

All Serial Podcast Transcripts:

Episode 1: The Alibi

-Mail Chimp Ad-

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility...

Sarah Koenig

For the last year, I've spent every working day trying to figure out where a high school kid was for an hour after school one day in 1999-- or if you want to get technical about it, and apparently I do, where a high school kid was for 21 minutes after school one day in 1999. This search sometimes feels undignified on my part. I've had to ask about teenagers' sex lives, where, how often, with whom, about notes they passed in class, about their drug habits, their relationships with their parents.

And I'm not a detective or a private investigator. I've not even a crime reporter. But, yes, every day this year, I've tried to figure out the alibi of a 17-year-old boy. Before I get into why I've been doing this, I just want to point out something I'd never really thought about before I started working on this story. And that is, it's really hard to account for your time, in a detailed way, I mean.

How'd you get to work last Wednesday, for instance? Drive? Walk? Bike? Was it raining? Are you sure?

Did you go to any stores that day? If so, what did you buy? Who did you talk to? The entire day, name every person you talked to. It's hard.

Now imagine you have to account for a day that happened six weeks back. Because that's the situation in the story I'm working on in which a bunch of teenagers had to recall a day six weeks earlier. And it was 1999, so they had to do it without the benefit of texts or Facebook or Instagram. Just for a lark, I asked some teenagers to try it.

Do you remember what you did on that Friday?

Tyler

No. Not at all. I can't remember anything.

Sarah Koenig

Wait, nothing?

Tyler

No. I can't remember anything that far back. I'm pretty sure I was in school. I think-- no?

Sarah Koenig

That's Tyler. He's 18. I asked my nephew Sam. He's 18, too.

Sam

Not a clue. In school, probably. I would be in school. Actually, I think I worked that day. Yeah, I worked that day. And I went to school. That was about it.

Sarah Koenig

Actually, on second thought?

Sam

I don't think I went to school that day.

Sarah Koenig

You don't think you went.

Sam

Yeah, no, I didn't. I definitely didn't.

Sarah Koenig

Here's Sam's friend Elliot. He seemed to have better recall.

Elliot

Actually, I may have gone to the movies that night later.

Sarah Koenig

Do you remember what you saw?

Elliot

Now that I'm thinking. I'm sorry? Yeah, I think I saw *22 Jump Street*.

Sarah Koenig

OK. And did you go with friends?

Elliot

Yeah. I went with Sam and this kid Sean, Carter, a bunch of people.

Sarah Koenig

Wait, Sam, my nephew Sam?

Elliot

Yeah, yeah.

Sarah Koenig

Oh, OK. So Sam says he was at work.

Elliot

Oh, then it wasn't that night, then.

Sarah Koenig

One kid did actually remember pretty well, because it was the last day of state testing at his school and he'd saved up to go to a nightclub. That's the main thing I learned from this exercise, which is no big shocker, I guess. If some significant event happened that day, you remember that, plus you remember the entire day much better.

If nothing significant happened, then the answers get very general. I most likely did this, or I most likely did that. These are words I've heard a lot lately. Here's the case I've been working on.

Almost 15 years ago, on January 13, 1999, a girl named Hae Min Lee disappeared. She was a senior at Woodlawn High School in Baltimore County in Maryland. She was Korean. She was smart, and beautiful, and cheerful, and a great athlete. She played field hockey and lacrosse. And she was responsible.

Right after school she was supposed to pick up her little cousin from kindergarten and drop her home. But she didn't show. That's when Hae Lee's family knew something was up, when the cousin's school called.

About a month later, on February 9, Hae's body was found in a big park in Baltimore, really a rambling forest. A maintenance guy who said he'd stopped to take a leak on his way to work discovered her there. He'd noticed a bit of her black hair poking out of a shallow grave.

The cause of death was manual strangulation, meaning someone did it with their hands. A couple weeks after that, so six weeks after she first went missing, Hae's ex-boyfriend, a guy named Adnan Syed, was arrested for her murder. He's been in prison ever since.

I first heard about this story more than a year ago when I got an email from a woman named Rabia Chaudry. Rabia knows Adnan pretty well. Her younger brother Saad is Adnan's best friend. And they believe he's innocent.

Rabia was writing to me because, way back when, I used to be a reporter for the *Baltimore Sun*, and she'd come across some stories I'd written about a well-known defense attorney in Baltimore who'd been disbarred for mishandling client money. That attorney was the same person who defended Adnan, her last major trial, in fact.

Rabia told me she thought the attorney botched the case-- not just botched it, actually, but threw the case on purpose so she could get more money for the appeal. The lawyer had died a few years later. She'd been sick.

Rabia asked if I would please just take a look at Adnan's case. I don't get emails like this every day. So I thought, sure, why not?

I read a few newspaper clips about the case, looked up a few trial records. And on paper, the case was like a Shakespearean mashup-- young lovers from different worlds thwarting their families, secret assignations, jealousy, suspicion, and honor besmirched, the villain not a Moor exactly, but a Muslim all the same, and a final act of murderous revenge. And the main stage? A regular old high school across the street from a 7-Eleven.

Sarah Koenig

Hi, are you Rabia? Hi. Am I saying your name correctly?

Rabia

Rabia.

Sarah Koenig

Rabia. OK.

I went to go see Rabia. She was surrounded by paper-- files, loose stacks, binders, some crappy looking boxes-- all court documents and attorney's files from Adnan's case. Some of the papers were warped and discolored.

Sarah Koenig

Why do they look wet? They look wet.

Rabia

These have been damaged, because these--

Sarah Koenig

She explained that it was because the boxes had been in her car, on and off, for 15 years. Rabia is a lawyer herself. She mostly does immigration stuff. Her office takes up the corner of a much larger open space that I think is a Pakistani travel agency, though it's hard to tell.

It's in this little strip mall. Across the parking lot, there's a new Pakistani restaurant, an African evangelical church, an Indian clothing shop, a convenience store. On the sidewalk outside, I found a teeny weeny bag of marijuana.

Baltimore County is like this, at least on the west side. It's where a lot of middle class and working class people go, many immigrants included, to get their kids out of the badass city. Though the badass city is close by.

Rabia is 40. She's short, and she's got a beautiful round face framed by hijab. She's adorable looking, but you definitely shouldn't mess with her. She's very smart and very tough, and she could crush you.

Her brother Saad was at Rabia's office too the first time I went. He's 33, a mortgage broker, more laid back than Rabia. They told me about Adnan Syed, their friend-- not just a good kid, but an especially good kid-- smart, kind, goofy, handsome. So that when he was arrested for murder, so many people who know him were stunned.

Rabia

He was like the community's golden child.

Sarah Koenig

Oh, really? Talk more about that.

Rabia

He was an honor roll student, volunteer EMT. He was on the football team. He was a star runner on the track team. He was the homecoming king. He led prayers at the mosque. Everybody knew Adnan to be somebody who was going to do something really big.

Sarah Koenig

I later fact checked all these accolades, of course, and learned that Rabia was mostly right, though she sometimes gets a little loosey-goosey with the details. Adnan was an EMT, but he didn't volunteer. He was paid for it. He was on the track team, but he wasn't a star. He did play football. And he did lead prayers on occasion.

He wasn't homecoming king. But he was prince of his junior prom, and this at a high school that was majority black. They picked the Pakistani Muslim kid. So you get the picture. He was an incredibly likable and well-liked kid.

This conversation with Rabia and Saad, this is what launched me on this year long-- "obsession" is maybe too strong a word-- let's say fascination with this case. By the end of this hour, you're going to hear different people tell different versions of what happened the day Hae Lee was killed. But let's start with the most important version of the story, the one Rabia told me first. And that's the one that was presented at trial.

The state's case against Adnan went like this. He and Hae had been going out since junior prom. But Adnan wasn't supposed to be dating at all. Adnan was born in the US, but his parents are from Pakistan. And they're conservative Muslims-- no drinking, no smoking, no girls, all that.

Saad and Rabia's parents are the same way. Their families are friends. But even though Adnan and Saad and their buddies were Muslims, they were also, shall we say, healthy American teenagers who were going to do what teenagers do, so long as they didn't get caught.

So Adnan had to keep his relationship with Hae secret. The state used this against him in two ways. First, they argued, he put everything on the line-- his family, his relationships at the mosque-- to run around with this girl. So that when she broke up with him eight months later, he was left with nothing, and he was outraged. He couldn't take it, and he killed her.

And the second way they used it, as they said-- look at what a liar he is, how duplicitous. He plays the good Muslim son at home and at the mosque, but look what he was up to. Saad remembers the prosecutor's closing argument at trial.

Saad

His family didn't know that he actually drank, he smoked, he was having sex.

Sarah Koenig

This was proof of bad character, someone who could be a murderer. But Saad says, if Adnan is guilty of anything, it's of being a normal kid with immigrant parents.

Saad

So the prosecution had painted Adnan as a totally bipolar or a maniacal dual personality.

Sarah Koenig

We all grew up with that dual personality.

Saad

I know, it was forced. I'm the same way. I was like, they could paint the same thing. Because I was actually homecoming king, which I don't know if my sister even knows.

Rabia

I did not know this.

Saad

She did not know. So I was dating a girl that was--

Sarah Koenig

And why is homecoming king bad? That sounds like a good thing.

Rabia

We don't go to homecoming. We don't--

Sarah Koenig

Because it's a dance.

Rabia

It's a dance. It's a mixed gender--

Saad

So I was in the same boat. My parents, my sister, they didn't know about this at all. Right now, more than 10 year later, she's finding out. I know, I'll admit. On one side, my family thinks I'm a virgin. But on the other hand, I play-- you know.

Rabia

--way too much.

Saad

But it's the truth.

Sarah Koenig

TMI, TMI, TMI.

Saad

See that? That right there is kind of making her feel uncomfortable. She's like, whoa, whoa, whoa.

Sarah Koenig

So just on motive alone, Saad and Rabia found the whole thing ridiculous. As for physical evidence, there was none-- nothing. Apart from some fingerprints in Hae's car, which Adnan had been in many times, there was nothing linking him to the crime-- no DNA, no fibers, no hairs, no matching soil from the bottom of his boots.

Instead, what they had on Adnan was one guy's story, a guy named Jay. He's the third person you need to remember in this crime story besides Hae and Adnan. Jay was a friend of Adnan's. They'd been in school together since middle school.

They weren't super close, but they had mutual friends. Jay sold weed, and he and Adnan smoked together. The story Jay told police had problems, because it kept changing from telling to telling. But they were able to bolster the main plot points using cell records from Adnan's phone.

By the time I left Rabia's office that first day, I understood only one thing clearly, though maybe not the thing Rabia and Saad wanted me to understand. But what I took away from the visit was, somebody is lying here. Maybe Adnan really is innocent. But what if he isn't? What if he did do it, and he's got all these good people thinking he didn't?

So either it's Jay or it's Adnan. But someone is lying. And I really wanted to figure out who.

In the early morning of February 28, 1999, Adnan was arrested by Baltimore City detectives. He was asleep in his bed when they showed up at his house. They took him straight from his untidy bedroom to an interrogation room at Homicide downtown. What Adnan didn't know is that just hours before they picked him up, the cops had interviewed his friend Jay.

Detective

This is a taped interview of Jay, black male, 19 years of age. We're at the offices of Homicide, specifically the colonel's conference room.

Sarah Koenig

The police recorded two taped interviews with Jay. And I'm going to play you the second one from a couple weeks later, only because the sound quality is much better. Just a warning that the tape is a little upsetting to hear in parts.

Detective

Why don't you go ahead and tell us what you know about the death of Hae Lee.

Jay

OK. I'd left out, went shopping with a friend of mine, an ex-friend of mine, Adnan. We had had a conversation. During the conversation he stated that he was going to kill that bitch, referring to Hae Lee. I took it with context. It didn't stand out in my head any.

Sarah Koenig

Jay said he didn't take it too seriously. The cops have him start again from the top. On the morning of the 13th, Jay says, Adnan had left school and driven to Jay's house. Jay had graduated from school the year before and was working, but not on that day. January 13 happens to be the birthday of Jay's girlfriend, Stephanie. And Jay, who didn't have his own car, needed to go buy something for her. So Adnan comes over. According to Jay, they go shopping at the mall.

Detective

When did you do that?

Jay

We left the mall. I took him to school. I dropped him off in the back of the school. He went up to class. He left his cell phone in the car with me, told me he'd call me. I went back to my friend Jenn's house and waited for him to call.

Detective

OK, now at this point, you know why he's leaving the car with you.

Jay

Yes.

Detective

And why is that?

Jay

Because he said he was going to kill Hae.

Detective

And the reason you have the car and the cell phone was why?

Jay

To pick him up from wherever he was going to do this at.

Detective

OK, and you had talked about this while you were shopping that day?

Jay

The details of the car and all?

Detective

The events, how they were going to plan out.

Jay

That day he told me, yes. He told me, I'm going to leave you with my cellphone and my car, and I need you to come get me. Yes.

Detective

After--

Jay

After he had killed Hae, yes.

Detective

OK.

Sarah Koenig

Later that afternoon, the call comes.

Detective

You received a phone call from Adnan.

Jay

Yes.

Detective

On his cellphone.

Jay

Yes.

Detective

Which is in your possession.

Jay

Yes.

Detective

And the conversation was what?

Jay

That bitch is dead. Come and get me. I'm at Best Buy.

Sarah Koenig

Jay drives to Best Buy and sees Adnan in the parking lot.

Jay

I noticed that Hae wasn't with him. I parked next to him. He asked me to get out the car. I get out the car. He asks me, am I ready for this? And I say, ready for what?

And he takes the keys. He opens the trunk. And all I can see is Hae's lips are all blue, and she's pretzeled up in the back of the trunk. And she's dead.

Sarah Koenig

They leave the parking lot. Adnan's driving Hae's car with her body in the trunk. Jay's driving Adnan's car. They ditch Hae's car at the I-70 Park and Ride. And then, to hear Jay tell it, they just kind of tool around Baltimore County together for a while as if nothing had happened-- buy some weed, cruise around, make some calls. After a while, Jay drives Adnan back to Woodlawn High School.

Detective

Why did you take him back to school?

Jay

He told me that I had to take him back to school because he needed to be seen there.

Detective

Was he going to a certain event?

Jay

It was practice, track practice.

Detective

Track practice.

Jay

Yes.

Detective

So he wanted an alibi?

Jay

Yes.

Detective

He wanted to be seen by people at track.

Jay

Yes.

Detective

And you guys had discussed that?

Jay

He just told me that he needed to be seen.

Detective

Yes.

Jay

He told me that he needed to be seen.

Detective

At track practice. You took him back?

Jay

Yes.

Detective

Are you having any conversation with Adnan at the time?

Jay

To the effect, yes. Don't tell anyone. He said that he couldn't believe he killed somebody with his bare hands, that all the other mother [BLEEP] referring to hoods and thugs and stuff think they're hard core. But he just killed a person with his bare hands.

Detective

So at this point he's bragging about it?

Jay

Basically.

Detective

He was proud of it?

Jay

Yes.

Sarah Koenig

After track practice, Jay picks Adnan up again. They drive around some more. By this time, Hae's family was worried, and they'd called the police, who in turn called a couple of Hae's friends, including Adnan.

The call comes in on his cell. The cops ask if he's seen Hae or knows where she is. Jay says after the call, they drive to Jay's to get some shovels, go retrieve Hae's car from the park and ride. They drive around some more and finally end up at Leakin Park, where Adnan proceeds to bury Hae. It's evening by now, maybe 7:00 or 8:00 PM.

Jay

And he asked me if I was going to help. And I told him, [BLEEP] no. And he starts just shoveling dirt on top of her. After we leave there--

Detective

Let me stop there.

Jay

Yes.

Detective

You helped him dig the hole.

Jay

Yes.

Detective

How long did it take you both to dig the hole?

Jay

20, 25 minutes.

Detective

How deep did you make the hole?

Jay

Oh, maybe six inches at the most. It wasn't very deep at all.

Detective

Who did most of the digging?

Jay

Uh, it was--

Detective

Both of you?

Jay

Yeah.

Detective

Equal work?

Jay

I wouldn't say that, but yeah.

Detective

OK.

Sarah Koenig

So those are the key points. Adnan told Jay in advance he was going to do it. He did it. They buried her. Jay's story wasn't just the foundation of the state's case against Adnan. It was the state's case against Adnan.

In the picture Jay drew, it's cold. I mean, he's not describing a crime of passion here. This is something much darker-- to methodically map out the death of your friend, to strangle her with your own hands so close up like that. That would mean Adnan wasn't just a killer, but a master liar and manipulator, a psychopath, probably.

Adnan's in a maximum security prison in western Maryland. He calls me at my request about twice a week. He talks to me from a bank of eight pay phones in the rec hall, a pretty large room where other guys are sitting at tables with metal seats attached to them playing chess or cards or using the microwave or watching TV.

It can get a little loud sometimes. Once I asked if all eight phones were always occupied. And he said, usually not, because guys who have been in for a long time, often they have no one to call.

When I first met Adnan in person, I was struck by two things. He was way bigger than I expected-- barrel chested and tall. In the photos I'd seen, he was still a lanky teenager with struggling facial hair and sagging jeans. By now, he was 32. He'd spent nearly half his life in prison, becoming larger and properly bearded.

And the second thing, which you can't miss about Adnan, is that he has giant brown eyes like a dairy cow. That's what prompts my most idiotic lines of inquiry. Could someone who looks like that really strangle his girlfriend? Idiotic, I know.

When he first heard Jay's story of the crime, Adnan didn't say, well, it didn't happen like that, or, I didn't mean for it to happen like that. He said, it didn't happen. None of this is true at all. He says he had nothing to do with Hae's murder, and he doesn't know who did.

Hae was Adnan's first serious relationship with a girl. He says he loved her in the way of high school love, but then also in the way of high school got over her. So that when they broke up for good sometime before Christmas break of senior year, he says he was sad for sure, but not obsessed or anything.

Adnan Syed

I just sometimes wish they could look into my brain and see how I really felt about her. And no matter what else someone would say, they would see, man, this guy had no ill will toward her. Whatever the motivation is to kill someone, I had absolutely-- it didn't exist in me, you know what I mean? No one can ever say why.

People could say why. Oh, man, he was mad, this, that, or the other. But no one could ever come with any type of proof or anecdote or anything to ever say that I was ever mad at her, that I was ever angry with her, that I ever threatened her. That's the only thing I can really hold onto. That is like my only firm handhold in this whole thing, that no one's ever been able to prove it.

No one ever has been able to provide any shred of evidence that I had anything but friendship toward her, like love and respect for her. That's at the end of the day, man. The only thing I can ever say is, man, I had no reason to kill her.

Sarah Koenig

He's adamant about this. You can hear it, right? He's staunch. The problem is, when you ask Adnan to go back and tell his version of what happened that day, to refute Jay's story, everything becomes a lot mushier.

Yes, he hung out with Jay on the 13th, both during and after school. But he doesn't remember exactly where they went, or what they did, or what time it was. Here's what he's got.

January 13 unfolded like any other day, a normal, mostly uneventful day. He says there are a couple of things that do stand out, though. That day was Stephanie's birthday. Stephanie was one of Adnan's best friends and also Jay's girlfriend.

Adnan had gotten Stephanie a birthday present, a stuffed reindeer, which he'd given to her in second period, Miss Efron's English class.

Adnan Syed

And it occurred to me that day that I was going to ask her boyfriend, Jay, did he get her a gift? So sometime during the day before noon--

Sarah Koenig

Wait, Adnan, just hold up for a second. Why did you care whether Jay got Stephanie a present? What's it to you?

Adnan Syed

Well, Stephanie was a very close friend of mine, as I mentioned. And I just kind of wanted to make sure that she also got a gift from him, you know? She had mentioned to me that she was looking forward to getting a gift from him. She mentioned that she was really happy to get the gift that I gave her.

So as I would with any friend, I just kind of went to check on that. I kind of had a feeling that maybe he didn't get her a gift. And I had free periods during school. So it was not abnormal for me to leave school to go do something and then come back.

So I went to his house. And I asked him, did you happen to get a present for Stephanie? He said no. So I said, if you want to, you can drop me back off to school. You can borrow my car. And you can go to the mall and get her a gift or whatever. Then just come pick me up after track practice that day.

Sarah Koenig

So then what happened?

Adnan Syed

Well, then when school was over, I would have went to the library. I know that I usually check-- well, I didn't usually check. But if I was going to check my email, it would be using the library

computer. You know, sometimes I would go there because track practice didn't start until around maybe 3 o'clock or 3:30-ish.

So it didn't start right after school. So there was a period of time of almost like an hour, an hour and some change, that was kind of free time.

Sarah Koenig

This hour and change after school, this is the crucial window. This is the time when the state says Hae was killed. School got out at 2:15. People remember seeing her after her last class heading to her car.

According to Jay's story and the cellphone records, she was dead by 2:36 PM. So sometime in those 21 minutes, between 2:15 and 2:36, she was strangled. So that's obviously the same window Adnan needed to account for. To quote Adnan, "My case lived and died in those 21 minutes."

So where does Adnan say he was? Well, maybe the library, but nobody testified to that at trial. Then to track practice-- he does remember being at track one day when it was snowing, which might have been that day. The coach testified that Adnan probably was there, but he can't be 100% sure because, as a rule, he didn't take attendance. After school is when his memories become nonspecific. Usually we did this, or we probably would have done that.

Adnan Syed

Probably track practice would have ended like, I'd say, 4:30.

Sarah Koenig

Jay did come to pick up Adnan after track. That part Adnan seems to more or less remember. It was Ramadan, so Adnan would have been fasting all day and hungry.

Adnan Syed

It probably would've been close to time for me to break fast. He would have come to pick me up, and we would have went to go get something to eat. And then we would have smoked some weed after, right? And then I would have had to have been home around 7, 8 o'clock, right?

Or usually like the last 10 nights of Ramadan, my father would spend the night at the mosque. So a lot of times I would take him food. I think my mother would make food for him, and I would take it usually before 8 o'clock. Because that's the last evening prayer.

Sarah Koenig

Did you ever leave the campus before the end of track practice? Did you ever--

Adnan Syed

No.

Sarah Koenig

OK.

Adnan Syed

No.

Sarah Koenig

You're sure?

Adnan Syed

I want to say that I'm 99% sure.

Sarah Koenig

OK.

Adnan Syed

The reason why I can't say 100 is because-- I mean, I do kind of understand that it comes across as-- I don't know if it does or doesn't. But it seems like I remember things that are beneficial to me, but things that aren't beneficial to me I can't remember. It's just that I don't really know what to say beyond the fact that a lot of the day that I do remember, it's bits and pieces that comes from what other people have said that they remember, right? And it kind of jogs my memory.

Yeah. I don't really know what to say. And I completely understand how that comes across. I mean, the only thing I can say is, man, it was just a normal day to me. There was absolutely nothing abnormal about that day.

Sarah Koenig

Adnan knows better than anyone how unhelpful this all is, how problematic. Because it plays both ways. If he's innocent, right, it's any other day. Of course he doesn't remember.

But you can also read it as, how convenient. He doesn't remember the day. So no one can fact check him, or poke holes in his story. Because he has no story.

Adnan Syed

I definitely understand that someone could look at this and say, oh, man, he must be lying. It's so coincidental that he doesn't remember what he did this particular time. I mean, I completely

understand that, and I get that. Like I said, that's the hardest thing I've dealt with for these past 15 years.

There's nothing tangible I can do to remember that day. There's nothing I can do to make me remember. I've pored through the transcripts. I've looked through the telephone records. What else can I do?

There's nothing I can do. So perhaps I'll never be able to explain it. And it is what it is. If someone believes me or not, you know, I have no control over it.

Sarah Koenig

Adnan's trial was a long ordeal. Jay was on the stand for something like five days. A cellphone expert testified for two days, a lifetime when you're discussing cell tower technology. There were absences, and some bad weather closed the courts. So it was six weeks before both sides rested.

But the jury? They moved like lightning. After just a few hours, including a lunch break, they convicted Adnan of first-degree murder. Rabia Chaudry was there in the courtroom when it happened. She says his mother was crying. She was crying.

Rabia hadn't sat through the whole trial. So the first time she fully understood that the case came down to those 21 minutes was during closing arguments, when the prosecutor brought out a dummy's head and strangled it in front of the jury. That evening, after the verdict, Rabia went to see Adnan in lockup.

Rabia

And so I went to go see him. So this is the same day he's been convicted. And this is the first time I actually had a conversation with him about, what's going on? And I was like, you know, Adnan, the whole thing's turning on these 20, 25 minutes. Where were you?

And he's like, she disappeared in January, you know? In March, you're asking me, where were you after school for 20 minutes on a specific day? All the days are the same to me, you know?

Sarah Koenig

But then he mentions that there was this one girl, an alibi girl.

Rabia

He's like, the only thing I could offer is I remember there's a girl I go to school with. Her name's Asia McClain. He's like, right after I got arrested, she wrote me a couple of letters. And she said she also went to see my family. And she said she specifically remembers me being at the library, at the public library, right after school.

Sarah Koenig

The Woodlawn public library is just across the parking lot from Woodlawn High School. It's not technically part of the campus, but it might as well be.

Rabia

He said, I gave those letters to Christina Gutierrez, to my attorney. He's like, but apparently it didn't really check out. So he's like, I don't know. So they're not helpful to us. So this was the first time I heard of this girl Asia McClain. I had never heard of her before. Nobody had mentioned her before.

Sarah Koenig

Were you floored, like, wait, wait, wait, wait, what? I mean, like--

Rabia

I wasn't floored at the time. Because I thought, if this girl wrote and the attorney-- what criminal defense attorney's not going to check out a potential alibi? So I asked him, I said, do you have a copy of those letters? He said, yeah, I have a copy. I said, send me a copy.

Sarah Koenig

Adnan sends the letters to Rabia, and here's what she reads. The first letter, the first of two, is dated March 1, 1999. That is one day after Adnan was arrested. At the top of the letter, she notes, "I just came from your house an hour ago.

Dear Adnan-- I hope I spelled it right. I'm not sure if you remember talking to me in the library on January 13, but I remember chatting with you." She says, quote, "we aren't really close friends, but I want you to look into my eyes and tell me of your innocence. If I ever find otherwise, I will hunt you down and whip your ass. OK, friend?" At the bottom she added a little note. "My boyfriend and his best friend remember seeing you there, too."

That's letter number one. Then the next day, on March 2, she writes Adnan another letter. This one's typed. It's chattier. She talks about the gossip at school, the bits and pieces of evidence about the crime that are circulating, what the students are saying, what the teachers are saying, about her visit to his house.

Quote, "Your brothers are nice. I don't think I met your mother. I think I met your dad. Does he have a big gray beard? They gave me and Justin soda and cake. There was a whole bunch of people at your house. I didn't know who they were.

I also didn't know that Muslims take their shoes off in the house. Thank God they didn't make me take mine off. My stinky feet probably would have knocked everyone out cold. Why haven't you told anyone about talking to me in the library?" she asks him. "Did you think it was unimportant? You didn't think that I would remember? Or did you just totally forget yourself?"

Adnan says now that he does in fact remember seeing Asia in the library. The thing he remembers about it is so high school. Asia used to go out with Adnan's friend Justin. And Justin had confided that Asia was a proper young lady." In other words, Justin wasn't getting any.

So Adnan remembers thinking he would now get to tease Justin about seeing Asia with her new boyfriend. Maybe the new guy was getting lucky, ha, ha. Anyway, Rabia calls Asia up. It's been a year since she wrote the letters, but she agrees to meet.

Rabia

And she told me, that day after school I went to the public library. And Adnan was sitting at a computer, checking email or something. And I sat down next to him. We started chatting. And Adnan was a very popular boy in school. He was handsome and popular with the ladies.

So she was speaking to him. And her boyfriend shows up a little bit later with a friend. And she said her boyfriend was really angry at her, because he's like, why are you talking to him? You know, high school kids, why are you talking to him? Is he hitting on you?

And she remembered very specifically that that day she went to her boyfriend's house with him, and they got snowed in. And it snowed really heavily that night. And she remembered that for the following two days, school was closed. So she had very specific details about why she remembered that day.

Sarah Koenig

Asia wrote out an affidavit on the spot. In it, she says she and Adnan spoke for about 15 to 20 minutes while she was waiting for her boyfriend to give her a ride. Quote, "We left around 2:40," unquote. Remember, Hae is supposed to be dead by 2:36. And then, the kicker-- "No attorney has ever contacted me about January 13, 1999 and the above information."

So benefit of the doubt for a second-- maybe Adnan never actually showed the letters to Cristina Gutierrez, his attorney. Sure, he said he did, but who knows? Well, I know. Deep inside Gutierrez's notes on the case-- I have boxes and boxes of such stuff-- there's this in her handwriting. "Asia plus boyfriend saw him in library 2:15 to 3:15."

Then there's another note, dated July 13. It's more than four months after Adnan's arrest. This is written by one of Gutierrez's law clerks, who visited Adnan in jail. Quote, "Asia McClain saw him in the library at 3:00. Asia boyfriend saw him too. Library may have cameras."

Why, oh, why was this person never heard from at trial-- a solid, non-crazy, detail-oriented alibi witness in a case that so sorely needed alibi witnesses? I can't ask Christina Gutierrez, because she died in 2004.

So I put that question to a few defense attorneys. And they said, well, alibi witnesses can be tricky, especially if it's just one person. Because then it becomes one person's word over another. A single witness like that can backfire under cross-examination. Or they might take the jury's focus away from the weaknesses in the state's case.

So there are conceivable strategic reasons why Christina Gutierrez might not have wanted to put Asia McClain on the stand. But what is inconceivable, they all said, is to not ever contact Asia McClain, to never make the call, never check it out, never find out if her story helps or hurts your case. That makes no sense whatsoever. That is not a strategy. That is a screw-up.

When I first heard about the long-lost Asia letters and the lawyer's mistake, I thought, well, their fight is over, right? They've got an alibi witness who was never heard from. It's such a slam dunk. They're done.

Adnan's family hired a new attorney, who filed a petition in court based on the Asia affidavit. His argument was that Adnan's trial could have turned out differently if Gutierrez had checked out Asia's story. And so Adnan should get some form of what's called post-conviction relief.

The new lawyer figures he'll get Asia to come to the hearing. She'll vouch for her story. By this time, Asia had finished school and moved away. He finds an address on the West Coast, tries calling, sending messages-- nothing. Finally, he writes a letter to her, gives it to a private investigator, who goes out to Asia's house in hopes of delivering it.

Asia's fiance comes to the door, opens it part way, tells the investigator that she cannot speak to Asia, but that from what he knows of Adnan's case, Adnan is guilty and deserved the punishment he got. Later, the investigator gets a call from the fiance. "We don't have to talk to you. Leave us alone."

So Adnan's lawyer calls off the search for Asia, figuring once a witness turns on you like that, it's too risky to keep pushing. And then at Adnan's hearing on the new petition, it comes out that Asia had done the very thing they dreaded. Asia had called one of the prosecutors in Adnan's case, a guy named Kevin Urick, and undermined her own statement. This is from a recording of the hearing. Mr. Urick is testifying on the witness stand.

Attorney

Mr. Urick, how did you learn that the [INAUDIBLE] petition?

Kevin Urick

A young lady named Asia called me.

Attorney

And what did she say?

Kevin Urick

She was concerned, because she was being asked questions about an affidavit she'd written back at the time of the trial. She told me that she'd only written it because she was getting pressure from the family, and she basically wrote it to please them and get them off her back.

Rabia

I don't know what happened to her and why she would do this.

Sarah Koenig

Here's Rabia again. She says it's not true that Asia was bullied into writing that statement 15 years ago. And she can't fathom why Asia would discredit her own statement like that.

Rabia

I don't know why. The affidavit was written voluntarily. I'm an attorney. I'm a licensed attorney. I work on homeland security. I have no reason to make something like this up. I didn't even know she existed until after the conviction.

Sarah Koenig

So what do you think happened? Why would they have this sort of violent reaction to helping out Adnan now?

Rabia

I don't know. It was just really odd.

Sarah Koenig

So who knows what would have happened if Asia had shown up? Maybe it wouldn't have made a difference. After all, they had the original letters and the affidavit. That's all that should've mattered. But it didn't look good.

It would be natural for the judge to wonder, why can't the defense produce this Asia person? Why is she making this call to a prosecutor? I mean, anyone would wonder. I wondered. I wondered if maybe she was pressured into writing that affidavit. And I wondered if she was hiding something.

Like maybe she'd lied in those 1999 letters. Maybe she didn't really see Adnan at the library that day and had just wanted to insert herself into something exciting. And maybe now that she was grown up, she wanted nothing to do with any of it.

So three, four months after I first sat down with Rabia, I had become fixated on finding Asia. I'm like a bloodhound on this thing. Because the whole case seemed to me to be teetering on her memories of that afternoon. I have to know if Adnan really was in the library at 2:36 PM.

Because if he was, library equals innocent. It's so maddeningly simple. And maybe I can crack it if I could just talk to Asia.

I write her a long, gentle, pleading letter and send it off to an address I find online. I'm calling people who know her or who I think might know her. I'm checking the same loop of Facebook, MyLife, LinkedIn sites over and over, trawling for clues about where she might be or how she might think.

If you're wondering why I went so nuts on this story versus some other murder case, the best I can explain is this is the one that came to me. It wasn't halfway across the world or even next door. It came right to my lap. And if I could help get to the bottom of it, shouldn't I try?

I start running down all the other information in Asia's 1999 letters. She mentioned there were security cameras inside the library. So my producer and I went to see the very nice manager there, Michelle Hamiel.

Sarah Koenig

Was there a security system back in '99 that could've been checked at the time?

Michelle Hamiel

Probably, yes. I'm going to say yes.

Sarah Koenig

OK. And what system was it?

Michelle Hamiel

I have no idea. [LAUGHING] It was an old system.

Sarah Koenig

Yeah. But you think probably video?

Michelle Hamiel

It was video. And that was part of set up. Every morning you put a videotape in.

Sarah Koenig

Were you guys recycling the videotapes?

Michelle Hamiel

Yes. I think it ran for a week. So you had a Monday tape, a Tuesday tape, a Wednesday tape, and so forth.

Sarah Koenig

So even if, on the very day that Asia had written her first letter, Adnan's lawyer had run out to find the security tape, it probably would have been nonexistent by then. But what about the computer Adnan was supposedly using to check his email?

Sarah Koenig

To use the computer, did people have to sign in, write their name down?

Michelle Hamiel

They did.

Sarah Koenig

And what was the system then?

Michelle Hamiel

Piece of paper and pencil.

Sarah Koenig

And those, by any chance, weren't logged meticulously and kept for 15 years, were they?

Michelle Hamiel

No. [LAUGHING]

Sarah Koenig

Bummer. We got nothing.

Then there was the mystery of Asia's boyfriend, Derek, and his friend Jerrod. All winter and spring, every time I went to Baltimore, I went to Derek's mom's house looking for him, and to Jerrod's window tinting business. And then finally--

Sarah Koenig

All right, so you're Jerrod Johnson.

Jerrod Johnson

Yes, I am.

Sarah Koenig

You don't know how excited we are to be talking to you. I've been looking for you for, like, four months.

Jerrod Johnson

What did I do?

Sarah Koenig

You didn't do anything. But we were hoping maybe you remembered this moment. On January 13, 1999, do you have any memory, by any miracle, that you went to Woodlawn public library branch near Woodlawn High School to pick up Asia McClain with your friend Derek?

Jerrod Johnson

I have no idea. Asia McClain. Is that a person or a book?

Sarah Koenig

It's a person.

Jerrod Johnson

No, no recollection of it.

Sarah Koenig

Scratch Jerrod. Derek was my last hope. Eventually I caught him at home. Considering I woke him up, he was exceedingly courteous. He showed me a photo of Asia and him all dressed up. They dated most of senior year.

Sarah Koenig

What's up here?

Derek

This is our senior prom. Yeah.

Sarah Koenig

You guys both look really beautiful.

Derek

Yeah. That's Asia, yeah.

Sarah Koenig

But Derek couldn't remember that day either-- shocking, I know. He used to pick Asia up from school almost every day back then, either from the library or from the front of the school. And he says he spoke to a lot of her friends just to be polite.

Derek

And it's very possible that I could have spoken to the gentleman and her on that day. But it's very hard to remember 15 years later. But it sounds like this definitely could have happened. I don't think Asia would-- Asia's not the type of person that would lie just to--

Sarah Koenig

That's what I'm wondering.

Derek

She's definitely not that type of person to get involved with a lie. She's not that type of person. So it seemed pretty credible to me.

Sarah Koenig

One day I get a call on my cellphone from a blocked number. You guessed it-- Asia. I wish I could say that my charming, persuasive letter is what prompted Asia to call. But the truth is, she never got my letter. I had the wrong address. But she was calling because I'd followed up weeks later with a one-line email. And she was responding to that, a little confused.

Asia McClain

It's just crazy. I mean, I have a couple minutes if you want to chat about it.

Sarah Koenig

I recorded our conversation on the cell, which is why the sound quality is so bad. Sorry about that. Asia is now a 33-year-old stay-at-home mother. And she has not spent the last 15 years worrying about Adnan and whether he's guilty.

Asia McClain

I trust the court system to do their due diligence. Because I was never questioned. I was never informed of anything pertaining to the case. I don't know why he was convicted.

Sarah Koenig

Asia said she was spooked when the private investigator came to her house. I don't know if that's why she didn't testify at the hearing or why she made the call to the prosecutor. But she told me that when she got the

knock at the door, quote, "that was not cool." Because to her, if Adnan did do it, quote, "the last thing you want is a murderer being pissed off at you, knowing where you live."

But she had a remarkably clear memory of what happened on January 13, 1999. She had an internship at the time, and so she got out of school much earlier than everyone else. Derek was supposed to come get her at the library along with Jerrod, but they were very late. She remembers seeing Adnan come in after Woodlawn let out for the day.

Asia McClain

Adnan came in. He sat at the table. And we weren't really close friends or anything like that, but we knew each other. And we chatted or whatever. And I can't remember.

I think I must have asked him how he was doing or whatever, and he said fine. And he told me that him and Hae had broke up. And I was like, oh, well, that's a bummer. And I was like, what happened? And he was like, oh, well, she is seeing this other guy, some white dude.

But he was pretty chill about it. He was just like, you know, well, if she doesn't want to be with me, then that's fine. I just wish the best for her-- that kind of attitude.

Sarah Koenig

I'm not sure why Asia's memory of this interaction is so clear all these years later. My best guess is that, because she wrote it down at the time in those letters and then the affidavit, that the details somehow stuck.

Sarah Koenig

Do you remember what time you were talking, this would have happened in the library? Do you remember what time that conversation would have happened?

Asia McClain

I don't. Because I know school let out around 2:15. So it was probably around 2:30.

Sarah Koenig

Because you had said you got out of school earlier than other people. So were you there, were you at the library, before 2:15?

Asia McClain

Oh, yeah, I had been at the library for a few hours.

Sarah Koenig

Oh wow.

Asia McClain

Yeah, I was pretty pissed when Derek showed up. And he asked me who Adnan was. That was teenager boy language. He's like, you know, who the hell is that?

And I said, don't even start with me. Because you're a few hours late. Don't worry about who that is, you know? I remember that day, because that was the day that it snowed.

Sarah Koenig

Were there snow days after that, do you remember?

Asia McClain

I want to say there was, because I think that was like the first snow of the year. I wouldn't have even remembered if it hadn't have been for the snow. And the whole-- I just remember being so pissed about Derek being late and then getting snowed in at his house. And it was the first snow of that year.

Sarah Koenig

The snow is important. Hae disappeared on a Wednesday. That night there was a huge ice storm, which is unusual in Maryland. It ended up being a state emergency. And school was closed for the rest of the week.

Asia started asking me questions about the case. Wasn't there DNA evidence? And what exactly was Jay's part in the whole thing? She wasn't sure Adnan was guilty. She said things I've now heard from so many people since. He seemed like he cared about Hae. He didn't seem angry or upset. I thought there was more proof.

Asia McClain

Even that day, I didn't walk away thinking, oh, I just started something. Do you know what I mean? If you want to base his innocence off of his composure at that moment, I would say he's innocent. But I'm 32 years old now, and I know that there's people out there capable of heinous acts that can keep a calm demeanor, you know?

And I know that there are people who flip out on a moment's notice and do something that they regret for the rest of their lives. Even now, it would be nice if there was some technicality, something that would prove his innocence. Great, you know? One less evil person I've met in my life, you know?

Sarah Koenig

But I think, Asia, you might be that technicality. Do you see what I mean? If you're saying that you saw him on this day at that time, that means the state's timeline for their whole theory of the case doesn't make any sense.

Asia McClain

It's a possibility.

Sarah Koenig

Because they're saying he was in the car with her at the very time that you're saying, no, I saw him at the library, and we were talking. Do you know what I mean? That's exactly the window where they're saying she was murdered.

Asia McClain

[SIGH]

Sarah Koenig

In case you couldn't hear that, it was a sigh. And I completely understand that sigh. That's how I feel a lot of the time. Because I talk to Adnan regularly, and he just doesn't seem like a murderer. A few minutes after I hung up with Asia, Adnan called on schedule.

Adnan Syed

Hey, Sarah, how are you doing?

Sarah Koenig

I'm good. I'm good. So I was just talking to Asia McClain.

Adnan

OK.

Sarah Koenig

You don't sound very excited.

Adnan

I had a-- well, I really--

Sarah Koenig

This was not the reaction I expected. I felt like I'd just interviewed an ivory-billed woodpecker. But when I told Adnan what Asia remembered, instead of being excited, Adnan said it was heartbreaking.

Adnan Syed

I mean, on a personal level, I'm happy. Because, in a sense, I'm not making this up. And at least, if nothing else, it's kind of like, at least someone other than Rabia knows that this did take place.

Anything that can kind of support what I'm saying to be the truth, that I didn't do this, is great. But from a legal perspective, it's like, I wish she would have come to this realization maybe like a year and a half ago, you know what I mean? Because it's kind of like, it's too late.

I'm sorry, I definitely appreciate it. And I definitely kind of hear the elation in your voice. But now I feel like I punctured your balloon.

Sarah Koenig

No, no, I totally see what you're saying. I hadn't thought about it in that way.

When I told Rabia I talked to Asia, she immediately burst into tears. Because they were all correct. It was too late. The judge ruled on Adnan's petition a few weeks before I spoke to Asia-- denied.

The judge wrote in his opinion that Christina Gutierrez's decision not to use Asia McClain as an alibi witness was strategic. After all, Asia's original letters didn't specify an exact time. And Gutierrez could've reasonably concluded that Asia was offering to lie in order to help Adnan.

And finally, he wrote, Asia's letter contradicted Adnan's own alibi. Asia says she saw him at the public library, but Adnan said he was on the school campus the whole afternoon. Maybe the judge didn't understand that Woodlawn library is basically part of the campus. But anyway, Asia's story, then, is legally worthless. A witness who says she saw you at the exact moment when the state contends you were strangling a young woman in a car is worthless.

A few days after I spoke to Asia, she wrote me an email. "I've been thinking a lot about Adnan," she wrote. "All this time I thought the courts proved it was Adnan that killed her. I thought he was where he deserved to be. Now I'm not so sure.

Hae was our friend, too. And it sucks feeling like you don't know who really killed your friend. Hae was the sweetest person ever. If he didn't kill Hae, we owe it to him to try to make that clear. And if he did kill her, then we need to put this to rest. I just hope that Adnan isn't some sick bastard just trying to manipulate his way out of jail." I wrote back, "Believe me, I'm on exactly the same page."

Coming up this season on Serial.

Male Speaker

I think that there are other people involved. I think maybe he was set up somehow.

Female Speaker

Clearly you could tell something was going on that wasn't good. I mean, it was just strange behavior for anybody.

Female Speaker

Basically threatened me, like, you know what happened to Hae. This is what's going to happen to you. That's how I felt that day.

Sarah Koenig

What are you thinking right now? You have the same smile I do.

Female Speaker

I'm literally thinking, like, could he have gone crazy?

Male Speaker

Jay told me he was being blackmailed by Adnan. Because Adnan knew that Jay couldn't go to the police.

Rabia

Like if this works, every question we've had for the past eight months, he knows it.

Male Speaker

Yeah, I mean, who else did it? They're running out of suspects.

Sarah Koenig

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help from Nancy Updike. Fact checking by Karen Fragala-Smith. Special thanks to Lou Teddy, Jane Marie, Seth Lind, Alyse Bergerson and the entire staff of This American Life, and to my in laws Ethan Shire and Janet Leveen for putting me up in Baltimore so many times in the past year. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. Serial is a production of This American Life and WBEZ Chicago.

Episode 2: The Breakup

-Mail Chimp Ad-

Detective

Why don't you go ahead and tell us what you know about the death of Hae Lee.

Jay

Ok.

Ira Glass

Previously, on Serial.

Detective

So he wanted an alibi.

Jay

Yes.

Adnan

The only thing I can say is, man, it was just a normal day to me. There was absolutely nothing abnormal about that day to me.

Detective

She was concerned because she was being asked questions about an affidavit she had written.

Asia McClain

Even now, it would be nice if there was some technicality that then would prove his innocence. Great.

Sarah Koenig

But I think, I think, Asia, like, you might be that technicality.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility...

Sarah Koenig

From This American Life and WBEZ in Chicago, it's Serial. One story week by week. I'm Sarah Koenig. We're at episode two. You probably heard episode one on This American Life, or through our website, SerialPodcast.org, but if you haven't, stop. Go back to the beginning. We're telling this story in order, the story of Hae Min Lee, an 18-year-old girl, who was killed in Baltimore in 1999, and the story of Adnan Syed, her ex-boyfriend who was convicted of the crime.

So to pick up where we left off, last episode, you heard how the prosecution told the story of this murder at Adnan's trial. And the motive the State supplied, the basis for the whole thing, was that after Hae broke up with Adnan, he couldn't accept it. He was so wounded by her, and so furious, that he decided to kill her. Prosecutor Kevin Urick told the jury in his opening statement, "He became enraged. He felt betrayed that his honor had been besmirched, and he became very angry, and he set out to kill Hae Min Lee." Or this is from closing, "It was humiliating, what she did to him. Make no mistake about it, ladies and gentlemen. This was not a crime about love, this was a crime about pride."

But was that what their relationship and breakup were really like? Was he so hurt that he decided to kill her. That's what I'm trying to find out in today's episode, by talking to lots of people who knew Hae and Adnan. Mostly their friends, because they were a close-knit group. Some of them had known each other since elementary school. And even though they went to a big, tough high school, Adnan and his friends were clumped together in a magnet program of about thirty kids. A kind of school within the school, and they all took classes together, and hung out together, and they dated each other. So they knew each other well. And the other information I have to go on are Hae's own words about their relationship, because I have a copy of her diary. It was entered into evidence at trial. It was read by many people, cops, prosecutors, even Adnan. What's remarkable about the diary, and what makes it so helpful is that it's essentially a chronicle of the Adnan era of Hae's life. The first entry is April 1, 1998, right when they started going out. And the last entry is dated January 12th, the day before she went missing. And in all those months, what she's most writing about is Adnan. If you had to bookend Hae and Adnan's romance, you'd put a school dance right at the beginning and then another one right at the end. The first dance was junior prom. Adnan and his best friend had a little competition going about who could get the prettiest prom date that year. Someone said Adnan should ask Hae to go so one day after sports practice, on the little hill behind the school, he asked her to prom, and she said yes. On April 27, she wrote a long entry in her diary about prom night. Her diary,

by the way, well I'm not exactly sure what I expected her diary to be like but it's such a teenage girls diary. She jumps from her boyfriend to driver's ed, to the field hockey game. She's bubbly one minute and the next she's upset with her mother, or dissing her friend, or complaining about homework.

So prom night she writes about Adnan. "I swear he's the sweetest guy. Let me tell you why. He was prom prince and Stephanie was prom princess and traditionally they're supposed to dance together, to my song, K-Ci & JoJo's 'All My Life.' I tried to act natural and unjealous, but it did kinda bother me. Ten seconds later, guess who danced with me, and not with Stephanie? Adnan! Now how can I not fall in love with this guy? Of course I gave him his first kiss on the lips, then I totally fell in love with him. Since then, I keep on falling deeper and deeper into him. The bad thing is we have to keep things secret, sigh. But it's okay because love conquers all."

Aisha Pittman

For a while I was like noticing they were flirting, and I would like make fun of her about it!

Sarah Koenig

That's Aisha Pittman. She was in the magnet program too. Hae was her best friend.

Aisha Pittman

She would like show me notes that they shared and then it just progressed from there. Um, and, but it was some, it was a relationship that was constantly secret because neither of their families knew about it, so that just created much more of a, like, her saying 'I'm gonna be at your house' but really go out with him, kinda thing. Um...

Sarah Koenig

Oh she would, she would tell her parents she was at your place...

Aisha Pittman

Yeah. Or others. Primarily mine. (laughs) Just a lot of that sort of secrecy around it

Adnan Syed

We had a lot of, I guess, we had a lot of real similar, similar types of situations with our families.

Sarah Koenig

That's Adnan. Since he and Hae both had immigrant parents, they understood the expectations, and the constraints. Do well in school, go to college, take care of your younger brother, and for Adnan, no girls. If a female friend rode in his car, for instance, she'd have to make sure not to leave any long hairs behind. Or if a girl gave Adnan a ride home, she'd have to drop him off down the block so his parents wouldn't see who was at the wheel.

Adnan Syed

You know, it was really easy to date someone that kind of lived within the same parameters that I did with regards to, you know, she didn't have the expectation to me coming to her house for dinner with her family, you know, she understood that, you know, that um if she was to call my house and you know speak to my mother or father I would get in trouble, and vice versa. You know, so we would have to kinda set up our talks on the phone. Usually we would talk late at night when our parents were sleeping.

Sarah Koenig

They had a whole system for this. One would page the other when the coast was clear. This was 1998, so not many cell phones around. Then that person would call some 1-800 service like the weather or the time and the other one would call in so the phone wouldn't actually ring. It would come in through call waiting and the dozing parents would never be the wiser.

At the trial, the State tried to paint a picture of Adnan as possessive of Hae. As controlling. When I spoke to Hae's closest friends about that, a couple of them did say that he seemed to be, hmm, over-involved with her somehow. But they couldn't come up with many examples. Two people remembered a time when Adnan showed up uninvited to a girls trip to an amusement park. Aisha Pittman was one of them. She remembers nothing positive about their relationship anymore, though by her own admission, she doesn't know whether her memories are colored by what came later.

Aisha Pittman

I think it was probably mostly normal, but things that, like, he kinda just always generally annoyed me, because, just the constant paging her if she was out, um, and he's like, "Well I just wanted to know where you were." And it's like, "I told you where I was gonna be." Um, if she was at my house, and we were having a girls night, he would stop by, like he would walk over and try to come hang out, and its just like, "Have some space!" Um, and it's one of those things, at first it's like, "Oh! It's so cute! Your boyfriend's dropping by." But then the tenth time, it's like, "Really?"

Sarah Koenig

Did he ever-- did Hae ever seem freaked out by it?

Aisha Pittman

No but I don't think I was ever freaked out by it, in the moment.

