

1
2 IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND
3
4 STATE OF MARYLAND
5
6 VERSUS INDICTMENT NOS. 199103042, 43, 45, 46
7
8 ADNAN SYED
9
10 FEBRUARY 17, 2000
11
12 REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS
13
14 BEFORE:
15 THE HONORABLE WANDA HEARD, JUDGE
16 AND A JURY
17
18 APPEARANCES
19 ON BEHALF OF THE STATE:
20 KEVIN URICK, ESQUIRE
21 KATHLEEN MURPHY, ESQUIRE
22 ASSISTANT STATE'S ATTORNEYS
23 ON BEHALF OF THE DEFENDANT:
24 M. CRISTINA GUTIERREZ, ESQUIRE
25
26 RECORDED BY: VIDEO TAPE
27
28 TRANSCRIBED BY:
29 Diane R. Walker
30 Official Court Reporter

1 PROCEEDINGS
2 THE COURT: I want to say good morning to
3 counsel. I also want to say I appreciate you all
4 being here promptly and as soon as Mr. Syed gets up
5 here we'll get under way.
6 MS. GUTIERREZ: We were all here a little
7 early, can we get some extra credit to save up?
8 THE COURT: Extra brownie points, yes.
9 MS. GUTIERREZ: We might need them later.
10 THE COURT: You never know, you never know,
11 if not this trial.
12 MS. GUTIERREZ: I was here at quarter after
13 nine. Mr. Urick was already here.
14 THE COURT: All right. Well, if not on
15 this trial, there will be another one. Very good.
16 Counsel, please be seated. Deputy Church, if you
17 could bring the jury in. Please be seated. I
18 received information that Detective Ritz is back in
19 town and is available, and also Ms. Benaroya has just
20 confirmed that she's cleared her docket or whatever
21 she had on her schedule for one o'clock on the 18th
22 and she will be here, as well.
23 MS. GUTIERREZ: Thank you, Your Honor.
24 THE COURT: She calls in every morning at
25 9:30 just to reiterate and she did so this morning as

1 INDEX
2 DEBBIE [REDACTED]
3 CROSS EXAMINATION BY MS. GUTIERREZ PAGE 5
4 REDIRECT EXAMINATION BY MS. MURPHY PAGE 135
5 RECROSS EXAMINATION BY MS. GUTIERREZ PAGE 141
6 DETECTIVE GREGORY MACGILLIVARY
7 DIRECT EXAMINATION BY MR. URICK PAGE 152
8 CROSS EXAMINATION BY MS. GUTIERREZ PAGE 160
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 per our agreement.
2 (Whereupon, the jury entered the courtroom,
3 after which the following proceedings ensued:)
4 THE COURT: I want to thank everyone for
5 being here promptly so that we could resume this
6 case. I also want to thank everyone for any extra
7 effort. We've been able to resolve some matters in
8 terms of my docket for today. So I'm happy with the
9 fact that we can get under way. With that said, I
10 need Ms. [REDACTED], if you will kindly stand, raise your
11 right hand, new day, new tape and we need to have you
12 sworn in so the record reflects that you have taken
13 the oath.
14 DEBORAH [REDACTED]
15 a witness produced on call of the State, having first
16 been duly sworn, according to law, was examined and
17 testified as follows:
18 THE CLERK: You can have a seat. Please
19 keep your voice up. State your name into the
20 record.
21 THE WITNESS: Debbie [REDACTED]
22 [REDACTED] Baltimore, Maryland 21207.
23 THE COURT: I believe we had resolved or
24 completed the questioning by the State and at this
25 point we have cross examination by Ms. Gutierrez.

1 MS. GUTIERREZ: Thank you, Judge.
 2 CROSS EXAMINATION
 3 BY MS. GUTIERREZ
 4 Q Ms. [REDACTED] yesterday you spoke to us about
 5 that you had known for Hae for four years, right?
 6 A Yes.
 7 Q And you considered her to be a close
 8 friend, did you not?
 9 A Yes.
 10 Q And she confided in you, did you not -- did
 11 she not?
 12 A Yes.
 13 Q And you encouraged her to confide in you,
 14 did you not?
 15 A Yes.
 16 Q And she seemed to take your advice?
 17 A Yes.
 18 Q And she confided in you about intimate
 19 personal things, correct?
 20 A Yes.
 21 Q Including her own sexual relationships?
 22 A Yes.
 23 Q And you had known Adnan Syed for seven
 24 years, correct?
 25 A Yes.

