kaplan thought they should be old enough to legally buy a beer. But the law was the law, and Kaplan knew it was his job to enforce it within reason.

Kaplan and the other officers had a busy evening keeping order. The village police blotter for that Thursday and Friday showed numerous arrests, including ones for disorderly conduct and for holding an open container of alcohol outside of a bar. Things quieted after the bars closed at 2:30 a.m., and the streets quickly became all but deserted.

Shortly after 3, Kaplan spotted a blonde woman and a dark-haired man sitting on the stone wall in front of Trinity Episcopal Church on Maple Street. They appeared to be students resting for a moment on their way to Clarkson's main "hill" campus a quarter-mile away.

Kaplan arrived back at the police station just before 3:30 and began filling out some paperwork. Patrolmen Dale Culver and David Bartlett were there already, processing a few people who had been jailed earlier in the evening.

In a short while, Kaplan planned to call it a night.

Then at 3:41 a.m., the police emergency phone rang, and everything changed.

Dispatcher Paul E. Howard picked up the call. On the other end, a man identified himself as Kim Avadikian, a guard on the Clarkson University security staff. He said that "a girl had been raped and injured," Howard would recall, and that Avadikian needed officers and the rescue squad right away. The security guard gave the location as a service road next to Walker Arena, the building where the ice hockey teams played.

After hanging up, Howard told patrolmen Kaplan, Culver and Bartlett, and Sergeant James Lewis to stop what they were doing and to go right away to Walker Arena to investigate a possible rape and beating of a girl. Howard

also alerted the Potsdam Volunteer Rescue Squad by activating pagers of the three members on call that morning for ambulance runs.

With the university campus only a half-mile from the police station, it took officers less than a minute to drive to the scene. As they pulled onto the service road, Avadikian ran up to one of the two patrol cars and pointed to the southeast corner of the arena.

“She’s over there,” he said.

He then quickly pointed about 50 feet away to a metal staircase that reached from the ground to the second floor of the arena. Barely visible underneath was the figure of a man.

“He is over there,” Avadikian said.

The officers split up. Kaplan and Bartlett raced toward the stairs. Culver and Lewis went straight to the arena’s southeast corner, where a woman was lying face-up and motionless on the grass. Her face was bruised and swollen, with blood pouring around her head and congealing in her blonde hair. It appeared, too, she had been sexually assaulted; all she was wearing was a sweater and blouse, which were pulled up above her breasts.

A second Clarkson security guard, Donald Shanty, knelt over the woman, his hand holding her head. He told the officers that he and Avadikian found her this way after checking on a loud noise outside the arena. When he noticed she was making gurgling sounds, Shanty turned her head to one side to keep her from choking on her blood.

Sergeant Lewis got on his two-way radio and contacted Howard.

The attack was “more than a simple assault,” he told the dispatcher. The sergeant instructed Howard to contact Potsdam Police Chief Clinton R. Matott, Lieutenant Terry McKendree and Investigator John Perretta, and ask them to come to the scene. This assault looked to Lewis like it could turn into a homicide.

An officer placed a blanket over the victim. Two state troopers arrived, including one who brought a camera he was asked to pick up from the Potsdam police station. An officer began snapping pictures of the unconscious woman, Shanty still holding her head.

By now, officers Kaplan and Bartlett had the man in custody at the staircase. He was lying motionless on his stomach, squeezed under the bottom steps, looking like he was either unconscious or trying to hide. Kaplan

reached down, grabbed the man's shirt and dragged him partially into the open to get a better look. The man appeared to be in his early- to mid-20s with a beard and straight brown hair that fell to his collar. He wore a dark jacket, a T-shirt, jeans, beige Timberland work boots, and a watch with a silver-colored wristband.

Kaplan turned the man to his side. Immediately, the man let out a moan.

"I'm hurt! My back!" he said.

"What's wrong?" Kaplan asked.

"My back! Don't move me!"

Kaplan rolled him back onto his stomach, but not before he spotted blood on the front of the man's shirt.

The officer fished a wallet out of the man's back pocket and handed it to Bartlett, who opened it and pulled out a driver's license. In the dim light, he read the name on it: Brian Milton McCarthy, of Potsdam, born September 14, 1962. He would be 24 years old in about two weeks.

"Are you Brian McCarthy?"

"Yes," McCarthy answered, then added, "How's the girl?"

"How do you know about a girl? What girl?" Kaplan asked.

"I heard her screaming. I got kicked in the back."

Kaplan pulled up McCarthy's shirt to look for bruises or other wounds, but couldn't find any.

"Where does your back hurt?"

McCarthy indicated he had pain up near his shoulders. He explained that a man in a black jacket attacked him as he was coming to the girl's aid.