Sarah Koenig

Here's Hae's take on one of those impromptu visits Aisha is talking about. On July 16th, she writes, "Adnan dropped by Isha's late. With carrot cake!". So yeah, Hae does not describe Adnan as overbearing or possessive in her diary. Though she does mention a couple of moments when she's mad at him. "How dare he get mad at me for planing to hang with Isha!" Or a time when he's nasty to her because she doesn't respond to his messages fast enough. But mostly these incidents seem to be tit for tat. "I'm in a real bitch attitude and Adnan is not helping," she writes on June 15. "He hasn't called me since twelve thirty this afternoon and it's definitely pushing me to the edge. I think I'm gonna pick a fight."

Hae's friends say she had a strong personality, strong opinions, she's no pushover. When she was pissed at Adnan, she let him know. But by far the majority of her diary entries are about she likes and loves him. I stopped counting, there were so many 'wonderfuls' and 'sweetests' and 'best boyfriend in the worlds.' Mostly I heard stuff like this from their friends. Here's Becky Cline. Back then she was Becky Walker.

Becky Cline

Just a silly, teenage, high school relationship. I remember a lot of teasing and a lot of, um, you know hand holding, arms around each other. I don't really remember any, anything weird or anything stands out.

Sarah Koenig

They hung around all that summer before senior year. They'd meet up after work and drive around. They were seventeen. They were in love. They were active. They'd have sex whenever and wherever possible. Sometimes at motels or the car or at a park or at other people's houses or apartments. Sometimes they'd fight and then they'd quickly make up. A couple of times, Hae called it off but then would ask for Adnan back after a day or two or three.

Remember the setup for this crime that the State laid out was that Adnan was betraying everything he held dear for this girl. As a good Muslim he was not supposed to be dating and so he was sacrificing his religion and lying to his family all just so he could be with her and it twisted him up inside. And Hae's diary seems to be where they found some evidence for that. In fact they had a friend of Hae's, Debbie Warren, read excerpts from it on the witness stand. "I like him, no I love him." She read at trial, dated May 15. "It just all the things that stand in the middle. His religion and Muslim customs are the main things. It irks me to know that I'm against his religion. He called me a devil a few times. I

know he was only joking, but it's somewhat true." And then there's this, which wasn't read at trial but is from July when Adnan went to an Islamic conference in Texas with his dad. This is the most distressed Hae gets on the topic. When I read it, I thought "whoa. This does not look so good for Adnan." "I keep crying over the phone because I miss him so much," she writes.

He told me that his religion means life to him. He tried to remain a faithful Muslim all his life but he fell in love with me which is a great sin. But he told me there is no way he'll ever leave me because he can't imagine a life with me. Then he said that one day he'll have to choose between me and his religion. I love him so much and when it comes to choosing, I'm gonna let him go his way. I hate the fact that I'm the cause of his sin. He said that I shouldn't feel like I'm pulling him away from his religion but hello! That's exactly what I'm doing.

So, yeah, anytime someone is writing stuff down like 'sin' and 'devil' and 'religion means life' in reference to their secret relationship, that's not good. But ask the Muslim in question about it, and it all seems so much smaller.

Adnan Syed

I may have said it as a joke you know like man hey "I'm going to hell because I'm dating you," or something, but I never meant it in the type of way that she took it.

Sarah Koenig

Adnan claims he just wasn't that religious. He was going to clubs and having sex with girls, and smoking weed from the time he was fourteen or fifteen. Culturally, yes a Muslim, but the rest, he says, not so much. So passages like this, he says he doesn't recognize himself in them.

Adnan Syed

I never-- I never really felt as if, you know, man you know Hae is 'tearing me away from my religion.' You know, and I never-- only 'til I read her diary that I really kinda understood that wow this is the perception that she kinda had. Just like the gravity and the magnitude with which she took these things. I didn't really feel that way about these things. Maybe it just seems convenient for me to say that now but the only thing I can say now to kind of-- I won't say prove it in a way is that my behavior didn't change once I stopped smo-- you know once Hae broke up with me, or once you know we broke up or whatever. It's not like you know all of a sudden, I'm like okay "this whole fixed thing is out of my life," no its just-- you know, I just continued with the same type of behavior, it was just different people.

Sarah Koenig

Religious stuff aside, the State said Adnan was guilt ridden about lying to his family about Hae. But he says he wasn't all that bothered by that. He figured he was a pretty good kid. He was doing well in school, he had a job, he was volunteering at the mosque. Why shouldn't he have some fun? And in the pantheon of ways that a teenager could have been disrespectful or deceitful to his parents, he thought this rated pretty low.

Shamim Rahman

My name is Shamim Rahmann and I'm the mother of Adnan Syed.

Sarah Koenig

Adnan did most of his lying to his mother. She figured out something was up pretty early on. She'd found Adnan's crown from prom in the basement where he'd tried to stash it with his tux. Shamim came to the United States in 1976. Her husband was already here working as an engineer for the State of Maryland. She's from Peshawar, in Pakistan where you do not date. You are either married or unmarried. Not much of a middle ground. So Adnan's girl contact put Shamim in a state of high alert. She would check the milage on his car to see if he'd driven farther than he'd said. She eavesdropped while he was on the phone. I know this makes Shamim sound terrifying but she's not at all. She adores Adnan. Her middle son.

Shamim Rahman

He would talk to the girls, yes. I would pick up the phone, or I'll you know

Sarah Koenig

And would he know? Would he say like, "mom hang up the phone?"

Shamim Rahman

Yeah, he say "Mom, you know I know you're listening to me." (laughs) Yes, I say "Adnan I'm here." He'd say "Mom stop, you're not listening to us." You know.

Sarah Koenig

And, and was that conflict-- I mean I-- it must have been sort of constant.

Shamim Rahman

Of course yeah because for me this was unacceptable. So we used to argue a lot. You know, I'd say "No you cannot do that. You cannot-- If you like somebody, alright you can get married, but not without marriage, you cannot do that." Of course me and Adnan had a problem.

Sarah Koenig

Adnan's father was a little more loose about it?

Shamim Rahman

My whole family was, even my oldest son, he said "you know Mom, everybody is doing it." Even my husband said you know that other boys are doing it. I say no, not my children.

Sarah Koenig

Adnan wasn't getting punished for any of this. It wasn't as if he was about to get kicked out of the house. More like he was being reminded of his responsibilities. Both at home, and at his mother's request, by his youth leader at the mosque. Then came the homecoming dance, in the fall of senior year. Adnan and Hae had been together for about seven months by then. This dance would become a big deal at the trial. Proof of just how fraught their whole relationship was. And how tormented Adnan was about his double life. Here's what happened. Adnan's parents got wind that very night that he had taken Hae to homecoming. Adnan says this happens in their community all the time. Someone sees someone else's kid at a dance or at the mall and before you can hide behind a potted plant, four aunties are on the phone to the kids mother. Anyway, this time Adnan's parents did not wait to deal with it at home. They showed up at the dance and chastised him. Made a scene. The prosecutors argued that this scene would come to haunt him until the day he killed Hae. Here's what prosecutor Casey Murphy told the jury about the moment when she says Adnan strangled Hae. "What is it that this defendant saw on January 13 when he looked down at Hae Lee?" Then she lists a couple of things and says this: "He saw his parents standing at the window of the homecoming dance. He saw his mother raise her voice at Hae Lee in front of his classmates. 'Look what you're doing to our family.' He saw the pain in his mother's face because she knew they were together. And he saw himself, in the end, standing there with nothing to show for it but a guilty conscience and a pack of lies in which he cloaked himself."

Now compare that with how Adnan's best friend, Saad, remember's the homecoming debacle.

Saad Chaudry

He comes home at like eleven p.m. or like twelve midnight and I'm like, "What happened at your homecoming?" And he's like, "You're not gonna believe this!" I'm like, "What?" He's like,

“My mom and my dad showed up!” And I’m like, “What?!” And I mean, we’re dying laughing on the phone about this. You know, you know this is our world. Well then I’m like, “What happened?” And well then like, “They showed up, they made me leave and everyone saw it, how like literally my parents pulled me out of this relationship.”

Sarah Koenig

I’ve come across dozens of bits of evidence like this. Information that could either mean one thing, or perhaps its opposite depending on who’s talking. Adnan’s cellphone, for example, he bought it just two days before Hae disappeared. The state tried to show that was all part of his plan. That he needed the phone to carry out the murder. But Adnan says he wanted the phone so that he could call girls unfettered. And he was proud of the phone. He’d worked hard at his job as an E M T to pay for it. Oh and the job! The State would argue that because he was an E M T Adnan would have known how to strangle someone, and would have had the training to revive them if he wished. Adnan, again, he says he was proud of being certified. He’d gotten the highest score on the qualifying test of anyone in his class and a real job as a result. He liked old people and his job was mostly to ride in the back of the ambulance with old people, make sure they were okay. In the detective’s notes, they interview Adnan’s English teacher, Jane Efron, who apparently tells them “Adnan had a dark side which is in his poetry.” The words ‘dark side’ are underlined. And Miss Efron,

Jane Efron

It was like all the teenagers that I taught because everything in their lives was dark. I don’t remember any of them having anything upbeat to say, so he was just another one that makes you think that you’re living on another planet. Cuz when you look out at them and they’re healthy and hearty and playing and being stupid so-- (laughs)

Sarah Koenig

So it didn’t stick out in someway, it was just like all teenagers write broody, dramatic poetry--

Jane Efron

Absolutely.

Sarah Koenig

See what I mean? All this information, every scrap, it’s currency for whatever side you’re on. Spin. And the trouble with spin is that you can’t totally disregard it, because swirling around somewhere inside, some tendril of it, is true. Saad Chaudry thinks Adnan is innocent. So for him, the

homecoming story is also innocent. Hae didn't write about homecoming in her diary, but Aisha says it wasn't funny to her. It was a big deal. Aisha remembers Adnan's parents wanting to find Hae so they could talk to her which of course Hae wanted nothing to do with.

Aisha Pittman

So that we could leave the dance and not be harassed by his parents like she walked out holding hands with my friend Sean to get away from it. She just felt like that was a completely ridiculous thing and she was super pissed. Wanting to have, I think that for her was a "I absolutely don't want to be with this person at all because, um, this is what happens."

Sarah Koenig

On November 3, Hae wrote in her diary, "Who would have thought we would end like this? Who would have imagined the amount of pain that comes with a broken heart? I know I'm doing the right thing. Call me selfish but this pain is way less than what it would be if we stayed together." Then apparently they reunited because exactly one month later, on December 3, she's full of love for Adnan again. "This feels so real, so loving and ever so amazing. I can't be any happier. But yet I keep on being happier." But then just three days later there's this on December 6: "What's the matter with me? Everytime I close my eyes I see my baby but I keep on thinking about someone else. Don." Hae has got a crush on Don. An older guy. Twenty. Whom she works with at LensCrafters at the Owings Mills Mall. Don has blue eyes and blonde hair and a Camero and she really, really likes him. For the next couple of weeks, she's racked with guilt and confusion over what to do. At one point, she writes Adnan's name in giant block letters made out of tiny little Adnans and underneath that does the same thing with Don. Giant letters made up of Dons. On another page, she writes Don's name 127 times. 127 Dons. It's not clear from the diary when she finally tells Adnan it's over over, but certainly by Christmas they were split.

On New Years Day, Hae has her first official date with Don and they start going out. Hae is head over heels. Aisha remembers meeting him on a double date to Friday's restaurant and then to see the movie *Shakespeare in Love*.

Aisha Pittman

It was the most awkward double date in the world (laughs) because he was older. I forget how old he was but he was significantly older than us and my boyfriend was two years younger so it was just a *horrible* double date--

Sarah Koenig

--like you were out with one man and one boy?

Aisha Pittman

Yeah. (laughs) It did.

Sarah Koenig

This is where the real questions begin. All the most important questions about Adnan. About how he responded to this breakup and to the fact of Hae's new boyfriend. Because the whole premise of the State's case against Adnan is that he felt betrayed and humiliated and angry and that's why he killed her. This idea came from Jay, their main witness. It was Jay who supplied the motive to police. Here's tape of Jay's being interviewed by Detective Greg MacGillivray.

Detective Greg MacGillivray

--this conversation, what did he tell you?

Jay

Um, he told me that she had broke his heart, that it was extremely wrong for anyone to treat him that way. Um, that he couldn't believe how she stood and looked him face to face and told him she didn't love him and could be that heartless and he told me that almost joking "I think I'm going to kill her, yeah, I think I'm going to kill her."

Detective Greg MacGillivray

You didn't know *how* he was going to kill her.

Jay

No. No--

Detective Greg MacGillivray

But he told you that he was, he was gonna kill her-

Jay

Yes--

Detective Greg MacGillivray

--because she had broken his heart.

Jay

Yes.

Sarah Koenig

But nearly everyone I've spoke with, Adnan's friends and teachers say he took the breakup like anyone would. Adnan's friend Mac Francis said Adnan initially was devastated and jealous about the new boyfriend. Said he grumbled about it in a typical guy way, nothing strange. Everyone I talked to said some version of this, that he wasn't rage filled or vindictive. He was just sad.

Donna Paoletti Philips

It really did seem like a run-of-the-mill mundane teenage angst. Um--

Sarah Koenig

That's Donna Paoletti Philips. She taught Adnan and Hae AP Psychology and had known them both since they were freshmen. At her job, she's seen a lot of high school break-ups.

Donna Paoletti Philips

--but the level of frustration he must have felt, if he killed her, doesn't register with me. I don't remember getting that vibe from him. It was just-- he was just another kid whose heart was broken. And, goodness, if I thought the kids I teach today were gonna resort to some kind of horrific crime based on that kind of thing I-- I would have stopped teaching. Because it happens--

Sarah Koenig

--It happens every other day--

Donna Paoletti Philips

--It would be.

Sarah Koenig

Adnan's friend Saad said Adnan definitely *wasn't* mooning over Hae.

Saad Chaudry

When they had broke up, Adnan and Hae had broke up, it'd been like a month, maybe more. She had already started dating another guy, and I was like, "Adnan's dating multiple girls!" I was like "I can tell you some of the girls that he's dating." I was like "he is not upset about him and Hae breaking up." I was like "he's dating this girl Anjali in Philly that he's been going to see." This girl. And I know it wasn't, like *great* proof, but it was still proof that he wasn't *obsessed* with Hae. He wasn't. I was like he's a p...I'm trying to conv-- explain I'm seventeen, like "He's a player! He has a lot of girls!" I was like, "he's talking to multiple--" I am too!

Anjali

He was cute, (laughs) and charming! He's just a very sweet guy. Um, *very* flirtatious.

Sarah Koenig

Sorry Saad. She's not talking about you. This is Anjali, the girl in Philly. She confirmed. Yup. Couple of visits. They made out. Nothing too serious. On New Year's Eve, Adnan met another girl, Nisha from Silver Spring, Maryland. And he started calling her a lot too. Adnan's friend Mac remembered Adnan making out with another friend of theirs at a party that January. So yeah, a player.

Adnan himself describes the breakups with Hae as fairly rational events.

Adnan Syed

Each time that we broke up or each time-- let me just say this, each time that she ended the relationship or took a break, it was never a thing where I was like pestering her or, like, going to her house and knocking on the door or chasing her down - "Look I wanna get back with you! I wanna get back with you!" - because a part, there was a part of me that knew that man, what she said did make sense. So, yeah. So, pretty much then we were just friends, you know, um, we would talk about things like she would tell me about, um, someone that she just met at her job, a guy named Don. And she was like, you know, she really liked him. And, uh--

Operator

You have 30 seconds remaining.

Adnan Syed

Can I call you back? or...

Sarah Koenig

Yeah, yeah. Call me-- call me back.

Sarah Koenig

That's the prison phone system telling us that our time was up. This happens every half an hour. It surprises me every time because I often sort of forget where he is.

Sarah Koenig

So-- so you're-- you're making the breakups sound very, um, kind of calm and mutual and like nobody got upset, but I mean is that true or was there like crying and the usual teenage angst over it?

Adnan Syed

--well mind you now, this is me talking, you know, fifteen years later, I mean, you know she was upset. I was upset, you know there were times that I was very sad, and maybe I would kinda be like a little stubborn about it, like "no, no we can make it work! You know our parents would be cool or whatever," but on the other hand, it was never a thing where I was like screaming or yelling at her "why are you leaving me?" or-- so you know just to say that, um, just to kinda to dispel that, that was never my behavior, you know at all.

Sarah Koenig

It is true that no one at the time described Adnan as acting obsessed or menacing in any way. Not even Aisha. And in her diary, Hae never expresses any concerns about Adnan's post breakup behavior. In fact, she writes about a time just before Christmas, so after they'd broken up, when she gets into a little car accident and calls up Adnan to come get her from work. Both Don, her new crush, and Adnan look at the car together and decide it's unsafe to drive, so Adnan takes her home. Apparently it was all very cordial. Even Don said so. He wouldn't talk to me for this story, but he testified at the trial.

At this point, I'm going to say flat out that I don't buy the motive for this murder, at least not how the State explained it. I just don't see it. Not one person says he was acting strangely after they broke up. He and Hae, again by all accounts were still friends. He was interested in other girls. He was working at his job. He was headed to college. About two weeks after his arrest, he gets an orientation packet from the University of Maryland. I don't think he was some empty shell of a kid who betrayed his family and his religion and was now left with nothing and conjured up a murderous rage for a girl that broke his heart. I simply don't buy it. And the reason I don't buy it is because no one who knew him, then or now, says that's how it was. I want to be clear, though, that that doesn't mean he didn't do it. It just means that so far, I think the State's story about why he killed her doesn't hold up. Maybe it was more of a spur of the moment thing. Maybe despite the other girls he was running after, he was privately stewing about Hae. After all she was apparently still flirting with him after they broke up. Still paging him with loving messages. She bought him an expensive jacket that Christmas. Maybe he

thought he still had a chance with her. Like their friend Debbie told me, maybe once Don came on the scene, he thought “that’s a slap in the face! How dare you continue to lead me on like this?”

The night before Hae disappeared, Adnan called her from his cell phone three times. The first two calls, at 11:27 p.m. and 12:01 a.m., were only two seconds each. The third call, at 12:35 a.m., lasted a minute and twenty-four seconds. Adnan says he was probably calling to give her his new cell phone number. He had just gotten the phone the day before. And indeed in the top left corner of her diary, she’d written down the number. According to Don’s testimony, she’d been at his house that night, which is probably why Adnan’s first two calls ended so fast. She probably wasn’t home yet. Her very last diary entry, dated January 12, is brief. “I love you Don. I think I have found my soul mate. I love you so much. I fell in love with you the moment I opened my eyes to see you in the breakroom for the first time.

There *is* one detail about the day Hae went missing that I need to tell you about, a detail that doesn’t look good for Adnan. And that detail has to do with whether Adnan tried to get in Hae’s car right after school. Because that is what the State would allege, that Adnan fabricated a reason to get in her car that afternoon—so that he could kill her. Jay had told police that was Adnan’s plan.

Detective Greg MacGillivray

Ah, does he tell you how he’s going to do it that day?

Jay

No, but he tells me that, ah, he’s gonna do it in her car. Um, he said to me that he was going to, uh, tell her his car was broken down and, uh, ask her for a ride.

Sarah Koenig

So what *do* we know about the end of that day? A Wednesday. January 13. Hae and Adnan had a couple classes together, first period, and also last period, AP Psychology, with Miss Paoletti. That’s when Aisha last saw Hae, at the end of Psychology. She was taking to Adnan. Then their friend Debbie remembers seeing Hae on her way to her car. She told Debbie she had to get her cousin from school, and then was going see Don at the mall. The very last person to see Hae at school that day, we think, is Inez Butler Hendrix. Inez ran a little concession stand right at the gym entrance and Hae would come by every day and get the same thing: a Veryfine apple juice and Hot Fries. That day, she drove up in front of the gym where the concession stand was and left her car running.

Inez Butler Hendrix

So she came around the circle, parked her car right there, jumped out and ran in to get something to drink and to tell me to tell the bus not to leave her.

Sarah Koenig

The bus was for the boys' wrestling team. Hae was manager and they had a match later that afternoon that Hae was supposed to go to.

Sarah Koenig

And you didn't see her af-- again after that?

Inez Butler Hendrix

No, I didn't see her no more.

Sarah Koenig

And was Adnan anywhere near her or her car?

Inez Butler Hendrix

No. I didn't see him near the car.

Sarah Koenig

Okay, so no one actually testified at trial that they saw Hae and Adnan leave school together. And no one, aside from Jay, says they spotted Adnan in her car at any time that afternoon. Adnan has no recollection of having asked Hae for a ride anywhere. We've talked about it many times. Here's what he said the very first time I asked him.

Adnan Syed

I would-- wouldn't have asked for a ride after school. I'm-- I'm sure that I didn't ask her because, well immediately after school because I know she always-- anyone who knows her knows she always goes to pick up her little cousin, so she's not doing anything for anyone right after school. No-- no matter what. No trip to McDonalds. Not a trip to 7-Eleven. She took that very seriously.

Sarah Koenig

The trouble for Adnan is that a couple of their friends say he *did* ask Hae for a ride. One of them was her friend Krista.

Krista

If I remember correctly (laugh) I think Adnan and I were taking-- ah, had a class together, um our first period class was Photography, and she-- they passed each other in the hallway and I was with him and I remember somebody saying or him saying something about "Can you give me a ride after school?"

Sarah Koenig

Their friend Becky told police she heard something about a ride as well.

Becky

I do remember that there was talk about it. I remember it felt like he asked her to give him a-- give him a ride somewhere.

Sarah Koenig

Okay. Can I just read to you what the police notes say, I think April 9, 1999 they interviewed you.

Becky

Mm-hmm.

Sarah Koenig

So, it says, "Sometime earlier that day, apparently he asked her to take him possibly to get car before lunch because it was in the shop. Heard about it at lunch." So it's I think, *you* heard about it at lunch.

Becky

--yeah that sounds right.

Sarah Koenig

"Hae said she could, there would be no problem. At end of school I saw them. She said 'Oh no I can't take you, I have something else to do.' She didn't say what else. Approximately 2:20." So that happened at approximately 2:20. "He said, 'Okay I'll just ask someone else.' He told her goodbye." And then it just says, "Did not see Hae after that."

Becky

Okay. Yeah that sounds right. It kind of all comes back a little bit.

Sarah Koenig

So, Krista and Becky both remembered and while Becky's recollection maybe works in Adnan's favor, that Hae turned him down for a ride and he seemed cool with that, the question is still there. Was he trying to get into her car. Did he ask for a ride just like Jay said? And in fact the most damning evidence in support of Jay's statement doesn't even come from Krista or Becky. It comes directly from Adnan because he himself told the cops the same thing that day.

Court Official

At this time the State would call Police Officer Scott Adcock to the stand.

Sarah Koenig

Around 6:30 p.m., after Hae had gone missing, a baltimore county police officer named Scott Adcock called Adnan's cellphone. Hae's family was worried that she hadn't turned up to her cousin's school and the officer was calling around to some of her friends to see if they knew where she was. Here's Adcock testifying at trial.

Scott Adcock

I spoke to Mr. Syed and he advised me that, ah, he did see the victim in school that day, and that um, he was supposed to get a ride home from the victim, but he got detained at school and she just got tired of waiting and left.

Sarah Koenig

Then, a little more than two weeks after the call with Officer Adcock, on February 1, by this time the search for Hae has ramped up, a different detective calls. Asks Adnan about the ride thing. Asks him "did you tell Officer Adcock you'd asked Hae for a ride?" According to the police report, "Adnan says this was incorrect because he drives his own car to school.

So, he reverses himself. Why would he do that? Why would he tell the first cop he's expecting a ride and then once it's clear Hae is missing change his story? Maybe the girls thinking of a different day. Or maybe Adnan misspoke when he talked to that first cop. Or maybe he did ask Hae for a ride at some point that day, but he's forgotten. Or maybe he's lying. I'm not a detective but I consider this a red flag. What I don't know is is this a teeny tiny red flag like he just got confused and so what? Or is this like a great big flapping in the breeze red flag? Like maybe he's hiding something. More next week.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help from Nancy Updike. Fact checking by Carron Fragala Smith. Special thanks to Lou Teddy, Phil Levis, and Terri O'Conner. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. Serial is a production of This American Life and WBEZ Chicago.

--COMPLETE--

Episode 3: Leakin Park

-Mail Chimp Ad-

Ira Glass

Previously, on Serial.

Aisha Pittman

--he kinda just always generally annoyed me, because, just the constant paging her if she was out--

Adnan Syed

--each time that she ended the relationship or took a break, it was never a thing where I was like pestering her or, like, going to her house and knocking on the door--

Jay

--he said to me that he was going to, uh, tell her his car was broken down and, uh, ask her for a ride.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story week by week. I'm Sarah Koenig.

The cops that investigated the murder of Hae Min Lee were both experienced Baltimore City detectives. Their names were Ritz and MacGillivray. Bill Ritz and Greg MacGillivray. And how I wish right now that I could play you tape of their perspective on this case, but they didn't want to be interviewed. When Bill Ritz finally turned me down after six weeks of back and forth, he said he didn't see the point. The case has been adjudicated. What good would it do? I also spoke on the phone, briefly, to MacGillivray and he said just a few sentences to me and one of them was "beyond question, he did it." Meaning Adnan did it. He didn't hem or haw or hesitate. He remembered the case right away. "Beyond question he did it." How did they arrive at that level of certainty?

Before Hae's body was found, this was a missing person case. She disappeared January 13, and the investigation starts out a little slowly, which makes sense to me. She's a not a small child, she's eighteen. She's got a car which is also missing. That first day, the police call around to her friends, they talk to Aisha, to Adnan, remember that's when he tells them he was supposed to get a ride from her, but didn't. The next day they call around to hospitals, hotels, motels, they check the area around the high school parking lot where she was last seen. You can see from their reports that they immediately hone in on the most time worn explanation for such disappearances: the boyfriends, current and former. That first day they call Don, her new guy. They check the area around *his* house which is in another county, northeast of Baltimore. Over the next two weeks they keep going back to Don, and to Adnan, asking more questions. They check Don's alibi, he was indeed at Lenscrafters store the day Hae went missing, the manager tells them. And they talk to Adnan's track coach to check Adnan's alibi, and it's inconclusive. The coach tells them he can't be sure Adnan practiced that day. They don't take attendance. On February 6, they do that awful, foreboding thing you see on TV sometimes, they take a team of dogs to check the wooded areas and fields around Woodlawn High School. They used Hae's curling iron for a scent. On February 8, they make a report saying they're going to check Hae's computer, her AOL account, for clues. And then, on February 9, their search stops. And a new suspect emerges.

Detective

Testing one two three. Testing one two three.

Sarah Koenig

This is tape from a police interview of the man who finds Hae. He's a little hard to hear on the tape. He's soft-spoken. I'm going to call this man Mr. S. I don't want to use his real name for reasons that I promise will become clear. Mr. S works in the maintenance department at a local school.

Mr. S

I think I may have discovered a body in Leakin Park.

Sarah Koenig

"I think I may have discovered a body in Leakin Park," he says. Before I get to the slightly off-kilter story about how Mr. S discovered this body, just a word here about Leakin Park. It's actually spelled LEAKin Park, L-E-A-K-I-N, but almost everyone in Baltimore pronounces it Linkin' Park. It's huge, over 1000 acres. On the western edge of Baltimore city. It's got a reputation and not for the beauty of its woods or its trails or its nature center. What it's known for, sadly, is its dead bodies. Mention

Leakin Park to people from Baltimore as I often did, and you're pretty much guaranteed to get a comment like this:

Unidentified Man

While you're digging in Leakin Park to bury your body, you're gonna find somebody else's. That's Leakin Park.

Sarah Koenig

When I told a rental car guy in west Baltimore I was working on a story about a girl who was found in Leakin Park, he said, "Oh yeah? My uncle was found dead in Leakin Park." A macabre website dedicated to Baltimore murders lists sixty-eight bodies found there since 1946, though the list is missing at least seven years of stats and that number is probably low. A lot of law-abiding Baltimoreans, they don't really know where Leakin Park is. Rabia Chaudry, that family friend of Adnan's who first contacted me about this case, when she's explaining it to me, she said, "Yeah and is Adnan supposed to get to Leakin Park so fast? It's like an hour into the city."

Rabia Chaudry

Leakin Park is nowhere near the school.

Sarah Koenig

Her brother, Saad, Adnan's best friend, he didn't know anything about Leakin Park either.

Saad Chaudry

After Adnan had initially got arrested, when I was on the phone with him, talking when he was locked up, I was like "Leakin Park? Where is that? Do you even know where that is? Have you ever been there?" And he was like "I have never been there. I don't even know where it is." So living around here, we don't know but it's somewhere in the inner city.

Sarah Koenig

Where Hae was found is in fact less than three miles from where Saad and Rabia are sitting right now, in an office across the street from Woodlawn High School. About a seven minute drive. They had no idea.

Saad Chaudry

We wouldn't go there. We'd go to the harbor or somewhere nice, but there's no reason for us to go there.

Sarah Koenig

I'm explaining all this just to say that, the simple fact that Hae was found in Leakin Park, for a lot of people that alone made Adnan look innocent. "What's a nice boy like you doing in a park like this?"

Mr. S

--and I walked around through the bushes and everything--

Sarah Koenig

So now, Mr. S, he also told the cops he had never been to that part of Leakin Park before, though he did seem to know that people go fishing back there. Here's what he told the cops.

At his job, he had gotten a work order to shave down a door, but the school didn't have the tool he needed, a plane. *He* had one at home though, so during his lunch hour he said he drove his truck home, got the plane from his basement, and before he left, grabbed some sustenance out of the fridge.

Mr. S

I grabbed a beer out of my refrigerator. It was a 22-ounce Budweiser I was drinking it on my way back to the school where I work at, and had to go to the bathroom, so I pulled over and I went further into the woods so nobody would see me urinate, and when I discovered what looked like a body--

Sarah Koenig

So was drinking this 22-ounce Budweiser and he's heading back to work and his route to the college is through Leakin Park, and suddenly he has to pee, badly, he says. He stops on Franklin Town Road, he's about three miles from work, there's a small pull off and some concrete barriers, and he walks back in there, quite a ways it seems like for a guy who just has to pee. Later they'd measure. 127 feet back into the woods is where he goes. This next tape is a little upsetting.

Mr. S

--and I got back that way and I was getting ready to urinate and I looked down and seen something that looked like hair and something is covered under the dirt and it looked no good again and until I seen something that looked like a foot.

Detective

What drew your attention to the area that you went to? There was something there.

Mr. S

It was an open area.

Detective

An open area?

Mr. S

Mm-hmm.

Detective

But there was also a fallen tree, is that correct?

Mr. S

Yes there was.

Detective

Did you go to that area for a certain reason?

Mr. S

No, no.

Detective

No?

Mr. S

No.

They are suspicious of Mr. S who by this time has become a suspect in the case. This tape was made on February 18, nine days after Mr. S reported finding the body. They're going over the details carefully because there are parts of his story that are a little weird. One of them is this thing about the fallen tree. 127 feet back into the woods there was a fallen tree, essentially a forty foot log, lying more or less parallel to the road. On the other side of the log, if you kept going, you'd have gotten to a stream with the unfortunate name of Dead Run. Hae's body was buried right behind this log on the stream side. If you were standing on the *street* side of the log, so on the other side, it's not at all obvious that you'd notice her. So this story about why he stopped *where* he stopped, it doesn't quite seem right. Here's Bill Ritz.

Detective Bill Ritz

When you're walking back to this area where you finally stop, why did you pick that particular area?

Mr. S

(unintelligible) pick that area. I was going to go back further except for that's when I'd seen the hair and the foot. I left after that.

Detective Bill Ritz

So you were actually going to go back further?

Mr. S

Yes.

Sarah Koenig

In this part of the tape, you get a sense of how Ritz and MacGillivray operate together, or at least what I gather from listening to a bunch of these interviews. MacGillivray starts all non-judgemental, "just tell me your story. Uh huh. Uh huh." Then Ritz comes in and says something like, "just help me understand here" and asks some harder question, exposing weaknesses in the narrative. Then MacGillivray will come back in but now it's a tougher MacGillivray and he's asking direct, sometimes harsh questions that seem like they'd be good at pushing someone off balance. Like this one, sort of out of the blue:

Detective Greg MacGillivray

Have you ever been inside that girl's car before?

Mr. S

No.

Detective Greg MacGillivray

No. Okay...

Sarah Koenig

Back to the fallen tree. Here, Ritz is saying "wait I thought you told MacGillivray you stopped at the log to pee, but now you're saying that you were on your way farther back?"

Detective Bill Ritz

--stop there, you said before you were getting ready to urinate and that's when you looked down and discovered the hair. Now you're saying you actually going to go back further?

Mr. S

Before I discovered her.

Detective Bill Ritz

Before you discovered her?

Mr. S

Mm-hmm.

Detective Bill Ritz

Maybe I'm a little bit confused. As you're standing on the south side of the tree, between the tree and the road--

Sarah Koenig

This doesn't ever get cleared up really and they sort of let it go. But a bunch of things are fishy. The path he takes in the woods, it doesn't really lead to the log. So why does he end up there? He didn't need to head toward the log to find a spot to pee, there so many other choices. And if you're walking through brush and brambles, wouldn't you sort of naturally avoid a big log you would need to step over? What they are trying to get at is, did you really just stumble on this body? Or were you looking for this body, because you already knew where it was? That is a reasonable question, because Hae's body wasn't just hard to spot, it was nearly impossible to spot.

Alright, we're in the State's Attorney's office, we just got delivered the first box of what they're saying is discloseable under whatever public information act that I did.

I didn't understand how camouflaged the body was until I saw photos of the crime scene, the way Mr. S found it, before they removed the body. I was in the State's Attorney's office in Baltimore. I went there with a crime reporter from the Baltimore Sun. His name is Justin George. I had been talking to Justin about this story and he was interested in maybe writing about it too. We opened a packet of photos together. Some of them were awful to see as you'd imagine. There was one where you could make out a bit of black hair amid dirt and leaves.

How did he notice that?

Justin George

How could he notice the body? I don't understand that either. I mean it's pretty well covered.

Sarah Koenig

Yeah there's barely anything showing. Wait are we supposed to be looking at something there? What is that? Is that her? That all he saw?

Justin George

That looks to be part of the body. Yeah I expected it to be more visible than it is.

Sarah Koenig

Justin and I weren't the only ones who had this reaction. The city surveyor, a guy named Philip Buddemeyer went out to the burial site to measure the distance from the road. This is before they disinterred her. Here's Buddemeyer testifying at trial.

Philip Buddemeyer

When I arrived at the site where the body was, there was a log on the ground approximately forty feet long. I stepped over the log, I walked along the *edge* of the log expecting to find the body real soon. I never saw one, at which time had I taken one more step I would have walked on the gravesite where the body was.

Female Court Official

And at that point there were others on the scene?

Philip Buddemeyer

Yes ma'am. There was a lot of people there.

Female Court Official

And at some point did someone point out to you the exact location--

Philip Buddemeyer

Yes ma'am. The detective pointed out the site. I looked down at the ground, and I said "I don't see any body." It wasn't freshly disturbed.

Female Court Official

It was not freshly disturbed.

Philip Buddemeyer

No. Yeah it just blended in with the natural surroundings of the ground.

Sarah Koenig

So here's a guy who's looking for the body, who knows where it's supposed to be, who can see there's a bunch of people standing around it, and *still* he can't find it. So does it seem reasonable that Mr. S who apparently wasn't looking for anything besides as secluded place to pee, discovered it? Just like that?

The other thing that's a little odd is this business of having to pee. The spot where Mr. S stops is only a few miles from his house, and only a few more miles from his work. Yet he can't wait. Here's Detective Ritz questioning Mr. S again.

Detective Bill Ritz

While you were at home, did you have to use the bathroom at all?

Mr. S

No. I didn't feel I had to go at the time.

Detective Bill Ritz

So within seven or eight minutes how much of the 22-ounce beer had you consumed?

Mr. S

I think it was almost--

Detective Bill Ritz

It was almost empty?

Mr. S

Mm-hmm.

Detective Bill Ritz

And that seven or eight minute period, you had to go to the bathroom, it was-- (cough) an urgent need would you need?

Mr. S

Yes it was.

Sarah Koenig

Yet Mr. S says he never did pee in the woods. Says he ended up waiting until he gets to work. Which, okay maybe that makes sense. He'd had a shock. But why would he walk so far in in the first place? He was just trying to have a quick pee. And why was he studying the ground? Ritz asks him about this.

Detective Bill Ritz

You got out of your vehicle, ventured back into the woods, when we measured it it was 127 feet off the roadway. As you're walking along, why are you looking down at the ground? Are you looking every step that you take or--

Mr. S

So I didn't stumble.

Detective Bill Ritz

So you wouldn't stumble?

Mr. S

Mm-hmm.

Sarah Koenig

Are you counting?

Justin George

Uh-huh. Ten. Eleven. Twelve--

Sarah Koenig

On a freezing day back in February of this year, we went out to Leakin Park. We wanted to know whether it was strange that he'd gone so far back into the woods. Like, what did 127 feet from the road look like? My producer Dana was with me, and so was Justin George from the Baltimore Sun. Right at the place where Mr. S had entered the woods, right at the road, Justin noticed a sign.

What's that?

Justin George

Look at it. I mean, the sign says a lot.

Sarah Koenig

It says "This area patrolled. Dumpers will be prosecuted." You could barely read it. It's hard to read a sign that's covered in graffiti and pierced with seven bullet holes. In fact the cops found twenty cartridge casings in right about this spot when they collected evidence in 1999. Still I felt the park itself was quite lovely. Brambles and trees. It's rocky near the stream. It's uneven terrain, not hilly but it's not flat either.

It's not nearly as creepy as imagined it.

Justin George

I think it is at night.

Sarah Koenig

At night?

Justin George

Yeah. I think at dusk, I think it is. Very bleak. Twenty-one. Twenty-two. Twenty-three--

Sarah Koenig

We walked in what we thought was about 127 feet. Justin paced it out by the yard.

Justin George

Forty-two. It would be right about there.

Sarah Koenig

We actually wander around for a while, trying to find the right spot. Finally I remember we have a hand drawn map of the site, from that surveyor Buddemeyer who testified.

Forty foot long, fifteen inch log on the ground.

Once we get to the right location, it dawns on all of us, 127 feet back doesn't feel all that far, if you're looking for privacy. You can still see the cars on the road from where we're standing.

So if he's peeing, at *least* you'd want to come this far.

Dana Chivvis

There's not a lot of foliage--

Sarah Koenig

There's nothing. There's some dead leaves or whatever, you can totally see the cars. So actually that doesn't seem that weird to me.

Sarah Koenig

Suddenly, Mr. S's story seems eminently more believable. While we're in the woods, I fill Justin in on the evidence they collected here.

Right near the body was a liquor bottle from which they got cellular material and never tested. And a rope that was never tested, as far as I know. And then up at the road they found a condom and a condom wrapper but I think the condom was still rolled. I don't think it was a used condom necessarily. And they found a bunch of shell casings. They found bullets and shell casings and stuff from two different guns. And they found two Blockbuster video cases. But by the body was the-- I think the only thing they got right from the area of the body was the liquor bottle and the rope.

I know. It sounds like a game of Clue, except for the condom part. As for the liquor bottle, back at the taped interview with Mr. S, Detectives Ritz and MacGillivray want to find out if this guy could be the source of that liquor bottle. "Did you drink anything besides beer?" they ask. "Yeah," he says. "What?" "Whiskey." "What kind?" "Windsor Canadian whiskey." "What denomination?" "Maybe half a pint."

Detective Greg MacGillivray

Did you ever take a bottle into the car with you also? A half pint? Did you ever take that in the car? Keep you warm?

Mr. S

Sometimes.

Detective Greg MacGillivray

Keep you warm?

Mr. S

Mmm.

Detective Greg MacGillivray

Take a nip here and there. Yes?

Mr. S

Yes.

Detective Greg MacGillivray

Okay.

Sarah Koenig

Now Ritz comes in. "We've collected evidence," he says. "Cans and bottles from the crime scene. We're going to test them." He's bluffing here. They never do test. "Are we gonna find your DNA on one of those bottles?" he asks. "Maybe you threw a bottle out the window when you were driving past coming home from work. If so, you'd better tell us now."

Detective Bill Ritz

--and it's important we know that because what we're going to do is analyze that and come back six months or a month or three weeks from now and say "we have evidence that you were deceptive with us. We have DNA evidence that you were there." And then you say:

Detective Ritz, I forgot because I'd gone fishing out there that weekend. I told you people go fishing out there. I told you I drank half a pint, and I threw a bottle (unintelligible) So take a minute and think if there are any of the items that I described. Whiskey bottles, beer bottles, soda cans, or anything like that where you may have discarded in that general area.

Mr. S

I'm not sure. I could have, but I'm not positive cuz I know I throw a lot of bottles out the window.

Sarah Koenig

He says, "I'm not sure. I could have, but I'm not positive cuz I know I throw a lot of bottles out the window." Ah. Ritz asks, "What bottles?" "Beer bottles." "Whiskey maybe?" "It's possible," he says. "Anything else?" Well for a while, he switched to rum. "What rum?" "Dark rum, Bacardi." Finally MacGillivray can't stand it, he just starts listing different kinds of booze.

Detective Greg MacGillivray

No Jack?

Mr. S

Not-- Probably a long time ago.

Detective Greg MacGillivray

Vodka?

Mr. S

Years ago.

Detective Greg MacGillivray

Brandy?

Mr. S

No, no brandy.

Detective Greg MacGillivray

Cognac?

Mr. S

No.

Detective Greg MacGillivray

Just cheap stuff?

Mr. S

Yeah.

“Just cheap stuff.” “Yeah.” Brandy! Brandy was the answer they were looking for. The bottle they found near Hae’s body was Coronet VSQ brandy. 200ML. And Mr. S? He blew right past it.

Consider for a moment, if Mr. S was just trying to relieve his bladder in peace that February day, minding his own business, and then he sees this terrible, sad sight and he does the right thing. Tells the cops. Shows them where she’s buried. Well how horrible now that they’re so suspicious of him, that they’re considering that maybe either he did it or he knows who did. How terrifying for Mr. S. After all, he seems like a nice, quiet guy, cooperative. Doesn’t appear to be a brandy drinker. Again, I can only go by the reports and files, but my guess is the reason the cops are holding on to Mr. S as a suspect, is because Mr. S has a little bit of a record, which isn’t necessarily a big deal. But, and here’s the part of the story where you’ll understand why I’m not using name, Mr. S is a streaker. And not the frat party kind. The freaky kind.

He’s got indecent exposure charges, to borrow a phrase from Adnan’s defense attorney, under circumstances that ‘bizarre’ doesn’t even begin to define. Mr. S is arrested May of ‘94 for running about naked in residential neighborhood. Two years later, March of ‘96, he’s spotted wearing a hoodie, sunglasses, white sneakers, and nothing else. The officer writes, “the southwestern district has received numerous calls for service in the past three years to this area for the same incident, same description.” Past three years! The officer chases down Mr. S onto I-95. Mr. S jumps some chain link fences, the kind with razor wire at the top, ends up in the hospital. It gets worse. Or better depending whether you enjoy police reports as much as I do. December 7, 1998, so barely two months before Mr. S finds Hae’s body there’s this. At around noon, during what I have to imagine is what Mr. S’s lunch break, a lady named Margaret is driving along and here’s the report “black male dashed out in front of my car and began shaking his body in a up and down motion. The male had on no clothes. His penis was exposed as he faced my vehicle, shaking.” And this lady, Margaret, is a police officer. In uniform! She chases him, but he runs down into the metro stop. Margaret finds his work clothes in a pile and takes them which means unless Mr. S has a second outfit stashed someplace, he’s riding back to work in the altogether.

Then there’s another twist to this incident. The same day he flashes Margaret, so December 7, 1998, Mr. S files his own police report. “There’s been a theft,” he says, from his car. Someone has taken his cell phone, his money, his keys, his work clothes. But you and I, we know who has all of it. Officer Margaret.

Streaking isn’t a violent crime. or necessarily a sexual one. And there’s no evidence that Hae was sexually assaulted anyway. But you could imagine both sets of eyebrows rising on Ritz and MacGillivray’s faces when they see these reports. It’s strange behavior. They never ask Mr. S about it on tape, but I figure he knew they knew. And they knew he knew they knew. The same day they interview him on tape, February 18, they also give him a polygraph test, which he fails. Deception indicated was the conclusion. But the tester also said Mr. S seemed to be nervous cuz apparently he had an important meeting with a realtor that day. His wife was expecting him to pick her up. So the tester recommends a do over. About a week later, they give him another polygraph. This time with

different questions. For instance, “Do you know if that girl you found died because she was hit with a tire iron?” I guess that’s a thing. This time the result is: no deception indicated. He passes. And very quickly, Mr. S fades from their view.

Here’s what my own thoughts were when I learned about Mr. S. I didn’t really think, “oh maybe he did it. Maybe he killed Hae.” But I did wonder if maybe he’d heard something about the crime and about where she was buried, because it did seem a tad unbelievable to me that he spotted her the way he said he did. One theory I had was maybe one of his step kids or a neighbor had told him about the body, because maybe they had heard about it through other kids at school. Then maybe Mr. S, just as a good samaritan thought, “someone needs to go find this girl, tell the cops.” But he doesn’t want to say he’s heard about it beforehand because he doesn’t want to get anyone else in trouble. Mr. S didn’t want to talk to me. After I made several requests, he asked if I would please leave him alone. Fair enough.

I tried every which way to figure out if he knew, or anyone in his family knew Adnan, or Jay, or any of the people Jay had told about the murder. And vice versa. Whether any of them had ever heard of Mr. S. I found no connections. The closest I got was, bear with me, I found out that Mr. S’s sister-in-law was a math teacher at Woodlawn back in 1999 when all this happened. So I called her. Hae was her student, she said. An excellent student. Top of the line. But she didn’t think Mr. S knew anything about the crime before he found the body. She put her husband on the phone, Mr. S’s younger half-brother. And he said, “you know what’s crazy? I used to live next door to the kid that did it!” That was back when Adnan was nine or ten. He said he used to throw the football around with him, that he always seemed like a nice kid. But again, he said he thought his brother stumbled on the body by accident. The he paused, chuckled and said, “I think he was running through the woods, streaking. And that’s how he found it.” When I told him that apparently he had stopped to take a pee, he said, “that’s possible too.”

So, maybe Mr. S *is* telling the truth. After all, why would a guy who’s been in trouble, repeatedly for indecent exposure, seek out a dead girl, thus inevitably inviting more police contact to rain down upon him.

Mr. S wasn’t the detective’s only lead in this case. We know there were also looking at the boyfriends. And while I don’t exactly know why they are suspicions about Adnan start to percolate, I have an educated guess. Next week, on Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help from Nancy Updike. Fact checking by Karen Fragala-Smith. Special thanks to Natasha Lesser, Lou Teddy, Scott Calvert, and Dave Rosenthal and Andy Rosen from the Baltimore Sun. Our theme music is composed by Nick Thorburn, scoring music by Nick and Mark Phillips who also mixed our show. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, SerialPodcast.org.

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--COMPLETE--

Episode 4: Inconsistencies

-Mail Chimp Ad-

Ira Glass

Previously, on Serial...

Male Voice

While you're digging in Leakin Park to bury your body, you're going to find somebody else's.
That's Leakin Park.

City Surveyor Buddemeyer

I walked along the edge of the log expecting to find a body real soon. I never saw one.

Saad Chaudry

Leakin Park. I'm like where is that? Do you even know where it is? Have you ever been there?

Jay

--went shopping with a friend of mine-- an ex-friend of mine, Adnan.

Adnan Syed

You know, it was not abnormal for me to leave school to go do something and then come back.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility...

Sarah Koenig

From This American Life and WBEZ Chicago, it's Serial. One story told week by week. I'm Sarah Koenig. Remember how last time I ended by saying that the detectives had other leads in this case besides Mr. S, the guy who found Hae's body, that they were also starting to look at Adnan? Well, the reason we know that is because of this memo:

Detective Bill Ritz

The memo is dated 12 February 1999. It's from Detective Darryl Massey to Detective Greg MacGillivray.

Sarah Koenig

This memo he's talking about is regarding an anonymous call. That's Detective Ritz on the witness stand at trial. He's talking about how they got this anonymous call three days after Hae's body was found. The call came in to Detective Massey, a Baltimore county cop. The call must have an accent of some kind because Massey's reports describes him as an "Asian Male 18 to 21 years old," though its unclear whether Asian in this case means East Asian like Korean or South Asian like Pakistani. But anyway, a mystery caller says look at the ex-boyfriend.

Detective Ritz

The caller further advised that the boyfriend has taken to the, the victim to Leakin park on past occasions for sexual encounters. Prior to concluding the phone interview, the caller further stated that the victim broke off the relationship with her boyfriend about a week before she was reported missing.

Sarah Koenig

The caller hangs up. Then, a few minutes later, the same guy calls back and says, “oh yeah, by the way...”

Detective Ritz

This time the caller remembered about a year ago the suspect informed a friend of his (Yasser Ali – Asian Male – 17) “if he ever hurt his girlfriend, he would drive her car into a lake.”

Sarah Koenig

This time the caller mentions a friend of Adnan's, Yasser Ali. Actually, the name of this friend is *Yasser* Ali. The caller says Yasser might know something. Hangs up again. The cops can't trace the call. It's out of range. Three days after the anonymous call, the detectives go meet with Yasser Ali at a Pizza Hut. Yasser says “I didn't make that call. I don't know anything.” Their notes from that conversation say “If Adnan wanted to get rid of the car, where would he do so?” Ali indicated, “somewhere in the woods, possibly in Centennial Lake or the inner harbor.” No one has ever gotten to the bottom of who made this anonymous call. The cops didn't figure it out. Adnan's attorney didn't figure it out. I've tried to figure it out too. For a while, I couldn't let it go. Because it seemed to me whoever made this call, he must be the key to the whole thing. But so far, I only have guesses that I can't responsibly say out loud.

Anyway, the day after the pizza hut talk, on February 16, the detectives do some paperwork that will ultimately crack the whole case open for them. They get a subpoena for Adnan's cell phone records. The results of that subpoena include a list of all the calls dialed and received on Adnan's phone on January 13, the day Hae disappeared. That list will become arguably the most important piece of paper among all the thousands in this case. It'll become their map. And they'll follow it call by call by call, like footprints that end up at Adnan's front door.

If you look at that call log from January 13, there are thirty four calls that day. Obviously, the first thing they had to do was figure out who all the phone numbers belong to. Home, cell, and pager numbers. Once they do, they realize, “wait a minute. One person was called six times that day. *Much* more often than anyone else.” That person is an eighteen year old girl named Jennifer Pusateri. Jenn is not a friend of Adnan's. She's a friend of Jay's. Remember, Jay had Adnan's car that day and his new cell phone.

Jennifer Pusateri

He say's Jenn, you gotta swear you won't tell nobody what I'm about to tell you

Sarah Koenig

That's Jenn talking to detectives about the night of January 13.

Jennifer Pusateri

And I was like alright. He's like, but I gotta tell you. I gotta tell somebody. I can't, you know. And I was like alright – what's up dude? He's like, um, Adnan killed Hae. And that's when I was just like – whoa – what do you mean Adnan killed Hae? Why? What? How? When? Where? You know?