1 Q Before high school?
 2 A Yes.
 3 Q And you also considered him a friend, did
 4 you not?
 5 A Yes.
 6 Q And he also confided in you, did he not?
 7 A Yes.
 8 Q And you also encouraged that confiding, did
 9 you not?
 10 A Yes.
 11 Q And he also seemed to take your advice?
 12 A Yes.
 13 Q Did he not? And throughout the time that
 14 you were friends with both of them, you sort of knew
 15 that they both liked each other, didn't you?
 16 A Yes.
 17 Q They both expressed that to you, right?
 18 A Yes.
 19 Q Hae expressed that she really liked Adnan?
 20 A Yes.
 21 Q And Adnan sort of expressed he liked Hae?
 22 A Yes.
 23 Q And that each were interested in the other
 24 as a member of the opposite sex?
 25 A Yes.

1 Q At some point Hae asked you, I think you
 2 used the word she asked you to ask him to ask her to
 3 the junior prom?
 4 A Yes.
 5 Q The junior prom was held on April 25th of
 6 1998, was it not?
 7 A Yes.
 8 Q And the junior prom was a pretty big deal
 9 for juniors, wasn't it?
 10 A Yes.
 11 Q And who you went with to the prom was a
 12 pretty big deal?
 13 A Yes.
 14 Q And all of you, not just the three of you,
 15 but other juniors talked about who was going to go
 16 with whom, right?
 17 A Yes.
 18 Q And talking about relationships that any of
 19 you all had with members of the opposite sex was a
 20 constant source of information, was it not?
 21 A For some people, yes.
 22 Q For some people. And for a lot of the
 23 group that you hung out with?
 24 A Yes.
 25 Q And in that group people's relationships

1 changed, did they not?
 2 A Yes.
 3 Q So and so would be with so and so and then
 4 they'd break up?
 5 A Yes.
 6 Q And then be with somebody else?
 7 A Yes.
 8 Q And lots of students at the school, or at
 9 least some students at the school dated each other,
 10 did they not?
 11 A Yes.
 12 Q And some dated people outside of school but
 13 lots of people dated other members of their class?
 14 A Yes.
 15 Q Or somebody older?
 16 A Yes.
 17 Q Or somebody younger?
 18 A Yes.
 19 Q But still within the Woodlawn community,
 20 isn't that correct?
 21 A Yes.
 22 Q But prior to Hae Min Lee asking you for you
 23 to ask Adnan for him to ask her, they never had a
 24 date?
 25 A Correct.

1 Q Correct? And they had never considered
2 themselves an item?
3 A Correct.
4 Q And they really didn't have any kind of
5 intimate personal relationship?
6 A No.
7 Q And nobody had asked the other out?
8 A Correct.
9 Q And although Hae had expressed her interest
10 in Adnan to you, it was clear from what you knew that
11 she had never expressed it to Adnan?
12 A Correct.
13 Q And although Adnan expressed his interest
14 in her, it was clear to you that he had never
15 expressed his interest in her to her?
16 A Yes.
17 Q Is that right?
18 A Yes.
19 Q And it's like they were both afraid to
20 touch it, their interest in each other, was it not?
21 A Yes.
22 Q That was pretty clear to you, right?
23 A Yes.
24 Q They needed your help, didn't they?
25 A Yes.

1 Q And when -- and it was Hae who was the
2 initiating factor?
3 A Yes.
4 Q Okay. Because she was the one that asked
5 you, her friend to whom she had confided her
6 interest, to go ask the boy she liked to ask her out
7 to the dance?
8 A Yes.
9 Q And you did that, didn't you?
10 A Yes.
11 Q Because she asked you, right?
12 A Yes.
13 Q Because you knew that really secretly he
14 liked her?
15 A Yes.
16 Q And that he would want to invite her to the
17 dance but he hadn't done so?
18 A Yes.
19 Q And that without a push he wouldn't do so?
20 A Yes.
21 Q Now, prior to that time and I guess he
22 asked her out ahead of time, didn't he?
23 A Yes.
24 Q It was about a month ahead of time?
25 A About.