The officers thought the story sounded fishy. Just to be safe, Kaplan and Bartlett placed handcuffs on McCarthy until police could sort out what occurred. Kaplan then left the stairs to check on the victim and to update Sergeant Lewis on the identity of the man.

By then, police found in the woman's possessions an Elmira College student identification card for Kathryn Ryan, age 21. Although it was dark, and the victim's face was beaten and bloodied, officers quickly matched her to the smiling blonde woman in the ID photo.

Police were puzzled, though, how she ended up at 3:30 in the morning outside Walker Arena. Was she using a nearby shortcut that Clarkson students often took when walking from downtown to the hill campus? Had she been walking alone? Was she even a student at Clarkson?



The southeast corner of Clarkson University's Walker Arena is roped off by police several hours after the attack there on August 29, 1986. Officers found Brian McCarthy under the exterior stairs closest to the corner. (Potsdam Police Department photo.)

Police also had questions about McCarthy. What was he doing outside Walker Arena at that time of the night? How did he end up under the stairs? Why did he have blood on his shirt without any visible wounds? And if someone attacked him from behind, as he stated, how did he know his assailant was a man wearing a black jacket? Officers also noted that he had the same first name and general description as the hitchhiker named "Brian" they had been seeking.

For Officer Kaplan, everything immediately pointed to McCarthy as being the only suspect in the attack. Kaplan wasn't the only one who thought that way. If authorities searched for any other suspect, police and court records would make no mention of it.

After Kaplan returned to the stairs, Bartlett decided to check on the woman. He picked up a flashlight he found on the ground next to security guard Shanty. When Bartlett turned the beam at the woman's face, he was alarmed by the extent of her injuries and labored breathing.

He radioed dispatcher Howard.

“If the (rescue) squad is already en route, tell them to step it up fast,” Bartlett said.

Like the two other Potsdam Volunteer Rescue Squad members on call that morning, Brian E. Kurish was at home sleeping when his pager beeped, alerting him to a medical emergency. The 25-year-old Kurish was experienced in ambulance runs, having joined the rescue squad when he was a Potsdam State student. He remained as a member on a regular rotation after getting his degree and joining the college’s housing staff.

Kurish was scheduled as the crew chief on the morning of August 29, 1986, joined by volunteers Joan Fonda and Christopher Taylor. Within minutes of being awakened, they drove themselves to squad headquarters at 21 Cottage Street, received from Howard the emergency location, and departed in an ambulance driven by Kurish.

At 3:50, Kurish pulled onto the service road next to Walker Arena. Officer Bartlett ran over, explaining they now had two people needing attention. After a quick check, Kurish decided whatever injuries McCarthy had weren’t critical. Kurish leaned back into the rig and radioed for Howard to dispatch a second ambulance to the scene. McCarthy would have to wait.

Kurish raced to join Fonda and Taylor in aiding the woman. Her respiration was shallow, her pulse was weak, and her pupils were dilated and showing no response to light. Kurish knew she might not live if they didn’t stabilize her quickly and get her to the emergency room at Canton-Potsdam Hospital, the village’s 70-bed acute care facility.

The ambulance crew cleared her airway, placed an Ambu bag over her face, and squeezed oxygen into her lungs.

Suddenly, at 3:51, the woman “coded”—she stopped breathing, and her pulse dropped to zero. The crew immediately began CPR, with one volunteer using chest compressions to try to restart her heart and another pumping oxygen with the Ambu bag.

Kurish decided not to waste a second trying to insert a breathing tube. The crew lifted the woman into the back of the ambulance and climbed aboard. By this time, Rescue Squad Chief William Corbett had arrived at the scene and got behind the wheel. At 3:52, the ambulance sped away, its



emergency lights flashing, as it raced to the hospital on the other side of the village.

At that time of the morning in Potsdam, there were no other vehicles in the way. The ambulance breezed through red lights and against the one-way traffic pattern to shave vital seconds off the trip. Patrolman Culver rode in the back, reaching out at times to keep a crew member from falling over as the vehicle took sharp turns.

At 3:54, the ambulance backed up to the emergency room entrance. The vehicle's rear doors swung open. The crew—still performing CPR and using the Ambu bag—wheeled the woman into the emergency room, where the hospital's medical personnel took over.

In a stroke of good fortune, the hospital earlier in 1986 had beefed up its ER to ensure it always had a doctor on call. When the staff heard a critically injured woman was on the way, it rounded up nurses from several floors to assist.

As the ER worked to revive the woman, Kurish and his crew remained at the hospital to fill out paperwork. Soon, the medical staff emerged with news they had restarted the woman's heart and got her breathing again, although she was still unconscious in critical condition. They were now stabilizing her for transportation to advanced care nearly 75 miles away at the House of the Good Samaritan, a hospital in Watertown, New York.