Sarah Koenig

If you want to figure out this case with me, now is the time to start paying close attention because we have arrived, along with the detectives, at the heart of the thing. This interview with Jenn happens on February 27, 1999. The day before, on the 26th, the cops had gone to find Jenn at her house. They explained they'd like her to come downtown to talk. Jenn is thoroughly wiggled out. She says she can't right now, she's busy, maybe later. Then Jenn and a friend go see Jay. He's at work at a video store. She tells Jay, “the police want to talk to me. What do I do?” At trial, Jenn says, “he told me to go down there and tell them what I knew. Tell them enough to keep me out of trouble and tell them to go see Jay. Send them his way.”

So Jenn go down to see the cops later that night and she lies to them. She says she doesn't know anything. I've seen the detectives notes from that interview and they're remarkably uninteresting. But by the time she left that night, Jenn thought it was possible she was about to get charged. At trial, she said that last thing that Detective MacGillivary said to her that night was “everyone's a suspect and no one's a suspect.” So the next day she goes back to the detectives. This time she's got reinforcements. She's got an attorney with her, plus her mom.

They turn on a tape recorder – who, what, where, when, why.

Detective

You asked why – what did he say?

Jennifer Pusateri

Um, he said that Adnan said that Hae broke his heart.

Detective

Did he say anything else?

Jennifer Pusateri

No.

Detective

When you asked how – what did he say?

Jennifer Pusateri

He said that he strangled her.

Sarah Koenig

So, Jenn gives them a motive. Hae broke Adnan's heart – and method, he strangled her – which of course they already knew. But then Jenn's information gets a little muddier.

Detective

Did you ask him where it happened?

Jennifer Pusateri

He told me, um, he told me, this is what he told me, he told me, he asked, Jay asked me what we should do? He said “do you think we should go the police now and tell 'em right now?” And I said “I dunno.” I said “what was your involvement? Were you involved?” And he said no. He said “Adnan showed me her body and asked me if I would help her bury him...er bury...I would help him bury her body.” And I said, “what did you do? Did you help him? Do you know where the body is?” “No. I just took him to some place in the city and I dropped him off. And I took him to a..then I went down picked him up from a different place in the city”....and I don't remember where they said they went. I said “how did he do this? You know, when, you know, when was this done?” He didn't know when.

Detective

What'd he say?

Jennifer Pusateri

Yeah, he said that he strangled her in a Best Buy parking lot. But I don't know how he got to a Best Buy parking lot or anything like that.

Sarah Koenig

Jay has told her I saw the body in the trunk of a car. Adnan asked me to help bury her but I didn't – I refused. I took him some place and later picked him up some place – at some chick's house – and he tells her that all this went down at the Best Buy parking lot, off Security Boulevard about a mile from Woodlawn Highschool.

Jay and Jenn were close friends at this time, winter of '99 – talking or hanging out almost everyday. They'd known each other since elementary school and they were in the same class at Woodlawn.

They graduated the year before in '98. Now Jenn was a freshman at UMBC, University of Maryland Baltimore County. She's studying biochemistry. She's in a sorority. When Hae disappeared, Jenn was on winter break. She's working part-time as a life guard. And Jay was also working. One of his jobs was at F&M, a discount store.

Jenn said on January 13, she and Jay had been hanging out earlier in the afternoon at her house after she got home from work. Then Jenn says Jay left her house sometime between 3:45 and 4:15. They planned to meet later that evening. But then Jenn had gotten a message Jay was running late. He wanted her to pick him up in the parking lot of Westview mall, around eight p.m. She goes there and she sees them together. She sees Jay get out of Adnan's car. Adnan says hi to her. She says he seems to be acting normal.

Jay gets in her car and that's when he tells her about the murder. After they'd driven a little ways, Jay mentions shovels. The shovels Adnan had used to dig in the park to bury Hae – that they were Jay's shovels from his house.

Jennifer Pusateri

Jay mentioned to me that he knew where Adnan dumped the shovel or shovels. I don't know how many there were – but he mentioned to me that he know that where Adnan put the shovels.

Sarah Koenig

Jenn tells them she drives Jay back to Westview Mall to the dumpsters back there so that Jay can retrieve the shovels and wipe the handles clean in case of fingerprints.

Jennifer Pusateri

After that, Jay came back, got in my car, and he was really shaken up. He was completely shaken up. He was like you have to take me to go see my girlfriend now.

Sarah Koenig

The next day Jenn says she drove Jay to the F&M store, that same one where he worked, so that he could throw out the clothes and boots he was wearing the previous night. He pitched them into a dumpster behind the store. One of the cops points out that, for a guy who's telling you he didn't kill anyone and didn't help dispose of a body, he sure is taking a lot of precautions. He clarifies, "Jay wasn't along when the body was buried."

Detective

Jay wasn't along when the body was buried?

Jennifer Pusateri

In my opinion, no. In my understanding –

Detective

– But he's thrown away all of his clothes and he's wiping finger prints off the shovels, things of that nature--

Jennifer Pusateri

Yeah. Well. It wasn't until today that I thought, I mean, I just don't think that Jay...I don't think that Jay would lie to me, first of all, and, like, I don't know – unless Adnan paid Jay a good sum of money, I really don't see Jay helping him.

Sarah Koenig

Finally, the cop asks, were Adnan and Jay best friends? And Jenn says, “Oh no. More like casual acquaintances.”

Once the detectives talk to Jenn, everything happens very fast. That same night the detectives go get Jay at the video store where he works. It's actually a porn video store, which, come trial, Adnan's attorney will stress with relish at every opportunity. Anyway, the cops bring him down to homicide. By the time they turn on the tape recorder, it's one thirty in the morning on February 28.

Jay

I am willing to answer questions and I do not want an attorney at this time. My decision to answer questions--

Sarah Koenig

So they get Jay in the interview room and, initially, he pulls a Jenn. He tells them nothing, more or less. He says he walked to the mall that day, got his girlfriend a new bracelet for her birthday, hung around with Jenn's younger brother, talked to Adnan sometime in the afternoon, and then, after two pages of notes like that, it says, “Alright, I come clean.”

At least, that's what I think it says. The detective's handwriting is messy so maybe it says, “A bright eye came down.” In any case, around twenty minutes later they start taping and Jay tells them a whole different story, one that more or less matches Jenn's – except for one major difference. One major piece of information about this crime that the cops are still missing. They do not know where Hae's car is. They've been looking all over the place for it. They can't find it. Now, Jay tells them he knows where it is.

Detective Bill Ritz

Um, before and during the interview prior to turning the tape on, you stated to Detective MacGillivray and myself that you'd be willing to take us out and show us where the vehicle was parked.

Jay

No problem.

Detective Bill Ritz

Uh, are you still willing to do that?

Jay

Yeah.

Sarah Koenig

So that's huge for them. Jay will take them to the car. And he does. Once they're finished at headquarters, they all drive out in the middle of the night to where the car is parked, on a grassy hill behind some row houses off Edmondson Avenue. Within a few hours, they'll have a warrant for Adnan's arrest.

Adnan Syed

They said some-something like “we know what you and Jay did” or “we talked to Jay”-- and I'm like “Jay? Jay--” like I had a look of puzzlement on my face – like, like “what? What do you mean? Like what do you mean Jay?”

Sarah Koenig

Adnan, of course, says Jay's story isn't true, but he says he doesn't know why Jay would lie either. He says when he first heard Ritz and MacGillivray mention Jay's name in connection with his own arrest, he was just confused.

Adnan Syed

And then the same guy, MacGillivray, he kinda like snorted – like – hmph, you know what we're talking about. No I mean, I had, I had no idea and the reaction that he gave me was like stop playing dumb.

Sarah Koenig

It's not like there was some secret feud between Jay and Adnan, at least not that I know of. There was no drug deal gone wrong. Neither had bad mouthed the other or stolen the other's girlfriend. To hear Adnan tell it, it sounds like they didn't even know each other very well. When I first asked him what their friendship was like – what Jay was like as a person – Adnan really had to reach. He was like, “umm Jay worked. He wasn't that into sports.”

Adnan Syed

Okay, I knew he generally kinda listened to like – uh I wouldn't say white people music – but he like listened to like, like rock and roll – things like that. Like, uh uh, heavy metal. Um, I like I guess you know uh I can't really um I just, you know, like uh, I can't – to be honest with you – I couldn't even really recall like a huge long conversation that we ever had other than like a specific subject. If he was asking me something about Stephanie or something like where we were gonna go. We're hanging out but we wouldn't necessarily be kicking it per se, right?

Sarah Koenig

“We wouldn't necessarily be kicking it per se,” is Adnan speak for “Yes, we smoked weed together but we weren't close.” However, Adnan was close with Stephanie, Jay's girlfriend – very close. And Adnan says that's the only thing he can think of now that might have turned Jay against him. Stephanie was smart, she was top athlete at the school, she was beautiful by any standard. She looked like a model. She came from a family of achievers who did not approve of Jay but had no problem with Adnan. So maybe Stephanie's relationship with Adnan – how affectionate they were with each other, the constant talking on the phone, the prom prince and princess stuff – maybe that was gnawing at Jay.

Adnan Syed

I don't know – I'm thinking maybe Christina said it or someone said it –

Sarah Koenig

Christina was Adnan's lawyer.

Adnan Syed

Like, you know, when I was talking about how close I was with Stephanie, and they were like, you know, and you never – like, she looked at me like I was an idiot – like you never thought that this bothered Jay? I was like no I never, you know, my relationship, you know, we were just friends. That was kinda like an “aha” moment where I was like huh. Then it kinda like, now I'm think about all the things you know that took place between us and it just kinda like started to make a little bit of sense like maybe he was you know mad at me because I went through my mind, “man why would he do this to me?”

Sarah Koenig

Adnan says he didn't feel betrayed by Jay exactly because, again, they weren't good enough friends for betrayal. He says it was more a feeling of injustice.

Adnan Syed

So, but with-with Jay it was more so kinda like in my mind I was kinda like maybe the police are putting him up to this, maybe somehow he got caught up – for a minute I thought he tried to claim the reward money and he got caught up in the situation. So, in my heart, I kinda like – don't know, I don't know if there's a part of me that I don't wanna make accusations against someone else without, you know, not being sure of it because obviously it happened to me.

Sarah Koenig

A year after Adnan was arrested and the case came to trial, Jay walked up to the witness stand. There's a moment when Adnan muttered something to him. He says he couldn't help himself. The judge called the attorneys up to the bench. Quote - I was just informed by my Sheriff that the

Defendant made a comment to the witness as the witness approached the stand indicating that he was pathetic, the judge said. I want to advise Mr. Syed that up until now he has been perfect -- don't spoil it.

In the first taped interview, the detectives ask Jay why would Adnan turn to someone he didn't even know all that well to help him with this murder.

Detective

Jay, why would Adnan call you?

Jay

I'm the criminal element of Woodlawn.

Sarah Koenig

I'm the criminal element of Woodlawn, he says.

Detective

Is that a real or perceived reputation?

Jay

Perceived. It's like how the student body sees me. You know, I mean, people who really know me know that I'm not like that but, you know, you get a certain reputation and kinda sticks with you.

Detective

Because of the contacts you have with helping him get his marijuana, he thinks that you're in that element that would be willing to assist him in, um, disposing of the body?

Jay

I would guess so. That I would know someone or know where or something.

Sarah Koenig

In her closing argument at trial, Prosecutor Casey Murphy posed this “why him” question to the jury about Jay. Think about it, she said. Do you really believe that the defendant, meaning Adnan, could go to one of his upstanding Magnet School Honor Student friends or a friend from the mosque to assist him with this act? Of course not. He needed someone who behaved a little more dangerously than those people. He needed someone who took risks. The defendant hopes that you will look at Jay and say I don't believe him. That is why the defendant chose Jay. Because if something went wrong, the defendant could point the finger at Jay.

This idea – this is what Jay is more or less trying to communicate to the cops. They ask him “if you're actually not the type of guy who knows where to bury a body then why did you help? Why didn't you go to the police instead?”

Detective

He gives you his car keys. He gives you his cell phone. He tells you a time that he's going to call you. That he's going to kill her. And you do absolutely nothing. Help me understand your train of thought and why you do absolutely nothing at that point.

Jay

Um, Adnan knows a lot of things about me like to the effect of criminal activities. So I mean, it wasn't...

Detective

You were selling marijuana.

Jay

So if I go to the cops and say, "Hey, this guy is a killer." He'll say, "well no I'm not, he's crazy but there's this drug dealer and here's where he gets his shit from and this is who he deals with and he's got a rap sheet this long and go get his ass."

Detective

But you've never been arrested but one time. You don't really have a rap sheet.

Jay

--On the record it's one time. But I've got my ass kicked plenty of times. I've got one arrest. Plenty of times. Dogs sicced on me – chased down out by my own house – fucking gun point, helicopters and shit with my keys in my hands, you know what I mean. It's not, it's not just, you know, I mean seriously man, I been coming home – people whipped out guns made me lay in the street in the snow walking to my own house – just so they can say I was a wrong dude, you know what I mean?

Detective

These are police that do that to you?

Jay

Yes.

Detective

So you didn't trust any police?

Jay

I didn't. No. I don't – In my mind, I don't think to the presence of let's call the cops. This never – That never crosses my mind. I could be getting shot at and I wouldn't be “let's call the cops.”

Sarah Koenig

Okay, they say – so if you didn't want to go to the police yourself, how about making an anonymous call then? You could have done it right after he shows you the body as you are leaving the Best Buy parking lot.

Detective

When you are driving off the parking lot. Why don't you stop your car, and say, call the police and say “someone has just committed a murder. There's a body in the trunk of a car?”

Jay

Um, I was just scared and I didn't really think, like-like how it is.

Detective

Who are you afraid of if you make an anonymous phone call and you give a description of *her* car? You give them the tag number of her car...

Jay

Can we stop for a second?

Detective

Yes.

Jay

Can you stop that?

Detective

If you have any questions, you can ask me on tape.

Jay

I don't understand this line of questioning.

Detective

I'm trying to understand why do you go through all this.

Jay

First it was just, like, shock and then after that, I was part of it. I mean I couldn't just...

Detective

Jay, what he has over you or your involvement in this is beyond belief other than you being afraid of the police. Either he has paid you something or...

Jay

Like I said, he knows I sold drugs, I mean...that was, I mean, that's...he could get me locked up for that, I mean. I'm sure if I ratted him out for killing Hae, then he wouldn't hesitate to turn me over for selling drugs.

Detective

Is there anything else that you'd like to add to this?

Jay

Um, I feel bad that, you know, I mean, I didn't come forward or do anything but, I just, I feel bad, I mean I feel like I could have stopped it somehow if I, you know, maybe if I'd paid more attention, you know, talked about it. I just feel bad about it. That's all. That's all I got to say.

Sarah Koenig

He says, "I just feel bad about it. That's all I got to say."

The cops have a struggle with Jay. I have a struggle with Jay. He's the biggest mystery of this whole case for me. The cops interview him at least four times that I know about. Two of those are on tape. And Jay also tells this story at trial – not once, but twice cause the first proceeding ended in a mistrial. So, at least, say, six times he's told what happened. And each time, some details shift.

Some of these discrepancies seem small to me and understandable but some are significant and confounding. That distance between where a certain detail starts and where it ends up – how far it

slides and why it slides. I've spent untold hours trying to measure that distance – trying to weigh it for clues as to what might actually be true.

For example, this is from taped interview number one. The cops are asking about what he and Adnan did that morning of the thirteenth.

Detective

Okay, he picks you up, where did you get from that point?

Jay

Um, we headed toward Westview mall. Um, we did a little shopping together.

Sarah Koenig

Now here's taped interview number two from March 15, two weeks later.

Detective

And where did you go?

Jay

We went to Security Square Mall.

Sarah Koenig

That's a different mall, Security Square Mall – a couple miles away. I put this one in the category of “probably not a big deal, right?” Maybe Jay misspoke when he said Westview initially. There are a bunch of little things like this.

For example, when they are driving around that afternoon after they've ditched Hae's car at the I-70 Park and Ride. At the first trial, Jay says they both got high in Adnan's car, but the second trial, he says only he smoked and Adnan didn't want to.

Then there are more significant changes, but, still, you chalk them up to Jay trying to protect his friends – or trying to protect himself. In the first taped interview, Jay says they're grabbing some food at a restaurant when Officer Adcock calls Adnan asking if he's seen Hae. The next time he tells it, he says that when that call comes, they're at a friend's apartment – a friend whose father happens to be a homicide detective in another county. Jay tells the cops he'd actually been to her house three different times that day, but he didn't want to get her in trouble.

In the first taped statement, Jay says he refused to help dig a grave for Hae. Two weeks later, he says they both dug the hole. But then, there are other changes – bigger changes – where its harder to judge why the details shift.

This one, for instance: In the first taped interview, Jay says Adnan only told him that same day that he was going to kill Hae. Two weeks later, Jay says that Adnan had started talking about it before hand – four or five days before.

Jay

I think I'm gonna kill her. Yeah, he said he, he said that a lot. In my conversations with him, on several occasions he said that.

Sarah Koenig

And, he says, Adnan enlisted his help with the murder on the twelfth, the night before Hae disappeared. In this version, Jay tells Jenn about it in advance too. But, by the time Jay testifies at trial, he goes back to the first version again – that he knew nothing until the day of and that he didn't really take it seriously.

There's so many more of these. There's a whole side trip Adnan and Jay supposedly take that afternoon, after Hae's been killed to smoke some weed at Patapsco State Park. That trip disappears by trial – just drops out of the narrative – and Jay's whereabouts in between the time he drops Adnan back at school at midday and when he meets back up with him later that afternoon – the stories about where he is are so messy and so confusing that I can't even keep the different versions straight.

But none of these discrepancies gives me or, I think, the cops as much pause as this next one. This is the mother of what the cops call Jay's inconsistencies. It's about where Adnan first showed him Hae's body in the trunk of a car.

Here's from taped interview number one: Jay says Adnan called him about 3:45 p.m. saying “come pick me up.”

Jay

I went to pick him up from off of Edmondson Avenue at a strip and he, uh, popped the trunk open and...

Detective

You say at Edmondson Avenue off of a strip? Do you recall any cross streets on Edmondson Avenue where you go to meet him?

Jay

I don't know by name but I could probably tell you by sight.

Sarah Koenig

A strip is a small outdoor drug market – just like a block where you can buy drugs. Jay tells the cops that it takes him about fifteen or twenty minutes to get to the location on Edmondson. And, later, when the cops drive out with Jay to get Hae's car, Jay *shows* them the spot on Edmondson Avenue. It's just a few blocks from where they ditched Hae's car, he said.

Now, listen to what he said on March 15.

Detective

And while in route to your house--

Jay

Yes.

Detective

--you receive a phone call from Adnan--

Jay

Yes.

Detective

--on his cell phone--

Jay

Yup.

Detective

--which is in your possession.

Jay

Yes.

Detective

And the conversation was what?

Jay

Um, that bitch is dead. Come and get me. I'm at Best Buy.

Sarah Koenig

Best Buy. Just like Jenn had originally told them. This is a problem for the cops – this change. Because it's not something you forget – where you were when you saw a dead body in the trunk of a car. It's not a slip of the tongue and it's not clear what the calculation is. Edmondson Avenue versus the Best Buy parking lot. What's the advantage of one place over the other? Why tell this lie?

Maybe he's just saying it because it matches Jenn's story – or did he lie to Jenn in the first place and then forget? I have a friend who's worked for a long time in the Baltimore judicial system. She knows a lot of cops, and she reminded me when I was telling her about this case – cops are the most skeptical people in the world. They pretty much assume everyone is lying to them all the time. Ritz and MacGillivray aren't newbies. MacGillivray came from a law enforcement family; his father had been captain of the homicide unit, in fact. And Ritz was known in the department, and in the state's attorney's office, as a skilled and meticulous investigator. So, they're not suckers. They're taking careful note of the changes in Jay's stories. It's why they keep going back to him – to clear up the inconsistencies.

In the second taped interview, MacGillivary confronts Jay – ticking off a list of the main things he's lied to him about and Jay admits to all the lies. But, even so, what struck me is that they don't really press him on any of it. The most forceful MacGillivary gets is this exchange about the location of the trunk pop.

Detective MacGillivary

He actually killed her--

Jay

Yes.

Detective MacGillivary

--at Best Buy?

Jay

To my knowledge.

Detective MacGillivary

To your knowledge.

Jay

Yes.

Detective MacGillivray

You weren't present for that?

Jay

No sir.

Detective MacGillivray

Why did you lie about the location?

Jay

Uh, I figured there was cameras there or somebody had spotted him doing what he was doing.

Detective MacGillivray

But if you actually didn't assist with her murder...

Jay

But I'm associated. I'm associated.

Detective MacGillivray

Why would you lie about the location?

Jay

Because I'm associated. I'm associated.

Detective MacGillivray

But you did lie.

Jay

Yes.

Detective MacGillivray

Okay.

Sarah Koenig

Jay is saying I figured there were security cameras at Best Buy so that's why I lied – because I didn't want to be associated with it. What is he talking about?

This is nonsensical. When he told the Edmondson Avenue version, he was already deeply associated with it. And if there were cameras at the Best Buy parking lot, wouldn't that help his story? If they showed Hae's car or Adnan walking around or putting Hae's body in the trunk. But MacGillivray lets it go – moves on to another point. And, just so you know, as best as we can tell from workers at the store and from the former landlord, there probably weren't security cameras in the Best Buy parking lot back in 1999. And, there's certainly no mention of any security footage in the police reports.

At the end of both of Jay's taped statements – the detectives kind of come out with it. “Are you telling us the truth right now?” On February 28, after Jay has told them off tape that he doesn't know

anything about the murder, Ritz points out your story has completely changed since you first came in this room.

Detective Ritz

All the information you have provided during this interview – has it been the complete truth?

Jay

To the best of my knowledge.

Sarah Koenig

And then Jay reinforces it –

Detective

Alright, uh, I believe that concludes this interview. At this point –

Jay

I was as honest as I possibly can remember – I mean, truthfully honest.

Detective

Okay.

Sarah Koenig

But, of course, two weeks later big swathes of his story have changed. So, MacGillivray asks him again on March 15 –

Detective MacGillivray

The taped interview that you've given us right now – is *that* the truth?

Jay

To the best that I can possibly, humanly at this point and time remember. That is the truth.

Detective MacGillivray

Did you kill Hae Lee?

Jay

No sir I did not.

Detective MacGillivray

Were you there when Adnan killed Hae Lee?

Jay

No sir I was not.

I put it to Bill Ritz when I talked to him briefly on the phone. Jay's story kept changing. You were catching the inconsistencies and he was having to explain them and clean up his story. So what ultimately made you believe him? Ritz said they believed Jay's story because "we were able to investigate and corroborate what he was saying." So how exactly did they corroborate it?

Next Time, on Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Fact checking by Karen Fragala-Smith. Our theme music is composed by Nick Thorburn, scoring music by Nick and by Mark Phillips who also mixed our show. Special thanks to Gregory Collins, Rich Oris, and Lou Teddy. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, and you can sign up for our weekly emails, SerialPodcast.org. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. Serial is a production of This American Life and WBEZ Chicago.

--Complete--

Episode 5: Route Talk

-Mail Chimp Ad-

Detective

Jay, why would Adnan call you?

Jay

I'm the criminal element of Woodlawn.

Ira Glass

Previously, on Serial.

Adnan Syed

They said some-something like “we know what you and Jay did” or “we talked to Jay”-- and I'm like “Jay? Jay--” like I had a look of puzzlement on my face – like, like “what? What do you mean?”

Jay

I'm sure if I ratted him out for killing Hae, then he wouldn't hesitate to turn me over for selling drugs.

Jennifer Pusateri

I don't know – unless Adnan paid Jay a good sum of money, I really don't see Jay helping him.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. I'm Sarah Koenig.

The first letter I got from Adnan Syed, almost exactly one year ago, included a challenge. He was writing about the prosecution's timeline of the crime. About when and where Hae Min Lee was killed. The State contended that Hae was killed between 2:15 and 2:36 p.m. at the Best Buy parking lot, about a mile from Woodlawn High School. That's the twenty-one minute window in which to commit the murder. Which may seem like a long time, Adnan wrote, but it is virtually impossible if you consider the following facts, which he then listed. For example, "when the final bell rings at 2:15, you can't just leave and jump in your car," he wrote. "There are 1500 other students filling the hallways and stairwells of a four story building." Then you have to get out of the school parking lot, but the parking lot is encircled by the school bus loop, so you can't get your car out until the buses fill up and leave. Which, Adnan wrote, "took about ten to fifteen minutes."

Adnan Syed

I wish-- maybe I'll try to draw a picture of it, but if you could just see how Woodlawn High School lets out at 2:15.

Sarah Koenig

That's Adnan elaborating on his letter.

Adnan

You can't just go to your car and leave. It's going to take a few minutes. So it's just a really tight-- window of time for this to have taken place. I've always-- in my heart-- I've always like-- I've seen it on TV before like on *Dateline* or *Nightline* where someone tries to reenact the crime. There's a moment where there's someone like "you know what? This crime could not have been committed according to this set of facts." There's always this moment where I visualize the route, it's just-- Oh hey, were getting ready to go, right. Sorry. Hey, I gotta go. Alright bye.

Sarah Koenig

Okay bye!

That happens sometimes. The guards come by and you're just done, mid-sentence. Anyway, I can pick up from Adnan's letter. He wrote that in addition, the route to the Best Buy, even though it's close to the school, there are major intersections along the way and that there is "a ton of traffic at that time." And then, the murder itself. How would he be able to strangle Hae, a tall, strong, athletic girl, "remove her body from the car, carry it to the trunk, and place her in there in broad daylight at 2:30 in the afternoon. And then I walk into the Best Buy lobby and call Jay and tell him to come meet me there? All in twenty-one minutes. I am one-hundred percent sure that if someone tried to do it, it would be impossible."

Gauntlet so thrown, producer Dana Chivvis and I gave it a shot. We tried this drive, twice we tried in fact because, full disclosure, the first time we screwed it up. The second time, though, we were like a machine. So here we go. We're at Woodlawn High School, Wednesday afternoon. After school announcements.

Voice over school PA

If you're a senior and you want to apply for local scholarships, you need to go to the counseling office--

Sarah Koenig

Okay then, last bell. (chime) More than a thousand students fill the halls just like Adnan described in his letter. We figure Hae gets in her car quickly. She's in a hurry.

Okay. It is now 2:17. The bell rang at exactly 2:15, say the fastest she could have gotten to her car is two minutes. So that's giving the State the benefit of the doubt, right? If she's really hustling, maybe she can get to her car in say two minutes?

Remember her friend Debbie Warren said that Hae had told her right after school that she was in a rush to see her new boyfriend Don at the mall. Presumably the Owings Mills Mall where they both worked.

I think this is the last bus.

We do indeed have to wait for the bus loop to clear. It takes a few minutes. We just have to sit there. We're timing. We're in the back of the school. Now we have to drive up around to the front of the school, up around the circle near the gym. Remember, that's where Inez Butler-Hendrix says she sees Hae, who had come to grab a snack. Once we get there, we're at eleven minutes, thirty eight seconds.

I'm going to run in, keep timing.

I run into the gym area where the food cart was, run back out to the car, then we have to drive back out to Woodlawn drive, turn onto Security Boulevard, which *does* have some big intersections you have to get through. Again, we're trying to get to Best Buy, it's still there today, in twenty-one minutes.

Dana Chivvis

We're at seventeen minutes, right about, now. We're at seventeen minutes, we're just crossing under the beltway.

Sarah Koenig

Less than a minute later...

Oh yeah, see? There's the sign. Best Buy.

Jay's story is that when he pulled into Best Buy, he saw Adnan at the phone booth there, at the edge of the building, wearing red gloves. Adnan motioned for Jay to follow him across the front of the building, around to the other side, to the farthest corner of the side parking lot, where Jay saw Hae's car parked. This particular part of the parking lot, alas, it has significance. After Adnan was arrested, the detectives interviewed another friend of his, a kid named Ja'uan. Ja'uan told them he had gotten high with Adnan once, in Adnan's car. Here's tape of that interview.

Detective

--and where was this?

Ja'uan

Best Buy parking lot.

Detective

Why did you go to the Best Buy parking lot?

Ja'uan

Nobody's going to be over there.

Detective

Was it your choice to go there?

Ja'uan

(unintelligible)

Detective

His choice.

Ja'uan

He said that him and Hae used to go there to spend time together.

Detective

Adnan and Hae would go there to spend time.

Detective

Did he say what they would do there? Um, when they were in the parking lot alone, no one comes to that side of the parking lot.

Ja'uan

I think he might have said that they had sex there before.

Sarah Koenig

In case you didn't hear that, he says, "I think he might have said that they had sex there before." Yeah.

Ja'uan says this happened, this trip to get high at Best Buy, that it happened after Hae went missing. Meaning, if Adnan did it, he was taking Ja'uan back to the exact spot where he killed Hae. He was returning to the scene of the crime. Ja'uan says that they parked, from the sounds of it, right where Jay says Hae's car was that day. Right where Dana and I are also parked. It takes Dana and me almost eighteen minutes to get to this spot. That leaves three minutes for the actual horror of the thing. An argument maybe, then strangulation, then he's got to put her body in the trunk, somehow, without anyone seeing. Granted, this part of the parking lot is pretty empty, but still, it's a parking lot in the middle of the afternoon. There are definitely cars and people near enough to make this seem like a very, very risky move.

Dana and I time it out. Counting down the quickest possible imagining of such a thing. Manual strangulation usually takes a few minutes. Then, we get out of our car, and walk over to where we think the payphone was. According to a sketch Jay made for the cops. There's no phone booth there now.

I just want to pause here and talk about this phone booth for a minute. Weirdly, we have not been able to confirm its existence. The Best Buy employees I talked to did not remember a payphone back then. We spoke to the landlord at the time and to the property manager, they had no record of a payphone. They dug up a photo of the store, from 2001, no phone booth or payphone, though lots of public phones did come down between '99 and 2001. They looked up the blueprints for the store when it was built in 1995, nothing. The manager also said there is no record of a service agreement between Best Buy and any payphone company at that store. We checked with the Maryland public service commission. We checked with Verizon. Neither could track down records from that far back.

It seems crazy to me that the cops would have either not checked to make sure it existed or failed to mention it if somehow it wasn't there. They never got the call record from this booth. There's nothing in their files about it. At trial, Adnan's lawyer brings up this phone booth when she's trying to attack Jay's credibility. She says to the judge, "we believe that the physical description of the actuality of Best Buy, including the location of the phone booth at Best Buy, the entrance, the existence or non-existence of security cameras," etc., she goes on. So, I don't know. We're stumped on this one. But let's assume it did exist that day. The prosecutor said that they knew Hae was dead by 2:36 because there is a call at 2:36 to Adnan's cellphone. Which Jay has. And they say that must be the call Jay told the cops about. The one where Adnan calls his own phone and says, "come and get me. I'm at Best Buy." You can see it on the call log. It just says 'incoming.' There's no phone number attached to incoming calls. This 2:36 call was five seconds long.

We get out a quarter, we put it in--

Dana Chivvis

Dial the number.

Sarah Koenig

One, two, three, four, five. Stop it.

Dana Chivvis

Twenty-two.

Sarah Koenig

Twenty-two and a half minutes?

Dana Chivvis

Yeah.

Sarah Koenig

So wait. Let us just be precise about it.

Dana Chivvis

Twenty-one-- Twenty--

Sarah Koenig

Twenty-two minutes and two seconds. Yeah we just did it in twenty-two minutes and two seconds. And that was leaving about a minute and a half in the car for the actual killing part.

Dana Chivvis

That should probably be the *minimum* about of time in the car.

Sarah Koenig

Right. I don't know.

Dana Chivvis

I mean, it seems like, yeah it could be done. But it seems far fetched.

Sarah Koenig

It does seem far fetched because there's no room for any errors. Any pauses even. The buses, the drive, the strangulation. The moving of the body. The call. They all have to happen as quickly as they possibly can for the 2:36 call to work. But, it is possible. Or at least not impossible, which was what Adnan was saying in that first letter.

Adnan Syed

So you guys-- huh.

Sarah Koenig

Yeah.

Adnan Syed

So-- huh.

Sarah Koenig

When I told Adnan that Dana and I more or less did it in the time allowed, the twenty-one minutes, his overall reaction was incredulity.

Adnan Syed

It seems like five minutes-- from what I can remember, those busses didn't clear in five minutes cuz I can remember sometimes we would have to wait in that parking lot, for those busses to clear. I don't know. I just-- to me, that was always stuck in my mind, was those busses. That you have to wait for the busses. So, I don't know. That's kinda disheartening. I always-- I don't know how long the crime would have taken. I don't know how long-- I don't know. If you guys said you did it, then you did it, but I don't know. I don't know. I don't know what to say to that. I don't know what to say, I just always thought in my mind that--

Sarah Koenig

This is what I'll say is that it doesn't make me think-- to me it doesn't prove anything except that it's possible. It doesn't mean that I think you're lying or that I think it even happened at the Best Buy, I'm just saying, if you're going to debunk the State's timeline--

Adnan Syed

No I understand--

Sarah Koenig

--like we weren't able to do that. We weren't able to debunk their timeline--

Adnan Syed

No I understand that. I understand that.

Sarah Koenig

However, Dana and I were not done. This was just step one of the State's timeline. In the detective's notes, Dana and I found a handwritten itinerary, dated March 18, 1999. So that's three days after Jay's second taped interview with police. This is the route Jay laid out for the cops. His entire driving day, on January 13. This is what we're going to try to replicate, to see if it matches the call record from that day. Because, right? The prosecution's story of the crime was mainly pinned to two things. Jay's statements and the cell records. Adnan remembers that at his trial, the prosecution had a big blow up chart of the call record, the one listing thirty four calls made and received on Adnan's cell phone that day, with blanks besides each call. Every time a witness identified a call on the list, the prosecutor would label it with a sticker.

Adnan Syed

So at two-- at 3:21 they would have placed a sticker, boom, call to Jenn Pusateri. It was a pretty powerful thing. Because as he was testifying, it was almost as if they were using the cell phone records as proof for all the testimony. Okay, if he said "what happened at this time?" and such and such call was made, boom, it was very, I would say, influential.

Sarah Koenig

Besides the calls themselves, they also had a list of all the cell towers that pinged each time a particular call came in or when out. "Sure," the prosecutor said, "you might have your doubts about Jay, but the call record doesn't lie. Jay couldn't possibly have known which towers were getting pinged when. He couldn't fabricate that. It would be too crazy of a coincidence." So the cell towers, and the calls and Jay's story, they way they all meshed, prosecutors argued, was irrefutable. Prosecutor, Casey Murphy said to the jury in her closing statement, "The most important thing for you to remember about Jay's testimony is that it does not stand alone. It is corroborated." She added, "The cell phone records support those witnesses say, and the witnesses support what those cell phone records say." There's no way around it.

Dana Chivvis

Alright, ready?

Sarah Koenig

Yup.

Dana Chivvis

Okay. So I started it at-- it's 2:51, and we're making a right out of the Best Buy parking lot onto Belmont Ave.

Sarah Koenig

Alright, so lets see if we can recreate what Jay says happened that day. The next stop after Best Buy is the I-70 Park and Ride, where Jay says they leave Hae's car for a few hours. It's just a large commuter parking lot. Jay says he follows Adnan there, Adnan is driving Hae's car. Jay has Adnan's car. He's pretty careful to let the cops know we wasn't ever in Hae's car. Never touched her or her stuff.

Detective

Did he get out of the car?

Jay

Yes. He got out of the car and--

Sarah Koenig

This is from Jay's second taped statement.

Jay

--proceeded to go through the trunk and the back seat.

Sarah Koenig

This detail has always struck me, by the way. Jay says Adnan is going through the trunk of Hae's car at the I-70 Park and Ride. Hae's body is back there. In the trunk, at this point. But anyway...

Jay

Several items, he picked up and moved around, stuff like that, then he came over to his car, told me to pop the trunk. I popped the trunk. He placed a whole bunch of items in the trunk and then he got in the driver's seat and we switched places, and I got in the passenger's seat.

Sarah Koenig

It takes Dana and me eleven minutes to get to the Park and Ride from Best Buy. Then we wait a couple minutes to account for Adnan's movements. In case you're wondering, there were *no* security cameras at this Park and Ride back in '99. We checked with the DOT. So now it's a little after three p.m. When Jay took the cops on this ride on March 18, to map out the timeline, he told them that after they left the Park and Ride, they went in search of weed. He says that's when he called his friend

Patrick. And this is where things start to get off course. There is indeed a call to Patrick on the call log. But it's at 3:59 p.m. So right away, we have a time problem.

By trial, though, Jay has sorted that out, so that his story better matched the call log. He testified that he called Jenn Pusateri first, at 3:21 to find out if Patrick was home. Jenn testified that, no, Jay would not have called her to find out where Patrick was. That's just not a thing that would have happened. But in any case, there is a call to Jenn at 3:21. Jay says that when they didn't find Patrick at home, they switched course and headed up to Forest Park to buy weed. Dana and I drive that same route.

Dana Chivvis

Okay, so they buy two dimes of weed here, that's a side note.

Sarah Koenig

Alright. Done and done.

Dana Chivvis

Done. We are making a left--

Sarah Koenig

Jay also mentions another call around this time. This call is incredibly important and I will talk more about it in another episode, I swear. But for right now, what you need to know is, in his second interview, when the cops show him the list of calls, Jay says, "Adnan spoke to some girl in Silver Spring." Her name was Nisha. It was that girl Adnan had been flirting with. And Adnan briefly put Jay on the phone with her. And the reason this is so important is for two reasons. One, it's the only call in this stretch of time that's to someone Adnan knew, rather than a friend of Jay's. And, it puts Jay and Adnan together in the middle of the afternoon, when Adnan says he was *not* with Jay, he was back at school. In the March 18 itinerary, there's a note about the Nisha call. That Adnan handed the phone to Jay at the golf course on West Forest Park Avenue.

Dana Chivvis

Yeah that is the golf course, okay.

Sarah Koenig

If indeed this is the golf course he's saying where suspect hands the phone to the witness, who is Jay, that was the Nisha call. And that *does* happen right now.

So the time works for this one. It matches Jay's story. But here's the problem. It doesn't match the cell tower in the call record. It's pinging a tower back near the Best Buy, west of where we are. And that is true of *all* these calls from the middle of the afternoon. The 3:21 to Jenn, 3:32 to Nisha, 3:48 to a dude named Phil, 3:59 to Patrick, none of these calls pinged a tower near where Jay tells the cops they were driving that afternoon. Not a one. At trial, though, even though all these midafternoon calls were identified and accounted for in Jay's testimony, prosecutors did not point out that the cell towers didn't match. Adnan's defense attorney did, sort of, but reading the trial transcript, even though she notes the discrepancy, she doesn't nail it. So it's hard to tell what that discrepancy means. So, onward.

Dana Chivvis

So we are headed to the Patapsco State Park right now.

Sarah Koenig

Oh, you're kidding.

Dana Chivvis

I'm not kidding. We definitely don't have time don't have time to go to Patapsco.

Sarah Koenig

Well, let's see how long that takes.

This is the next stop on the itinerary. To a place known as the cliffs at Patapsco State Park which is a good twenty minute drive from where we are right now. Adnan's track practice starts at four p.m. If before, we were clinging respectably to the agreed upon timeline, now we're about to just thumb our noses at the thing.

Sarah Koenig

Yeah, this just seems absurd. It's three-- say it's between 3:45 and 3:50 now in their world. If I'm Adnan and I need to be seen for track, I'm freaking out right now, that I need to get back for track to have an alibi. So what's this "oh, lets just drive halfway across the county to go to a state park to smoke a blunt?" Just smoke in your car! It just seems like there had to be other places you could have pulled over for a quick smoke, if indeed that's what needed to happen.

Dana Chivvis

There's a shrimp sale at the Crab Crib.

Sarah Koenig

Sometimes I think Dana isn't listening to me. Anyway, we head to Patapsco State Park, because Jay is very clear: taped statement number one, taped statement number two, March 18 itinerary. *Now* is when they go smoke a blunt at the cliffs in Patapsco. Dana and I trek in there.

Sarah Koenig

Okay, down many rough hewn steps. This is beautiful!

You can see the river below, some train tracks, hills. Jay's memories about this spot are specific. Dana reads from the handwritten notes from March 18.

Dana Chivvis

So these are the detective's notes. It says, "Patapsco Valley State Park 1630 hour." And then the next note is, "Sun getting ready to hit mountain tops."

Sarah Koenig

1630 hour means 4:30 p.m. Sunset that day was at 5:05 p.m. so that would make sense.

Dana Chivvis

Then it says, "I can't believe I did it. I'm sad but not really."

Sarah Koenig

Here's what Jay says they talked about, and before I play this next tape, just a warning that it's disturbing:

Jay

We're standing, overlooking a whole bunch of stuff at this cliff and he starts telling me about how it was when he killed her. How he said he wrapped his hand around her and-- her throat and she started kicking and he said he looked up to make sure nobody was looking in the car at him, and he said he was worried about her scratching him, getting his skin under any of her fingernails, and that she was trying to say something. He said that he thinks she was trying to say that she was sorry, but that was what she deserved and--

Detective

How long do you think you were the cliff?

Jay

Twenty minutes to a half an hour.

Detective

Other than that conversation, was there anything additional?

Jay

He had said to me, he wondered where to put the body at.

Detective

Did you make any suggestions?

Jay

None at all.

Detective

Did he *name* any locations?

Jay

None at all.

Detective

He didn't say, "what about here?" You know, he didn't name off a half dozen locations and you gave him thumbs up or thumbs down?

Jay

Um, I just-- he said something to... the effect of the state park where we were, a little up the river, but I told him that people walk up and down here.

Sarah Koenig

So, Jay says they talk about the murder at the cliffs. He says they talk about whether to dispose of the body right there in Patapsco State Park, he says they're there for perhaps twenty minutes to half an hour.

Come trial, when Jay's on the stand talking about where they went that day, this whole trip to Patapsco, it never happens. It's just not there. That talk they have? Instead it happens in Adnan's car, when they're tooling around, looking to buy weed. This is a puzzle to me. It's such a vivid scene, Jay's describing, it's so detailed. I have to think he included it for good reason. But it doesn't fit the timeline. Driving out of the park, talking to Dana, I was turning this over. Why the Patapsco story at all?

Yeah (laughs) it doesn't make any sense. Plus-- it's like trying to-- I'm trying to think of an analogy of what the uselessness of what we're trying to do by recreating something that doesn't fit, it's like a-- like trying to plot the coordinates of someone's dream or something where it's just like "but wait! That doesn't--" as if we're going to be surprised every single time but it didn't-- it doesn't because it's not prop--

Dana Chivvis

I think they call that a fool's errand.

Sarah Koenig

At trial, Jay says Adnan gets another call as he was dropping Adnan off at school for track. "Before he left the car, he received a phone call, or placed a phone call. It was in Arabic. I don't know who he was talking to. I don't know what it entailed. I believe it was his mother." Adnan and his family say he doesn't speak Arabic, or Pashto, or Urdu. But maybe Jay could hear a foreign sounding accent on the other end of the call. And there is a 4:27 call in the log. Maybe that's the one. But again, the cell tower it pings isn't near Woodlawn High School.

The earliest Dana and I can get from the cliffs back to Woodlawn is 4:45 p.m. and that's being generous. But even so, that means if Adnan still had to get changed, he is very late for four p.m. track now, which seems like a bad strategy for an alibi, doesn't it? To be noticeably late like that. Jay says he goes next to a friend's house. I'm going to call this friend "Cathy," because she didn't want to be identified. Jay says he gets there by 5:20 or 5:30. He says he smokes some more weed there, but it's not long before Adnan calls him and says, "I'm done with track, come get me." Jay goes back to Woodlawn, to get Adnan. Jay tells the cops that he gets to Woodlawn at about six p.m. and that he sees Adnan with a friend from track. The notes from March 18 say "said goodbye to track buddy, Will."

Will

That day, he said bye to Will, and then-- oh man. (sigh)

Sarah Koenig

That is Will, from track.

Will

It's hard to remember that one interaction.

Sarah Koenig

You mean I should have asked you fifteen years ago?

Will

Maybe five, I would have remembered. Oh man, that's hard to remember. Gee whiz, I didn't even know that I was a part of anything until you just told me that. Like, no one ever contacted me about anything.

Sarah Koenig

Really!

Will

Yeah, like, yeah.

Sarah Koenig

So the cops-- No cops ever called you and said, "was Adnan at track that day?" No attorneys--

Will

No!

Sarah Koenig

No attorneys ever called and said, "was Adnan present at track practice that day?"

Will

I don't remember any of that.

Sarah Koenig

Will confirmed that yes, track started at four, so you had quite a bit of time from the end of school at 2:15.

Will

Yeah, go dig around. Play footsie with your little girlfriend. And then go get ready for practice and be ready and on time. There was never an excuse to be late for track practice.

Sarah Koenig

Because there was so much time.

Will

Exactly.

Sarah Koenig

And what would happen if you were really late, or you skipped or-- was there any consequences?

Will

Yeah, actually if you didn't have a family emergency, you had to run extra. 400's. Extra running the next day.

Sarah Koenig

Their coach, Michael Psy, told the cops that Adnan probably was there that day, that he thinks he would have noticed if Adnan wasn't there. But he couldn't be 100% sure.

The other thing Will told me was that he saw Jay pick up and also drop off Adnan for track, multiple times.

Will

Yeah, that was just normal. Normal to the point where no one would pay attention to it.

Sarah Koenig

Right. Ah! So you can't solve this crime for us.

Will

I wish I could, oh my goodness!

Sarah Koenig

Here's another problem with the track story. Jay says he get's Adnan at about six. There's an outgoing call at 5:38 p.m. to Adnan's friend Krista. Someone Jay would *not* be calling. Which would suggest Adnan had his phone at 5:38 p.m. and the call pings a tower that is out near that guy Patrick's house, sort of where they end up ditching Hae's car. Not at all close to Woodlawn High School. I could keep going here, to the bitter end of the night, but I'm hoping you'll take my word for it, that the time line has some problems.

I'm going to try very hard not to bore you right now, but I do want to talk about cell records for a sec, because I want to know whether the State used the call records accurately, and fairly at Adnan's trial. Do the records really corroborate Jay's story? You might have seen some recent reports about how cell phone evidence isn't as reliable as it was once cracked up to be. The Washington Post ran a story in June, for instance, with the headline, "Experts Say Law Enforcement's Use of Cell Phone Records Can Be Inaccurate." Federal courts in Oregon and Illinois have ruled cell phone evidence inadmissible. The problems arise when you're trying to say, "I can prove you were at such and such at such and such a time because of the cell tower your phone pinged." You can't do that with certainty, because of the way cell towers get activated, and how much territory they cover. In fact, these kind of records are mostly useful as a way to say where someone *wasn't* rather than where he or she was. Like if a call pings a tower in downtown Baltimore, I'm going to be pretty confident that you're not making that call from Annapolis, or D.C., or Patapsco State Park.

As far as I know, Adnan's case was the first in Maryland to use cell tower technology as evidence. It was a new thing. Because I am technologically speaking, a moron, I asked Dana to find out "did the cell expert who testified at trial present the technology accurately in a way that still holds up?" So Dana sent this gripping testimony to two different engineering professors, one at Purdue, and one at Stanford University. And they both said "yes, the way the science is explained in here is right." And the way that the State's expert, a guy named Abraham Waranowitz tested these cell sites, by just going around to different spots and dialing a number, and noting the tower it pinged, that's legit. That is not junk science.

But that's a different question from, "does the science he's explaining here, actually support the State's case? Did the prosecution deploy that science fairly?" That's a more complicated question with a more complicated answer. Waranowitz, the cell expert, and prosecutor Casey Murphy, did the site tests together. She took him around to various locations connected to Jay's story. Dana explained it to me.

Dana

They went to the spots that matter the most in the story of the crime.

Sarah Koenig

Okay.

Dana Chivvis

So places like Jenn's house, the Best Buy, Leakin Park where Hae was buried. Those places that are really important.

Sarah Koenig

Okay.

Dana Chivvis

Cathy's apartment. So they do fourteen of those, right?

Sarah Koenig

Okay.

Dana Chivvis

They go out on this day in October and they do fourteen of them. Do you know how many they brought up at trial?

Sarah Koenig

No.

Dana Chivvis

They ask the cell phone expert about four of them.

Sarah Koenig

You're kidding. Really?

Dana Chivvis

Four of them.

Sarah Koenig

Four of them. Because the rest of them, didn't really help their argument. Which is their prerogative. Their job is to put on the strongest possible case, but of the four site tests they do talk about, one is a test Waranowitz does in a place called Gelston Park, which I'm not even going to explain because it's basically irrelevant to our story. The other three places, these all happen, in Jay's narrative, after six p.m. After Jay had picked Adnan up from track.

Dana Chivvis

Sort of from 12:07 until 6:07, that window of time is where Jay's story doesn't line up with the cell phone records. And the timeline he's giving is not lining up with the times of the cell phone calls.

Sarah Koenig

So the towers, the times, and Jay's story are not matching--

Dana Chivvis

Right.

Sarah Koenig

--anywhere in that basically six hour period.

Dana Chivvis

Right. Yeah.

Sarah Koenig

Which, this is sort of what Dana and I had experienced on our drive that day, that it wasn't plotting out. Just a word about the cell tower testimony. It took two days and it was sort of a mess. Adnan's defense attorney, Cristina Gutierrez claims she didn't have all the cell record evidence, she didn't have the cell tower map, she tries to get Waranowitz's testimony thrown out, the judge nearly agrees with her, then prosecutor Kevin Urick ends up asking for a mistrial, which isn't granted, and all this might sound like exciting courtroom fireworks, but it just-- I can't stress enough how tedious must have been

for the jury. And also possibly confusing. Waranowitz is actually a young guy. On the stand he looks kinda like George Stephanopoulos, except tired and fearful. Here's one of the more lively moments of his testimony. Prosecutor Kevin Urick talks first.

Prosecutor Kevin Urick

What, if any, effect does the brands of cell phone's have on the functioning of the AT&T wireless network?

Cristina Gutierrez

Objection!

Judge

Over ruled. If you know.

Abraham Waranowitz

Depends on the quality of the phone.

Prosecutor Kevin Urick

How might that affect it?

Cristina Gutierrez

Objection!

Judge

Overruled, and again, if you know.

Abraham Waranowitz

Poor performance.

Prosecutor Kevin Urick

How so?

Cristina Gutierrez

Objection.

Judge

At this point, I'm going to sustain and Mr. Urick unless you are prepared lay a foundation--

Sarah Koenig

Seriously. Most if it is more boring than that. Which is why I made Dana read it all, so I didn't have to. She explained that the cell tower tests the prosecution did bring up at trial, the ones after six p.m., the first one was about a site near Cathy's apartment. Remember that the call Adnan gets at Cathy's when Officer Adcock calls asking if he's seen Hae. Waranowitz says that one worked, that 6:24pm call is a winner. It matches the cell tower, it matches the call log, and it matches Jay's story, Adnan's story, and Cathy's story too. It puts Jay and Adnan together at a certain place at a certain time. The question is, what happens after that? Jay says, after the Adcock call, they left Cathy's and that's when they went to bury Hae in Leakin Park. Then, they ditched her car out of Edmondson Avenue and then they headed back toward Westview Mall, where they threw evidence into the dumpsters. And if you map the cell towers that ping between 6:24pm and, say, 8:05, if you imagine each tower lighting up, they do illuminate this trail. They support the locations in Jay's story. Waranowitz confirms this with riveting testimony that sounds like this.

Abraham Waranowitz

Yes.

Sarah Koenig

The most incriminating stop on their route that night is, of course, Leakin Park. There were two incoming calls, one at 7:09 and one at 7:16, that hit a tower at the northwest end of the park. I asked Dana, since the range of that Leakin Park tower reaches beyond just the territory of the park, could they have been someplace else besides digging a grave in the actual park?

Sarah Koenig

Could you have been at someone's house or something?

Dana Chivvis

Um, it's possible you could have been here, which-like- this is I think Patrick's house? One of his addresses.

Sarah Koenig

Oh, okay.

Dana Chivvis

For instance. Ummm or you could have been at - these are strips. Like maybe you could have been there.

Sarah Koenig

Um-hmm, okay.

Dana Chivvis

I think they were probably in Leakin Park.

Sarah Koenig

Okay.

Dana Chivvis

Because he, it's just, I don't think, I that the the amount of luck you would have to have to make up a story like that and then have the cell phone records corroborate the key points. I just don't think that that's possible.

Sarah Koenig

Isn't that sort of tantamount to saying, I think they were in Lea - I think Jay is telling the truth?

Dana Chivvis

I'm saying I think the cell phone was in Leakin Park.

Sarah Koenig

Right. That looks pretty bad for Adnan. Because, even though the cell towers can't say who is with the phone or who was making the call, Adnan himself says he's pretty sure he was with his phone at that time after track. Again, his memory is vague, it's full of I probably would have. But he says that from what he can remember of the evening, after he got the call from Office Adcock, he remembers dropping Jay off at some point and then he says he would have gone to the mosque for prayers. It was ramadan. He doesn't say he lent his phone out or his car to Jay or anyone else that evening. So, according to Adnan, he was with the phone and twice that night, the phone pinged the tower near Leakin Park. So, bad for Adnan.

On the other hand, the call records also undermined what Jay tells the cops about that same trip to Leakin Park. The Adcock call at Cathy's ends at about 6:29pm, the Leakin Park calls are 40 minutes later. But Jay says after the Adcock call, he and Adnan left Cathy's and then they do a bunch of different things: they drive to Jay's house for shovels, then to I-70 Park & Ride for Hae's car, then Jay goes to McDonald's back by school to wait for Adnan, says he's there waiting for about 20 minutes, then they drive all around for awhile back over to Patapsco, then up Dogwood, to Security, before they finally get to Leakin Park. All that, what I just described? That takes an hour and twenty minutes. Twice as long as, in other words, than the call log accounts for.

I'm not trying to be petty here. I don't think we should hold Jay to some crystal clear timeline. How could he possibly remember each twist and turn and phone call from that day, six weeks later? However, if the state is saying, Adnan Syed is guilty because we have this witness and his story is backed up by cell records, well, what I see is, you have this witness but his story has shifted, rather significantly over time and you have these call records, but I don't think they're as iron-clad as you're making them out to be. Because, for the most part, they don't exactly align with your witness's narrative. There are key moments, when they do support his version of that night. But what about the rest of the day?

Adnan Syed

You know, it's like it's so unfair to me, because it's like, it never, the the the the the umm the etched-in-stone-ness of the phone records, it never goes in my way. It's just whenever it's true of what the prosecutor is saying, it's like, you know the the phone's a tablet, whenever something I'm saying is like the Holy Grail, 'oh we don't know where it is,' 'we're not sure,' 'does it really exist' floats away. But that's not cool though, because now what you're saying is that you can use the cell phone records when it benefits me...

Sarah Koenig

That was the 30 minutes cut off. Adnan called back.

Adnan Syed

Yeah, I got cut off on a big rant. But, uh, yeah, no (Sarah laughing) but to finish up real quick...

Sarah Koenig

The rant went on. Of all the calls, the 2:36 call is the most troublesome to Adnan. It's the one he probably thinks about the most. Because that's the call that starts the whole chain. And he also thinks about it because he says he has an alibi for that time, the Asia letters, where she says she saw him in the library.

Here's a weird thing about the 2:36 call, the prosecutors are very clear at trial that this is the 'come and get me, I'm at Best Buy' call. But they're not basing it on anyone's testimony. Jay never says the call was at that time. In fact, he says repeatedly that Adnan called him around 3:40 or 3:45. Jenn also says that's about when Jay left her house that day. But there is no incoming call at or near 3:45 on the call log. So, the prosecution has to go with 2:36 because it's the only one that sort of lines Jay's story up with the log. It's their only choice.

When you tease apart the State's case, you can get tripped up on details like this. Which is maybe why prosecutor, Kevin Urick, addressed this head on in his opening statement to the jury. He told them, "look at the big picture." The main plot points in Jay's story have been consistent. He tells them that consistently, Jay "has always given the same story about what the defendant did where. Consistently, he tells Jennifer a consistent story, he tells police a consistent story about the defendant, he tells consistently the defendant's involvement, the defendant's actions on that day. He has never wavered on that point."

That is a lot of consistently-s and while, maybe it's not great oratory, it does have the advantage of being true. In Jay's statements, while the particulars shifted, the spine of his story did not. Adnan told Jay he was going to do it, Adnan showed him the body, they buried her in Leakin Park, they ditched her car. Jay has been consistent on those points. It's funny, there's this part of the trial that keeps coming back to me. It's when Cristina Gutierrez is cross-examining Jay, she's pointing out that he lied to detectives about various things, including the location where he says Adnan showed him Hae's body in the trunk of the car.

Cristina Gutierrez

Well what you told them and your act of showing them that place, those were lies, weren't they?

Jay

They were not the truth, no.

Cristina Gutierrez

They weren't the truth. What is the opposite of the truth?

Prosecutor Kevin Urick

Objection

Judge

Sustained

Cristina Gutierrez

You told them something that was not the truth.

Jay

No, I told them the truth.

Cristina Gutierrez

And then you backed... let me finish

Jay

I'm sorry.

Cristina Gutierrez

And then you backed it up, showing them a place that was not the truth, correct?

Jay

I told them the truth, I did not show them a location that was true, no.

Sarah Koenig

He says, 'I told them the truth, I did not show them a location that was true.' As oxymoronic as it sounds, I think I see what he is saying. Yes, I told some lies, but I told the truth. Overall, I told the truth. There are parts of Jay's story that make no sense, where it seems like there must have been more going on than he's saying. But here's what's also the truth, you can say the same thing about Adnan's story too.

Next time, on Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Fact checking by Karen Fragala-Smith. Our theme music is composed by Nick Thorburn, scoring music by Nick and by Mark Phillips who also mixed our show. Special thanks today to Phil Levis and Terrence O'Connor, Dan Manning, Mark Thomas, Blake Morrison, and Liz Buoy. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, and you can sign up for our weekly emails, SerialPodcast.org. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. Serial is a production of This American Life and WBEZ Chicago.

--Complete--

Episode 6: The Case Against Adnan Syed

-Mail Chimp Ad-

Ira Glass

Previously, on Serial...

Adnan

So, it's just, it's a really tight, really window of time I mean, for this to have taken place, right?

Dana Chivvis

Alright, ready?

Sarah Koenig

Yup.

Dana Chivvis

Mmmkay, so I started it at - it's 2:51 and we're making a right out of the Best Buy parking lot.

Sarah Koenig

Isn't that sort of tantamount to saying 'I think Jay's telling the truth?'

Dana Chivvis

I'm saying I think the cell phone was in Leakin Park.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. I'm Sarah Koenig.

The most incriminating piece of physical evidence against Adnan Syed was a fingerprint, or rather, a palm print. On a map. It was one of those big map books you buy at a gas station, police found it in the backseat of Hae's car. On the back cover was a partial print of Adnan's left palm. One page was ripped out from the map. At trial they pointed out that it was the page that showed Leakin Park. The defense argued, 'well, you can't put a timestamp on fingerprints, they could've been six week-old fingerprints or six month-old fingerprints, there's no way to tell.' And Adnan had ridden in and driven Hae's car many times, all their friends said so. The ripped out page showed a whole lot more than just Leakin Park. In fact, it showed their whole neighborhood, the school, the malls, probably ninety percent of where they most often drove. And that page didn't have Adnan's prints on it. His palm print was only on the back cover of the book. Plus, thirteen other, unidentified prints turned up on and in the map book. None of them matched Adnan, or Jay. So, the prints weren't exactly conclusive.

Over the past few weeks, I've been holding up bits of evidence here and there that look bad for Adnan. Today, I'm just going to lay out the rest. Everything else that a person could reasonably add to the 'Adnan is guilty' side of the scale. Everything that the state had that I know about. Some of these I have mentioned before but, let's just hang them all up, side-by-side, and see what they look like.

First off, there's a question of whether Adnan asked Hae for a ride that day after school. Was he looking for an excuse to get in her car, so he could kill her. Officer Adcock testified that the day she disappeared, Adnan told him he'd asked her for a ride. Adnan then later told a different cop he didn't ask for a ride. Then, you know how Adnan says he can't remember much at all about the day Hae went missing? How it was just a normal day to him, nothing much stands out? I've wondered about that. The normalness of the day, because, wouldn't the call from Officer Adcock asking, whether he's seen Hae just in and of itself, wouldn't that call make it a *not* normal day?

Sarah Koenig

Something pretty unusual *did* happen to you that day. Which was...

Adnan Syed

Oh like the police, the police call...

Sarah Koenig

The police call! [Calling to] say, “do you know where Hae Lee is?”, right?

Adnan Syed

Oh no, uh, I *do* remember that phone call and I *do* remember being high at the time because the craziest thing is to be high and have the police call your phone. I’ll never forget that.

Sarah Koenig

I guess that’s the only thing about the day that seems weird to me that you wouldn’t then, that the day wouldn’t then come into focus for you because you’d gotten this call from the cops and you know, you, you were high, you were young, you know, it’s a - it’s a scary call to get or just a just a jarring call to get.

Adnan Syed

At, I mean, at the time, the only thing I really associated with that call was that man uh, you know Hae’s gonna be in a lot of trouble when she gets home. If the police are at her house, you know, if her mother, actually, you know for, for whatever reason, if she didn’t, you know she didn’t go home or she went somewhere else. In no way did I associate this call with being, you know, umm the beginning of you know, of this whole horrible thing. It’s not, in no way is this like you know foreshadowing, I don’t know if that’s the right word, what’s, what’s we know, what’s to come.

Sarah Koenig

Mmm-hmm.

Adnan Syed

So, to me, all this call was, Hae’s going to get in a lot you trouble, you know, her mother is going to be pissed when she comes home, right.

Sarah Koenig

To be fair to Adnan, if this really was his reaction, then he wasn’t the only one. The seriousness of Hae’s disappearance didn’t start sinking in with her friends for a while. School was cancelled on January 14th and 15th because of the ice storm, then the weekend came. Then Monday was Martin Luther King Day, so the kids didn’t all reconvene at school until the following Tuesday. All of Hae’s friends I spoke to said they initially thought Hae had either run off someplace with her new boyfriend Don or, this was another rumor that a lot of people talked about at the time, that she’d run off to

California. Friends said she talked about that sometimes, that her dad, or maybe it was her step dad, was in California, and she wanted to go there. They told the cops the same thing.

Next, the night before Hae disappeared, Adnan called her house three times. Seems like the only time they actually spoke was the third call, at 12:35am. That's when Adnan says he was probably calling to give her his new cell phone number, and she does write it in her diary. Here's something that makes me pause though. If you look at his cell records from that day forward, neither Hae's home number nor her pager shows up again, which suggests he never tried to contact her after she went missing. They were supposedly such good friends. Hae's friend Aisha said that she was paging her like crazy.

Did you ever try to page her and just be like, you know, see if you could find her, raise her, see if you could get a response from her?

Adnan Syed

Well, I know that we would always, I-I can't remember if I did page her or not but, we would always talk about it at school. I would always like get my information first hand from like Aisha who would usually be in contact with obvi-, if I can remember she was like in contact with Hae's family. So it was kind of like I would always, if not Aisha or Krista or or or it I mean it wasn't like I was just sittin' around, like not even thinking about her. You know, not paging her or whatever, but I used to always get my information from them first hand, you know, it-it's not it- I don't remember if I ever paged her or not.

Sarah Koenig

You know, it just seems that, I know Krista was trying to page her, I know Aisha was trying to page her, during this time to just be like 'where are you, where are you, where are you?' And I was wondering if you had- were in the group of like 'where are you?'

Adnan Syed

(long pause)

What, are you asking me a question?

Sarah Koenig

I don't know. I'm just explaining why I'm asking, I'm explaining why I'm asking the question, is that it seems like your relationship you had with her, you would have been one of those people saying, 'hey, hey, hey like give a holler, where are you okay, we're all worried about you.'

Adnan Syed

No! It does not mean I'm not right alongside with them. It's not like they're in a hole, I mean, we're all seeing each other everyday, we're talking about it. It's not like you know, it's not like I'm just sitting there like whenever Hae comes up in a conversation I'm leaving, going to another side of the classroom or something like that. I mean, I'm just as involved as they are, yeah so, I mean, I don't, you know.

Sarah Koenig

Then, there are some stray things. That, eh, I don't know what they mean. Or if they mean much of anything. But I'm going to tell you about them in case. A note came up at trial. After Hae and Adnan broke up, in early November, Hae had written Adnan a frustrated letter... "I'm really getting annoyed that this situation is going the way it is" she wrote, "you know, people break up all the time. Your life is not going to end. You'll move on and I'll move on. But apparently you don't respect me enough to accept my decision." End quote.

Aisha Pittman read this note at trial, Hae was her best friend. Adnan had *shown* Aisha the letter, apparently in health class. And they had written notes to each other on the back. Aisha in pencil, Adnan in pen. They were joking, making fun of Hae, making fun of themselves, it's all just silliness. But then, at the top of the page it says, "I'm going to kill." In pen. I talked to Aisha about it.

Sarah Koenig

And, I mean, did you take any of that as, as um, menacing or anything? Or was it just like part of the joking of the note? The note just seems like you guys are just messing around.

Aisha Pittman

So that wasn't on the note when I was writing with it. So for, to see it later, it was one of those things where it's like, that's weird to see that but, I don't know when that would have been written or what the--

Sarah Koenig

Oh, that wasn't part of the conversation.

Aisha Pittman

--no, cause I remember, like, once you showed-- read through it, it's like on it, it was our conversation on letterhead, and then at the top of it was kind of out of context?

Sarah Koenig

Okay. Did you take it to mean anything? I mean, did you take it to be meaningful, I guess.

Aisha Pittman

I don't-- no, because when I am first seeing that part of it, it was sitting in court having to read the rest of the letter.

Sarah Koenig

Police had found the note when they searched Adnan's house. But, who knows about that one, right? Seems like a detail you'd find in a cheesy detective novel. The other one I'm not sure about it is this kind of stray report in the police file. A guy named Dave had called the cops and said, "My daughter just heard something about a dead body." Dave told the cops, "It was the neighbor boy who mentioned it." Dave names the neighbor boy but, I'm just going to call him The Neighbor Boy. Here's Dave...

Dave

I just remember he had told my daughter he had seen uh a the body of a girl in the back of some-- in the trunk of some vehicle. And, it seemed to me that it was he said it was like and oriental girl or something but that's that's all I remember. Yeah, that's all I know about it, yeah.

Sarah Koenig

Did he tell it to you, or just to your daughter?

Dave

To my daughter, he didn't tell it to me.

Sarah Koenig

Dave gave me his daughter's number, I went to see her right away. Her name is Laura, here's what she remembered about what The Neighbor Boy told her that day.

Laura

He was, he was, with a friend and the friend said something like, 'look what I have' and he popped the trunk and that's what he saw.

Sarah Koenig

Did he seem upset or..?

Laura

He seemed disturbed. More like a 'wow, I can't believe what I just saw.' Kinda almost like he was maybe getting something off his chest, that type of thing.

Sarah Koenig

I asked Laura, did The Neighbor Boy tell you the name of this friend that showed him the body?

Laura

I think the guy's name was maybe Adnan?

Sarah Koenig

Really?

Laura

Mm-hmm

Sarah Koenig

Hm. So this guy said, 'my friend Adnan showed me the body of a girl in the back of a car?'

Laura

Umm-hmm. Yes.

Sarah Koenig

Do you think he was telling the truth?

Laura

Yes.

Sarah Koenig

Laura didn't go to Woodlawn. She didn't know Adnan, she'd known The Neighbor Boy since they were little, they were friendly. Laura said she never spoke to police about this, they never questioned her. So this sounds really really bad, right? That there was another witness, besides Jay, who saw Hae's body, who saw Adnan *with* Hae's body. That's huge. But, I called The Neighbor Boy that same night, he is now somebody else's neighbor and he's a man. He was affable and patient and he wholly denied this episode. He was pretty convincing. He said quote, "the only dead body I've seen was on TV. God's honest truth. Except for my great-grandmother. She died when I was like nine." The Neighbor Man said that he wasn't friends with Adnan. He was friends with Jay though, they smoked weed together. I suggested maybe Jay told him this story and he kind of appropriated it and told it to the neighbor girl to freak her out. And he said, no way quote, "I wouldn't kid around about something like that." The man told me the cops came to see him in '99 and he told them the same thing, that he didn't know anything and he wrote out a statement to the same effect to a private investigator who was working for the defense in Adnan's case, I've read it.

This is what's weird. That original police report about Dave and his daughter Laura, it's dated April 28th. By that time, Adnan had already been in jail for nearly two months. But Laura was under the impression that what happened to her neighbor had just happened. She told her dad right away, and he called the cops right away. And, I talked to friends of Jay's who also knew The Neighbor Boy, and they said, "oh that guy?" They gave the impression The Neighbor Boy was a bit of a gossip. A guy untalented at keeping secrets. Which, could play either way I guess. But they meant it like, "nobody would tell him anything they wanted to stay quiet."

The Neighbor Boy never shows up at trial. He is never mentioned. So, I let it go. But, you know, it *is* weird. And if Laura's story is true, then there's another witness to this murder. It's one of the things about this case that kind of bobs above the water for me, like a disturbing buoy.

Then, there's Cathy, that is not her real name, and we have changed her voice, but I'm calling her Cathy. I've mentioned her before. She saw Adnan and Jay, together, acting suspiciously, the word she uses is shady, at a critical time that evening of the 13th, the day Hae disappeared. If you go by Jay's story, he brought Adnan to Cathy's apartment after he picked Adnan up from track practice. So, after Hae had been killed, but before they went to bury her body. It was about six o'clock at night. And they all three, Adnan, Jay, and Cathy, acknowledge being together at the apartment, there's no dispute about that.

Cathy was a close friend of Jenn's, they were sorority sisters. She knew Jay a little bit, but only through Jenn. She didn't know Adnan at all. So, here was an acquaintance, Jay, and a stranger, who suddenly show up at her door. Cathy remembers that night pretty clearly, her boyfriend Jeff was there at the apartment too.

Cathy (Voice Modulated)

--and I was kinda surprised and a little confused because he didn't call me unless he was with Jenn and nobody had called to say "hey are you guys home? Do you guys want to hang out?" Nothing like that. So it was a little strange that he would just pop up at the door. I remember him being like, "do you want to smoke? Do you wanna hang out?" And I remember being like, "well hang on a second," and asking Jeff if he wanted to-- "Jay's at the door!" Jeff was like, "for what?" "Well he wants to hang out." And Jeff was like, "that's cool." So Jay came in and he introduced his friend, I don't think he introduced him by name, I think he was just like, "this is a friend of mine."

Sarah Koenig

Cathy remembers Jay sat over by the table and Adnan settled on the floor on some big cushions that were there, and didn't speak.

Cathy

I remember the guy wasn't doing a whole lot of talking, he was just kinda like slumped over amidst all my cushions, and I thought it was really kinda strange, "who is this guy?" you know? Who is this guy?

Sarah Koenig

When I first heard about Cathy's statement and her testimony, it didn't seem like a big deal to me. This is a girl who says some kid she didn't know who was high was acting strangely in her living room. I've been that girl for Christ sakes. Having to deal with some stoned friend of a friend on the living room floor. And I've probably been that weird guy on the floor at *least* once. But, listening to Cathy tell it, all these years later, the way it stuck with her, how she describes the whole night as just feeling wrong, that also made it stick with me. Cathy thought Jay was acting odd as well. She knew him as this super laid back stoner guy, like Shaggy from Scooby-Doo. But now he was being conspicuously chatty.

Cathy

"How was your day?" "What's going on?" Kinda-- dominated the conversation really.

Sarah Koenig

She says that while Jay and Adnan were there, Jenn called the apartment. Or maybe it was she that called Jenn, she can't remember now. But she does remember talking to Jenn and saying, "Jay's here with some kid who's practically passed out on the cushions." And Jenn thought that was curious, like, "what's Jay doing there?" She told Cathy that Jay had been acting weird earlier in the day too. The story Cathy is telling is pretty close to what she told the cops during the investigation. Detective

MacGillivray interviewed Cathy in March of '99, after Adnan had been arrested. She told him back then, she remembered Adnan saying only one thing to the group: "how do I get rid of a high?"

Cathy

--and he asked "how do I get rid of a high? I have to meet someone or do something and it's really important." And I was like, "you just have to let it-- just have to let it go."

Detective MacGillivray

Do you have any idea where he was going to go? Who he was going to meet?

Cathy

No, he didn't-- I'm not clear whether I remembered him saying "I have to go talk to someone" or "I have to go meet someone" or "I have to go do something." I'm not sure he-- I remember him expressing it was really important what he had to go do. He didn't specify what.

Detective MacGillivray

Okay.

Sarah Koenig

There are three incoming calls on the call log that ping towers near Cathy's house. 6:07, 6:09, and 6:24 p.m. That's the longest one, for a little more than four minutes. We don't know for sure who they're from, but Officer Adcock testifies that *he* calls around this time and he thinks the 6:24 call was probably him. And Hae's brother, Young, also calls Adnan around this time, looking for his sister. We don't know who the third call is from. Cathy definitely remembers Adnan getting one phone call while he was at her apartment. She says, they're sitting around talking, when one of Cathy's favorite shows is on the TV, Judge Judy.

Cathy

The phone rings and he hadn't said anything the whole time he had been there, so when he answers the phone, and he's saying "what am I going to do? What am I gonna say? They're gonna come talk to me. What am I supposed to say?" And I remember him sounding very worried-- concerned. This was-- whatever was happening was not good on the other line. I remember being like, "wow, I wonder what he's going--" eavesdropping basically! Wondering what was going on. Not too long after he hung up the phone, he left. Just bust out the door, left.

Sarah Koenig

Jay follows Adnan out, leaves his hat and smokes behind, Cathy says. They go downstairs and then, she says, they get in a car and just sit there in the car for a while.

Cathy

And so now they're outside in a car and I remember going to the window, "what are they doing? Jeff, they're in the car, they're just sitting there. What the hell is going on?" Just finding the whole situation super odd, super strange. And Jeff, he just didn't give a shit about anything. "Eh, it doesn't matter, who cares? You know?" I just remember being like, "what is going *on*?"

Sarah Koenig

Was it--you'd never met the other guy before, Adnan, right? So you didn't know what was normal behavior for him?

Cathy

--clearly it was not normal behavior for anybody. That was just-- regardless of whether you know him or not. Clearly you could tell something was going on, something was going on [that] wasn't good, and yeah, it was just strange behavior for anybody. I think that's been the one thing I've always remembered. Like how he said it, how he looked, when he said it. He's definitely panicked. He's definitely worried and I could imagine if I was in a position that's what I would've been saying on the phone to my best friend. You know, "my god, what am I gonna do? They're gonna come talk to me. What am I supposed to say?" You know, trying to come up with some story quickly.

Sarah Koenig

Many hours later, at the end of the night, Jay came back to Cathy's again, without Adnan, but this time Jenn was with him.

Cathy

I remember being like, "so, what the fuck?" And I remember kind of them both being like, "oh, it's nothing." You know, kinda smoothing it over I think a little bit. It was kinda like, "oh it's no big deal," that kinda thing, but you could definitely tell it was a big deal and whatever was going on was kind of a secret or-- because Jenn and I were best friends, I mean we talked

about everything. We were-- we didn't do anything without talking about it. I knew what she was wearing in the morning. I knew where she was going at night. I knew who she talked to on the phone. So it was a little strange that when I said, "so what happened?" I didn't get a full account.

Sarah Koenig

The next time I talked to Adnan, I told him how Cathy still remembered all this stuff, how shady the whole scene was for her. And he said that on a bunch of levels, what Cathy had to say didn't hold much water with him. First of all, if someone had called him to warn him the police were about to call, why would he then answer the phone when the police called?

Adnan Syed

I mean, if I was expecting the police to call me I probably wouldn't have answered my phone then. I could have just turned the phone off or something--

Sarah Koenig

That's a good point.

Adnan Syed

--it's common sense that, that if we're going with this scenario that if I'm trying to avoid the police, then I wouldn't pick up the phone and engage them in a conversation.

Sarah Koenig

Well, but there's also the other thing where you're just like acting normal, everything is nor-- "Sure! Hi! Yeah, yeah I don't know. I saw her after school. I dunno." You know? Where you try to just play it cool.

(long pause)

Adnan Syed

But then it still leaves us with the third person. This third individual--

Sarah Koenig

Right.

Adnan Syed

--I mean this would seem to make more sense to have this conversation with Jay, but she clearly says, from what you just said, that I was *not* talking to Jay, I was talking to someone on the phone.

Sarah Koenig

Right.

Right. Her story would imply a third man, a co-conspirator. Someone Adnan would be on the phone with who clearly knew about the murder. So, who would this third caller be?

Adnan Syed

So now who was this third person on the phone? So, at some point, her memory either benefits me or it doesn't benefit me.

Sarah Koenig

I mean it's-, that's a hard one. Her testimony does not look good for you, you know. Because she's not really connected to Jay, she's not connected to you, you know she's a little bit more objective I would say, and she really thought you were acting, very strangely. You know. So it didn't-- it's not good for you, what she has to say. (clears throat)

Adnan Syed

I mean- I mean, to be honest with you I'm listening to you but I kinda think that, it's not good for me if a person believes the narrative of what Jay is saying. But, if you *don't* believe the narrative of what Jay is saying, or if a person questions it, what does she say specifically that links me to Hae's murder? You know, she didn't say, she didn't say that she saw me with any type of equipment or materials or dirty clothes or disheveled or anything like that. Her--

Sarah Koenig

Well...

Adnan Syed

I mean, from what I gathered--

Sarah Koenig

I don't know...

Adnan Syed

I mean, certainly you know, there are some things I'm gonna yield, but I'm definitely not going to yield that, you know, if something that I feel really- all this is in the context of her believing, "okay, well maybe he did this or he's charged with this then you know what now all this stuff uh makes sense or whatever. Which in and of itself may not have been that strange had I never been charged with this. Like I seriously doubt she would have gave this a second thought had I never been charged with Hae's murder.

Sarah Koenig

Maybe, maybe not.

There's a second person who puts Jay and Adnan together that night, and that's Jenn. You know how last episode we talked about those two incoming Leakin Park calls on the call log? At 7:09 and 7:16? When Jay says that they were burying Hae? The ones where we think the cell phone really was in Leakin Park? Well, Jenn has a cameo in that scene, Jenn says *she* was one of those incoming calls. She says she called the cell phone around that time looking for Jay, but that Adnan picked up, he didn't identify himself, but she assumed it was Adnan. Here's from her police interview--

Jenn Pusateri

When I called them, um, Adnan answered the phone and said "Jay will call you back when you're re--" when he's ready for you to come and get him, or for you to come and meet him, or whatever. "Jay will call you when he's ready." And um, so that's all like, he was very quick and very "bye" you know.

Sarah Koenig

If Jenn's story is true, it does look an awful lot like Adnan was in Leakin Park that night, busy not handing the phone over to Jay. The second time Jenn puts them together that night is pretty soon after that, when she picks Jay up some time after eight o'clock. So, in Jay's timeline, after they've already buried Hae. She says she'd arranged to meet him in the parking lot of Westview Mall, she says she saw them arrive in Adnan's car.

Jenn Pusateri

And umm, Adnan said hi to me, he said 'hey, what's up girl?' And I was like 'hey, what's up?' And then we left the parking lot and that's when Jay told me--

Detective

With the exchange of words between you and Adnan, 'hey, what's up girl?' How would you describe his mood at that time?

Jenn Pusateri

He seemed just like he normally seems.

Sarah Koenig

On the Adnan side, that detail has always stuck with me too. That Jenn says Adnan seemed so normal. She says neither his nor Jay's clothes seemed mussed or dirty. Adnan doesn't remember seeing Jenn at Westview Mall or, where he dropped off Jay that night. And Jay doesn't say he met Jenn at Westview Mall either. Matter of fact, Jay says, consistently, that Adnan dropped him off at home and then Jenn showed up at his house to get him. Jay stuck to that, even at trial, when it contradicted Jenn's story.

The thing about Jenn and Cathy though, is that even though they don't look great for Adnan, they don't actually contradict Adnan's own account of that evening. Which, I think, is why he kind of shrugs them off. And why I'm sometimes tempted to shrug them off. Because Adnan has always admitted he was hanging out with Jay that night. So, so what if a couple of people saw them together? What does that prove?

But, now we come to the big one, the one nobody can shrug off. This call, well, this is a bad metaphor but out of all the calls on the log, this is the one that I think of as the 'smoking gun' call. It's the Nisha call. Think of it as a title, capitalized, The Nisha Call. Between noon and five pm that day, there are seven outgoing calls on the log, six of them are to people Jay knows, the seventh is to Nisha, someone only Adnan knew. Adnan's story is that he and his cell phone were separated that day, from lunchtime all the way until after track at around five something. But The Nisha Call happens at 3:32pm. Smack in the middle of the afternoon. The prosecution makes much of this call at closing, and I can see why.

In Jay's second taped statement, granted, it's the one where detectives are showing him the call records, Detective MacGillivray is asking Jay about all those afternoon calls on the log between three and four o'clock. Again, Jay says this is when they were driving all around Forest Park and Edmondson Avenue looking for weed.

Detective MacGillivray

Did anybody else use the phone?

Jay

Yeah. Umm, Adnan, I can't remember whether he received a call or placed a call, but I remember he was talking to a girl umm, I can't remember her name. He put me on the phone with her for like three minutes, I said hello to her.

Detective MacGillivray

Where did she -uh- live?

Jay

Uhh, Silver Spring.

Detective MacGillivray

Do you recall her name?

Jay

No. I don't.

Detective MacGillivray

Do you have any idea why Adnan would call, this individual, in Silver Spring, after he had just--

Jay

No--

Detective MacGillivray

--strangled his girlfriend?

Jay

I don't. And... uh I have no idea why he would call and their conversation didn't pertain to anything that he had just done.

Sarah Koenig

The cops went and talked to Nisha, she was a high school student. And she told them, 'yeah, there was a time when I spoke to Adnan on his cell, and he put his friend Jay on the phone.' Nisha testified at both trials. For a smoking gun, she is very cute, she looks like a chipmunk.

Prosecutor Kevin Urick

Good afternoon.

Nisha

Good afternoon to you too, sir.

Prosecutor Kevin Urick

Thank you. Do you know the defendant?

Nisha

Yes I do.

Sarah Koenig

This is from trial number one.

Nisha

Ummm, it's a little hard to recall, but I remember him telling me that Jay invite- invited him over to a video store that he worked at. And, he basically well Adnan walked in with his cell phone and then like- he told me to speak with Jay and I was like 'okay' cause Jay wanted to say hi so I said hi to Jay. And that's all I can really recall.

Prosecutor Kevin Urick

What time of day did that occur?

Nisha

I would think towards the evening, but I can't be exactly sure.

Sarah Koenig

The prosecutor, Kevin Urick, asks her, if this call, the 3:32 call on the log, could it be that same call where Adnan put Jay on the phone? And she says--

Nisha

It could be, but I'm not sure.

Sarah Koenig

Jay *did* work at a porn video store. He worked mostly nights there, so it would make sense this call would have happened towards the evening. What doesn't make sense, if Nisha is saying this call happened at the video store, is that Jay didn't *have* that job yet on January 13. As far as I could tell from Jay's own testimony, and from the notes of a private investigator for the defense who interviewed the video store manager, Jay didn't start working there until the very end of January. So listen to what happens at the second trial. I don't have the tape, but I have the transcript. Urick asks Nisha, "now did there ever come a time when the defendant called you and put a person he identified as Jay on the line?" "Yes," she says. "Please tell the ladies and gentlemen of the jury what that call consisted of." Nisha starts to answer, "basically Jay had asked him to come to an adult video store that he worked at." But then Urick interrupts her, he says, "no don't-- tell us the *content* of the call." Now if I had to guess, I'd say that the prosecutor is trying to get her to not mention the video store, because it contradicts their story. So, Nisha says, "okay. He just asked me how I was doing, et cetera," then she goes on. She doesn't mention the video store to Urick again.

So, I'm not at all convinced this call, the 3:32 call on the 13th, that this was the call when Adnan put Jay on the phone with Nisha. But still, if Adnan is supposedly at school during this time, and Jay is not talking to Nisha for two minutes and twenty-two seconds, then who the hell is calling Nisha? This is what Adnan can't explain. I've asked him about it many times. He says Nisha's number was entered into his phone on speed dial. You can see he calls her a lot on his cell. In fact, hers is the very first number he dials when the phone is activated on the 12th. Adnan says that what he thinks must have happened is some combination of a butt dial and an answering machine. This is from one of our very first phone calls.

Adnan Syed

To me, the explanation to that is that-- for whatever reason he pushed the number, maybe he didn't know it was on, and it picks up, because when the answering machine picks up a call, it bills it.

Sarah Koenig

But if she-- she says she testifies that her phone does not have an answering machine or voicemail on it. So who is picking up that call and talking for two and a half minutes or whatever it was? Two minutes and twenty-two seconds or some--

Adnan Syed

You *sure* she testified to that?

Sarah Koenig

I'm sure.

Adnan Syed

--cause I'm almost sure I remember-- I'm sure I remember her phone *having* an answering machine or voicemail, or something--

Sarah Koenig

Hold up, hold up! Let me look, let me look, let me look. Hold on.

I was right. Here's from the first trial. Urick asked Nisha, "does your home phone have an answering machine?"

Prosecutor Kevin Urick

Does your home phone have an answering machine?

Nisha

Not this phone number, no.

Adnan Syed

-- and I couldn't really explain it, but I could say for sure, I was a thousand percent sure that the only time I *ever* put Jay on the phone with her would have been at the video store, and I absolutely was not in the car with him at that time, so whether it's another way the phone activates or I can't explain the billing of it but I for sure a thousand percent say I was not in the car with him at that time or did I have access to the phone at that time, because I was at school that day.

Sarah Koenig

Over the past year, I've swiveled the Rubik's Cube of this case so many different ways. I've arranged and rearranged it to come up with alternate versions of how this day might have actually gone. And I can get pretty far in certain hypothetical directions. Maybe every time Jay says Adnan's name in his story, maybe he's really talking about someone else. A person we don't know about, who Jay's afraid of or he's trying to protect. I mean, Jay's got the car, Jay's got the phone, all these calls are to his friends. And then I remember the Nisha call, and the whole thing crumbles. No way around it. The Nisha call is a big, fat problem for Adnan.

Adnan says his biggest fear is not being believed. When he's sure about something, he has a tendency to over explain, to inundate you with facts and information, and then *corroboration* for the facts and information. He doesn't like this tendency in himself, but he says he can't help it.

Adnan Syed

Anyone who knows me will say I kinda go overboard to the point where people will be like, "alright man, we believe you." It could be about anything, it could be about whether it rained yesterday, because in my mind it's something-- it's a personality quirk born of all this. I mean I really-- I *don't* like to talk about things if I can prove-- no matter how silly it is.

Sarah Koenig

He does it with anything. He's a cook at the prison, and he said he got into a discussion with some guys recently about barbecue sauce. Adnan was saying if you don't have molasses or brown sugar you can substitute pancake syrup, and the guys were like, "nah, no way." And so at breakfast, Adnan made a little batch of barbecue sauce using pancake syrup. Nobody needs barbecue sauce at breakfast time, at the maximum security prison in Cumberland, Maryland. But he did it anyway.

All these things that look bad for Adnan, everything that's raised my suspicion, even stupid things, I've run every single one of them by him. I've got this thing in my head that I'll catch him in a lie. Maybe just a tiny, meaningless lie, and that's going to be his tell, and he'll be caught. Adnan is smart, and clever, he knows that's what's going on when we talk, and so every time I call, he's a little on guard. He's not sure what's coming at him. Because what if I ask him something he can't prove, and then I don't believe him? That notion, that people out there in the world, people he went to school with, who knew him, don't believe him, that they can imagine he is capable of killing Hae, Adnan spent fifteen years thinking about that. And then trying not to think about that.

Adnan Syed

That's kinda in my mind, like, "man, what was it about me--" and I'm fine with it now, it is what it is. When I was younger, I used to wonder about that a lot. Like, "golly, what was it about me that a person could think that--" it would be different if there was a video tape of me doing it, or if there was like-- Hae fought back and there was all this stuff of me, like DNA, like scratches, stuff like that, you know like someone saw me leaving with Hae that day. Like three people saw me leaving with her, or like she said, "yeah me and Adnan are going here," like told five people, but I mean just on the strength of me being arrested, I used to lose sleep about that. Like, what the heck was it about me you know what I mean, that people-- not just random people, people who knew me, had intimately knew Hae intimately, saw us on a daily basis. Just boom. That used to really devastate me, kind of. You know what I'm saying? That used to just really, *really just* strike me to my core. And uh--

Sarah Koenig

Just like, "what is it about me that would allow someone to even entertain the possibility that I could do this?" Is that the thing?

Adnan Syed

I mean when you really think about it, they didn't just say that me and Hae got into a fight, boom and this happened. They saying that I plotted and planned and kept my true intentions hidden, I mean just some real devious, cruel, like Hitler type stuff. You know what I mean? Just some real some like cruel, cruel like inhuman type stuff. Like, "wow man!" you know what I mean? I obviously-- I'm not saying that I was a great person or anything, but I don't think I ever displayed any tendencies like that--

Sarah Koenig

Right.

Adnan Syed

--where a person would think that you know-- I mean maybe, who knows, maybe if it would have happened to someone else, I would have believed it just because I naturally would have assumed that, well if the police got the right guy, they got him for the right reasons. They didn't just get him because he was ex-boyfriends, so I mean maybe if the shoe's on the other foot, I would be doing the same thing, but a--

Sarah Koenig

But you know what Adnan? The people who have told me that they think either they sort of after a long time came to the conclusion that you were guilty or that-- or kinda like, "I don't know, maybe, I never really--" they all at some point in the conversation almost everybody has said, "well the Adnan *I* knew didn't do it. Like the guy *I* knew, couldn't have do it." But maybe--

Adnan Syed

What the hell does that even mean? I'm not like a different-- I wasn't--

Sarah Koenig

(interrupts)

(pause)

No, go ahead.

Adnan Syed

No, no, I'm sorry. I was just thinking-- I don't even know what that means.

Sarah Koenig

So what they're saying is, "maybe there was another guy in there that I just never-- knew." You know? Like everybody has a deep, dark-- you know maybe--

Adnan Syed

No! They don't! No they-- not everyone has the ability to do something cruel and heinous like this. This isn't like, you know, yell at the bank teller for-- yell at the waiter for getting the order wrong or something like that, because it's not like they're saying it was a crime of passion. They're saying this was a plotted out--

Sarah Koenig

No, I know.

(Adnan and Sarah speaking on top of each other)

Adnan Syed

It insults me to my core, man, you know what I mean? It used to. Not-- I don't care now. You know what I'm saying--

Sarah Koenig

So you don't believe-- you're not someone who believes that like everyone could in a-- like anyone could kill depending on the circumstances, like if they were--

Adnan Syed

No, yeah like if your life was threatened! You know what I'm saying? Like if it was me or him. Or like if my kids are in danger. I don't-- no, I completely don't think that *anyone* or even the *majority* of people, you know, could stoop to, you know what I'm saying, to doing something like this. Based on what? What did she ever do to me that would cause me to feel so angry at her. Everyone--

Sarah Koenig

But--

Adnan Syed

No, I'm sorry.

Sarah Koenig

No, no, I'm done.

Adnan Syed

I just interrupted you. Maybe I do care about this. I thought I didn't care about this too much, but obviously I probably do.

Sarah Koenig

How could you not? How could you not care about it?

Adnan Syed

Well, because, you know, it-you know, it kinda doesn't really matter what people think, you know what I'm saying? It doesn't uh- I shouldn't care.

Sarah Koenig

I see many problems with the state's case. But then, I see many problems with Adnan's story too. And so I start to doubt him, I talk to him and talk to him, and I start to doubt my doubts. And then I worry that I'm a sucker that I don't know. That's the cycle. Once, about six months after we'd begun our phone calls, Adnan asked me, a little nervously, what's your interest in this case, really? Why are you doing this? And so I explained all the interesting stuff I'd read, and the people I'd talked to blah, blah, blah. But I also told him really what really hooked me most, was him. Just trying to figure out, who is this person who says he didn't kill this girl but is serving a life sentence for killing this girl.

Sarah Koenig

My interest in it honestly has been you, like you're a really nice guy. Like I like talking to you, you know, so then it's kind of like this question of well, what does that mean? You know.

Adnan Syed

(Long Pause.) I just, yeah, oh, I mean, you don't even really know me though uh Koenig. I'm, you don't. I- I- maybe you do. Maybe, I don't- we only talk on the phone, I don't understand what you mean. I'm not- I mean, it's-it's-it's just weird to hear you say that, because, I don't even really know you--

Sarah Koenig

But wait, are you saying you don't think that I know you at all?!

Adnan Syed

I mean for you to say that I'm a great person. I mean, like a nice person, then you know what I'm saying? That- I- I-don't know I've only talked to you on the phone a few times. I don't, I mean I guess you investigated me back then.

Sarah Koenig

We had this conversation back in July. By then, we'd logged at least thirty hours on the phone. I've talked to Adnan way more than I've talked to a lot of people I think I know. People I consider friends. So I was confused by this. This is the closest thing to hostile Adnan has ever gotten with me.

The next day, I came back to him about it.

Sarah Koenig

And so, I was a little bit like taken aback, and I still like I guess feel a little taken aback that like... what do you think I don't know? About you.

Adnan Syed

To be honest with you, it kinda- I feel like I want to shoot myself, if I hear someone else say, I don't think he did it cause you're a nice guy, Adnan. So I guess kinda, you know, cause you wouldn't know that, but I hear people say that to me over the years and it just drives me crazy. I would love someone to hear, I would to hear love someone to say, I don't think that you did it because I looked at the case and it looks kind of flimsy. I would rather someone say, Adnan, I think you're a jerk, you're selfish, you know, you're a crazy SOB, you should just stay in there for the rest of your life except that I looked at your case and it looks, you know, like a little off. You know like something's not right.

Sarah Koenig

I understand this, being a nice guy doesn't count as exculpatory evidence . And if I'm going to spend a year figuring out that he's a nice guy, I might as well piss off. Point taken.

Maybe, we need some experts on this job.

Next time, on Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help this week from Chana Joffe-Walt and Joel Lovell. Fact checking by Karen Fragala-Smith. Our theme music is composed by Nick Thorburn, scoring music by Nick and by Mark Phillips who also mixed our show. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, and sign up for our weekly emails, SerialPodcast.org. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. Serial is a production of This American Life and WBEZ Chicago.

--Complete--

Episode 7: The Opposite of the Prosecution

-Mail Chimp Ad-

Adnan

To be honest with you, it kinda-- I feel like I wanna shoot myself if I hear someone else say "I don't think you did it because you're a nice guy, Adnan."

Ira Glass

Previously, on Serial...

Detective

Did anyone else use the phone?

Jay

Yeah, um, Adnan, I remember he was talking to a girl, he put me on the phone with her for three minutes. I said hello to her.

Dave

I remember he had told my daughter he had seen the body of a girl in the back of some-- in the trunk of some vehicle.

Laura

I think the guy's name was maybe Adnan?

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. I'm Sarah Koenig.

I heard about this other case, of a kid named Justin Wolfe. Actually Adnan mentioned the case to me, kind of in passing. I can't remember how *he* heard about it. He reads a lot of different stuff in prison. Anyway, we had been talking about the cell records, and how they were used in Adnan's case, and Adnan said that in this *other* case of Justin Wolfe, cell records had also been used against him, but then Justin Wolfe's conviction was overturned, in part because of the cell records.

So, I looked up this case of Justin Wolfe, just to see, and on paper, I have to say it's sort of uncanny how many similarities there are with Adnan's case. All young people, first of all. Justin Wolfe was a suburban kid, eighteen, football player. People thought of him as a good kid though he was selling pot and hanging around some tougher types. This next part is different obviously. He was convicted in the 2001 murder of a drug dealer who was shot nine times. Justin Wolfe was *not* the shooter. The shooter was the slightly older friend of Wolfe's named Owen Barber who got a deal in exchange for testifying against Justin Wolfe. Owen Barber told the cops Justin Wolfe had hired him to kill the drug dealer. Wolfe was sentenced to death in Virginia. Wolfe's trial attorney later gave up his law license, after the bar had initiated disciplinary charges against him for, and this is the technical term, being a crappy lawyer. Oh and there was a witness who was never heard from. Other than that, *totally* different cases.

Anyhow, eventually Owen Barber recanted. He said Justin Wolfe had nothing to do with the murder, he'd only implicated Wolfe to avoid a death sentence for himself. So I read all about this and thought, "let me talk to the lawyer who helped figure out the flaws in the State's case against Justin Wolfe. Maybe she has some tips about how we should be looking at the cell records differently, in Adnan's case." I looked her up, her name is Deirdre Enright, and she works at the University of Virginia School of Law. She runs their Innocence Project clinic there. They do what Innocence Projects do, they reinvestigate old cases to see if someone's been wrongfully convicted.

I called her and asked how she dealt with the cell records in the Justin Wolfe case and she was kinda *so-so* on that topic. She gave me a couple of names to try. No great insights though. But *man* on every other topic, I found her *so* helpful. She started asking me about Adnan's case and I ended up sending her a summary I had made of the detective's reports, and then the next time we talked, I asked if she'd mind going to a studio.

Deirdre Enright

Hey, you know I read your synopsis of your-- just to jump right in here to your case. I have a million questions for you. But, it's *very*, *very* thin.

Sarah Koenig

Oh the State's case.

Deirdre Enright

Yeah. After I started reading all this-- all what you had, I started thinking, so everybody here is in high school, right? And why is Don-- doesn't appear to be of interest to anyone.

Sarah Koenig

Don was Hae's new boyfriend. The police considered his alibi iron-clad, he was working at LensCrafters all day. But, see, this is how it is with Deirdre. A conversation with her never seems to begin exactly. It's already there, on going, her thoughts churning, and you just kinda join in when you're ready and hope that you can keep up. She is not a small talker or a beater around of bushes. You discuss *whatever* it is you came to discuss full-on, looking it squarely in the face. She has no time for bullshit. Not because she's above it or anything but because she actually has no time. She's one of the busiest and most curious people I've ever met.

Deirdre Enright

You know when you first talked to me about this case, the first thing I thought is: "okay, do we have a jailhouse informant? Do we have a person who got way too sweet of a deal?" When I read through your summary of your police notes, I just kept going back to motive and thinking "that's a big black hole" for me. I still don't understand why you want this girl dead. Because she broke up with you? People break up with people all the time. I'm a little concerned about racial profiling here, you know?

Sarah Koenig

Oh really? On the part of Adnan. In other words that he's a Pakistani muslim and--

Deirdre Enright

Right. And people are saying his *dark* side, and his-- there was some notation about he was very *controlling*. I thought, "I wonder if he was really very controlling." So there's that. The cell phone thing for us and Justin Wolfe is that they used the cell phone records to say they cabin out the period of time when the shooter is driving to the place where the victim is and shooting him and then coming back. So they put those up on a board in the courtroom and say "look at this. He calls him right before he commits the murder, and he calls him right after he commits the murder." Then you get everybody's phone records, right? All these kids that are buying pot, smoking pot, selling pot, and everybody's calling each other all the time. So then you stop and stand back and say: "Well, so what are they trying to say? That Justin Wolfe and these kids, these upper-middle class kids are so stupid that they get in the car and call and say: 'Okay! I'm on my way to murder him. Okay! I just murdered him! I'm coming back now.'" You know what I mean? Who does that? Now, all these witnesses are saying: "Oh

no, we were just all calling each other to buy pot.” Those calls that are infused with meaning by the prosecution’s theory have no meaning in space.

Sarah Koenig

Yeah. I mean it’s funny, do you get cases-- because in Adnan’s case, I feel like from what I can tell, there’s not gross negligence or malfeasance or something on the part of the detectives or the State Attorney’s office, everyone seems to be doing their job, responsibly. It just doesn’t seem like there’s an obvious “oh they never looked at the new boyfriend,” or “oh they never questioned the guy who found the body--” it seems like-- and Adnan himself is not supplying anything super useful to say “here’s why I can prove I didn’t do this.” He has said out front “I can’t give you some clinching piece of information or evidence that’s going to solve this, I wish I could but I can’t. I just don’t have it. like I don’t know how to prove this.”

Deirdre Enright

That’s kinda-- I love hearing that because somewhere along the line I’ve started realizing that when you have an innocent client, they are the least helpful people in the whole world, because they *don’t* know. They don’t-- they have no idea, like as soon as I realize I have an innocent client and that’s the situation, I think like, “okay well I’ll talk to you again when I’ve solved it, because I’m not gonna need you here.”

Sarah Koenig

--because what’s happening with Adnan is where I’ll find something out that looks kinda bad for him, and I’ll come to him with it and be like, “why-- it does seem like you maybe made this phone call in the middle of the afternoon at a time when you’re saying you were at track, but the phone number is to someone who only you knew, and Jay didn’t know.” So there’s this phone call with this girl Nisha and it’s this glaring thing to me in the middle of the phone record where I’m like, “that’s the one that kinda looks bad for you. Explain that to me. How do you explain that call to me.” His answer is so kinda mealy or not so satisfying where he’s just like, “I don’t-- I can’t explain it, like maybe it was a butt dial and like a machine picked up,” and I’m like “but she’s testifying there’s no machine on it, and he’s just like “I don’t know, I don’t know what to tell you, but like I didn’t-- I didn’t have the phone, I was at track.” I just want to be like “No! Explain it! You should have an answer!”

Deirdre Enright

--and they can’t!

Sarah Koenig

That's not surprising to you?

Deirdre Enright

Not at all. There was a case that I had, the federal capital murder case, right, where I had my client, Darrell Rice was charged with killing two women hikers in the Shenandoah National Park and blah, blah, blah. They filed a motion saying the motive in this case was hatred, he hated lesbians. That's why he murdered these two women. So Darrell Rice was easy for me-- not in the beginning because his answers weren't self-serving and helpful the way you'd think. He's had time to think about this. Why doesn't he have a better answer than that? Then I started to realize because he hasn't been thinking about this, because he didn't murder anybody. So, I remember one day I had in there maps, to show him where the crime scene was versus where the lodge was versus where mile marker 42 point-- so I put this all out on a table and get my reading glasses and then I said so "when you would camp there, can you show me where you were?" and then he's like "okay, well I didn't camp there, I would ride bikes there," and of course I'm like "okay, well whatever, that-- you know, who cares, whatever. You've been in the park before," then finally I said, "but in relation to the crime scene," and then he looked at me and it was so simple, he said, "Well, I don't know where the crime scene was, so can you show me that?" And I remembered thinking, "of course, I'm like everybody else." I think he knows where the crime scene is.