At about 4 a.m., a second ambulance arrived at Canton-Potsdam Hospital, this one with McCarthy inside. The handcuffs were off, but he was strapped to a backboard and wearing a neck brace. The crew wheeled him to the back of the ER, away from the woman still receiving care. A nurse explained that a doctor would come by to see him once one was available. Patrolman Bartlett, who escorted McCarthy in the ambulance, stood on guard nearby.

The collection of police evidence began immediately. Nurses changed the woman into a hospital gown after carefully removing her blouse and sweater, placing both into a clean paper bag, which they turned over to Officer Culver. The medical staff also administered a "rape kit," combing her pubic area for foreign hairs, using swabs to collect bodily fluids, and taking blood and saliva samples.

Police also bagged the victim's other clothing found at the scene, including Levi blue jeans, bra and panties, white socks, and white shoes with laces on the front and a waffle design on the sole and heel. These items would be sent to the state police laboratory in Albany to test for foreign clothing fibers, to dust for fingerprints and to examine for other trace evidence.

Police sealed in manila envelopes several items found with the victim's clothes. They included a five-dollar bill, a one-dollar bill, a Pulsar gold watch, an opened package of Parliament brand filter cigarettes and a King Edward matchbook. Also collected was a single gold earring with a wreath design; the police inventory report did not note whether she was wearing it, or what might have happened to the other one.

At the same time, the rescue squad crew began filling out a one-page "Pre-Hospital Care Report." For personal information about the victim, all it had at that point was Kathryn Ryan's name and birthdate from the Elmira College ID card. Under this information, the crew members listed the victim's visible injuries, the treatment, the time she "coded" and their efforts to revive her. The report did not mention finding any odor of alcohol, although it noted an "unidentified bar stamp on right hand."

To avoid giving the woman's name over the police radio, Patrolman Culver called dispatcher Howard on the phone to ask him to look up Ryan's home address and phone number from the state driver's license database. Culver knew Chief Matott would want to quickly notify the victim's family and to get its consent to continue life-saving measures.

Back at Walker Arena, Officer Kaplan, Sergeant Lewis and the two state police officers roped off a large area to preserve the crime scene. Even in the dim light, officers could see a red stain splattered about seven feet up the arena wall next to where police found the young woman.

After the ambulances left, Shanty and Avadikian briefly excused themselves to go inside the arena, where Shanty took a few moments to wash the blood off his hands. The two security guards soon returned outside and gave a brief account of what they saw. Police told them to go to the Raymond Street station and wait there until an officer could take their sworn statements.

Potsdam Police Investigator John Perretta was awakened at 3:45 a.m. by the dispatcher's call that he was needed to investigate an assault at Walker

Arena. Perretta decided to head directly to Canton-Potsdam Hospital to collect evidence, take photographs and talk to witnesses.

At age 40, Perretta was among the senior members of the department, having joined it in 1970 following service with the U.S. Air Force. With his tinted glasses and collar-length haircut, and wearing a striped polo shirt this morning, Perretta cut something of a mod figure as he entered the emergency room just after 4:10 a.m.

After determining that the victim was in no condition to be interviewed, Perretta walked to the back of the ER, where he found McCarthy's 5-foot-10-inch frame stretched out on a gurney.

When he heard Perretta, McCarthy looked up.

"John, you got to help me," he said.

Perretta had known McCarthy since at least 1984 when the investigator arrested him and a 17-year-old girl for breaking into Potsdam's Arlington Inn apartments and stealing food. Long before that, McCarthy had a reputation in the police department as an unemployed drifter, drug user and petty thief often in trouble with the law.

Just a month before the attack at Walker Arena, McCarthy got into a dispute with a 35-year-old insurance agent at a Market Street bar in Potsdam. The drunken confrontation spilled into an alley, where McCarthy beat the man so severely that police initially thought the victim was a college-age student who fell from a third-floor roof. McCarthy lucked out when the insurance agent declined to press charges.

When he saw Perretta, McCarthy began to repeat his story about how someone attacked him as he was trying to help a girl outside Walker Arena.

"Just a minute," Perretta said, pulling out a laminated card printed with the Miranda Warning, which he always read to suspects before questioning.

"You have the right to remain silent and to refuse to answer any questions," he began. "Anything you do say may—"

McCarthy interrupted, "Be used against you in a court of law," calling up the words from memory.

Perretta continued, "As we discuss this matter, you have the right to stop answering my questions at any time you desire."

McCarthy interrupted again.

"I know 'em," McCarthy said impatiently, referring to his legal rights.