Sarah Koenig

How many-- do you only take on cases where it's super clear to everyone involved on your side of the bar, or the bench rather, that this person is innocent or wrongfully convicted? Or do you take cases where you really don't know when you start down a road and three-quarters of your cases turn out like "yeah he probably did it so lets not take on that one"? Or are you only working with cases where you're pretty sure from the get-go that the person is--

Deirdre Enright

We don't know at the get-go because we're the people that decide whether it's gonna be-- it's gonna go or not.

Sarah Koenig

Okay.

Deirdre Enright

So, it goes every different way, right? Sometimes we start down the road and very quickly we talk to four witnesses, all of whom say “no, it was absolutely him,” they have no reason to lie. We quickly realize, okay, we’re being had here. We are in the weeds about a lot of things for a long time until we figured it out. So like today we had team meetings for our four clinic cases, and those are four cases, two of whom we are sure already, two of whom we’re just trying to figure it out. But your guy went to a jury, which-- that’s relatively unusual and I’m assuming he went to a jury because he was saying “I didn’t do this.”

Sarah Koenig

Right.

Deirdre Enright

Right? And so sometimes people say, “I did *some* of this but I didn’t do *all* of this, so I’m going to trial,” but he wasn’t saying that.

Sarah Koenig

Yeah, he’s always said the same thing, which is, like, “I had nothing to do with this.”

Deirdre Enright

Right, which-- I don’t know, a lot of lawyers say “oh, they’re all guilty, they’re all guilty.” I generally feel like, especially for most of my career, I was dealing with people-- I wasn’t a director at an innocence project-- and I had a very clear sense of which of my clients did what, and that’s because they told me. So I put some stock in people saying “I didn’t do it” and staying with that.

Sarah Koenig

You do.

Deirdre Enright

Mm-hm yeah. Now, I know some people would say I’m naive, but I also think I’ve been doing this work for a really long time, I don’t think ‘naive’ is a good word for me, you know what I mean?

Sarah Koenig

So, I feel like I'm having this experience where I'll read something or I'll do an interview and I'm like "ok, yeah, there's no way he did it, it just doesn't add up, it doesn't add up" and then the very next day I'm like "oh my God, oh my God--"

Deirdre Enright

Look at the phone call to Nisha.

Sarah Koenig

Well, yes, yes. Or like, "oh, this friend said that he behaved this way during the relationship, but this other girl I just talked to last night was like 'no, he was really overbearing and possessive'" and I'm like "wait, oh my God, maybe he did," you know? Do you have that? Does that still happen to you or do you just--?

Deirdre Enright

Oh, I now actually teach that. I tell people all the time, you are juggling, and everything's in the air, and you're frozen. You *have* to stay there until you've eliminated all questions. Because if you come down or catch one and get attached to it, you're gonna make the same mistakes that law enforcement do. I think, too, when you keep going, what happens to me is that I reach a tipping point where I have answered questions to my satisfaction and I have answers for everything and my answers are better than law enforcement's answers. So when I read what you've given me, I just think "you guys just don't have it. You just didn't--" Nobody's really doing anything bad, people are trying to run down their leads and talk to people, but they don't have enough to go forward but they do anyhow, right? So you've got bad feelings and you've got Jay changing his story. I look at this as, this is just a case that wasn't ready to be brought. You don't have enough to put Adnan away. Not to me, you don't.

Sarah Koenig

Yeah but doesn't the fact that they *did* put him away mean that they had enough to put him away?

Deirdre Enright

Well, yeah. They would say yes, and I would say no. The reason I say that is because I look at this and think, law enforcement and prosecutors and defense attorneys, we all-- we act like if

a jury will convict, then that's fine. I think those of us that know a good case from a bad case should know that even if we can a jury to convict, it doesn't mean we necessarily should ask them to do that.

Sarah Koenig

Does it not happen to you anymore, where you're like one day you think, "oh he did it," and the next day you think, "no he--"?

Deirdre Enright

Oh yeah, no for the first however many months thinking "oh yeah, of course it's him. Oh no it's not him." But, in order to revisit it in any kind of careful way, you have to revisit everything. The good and the bad and whatever, and look at it with, an eyebrow up. Sometimes it's going to stay exactly the way it is and it's unsatisfying.

Sarah Koenig

That's my fear. That I'm going to get through all this and be like, "I don't know."

Deirdre Enright

Yeah, and you might, and I can't pretend that that-- I just thought of something that I think we should do unless you don't want to do it, and you can just think about this.

Sarah Koenig

Okay.

Deirdre Enright

So, just today one of my teams, and it's one of my better teams because it's a kid who, a law student who has summered at the FBI and is going to work for the US Attorney. So, he doesn't have my tree-hugger, everyone's innocent instincts. But he's a *really* hard worker and he has a team and we just closed their case. He came to me tonight and said, 'are you going to find me a another good case?' And I said, 'yeah let me flip through tonight and see what we got.' I'm sitting here thinking, 'wait, I should assign them-'

Sarah Koenig

Oh. Oh my god.

Deirdre Enright

Right?

Sarah Koenig

That's really, um-

Deirdre Enright

Well, I literally, I just thought of it when I was sitting here, thinking it's a lot of legwork, if we had a team of five students, we could get those things done with people that are being supervised. So think about that. I'm totally hooked.

Sarah Koenig

I did think about it. I said 'yes, go ahead.' Not that I would work with her, my job, unlike theirs is not to figure out if or how I can exonerate Adnan. But sure, if they wanted to take a look at the case on their own, of course I'd welcome that. Many more sets of eyes, some fresh, some jaded, could only be helpful, it seemed to me. I went down to Charlottesville to see how they were getting along. Here is the sound of a law clinic getting ready to consider a new case.

(office noise)

That's a scanner, scanning it's little scanner heart out. It's manned by anyone Deirdre can grab, her students mostly, a couple of her kids come by the office, she gets one of her daughters scanning.

Sarah Koenig

You said the scanner smells good?

Deirdre Enright's Daughter

Yeah. (Laughs) Smells like laundry and ink.

Deirdre Enright

And I don't know how she knows what laundry smells like.

Sarah Koenig

That's Deirdre.

Deirdre Enright

So now what we do, usually, when we get our cases, is we collect what mom has, what the inmate has, what is in the court file, what-- paper everywhere. That's we do is collect all the paper and then do exactly what they're doing. Then, put the team in and say, take a weekend and read it all.

Sarah Koenig

Post-conviction work often involves going back and looking at physical evidence in a case. Some innocence projects only work with cases that have DNA evidence, for instance. Deirdre's group isn't one of those, but still, she'll definitely take it if she can get it. At one point Deirdre reads a print-out of an e-mail regarding evidence in Adnan's case.

Deirdre Enright

So this is an e-mail, in 2008, from the Baltimore Police, saying that he believes items from this case have been destroyed, but he doesn't have a document saying that that is true. So he can't be 100% sure. And he is the evidence control unit person. So, yeah, that's not good. I think there's two things to think about, there's a statute usually in every state about evidence retention and you can't destroy evidence until a case is over and done with, doesn't mean they always honor it. The other thing I'm thinking about is, I can't tell you the number of cases where somebody says, "I think it's gone." And then you go, and you be annoying and you poke around and say, "can I come back there and look?" And they say, "oh okay, we'll look." Then somebody goes, "oh, here it is." So, it's not fatal. Do you see how I refuse to accept anything?

Sarah Koenig

It's true, I can't think of anyone more optimistic than Deirdre. Which, I don't know I would have guessed that after doing this kind of work for decades and knowing how rare it is to reverse a conviction, you'd naturally settle in as a pessimist. But maybe the opposite is true: that *because* your chances are so low, you have to look on the bright side in order to do this work at all. Otherwise, you couldn't function.

Once Deirdre and her students digest this massive amount of paper, the next step is decide what they've got on their hands. First thing they do, says Deirdre, is to give Adnan back the presumption of innocence. It's kind of a profound thing when you think about it. It's supposed to happen the first time around, at trial. But it seems like no one in the profession really believes that it does. Because you can't help it, as a juror you figure the guy sitting behind the defense table must have done something wrong.

So, Deirdre's team starts with the premise that he didn't do it, and then they see where that road takes them. If where they end up is that they think maybe Adnan really *is* innocent, then they have to figure out if there is any way they can prove that in court. The answer to that could definitely be no.

Deirdre Enright

Because the evidence is gone, the people won't change their minds, there's no legal remedy. It's just, those things are just, after time, those things are usually harder to get to.

Sarah Koenig

As a legal question, Deirdre says they should only have to prove Adnan *isn't* their guy, he's not the killer. But as a practical matter, she said, their chances are much better if they can go a step further, and say to the State, "not only is this not your guy, we can tell you who *is* your guy."

Deirdre Enright

The truth is, when you can give the answer of who it is, it makes it a *whole* lot easier on everybody else to walk away and do this thing that no one ever wants to do. Usually, there is some logical explanation, right? There is a guy, there is a serial killer, there is somebody who is motivated, there is somebody who hated Hae. Usually there's something. So, you don't have to, but I always tell people, you have to.

Sarah Koenig

Of course, after looking everything over, Deirdre and her team might well decide that maybe Adnan is guilty. In which case, they would quietly pack up the files and just keep their mouths shut.

But what I'm saying is that that could happen here, in Adnan's case. You could look at it and say "eh looks like he did it."

Deirdre Enright

Hmm.

Sarah Koenig

Say it to me, I mean, not to the world.

Deirdre Enright

Right, I would say it to you. I would say it to Adnan, but I wouldn't say it to anyone else. I'll let you do that. (Laughs.)

Sarah Koenig

Four weeks later, I checked back in with Deirdra and two of her students, Katie Clifford and Mario Peia. They'd read through all the files.

Sarah Koenig

Do you guys, do any of you guys, think Adnan's guilty?

Deirdre Enright

No.

Katie Clifford

No.

Deirdre Enright

I wouldn't be able to find him guilty with this.

Mario Peia

No, this is one of the things that was very odd when I first started reading this case was how precisely he was convicted under this amount of material. But, no, I do not see him as being guilty at this point.

Deirdre Enright

I would just, at this point, knowing what I know, I would say, I guess I'd have to put him in the person of interest category because he was an old boyfriend. But, even that, I would think, I see no evidence that he was *mad*.

Katie Clifford

Mountains of reasonable doubt.

Deirdre Enright

Yeah.

Sarah Koenig

This surprised me. Somehow I thought at least one or two of them would end up on the fence. But, they all sounded so forthright. They said the big things that troubled them were the same things that troubled me: Namely, Jay's shifting statements to police and how the cell tower information didn't fully match Jay's narrative. But the other stuff they seized on was stuff I hadn't paid much attention to at all: the forensic reports, or rather, the relative lack of forensic reports. This is Katie:

Katie Clifford

Because in our files, we have a lot of things, evidence they collected that got sent off and we don't have reports for everything and we are curious about the results that we don't have and whether or not those exist and just why they're not in the files that we have.

Sarah Koenig

The liquor bottle, for one.

That bottle of Coronet VSQ Brandy that was found right near Hae's body. A lab report says they recovered nucleated epithelial cells from the mouth of the bottle and from the cap. But that's all. It just says, "retained for future possible analysis." But the future never came. They never tested those cells for DNA.

Then, Mario didn't like the report on the fibers. Two fibers, one, reddish, that was found near Hae's head and one that I think was fluorescent blue, it's a little hard to tell from the report, that was found underneath her, in the soil. Mario didn't think they were tested against enough samples. For instance, they weren't tested against a rope that was also found right near the body.

Mario Peia

I would think that you would be able to compare the fibers to the rope, or compare the fibers to whatever you can get your hands on and I didn't actually see that ever get tested. The fibers were tested against some things but nothing came back of significance and then the fibers just, the fact of the fibers just kind of went away.

Sarah Koenig

As for the rope, which, from a photo, looks sorta like a laundry line, it wasn't tested at all, for anything. Deirdre says that kind of thing happens a lot, where investigators will say, "oh, that item we collected? It's not relevant. It's not connected to what happened, so there's no point in testing."

Deirdre Enright

So another case that I had, anything that didn't match the suspect that they had, they just ignored it, right? They would say, "well that's outside the crime scene, that's really not *inside* the crime scene. So, those beer cans over there, we're not gonna test there because that's too far away. We're going to call that outside the crime scene." When I talked to DNA experts about that they were saying, "yeah, I mean, if you swab that and you get some skin cells or saliva and it's just random, you get no hit on anybody, well then it's neither here nor there." But, they were saying, "but, if you put it in and you get a hit on a serial killer, right? Or one of two other people that killed Asian women within a year in Baltimore, well now we've got enough to charge and convict somebody." So, what you call relevant and irrelevant you can only do once you have a test result.

Sarah Koenig

Finally, Deirdre and Katie and Mario were all confused by the swabs that were taken from Hae's body. The medical examiner had done what's known as a PERK kit, it stands for Physical Evidence Recovery Kit. It's a standard procedure in a rape case, but it is also done in some murder cases. There was no evidence Hae was sexually assaulted, but they did the swabs just the same. The medical examiner's report says they came back, "negative for spermatozoa." But that's about it which seemed very thin to Deirdre, these swabs weren't examined more thoroughly, that they were never tested for DNA.

Deirdre Enright

--which is just weird. That's just, that seems very strange to me in a case like this.

Sarah Koenig

That seems very strange to you.

Deirdre Enright

Mm-hm. You almost *always* submit that for DNA testing. That's what we're not seeing, is a lab report that says, if it came back, and that the other, being loosey-goosey about whether it's not Jay, not Adnan, you know, that's strange.

Sarah Koenig

So is that something that you guys would want to get tested, that stuff?

Deirdre Enright

Absolutely.

Mario Peia

Yes. Deidre, you can correct me if I'm wrong, but this certainly seems to be quite a bit to get started.

Sarah Koenig

Do you have any metric of how hopeful/hopeless this one looks at this point in terms of finding out something useful and usable?

Deirdre Enright

Mario is shaking his head. That's because he's a pro-government right-wing Republican operative. (Laughing)

Mario Peia

Easy, here.

Deirdre Enright

I'm teasing. Please don't put that on the radio.

Sarah Koenig

I checked with Mario, he said it was fine.

Deirdre Enright

You know, it's *always* an outside shot, *always*.

Sarah Koenig

But there's enough here, I guess what I'm saying is, there's enough here that you think it's worth asking these questions. You know what I mean, do you guys independently think feel like something went wrong here? Or is this just like "well, we're sort of humoring you, the reporter."

Deirdre Enright

No, I would look at this-- I would have a team on this case saying keep going.

Sarah Koenig

I see.

They all seemed so hopeful, so sure that with enough digging they were going to shake something loose. But, I was more skeptical. I mean, I felt like I had been in that same mindset for so many months and I hadn't found anything that absolutely tipped the scale in Adnan's favor. Anyhow, Deirdre noticed.

Deirdre Enright

Sarah, you sound really down on Adnan today.

Sarah Koenig

I don't know.

Deirdre Enright

Yeah, you're --

Sarah Koenig

I go up and down, I go up and down! Sometimes I am totally with him and then other times I am like, "I don't know dude, this doesn't, why can't you remember anything? Why does nothing, I don't know and that I just go back to why can't you account for this day, of all days. You knew it was an important day, you got a call from a cop that day, asking where your ex-girlfriend was. Surely, you must have gone over it, before six weeks had passed, surely." You know?

Deirdre Enright

I don't have that reaction but, I see what you're saying.

Sarah Koenig

Yeah...and then I am just aware of, "what if he is this amazing sociopath?" and I'm just being played, you know? I don't get that sense, but he's really charming. He's really smart. He's really. He's funny and he could totally be a sociopath.

Deirdre Enright

But see, here's where I go with that, in my twenty-six years of doing this, I pray for a sociopath, because I never get those guys. I get the innocent ones and I get these dumb "so me and my friends smoked crack for three days and drank five bottles of whatever and then we got a plan." That's who I get. All. The. Time. So, I think the odds of you getting the charming sociopath, you're just not that lucky. Very few times have I had a client-- and the ones who really did it and they have *serious* mental issues and they're not sociopathy, they're schizophrenia or florid psychosis, because of a whatever. I just think that the odds of him being that and no one having detected any signs of it until he kills his girlfriend who he's moved on from, so--

Sarah Koenig

Deirdre and her gang, they've got to stick with stuff they can bring to a court, forensics mostly. They're on the lookout for another explanation entirely. Maybe Adnan had nothing to do with this at all, maybe it was a serial killer. Maybe there's a clue from another Baltimore cold case. They're like explorers, headed for a bold new world. Me? I'm gonna stay right here at home with my little garden spade and keep scraping at the thing that confuses me most, Jay.

Next time, on Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Fact checking by Karen Fragala-Smith. Administrative help from Elise Bergerson. Our theme music is composed by Nick Thorburn, scoring music by Nick and by Mark Phillips who also mixed our show. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, *and* sign up for our weekly emails, SerialPodcast.org. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. Serial is a production of This American Life and WBEZ Chicago.

--Complete--

Episode 8: The Deal With Jay

-MailChimp Ad-

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Ira Glass

Previously, on Serial...

Deirdre Enright

I think the odds of you getting the charming sociopath-- you're just not that lucky.

Adnan Syed

With Jay, it was more so kinda like -- in my mind I was like, "maybe the police are putting him up to this."

Jenn Pusateri

I said, "what was your involvement? Were you involved?" He said no.

Detective

Before you stated you'd be willing to take us out and show us where the vehicle's parked.

Jay

No problem.

Detective

Are you still willing to do that?

Jay

Yes sir.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility. This call will be recorded and monitored. If you wish to...

(brief interlude with music)

Stella Armstrong

Okay. My name is Miss Stella Armstrong. Baltimore, Maryland.

Sarah Koenig

And you were a juror on the Adnan Syed case, right?

Stella Armstrong

Yes I was.

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. I'm Sarah Koenig.

I wanted to know, from Stella Armstrong, why she voted to convict Adnan Syed. She immediately talked about Jay, that she believed him.

Stella Armstrong

Like I said, it's been a while but I remember the one young man who was supposedly his friend, who had enabled him to move the body. That struck me that "why would you admit to doing something that drastic if you hadn't done it?" You know what I mean? For what reason? What was he going to gain from that? He still had to go to jail.

Sarah Koenig

Yeah. Actually he didn't go to jail.

Stella Armstrong

Oh he didn't? The friend didn't?

Sarah Koenig

No. He walked.

Stella Armstrong

Oh! That's strange. That's strange.

Sarah Koenig

I asked Stella the same thing I ask anyone who has come into contact with Jay. What is Jay's deal? And by that I don't mean his plea deal, that he plead guilty to accessory after the fact in a first-degree murder, testified against Adnan, and got no prison time as a result. I'll talk more about that in another episode. What I mean is, "what did *you* make of Jay?" Which, of course, is code for "what am *I* supposed to make of Jay?" How did he come across, sitting up there on the witness stand?

What was his demeanor on the stand? What kind of kid did he seem like?

Stella Armstrong

He seemed like he was streetwise, can I-- I hope that's the best way to put it. He seemed like he got around in the neighborhoods, or he was able to take care of himself. He reminded me of-- he would be that friend if you got in trouble you would call. You know what I mean? Say if I was back in high school and somebody was bothering me, he reminded me of somebody I would call to help me. Like if somebody was fighting me, or--

Sarah Koenig

So it was believable to you that he would be that guy for Adnan, like he would be the guy Adnan would turn to.

Stella Armstrong

Yeah, yeah. That was my impression. Because we all have somebody in our life like that, you know. You may know a cousin or a relative who if something goes wrong, you think you can call to help you.

Sarah Koenig

When you just said that, I just did a very quick scan of all of my contacts in my family and I feel like I can't think of one. They're all so useless! (laughs)

Stella Armstrong

We won't say "they're all so useless."

Sarah Koenig

The Jay that Stella saw at trial, he was wearing a tie, sometimes a jacket. He's handsome, he's tall and thin. You can see in the trial video how he has to bend over a little each time he speaks into the microphone in front of him. Since Jay's credibility was the State's case, Adnan's attorney, Christina Gutierrez, tried to rip it to shreds. That essentially was her defense. She uses the words "truth" and "lie" as often as possible in her cross-examination. There were many exchanges like this one. Gutierrez asks him, "and now your second interview on tape, that you were *not* telling the truth, were you not?" Jay says:

Jay

I was not telling them everything, no.

Christina Gutierrez

What you were telling them were *lies*. Were they not?

Jay

Some.

Christina Gutierrez

So the answer to my question is "yes, I was not telling the truth," is it not?

Prosecutor

Objection.

Judge

Sustained.

Sarah Koenig

Gutierrez asks Jay about Best Buy. About how Jenn Pusateri told him there were security cameras in the parking lot and at the entrance. If Jay didn't kill Hae, why would Jay care whether there were cameras there, she asks. She puts it to Jay almost casually.

Christina Gutierrez

You have us believe--

Prosecutor

Objection.

Christina Gutierrez

--that you had nothing to do with the death of Hae Lee, right?

Judge

Sustained.

Christina Gutierrez

One more question. Did you kill Hae Min Lee?

Jay

No ma'am.

Christina Gutierrez

You weren't present when she was killed.

Jay

No ma'am.

Stella Armstrong

The defense attorney tried to make him-- well basically she was trying to show that Jay killed her, and was blaming it on Adnan. That's what I remember. Nothing led us to believe that he had a motive to kill Miss Lee. That really stayed with me because she was so adamant that he was a liar.

Sara Koenig

Right, so you just didn't buy that he was lying about it.

Stella Armstrong

I didn't buy that it was a lie. I bought the fact that he was telling the truth about what happened at that moment.

Sarah Koenig

Jay took the stand on five different days during the second trial. This must have been a harrowing, nerve racking stretch in his life, but large swathes of the trial itself are really boring. Not just the procedural stuff, that's always boring, but the cross-examination was boring. Even of the star witness. One defense attorney I talked to said that boringness can be a strategy. She said lawyers know that people can only pay close attention for so long. Forty-five minutes, an hour, before they start to flag. So it's not theatrics that gets people to crack, it's tedium; which would explain so much of what Gutierrez was doing if in fact that was what she was doing. She spends a lot of time on streets for instance, the trajectories of different roads, whether they travel northeast, or northwest, whether their names change as they cross from the city into the county, on buildings, how they're situated.

Christina Gutierrez

And *that* Best Buy is a boxy structure with the Best Buy logo at an angle, is it not?

Jay

Yes ma'am.

Christina Gutierrez

And it's plainly visible from Security Boulevard, is it not?

Jay

Yes ma'am.

Christina Gutierrez

Right at the (cough covers speech) it changes its name, there's a light there that if you were not on Security Boulevard, but on that street and you went straight you would go into the parking lot of Security Mall, correct?

Jay

Yes ma'am.

Sarah Koenig

Jay doesn't crack though. He is alert, he is polite, he is he stays with her. He stays with her when she's calm and soothing and boring, and he stays with her when she gets a little more shouty. He sticks to the "yes ma'am, no ma'am" answers which, if I had to guess, is probably seventy-five percent of what Jay says in cross. There is a part where Gutierrez tries to suggest that Jay was cheating on his girlfriend Stephanie with Jenn Pusateri.

Christina Gutierrez

If you were stepping out on Stephanie, that would have had impacted on your relationship, would it have not?

Jay

With whom?

Christina Gutierrez

With anyone.

Jay

With Stephanie?

Christina Gutierrez

If *you* were stepping out on Stephanie, you understand what that term means don't you?

Jay

Yes ma'am.

Christina Gutierrez

Okay, if you had another girlfriend, anyone, any name, any where, that would have impacted with Stephanie would it have not?

Jay

I didn't hear the last part.

Christina Gutierrez

If you were stepping out with any girl of any name, from any location, that would have impacted your relationship with your girlfriend Stephanie would it have not?

Jay

Yes ma'am.

Christina Gutierrez

And you were always aware of that, weren't you?

Jay

Yes ma'am.

Sarah Koenig

Even when he gets irritated, Jay is civil. "Excuse me, your honor," he says when Gutierrez gets loud, "could you ask her to stop yelling in my ear please?" Gutierrez died a few years after this trial, so I can't ask her, but I have to think nothing she's doing here is accidental. She was a successful, sought after defense attorney. She was aggressive. And obviously the courtroom is no place for pulling punches, but you gotta wonder whether moments like this hurt Adnan's case rather than helped it, because, Jay seems like the underdog. It's Baltimore. Half the jury is black, seven out of twelve actually. Jay probably comes off as a nice young man and this white lady is yelling at him. Sometimes unwittingly or not, Jay's testimony is almost poetic. He says he told Jenn Pusateri to be honest with the detectives because "the lies that we were telling to try to protect each other were clouding the truth." When he's asked why he didn't warn Hae that Adnan wanted to kill her, he says it was because he didn't think Adnan was serious. "I took it as a grain of sand instead of concrete." And when he's asked why the image of Hae in the trunk of a car stuck with him, he says "I've never seen anyone dead before, and the first thing I thought was how fragile Stephanie was."

People lie in court under oath all the time. Witnesses lie. Lawyers lie. Police lie. This should come as a shocker to no one. I'm not saying that's what happened here, I'm just saying that I'm not assuming that everyone who participated in Adnan's trial told the truth. But clearly the jury found Jay believable, or believable enough. After a six week trial, they convicted Adnan in just two hours. We talked to six jurors and none of them had any lingering doubts about the case. None of them

wondered if the investigation was shoddy. None of them were much bothered by how Jay's statements to police had shifted over time. So am I wrong to be hung up on that?

Jim Trainum

No.

Sarah Koenig

I should be concerned about the inconsistencies?

Jim Trainum

I'm concerned about them.

Sarah Koenig

You are?

Jim Trainum

Yes.

Sarah Koenig

As I've mentioned, the detectives involved in this case didn't want to talk to me for this story, so I turned to this guy.

You are Jim Trainum. James? Do you like James or Jim?

Jim Trainum

Jim is fine.

Sarah Koenig

Jim Trainum, and we've-- we hired you, because unlike me, you're a real detective. (laughs)
I'm just playing one on the radio.

Jim Trainum used to be a homicide detective in Washington D.C. A jurisdiction not too different from Baltimore. He's now become something of an expert on false confessions, and an advocate for better interrogation techniques. He goes around the country doing presentations about it. We gave Trainum everything we had on this case. Files, tapes, transcripts. Again, I want to be clear, we paid him for his time. It's a huge amount of material to go through. I wanted Trainum to weigh in on two things. First, just overall, how would he rate the investigation into Hae Min Lee's murder? Did the detectives do a good job, or did they screw it up? And second, how should I be thinking about Jay as a witness? What were the detectives seeing that maybe I wasn't? Trainum said yes, he thought the inconsistencies were a problem too. But he also said "don't forget the flipside."

Jim Trainum

But I'm also looking at some of the consistencies too. He took them to where the car was. That's a huge thing right there.

Sarah Koenig

Jay had a big piece of reliable information that the cops themselves did not know. Where Hae's car was. Plus, Trainum said, Jay's story completes a circle for the cops. They were suspicious of Adnan from the beginning, then from Adnan's cell records, they get to Jenn, who leads them to Jay, who tells them it's Adnan. So their suspicions have now been borne out, thanks to Jay, through Adnan's own phone. A satisfying investigative circle. A murder case, on a silver platter, says Trainum.

Jim Trainum

He puts it on who they consider to be the logical suspect. I mean yeah, it's pretty much a dream case.

Sarah Koenig

Part of what Trainum does is review investigations, and he says this one is better than most of what he sees. The detectives in this case were cautious and methodical. They weren't rushing to grab suspects or to dismiss them either. The evidence collection was well documented. I didn't expect to hear that even though it's basically a one witness case, the cell records mostly don't match Jay's statements, there's no physical evidence linking Adnan to the murder. Despite all that, to an experienced detective like Trainum, this looks like a pretty sound investigation.

Jim Trainum

I would said that this is better than average.

Sarah Koenig

Wow.

Jim Trainum

But what I'm saying is this: the mechanics, the documentation, the steps that they took, and all of that, they look good. Okay? I would have probably followed this same route. However, what we're unsure of is what happened to change Jay's story from A to B, and we do not know what happened in the interrogating-- those three hours and that will always result in a question as to what the final outcome should have been.

Sarah Koenig

Here's what he's talking about. In both of Jay's taped statements, there's a before. A period of time before the tape recorder is turned on. When the cops first bring Jay in on February 28th, they talked to him for about an hour before the tape went on. Then, on March 15th, the second interview. Jay signs his initials to an official explanation of rights form at 3:15 p.m. Then the tape starts.

Detective

Today's date is the 15th of March. It's approximately twenty minutes after six at night.

Sarah Koenig

6:20 p.m. So from 3:15 to 6:20, three hours have gone by since Jay signed that form. This is what's called the pre-interview, and Trainum says, that's where the mischief can happen. The contamination. Not necessarily intentionally, but it happens. The pre-interview was when the cops and the witness kind of iron out the statement so it can be taped as a coherent thing. That was standard procedure back then. Now, like a lot of jurisdictions, Baltimore homicide detectives videotape the entire interview from the moment the person steps in the interview room. On March 15th, we know the cops had shown Jay at least some photographs from the investigation, they refer to that on the tape. And Jay says at trial that he was confronted with the cell records during that interview as well, so you have to wonder, said Trainum, whether he was massaging his story to fit what the cops wanted to hear. The inconsistencies in Jay's statements that the cops are catching him in, Trainum says, cops are used to that. Every confession has inconsistencies. You just need to understand why they're happening. Is he minimizing his role? Is he protecting someone? In Jay's case, yes and yes. But how do you make sense of the inconsistencies that don't seem to have a purpose, like the one about going to the cliffs at Patapsco State Park that afternoon, how it drops out of the narrative at trial.

Sarah Koenig

--and from where I sit, I'm like, yeah, it doesn't work because it doesn't fit your timeline. He can't get back to track in time. If you went out and smoked a joint. You know what I mean, anyway, I'm getting too deep in--

Jim Trainum

No, no, you're not at all because I think that one of the biggest problems that we have with the way that we interview and interrogate here. The fact that we have an excellent witness-- we've got somebody who is giving us the whole case right here, he's broke it wide open for us, we don't want to ruin him, you know? So how much do you want to push, how much do you want to create "bad evidence?"

Sarah Koenig

But, there's no such thing--

Jim Trainum

It's an actual term, called "bad evidence." Right. You don't want to do something if it is going to go against your theory of the case.

Sarah Koenig

But, see-- I don't get that. I mean that's like what my father always used to always say, "all facts are friendly." Shouldn't that be more true for a cop than for anyone else? You can't pick and choose.

Jim Trainum

Rather than trying to get to the truth, what you're trying to do is build your case, and make it the strongest case possible.

Sarah Koenig

But, how can it be a strong case and how can he be a great witness if there's stuff that's not true, or unexplained.

Jim Trainum

--and the comeback is is that there is always going to be things that are unexplainable. Like I said, also remember, verification bias is kicking in here, as well. "I want to believe you, because you're my witness and I think this is what happened" and all that. "So, the fact that you're giving me something that's inconsistent, that doesn't fit my theory of the case." What does verification bias cause you to do? Ignore it and push it to the side. That's what they're doing here, with these inconsistencies, they're kind of pushing them aside.

Sarah Koenig

Trainum said it was curious to him, that the cops never searched Jay's house for instance, that they never subjected him to a polygraph. Again he said, maybe that's because he was on their team now, helping, so you didn't want to push too hard. He said the cops "probably settled for what was good enough to be the truth." He said he did have doubts about Adnan's claim of innocence but that he definitely thought there was something "off" about this case. That we still don't know what happened in this murder. We still don't have the true story.

Jim Trainum

I don't believe Jay's version. I think that there is a lot more to it than that. I feel that he's definitely minimizing his involvement. To either protect himself, he's doing it for one of three reasons: to protect himself, to protect somebody else, or because Adnan did it and was right there with him.

Sarah Koenig

Right, right.

Jim Trainum

But, I cannot prove that he is giving it to me without contamination. The real problem is is that, how do you prove it one way or the other?

Sarah Koenig

Right.

Sarah Koenig

Trainum says the answers we want probably live in those unrecorded pre-interview hours. A black hole of crucial information.

Since this stuff wasn't all videotaped, there were holes that, as you're saying, we are never going to know the answer. But for things that I *could* know the answer to if you're me, what's the biggest thing I need to figure out then?

Jim Trainum

Get Jay to talk.

Sarah Koenig

Okay, okay.

Julie Snyder

We passed the city limit.

Sarah Koenig

My producer, Julie Snyder and I, went to see Jay. We did not warn Jay we were coming, which is not the gentlest reporter move, I know. But I thought we'd have the best chance of success if we met him face to face, so we could make our case for why we wanted to talk to him and he could have a better sense of who we were and what we were about. But, because it's also sort of a dick move to show up at someone's door like that, Julie and I were nervous.

I am so hyped up, listening back to the tape, I wanted to give myself a Xanax.

Sarah Koenig

I feel super excited to talk to him, like so excited to talk to him, I can't tell you. Like, if this works, he knows, he knows everything we want to know, every questions we've had for the past eight months. Seven months, he knows it. Whether or not he tells us is a different thing but he's a treasure chest of answers that we've been looking for this whole time and he has it, he's it. But, whether or not he opens the door, or if he's even home, we don't even know if he's home!

Sarah Koenig

We arrived, Jay was not home, so we came back again many hours later, knocked. Jay answered the door, tall and skinny and exhausted looking. A beer in his hand. It was Friday, probably the end of a

long workday for him. He nevertheless invited us in, asked us to sit down. We didn't record anything, we stayed about 20 minutes maybe. It was a tense meeting, and an emotional meeting, in fact. Afterwards, Julie and I felt like we'd walked into a stranger's house, lobbed a grenade onto his living room carpet and then waved goodbye. We debriefed back in the car.

Julie Snyder

Here's the first thing he said, I mean he said that there are a lot of people who say they don't think Adnan did it. He very forcefully said, "well then who did?"

Sarah Koenig

That's right, he said, "who did? I was there, I saw it, I know what I know." He was very forceful, "I can't even believe that he won't even man up and admit it." He just totally scoffed at the idea that, Adnan would be claiming his innocence. He was very calm, like how would you describe his demeanor?

Julie Snyder

Tired. Yeah, he seemed tired and wary. But actually very polite and actually sort of very sweet, and, tired and-- but he also said "I'm feeling so much animal rage right now even you bringing this up right now." Which, he does a good job of, keeping it in, because he didn't seem like he was about to-- I mean actually you could kind of see him about to hit something, but in a more frustrated, understandable way.

Sarah Koenig

Jay was, understandably, skeptical of us and of our motives. When we left, Jay said he'd think about an interview and get back to us. He left a strong impression. On Julie maybe, even more than on me.

Julie Snyder

Even just hearing him so forcefully deny, you know? And so forcefully say "I know he did it." You know, you're face to face, he's right there, he's a person. He's saying it. He seems like he really means it. This is not pleasant for him to talk about. And so, it sounds believable.

Sarah Koenig

It does, I totally saw the appeal of him, as like a person and a friend and a witness.

Sarah Koenig

Jay and I corresponded sporadically by e-mail in the weeks following our meeting. He said he wasn't afraid of the truth. Finally, in so many words, Jay declined an interview.

So, what is the deal with Jay? I talked to dozens of people. Mostly his friends and classmates. Kids who knew him from Woodlawn High School, they have a range of opinions about whether he was a good guy or not a good guy. But they all agreed, that he defied categorization. He was different.

Male Voice #1

He was like the Rodman of our social world.

Male #2

He was the one black kid that had a lip ring and listened to Rage Against the Machine and you know--

Female Voice #1

He would dye his hair different colors. Like, I think one time he had it red and another time he had it blonde. But the blonde lasted for a long time, I remember the blonde for sure.

Male #3

I remember he had a BMX belt buckle. And he had a belt buckle, like who the hell had a belt buckle?

Female #2

Basically, Dennis Rodman is the best way I can describe it.

Male #4

You know, if he was at my house and my mom came home and he left, she'd be like, "who's that and why is he here?"

Male #5

It was like, whoa, he's a weirdo. At the time, I didn't know too many black guys that were into all of those piercings and shit and the big gothic jeans like that. Again, Woodlawn was a fairly

black neighborhood, black community, black-- predominantly black high school, and at seventeen, anything different from you is weird.

Sarah Koenig

So Jay didn't look like the other kids at school and he also didn't act like the other kids at school. He loved animals, he once bought a giant rat eating frog, and he loved the outdoors. Fishing, hiking, swimming. He rode BMX bikes at an old skate park. He played lacrosse for Christ's sake.

Male #6

I think Jay was actually pretty good at lacrosse. Tall wiry dude, he could run for days, there was no training needed for that kid, he could just run forever, which is a good thing as he wasn't the type to put in a ton of training in.

Sarah Koenig

Right, because he wasn't a jock. He was more of a stoner people said. He didn't seem to care whether he fit in.

Male #7

And he always seemed very honest with who he was. He was kind of this, beautifully unconventional guy.

Sarah Koenig

Jay didn't come from the same kind of household as a lot of the other kids he hung around with. He lived with his grandparents and his mom, but his friends say it seemed like he was more or less taking care of himself. He always had a job, his mother depended on him. Jay wasn't in the magnet program at Woodlawn, he was "Gen Pop", their term, not mine, like General Population at a prison. Anyway, he hung out with some of the magnet kids because his girlfriend Stephanie was in the program.

People told me contradictory things about Jay. Three women who knew him from Woodlawn, including one teacher, told me unflattering things about him. Nothing terrible, just that he was mean, or intimidating. Some kids thought of him as "shady", that you wouldn't want to push him. You got the sense that if you cross Jay, he'd come after you.

But then, I also heard descriptions of Jay that included the word "goofy" or "stoner", or that the thuggish vibe was just a pose, something Jay put on to seem tough.

Chris

He's, he's an alpha, he's definitely an alpha male.

Sarah Koenig

This is Chris who says he was one of Jay's best friends around this time. He said Jay might say, slug you as you're walking down the hallway at school, but he wasn't mad or anything, he's just messing around. Boys will be boys kind of stuff. Chris remembered this one story where it seemed to me all the different versions of Jay I'd heard, the goofy and the scary, were contained in it.

Chris

You know, we'd have weird arguments sometimes I remember outside of one of my cousins houses he tried to stab me because I hadn't been stabbed before, so we got into a fight over-- actually I *gave* him a knife because I worked at a knife shop.

Sarah Koenig

Oh.

Chris

I gave him a knife and then he tried to stab me with it, so we were literally like fighting outside of my cousin's house and he's like "yo, I'm not gonna stab you deep but you never been stabbed before, you need to know what it's like," and I'm like "yo, I'm not gonna let you stab me."

Sarah Koenig

I talked to three people who said they knew Jay well, or hung out with him around the time of the crime and I asked them if he ever told them about what happened. I went to Chris first because when Jay spoke to detectives that first night during his first taped interview, Jay mentioned Chris by name. The cops had asked Jay if he had told anyone else about Adnan committing this murder and Jay said he'd told Chris. Chris told me police never questioned him, not that he could remember anyway and he thought he'd remember something like that. There are no notes in their files about an interview with Chris. But Chris said it was true, Jay did tell him about what had happened, but his version, the building blocks are the same but the surrounding details are unfamiliar. Of course, giant caveat, it's fifteen years later that I'm asking Chris to tell me, but for comparison purposes, here goes.

Chris says Jay told him he was at a pool hall out on Route 40 and Catonsville when he got a call from Adnan. The pool hall was either VIP or Bluejays, Chris says, they were across the street from each other at the time.

Sarah Koenig

He told you that Adnan came to get him when he was at a pool hall.

Chris

He was shooting pool, Adnan called him he was like “yo, I gotta talk to you,” and he was like “yo I’m busy.” “Yo, where are you” and he told him where he was. Adnan showed up and he’s like “oh I gotta talk to you” and he’s like-- this was a little tug of war for a while and Adnan eventually convinced him to come outside with him and his car or, I don’t know if he was driving his car or Hae Lee’s.

Sarah Koenig

In this version the trunk pop happens at the pool hall. Chris said Jay told Adnan he wanted nothing to do with it but Adnan forced him, told him he was in it now, he was an accessory and he knew Jay couldn’t go to the cops because of his own illegal activities so Jay was stuck. He helped bury the body. Chris figured Leakin Park was likely Jay’s idea rather than Adnan’s. Chris’s information about the crime itself doesn’t quite match the State’s version. He said, Jay told him that Adnan confronted Hae about flirting with another guy, a car salesman and when she called Adnan crazy, he snapped and strangled her. And Chris said he heard this happened in the parking lot of the Woodlawn Public Library. Remember that’s the one that’s right on campus where Asia said she saw Adnan that day.

Chris says Jay told him that Adnan threatened to kill Stephanie if Jay didn’t keep his mouth shut. This is not the first I’d heard about something like this. Jay told the cops that he worried that Adnan would hurt Stephanie too and he also testified at trial that Adnan has made it clear that he could get to Stephanie any time he wanted since they were such good friends. Stephanie herself tells the cops, this is in their notes of their conversation with her, that Jay told her to stay away from Adnan. Chris says Jay told him Adnan showed up at Jay’s house with Stephanie not long after the crime and made a gesture to indicate “I’ll hurt her if you’re not careful.”

Chris

So Stephanie goes inside past Jay and he steps out onto the porch with Adnan and he says “you’re not going to terrorize me,” and Adnan says “you keep your mouth shut or something’s going to happen.” If he had any weakness, it was Stephanie. Jay would do, he would move heaven and earth if it came to protecting Stephanie.

Sarah Koenig

I talked to Laura, a friend of Jay’s and Stephanie’s and Jen’s *and* of Adnan’s. Back then she was Laura Estrada Sandoval. She was close with Stephanie, they played sports together.

Laura

Her parents didn't agree with their relationship because he was just-- they felt he wasn't going to amount to anything. He wasn't going to school. Stephanie, she's beautiful. She was a star athlete. She got a scholarship at college. She's perfect you know. She ran the fastest, she was always in shape no matter what. She could eat anything and she always saw the good in people no matter what, no matter if her parents were telling her he's not a good influence on you. But because she loved Jay so much, she was going to support him regardless. She was his good thing in life. He was like, "out of all the craziness, Stephanie was his amazingness."

Sarah Koenig

Stephanie didn't want to talk to me and no one I spoke to who knows her wasn't surprised by that. To a person they said she never talked to them about what happened either. They said it was like a wall came down and they couldn't penetrate it. Laura told me it kind of did in their friendship because Laura really needed to talk about it and Stephanie wouldn't, or couldn't.

Laura hung out with Jay all that summer before the trial and she says they just didn't discuss it. Hae's murder was this enormous, sad, frightening elephant nobody wanted to go near. Jay's friend Patrick told me he couldn't get Jay to talk about it either.

Patrick

I think I just kept saying, "What happened? What in God's name happened? In all this, like--"

Sarah Koenig

This Patrick by the way isn't the one I've already mentioned in an earlier episode from the call log, different Patrick. This Patrick went to Woodlawn, he was a year ahead of Jay, so two years ahead of Adnan and Hae and Stephanie. Patrick lost touch with Jay when all this went down. He says he tried and tried to call but Jay never responded. Years later, maybe around 2005, Jay got back in touch one day and then they saw each other at a little party. Patrick asked him about it.

Patrick

I'd heard all of these like renditions and versions of stories from so many people, I figured, I have him in front of me now, I can get to the truth and he said "yeah, I was afraid he was gonna hurt Stephanie." I said "like Adnan? He was gonna-- did he threaten her?" He just said he was afraid that he was going to hurt her so I think he took it as a threat but I remember when I pushed him for detail when I pushed him for more, it wasn't-- I didn't get it.

Sarah Koenig

He wasn't going to go any further with it.

Patrick

He just wasn't, you know and there was a lot of it-- kind of the chummy punching me in the shoulder kinda like "c'mon man, let's just drink beer and hang out."

Sarah Koenig

Patrick says the Stephanie explanation sounded pretty thin to him, but he couldn't get anything else out of Jay and figured it wasn't his place to force it. I asked all Jay's friends I spoke to whether they thought Jay was telling the truth about what happened that night. I got some curious answers because his friends say Jay has a reputation for lying, but not for lying about something like that, something so big. Sort of the same way he had a reputation for being scary, but not scary-scary.

Cathy

The first thing that popped into my head was "Jay lies. That's why he does that. Jay lies about everything."

Sarah Koenig

That's Cathy. Again, that's not her real name or her real voice. She's the person who said Adnan was acting weird at her apartment that night of the murder when Jay brought him over.

Cathy

When you were talking about it and saying, well you know, Jay has all these inconsistencies and stuff. The first thing that popped into my head was "that's because Jay lies. Jay doesn't tell the truth."

Sarah Koenig

But like about what? What kinds of stuff are you thinking of?

Cathy

Everything. I think he was kind of like, about everything, nothing. I can definitely remember sometimes when Jay was telling a story and he would clearly know it was bullshit. I remember one time looking at Jenn and Jenn would roll her eyes like "here we go again. This is such bullshit."

Sarah Koenig

Both Chris and Patrick told me that Jay would tell them stories, tall tales almost, that they figured had to be made up, but then sometimes these stories turned out to be true. Cathy said “sure, Jay might lie about what he had for breakfast or even whether he went to Patapsco State Park on the afternoon of January 13 1999,” but she didn’t think that Jay was lying about the crime itself because she’s convinced Adnan is guilty based on Adnan’s behavior that night and what he was saying when he got that phone call at her house.

Then there’s Jenn Pusateri. Of all the people Jay told about this crime, I wondered most about Jenn. If she ever thought Jay was lying about that night. I spoke to her briefly at her work, she works at a discount store. She wasn’t rude, but she was totally uninterested in talking to me. She had nothing to hide, she said, she just did not want to talk about that time in her life, period. She did answer my one big question, though, and her answer was yes. She believed Jay then, and that hasn’t changed in the intervening years. I said, yeah, but he did lie to you somewhat back then. Remember, he tells Jenn that night that he doesn’t know where Adnan put Hae’s body. That they don’t know enough to go to the police. Jenn told me she could understand that kind of lie. That anyone in his position forced into something he wanted no part of, anyone might have told the same kind of lie. It didn’t shake her trust in his overall story. Then she added, there *was* one thing she never believed. She said she never believed the murder happened at Best Buy, because she thought there would have been security footage, and that never came out. I told her it seems like maybe there really weren’t security cameras at Best Buy back then, and she kind of shrugged and said: “Oh well, see, I don’t know.”

Plenty of people I talked to said when they heard Jay was wrapped up in a murder, it didn’t surprise them. Adnan, they said no way, shocking. But Jay? Not so shocking. People also said they couldn’t square Jay feeling threatened by Adnan. The dynamic of that just seemed wrong to them. But then there’s Patrick, and Laura, and Cathy, people who’d spent a lot of time with Jay, people who *were* shocked by Jay’s involvement. They couldn’t see why Adnan would even turn to Jay for something like that, it made no sense. They said that wasn’t the laid-back Jay they knew, the same thing almost every single one of Adnan’s friends says about him. So they end up in this inbetween place where they can’t quite wrap their minds around the story of that night. Here’s Patrick again. To him, Jay was this intelligent, inquisitive, sweet, goofy guy, beautifully unconventional.

Patrick

I think part of me hopes-- I know this is so terrible to say. I hope in some way his hand was forced, that he was, that he had no choice, or that things were outside of his control, and maybe he was looking out for the safety and wellbeing of others, and he wasn’t such a willing participant as he was, and I, certainly hope that he wasn’t.

Sarah Koenig

That grappling you can hear in his voice, that's so common among this group of friends. People like Laura, who can't imagine Adnan killing anyone, but also can't imagine Jay doing what he said he did, or why he would lie about something so huge. If you're Laura and there's no scenario here you can rationalize, you're left with fog. This piece of tape I'm about to play you, it's my favourite piece of tape from all my reporting so far, because I relate to it so precisely. It could be me talking to Laura, instead of the other way around.

Laura

Well then who the fuck did it, like, why would-- it doesn't make sense. Why would--
(stuttering) Hae was-- I can't-- I'm probably just as confused as you are.

Sarah Koenig

At Jay's sentencing for his accessory after the fact conviction, he's wearing a white shirt, his long arms hanging at his side. He's towering over his lawyer who's petite. She tells the judge all the stuff a defense attorney tends to cover at a sentencing, Jay's tough upbringing, that he didn't have adults helping him set a moral compass, that he's hard working and loves animals and is good with kids, that he's headed to college and wants to better himself. She says he underwent "rigorous and demeaning cross examination on the part of Christina Gutierrez" and she says he's remorseful. She says, just now he was weeping in the hallway about Hae Lee.

Prosecutor Kevin Urick tells the judge he's thoroughly pleased with Jay's participation in the case and impressed.

Kevin Urick

--as I said very satisfactory and I believe honestly testified and also I would say something you don't usually see I think he actually showed remorse during-- I saw real remorse on his part so I'd be happy to make that recommendation on his--

Sarah Koenig

The judge is impressed too and Jay does seem genuinely torn up.

Judge

Is there anything you wanna say before I impose sentence?

Jay

Just that, whatever you do decide, I'd like you to know that I have a real hard time even sitting here, because I feel like people look at me and they think I'm a horrible person and that, I'm really sorry for my part in what happened.

Sarah Koenig

The judge sentences Jay to two years probation, no jail time. His lawyer mouths the words 'thank you' to the judge. Jay leaves the courtroom with the only person who came with him that day, Stephanie.

Adnan didn't testify at his trial, which isn't unusual. Jurors aren't supposed to take that into consideration. The judge tells them so. That they are not allowed to hold that against a defendant when they're deliberating.

Sarah Koenig

Did it bother you guys as a jury that Adnan himself didn't testify, didn't take the stand?

Lisa Flynn

Yes, it did.

Sarah Koenig

That's Lisa Flynn, one of the jurors.

Lisa Flynn

That was huge. We just-- yeah, that was huge. We all kinda like gasped like, we were all just blown away by that. You know, why not, if you're a defendant, why would you not get up there and defend yourself, and try to prove that the State is wrong, that you *weren't* there, that you're *not* guilty? We were trying to be so open minded, it was just like, get up there and say something, try to persuade, even though it's not your job to persuade us, but, I don't know.

Sarah Koenig

So what *was* Adnan thinking while all this was going down? What do *I* know about Adnan that the jury didn't.

Next time, on Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help this week from Joel Lovell. Fact checking by Karen Fragala-Smith. Our theme music is composed by Nick Thorburn, scoring music by Nick and by Mark Phillips who also mixed our show. Special thanks today to the lovely Lisa Sternly, and to Jeana DeVito. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, *and* sign up for our weekly emails, SerialPodcast.org. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. And from Audible.com. With over 150,000 audio books including titles across all types of literature, including fiction, non-fiction, and periodicals. To try audible today with a free audiobook mystery of your choice, go to audible.com/serial. Serial is a production of This American Life and WBEZ Chicago.

--Complete--

Episode 9: To Be Suspected

Sarah Koenig

Sarah Koenig here. Before we get to today's episode, I have a question for you. Do you want a season two of *Serial*? If so, I'm going to ask you for money. Maybe you saw this coming. I'm only going to ask you to do it one time, and that time is now. For this first season of *Serial*, we've been living off the generosity of *This American Life*. For that, if Ira is listening, we are ever grateful. But we can't do that a second time around. We do have sponsors and that's great, but those ads don't cover the entire cost of production. So that's where you come in. If you like the show so far and you want us to do another season, and we definitely want to do another season, a different story, please send us whatever you can. It doesn't have to be a lot. Twenty bucks, ten bucks five bucks. If enough of you do it, it will add up. We don't know yet what the story for season two will be, but whatever it is, we'll make it good. We believe in in depth reporting and following a story wherever it takes us. So if you'd like to donate, go to serialpodcast.org and follow the instructions there for how to do it. It's easy. We promise. Or if you want to give a ten dollar donation using your phone, that's really easy also. You can text the word "serial," S-E-R-I-A-L to the number 25-383. That's "serial" to the number 25-383 for ten bucks. Message and data rates might apply. Or again, go to the website, serialpodcast.org. That's it. That's our pitch. Just this once. And thank you so much. Now, here's this week's episode.

-MailChimp Ad-

-Squarespace Ad-

Ira Glass

Previously, on Serial...

Stella Armstrong

Why would you admit to doing something that drastic if you hadn't done it?

Jim Trainum

The mechanics, the documentation, the steps that they took, they look good.

Lisa Flynn

Why would you not get up there and defend yourself?

Julie Snyder

You know, you're face to face, he's right there, he's a person. And so, you know, it sounds believable.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility. This call will...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. I'm Sarah Koenig.

Before we get to today's episode where I'm going to let Adnan talk for a while, I want to run by you some new information I've learned in the past week. Three things I've learned. First, remember Laura, the former Laura Estrada Sandoval the one who asked "well then who the fuck did it?" in the last episode? She was friends with Stephanie and with Jay and with Adnan. I was talking with Laura on the phone the other day and she mentioned something about Best Buy and so I asked her if I could start taping.

Tell me again what you just told me.

Laura Estrada Sandoval

There's no, there was never any phones at Best Buy. There were never any phones around the Best Buy.

Sarah Koenig

No pay phone, no phone booth.

Laura Estrada Sandoval

No. No there's like blank. There's no phones there.

Sarah Koenig

The pay phone in question is important because Jay tells the detectives that Adnan called him on January 13, 1999 and told Jay he'd killed Hae. "Come and get me, I'm at Best Buy." When Jay gets there he says he sees Adnan standing by the phone booth wearing red gloves. He draws a map for the cops showing the location of the phone booth and if you're facing the front doors of the store his drawing shows the booth on the left outside on the sidewalk. We did a lot of research on this. Where it was, whether it was and we could not account for this phone booth. Laura said, that's because it never was. She said the only conceivable place for a phone at the Best Buy would have been inside in the foyer part of the store, but there was no phone there either. Laura says she knows this because she used to go to that Best Buy a lot, from the time it opened through '98 into '99, with her family and without her family.

Laura Estrada Sandoval

I used to steal CDs from there all the time, so I was pretty aware of what was around.

Sarah Koenig

You're saying you would shoplift CDs? Sorry, but--

Laura Estrada Sandoval

Yeah. I don't have the CDs.

Sarah Koenig

So you're saying you would have noticed a thing like that because you were kind of aware.

Laura Estrada Sandoval

Yeah because you're paying attention. You go in and are more aware of your surroundings than just walking into the store. At the time I remember looking up in the ceiling and seeing if there was any eyes in the sky, any cameras. There's a whole method, but you're very aware of who's entering and who was there at the entrance and when you're leaving, because you're fucking stealing and man, there's no phones there.

Sarah Koenig

Laura and I hypothesised why, if there really wasn't a phone booth, how could the cops have missed a detail like that. Wouldn't they have noted it? Laura thought it wasn't a big deal to them.

Laura Estrada Sandoval

It's such a small detail.

Sarah Koenig

It's not a small detail. It's not a small detail!

Laura Estrada Sandoval

Well, maybe to them.

Sarah Koenig

No it's not because they're saying that's where the 2:36 call comes from is that pay phone at Best Buy.

Laura Estrada Sandoval

(sighs) Yeah, I dunno why they wouldn't check it but there's no pay phone there man.

Sarah Koenig

You're sure?

Laura Estrada Sandoval

I'm positive.

Sarah Koenig

So, that's thing one. Thing two I learned, it also relates to this 2:36 call. I talked to a woman named Summer. She went to Woodlawn, she's been listening to the podcast and she emailed me because when she heard this one part she said she started shaking her head. She said, if the State is saying Hae Lee was dead by 2:36--

Summer

It's impossible. It's impossible. I mean, like, I mean it's just impossible. It's not, there's no way that she was at Best Buy at 2:36.

Sarah Koenig

Summer was friends with Hae. Not close friends but they had a class together and they joked around and talked. Summer had a boyfriend who did sports at Woodlawn and she wanted an excuse to stay after school too so she could hang around with them. Hae told her there was an opening for another manager of the boys wrestling team, Hae was already doing that, so Summer joined her. The day Hae disappeared, the wrestling team had a match at Randallstown High School. Summer remembers talking to Hae after school in the gym area there, the wrestlers were milling around, Summer was preparing the equipment they had to load onto the bus and Hae came in to say "I'm not getting on the bus to the match, but I'll see you there." That wasn't welcome news to Summer, she needed Hae by her side at the match because Hae was more experienced at scoring which can be tricky in wrestling if you're new at it.

Summer

I was giving her hell because I'm telling her "I don't know what I'm doing." I needed her because we had to take points and things like that and she's like "No no no, I just have to go and you know, pick my little cousin up."

Sarah Koenig

Summer say it wasn't a quick conversation either.

Summer

We used to tease each other because she really was hilarious, so we would tease each other and go back and forth and we were at least talking for *at least* ten minutes.

Sarah Koenig

You're sure that this is the day because it's the day she didn't show up?

Summer

I'm positive. I am positive. I'm very positive. I looked for her the whole time at the away game. I was really pissed because I thought that she stood me up.

Sarah Koenig

Hae told Summer she would make her own way to Randallstown High for the match. No one but me probably remembers this now but Ines Butler-Hendrix who worked at the school said Hae had told her she was planning to catch the Randallstown bus. However, Ines initially told the cops the opposite, so I trust Summer's memory more and Summer is clear. Hae told her she was going to drive herself there.

Summer said this conversation about Hae not getting on the bus happened after the last bell and also after the regular school buses had cleared the loop in front of the school. She said probably at around 2:30, 2:45. Summer says she has no dog in this fight, she's got no opinions on Adnan's guilt or innocence. She just knows what she knows.

Summer

All of the things that I'm unclear about or kinda shaky about, or-- I am clear on that. 2:36 would not have been possible for her to even have met him wherever because I know for a fact that she was probably with me during that time, or at the school during that time.

Sarah Koenig

Summer never talked to the detectives, there's no mention of her in their notes, but she's not the only person who said they saw Hae after school that day. Becky saw her right after school, Debbie Warren said she talked to Hae too, the police notes say she saw her at approximately 3 p.m. inside the school near the gym which would match Summer's memory.

So, Laura says no phone booth at Best Buy. Summer says “no way no how” Hae was at Best Buy at 2:36. Combine that if you want with old information from Asia McClain who says she saw Adnan at around 2:30, 2:45 at the Woodlawn Public Library. Can we all agree that whatever happened to Hae probably didn’t involve a 2:36 p.m. call from that phone booth saying “Come and get me I’m at Best Buy”? I don’t know about you but I’m done considering that it’s true, this 2:36 thing.

If you want to speculate with me here for a second, if we suspect that there wasn’t a phone booth at Best Buy, that means the crime maybe didn’t happen there. Jay’s friend Chris said he heard the crime happened in the parking lot of the Woodlawn Public Library. But I gotta say, if you think the Best Buy is too public a place to commit a murder, you should see the library after school, swarming with kids. If the “she’s dead, come and get me” call wasn’t at 2:36 maybe it’s the next incoming call on the log, the 3:15 call. After all, no one actually testifies to the 2:36 timing at trial. This comes from the prosecutor’s narrative alone. The problem is, if it *is* the 3:15 call, that really messes with Jay’s testimony about where they were and what they were doing that afternoon.

Now, third piece of new information. It’s about what happened at Not-Her-Real-Name-Cathy’s apartment that evening of January 13. Cathy remembered Adnan getting a call and reacting in an agitated way saying things like --

Cathy

What am I gonna do? What am I gonna say? They’re gonna come talk to me. What am I supposed to say?

Sarah Koenig

Cathy testified at trial about this call, how Adnan was acting panicked. I think it’s possible that call Cathy overheard was not from a mystery third man or co-conspirator but from, wait for it, Hae’s good friend Aisha Pittman.

To review for a sec. Hae’s brother called the cops that afternoon. Officer Scott Adcock arrives from the Baltimore County PD. His initial report records the time as 5:12 p.m. Adcock calls Aisha and Adnan asking if they’ve seen Hae. Here’s what’s new. I got an email recently from another friend in that Woodlawn Magnet group. Krista, saying she’d talked to Aisha that evening of the 13th. “It was around 6 p.m. that night that I talked to Aisha and she was calling around to see if anyone had heard from her.” Her meaning Hae.

So I checked with Aisha and she does remember speaking to Adnan. Here’s what she wrote to me: “I do remember speaking with Adnan that evening, but I thought he called me. From what I recall it was a super short conversation and he was annoyed that I’d told the police to check in with him. I thought I spoke to him after the police called him.”

She said it’s possible her memory of who called whom could be mistaken, maybe she did call. There’s definitely no outgoing call to Aisha on Adnan’s cell that day. And maybe it was before he spoke to the cops not after, she can’t be sure, but that’s what she remembers. Again, you’ve heard

this information before but I'm going to review it now. There are three calls on the call log around this time that all ping towers near Cathy's apartment. 6:07, 6:09 and 6:24. The first two calls are for a little less than a minute, the third call is the longest four minutes, fifteen seconds. That was likely Officer Adcock. So maybe Aisha called Adnan at 6:09, says "I just talked to the police and they're going to get in touch with you too." Aisha says that Adnan was annoyed. Maybe that's what Cathy interpreted as panicked. I think we can all stipulate that Adnan was super stoned. He told me he had weed in the car and was worried the cops were going to find it if they came to talk to him. So, imagine for a second that Adnan is talking to Aisha and says something like--

Cathy

What am I gonna do? What am I gonna say? They're gonna come talk to me. What am I supposed to say?

Sarah Koenig

Obviously I can't say for sure this is what happened, but if that strange call Cathy remembers was actually Aisha, then for me that rearranges all the pixels in Cathy's memory from suspicious to innocuous, if it's true.

OK, now that we're caught up, let's go back to our regularly scheduled programme. This is from Adnan's second trial.

Christina Gutierrez

Are you prepared to make your election?

Adnan Syed

Yes ma'am.

Christina Gutierrez

And is your election to testify or to remain silent?

Adnan Syed

To remain silent.

Christina Gutierrez

Thank you. Do you have any questions about making that election?

Adnan Syed

No ma'am.

Sarah Koenig

That's Adnan not testifying. He told me he wanted to but his attorney advised against it. Not uncommon. It's a huge risk to open your client up to cross examination and impeachment. So, there he was. Mute through two trials, about five weeks total which is really hard for anyone.

Adnan Syed

It was very-- I would say, probably the most stressful thing in my life. It's kind of cliched to say, going through a trial, but more so sitting there for so long, for so many days and weeks knowing that this jury is sitting there looking at me and ultimately they're going to be the ones to make the decision. I gotta sit up straight, it was like a trial within the trial in a sense. That was really struggle right there. There was sometimes where it was so unbelievable what was being said, I used to just look down. I would just literally be scribbling on a piece of paper, acting like I was taking notes. I just didn't know what else to do and it was going on for so long. It's just so frustrating because you want to keep interrupting and say "Hold on! But that's not true, that's not the reason why I got a phone! I didn't make that phone call. That's not me telling my parents I'm going to somewhere but I'm going to the club. That doesn't mean that it's indicative of my desire to commit murder or something," but it's just that you never get a chance to speak. You never get a chance to say anything. That's just the most frustrating thing in the world.

Sarah Koenig

I wanna let Adnan talk now. Not so much about what happened the day of the crime, I feel like we've been over that already, but just about what it was like to be him throughout this case. What it's like now to be locked up for so long. On the night of February 10, 1999, Aisha had broken the terrible news to Krista about Hae's body being found. Krista then called Adnan who ran over to Aisha's, she lived very close to Adnan and then Krista joined them there, Stephanie came over too. They all sat there at Aisha's kitchen table crying.

Adnan Syed

Yeah it was just a complete shock. No way did I, and I'm pretty sure they didn't either, imagine that she would turn up, dead, murdered, her body would be found. So, no. I never ever considered that. I'm pretty sure they didn't even think something bad happened, so we just kinda thought it was some, just some explanation. Hae was somewhere. With her father in California or with her new boyfriend, who knows? So, no.

Sarah Koenig

Lots of people told the cops and also told me that Adnan appeared to be in denial when they all first heard what had happened. They he'd said things like "It's not her, they've got the wrong person. All

Asian women look alike.” When Adnan got arrested Krista wrote down a chronology of everything she remembered from the previous six weeks. Here’s what she wrote about that night at Aisha’s.

Krista

We went inside and Adnan was sitting at the kitchen table crying. After a while he said that there had to be a mistake and that Hae was still alive because her name was written in Aisha’s agenda book. He wanted to call Detective O’Shea but when he called the precinct he wasn’t there. Adnan was upset so I took the phone and talked to the woman and explained that we wanted to just wanted to get some information and she said we would have to wait and call homicide in the morning.

Sarah Koenig

Wait wait wait. He-- Adnan called Detective O’Shea?

Krista

Mm-hm. The night that we found out that she had been murdered.

Sarah Koenig

That’s right. Adnan called the Baltimore County Police Department to talk to Detective O’Shea. To tell him they’d misidentified this girl, whoever she was. That tidbit has always stayed with me. Is that something a distraught teenager would do? Or is that something a killer would do?

Adnan Syed

The next day we went to school and it was definite, right? Everyone kept coming up to me, hugging me, it was just so much, so many people were like, “Are you OK? Oh my god what happened?” I’m not doubting anyone’s sincerity, it was just too much.

Sarah Koenig

So many people back then and now have talked about Adnan’s reaction to Hae’s death. That he was blank, or cried in heaving waves or not at all or that he seemed normal, or that he hid in the dark room in photography class or stared at a picture of him and Hae in psychology class. One teacher said he was tense and unresponsive when she gave him a hug. That a tick he had become more pronounced. Another said he was so sad that he was barely functioning. The school nurse testified at Adnan’s first trial that she thought he faked a catatonic state. She wasn’t allowed to testify in the second trial.

None of Adnan’s friends saw anything strange in his behaviour. Besides, they said it was a strange time for everyone. It was terrifying and sad. They were all so young. How are you supposed to react?

Interestingly, Jim Trainum, the former homicide detective we hired to review the investigation, immediately disregarded every single statement about Adnan's reaction. In terms of evaluating someone's guilt, he said, stuff like that is worthless. He advised me to do the same, just toss it all out he said, because it's subjective, it's hindsight, and also, people tend to bend their memories to what they think police think they want to hear.

Adnan helped plan a memorial for Hae at school. They'd plant a tree for her; it's still there in front of the school with a plaque. This time for Adnan is a blur, he says. Giant events kept coming, one after the other. He didn't have time to wrestle them into comprehension.

Adnan Syed

It was kind of a struggle to keep doing everything normal. Life couldn't stop. It was just so many emotions, wondering how the heck could something like this happen to her. Then it was just a few weeks then I was arrested.

Sarah Koenig

The cops came to Adnan's house to speak to him on February 26, 1999, two days before they'd arrest him. They hadn't interviewed Jenn or Jay yet. There's a report in their files about that meeting, which oddly is dated September 14, almost seven months after the fact. I don't know why. Detectives Ritz and MacGillivray come to Adnan's house and ask about Hae. "When asked if Syed had a relationship with Hae Min Lee, Syed replied in a soft voice 'yes', however he didn't want his father to know."

Adnan Syed

They sat there, they both of them sat at the couch. My father and I sat next to each other, they asked me a few questions and that's actually what I was worried about, was upsetting him. If you were to say "what was the thing I was worried about the most?" it would be upsetting him. There was no inkling in my mind that-- it was like I'm worried about, he may as well say, the leak in the living room but there's an earthquake coming in the next two minutes, but I'm worried about my father being upset about all of this and my mother as opposed to, I had no idea whatsoever that this murder charge was going to be coming.

Sarah Koenig

Even after that conversation where your dad was there, you didn't think like "uh oh"?

Adnan Syed

Not at all. I understood they were asking questions but not that they actually thought that I killed Hae. I never, not one time, thought they actually believed that I killed Hae. I think any adult, anyone who has a sense of understanding could see the predicament that I was in and now the police are going to harass you because you're the ex-boyfriend. If it was me talking

to seventeen year old Adnan, I'd say "Hey Adnan, you're an idiot. You do know they are going to come after you now unless they find who did it because you're the most recent ex-boyfriend." So I can completely understand why you would ask me that but to be that person that had absolutely no ill will towards Hae, how anyone could, much less the police, could assume that I had something to do with it.

Sarah Koenig

Very early in the morning on February 28, after they've spoken to Jay, after Jay has shown them where Hae's car was parked off Edgewood Road, the detectives come into Adnan's bedroom and wake him up, tell him to put some clothes on, it's time to go. He dresses, sees his mother is watching, his older brother, his little brother Yusuf is crying. Then they drive Adnan into the city to an interrogation room in Homicide and hand cuff him to what he describes as a little hook in the wall.

Adnan Syed

The one detective, his name was MacGillivray, he one thing that he stated was "hey man, I don't condone what you did but I have an ex-wife, or I just went through a divorce or something, I can understand how you can get mad."

Sarah Koenig

This, by the way, is what Jim Trainum calls "Offering a Theme." You give the suspect an explanation, one that minimizes the crime as a starting point.

Adnan Syed

MacGillivray was being more so aggressive with me, like, "we know what you did", and Ritz was more so like-- at some point I think he said "man, it would help out a lot if you would just tell us what you did." I said "I was never mad at Hae, what are you guys talking about? I didn't do anything to her." He did mention that "well Adnan, we're gonna match your boots, we're gonna process your car--" and at some point he did mention some red gloves. "We're gonna find the red gloves," or something.

Sarah Koenig

Adnan says the detectives left the room for a while, then came back.

Adnan Syed

--and when they came back they had the Metro Crime Stopper. It was a picture like a reward paper. It was a picture of Hae and at some point they said "we'll leave you alone with this. You just look at Hae, you just look at this." So I'm looking at it but I'm still thinking this is a scare tactic, they're trying to scare me to see is there something that I know, what am I going to say, but still thinking that once this is over I'm gonna leave. They both came in

again and that's when they basically slid the paper to me and slid it on top of the Metro Crime Stopper Bulletin and that's where it said, it had the seal of Baltimore City in the top left hand corner and it said Charging Document or Statement of Charges and it said "Adnan Syed did wilfully premeditated and with malice aforethought or deliberately murder or kill Hae Min Lee on such and such day" and it said "Punishable by First Degree Murder and in the State of Maryland it's punishable by the death penalty." So it said "Death Penalty" and so that's when they said you're being charged with Hae Lee's murder.

Sarah Koenig

At this point Adnan asked for a lawyer. He says he was thinking of Matlock. He said the detectives stopped questioning him, they got ready to leave the room again. Keep in mind, Adnan was seventeen years old.

Adnan Syed

Before they left I said "well what's going to happen now?" because in my mind I'm thinking I'm not going home and I said to him, I don't remember if I thought it or I said it, what's in my mind is "I still gotta finish this report." You know I have to give this report on Monday.

Sarah Koenig

He had an annotated bibliography due in his English class he said. Bill Ritz tried to make Adnan's situation plain to him.

Adnan Syed

The last thing I can remember him saying is "Adnan, you're not going home."

Sarah Koenig

And did you get it?

Adnan Syed

I'm not sure.

Sarah Koenig

You didn't think he meant you're never going home.

Adnan Syed

It's probably it's impossible for you or anyone else who hasn't been through this to understand. To be a seventeen-year-old kid in this situation with no experience with the system, no experience with any of this stuff, it's very difficult to believe in the early stages that this is actually what's happening. This must be just some huge mistake. No, there's just no way, there was no way in my mind that this was going to continue.

Sarah Koenig

Often when Adnan tells stories about this time, he zeros in on some small moment when someone was kind to him.

Adnan Syed

There was someone in plain clothes, he stuck his head in the door and he said "hey man, just have faith." To me it came across as an encouragement, he wasn't saying it to taunt me or anything. To me it came across as being something like encouragement or some advisement.

Sarah Koenig

That's it, that's the whole story. But he's mentioned this guy to me multiple times. Also, the white lady who was driving the cruiser that took him downtown. She was polite. There was the sheriff's deputy who looked like Judd Hirsch who slipped him a candy bar. The eighth grade teacher whose name he can't remember who wrote him that nice letter. I can imagine how you'd seize these kindnesses and that they'd nestle into your brain forever.

Krista

Now, these I obviously need to hold onto, but this is our Junior Prom pictures.

Sarah Koenig

Last spring Dana and I went to Krista's house. Krista was good friends with Hae and Adnan, she was Krista Myers back then. She'd dug out a trove of photos and yearbook stuff and letters. Krista and Adnan wrote to each other during his first year in jail, through his trial. She visited him frequently when he was in prison in Jessup, Maryland, much closer than where he is now in Cumberland. Krista is clear eyed, organised and thoughtful. Hae's death was the defining event of her youth. It messed with her, as did Adnan's arrest and conviction. She's not in the Rabia camp of 100 per cent there's no way in the world Adnan did this. She's more "If he did it then I don't understand human beings because the guy I knew..." et cetera.

Krista

So it's just he's a normal, kind person. Do you know what I mean? These aren't letters from somebody that's malicious or just trying to sway you to believe him, it's somebody that's genuinely, in my opinion, cares about people, trying to make the best of a bad situation.

Sarah Koenig

Here's the guy she knew. June 2, 1999. "Did you get that really expensive prom dress you wanted and who'd you go with if you don't mind me asking. :)" He asks how things are going with Andy, they'd been having problems. He tells her stories about jail.

June 8. "You should send me some pictures. We're allowed to get them. Man, some guys in here get some really dirty pictures. I mean *dirty*. Let me put it to you like this - I've seen more than I'd wanted to of a lot of people's wives or girlfriends to last a lifetime. While most guys are really protective of their pictures, someone's always pulling me aside to show me their latest flick. It's really kinda disgusting." He mentioned he's gotten letters from other kids from school. Laura, Ja'uan, Justin, Asia, Aaron. That's all he says about Asia by the way, he doesn't seem to attach any importance to her letters or note that she's a potential alibi. Maybe because he doesn't know the State's timeline for the murder yet.

Adnan was in with the juvenile population when he was first arrested in February. In May he turned eighteen and then moved over to be with the adults. I'd assume that would be awful in myriad ways, but Adnan writes this to Krista:

"It's weird. When I first came here I didn't know what the heck was going on. Let me tell you it was pretty bad. But I don't mean physically like no one was trying to beat me up or anything. People didn't know what to think of me. I mean, first of all, everyone in here is black and always threatening to beat the hell out of someone else. And then you have me, light skinned and quiet. I didn't say much to anyone, no one said much to me. Four months later, I can be anywhere in the entire jail, it's huge, and someone will call "Syed!" People say "what's up?" to me, ask how things are and I don't even know them. The strange thing is, so many people come to me saying "if anyone bothers you, let me know" that there's no one left to bother me. Some of it is due to the fact that I'm a Muslim and a lot is due to my personality. You know I've been blessed in that I can make friends almost anywhere I go. Now I can really say *anywhere*." He tells her he's gotten elected to Inmate Council.

You can see how Adnan initially thinks this is all temporary. "I'll be out by graduation, maybe by summer, maybe by whenever." It fades a little more the closer he gets to trial. Krista would testify for the State at trial. She's the one who talked about hearing him ask Hae for a ride that afternoon, which Adnan said he didn't do. But he doesn't hold it against her. He's so sweet to Krista in these letters, asks about the dental work she got done, how her little sister's doing, how her mother's doing, whether her car got fixed. He talks about his feelings. They discuss religion and God, their problems. Krista's parents were divorcing. They're intimate friends who trust each other. The most striking letters to me are the ones he wrote immediately before and after his sentencing. He didn't end up facing the death penalty by the way. The first one, he writes it while he's in what's called the bullpen, waiting to be sentenced. It's got a cutout from a magazine stapled to it of an Asian young woman, smiling.

What's this Krista?

Krista

That's actually *not* Hae.

Sarah Koenig

Oh it looks like her!

Krista

So, he found this in a magazine and said that it-- this girl looks-- he found this in a magazine and it looked so much like Hae--

Sarah Koenig

Does it look like her to you?

Krista

Yes. Yeah.

Sarah Koenig

"You know what's really weird? I was looking through this Jet magazine, in case you didn't know it features African-American issues. :)" He tells Krista that Hae had been appearing in his dreams, that dreams like this have a certain significance in Islam. But anyway, he was looking through this Jet magazine and he does a double take because the girl looks so much like Hae. Even her watch looks like Hae's watch. "Take a look at it and tell me what you think. I hope I'm not going crazy." I found this perplexing. He seems relaxed in the letter. This is a kid who is about to be sentenced to life in prison. He knows that's what's about to happen. It's the mandatory sentence for his conviction. That conviction, of course was for killing Hae, Krista's good friend. In this pregnant, life changing moment, he's writing a letter to Krista, about whether this photo he saw while flipping through a magazine looks like Hae. Is it too nonchalant or something? Is it creepy? Adnan explains several things about this. First, he wasn't especially nervous right then. That was about to change, but at that point he says that he was thinking of his sentencing as a procedure he needed to get through so he could immediately start the appeals process. So in a way it was a step toward the thing he wanted. Second, it's not like they transport you from your cell right to the courtroom door, and you're just outside straightening your tie before your big moment. It's kind of the opposite. There is an enormous quotient of utter boredom and exhaustion built in. So you do other things. Read, write letters. Whatever you can.

Adnan Syed

It would be hard to understand, you spend *hours* sitting in bullpens waiting. If you get up at three o'clock in the morning, then you go downstairs in the basement of the jail, you're just sitting in a bullpen. It's basically just a square room, a concrete bench built into the wall that goes around. There's probably anywhere from fifty to a hundred people so everyone's just sitting there. You might sit there for four hours, then you go to the court. Then you sit for like another four or five hours, until you go to court at maybe ten or eleven o'clock in the morning. So after doing this for so long, it just numbs the mind, so-- I know people who have taken plea deals just to not have to go to court anymore.

Sarah Koenig

Really?

Adnan Syed

You know what I mean? No, honestly, not even exaggerating.

Sarah Koenig

The third thing is that Krista was the only person he was in regular touch with who knew Hae. And Krista didn't think that Adnan had killed her.

Adnan Syed

--so I could talk to her about Hae, it's not going to be-- She accepts me. She accepted me and I could talk to her about anything or write to her about anything, so a lot of times that's what it would be.

Sarah Koenig

Eight days later, post sentencing, he writes Krista another letter and he's so changed. By this time, he'd fired Christina Gutierrez over the Asia letters and he's being represented by a public defender he doesn't really know. Adnan tells the guy he wants to tell the court he did not kill Hae and that he is going to continue to fight this until the end. That's what he says in his letter to Krista, and the guy says 'no, no, no, terrible idea. Don't say you're innocent, it will anger the judge.' Adnan argues with him, and according to Adnan the lawyer says, "well you can do it if you want but you're just going to fuck yourself over."

So, now Adnan is worried and then another thing that he hadn't anticipated, that Hae's mother was going to speak. She'd been to the trial every day I think. Sometimes I glimpsed her in the videos,

keeping perfectly still, or doubled over, or holding onto someone. There's more than one bench conference during the trial in which they talk about the mother's crying being a possible distraction to the jury.

Her pain throughout must have been abject. On this day, through a translator, Hae's mother speaks. She tells the court about her daughter. She tells the court about a Korean proverb that says, when parents die, they're buried in the ground, but when a child dies, you bury the child in your heart. "When I die, when I die my daughter will die with me. As long as I live, my daughter is buried in my heart. I don't know where to hear her voice, I don't know where to touch her hand. I would like to forgive Adnan Syed but as of now, I just don't know how to do that and I just cannot do that right now."

For many, many months we tried to contact Hae's family, to tell them we were doing this story, and in hopes that they might want to talk to us about Hae. In my twenty plus years of reporting, I have never tried harder to find anyone. Letters, in English and in Korean, phone calls, social media, friends of friends of friends, two private detectives, Korean-speaking researchers, people knocking on doors in three different states, calls to South Korea. We never heard back from them. I learned a few days ago that they know what we're doing; my best guess is that they want no part of it, which I respect.

About Hae, I can tell you only what I have heard from non-family members. That she was cheerful and light and funny. That she loved the movie Titanic, that she sometimes put nail polish on just so that she could pick it off. She wasn't insecure, seemingly ever. Sprite was her favorite soda. The Dallas Cowboys her favorite team, not because she cared about football but because she liked the colors blue and silver. That she could charm you without trying. That she was a good friend to her friends. She took in their problems and their pain and tried to help them if she could.

At the sentencing, listening to Hae's mother, that was the first time Adnan understood how people on Hae's side of the courtroom saw him. He'd never felt hated before. In his June 14, 2000 letter to Krista he writes, "on the one hand I feel her pain because I cared about Hae and how sad she is, but on the other, I'm thinking 'please believe me I didn't kill your daughter.' She was sitting right next to me and it was really sad but I couldn't help thinking that my mom is going through the exact same thing. She's going to lose her son forever. Afterwards I was thinking, my god, no one believes in me. Krista, I could never explain how that felt."

Adnan's attorney then addresses the court. "Your honor, I would ask that this honorable court, if it would consider this case more a crime of passion than of intent to kill." From Adnan's letter, "that's all I heard him say, and I turned and just stared at him, wanting to hit him with a chair or something. I mean, this jerk is going to get up and give away the only thing I have, my innocence."

When it's Adnan's turn to speak, he suddenly realizes he has no idea what to say. He's had his plan but, now, "on the other hand, I'd been thinking about what the lawyer said, about the judge getting upset. On the third hand, I'm thinking, man, I should just apologize for everything even though I didn't kill Hae. Stupid me, I end up doing a little of each." It's true, when his moment comes he

maintains his innocence, he asks for the mercy of the court and he says, "I'm just sorry for all the pain that this has caused everyone."

The judge, Wanda Heard, disagreed with Adnan's attorney at sentencing. We know this because she said, "I disagree with you, Council. This wasn't a crime of passion." She said to Adnan, you planned it, "you used that intellect, you used that physical strength, you used that charismatic ability of yours that made you the president or the- what was it?- the king or the prince of your prom? You used that to manipulate people and even today, I think you continue to manipulate even those that love you, as you did to the victim. You manipulated her to go with you to her death."

Once, early on, I asked Adnan, "If you're saying you're innocent, why aren't you bitter and angry, why do you sound so calm?" And he said a lot of things, then and since, because there's no one answer. Part of it he says is that he realizes how lucky he is, compared to so many other guys inside. His family visits, he calls them all the time, they send him money. He's got people like Rabia and Saad pulling for him. "I refuse to be miserable," he said to me. Being religious helps, which you hear about people all the time in prison, but I never thought about it too much before I got to know Adnan. When he ended up in prison, he says that he made a choice, to be a better Muslim. Now he can say that for nearly half his life, he's lived like he's supposed to. He knows it's a rationalization of his situation but it's been the most helpful one. Finally, he says he's got a clear conscience, because he didn't kill Hae, though once he did say to me, "I'm here because of my own stupid actions." I asked him what he meant.

Adnan Syed

At the end of the day, who can I-- I never should have let someone hold my car. I never should have let someone hold my phone. I never should have been friends with these people who-- who else can I blame but myself?

Sarah Koenig

Well you can blame Jay if you think he's lying.

Adnan Syed

Yeah, but him, the police, the prosecutors-- sure what happened to me happened to me, I had nothing to do with this right? But at the end of the day, I have to take some responsibility. You don't really know the things that my younger brother went through. What my family goes through. At the end of the day, if I had been just a good Muslim, somebody that didn't do any of these things. (pause) It's something that weighs heavily on me. I mean, no way, I had absolutely nothing to do with Hae's murder but at the end of the day-- I can't-- yeah.

(pause)

Sarah Koenig

A prosecutor I was talking to said “of course Adnan can’t ever admit to this crime. After all his parents have been through. The fear, the money, the anguish. How could he ever turn around and say to them ‘I did it.’?” Adnan took issue with that.

Adnan Syed

The two most important people to me in the world are my mother and father. I know the thing that bothers them the most is not necessarily me being in prison, but is the injustice. You can accept bad things happening when they’re earned. The irony of this is that my father and mother will probably sleep better at night if I had truly done this and I told them the reason why I’m in prison is because I’ve done this. “He’s there because he deserves to be there. We still love him, we still are going to take care of him, we still are going to make-- he’s our son. At least we’re gonna have that feeling that he’s somewhere where he doesn’t deserve to be.” They don’t necessarily worry about me being in prison because they come to see me and they see that I’m fine. I’m fine, I’m healthy, whenever they come visit me I’m in good spirits and everything like that. For the prosecutor to say that the reason why I can’t look these people in their face is that-- the contradiction in that is that it would actually be easier for them to deal with me being in prison if they knew that I deserved to be here.

Sarah Koenig

I can’t say what would truly be easier for his family. Knowing their son had murdered someone or feeling as if he’d been taken from them unjustly. But it is true that Adnan has always been fine in prison. He’s adaptable. He pointed out to me that he’d never been independent anyway. First, a ward of his parents, then a ward of the state.

He spent the initial part of his sentence at a prison in Jessup, about a thirty minute drive for his family. It was a looser place than where he is now, at North Branch, in Cumberland. A maximum security prison more than two hours away from Baltimore.

Adnan Syed

The prisons that I’ve been in they’ve been, they’re fairly corrupt places, so they are not really strict, in a sense where it’s like “you’ve got to do this at that time or you’ve got to do this at that time.” Maybe corrupt isn’t the right word, but maybe it actually is.

Sarah Koenig

In Jessup, especially, people got away with all kinds of craziness. That prison is closed now. Adnan’s had only had one infraction his entire time. Which, a guy at the DOC told me, was impressive for anyone. After I asked about his prison record, Adnan sent me a stack of copies, 21 different certificates and awards for completing this program or helping with that activity. In 2005, he got one called the “Distinguished Gentleman’s Award for your consistent display of character, mannerism, self-control, and ability to manage adversity,” signed by the warden.

Adnan's one infraction was for having a cell phone, which he had for five years. Actually, he had a couple of different cell phones. A new one he got, he couldn't figure out how to make it work--

Adnan Syed

So, mind you I still had my first phone, so I called customer service. And, I'm talking to this T-Mobile lady and she's walking me through the phone she's like oh it doesn't work, just take it to your T-Mobile store. I'm like, well I can't-- the situation isn't really conducive for me to go to the T-Mobile store right? But she's like oh no, just take it! I'm like thanks a lot. She's like, alright, bye sweetie. This old lady. I'm like "alright, cool."

Sarah Koenig

At Jessup, Adnan had a good job. He was a clerk in the Chaplain's Office which gave him access to a computer, and to a printer and copier. Being an entrepreneurial sort he ran a couple of side businesses, printing stuff and making copies for people. At North Branch, he's a cook. He told me the only jobs at North Branch are either kitchen or custodial jobs. He's got a group of friends he's close with, guys who came into the system the same time he did. They have a little breakfast club that he's in charge of, another guy does lunch. Membership has it's privileges.

Adnan Syed

Today, I made these omelettes with caramelized apples in them, and onions. They were really good, and cheese on the inside. And then I made some, uh--

Sarah Koenig

Banana french toast also, also hot cereal with peaches and raisins. For lunch, cheese steaks. The other 1500 guys they cook for, got the normal menu: boiled eggs and boloney. Adnan lives in a cell by himself, he's got TV. If he's getting in fights or seeing horrible things, he's not telling me about it. All the stuff he tells me about is, at worst, PG-13. He told me, "I have a life, it's not the life I planned, or imagined, but, I have a life."

Despite the Nisha Call, despite the Leakin Park cell tower evidence, despite Jay knowing where Hae's car was, I confess to having reasonable doubt about whether Adnan killed Hae. I'm not talking about the courtroom kind, I'm talking about the normal person kind. Obviously, a trial isn't built to hold the stories Adnan, or anyone, tells about his life. So his lawyer, Christina Gutierrez, had to figure out another way to encourage reasonable doubt. Why didn't it work?

Next time, on Serial. Which will not come out next week. Next Thursday is Thanksgiving, so we are taking a week off. Our next episode, Episode 10, will come out December 4th.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editorial help this week from Nancy Updike and Joel Lovell. Help on all things financial from Seth Lind. Fact checking by Michelle Harris. Administrative support from Elise Bergerson. Our score is by Mark Phillips who also mixed the

episode. Our theme song is by Nick Thorburn, who also provided additional scoring. Special thanks today to Jonathan Goldstein, Paul Mcardle from the Baltimore Sun, Hyun Joo Lee, Martha Kang, Yung Chang, Blake Morrison and Bob Versus. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, *and* sign up for our weekly emails, SerialPodcast.org. And where this week, you can help make a second season of Serial happen, this is your big chance to let us know if you want a season two. Please donate whatever you can. Again, that's SerialPodcast.org. Now, I'm going to mention our sponsors which is a little awkward, since I just asked you for money, but asking for money is always a little awkward. Anyway, here goes. Support for Serial comes from MailChimp, celebrating creativity, chaos, and teamwork since 2001. MailChimp. Send better email. And from Squarespace an all-in-one website platform. Squarespace provides templates and tools to help you build an online presence. For a free trial and a special offer, visit Squarespace.com/serial. Serial is a production of This American Life and WBEZ Chicago.

--Complete--

Episode 10: The Best Defense is a Good Defense

-SquareSpace Ad-

-MailChimp Ad-

Ira Glass

Previously, on Serial...

Summer

There's no way that she was at Best Buy at 2:36.

Detective

Did anybody else use the phone?

Jay

Yeah, Adnan. I remember he was talking to a girl. He put me on the phone with her for like three minutes. I said hello to her.

Adnan Syed

To be a seventeen-year-old kid with no experience with the system, with no experience with any of this stuff, it's very difficult to believe in the early stages that this is actually what's happening. This must be just some huge mistake.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility. This call will be recorded and monitored...

From This American Life and WBEZ Chicago it's Serial. One story told week by week. I'm Sarah Koenig.

Today's episode is mostly going to take place in the courtroom and before we get into the arguments at trial I just want to play you this thing from Adnan's jury selection. I used to be a reporter for the Baltimore Sun and I covered some trials and if I happened to be in the courtroom for jury selection it was always such a good reminder of what living in Baltimore was like for so many people.

Here's what I'm talking about. December 8, 1999. Jury selection for Adnan's first trial. Judge William Quarles asks a standard question of the jury pool.

Judge William Quarles

Have you or any close family member ever been the victim of a crime, convicted of a crime, served time for a crime, or have pending criminal charges?

Sarah Koenig

A lot of people rise from their seats and then line up to talk to the judge. I can't tell exactly what proportion of the jury pool but it looks to be at least half.

Judge William Quarles

What did you come up to tell me?

Potential Juror

Uh, my husband's son was convicted of murder.

Judge William Quarles

Good morning (muffled) what did you come up to tell me?

Potential Juror

My house was broken into and we were robbed in the middle of the night, about six years ago.

Judge William Quarles

Good morning thirty-seven.

Potential Juror 37

Good morning your honour.

Judge William Quarles

What did you come up to tell me?

Potential Juror 37

My husband was shot.

Potential Random Juror #1

I have a brother that's wanted. He's 17.

Potential Random Juror #2

In May my parents and I were victims of an assault and in October my aunt was shot in the head.

Potential Random Juror #3

Uh, my husband was convicted - handgun violation.

Potential Random Juror #4

My brother was commit-- convicted of attempted murder.

Potential Random Juror #5

My partner is a rape victim.

Potential Random Juror #6

I was robbed of a small amount of money on the street.

Judge William Quarles

Next.

Court Official

207.

Judge William Quarles

Good morning 207. What did you come up to tell me?

Potential Juror 207

That I have two uncles who are serving time for murder.

Sarah Koenig

One guy says, "We moved from a very peaceful town in Oregon to a violent community," and Judge Quarles says, "Welcome to Baltimore." Quarles asks all these people whether they think they could still be impartial jurors on Adnan's case. Some say no and they get dismissed. Some say yes and he sends them back to their seats. He was on the lookout for prejudice, all kind of prejudice. Against cops, against prosecutors, against Koreans and against Muslims. One guy tells them he doesn't think he can be impartial because he's got a friend of the Muslim faith and he's seen him and also his son mistreat their families.

Potential Juror

A friend of mine that was Muslim faith and I seen him mistreat his family, his wife and everything. I've seen this go on between him and his son, he got mad and he did the same thing that father did, so I just couldn't you know, to be honest with you.

Judge Quarles

Okay, I appreciate your honesty.

Sarah Koenig

This brings me to something Shamim told me when I first interviewed her, Shamim Rahman, Adnan's mother. Shamim and her husband Syed Rahman, they believe Adnan is innocent. There's no question about it for them. Adnan's father said to me, "we've had no happiness in our family since Adnan was arrested. It's been continuous torture."

Shamim Rahman

I don't know what to say, believe me it's like my-- I mean my whole body is like numb you know. I cannot think, nothing we know more. But all I know he didn't do it.

Sarah Koenig

What-- how do you guys make sense of what happened? How do you explain what-- to yourselves I mean, not to the outside world, to yourselves-- how do you understand "why?" You must think about this.

Shamim Rahman

Believe me that's the only thing you know. I still believe because he was raised a Muslim. Discrimination. And everybody feel, the whole community, because he was a Muslim child that's why they took him. It was easy for them to take him, then other people. This was so--

Sarah Koenig

And do you believe that?

Shamim Rahman

Of course, yes, I believe too, yes. Because it was easy to target, you know. For them to come and pick him up. We still don't know why they're doing it, but again it's discrimination. Because we are Muslim, and we are minor in this country. So, that's why they took Adnan.

Sarah Koenig

I don't know, I mean--

You can hear me not believing her, right? The notion that the cops and prosecutors in this case were driven by anti-Muslim feeling, by racism, and by racism alone. That I found very hard to believe. And I still don't believe that by the way. But I didn't wanna write off what Shamim was saying either, because maybe anti-Muslimness crept in, contributed in some way to how the investigation and the prosecution operated. Advertently or inadvertently.

Shamim said she hadn't personally felt discrimination, just out in the world in Baltimore, before the trial. And she didn't feel it after, not even after 9/11. But at a hearing on Adnan's bail status on March 31, 1999, she felt it. The courthouse that day was packed with people from Adnan's mosque, The Islamic Society of Baltimore. They'd raised tens of thousands of dollars for his defence, they offered to put up their own houses and other properties to secure his bail. Adnan's attorneys during the bail phase of his case were two guys name Chris Flohr and Doug Colbert, the family would hire Christina Gutierrez soon after, for trial. Chris Flohr remembers the bus loads of people who came to Adnan's

bail proceedings, filling the courtroom and hallways. He said he'd never seen anything like it, before or since.

Chris Flohr

I remember almost every inch of the available standing space in the courthouse at the Wabash district court where the bail review happened, being full up with people. So, a lot of beards and a lot of traditional garb.

Doug Colbert

Many of the people here are people who you would almost say they're extended family, they care for each other's children, it's one of the old fashioned sense of community.

Sarah Koenig

That's Doug Colbert, who did the talking during this hearing.

Doug Colbert

--and so the people who are here in this courtroom represent the doctors and the teachers and the lawyers and the accountants and the correction officers as well as three religious leaders, imams, who are from different mosques here in Baltimore. So the community here Judge, is here to say first of all, that they commit themselves to promise to vow that they will not only supervise Adnan should he be released should bail be set. But at the same time they will also accompany him to court as well.

Sarah Koenig

After he finished, the prosecutor, Vicki Wash, took that same crowd, the people Doug Colbert describes as "solid respectable folk, who make sure Adnan does the right thing," Wash cast them as a room full of aiders and abettors. The same people who are likely to help Adnan run away to Pakistan, and that's why he shouldn't get bail.

Vicki Wash

Your honor, the fact that the defendant has strong support from the community, that *is* what makes him unique in this case. He is unique because he has limitless resources, he has the resources of this entire community here. Investigation reveals that he can tag resources from Pakistan as well. It's our position your honour that if you issue a bail, then you are issuing him a passport under these circumstances to flee the country. We do not want another Sheinbein situation your honor. We are asking you-

Judge David Mitchell

(gavel) I told you I wasn't gonna take it.

Sarah Koenig

That's judge David Mitchell telling the big crowd to settle down. Sheinbein is Samuel Sheinbein, a kid who was accused of brutally killing another Maryland teenager in 1997 and then absconded to Israel. Ms. Wash said she talked to a Mr. Harry Marshall, a senior legal advisor for international affairs with the justice department, and Mr. Marshall had explained to her that the U.S. had tried unsuccessfully to extradite certain criminals from Pakistan.

Vicki Wash

--and he cited that there is a pattern in the United States of America where young Pakistani males have been jilted, have committed murder, and have fled to Pakistan and we have been unable to extradite them back. He gave me a specific instance that's occurring now, that's pending in Chicago, where the factual pattern is frighteningly similar. Again it's a young Pakistani male who was jilted by his girlfriend who fled the country and they have had no success and he indicated it would be a dim situation indeed if the defendant would flee to Pakistan. We have information from our investigation that the defendant *has* an uncle in Pakistan, and he has indicated that he can make people disappear.

Sarah Koenig

That information about the badass uncle? I think they got that from Adnan's science teacher. I'm not kidding. The cops talked to this teacher on March 24 and in their notes it says the teacher, Mr. Nicholson had had Adnan as a student the year before, the word "brooding" is in there, then it says suspect "had an uncle in Pakistan who can make people disappear." Under that it says, they drained blood from cows at the mosque one day, he was pumped. So that odd tidbit from Mr. Nicholson ends up as an argument at Adnan's bail hearing. I couldn't find any other source for it in the detective's or State's attorney's files I looked at. Adnan's attorney made a stab at fact checking Wash's information. One thing led to another and three weeks after that hearing, Ms. Wash writes a letter to Judge Mitchell apologizing if she misled the court. She says she'd misconstrued information from Mr. Harry Marshall of the Justice Department. She talked to him again and he made it clear that there was not a pattern of young Pakistani men committing murder after they'd been jilted and then running off to Pakistan. And that other case she mentioned the frighteningly similar one out of Chicago "that case parallels Syed's case only that it involves a Pakistani male charged with murder where the victim was known to the defendant," Wash wrote. Even in her apology, there's an error. Adnan is not Pakistani. He's American with Pakistani heritage. Maybe this seems like I'm parsing, I don't mean to. I'm only pointing all this out because to me it shows how easy it is to stir stereotypes in with facts all of which then gets baked into a story. Something like: those Muslim men, they can't control their pride, their

passions, they kill their lovers and flee the consequences with the full support of their families and communities. That's what shocked Shamim.

Obviously the State never said and was careful not say "Adnan did this because he's a Muslim," but they did skirt this idea a few time at trial. They wanted to show that this wasn't a normal high school romance, that this young couple was under an unusual amount of scrutiny and pressure from their families, and because Adnan's culture forbid the very thing he wanted, that's why he reacted the way he did to the breakup. They had various witnesses talking about what happened at the homecoming dance or how the relationship was secret. Prosecutor Casey Murphy tells the jury, "The crime was not about love, it was about pride." And in his opening argument, you've heard this language before in an earlier episode but it bears repeating, prosecutor Kevin Urick talks about how Adnan reacted when Hae broke up with him. "He became enraged, he felt betrayed that his honor had been besmirched and he became very angry and he set out to kill Hae Min Lee". Besmirched. That's not a word you're accused of by accident. It's not a word you usually hear applied to a seventeen-year-old kid at Woodlawn High School. It's a word from the old country where honor killings come from. This word "honor," it comes up a lot too. For instance, one day I was looking through a huge set of documents from the detective's investigations and I came upon a confidential report.

In late August of '99, so six months after Adnan's arrest, a woman who runs a consulting group that among its services helps law enforcement understand other cultures, wrote a report for Detectives Ritz and McGillivray, it's titled *Report on Islamic Fad and Culture with Emphasis on Pakistan, a Comparative Study relevant to the Upcoming Trial of Adnan Syed*. The report is eight pages long. I'm gonna skip to the money shot, *Summary As It Relates to Mr. Syed*.

"For her to have another man dishonored both Adnan Syed and his belief structure, it acceptable for a Muslim man to control the actions of a woman by completely eliminating her." It goes on, "within this harsh culture he has not violating any code he has defended his honor." Finally, "For many ethnic Pakistani men incidence like this are commonplace and in Pakistan this would not have been a crime but probably a question of honor." I have no idea what the cops made of this report, whether they looked at it and thought "oh dear" and stuffed it in a file never to be considered again or whether they thought "huh interesting" but they were, at the very least, in regular communication with this consultant especially during the early stages of the investigation.

Finally, I noticed that Jay also gives a shout out to Islam. It's during the second trial. He's testifying about what happened after he picked Adnan up at Best Buy as they're driving back to school. Jay says, "this is when we started to talk a little bit. I don't know. He said to me it kinda hurt him, but not really, and when someone treats him like that they deserve to die. How can you treat somebody like that, that you're supposed to love?" and then, "All knowing is Allah." Urick asks him "did he explain what he meant by that?" "No." Jay says. It's a detail that Jay mentioned neither to the detectives in his taped statements nor during the first trial, so why now? Allah only knows.

Reporting this story, I found plenty of examples of casual prejudice against Muslims. One of Adnan's teachers for example, "think about what he would have been taught about women and women's rights." Another teacher I talked to told me she was terrified at the time that Adnan's relatives were going to come after her for talking to the detectives. She told me she assumed his parents were evil. On that website that lists all the bodies found in Leakin Park, the author's commentary about Hae Min Lee's case is "maybe my prejudice is showing through, but who in their right mind lets their daughter date a man named Adnan Musud Syed?"

The jurors we spoke to said Adnan's religion didn't affect their view of the case. Lisa Flynn said maybe at first it interested her, but then she pretty quickly realised that more to the point, Adnan was a teenager in America doing American teenager things. She said once they all understood that, whatever stereotypes they had went right out the window. Which is exactly what you'd want in a jury. But when we pressed them a little more, it seems stereotypes about Adnan's culture were there lurking in the background.

William Owens

I don't feel religion was why he did what he did. It may have been culture, but I don't think it was religion. I'm not sure how the culture is over there, how they treat their women. But I know in some cultures women are second class citizens and maybe that's what it was, I don't know. He just wanted control and she wouldn't give it to him.

Sarah Koenig

That's juror William Owens. Here's Stella Armstrong.

Stella Armstrong

They were trying to talk about his culture, and [in] Arabic culture men rule, not women. I remembered hearing that.

Sarah Koenig

You mean when you were deliberating, one of the jurors said that?

Stella Armstrong

Yes when we were deliberating. So he had put his whole life on the line for her and she didn't want no part of it anymore.

Sarah Koenig

The first thing Christina Gutierrez, Adnan's trial lawyer, said in her opening statement about her client, this is in the first trial, was, "Adnan Musud Syed is an American citizen. He was born in this country like most American citizens." She obviously knew, despite what happened at jury selection, that the jurors might be prone to anti-Muslim, anti-foreigner sentiment which probably explains why she spent to what seemed to me a *nutty* amount of time during her opening talking about what an immigrant is, what a mosque is, what Pakistan is. "A country formed in the Arab world in the tip of the land mass called Asia." She talks and talks about how Adnan was raised, about young romance, the judge interrupts her four times. "How much long will you be Miss Gutierrez? Five minutes Miss Gutierrez. One minute Miss Gutierrez," she's rushing at the end when she rather quickly throws suspicion onto Jay and then finally onto Mr. S. I know I've talked about Christina Gutierrez in earlier episodes, about whether she should have talked to Asia McClain or whether her style might have grated on jurors. But now I'm going to address this question head on. Did she blow it?

You might be surprised to hear that Adnan's only beef with Christina, in terms of what happened at trial is that she never contacted Asia McClain. He thinks it wasn't deliberate on her part, he just thinks she made a mistake, like a surgeon's slip of the scalpel. Personally, she was nothing but compassionate to him he said, always asking him how he was going, she made sure he got the skin medication he needed, the glasses he needed. She was his protector.

Adnan Syed

I mean I loved her, I still-- I just have a great deal of affection for her. I just really felt like she really really had my back. You understand? So--

Sarah Koenig

You trusted her like she knew what she was doing?

Adnan Syed

Completely. I mean completely. Honestly I couldn't-- no one could understand it unless they were in that situation. The closest thing I can think of is if you combine a doctor, a nurse, a school teacher, a coach and your parents. If you combine all of that then you may have an idea of how much I trusted Miss Gutierrez in that situation.

Sarah Koenig

Your life is really in her hands.

Adnan Syed

Literally, literally, literally. She never really mentioned what her plan would be, I never really knew what it would be.

Sarah Koenig

Christina died in January of 2004 so obviously I can't ask her what her strategy was for conjuring reasonable doubt. I have to go by what we've seen in her notes and in the courtroom. Based on all that I can summarise her defence theory in four words: someone else did it. Such as Jay or the new boyfriend Don, or Mr. S the guy who found the body. After all, she argued, we don't even know for sure when Hae died, what day. It could have been the 13th or 14th or 15th. Christina wanted to show that once the cops zeroed in on Adnan they ignored other viable suspects. So rather than pinning down an alibi for Adnan, she dumped as much suspicion as she could onto these other players.

I mentioned before that Adnan's first trial ended in a mistrial. Here's what happened. Christina was what Chris Flohr described as a fighting person. Generally a good quality in an attorney. The scratchy part of Christina though, sometimes it could illicit a response, shall we say, in the court room. Obviously it's an adversarial situation, both sides in Adnan's case were suspicious that the other was playing fast and loose when they could and it could get bristly. Here's prosecutor Casey Murphy during a bench conference at the first trial before Judge Quarles.

Casey Murphy

I'm going to object to defence counsel calling my co-counsel an asshole at the trial table which she did just a moment ago.

Judge Quarles

I did not hear that.

Sarah Koenig

I wish I could complain to a judge every time someone called me an asshole. Anyway, Quarles says he knows Christina to be a "pitbull on the pant leg of justice" but an otherwise courteous person and about everybody just behaves themselves ok? But, five days later, Quarles loses his patience with Christina. It's over something small. Kevin Urick asks if he can show exhibit thirty-one to the jurors. It's the AT&T call records from Adnan's phone showing calls from January 12, 13 and 14. Christina says she hasn't seen it before. Urick says that's not true, she has, they'd already stipulated to the call record. She says, "yeah but I hadn't actually looked at it before, I haven't physically seen this exhibit."

Quarles calls them up to the bench. "Miss Gutierrez" he says, "if you're going to stand there and lie to the jury about something that you agreed could come in, I'm not going to permit you to do that." Christina says, "Judge, the fact that I agreed--" But he cuts her off. "That was a lie. You told a lie. I'm

not going to permit you to do that.” “That’s not a lie Judge, I resent the implication.” Christina starts getting heated now. Quarles says “Please be quiet, please be quiet.” She says “It’s very hard to be quiet when a court is accusing me of lying.”

I don’t want to overdo it here, but it’s possible that had this bench conference not happened, Adnan’s whole life could have been different. That first trial according to Adnan, to Christina’s colleagues, to people who were watching it, seemed to be going well for Adnan’s side. It was moving fast and Jay seemed to be more on the defensive, and then this happened. Of course jurors overheard it despite the white noise they turn on during bench conferences to muffle the sound. After a break, Christina asks for a mistrial. Quarles says he’s gotten a note from Alternate Number 4. “In view of the fact that you’ve determined that Miss Gutierrez is a liar, will she be removed? Will we start over?” Quarles says to Christina, “your motion for mistrial is granted.”

Julie Remy was a law clerk for Christina at this time and she said moving into trial number two, Christina was confident.

Julie Remy

I mean look, the jury’s polled after the first, at the end of the State’s case and they’re giving the indication that they’re going to acquit and then you turn around and try it in front of a different jury and it come out complete the opposite.

Sarah Koenig

Wait, so you guys polled the jury after the mistrial?

Julie Remy

I wasn’t part of it but I know the jury was polled after the mistrial.

Sarah Koenig

By her?

Julie Remy

By her and I believe the law clerks on it, meaning Mike was involved, I’m not sure but the jury was polled and it was at the end of the State’s case, and they interviewed the jurors and they gave every indication that they were heading toward an acquittal.

Sarah Koenig

In fact it wasn't quite at the end of the State's case. The AT&T expert hadn't testified about the cell tower technology and Jen hadn't taken the stand either which is significant. But it's true the jury had heard the bulk of the State's case.

Julie Remy

To have that information, you've got to feel pretty good about that as the defense attorney, I would expect being a trial attorney myself that you would want to stay the course and keep doing the same thing and hope to get the same kind of result but you just never know with these juries.

Sarah Koenig

True, different jury but also different judge, slightly different arguments, different weather, for all we know, winds blowing slightly more this way or that. There are so many factors, including chance, which no one wants to think about in a first degree murder case, but of course luck is part of it too.

About a month later, they start all over again with trial two. Christina's strategy is the same. Try to show that someone else killed Hae. She did a lot of research in hopes of linking Mr. S to the crime, or at least trying to link him to Jay. Did he patronise the video store where Jay worked for instance, but she never succeeded. During that second trial it takes some doing, but she finally gets Mr. S on the stand. He so desperately didn't want to be there, the courthouse staff basically had to prevent him from leaving the building. So, even though he's her witness, he's a hostile witness. Here's Christina trying to get him to explain how work orders at his job got filled.

Mr. S

If we could get to that specific job we'd do it at the time, if we can't do it at the time we'd do it when we could get to it. That's my answer.

Christina Gutierrez

Which might be the next day.

Mr. S

Whenever.

Christina Gutierrez

When your work day would end, you would then leave?

Mr. S

I guess so.

Christina Gutierrez

Well sir, is that a yes or a no? I'm not asking you to guess.

Mr. S

It's a yes. When you work days, don't you leave?

Christina Gutierrez

OK.

Sarah Koenig

Of course, Mr. S was more of a side dish. Christina's main prey was Jay. She tells the Judge:

Christina Gutierrez

Judge, I'd just like to be heard it is our entire defense we are to make, Jay was the person who committed this crime. With all the ways in which he acted guilty in describing the ways in fact in which he acted with consciousness of guilt by concealing evidence. His clothes, his boots, his outer coat, his shovels, wiping shovels, to conceal evidence as he said, both in his statement and on cross, to conceal evidence of *his* involvement.

Sarah Koenig

Christina cross examined Jay on five different days. She was exhaustive and exhausting. Her questions are detailed and deliberate but somehow the way she questioned him, and maybe it was the half speed pacing or the sing-songy aggression, somehow to me it added up to something less than effective. Her punches, and there were many, many punches don't always appear to land.

Adnan Syed

The prosecution did a masterful job of presenting the facts.

Sarah Koenig

Adnan says Christina, actually he calls her Miss Gutierrez, that Miss Gutierrez *did* do some great things for him. She was successful in barring the school nurse from testifying at the second trial for instance, that was the woman who said she thought Adnan was faking his reaction after Hae's death. But, he says he wishes some of her arguments had been clearer. The State's argument, flawed as it might have been, it was at least linear.

Adnan Syed

It seemed like Christina, I mean Miss Gutierrez, I don't want to say she was confusing things but she was just saying-- it wasn't like a clear outline, like the prosecution had. It just seemed like everything was jumbled like she took so long to question Jay, she took so long to cross-examine people it was almost like I don't even remember what we started talking about.

Sarah Koenig

Right, you kind of lose the thread of what is this even about, yeah.

Adnan Syed

Right, right, right.

Sarah Koenig

To give you an idea, in Jay's first and second taped statements to detectives, he tells them different stories about when Adnan first told him he was going to kill Hae. In the first statement he says Adnan mentions it that same day, January 13, while they're driving Adnan back to school at lunchtime. In the second taped statement he says Adnan told him the night before and also that Adnan had been talking about it for four or five days already. When he testifies at trial though, he goes back to the first version that he first heard about it from Adnan on the thirteenth. So obviously Christina questions Jay about all this, it's fertile territory for her side. Listen to how she does it. This tape goes on for a while by the way, but I want you to get the full effect.

Christina Gutierrez

On another occasion you told them "well the conversations I had with Adnan Syed, they occurred four or five days earlier," right?

Jay

Yes ma'am.

Christina Gutierrez

And let me make sure because now there are numerous versions. The first, your very first interview occurred at a time when there was no tape recording right?

Jay

Yes ma'am.

Christina Gutierrez

And on that occasion did you tell them it occurred on the thirteenth?

Jay

No.

Christina Gutierrez

Then on your second interview after the tape recorder got turned on, did you tell them it occurred on the thirteenth?

Jay

No ma'am.

Christina Gutierrez

On the fifteenth of March did you tell them it occurred on the thirteenth?

Jay

I believe so.

Christina Gutierrez

So, sir, do you recall that actually on the fifteenth of March, you told them that Adnan told you that he was going to kill *that* bitch?

Jay

Yes I remember.

Christina Gutierrez

So on the fifteenth, you actually told them that you knew a whole day ahead of time that Adnan was gonna kill his girlfriend. Right?

Jay

(garbled. Sounds like: "He deceived me.") Yes.

Christina Gutierrez

Pardon?

Jay

(garbled. Sounds like: "He deceived me when" or "It was evening when") he spoke to me.

Christina Gutierrez

I can't hear you sir.

Jay

No.

Sarah Koenig

So, something just happened. Jay just admitted something, or didn't admit something, but I honestly can't tell if it's a point for the defense, or for the prosecution, or if it's a draw. There are lots of stretches like this where it seemed as if her cross-examination went so far into the weeds it was hard, even for me reading it years later, to hack back to the main trail. A juror that Dana interviewed, a guy named Theodore Wojtas, said Christina's strategy was a little lost on them too.

Theodore Wojtas

That defense attorney-- it's been a long time ago, but everybody seemed to think that they're talking but they're not saying nothing, (chuckles) you know what I mean? They're not making a point.

Dana Chivvis

So there just was like a lot of words?

Theodore Wojtas

Right. They talked and talked and didn't prove anything. You know what I mean?

Sarah Koenig

I think there is a good chance, though, that Christina leaves these threads hanging for a reason. As another defense attorney explained to me, during cross-examination, you don't want to tie each point up in a bow, in the moment. You don't want to tip your hand, because then the other side might come back with questions on redirect examination that could undo what you've just laid out. So you save all the threads and then tie them up in a nice, fat, unassailable bow at closing, after all the testifying is over. And indeed, Christina does revisit Jay's testimony at her closing, the gist of which is: the detectives arrested Adnan because of what Jay told them, and what Jay told them wasn't true. "And he lied to them about many, many things. It wasn't just that things didn't match up, they were lies. They called them lies. Jay called them lies. On the fifteenth of March, on the eighteenth of March, on the thirteenth of April, every single time, lies." Clearly Christina put a ton of time and effort into discrediting Jay, but the fact is, the jurors believed him. They didn't think he'd be sitting there talking about this if it weren't true.

She was less rigorous on other aspects of the case. The cell phone records, for instance. Her main argument there was that the way the State's expert, Abe Waranowitz, tested the sites wasn't valid because he used an Ericsson phone to make the calls, a different brand than Adnan's, which turned out to be a bad bet on her part. The brand of the phone doesn't matter. But what she didn't do with the cell phone evidence was attack the State's timeline. Call by call, tower by tower, or point out with clarity that a significant swath of the day, the hours between noon and six p.m. on the call log, do not match Jay's testimony. There did come a moment in the second trial, though, when Christina really came to life, and just kicked ass. She teased some information out of Jay she hoped would change the course of the proceedings. It had to do with Jay's plea agreement with the State, and specifically the attorney who was representing Jay. According to Adnan, when she figured this one thing out about Jay's lawyer, she told Adnan, this was their big chance.

Adnan Syed

I remember those few days getting excited about that. Like this was a huge thing.

Sarah Koenig

Jay had been charged with a felony. Accessory after the fact to first degree murder. He plead guilty and had an agreement with the State that if he cooperated, basically showed up in court and told the truth, his sentence would reflect that. In the end, he got no jail time. For that plea, he had his own lawyer, a woman named Anne Benaroya. She was representing him pro bono. She wasn't a public defender, she was a private defense attorney. Now, Christina had been complaining to the court that

the prosecution hadn't been totally forthcoming about Jay's plea, and how it came about, which isn't unusual in a trial like this one. But in the middle of the second trial, Jay says something. Something that Christina would later call, "the magic information". It happened on the stand when she was asking Jay how Benaroya came to represent him. She asked, did anyone help provide you a lawyer?

Christina Gutierrez

Did anyone help provide you a lawyer?

Kevin Urick

Objection.

Judge Wanda Heard

Overruled.

Jay

Yes ma'am.

Christina Gutierrez

Who?

Jay

Mr. Urick.

Christina Gutierrez

Mr. Urick?! The prosecutor in this case helped provide you a lawyer?!

Jay

Yes ma'am.

Sarah Koenig

What?! Gutierrez freaks out! This is the magic information. Jay testifies that after his last interview with detectives, in April of '99, he had no contact with the cops or the prosecutors until September 6. So a long stretch where he doesn't know what's going on. He says he called the office of the public defender to try to see if he could get himself a lawyer, and they told him that unless you've been

charged, we can't help you. Which is true. So Jay says the next thing that happens is the cops come to see him, on September 6, and tell him he's about to be charged with accessory after the fact and that he'll be able to get a lawyer. The next day, September 7, they come pick him up, they book him, and they take him to the State Attorney's office. He meets Kevin Urick, the prosecutor. Jay says he's never met Urick before and then he says Urick introduces him to Anne Benaroya, who can represent him for free. Jay and Benaroya talk privately for a while, and then they sign a plea agreement. Then, that same day, they all go across the street to the courthouse and present the signed plea to a judge. If you or a loved one is an attorney, your jaw is hanging open right now, correct? Prosecutors do not find attorneys for witnesses they are prosecuting. That is not a thing. A former prosecutor that worked in the Baltimore office at the time said she's never heard of anything like that happening before. It sounded very strange to her, hence Gutierrez's freak out.

Christina Gutierrez

There is no jurisdiction in America that affords a prosecutor the right to pick counsel for its witnesses! Nowhere!

Sarah Koenig

If Jay got a free lawyer thanks to the State, Christina argues, that's what's called a benefit. It's worth money, and it could look like Jay is being paid by the State for his testimony, or else maybe Jay felt beholden to the State for giving him this benefit, and therefore might lie to please them. If it could look like that, she says, then the defense was entitled to know about it before the second trial, or the first trial began. And here she was learning about it at this late date. That, she said, was a violation of the rules of discovery. She sounds so mad, the jury is not present for this ranting, by the way. But probably, she was also giddy with gotcha excitement. She told the judge, this is so patently improper.

Christina Gutierrez

To have a witness who has this benefit and may feel indebted in a way that may affect what he testifies to, to the man who provided him the lawyer! To the man who selected the lawyer!

Sarah Koenig

Once she'd bitten into this, Christina did not let go. She wanted to wrest from it everything she could—maybe a mistrial, maybe some other relief. They spent hours on this issue, over several days of the trial. Sometimes in front of the jury, sometimes not. I called Benaroya about this, to find out if it was true that Urick sought her out and that the first time she met Jay was in Urick's office, on the same day they signed the plea agreement. She said, "No it could not have happened that way. Absolutely not." At trial though, Urick doesn't dispute it. At Jay's sentencing in 2000, Benaroya says to the judge, "when Mr. Urick first asked me, uh, first mentioned this case to me and asked me if I would consider speaking to Jay..."

The Judge, Wanda Heard, agreed with Christina. That this arrangement looked fishy at best. She was not happy about it. But she also said “the witness in question, that is, Jay, he doesn’t seem to be aware that it’s messed up. He doesn’t appear to think that he’s getting a benefit, or being paid in some way for his testimony, or that anything untoward went on.” So, it would seem his testimony isn’t tainted by any of this and that’s the main thing. So, ‘A’ for effort, Judge Heard tells Christina, but overruled. And that, more or less, was that.

In terms of defense witnesses, the case Christina brought was swift. It took about two and a half days for her to rest. Aside from the cops, a private detective, and the guy who surveyed the burial site at Leakin Park, the other witnesses Christina put on the stand were mostly character witnesses who had either neutral or nice things to say about Adnan.

Betty Stuckey

Whatever his assignment, Adnan strives for excellence at all times. His teachers remark that he’s a bright, conscientious, and hard-working student who approaches his studies with sobriety...

Sarah Koenig

That’s Adnan’s guidance counselor, Betty Stuckey, reading from a college recommendation she wrote for him. Which, incidentally, she printed out for Adnan on January 13, the same day Hae disappeared. She was the last defense witness at trial.

Betty Stuckey

...He participated in building a solar vehicle that won 6th place in national competition in Topeka, Kansas last spring. Furthermore, he worked diligently on a project sponsored by the National Honor Society... (fade out)

Sarah Koenig

When Rabia Chaudry first told me about Adnan’s case, she told me she thought Christina had bungled it, on purpose even, so she could make money off the appeal. That was the only way Rabia could account for screwing up the Asia thing. And, she said, she thought Christina’s defense, the witnesses she brought, were laughably weak.

I do not agree with Rabia’s assessment of Christina. I do not believe Christina threw this case, on purpose. Because, from reading the transcripts and watching the trial videos you can see her scrapping on Adnan’s behalf at every opportunity. Sometimes in long and rather beautifully constructed extemporaneous paragraphs. She made a thousand strategic decisions about what to

pursue when, she had four clerks plus an associate, so five people working on the case. It's not like she did some sloppy rush job.

Julie Remy

You know, I know that losing the case, she was sick over it. I don't think she ever got over that case.

Sarah Koenig

This is Julie Remy again, who worked for Christina at the time of Adnan's trial.

Julie Remy

And I can tell you, the physical effects and the depression that I saw first hand. She was, I think she went into a deep depression after that case and I don't think she ever really bounced back. She really was impacted by the loss of that case.

Sarah Koenig

People who worked with Christina back then, they all said that same thing, that she was tireless and she cared a lot about her cases, including Adnan's. She was always going, going, a hundred miles an hour. One guy said she'd sort of fly into the office in the morning, sunglasses on, hair flying, barking orders. She smoked and she cursed and she fiercely mentored her clerks. She could be a giant pain in the ass but, also she was a giant in the profession. Not just in Maryland, but nationally. She did the first, or at least one of the first DNA cases in Maryland. To figure out how to explain it to a jury, I heard a story that she went to a grade school and practiced. Each time a kid said he or she didn't understand the science, she started over. Christina did one of the first cases in Maryland that used Luminol to track blood spatter. About six people told me she was brilliant, not in a hyperbolic way either. Despite her stellar reputation though, it does seem as if something not right was happening with Christina around this time.

Shamim Rahman

Everyone said, she's the best, she's the best. We were begging her to take our case.

Sarah Koenig

That's Shamim, Adnan's mother. She and her husband consulted with friends and leaders at the mosque about who to hire. Everyone said Christina sounded great. They felt like they were lucky to get her.

Shamim Rahman

Whatever she asked for, you know, we'll just go and get it before we lose her, because we were afraid if we lose her we don't have like a nice attorney.

Sarah Koenig

Shamim said Christina's bedside manner, at least with them, lacked a certain delicacy. She said, they were both intimidated by her and that they could never get her to talk to them about Adnan's case or what was going on. And, Shamim says she thought Christina had lost some of her magic in the courtroom by the second trial. That she seemed sort of agitated.

Shamim Rahman

So, and all the time she would be smoking, in and out, she was a very nervous kind of person. Before, she wasn't like that, the first trial.

Sarah Koenig

Christina initially asked for \$50,000 to represent Adnan, that fee would more than double by the end of the second trial. Members of the mosque had donated lots of money to help pay her, but Shamim says that toward the end of the second trial, Christina had begun to bully them about money. If they managed to get Christina on the phone or in a meeting, Shamim said the only topic would be money. Money, money, Shamim said. At one point, Shamim says, Christina told Adnan's parents she needed them to bring \$10,000 cash to the courthouse to pay for a jury expert.

Shamim Rahman

So, it was kind of, you know, strange. But when I told my friend, she said "oh no don't worry, she's doing her job you know."

Sarah Koenig

That's weird, that's strange.

Shamim Rahman

It was weird to me because--

Sarah Koenig

How could you even fit \$10,000 in your pocket?

Shamim Rahman

And plus she said, bring it cash. I mean usually, they are supposed to take the check but she said no bring it cash, oh wait a minute--

Sarah Koenig

Was that the only time that she asked you for cash?

Shamim Rahman

Yes. Yeah, she asked for cash. Yes.

Sarah Koenig

Weird.

Shamim Rahman

Yes.

Sarah Koenig

But evidently she never hired the expert. Shamim says there came another time toward the end when Christina insisted Adnan's parents owed her money and that she could take their house if they didn't pay up. They said they *had* paid her for everything, they were so scared they'd transferred their house into their oldest son's name. I bring all this up because Adnan's parents were not the only ones who had dealings like this with Christina. I spoke to another couple, Ron and Sue Witman and to hear them tell it, on the heels of Adnan's conviction in early 2000, Christina began to go downhill pretty fast. The Witmans hired Christina to defend their fifteen year old son in what might be the worst and saddest case I've ever heard. Their son Zach was accused and ultimately convicted of killing their younger son Greg who was thirteen. It's just a terrible, gruesome, confounding case, and so the parents, I can't even begin to imagine but anyway, they seek out Christina because she's been recommended to them and they'd read about her defense work in the paper. At first she was great, they said. She successfully argued a couple of important pretrial motions. Ron Witman said she was magnificent in the courtroom. But then as time when on things started to get weird. This is around the

same time she was working on Adnan's case. She'd be late, *really* late, filing briefs with the court. The Witman's case was in Pennsylvania, they live right on the border with Maryland, so that meant the briefs had to be filed in the courthouse in Harrisburg. They'd check in for weeks in advance with Christina they said, asking, "How's it going, when can we review the brief?" No brief. Day of even, no brief. Twice Ron had to go wait for the brief in person at Christina's office in Baltimore and then race the eighty miles to Harrisburg, meeting up with Sue along I83 so they could get it stamped by 4:30pm at the court. Ron said one of them would have to run in while the other waited, they didn't even have time to park the car.

The Witmans talk about many of the same things Shamim told me, that they couldn't get a hold of Christina or saw that things weren't getting done, but when they asked people who knew her they were told, "don't push it, it'll be fine." Here's Sue Witman.

Sue Witman

And they would say to me, "This is how Tina works. Don't tell Tina what to do, this is what she does, she's very good at it, don't worry about it." So, someone that has worked with Tina for years tells you that this is just her way, then you think that this is just her way.

Sarah Koenig

Ron says it got worse and worse. Adnan's trial ended in late February 2000. By the end of that same year Christina had been hospitalised at length. She had diabetes, she had MS, she got very, very sick. Her law clerks told me they'd bring files to her in the hospital. One of them told me Christina would sneak cigarettes in the bathroom. In other words, she was still at it and maybe she shouldn't have been. Ron Witman says it should have been clear to everyone around her that Christina couldn't keep up with her cases but no one cried uncle.

Ron Witman

Ultimately in January 2001 if I have my years correct, we had a brief due at the Supreme Court of the United States in ten days and she had told us that she had a University of Baltimore law professor who she had worked with many times before, doing the drafts. And finally, I called him and he said, "I haven't talked to Tina about your son's case for a year and a half or two years."

Sarah Koenig

The Witmans say Christina asked for an additional \$65,000 for work she had to know full well she couldn't do, that they gave her \$25,000 for an expert but Christina never paid the guy so he came to

them for the money. They said that happened with a second expert too for a few thousand dollars. If she was too sick, why didn't she tell them? Why did she leave them hanging?

Christina's career had collapsed by the spring of 2001, a year after Adnan's trial ended. According to newspaper stories in the Baltimore Sun, written by me, Christina had gotten in trouble with the Attorney Grievance Commission of Maryland. Clients were complaining that she'd taken their money and had not done the work she promised or not used it the way she said she would. The State fund that compensates people when their lawyers misuse their money paid out a total of \$282,328 on twenty eight claims against Christina. The largest payout was to the Witmans.

The Witmans feel as though she was lying to them, trying to get as much money out of them as she could. A more generous assessment would be that Christina was in denial about how sick she was, and people who worked with her told me she was never much interested in the business side of things, it wasn't her forte. One former law partner of Christina's told the Witmans that Christina had been slipping for a while, the past five years even.

There have been a lot of news stories this week that Adnan's gotten an appeal. That's not quite true. He had an initial appeal which was denied and he had a hearing for post conviction relief, also denied. But he appealed that denial to a higher court, The Maryland Court of Special Appeals and recently that court ordered the State to respond to one aspect of Adnan's petition by January 14, so it is still alive, by a thread. Adnan's petition is based on a claim of ineffective assistance of counsel, meaning Christina Gutierrez screwed up. The brunt of the claim is about Asia McClain, that she might have provided an alibi for Adnan at trial if Christina had talked to her. But the part of the petition that the higher court wants the State to answer is actually about a different complaint. Namely that Adnan had asked Christina to seek a plea deal, twice he'd asked and Christina never did it. Prosecutors in Adnan's case said they never made an offer but Christina also didn't seek one. Even though Adnan says he'd asked her to, once before his first trial and once before the second. When I first read his petition I told Adnan I found it hard to believe that he'd asked for a deal. He's been so unshakable for fifteen years that he's innocent, that he had nothing to do with Hae's death. And it also seemed to me as if he trusted back then that the system would sort all this out and he'd go home. But Adnan told me there were times when he was really scared. He was trying to be brave for his family but then he'd hear stories or watch guys he knew get fifty year, seventy year, life sentences and it would hit him, "I could be in prison for the rest of my life."

Adnan Syed

I think it's so difficult to understand these things not ever having been in that situation. I would always think before I ever came to jail that a person would only plead guilty to something because they did it. No way would a person ever plead guilty to something. Once you come into this whole system, one thing that you really learn is that no one really beats cases and when it comes to first degree murder cases, it's almost impossible. I can think in all the years I've been in prison I can probably think of a handful of people who ever beat a first

degree murder case, simply because the odds are just so stacked against you. So there are people that I've met and I know and I'm so jealous of them, and not in a bad way, in a good way because when we were over in the jail, over city jail, their lawyer advised them, "Look man, you should take a deal of life suspended for thirty years, life suspended for twenty years whether you did it or not. Because the way the elements of the case are, you don't have a strong alibi, you have someone coming to court saying that you did it whether you did it or not. You're going to go in front of a jury and twelve people are going to convict you because they have never sat in your shoes before." So it's really a choice of you having a life sentence versus the choice of you having (inaudible), because now I still communicate with some of these guys, they're actually getting ready to go home, fifteen, sixteen years later.

Sarah Koenig

Adnan says when he's seen younger guys come in on parole violations or for whatever reason, he tells them, "Take the deal. Regardless of whether you did it, take the deal."

Because Adnan has maintained his innocence he's got no hope of getting out, or very little hope. That's how the system works. He understands that now. Technically Adnan is eligible for parole but the chances of getting it are so slim for anyone with a life sentence for first degree murder, but especially if you don't show remorse. Because, you know, what if he's a psychopath right? Next time, on Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Research and fact checking by Michelle Harris. Administrative support from Elise Bergerson. Our score is by Mark Phillips who also mixed the episode. Our theme song is by Nick Thorburn, who provided additional scoring. Special thanks to John B. Minor, Terry O'Conner from Purdue University, Scott Calvert, Craig Timberg, Meredith Cohen, Lisa Pollack, Chuck Salter, Blake Morrison, David Cohen and Natasha Lesser. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, *and* sign up for our weekly emails, SerialPodcast.org. Support for Serial comes from NYT Now from the New York Times [ad removed] And from Squarespace [Ad removed]. And from MailChimp [ad removed]. Serial is a production of This American Life and WBEZ Chicago.

-- Complete--

Episode 11: Rumors

-Trunk Club Ad-

-MailChimp Ad-

Ira Glass

Previously, on Serial...

Detective MacGillivray

What did he tell you?

Jay

He told me that she had broke his heart and it was extremely wrong for anyone to treat him that way.

Rabia Chaudry

He was like the community's golden child.

Deirdre Enright

I think the odds of you like, getting the charming sociopath, you're just not that lucky.

Sarah Koenig

You don't think that I know you at all?

Adnan Syed

I mean for you to say that I'm a great person, a nice person I've only talked to you on the phone a few times.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility. This call will be recorded and monitored. If you wish to...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. I'm Sarah Koenig.

For two months now I've been grappling with rumors about Adnan. People telling me, "there's stuff you don't know about Adnan, stuff you need to know to understand who you're dealing with." These communications came in the form of phone calls, many phone calls, sometimes one on one, sometimes conference calls. Also texts and nervous emails, I can't tell this one I've spoke to that one and then that one gets worried that I've broken my word, which I promise I haven't. When Person 2 doesn't confirm the thing Person 1 told me and I report that back to Person 1, Person 1 often tells me Person 2 is lying to me. All these rumors are coming from people Adnan knew growing up in the mosque community, the South Asian families who attend the Islamic Society of Baltimore. Some of these people I'd already talked to during my first round of reporting for this story, but then once the series started and they heard how Adnan was being portrayed, a new round of phone calls began. The rumors themselves are nothing too dastardly. Nobody is saying, "I saw him do it" or "I have proof." None of it is directly connected to the crime. But likely there are a great many things I don't know about Adnan and some of the things I was hearing were giving me pause. So I checked them out as best I could, not every single one, some of them were so small that I initially was confused by the telling, waiting for the punch line that had already slid by. Such as, "He took a piece of my clothing, a piece of designer sportswear," and then over explained claiming, "it wasn't mine, or that he didn't know it was mine" and then apologised profusely. I, Sarah Koenig, am going to confess something right now. I have done exactly the same thing. More than once I'd wager.

On the other end of the scale was a story so incriminating that we thought, well if this one is true then we're done, our story is over and we can all go home. This was the biggie and I worked every angle I could to suss it out. I heard it second hand that someone said something about Adnan about a party fifteen years back. I spent weeks trying to learn first the name, then the location of that someone, then trying to contact that someone and then finally driving several hours to question that someone in person. I nervously knock at the door, nice guy comes out, we chat. He tells me what I've spent all these weeks and hours waiting for, "Oh yeah," he says, "I remember Adnan. Nice kid. I remember he seemed sad when he and his girlfriend broke up." And so I prompt him, "I heard this thing, is that true? Anything else you want to tell me?" The guys looks blank. That's all he had for me. Imagine I have a file on my desk about this rumor and I just stamped it

with my big cartoon stamp. Unsubstantiated. I cross it off the list.

There's one more rumor I'll tell you about in a minute, but first I want to talk about why relatively few people from the Mosque community are willing to talk on tape or on the record about Adnan. To give you a sense of what I'm talking about, here's Ali - not his real name and also this is not his real voice. Why the secrecy?

Ali

So now let's say you use my voice and use my first name and last name and you then play it on NPR radio whatever, and somebody from the community hears it. Within seconds that will travel throughout the whole community "--and this is what he said, he probably knows something, how do we know he's not involved or he did something, or why's he doing that and--" that's how bizarre or irrational their thinking is. But I don't know. It's very irrational thinking and it's sad because it's educated kids talking like that.

Sarah Koenig

But it's you, you're one of them. I mean you're basically saying I'm succumbing to this irrational--

Ali

Oh yes. I'm 100% guilty. I'm 100% brainwashed by it.

Sarah Koenig

Ali and others told me that their community is judgmental. Right and wrong is drummed into you early and often. Adults judge kids' behavior, which then gets reflected back onto their parents. This is certainly not unique to their community, and the other thing that isn't unique is how close-knit it is. Information and gossip travels swiftly, and you don't want to be the one that goes against the grain, or says something that could hurt Adnan or his parents. No one wants to end up in hot water. I live in a small town. I understand that. But what I hadn't totally understood, I think is how scared people were when Adnan got arrested. I got an anonymous text recently that said, "I'm a Muslim male who attends the Baltimore Mosque. My father and Adnan's father were good friends and had known each other for years. Adnan's story had always been an urban legend to us kids growing up in the Muslim community. Clouded in mystery and used as a cautionary tale."

Some people did speak out on tape. I mean, Rabia and Saad Chaudry obviously did, and there are others too, but there's also a significant faction of people, including Ali, who are scared. Ali said his parents were especially protective, like a "10" on the protective scale, so that after Adnan was arrested, they were frantic about his safety. His own life changed because of it.

Ali

Drastically, I would even go to the mailbox, and my dad would be like, "Where are you going?"

Sarah Koenig

Are you serious? That really happened?

Ali

It really happened, I'm not even making that up.

Sarah Koenig

Because your mailbox was at the end of the driveway, or at the end, uh--?

Ali

No, my mailbox was attached to the the wall of my house next to the front door. I'd open the front door, and he'd be like, "Where are you going, who are you going to meet? Is it a girl? Are you going to give her a ride?" because they think Adnan gave her a ride, and so they think that that's the reason they picked him up, because he gave her a ride. There was a girl named, -- that I used to give rides to in the morning who lived down the street from me, and after Adnan got picked up, she came and was knocking on the door like, "are you gonna come pick me up? What's going on?" My dad went crazy. My dad dropped her off to school and in the car told her, "Don't ever ask my son for a ride again." (laughing)

Sarah Koenig

Oh my god, really?

Ali

Uh huh, yeah, and I think that's just the general-- look, I can't speak for everybody, but I think that's just how the community has become. Because it's just that fear that has stuck in. That's how it is. Even now if you go to a party and try to talk about Adnan's case, everyone just gets quiet. Not because they're saying that he did it, or that he didn't do it. It's just kind of like if you don't talk about it, then it doesn't exist.

Sarah Koenig

A bunch of people I talked to told me they feel guilty towards Adnan, that they let him down. Because they led him astray, or didn't protect him, or didn't mentor him, or didn't show up enough at trial, or didn't visit him in jail. Even the ones who are on the fence about his innocence said, "please tell Adnan I love him," or "please tell him I'm sorry." I often say back, "you should tell him yourself. You can write to him you know."

Then sometimes comes a pause. The reason Ali agreed to go on tape was that he wanted me to know this about Adnan.

Ali

I remember, especially in middle school and elementary--more into middle school--that when we would get picked for sports, Adnan was very athletic, tall, good-looking, kind of like the jock role, and I was more a chubby, short, kind of the nerdy kind of role, so he never made me feel that he always made sure that I got picked for the team. If other kids made fun of me on my athletic performance, or I couldn't shoot, or I couldn't kick the ball, or they would start poking fun, he would always have my back and kind of tell them to stop it or kind of watch out for me like an older brother. I'll never forget that.

Sarah Koenig

Adnan was the kind of kid who would stand up when your parents came into the room, Ali said. At parties or events, he'd be the first one to ask, "how can I help you, Aunty? Do you need help setting up those tables, Uncle?" This is what Ali, disguised and anonymous had to say.

Normally I probably wouldn't pursue rumors that on their face aren't connected to the crime at hand. But in this case, I decided it was worthwhile because of where these rumors come from. I think these rumors are coming from a feeling that a handful of people have. I've heard this from about four people, people who knew Adnan growing up. That Adnan was capable of committing this crime. I think they believe that they saw things in his personality that they think that I am not seeing. Namely, that he's duplicitous. The term "psychopath" gets thrown in sometimes. People told me he used his charm and his smarts to deflect suspicion or weasel out of things when he got caught. Pretty much what the judge said to him at his sentencing.

Which brings me to the only rumor I heard that at least partly checked out. It was this: Adnan stole money from the mosque. Donation money. I heard various version on how this happened, or could have happened. But from what I can tell, the basic story is: people who come to pray on Fridays, and it is a lot of people, many hundreds, some of them put donation money into boxes. That's what Adnan skimmed. Two people told me they saw him do it. One person told me he'd seen it several times - he wouldn't go on tape - but the other guy did.

Anonymous Male #1

He was stealing from the mosque every Friday.

Sarah Koenig

This is a guy I can't name, whose voice we've also changed, see explanation above.

Anonymous Male #1

Because he was looked upon like the golden child, and his dad was very religious, and he would go out on missionary work and so on. So his family was looked at very good, religious family. He was collecting money, or you know, the donation boxes that would go around on Friday after prayer, he was in charge basically, of getting all the boxes together and counting all the money and totaling it all up. He was pocketing thousands of dollars every week. Nobody questioned, you know, good little muslim kid stealing from the mosque. I mean, are you serious? You couldn't even imagine.

Sarah Koenig

You saw him actually take money?

Anonymous Male #1

You know, I absolutely saw him taking it, and I also have done it.

Sarah Koenig

This guy estimated that Adnan had stolen many thousands of dollars over time. Tens of thousands, maybe a hundred thousand dollars. This sounded fantastical to me, so I checked with Maqbool Patel. He was President of the Islamic Society of Baltimore at the time. He said he'd never heard of Adnan taking donation money, but that it does happen from time to time. Someone stealing, or trying to. There are people who take shoes, he added. "My own, brand-new shoes were stolen." Twice, he said that happened, once in New York and once in Baltimore. But if Adnan did take money, he said, there was no way it was a big amount. He said that on average, people donated about 2,500 dollars at Friday prayers. Maybe up to three thousand dollars if it was a special occasion. That money was used to pay the bills, he said. Keep the electricity and heat on. If they were even 100 dollars short on any given week, they'd have noticed. So sure, maybe 20 bucks or 40 bucks here or there, but not hundreds. Thousands, out of the question.

Adnan says it's true. He did take donation money. When I first asked him about it, he was unhappy. I've asked him so many, frankly, insulting things, so many nosy and inappropriate questions and he's never given me pushback. But this was the last straw.

What does it have to do with the case, he wanted to know. He's never claimed that he's innocent of killing Hae because he was a perfect, or even a good person, he said. So why talk about this? Why the double standard? Why wasn't I going into everyone else's closet and pulling out skeletons that made them look bad? Why do I protect other people and call him out on everything? He's endured other stuff in my reporting that he didn't think was fair to him.

Adnan

You go from my savior to my executioner on a flip flop flip flop, like Mitt Romney.

Sarah Koenig

But now he was sticking up for himself, he said. He seemed pissed and hurt and I understood it.

Adnan

I mean, and it's a very uncomfortable thing for me to talk about, you know what I'm saying? It's a very shameful thing that I did. I've never denied it. I don't see, I don't understand. I just think it's really unfair to me.

Sarah Koenig

If you don't want to talk about this, that's your prerogative. I'm not going to force you to talk about it. If you don't want to talk about it--

Adnan

Yeah, but I'm also not gonna sit here and you mention it and this is the only thing I don't talk about. You understand what I'm saying? So it's put me in a predicament like, it's like you're basically publicly shaming me for something that I've never denied that I did, anyway. And it has nothing to do with the case. But you won't do it to other people though, it's like why do I have to keep getting called out on my stuff and it's got nothing to do with the case, but you don't do it to nobody else.

Sarah Koenig

Well, I mean--

Adnan

You don't do it to nobody else, yo.

Sarah Koenig

A couple of days and phone calls later all was calm and he told me his stealing story. It was during the summer, maybe the summer before eighth grade he said.

Adnan Syed

During the Friday prayers. At lot of time there would be one adult and he would get four or five kids together and he would say, "look, I want you guys to go around and collect money from people, or stand there, you know how on different days there was different ways." So it was usually anywhere from four to five of us, we'd all have little boxes or something and

people would come and they would put money in them. Usually I'm not trying to make it sound like Oceans Eleven or whatever, but it was thousands of dollars in cash. Like ones, fives, tens, twenties and maybe fifteen hundred or two or three thousand dollars in cash and I don't really remember who. I'm not saying it was me, I'm not saying it wasn't me. The idea came up like "hey man, we could take sixty dollars or eighty dollars and go to the movies, go to the mall, play in the arcade, you know eat and stuff like that." So eventually it'll be a thing like one or two of us would pocket a twenty dollar bill and then pocket another twenty dollar bill and the other three, or two or three of us would do it and the other two would keep watch. I mean it was wrong, it was very wrong. It's nothing that I'm proud of, I'm very ashamed of it. I don't say that we were kids to try to put in context or try to make excuses. Well, maybe I am, right, it's just that--

Sarah Koenig

What made you stop and what made you realise it was wrong?

Adnan Syed

I wish I could say that it was some feeling of religion or something or feeling of wrong but it wasn't, I was kind of caught red handed so to speak.

Sarah Koenig

Adnan says he was caught red handed by Shamim his mother. He says she found some money in his pants pocket and asked him where it came from and the truth came out. He says she was horrified. It was the classic "I'm not angry, I'm disappointed." More disappointed than she'd ever been in him he says. Adnan says back then, he didn't think he was hurting anyone. They spent so much time at the mosque and they shovelled snow and they helped set up events and clean up, and so to him it was akin to taking twenty bucks from the till of the family store at the end of the night. He says of course as an adult he knows how wrong that is, but back then in eighth grade he didn't fully get it.

Adnan's telling of the stealing episode is a much more "boys will be boys" version than what I'd heard from other people who told me they saw in his actions something more malignant. A couple of people I talked to from the mosque community said, "This was so low. To take the hard earned cash of hard working people and at the mosque of all places. This was a terrible thing." Other people said, "eh." Mr. Patel the then President of the mosque was thoroughly unruffled by the whole thing. He obviously didn't condone it but he more or less said "So what? It certainly does not

a murderer make.” To him he said, if a young person does something like this it’s not necessarily a sign of bad character. Other mosque friends agreed. They didn’t see how it was connected to the crime and also, some people told me they’d shoplifted before or they’d broken the rules, so people in glass houses man. In the end these guys said what most of Adnan’s old friends say, he didn’t have it in him to kill someone. It wasn’t in his DNA.

To me this is the hard centre of Adnan’s case. *Can* you tell, really? Can you tell if someone has a crime like this in him? I think most of us think if we know someone well, we can tell. We act as detectives all the time, gathering evidence. Certain scenes we remember or the look on someone’s face or that thing he said when he got mad. And then we act as judge of character. It’s just a human thing. But of course it’s slippery because it’s so subjective. One person’s evidence of good character is another person’s evidence of questionable character. Case in point, I heard from many people that Adnan was the opposite of violent. That he was someone who would take the heat of tense situations.

Atif Iqbal

I’ve never even seen him in a fight, I’ve never even seen him mad at anybody.

Sarah Koenig

This is Atif Iqbal who knew Adnan from the mosque. That’s his real name and his real voice.

Atif Iqbal

[Laughs] Exactly. Pretty funny it was me and him. Somebody told me that he said something about me and some other person or something and I went up there to confront him and he was “hey man, I don’t know what you heard, I didn’t say anything like that.” I said, “man, if you ever say anything like--” I was getting all riled up and he just came and kissed me on my cheeks and that defused me completely.

Sarah Koenig

[Laughs] Wait, I missed that. He kissed you on your cheeks?

Atif Iqbal

He kissed me on my cheek like completely defused me. I couldn’t even be angry anymore. So that’s why I couldn’t even fathom the thought of him going out and killing somebody,

I mean that's just so, I don't even know how to say it, it's just so out of his personality I would say.

Sarah Koenig

So for Atif, that kiss on the cheek is a tell. It's the real Adnan. But for that other guy who said that Adnan stole and thinks that Adnan might be guilty of the crime he's in prison for, that same peace-maker quality was something he brought up to me as evidence that Adnan was full of shit.

Anonymous Male #1

Taking tension out of the situation. He was the icebreaker and I knew that whatever was coming out of his mouth half of the time, it was just sweet talk or to take the heat away and half or majority of it was a lie.

Sarah Koenig

Here's the curious thing though. The same people who tell me they think Adnan was capable of killing Hae, or that stealing from the mosque was a great evil, or the Adnan was a pathological liar, they also tell me, to a man that Adnan was a great guy.

Anonymous Male #1

I mean he was such a good guy.

Sarah Koenig

This is the same anonymous person who thought Adnan had taken many thousands from the donation boxes.

Anonymous Male #1

He was so smart and he was so friendly and so many positive things.

Sarah Koenig

And that doesn't feel fake to you, like that part feels real too, is that what you're saying?

Anonymous Male #1

Genuinely he was good and he had that good side and he was helpful and he was caring and all that--

Sarah Koenig

You think a person can sort of contain both those things inside their personality?

Anonymous Male #1

I think it's very easy (muffled). I think if you corner anybody into a corner, they'll explode. Different people explode for different reasons.

Charles Ewing

Most of the hundreds of killers I've evaluated have been pretty ordinary people.

Sarah Koenig

This is Charles Ewing. He's a forensic psychologist and a lawyer. He teaches at the SUNY Buffalo Law School. He told me he's evaluated several thousand criminal defendants and testified in more than 700 trials as an expert witness. Mostly, lately, homicides committed by people in intimate relationships and homicides committed by young people. Ewing had listened to about half the episodes of the show. Obviously he can't weigh in on Adnan's psychological health, that'd be ridiculous. But I went to him to find out what's a valid way to try to understand what's going on when someone kills someone else. What's the range of options here? Ewing said most of the time he's doing insanity evaluations or evaluations for extreme emotional disturbance. Usually in cases where there's not a question of whether the defendant did it, more a question of why. Again, most of the people he's evaluating are pretty ordinary.

Charles Ewing

Some are extraordinary, there's some serial killers, some spree killers, some really awful psychopathic individuals. But for the most part, people kill not in a premeditated way; they're not evil, they're not sociopathic, they're not psychopathic. They kill because something happens that pushes them over the edge.

Sarah Koenig

In other words, murder isn't usually, strictly speaking a planned event. A lot of people who know Adnan, they can't get their heads around that Adnan *planned* to kill Hae. I hear it all the time. Here's his old Woodlawn classmate Peter Billingsley.

Peter Billingsley

The whole idea of premeditation just doesn't fit for Adnan. No, that doesn't fit at all. But I don't-- I know, it doesn't fit not one bit, with the person I knew.

Jane Efron

Of course there are some planned murders, but I'm sure this was not a planned murder.

Sarah Koenig

That's Jane Efron who taught Hae and Adnan English at Woodlawn. Her father was a cop.

Jane Efron

I can't buy that because that destroys everything that I feel about these kids, so I absolutely-- I think it was passion, an overdose of emotion. Of love, of jealousy, resentment, all of those things. It sneaks in on you and it dominates your thinking and you can't get away from it. But that's what I'm comfortable thinking. Planned, premeditated murder? Oh my Lord, no.

Sarah Koenig

I asked Ewing, can an otherwise seemingly normal kid up and do something like this, plan something like this, or even do it impulsively?

Sarah Koenig

Is snapping a thing? Because people say that all the time also, like, "maybe you snapped." Or, you know, "he snapped."

Charles Ewing

Yeah. People sometimes lose it and when they lose it, it's not always all at once. I've seen a lot of cases in which people have over a relatively short period of time, nursed feelings of

rejection or anger or hostility and they've slowly risen to the point at which the individual decides to kill somebody. Those feelings simmer for a while and one of the thoughts is, "Maybe I should kill this person. I'm not going to kill this person. I don't want to kill this person. But what if I did?" The person thinks about it, and then maybe confronts the other person, the person who's the object of the frustration and the anger. Then at that point, the victim or would-be victim says or does something that triggers it, that provokes the ultimate killing. Now the law looks at that as premeditated. I'm not sure that it really is premeditated in the sense that we normally think of it. It doesn't have to be like a sudden impulse to violence.

Sarah Koenig

So that was news to me, that there's this sort of liminal phase, a simmering contemplation: "What if I killed this person?" That can take the place of actual cognizant planning, but end up in the same result. The other thing I've considered, in my more reachy moments, is whether Adnan did, or doesn't know he did it. I'm not the only person who's entertained that one. Here's Adnan's friend Laura.

Laura

I mean, I remember the cops telling me sometime they have murderers standing with a knife in their hands, next to the body, saying to them that they didn't do it, because your brain goes into this shock and it shuts down. I was like, "maybe that happened. Maybe it was an accident. Maybe he got mad." I mean, we get mad. Maybe he lost it for a moment and it was an accident.

Sarah Koenig

Apparently this is not as an outlandish as it might sound.

Charles Ewing

People can go into what's called a dissociative state where they're really psychologically not where they are physically. Probably half of the people I've evaluated who have killed other human beings have some degree of amnesia for what they've done.

Sarah Koenig

Did you say half? Half the people?

Charles Ewing

Yeah.

Sarah Koenig

Wow.

Charles Ewing

About half. Yeah. And it's not total amnesia usually, although I've seen some people who have a complete amnesia for killing. But it can be partly, "I don't really recall the details, I don't recall doing this."

Sarah Koenig

Because literally, like the memory isn't in their brain anymore, or it never was in their brain?

Charles Ewing

Yeah, I don't think we know the mechanism by which this kind of denial or amnesia or combination works, but in the cases that I've been involved in where people have had some kind of amnesia, or partial amnesia, or denial, it doesn't last forever. It's very difficult to maintain that kind of facade. What I find is that over time people do recover traces of what happened and they know what happened. But I've also seen people who have genuinely snapped and who committed a homicide and then they realize what they've done and the immediate reaction for most people is, "oh my God, look what I've done," and "what am I going to do about? I've got to figure out some way to cover this up."

Sarah Koenig

Do you think it's, is there another scenario where it starts out as a lie, a sort of cognizant lie, like, "I didn't do this, I had nothing to do with this," and then, over time, you truly believe that lie? Like you kind of erase the fact that you're lying and it just becomes the

truth of it for you?

Charles Ewing

I think that happens. I haven't seen that happen in homicide cases, but I've certainly see it happen in ordinary life.

Sarah Koenig

Less often in homicides?

Charles Ewing

Yeah, I haven't seen it that, and it's probably just because of-- in most homicide cases, the evidence is pretty overwhelming that you did it.

Sarah Koenig

Off the top of my head, I can think of five different people in this story whom other people have told me they think are either pathological liars or psychopaths. That I shouldn't trust anything they say. This term, psychopath, gets thrown around so easily. As a kind of catch-all term for cold-hearted, and calculating killer. If Adnan did this and if he did it the way Jay tells it, he is so cold-hearted. I mean, Jay tells the cops that Adnan says to him, "all the other motherfuckers, referring to like hoods and thugs and stuff, think they're hardcore. But he just killed a person with his bare hands." If Adnan said that, does that mean the fifteen years since has been this very, very long con? That he's calculating enough to only pretend to be the normal sounding person that he is with me on the phone? Ewing told me a psychopath usually means a person who has little or no conscience, is glib, who can't empathize or relate to other people's feelings. They can read other people very well, but they don't have genuine empathy.

Charles Ewing

Another factor, to be sure, is what's known in the profession as superficial charm. These are people who come across very smoothly and effectively manipulate other people and manipulate them without them knowing it very often.

Sarah Koenig

Now I'm running everything through my head, everything you just said, seeing if it applies of course *(laughs)*.

Charles Ewing

Yeah.

Sarah Koenig

-- and some of it I can see it, like, "yeah, maybe," and other stuff, I'm like, "no, I don't think so." I mean, so it really does seem like Adnan is really-- functioning really well and is just fine in prison. He seems very adaptable and he's always had like a job with responsibilities and he's not been disciplined, really ever, except for having a cell phone and doesn't appear to have any kind of anti-social behavior. He's got lots of friends, he's maintained his relationships outside the prison with his family and his friends, certain friends. I mean, is that something that I should be taking into account?

Charles Ewing

(brief pause) I think so. Yeah. It certainly cuts against a theory that he's a psychopath, or that he's some kind of pathological person. But it doesn't rule it out.

Sarah Koenig

Right.

Charles Ewing

--and the fact is, most psychopaths aren't killers and most killers aren't psychopaths. There's a very limited overlap between those two spheres.

Sarah Koenig

Finally I asked Ewing, "should I be influenced by the fact that Adnan has so consistently maintained his innocence all these years?" Ewing said, in his experience, people who are wrongfully convicted always maintain their innocence, even when it hurts them, like in sentencing or parole. But on the other hand, he said, just because you say you didn't do it, even for decades, doesn't mean you didn't do it. There just aren't any rules for this stuff. Here's what I take away from this conversation with Charles Ewing: I don't think Adnan is a psychopath. I just don't. I

think he has empathy. I think he has real feelings, because I've heard and seen him demonstrate empathy and emotion towards me, and towards other people. He is able to imagine how someone else feels. But on all the other options, it's a toss-up. Could Adnan initially have been in some state of amnesia and denial and then supplanted that with actual lying? It's possible. Could he have had simmering feelings of anger and resentment that then boiled over in a not-quite-by-accident way? It's possible. Could he be truly innocent? It's possible. Ewing said he's often asked on the stand, "How do you know this person isn't lying to you?" His answer, he said, is always the same: 'I don't know.' In the course of his career, he's been fooled.

A handful of people who are listening to this story have told me one thing they think makes Adnan look guilty is the way he talks about, or rather, doesn't talk about other people involved in the case. Especially Jay. That if he were really innocent, we would hear him being madder. I know we've already talked about this, why doesn't he sound more mad, but there's another factor I haven't mentioned, and that is, as a defense attorney's explained to me, no good can come, and in fact only harm can come, from Adnan attempting to contact or influence people on the outside who are connected to his case. That's kind of inmate behavior 101. Because let's say Cathy changed her story, suddenly remembered something exculpatory for Adnan. Then the state found out that Adnan had been writing to Cathy, or threatening Cathy somehow, or talking smack about Cathy on a podcast. Then that could be used by the State to challenge the validity of Cathy's new information. Adnan is a smart guy, he's been an inmate for fifteen years, he knows the deal. He also knows there's nothing he can do to change other people's minds about him.

Adnan Syed

If a person genuinely doesn't think that I feel something towards the people who put me in prison, then me saying it, it really has no validity, in my eyes anyway because either you think I did it or you don't. If you think that I did it, then you can assume because I'm a normal-- I'm just a regular-- I think what happens is people come expecting a monster, and they don't find that, well next they come expecting a victim, and when they don't find that, they don't know what to think, and the reality of it is I'm just a normal person.

Sarah Koenig

I know, but I think actually-- I think that's right, but I think also what people do is they put themselves immediately in your position, and think "what would I do? How would I be feeling? How would I act if I thought someone had done me wrong and put me here? I would be screaming to the rooftops," and they're not hearing you do that.

Adnan Syed

If someone-- I mean, there's really nothing to say. If someone can't imagine how I feel there's no need for me to say anything to try to convince them otherwise. I mean, it is what it is. If a person can't figure it out, then that's not for me to say.

Sarah Koenig

I think what Adnan's saying is, it's a trap to try to convince people. A few weeks ago, after these rumors started surfacing, I got a letter in the mail from Adnan. It was eighteen typed, single-spaced pages. He gave me his reluctant permission to talk about it. He wrote about lots of things - his religion, his case, how he's managed over the past fifteen years. It's a good letter, he's a good writer, but it swung from pole to pole, from distrust to gratitude to confusion. Adnan is obviously aware of this podcast, that it's out in the world and I could tell that my story had messed with his equilibrium. When he was convicted of murder, he said the biggest shock for him was that people thought he was capable of this hideous thing. That people didn't believe him. "As I look back now" he wrote, "I realise there was only three things I wanted after I was convicted. To stay close to my family, prove my innocence and to be seen as a person again. Not a monster." The third one he says he's managed, inside prison.

"People in here know me as a stand up guy. Guards, inmates, staff, people I've been around for fifteen years have seen me every day, recognise me as someone whose word can be trusted. I guess what I'm trying to say is that I was able to find the peace of mind in prison that I lost at my trial."

And now I come along, at Rabia's behest, not his, and yank this door open again to the outside world and to all its doubts about Adnan's integrity. Stirring up the most painful possible questions about whether he's a monster. It's his nightmare basically, to be accused of manipulating everyone around him. Of course, I've had a sense of this feeling from him now and then, over the year that we've been talking. But his letter made plain that in forty hours of taped conversation, he was weighing every word. His goal was to keep it all business. He wanted me to evaluate his case based on the evidence alone, not on his personality. "I didn't want to do anything that could even remotely seem like I was trying to befriend you or curry favour with you. I didn't want anyone to ever be able to accuse me of trying to ingratiate myself with you or manipulate you." Having to do that made him feel bad he said. I had a rough year, my step father died in April, then my father died two months later. Adnan knew that, "but I couldn't say anything to you because I had to stick to what I know. Can you imagine what it's like to be afraid to show compassion to someone out of fear they won't believe you? I was so ashamed of that." This second guessing, this monitoring of everything he says to me, and therefore to the outside world, about anything really, but especially about his case. He writes in his letter that it's crazy-making.

“I’m always overthinking. Analysing what I say, how it sounds and the fact that people always think I’m lying. All this thinking, it’s to protect myself from being hurt. Not from being accused of Hae’s murder, but from being accused of being manipulative or lying. And I know it’s crazy, I know I’m paranoid, but I can never shake it because no matter what I do, or how careful I am, it always comes back. I guess the only thing I could ask you to do is, if none of this makes any sense to you, just read it again. Except this time, please imagine that I really am innocent. And then maybe it’ll make sense to you.”

At this point he wrote “It doesn’t matter to me how your story portrays me, guilty or innocent. I just want it to be over.”

It will be. Next time. Final episode of Serial.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help today by Joel Lovell. Research and fact checking by Michelle Harris. Administrative support from Elise Bergerson. Our score is by Mark Phillips who also mixed the episode. Our theme song is by Nick Thorburn, who provided additional scoring. Special thanks today to Studio Rodrigo, the company that designed our website and to Rich Oris who codes everything. And to Julie Farris, Marianne Hammel, Thomas Moriello, Chivani Lammer of Forensic Outreach. Lydia Myers of Pick Em Up Productions. Detective Robert Cherry, Tom Snyder, Lisa Scalpone, Erin Henkin, Jake Halpern, Jake Pollini and Shannon Son-Hagenson from the Whitman Project. And a huge thank you to everyone who gave money over the past two weeks. We were able to raise enough through your donations and through sponsorships to have a second season of Serial. Thank you so much. If you want to listen to all our episodes from Season One and find photos, letters, and other documents from the case, *and* sign up for our weekly emails, go to our website SerialPodcast.org. Support for Serial comes from Audible.com [ad removed] and from Trunk Club [ad removed]. And from MailChimp [ad removed]. Serial is a production of This American Life and WBEZ Chicago.

--Complete--

Episode 12: What We Know

-Square Space Ad-

-MailChimp Ad-

Ira Glass

Previously, on Serial...

Jay

He left his cell phone in the car with me, told me he'd call me.

Detective Ritz

And now at this point, do you know why he's leaving the car with you?

Jay

Yes.

Detective Ritz

And why is that?

Jay

Because he said he's going to kill Hae.

Adnan Syed

I definitely understand that someone could look at this and say, "oh, you know he must be lying, it's so coincidental."

Nisha

He told me to speak with Jay and I was like "ok," because Jay wanted to say hi, so I said hi to Jay and that's all I can really recall.

Sarah Koenig

The uselessness of what we're trying to do by recreating something that doesn't fit, it's like trying to plot the coordinates of someone's dream or something.

Adnan Syed

You know, perhaps I'll never be able to explain it and it is what it is, if someone believes me or not, I have no control over it.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility. This call will be recorded and monitored. If you wish to...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. And this, Episode Twelve is the final week, final episode of Season One of this podcast.

It's been a year since I first contacted Adnan and I'm still talking to him regularly. I'm still asking him the basics, still thinking, I dunno, that he'll remember something or maybe he'll just get so frustrated with me that he'll crack.

I still want to know what you were doing that afternoon. I want to know who had your phone and I want to know what you were doing that afternoon.

Adnan Syed

I don't remember anything more.

Sarah Koenig

This is from Saturday night, just this past Saturday. I mean we're down to the wire here.

Oh man.

Adnan Syed

So you don't really have if you don't mind me asking, you don't really have no ending? Like it's just--

Sarah Koenig

I mean, do I have an ending? Um...

Of course I have an ending. We're going to come to an ending today. Plus, a smattering of new information, a review of old information cast under a different light and an ending. In case you haven't noticed, my thoughts about Adnan's case, about who is lying and why, have not been fixed over the course of this story. Several times, I have landed on a decision, I've made up my mind and stayed there, with relief and then inevitably, I learn something I didn't know before and I'm up ended. Sometimes the reversal takes a few weeks, sometimes it happens within hours. And what's been astonishing to me is how the back and forth hasn't let up, after all of this time. Even into this very week and I kid you not, into this very day that I'm writing this. Because I'm learning new information all the time.

For instance, I talked to Don. Eight months ago he told me he did not want to talk to me for this story and then last week he talked to me for this story. He didn't want me to use tape of his voice or his last name but he said I could use what he said. Spoiler here: Don does not appear to know what happened to Hae, or why it happened to her, or whether Adnan is guilty. But it was interesting to hear what he said he remembered about the day Hae disappeared and about her and about the trial. Here's what he told me. Don said Hae was at his house in a town north of Baltimore City on the night of January 12, the night before she went missing. He said she wanted to spend the whole next day with him too. She wanted him to call Woodlawn High School and pretend to be some authority figure, tell the office Hae couldn't be in school that day. She wanted it to be an excused absence rather than just plain hooky. But he didn't. He says he thought she should go to school and besides, he told her he had to work the next day at 9am. It was supposed to be his day off from the LensCrafters at the Owings Mills Mall where they both worked, but Don said he arranged to fill in for a friend at the store in Hunt Valley. Don said he and Hae had made plans to meet up later that night of the 13th after her work shift ended at 10 p.m. When the cops recovered Hae's car there was a note inside with Don's name on it. "Hey cutie, sorry I couldn't stay. I have to go to a wrestling match at Randelstown High, but I promise to page you as soon as I get home, ok? Till then, take care and drive safely. Always, Hae." In a P.S. on the note, Hae mentions a tv interview that had been taped that day. The local station had done a student athlete segment on her. So the note was written on the 13th, the day she went missing. This note was one of the reasons I'd initially written to Don, way back when. "Sorry I couldn't stay," is confusing. I didn't understand what she'd planned to do with the note, put it on his car maybe, but his car was so far away in Hunt Valley.

But the note stumped Don too. He said he didn't know about it until I sent it to him and he didn't have a guess as to what her plan was for that afternoon. When Hae went missing, Don was one of the first people the cops called. He says he knew immediately he'd be a suspect. He said, "that was the first thought when they said she's missing. I said, 'well ok, they're going to try to blame it on me because she was with me last night. I'm the new boyfriend, I'm obviously going to be one of the first suspects, me and Adnan.'" He said he immediately made sure he knew where he was. "When someone calls you up and tells you 'have you seen this person? They went missing, they haven't

been seen since school,' you automatically retrace everything you did that day. Did I see them, did I hear from them, did they page me, did they call me, where was I at this time, what was I doing at that time, yeah."

Maybe you're all noting, as I did, that that wasn't Adnan's stated reaction to getting called by the cops on the 13th. I'm tempted to make a judgment right here, but I'm going to pull a benefit of the doubt because Adnan was seventeen, he was stoned, he's a different person, but noted, right? Also note however, there was one similarity in how they reacted to Hae's disappearance. You know how Adnan says he doesn't remember calling Hae after the 13th? Guess who else doesn't remember trying to call Hae after the 13th - Don. Like everyone else, he said he wondered whether maybe she'd gone to California, she'd told him her father lived there. He says it's not that he didn't think about what had happened or didn't worry, it's just that he didn't know what to do. Don's alibi was solid. His computer generated time card said he'd arrived at work at 9:02 a.m. on the 13th, taken lunch from 1:10 to 1:42, clocked out at 6 p.m. But Don's manager at the Hunt Valley store was his Mom, so that didn't look great. Don said he was anxious throughout the investigation.

"They never, up until the day they arrested Adnan, I had no idea what was going on" he said. "They never said you're cleared as a suspect. It was left hanging and until they arrested him I had no idea. I suspected they might try to say we were in on it together. I didn't know Jay existed until I started listening to the podcast."

Don had met Adnan once. According to Hae's diary it was December 23. It was a snowy day and she had a minor car accident on the way into work and she'd called Adnan to come help her out. They were broken up by this time but he came to the rescue. In the parking lot outside LensCrafters, Adnan and Don converged. Hae writes, "Don and Adnan took a look at my car and told me not to drive it unanimously. Ah! Mommy is going to be so mad. But I swear it's not my fault."

Don told the cops back then that he and Adnan had a perfectly nice conversation. At trial he said Adnan said something to him like "ok, well, I just want to make sure you're an ok guy." Don told me the same. "We sat and talked and just as everyone else described him, he was very polite, articulate, just really the typical what you'd expect of the ex-boyfriend meeting the new boyfriend, sizing each other up. We joked, we spent a good 10-15 minutes talking after we checked out the car." At trial, for whatever reason, this episode is firmly timestamped as having happened in January, after Hae and Don had started dating, though it's clear from the diary it was December 23rd. In any case, Don's testimony at both trials, he's the State's witness, is milquetoast. He just says, "yeah, I met him, it was cordial." Which made me wonder why the State even called Don and according to Don, prosecutor Kevin Urick might have been wondering the same thing. Don said, "when I testified, they pulled me in a back room and let me tell you how fun that was, to have the

prosecutor afterwards yelling at me because I did not make Adnan sound creepy,” he said, “they wanted me to make him sound creepy. So creepy that I felt intimidated, which I did not. Adnan, he was very personable. He was funny, he was everything I already said. He was somebody that I would have hung out with if I knew him in school.” Don’s memory is that Urick yelled at him after both the first and second trials. “Oh, he was irate” Don said, “when I say yelling, he was literally yelling about it at me.” I ran this by Kevin Urick but he said he was not authorised to talk about the case.

Don says he loved Hae, that he still loves her. It’s not something that goes away he said. Even though they only officially dated for thirteen days, he says she meant a lot to him. She was totally unshy he said, confident. She pursued him, he said, for all of December whenever she saw him at work, he said she’d ask him when he was going to take her out. Constantly she asked him, followed him into the lunch room on his break, pestered him. He was dating someone else at the time but then that ended and so on New Year’s Eve they made their first date for the next day. He fell for her pretty quickly he says. “You could not not like this girl. She was aggressive, intelligent, assertive is a better word than aggressive. Generally nice person. Anything I’ve heard anybody say about her since, it’s not like ‘oh I don’t want to talk bad about the dead,’ it’s just being honest. It’s hard for me to explain. If you didn’t like her, you didn’t like her because she was so likeable. But then you couldn’t even be annoyed by her because she wasn’t annoying. She was charming.”

Don said Hae actually changed him, changed the way he thought about himself. He said he’d come off a couple of bad relationships, girls who had cheated on him. “She basically in no uncertain terms told me to knock it off,” he said, “that I’m worth, that I have worth. I don’t remember the words she used. I can’t paraphrase it at this point but I am worth having self esteem, that I should think that I am good enough, and I took it to heart, especially after I found out that she had died.”

Josh

I’m sorry that I’m throwing it so late in the game here, but I didn’t even know that this existed until Friday.

Sarah Koenig

Yeah, that ok, no that’s ok, that’s ok.

Here’s another guy I just heard from, and speaking of him, all of a sudden I was hearing Jay’s perspective. Or at least this guy’s perspective of Jay’s perspective.

Josh

He was scared. I mean, like terrified.

Sarah Koenig

This guy's name is Josh. He asked that I not use his last name. He said he worked with Jay at South West Video, the porn store. Josh was twenty-one at the time. They weren't close friends he said, but Josh would give Jay rides and they'd smoke weed together, hang out a little bit. Josh said that on the night that Jay was first picked up by the cops, so late at night on February 27 and into the morning of the 28, Jay called him at home and asked him to come into the store because he didn't want to be alone there. He was that scared.

Josh

He was, I mean, frightened out of his mind and not of the police. They were the secondary fear. I mean, he was afraid of going to jail, but not like he was afraid of-- Adnan, I guess is how you say his name, I don't know.

Sarah Koenig

Adnan?

Josh

Adnan, that's it.

Sarah Koenig

Josh says Jay actually never told him Adnan's name, but Josh has listened to the podcast so he knows the name now. But back then, he didn't. He says Jay told him he was afraid that people were after him. People connected to the murderer.

Josh

Across the street from the video store was a parking lot for the Amtrak commuter trains. And the parking lot was usually empty in the evening. Well, that particular night there was a van in that parking lot, which I'm pretty positive had nobody in it, but Jay was afraid. I mean, to the point-- he was almost in tears.

Sarah Koenig

Yeah.

Josh

He didn't want to go outside, he didn't even want to look out the door because he really thought the van that was across the street was people waiting to get him.

Sarah Koenig

But the people you're talking about, is it only in retrospect that you're thinking it's Adnan's people, or did he say that to you at the time?

Josh

Oh no, he said it. He said it was-- I guess Adnan, had threatened him.

Sarah Koenig

Right, but you're saying that you didn't know, he never told you the name of the person. I'm just trying to imagine is it possible that it was somebody else entirely who he was afraid of.

Josh

Yeah, I guess it could have been but whoever he was afraid of is obviously the person that committed the crime.

Sarah Koenig

Right, but so I'm saying did you-- did he express to you at the time that this was a person with Pakistani relatives--

Josh

Yeah.

Sarah Koenig

Oh, he did, he said that at the time?

Josh

Yeah, he definitely said it was somebody, the guy was Middle Eastern.

Sarah Koenig

Josh says Jay told him it was the ex-boyfriend who'd killed Hae. It was Josh's impression that Jay had called the cops himself that night, because he told Josh the cops were coming to get him, and he seemed anxious that it was taking them so long to get there. Josh says Jay was pacing, checking his watch, that he kept asking him to look outside to see if the van was still there. At trial, Jay testifies that the cops showed up at the video store on their own, that he didn't know they were

coming. In his taped interview with the police that same night, February 28, Jay doesn't mention a white van, or that he's terrified of Adnan's people. But he does tell the cops that he's talked to Adnan either yesterday or the day before and that Adnan was threatening him in a general way. Here's tape from that February 28 interview. Detective Ritz talks first.

Detective Ritz

When was the last conversation you had with Adnan?

Jay

I think it was either yesterday or the day before.

Detective Ritz

The most recent conversation you had with him, what was the content of that conversation?

Jay

I learned that you guys were looking for me.

Detective Ritz

How did you learn that?

Jay

People told me. Friends of mine told me you guys were coming to question me. So I went to him and said, "what did you get me wrapped up in?" and he just told me, "just calm down, everything will be ok."

Detective Ritz

Where did this conversation take place?

Jay

I believe it was in front of my house in (inaudible) Park.

Detective Ritz

Other than you saying, "what the fuck did you do? Why did you get me wrapped up in this?" what did he say?

Jay

He just told me, "ain't nothing that happened. They don't know shit," and "stay cool."

Detective Ritz

Is there anything else said during that conversation?

Jay

(pause) He told me that he knew somebody. (pause) I used to be involved in a lot of illegal activity and people on the West Side-- basically the gist of what he told me was that he knew the West Side hitman. So I wouldn't call it a threat, but he was letting me know.

Detective Ritz

--in a roundabout way that if you said something to the police that--

Jay

Yeah, because I told him, if they come to me I ain't going to fuck around, I'm just going to tell them what the gig is, and he was like, "you know who I know." That's what he said to me.

Sarah Koenig

OK, so the West Side Hitman? It's so strange, I find Josh's version of Jay's fear so much more believable than *Jay's* version of Jay's fear. Which makes me wonder if it's all just in the delivery. When Jay first told Josh weeks before that he knew something about the missing girl who was all over the news, Josh says he didn't believe him.

Josh

I said something about him not really being involved and then he's like, "no man, you don't understand, I helped to bury the body." It seemed like he was kind of bragging, I mean that's kind of the guy that Jay was. It's not that he bragged about stuff that he did, sometimes he made up things that he didn't do and so that's kind of what I thought he was doing. Why would you say that, why would you tell somebody that you really don't know that well-- and I guess it's why I didn't believe him. If I had done it, I certainly wouldn't have told me.

Sarah Koenig

Right.

Josh

Maybe my best friend or something like that, but not not somebody that you work with at a porn store.

Sarah Koenig

The version of the crime that Josh says Jay eventually told him, it's pretty close to the version that Jay's friend Chris told me too. That Jay was out somewhere and that Adnan came to him and showed him the body and said something to the effect of "you gotta help me." Josh says he can't remember where Jay said he was when this happened, but he is certain the words "Best Buy" were never attached to the story. Josh went to that Best Buy all the time and he says he definitely would have remembered that. He said when he heard in the podcast that Chris had mentioned the pool hall thing, that sounded right to him but he can't say for sure. Josh says he also had the impression, like Chris, that it had all gone down later in the day, not mid afternoon. Josh says at first, Jay seemed afraid the cops were going to figure out he was involved through fingerprints or DNA or something, but that as time went on he seemed more and more afraid of the guy who did it, that he was threatening Stephanie. It was, "you'd better keep your mouth shut or else." He says Jay told him the threats were getting more forceful. To Josh, Jay was *so* not the type to be involved in a murder. Maybe he tried to act tough he said, but he wasn't. He said he himself had friends who got in serious fights or who'd been locked up for grand theft auto, but Jay was not in that category at all he said. He was a nice guy.

Josh

He wasn't the type of guy that you really got the sense he could do something real. He wasn't a killer and he wasn't a thug. If anything, he was kind of the opposite. He seemed like he was in way over his head.

Sarah Koenig

Yeah.

Josh

I remember feeling bad for him.

Sarah Koenig

Was there any point-- I mean I don't mean to sound judgy or something, but was there any point where you're like "well, you should go tell the cops then, if you know who did this. Go tell the cops."

Josh

No, not really. I know that's probably what I should have said but I didn't really believe him and like I said, when it comes to reputation, on the street you don't want to be the guy that's "oh, go snitch." You don't want anybody to see you're weak and all that stuff and so I didn't ever say go to the cops because that would be like the bitch thing to do.

Sarah Koenig

Josh says what never quite made sense to him, what he never entirely understood was why Jay would help Adnan bury Hae.

Josh

Even if I didn't call the cops, I definitely wouldn't grab a shovel and help him dig a grave.

Sarah Koenig

Right, I know. I know, I know. That's what's hard about the story is that you just figure there's something that's not computing here.

Josh

It definitely never sounded right which is why I never believed him until the cops actually picked him up.

Sarah Koenig

Josh says he only remembers seeing Jay one more time after that, he thinks maybe Jay came by the store to pick up his check and when Josh asked him, "so what happened?" Josh says Jay told him he couldn't talk about it.

In preparation for this episode, Julie and Dana, the producers of this show, went back over everything we had. All the police files, the attorney files, the interviews I've done, the cell records. They did one final sweep just to be sure we'd weighed everything and because old details can have startling new meaning after a year's worth of research is behind us. They came across a couple of things they wanted me to know.

First and foremost, the Nisha call. I'd asked them, "is there any other viable explanation for the Nisha call on Adnan's cell record?" Here's Julie.

Julie Snyder

We'd always been under the impression that the Nisha call was a no-way-around-it call.

Sarah Koenig

It looks terrible for him.

Julie Snyder

It looks terrible for him and it's 2 minutes and 22 seconds.

Sarah Koenig

To remind you, the Nisha call is the one that happens at 3:32pm on January 13. It's to that girl that Adnan has been flirting with who lived near Silver Spring. The Nisha call is the one that's always stuck out to me and I think to most people who've looked at Adnan's case closely because it happens on the afternoon that Hae disappeared at a time when Adnan has said, insisted even, that he was not with his phone, that Jay had his phone while he was in school. Jay had told the detectives that Adnan had called some girl in Silver Spring that afternoon and briefly put Jay on the phone with her. That's why the call is so important. Not only does it put Adnan together with his phone in the middle of the afternoon, it puts Adnan together with Jay in the middle of the afternoon. It corroborates Jay's story. I've always had some suspicion about this call because Nisha said to the cops and at trial that there was a day when Adnan put his friend Jay on the phone, but Nisha has consistently said it happened toward the evening at the video store where they worked. Jay didn't have the video store job on January 13. He started that job at the end of the month. So I never bought the idea that the thirteenth was the day she talked to Jay. But even so, it didn't look good for Adnan because who was calling Nisha in the middle of the afternoon then? Jay didn't know Nisha. So for me this call has remained one of the pillars of the case against Adnan. That's what Julie means when she says "no way around it." But now, I think the Nisha call might be moving from the "no way around it, this looks bad for Adnan' column" into "eh, now I'm not so sure." Adnan says that Nisha's number was programmed into his cellphone, so he's always said to me, "maybe the button got pushed accidentally, like a butt dial and then the answering machine picked up." The problem with that explanation besides how convenient it sounds for Adnan is that there was not answering machine on that line. That's what Nisha says at trial. This call shows up not just on the call log but on Adnan's AT&T bill. He got charged for it. So this was our quest, or really Dana and Julie's quest: to find out, is it possible that this call would have shown up on Adnan's bill even if it went unanswered. This proved so elusive, first we got one answer, then

another, then another, then another. AT&T was not helping us, then finally, Dana and Julie figured out exactly what they needed to answer this question. An AT&T customer service agreement circa 1999. They found one, in a class action lawsuit against AT&T that included as an exhibit, the very document we needed.

Julie Snyder

Luckily that class action lawsuit was filed in New York so Dana was able to go down to the-

Sarah Koenig

That's the photo you sent.

Dana Chivvis

That's the Old Records Department of the New York Supreme Court or something like that, yeah.

Sarah Koenig

That's so awesome. It looked like the Mad Hatters archive room. Were you the first humanoid who'd come down in like fifteen years? (laughing)

Dana Chivvis

Yeah, they were like, "what news do you bring?"

Julie Snyder

So Dana goes down there, pulls the service agreement, takes pictures of the contract, sends the first picture, the first picture says on the contract, it says "we do not bill for unanswered calls."

Sarah Koenig

Oh!

Sarah Koenig

Meaning the Nisha had to have been answered because it shows up on the bill. But there was fine print to the fine print. When Dana flipped through to the last page of the contract she found a loophole. The loophole says AT&T won't charge for unanswered calls unless the call isn't terminated within a "reasonable time." So if you call someone and it rings and rings and you don't

hang up within a “reasonable time,” AT&T *will* charge you for that call even if it’s unanswered. So what is a reasonable amount of time, or rather, an unreasonable amount of time? That loophole actually still exists today and the unreasonable amount of time today is thirty seconds or longer, they’ll charge. We saw one contract from ‘99 that specified sixty seconds or longer, so it stands to reason that two minutes were probably covered. They probably did charge. The folks at AT&T told us the only reason a contract would have varied back then in ‘99 was if the State had passed particular legislation to address it. We didn’t find anything in the Maryland rules about it, so after all this work we feel pretty confident that AT&T would have charged for a call that rang and rang for more than two minutes in Maryland in 1999.

Sarah Koenig

So either way if it’s two minutes and twenty-two seconds it’s probably unreasonable.

Julie Snyder

It’s probably unreasonable.

Dana Chivvis

That seems unreasonable

Sarah Koenig

It an unreasonable amount of time to be listening to a phone ring, I gotta say, without it being answered so (laughs)--

Julie Snyder

It’s an unreasonable amount of work going in trying to figure this out. (laughs)

Sarah Koenig

I know that’s a long and perhaps way too detailed way of explaining it but all this adds up to something important. It means the Nisha call could conceivably have been a butt dial that no one answered. It means there isn’t only one explanation for the Nisha call. There are alternative scenarios. It could be that Adnan called Nisha, or it could be that Jay was with somebody else who called Nisha, or maybe Jay or someone else called Nisha by accident. A butt dial and no one was ever the wiser because no one ever picked up. If there are alternative scenarios, then that means the list of things we know, actually definitively know, facts we can show about the evidence against Adnan, that list just got shorter.

In a way the only hard evidence in the case against Adnan is his cellphone record for January 13. That's what the cops and prosecutor used to corroborate Jay's statements. So Dana and Julie looked at that same record all over again, the call log and the cell tower map, teased it all apart, to see if they could figure out what happened. To figure out if there was anything else I could know about what Jay and Adnan were doing that day. We've talked about the call log a lot already, we already knew it didn't match Jay's explanations of where they went and when. But when Julie looked again, she realized, when she tried to assign the calls some semblance of a narrative, her picture of the day crumbled even more. Instead of answering any of her questions, the call log raised bigger ones, such as was everyone lying about that day?

My original question going into this whole endeavour, this whole story was either Jay's lying or Adnan's lying. But what if it's not either or, what if it's *both and*? The call log evidence is screwy right from the beginning. Jay said that when he met up that morning, when Adnan drove over to Jay's to give him his car, they'd gone shopping at the mall. Adnan has said various things, but not that they went shopping. What seems most likely according to what Adnan told his attorney at the time is that Adnan hung out with Jay until about 12:45-1:00 p.m. and then went back to school. There's a 12:07 call and a 12:41 call. The first pings a tower out west in Ellicott City. The next pings a tower back east toward Baltimore City. They're pretty far apart from each other. Here's Julie.

Julie Snyder

Going to Ellicott City, and then going into Baltimore City, where the phone is pinging off of Edmonson Avenue area, which is actually near drug strips where Hae's car was dumped. That sort of area of Baltimore. That's not mentioned by Adnan. So, "I don't remember what we did. I know we didn't go shopping. I'm not really sure." I feel more concerned and suspicious-- I feel suspicious, of being like, "huh," because I can see being-- I can see where the phone was moving. I know Jay's story about Security Square Mall is not true because of the phone, if they had the phone. But I don't think Adnan's is true either.

Dana Chivvis

Can I also add that at one point, Jenn says to the detective that she remembers one of those phone calls she answered and talked to Jay and Jay had said that he was downtown with Adnan.

Sarah Koenig

The prosecutor at trial said, "we don't really know what they were doing, but it doesn't matter, because Hae was in school at that time. Alive." That's true. But still the phone record tells us that there's something they're not telling us. Why, and is it related to what happened later. The next

call is the incoming 2:36 call. The supposed “Best Buy” call from the phone booth that we’re pretty solidly convinced wasn’t the “come and get me” call.

I do have something of an update there. We have not found evidence of a phone booth outside the Best Buy on the sidewalk, like Jay draws on his map for the cops. But we have now seen two anecdotal reports that there was a payphone inside the vestibule. We haven’t been able to verify these reports, but we did get a look at the 1994 architectural plans for that Best Buy, and indeed on the plans there is a teeny little rectangle in the vestibule on the left as you walk in, labeled “payphone.” So, maybe there was one. Inside.

Anyway, back to the call log. Julie spent a long time thinking about the 3:21 call. It opened a whole new mystery for her, because it’s confusing on about three different levels. It’s an outgoing call, from Adnan’s cell to Jenn’s house phone. Jay and Jenn both talk about some call that afternoon that comes into her landline. Someone supposedly looking for Jay.

Julie Snyder

Jenn says she remembers Jay getting phone calls while he was at her house. Jay says he remembers getting phone calls while at the house. Both of them also reference a landline call. *Jay* says, “I get a call on the landline, and that’s when I leave.”

Sarah Koenig

Meaning, right? This incoming landline call is Adnan calling in looking for Jay.

Julie Snyder

Why would Adnan be calling you on the landline? The whole point of him giving you the cell phone was so that he could call you on the cell phone. It doesn’t make any sense. But there is a 3:21 call made from the cell phone to Jenn’s house.

Sarah Koenig

Here’s the second confusing thing. Jay eventually told the cops the 3:21 call was a call *he* made. To Jenn asking if she knew whether this guy Patrick was around. Jay was looking for weed from Patrick. Jenn, by the way, testified this never would have happened, that Jay would never call her asking about Patrick, but anyway. Here’s the third thing. The confusing kicker. Both Jay and Jenn also say Jay was at Jenn’s house until about 3:45 p.m. that day.

Julie Snyder

That also has always confused me. If Jay is at Jenn's house until 3:45, how is he calling Jenn's house at 3:21? Why would he be calling the house that he's sitting in it?

Sarah Koenig?

Unless Adnan has the phone.

Julie Snyder

Unless Jay doesn't have the phone. I'm not saying who has the phone. I have no idea who has the phone. But it leads me to believe that there is the possibility that Jay doesn't have the phone.

Sarah Koenig

So what's the evidence that Jay *does* have the phone? Jenn tells the police that she saw Jay with the phone that afternoon. She has an image of the cell phone in her mind sitting on the coffee table at her house. But at 3:21, the tower that's pinged isn't the one that covers Jenn's house. If Jay doesn't have the phone though, then who has the phone? More to the point, if Jay doesn't have the phone, then what was going on that afternoon? Then I have no idea what was going on.

There are discrepancies unresolved like this all throughout the afternoon and evening right up until the end of the night when there's a big one. We noticed it right at the beginning, and while Adnan's attorney *does* bring it up at trial, no one dwells on it too long. But it's odd. Jenn and Jay tell different stories about where she picked him up on the night of the thirteenth, and about where and when they got rid of Jay's clothes and boots. Jenn says she picked Jay up at Westview Mall, where she saw Adnan too. Jay says, that didn't happen. He says, she picked him up at his house, and that he dumped his clothes that same night, the thirteenth, the first time he tells it, he says he threw them out in the trash at his own house. But Jenn say, she and Jay tossed his clothes in some dumpsters the next day, though there would have been a terrible ice storm happening, but maybe. Anyway, pretty different stories.

Julie Snyder

--and it hasn't been reconciled. They actually both kinda dig in on it.

Sarah Koenig

Yeah, I know.

Julie Snyder

--admit to it. Somebody is wrong, and I don't believe it's an oversight. But I cannot work my head around what is the-- what is the lie that is minimizing what?

Sarah Koenig

Right. What's the utility of which lie?

Julie Snyder

Yeah. What's the utility of which lie? Yeah.

Sarah Koenig

You can apply that same question, "what's the utility of which lie?" to this entire case. There's so much that is murky, all you can do at a certain point is speculate, and believe me, we have. Dana and Julie and I speculate about all sorts of things. Like crazy we speculate. Rest assured that in the privacy of our office, we've turned over every possibility, no matter how remote. 99% of what we speculate I cannot report, because, well, we can't back it up, it's speculation. But here's one I can tell you we've recently discussed. We loop-de-looped all the way back to motive. I know I dismissed the motive the state supplied way back in episode two but we put it back on the table, just to see where it took us. Here's where we got.

We've always said Adnan was over the breakup. It had been a month already. But just for arguments sake, let's say he *wasn't* over it. Adnan and Hae had broken up and gotten back together a few times. When they break up in mid-December, maybe Adnan thinks she'll change her mind again. They're still friendly; several people said to me they couldn't tell or didn't even know that Hae and Adnan had broken up, or said that Adnan was still referring to her as his girlfriend or said he told them they'd get back together. Don said he never quite knew what the deal was between them. But judging from Hae's diary, by January, her romantic feelings are completely absorbed by Don. Remember their first date is January 1. But maybe Adnan didn't feel the full force of how she'd moved on until they got back to school, after Christmas break. Here's what Dana realized recently. That first week of school, in '99, Adnan was absent two out of four days. Then Friday was a snow day. So maybe he doesn't get it, that he's really lost Hae until that first or second week back at school. Here's Dana.

Dana Chivvis

Maybe that's when reality sets in for him and maybe that's when-- yeah. Maybe that's when the emotions hit him.

Sarah Koenig

--and so *does* kinda lose it.

Dana Chivvis

--and so maybe he does kinda lose it.

Sarah Koenig

But who else says this? Not one of Hae's or Adnan's friends whom I spoke to says they saw it like this at the time. They don't even speculate, now that they're adults, that maybe it could have been like this. So who are we to put this theory forward? This is the very obvious problem with speculation especially of the emotional variety. You can't prove it, so you have to drop it.

So where does this leave us? There's no point in trying to come up with a most likely scenario for what happened to Hae, because you could posit a hundred scenarios and so what? Bereft of more facts, better facts, even the soberest most likely scenario holds no more water than the most harebrained. In the equation of Adnan's case, all speculation is equally speculative. So instead of most likely, how about most logical? Dana has always been very logical about Adnan's case. She's the Mr. Spock of our staff. Her thing is, "okay! Let's say he didn't do it. But if he didn't do it, then my god that guy is ridiculously unlucky." I'm going to let her lay it out.

Dana Chivvis

Adnan has always said it was his idea to loan Jay the car because he wanted Jay to go get Stephanie a birthday present, right? So, that's pretty crappy luck that you loaned this guy, who ends up pointing the finger at you for the murder that you loaned him your car and cell phone the day your ex-girlfriend goes missing. The next thing is that it seems pretty clear to me that Adnan asked Hae for a ride after school, because we've got at least two of their friends saying they overheard him ask for a ride from Hae. Adnan himself tells the cop that day he asked her for a ride. In Jay's first interview with the detectives, he says to them: "Adnan's plan was to get in Hae's car by telling her that his car was broken down and asking her for a ride."

Then the next piece of bad luck is the Nisha call. I mean, even if the Nisha call could potentially be a butt dial, in the realm of possibility, maybe it was a butt dial, but what are the chances? That *sucks* for you that your phone butt dialed a girl that only you know and would call on this day that your ex-girlfriend goes missing that you happen to loan

your car and your phone out to the guy who ends up pointing the finger at you. That sucks. Then the last thing that I think really sucks for him if he's innocent is that Jay's story and the cell phone records match up from about six o'clock to about eight o'clock which is when Jay is saying you are burying the body, and that's the time of the day you just have no memory of where you were. You have your dad saying you were at the mosque, and maybe Bilal your youth leader--

Sarah Koenig

Who never testifies.

Dana Chivvis

--who never testifies at the trial, but testifies at the grand jury, that--

Sarah Koenig

He says he saw him after dark at the mosque on the thirteenth.

Dana Chivvis

But you, Adnan, you don't really remember where you were that evening, and that blank spot in your memory, that's the window of time when Jay's story actually does seem to be corroborated by the cell phone records.

Sarah Koenig

Seem to be corroborated, yes. But Jay's statement only roughly matches the Leakin Park calls and eight o'clock calls. Really roughly. The geography matches, but not the timing. But, I take her point.

Dana Chivvis

So I guess, it just-- in order to make him completely innocent of this, you just have to think "God, that is-- you had so many terrible coincidences that day. There were so many-- you had such bad luck that day, Adnan."

Sarah Koenig

A lot of people see it this way. All of us on staff have heard from people who say just so quickly, "oh yeah, he's totally guilty. News flash. People lie in murder cases. On the witness stand. Whoopdeedoo." We worried. Did we just spend a year applying excessive scrutiny to a perfectly ordinary case? So we called Jim Trainum back up. He's the former homicide detective we hired

to review the investigation and we asked him, “is Adnan’s case unremarkable? If we took a magnifying glass to any murder case, would we find similar questions, similar holes, similar inconsistencies?” Trainum said no. He said most cases, sure they have some ambiguity, but overall, they’re fairly clear. This one is a mess he said. The holes are bigger than they should be. Other people who review cases, lawyers, a forensic psychologist, they told us the same thing. This case is a mess.

While we’ve been rabbit-holeing in our office, back out in the world, those lawyers from the University of Virginia Law School’s Innocence Project Clinic have been coming up with their own most logical explanation, which couldn’t be more different from Dana’s. I haven’t reported anything about it to now, but over the weekend there was a development of sorts, so now I can tell you. Deirdre Enright and her students have a motion in the works to test the DNA from Adnan’s case that wasn’t tested. The PERK kit, that’s the swabs from Hae’s body, the material from under her fingernails, the hairs found on her body. In a motion like this you have to give a viable reason to test this stuff. You have to show how it could potentially exculpate you and Deirdre’s reason is, she thinks the DNA might match some other guy. The path to one of these other guys started way back when Dana and I went down to Charlottesville last February. Mario, one of her students, started looking online for possible signs of a serial killer basically. I’d already told him about another strangling of a young woman who was also found in a Baltimore park, different park, and one thing led to another and he came upon yet another case. A cold case.

Mario

I stumbled upon a website that categorised all the unsolved murders in Baltimore County and she was there.

Sarah Koenig

Do you remember her name? I know your computer’s not open now.

Mario

I unfortunately do not remember--

Sarah Koenig

Was it Annelise--

Mario

Her last name was Lee.

Sarah Koenig

Annelise Hyung Suk Lee. I believe she was also Korean. She was twenty-seven when she was killed, strangled in her apartment in Owings Mills. She was found on December 13, 1999, exactly eleven months after Hae disappeared. I could see why Mario was interested.

Sarah Koenig

So, will you look into that now?

Mario

Ah, absolutely.

Sarah Koenig

Then, months later I got a message to call Deirdre. She said she had huge news.

(Phone ringing) oh please pick up.

Deirdre Enright

Deirdre Enright

Sarah Koenig

Hey it's Sarah.

Deirdre Enright

Sarah! (sing-songy)

Sarah Koenig

Her huge news and this is attorney huge, not necessarily reporter huge, but anyway. The news was that she'd spoken to someone in the Baltimore County Police Department to ask about this unsolved case of Annelise Lee.

Deirdre Enright

So I'm going to tell you quickly because I have to get on this call at 2:30.

Sarah Koenig

OK.

Deirdre Enright

But I called sergeant something--

Sarah Koenig

Sergeant Something told her that they now had a suspect for this Owings Mills case from 15 years ago. They tested some old DNA and a match came back to this other guy who'd done other crimes, mostly burglaries.

Deirdre Enright

He said my guy was in prison a lot. He said he had a really tiny window of being out and about and he was very active while he was out and about. So, he said during that time that he was out we linked him to two rapes and a murder and the motives in all of them appeared to be burglary but he'd always had sex with people.

Sarah Koenig

OK.

Deirdre Enright

--and he said that he got out and became active for fourteen months, his release date was January 1, '99.

Sarah Koenig

Oh my God.

Deirdre Enright

Right?

Sarah Koenig

So, what's his name?

Deirdre Enright

He wouldn't tell me his name.

Sarah Koenig

Oh for crying out loud.

Deirdre Enright

But he accidently referred to him as Ronald--

Sarah Koenig

And did he bury his victims?

Deirdre Enright

He, I didn't, I think he felt like he was telling me too much already.

Sarah Koenig

Yeah yeah yeah yeah--

Sarah Koenig

Deirdre later learned this guy's name was Ronald Lee Moore. Ronald Moore is dead now, he killed himself. But it seems like he committed lots of crimes. He'd been in prison in Baltimore for a while on assault and burglary convictions and according to a Baltimore Sun article, in 2007 he was supposed to get transferred to a different jail in Anne Arundel County so he could be prosecuted for a different crime but the Baltimore officials released him by accident. He was arrested about a month later in Louisiana for burglary. They figured out who he was and that he was wanted back in Maryland. Anyhow, this is the guy the Baltimore County cops linked through DNA to the death of Annelise in Owings Mills. This is the guy that Deirdre and her gang are naming in their motion to test the DNA from Adnan's case. It's a long shot that there will be anything testable in those samples and it's a long shot that if there is, it'll match anyone but Hae, and most long shotty of all that if it does match someone else, that someone else happens to be Ronald Lee Moore. When I said that to Deirdre though, as I have several times, she always shoots right back, "what makes mores sense? That little seventeen-year-old, never been in trouble with the law Adnan killed someone or that Ronald Moore, rapist and murderer who got out of prison thirteen days before Hae disappeared, that he killed someone?" "Right, I know," I say, "But what about Jay? He knew where Hae's car was. He had to be involved. How does that account for Jay?" Deirdre says, "Big picture Sarah, big picture."

Meanwhile, Adnan's post conviction petition is still alive in the Maryland Court of Special Appeals. His attorney, Justin Brown, is working on a way to bring the issue of the Asia alibi before the court again. I spoke to Asia recently. She told me she stands by her memories of seeing Adnan that January afternoon in the public library and she stands by her affidavit. For post conviction purposes, Asia's alibi is still a big deal. It sure would seem to point to ineffective assistance of counsel. It's funny though, knowing what we now know about the State's garbled timeline and that Hae was maybe still alive at 2:45 or 3:00 p.m., Asia's library alibi doesn't pack the same punch for me as it once did.

Deirdre and Justin Brown have been giving Adnan conflicting advice lately about how best to proceed, what to push for and when. But on Saturday Adnan finally gave Deirdre the go ahead to file the motion to test DNA. It was an emotional decision for him.

Adnan Syed

It's just anything about my case, I want to know it. I don't want anyone to be able to say "well he didn't want to know so boom, we went and found out." No, I want to know. So I called Miss Deirdre and said "Look Miss Deirdre, I wanted you to test things. I'm the one that asked for this. You guys had it sitting for sixteen years and you never tested it. It's impossible for it to be sitting there for sixteen years and you guys never tested it. So that's fine, I want it tested.

Sarah Koenig

Yeah.

Adnan Syed

I want to see what it says. There's nothing about my case that I'm afraid of.

Sarah Koenig

So back to Adnan's question. Do I have an ending?

Adnan Syed

I was just thinking the other day, I'm pretty sure that she has people telling her, "look, you know this case is-- he's probably guilty. You're going crazy trying to find out if he's innocent which you're not going to find because he's guilty." I don't think you'll ever have one hundred percent or any type of certainty about it. The only person in the whole world who can have that is me. For what it's worth, whoever did it. You know you'll never have that, I don't think you will.

Sarah Koenig

Adnan told me all he wanted was to take the narrative back from the prosecution, just as an exercise. So people could see his case without makeup on, look at it in the eye up close and make their own judgments. He told me, he doesn't think I should weigh in.

Adnan Syed

I think you should just go down the middle. I think you shouldn't really take a side, I mean, it's obviously not my decision it's yours, but if I was to be you, just go down the middle. Obviously you know how to narrate it but I checked these things out and these are the things that look bad against him, these are the things that the State doesn't really have an answer for. I think in a way you could even go point for point and in a sense you leave it up to the audience to determine.

Sarah Koenig

While I appreciate Adnan's blessing to take a powder, I'm not going to. Dana's right to be sceptical. What are the chances that one guy got so unlucky? That everything lined up against him just so. Because yes, there's a police file full of information, circumstantial information that looks bad for Adnan. But let's put another file next to that one, side by side. In that second file let's put all the other evidence we have linking Adnan to the actual crime, the actual killing. What do we have? What do we know? Not what do we *think* we know, what do we know? If the call log does not back up Jay's story, if the Nisha call is no longer set in stone, then think about it. What have we got for that file? All we're left with is, Jay knew where the car was. That's it. That all by itself, that is not a story. It's a beginning but it's not a story. It's not enough, to me, to send anyone to prison for life, never mind a seventeen-year-old kid. Because you, me, the State of Maryland, based on the information we have before us, I don't believe any of us can say what really happened to Hae. As a juror I vote to acquit Adnan Syed. I have to acquit. Even if in my heart of hearts I think Adnan killed Hae, I still have to acquit. That's what the law requires of jurors. But I'm not a juror, so just as a human being walking down the street next week, what do I think? If you ask me to swear that Adnan Syed is innocent, I couldn't do it. I nurse doubt. I don't like that I do, but I do. I mean most of the time I think he didn't do it. For big reasons, like the utter lack of evidence but also small reasons, things he said to me just off the cuff or moments when he's cried on the phone and tried to stifle it so I wouldn't hear. Just the bare fact of why on earth would a guilty man agree to let me do this story, unless he was cocky to the point of delusion. I used to think that when Adnan's

friends told me “I can’t say for sure if he’s innocent, but the guy I knew, there’s no way he could have done this.” I used to think that was a cop out, a way to avoid asking yourself uncomfortable, disloyal, disheartening questions. But I think I’m there now too. Not for lack of asking myself those hard questions, but because as much as I want to be sure, I am not.

When Rabia first told me about Adnan’s case, certainty, one way or the other seemed so attainable. We just needed to get the right documents, spend enough time, talk to the right people, find his alibi. Then I did find Asia, and she was real and she remembered and we all thought “how hard could this possibly be? We just have to keep going.” Now, more than a year later, I feel like shaking everyone by the shoulders like an aggravated cop. Don’t tell me Adnan’s a nice guy, don’t tell me Jay was scared, don’t tell me who might have made some five second phone call. Just tell me the facts ma’am, because we didn’t have them fifteen years ago and we still don’t have them now.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help this week from Joel Lovell and Nancy Updike. Production help from Sean Cole. Research and fact checking by Michelle Harris. Administrative support from Elise Bergerson. Our score is by Mark Phillips who also mixed the episode. Our theme song is by Nick Thorburn, who provided additional scoring. Special thanks today to Oliver Monday, David O’Dell, Chris Cunningham, Bennet Epstein, David Raphael and to our respective spouses Ben Schreier, Jeff Melman and Rachael Hammerman. Thank you all. And thanks to WBEZ and to Goli Sheikholeslami. A *huge* thank you to the entire staff of This American Life, most especially to Seth Lind who gave us operations support throughout the entire season, thank you. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, SerialPodcast.org. And if you want updates about Season Two coming sometime in 2015, please sign up for our email newsletter. That’s SerialPodcast.org. In the meantime we hope you’ll listen to our other show, This American Life. It’s a radio show and a podcast. ThisAmericanLife.org. Support for Serial comes from SquareSpace [ad removed] and from NYT Now [ad removed]. And from MailChimp [ad removed]. Serial is a production of This American Life and WBEZ Chicago.

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