1 Q In fact, in that time period and as soon as
2 you suggested to him that he should invite Hae, he
3 did so, didn't he?
4 A Yea.
5 Q And then they had a date, didn't they?
6 A Yes.
7 Q And then they really began to explore their
8 interest in each other?
9 A Yes.
10 Q And they sort of quickly became an item,
11 did they not?
12 A Yes.
13 Q And they're being an item was pretty
14 obvious to all of you who observed them on a daily
15 basis?
16 A Yes.
17 Q You shared a lot of classes with Hae, did
18 you not?
19 A Yes.
20 Q And you shared a bunch of classes with
21 Adnan, did you not?
22 A Yes.
23 Q Throughout all of the time you were all in
24 Woodlawn in the Magna program, right?
25 A Yes.

1 Q And so you would on school days see both of
2 them everyday, would you not?
3 A Yes.
4 Q And during the school day there were lunch
5 periods, were there not?
6 A Yes.
7 Q And you shared a lunch period I think with
8 Adnan?
9 A Yes.
10 Q Yes. And during lunch you all didn't
11 always go to the lunch room, did you?
12 A No.
13 Q In fact, your normal routine is, I think
14 you've said that you went to the library?
15 A Yes.
16 Q And in the library others went also, did
17 they not?
18 A Yes.
19 Q And lots of times Adnan would also be
20 there?
21 A Yes.
22 Q And lots of times Hae would also be there,
23 would she not?
24 A Yes.
25 Q And that's a place where a lot of these

1 conversations took place?

2 A Yes.

3 Q And others in addition to you quickly
4 noticed in the month of April before the junior prom
5 that they were now open about being with each other?

6 A Yes.

7 Q That they would be with each other in
8 school almost every occasion they could?

9 A Yes.

10 Q Not just lunchtime; is that right?

11 A Yes.

12 Q And they were open and physically
13 affectionate with each other?

14 A Yes.

15 Q They held hands?

16 A Yes.

17 Q There was an occasion in which they kissed
18 in class?

19 A Yes.

20 Q They were very obviously new young lovers,
21 were they not?

22 A Yes.

23 Q And to your knowledge there were others in
24 whom they confided?

25 A Yes.

1 Q In addition to you?

2 A Yes.

3 Q And others in whom each of them confided
4 their real deep personal feelings?

5 A Yes.

6 Q About each other?

7 A Yes.

8 Q Now, prior to April in the seven years that
9 you had known Adnan, you knew that he was a
10 practicing Muslim, did you not?

11 A Yes.

12 Q He never hid that fact from you, did he?

13 A No.

14 Q And you were aware that as a practicing --
15 and that he came from a family that practiced Islam?

16 A Yes.

17 Q Isn't that right?

18 A Yes.

19 Q And you were aware there were other Muslims
20 in the class, were there not?

21 A Yes.

22 Q And there were others of every religion,
23 were there not?

24 A Yes.

25 Q But you had become aware through your

1 association and friendship with Adnan that Muslims
2 had certain restrictions about their relationships?

3 A Yes.

4 Q Isn't that true?

5 A Yes.

6 Q And that Muslims, according to the tenets
7 of Islam, were not allowed to have dating
8 relationships with members of the opposite sex?

9 A Yes.

10 Q Prior to marriage?

11 A Yes.

12 Q Prior to an approved marriage?

13 A Yes.

14 Q Is that right?

15 A Yes.

16 Q That Muslims because of the tenets of their
17 faith were not only not allowed, they were certainly
18 not encouraged by their families or anyone in their
19 Muslim communities to do what other teens do, which
20 is to date each other to explore how they feel about
21 other members of the opposite sex?

22 A Yes.

23 Q Or to test it out in any way?

24 A Yes.

25 Q And Adnan never made any secret about that

1 aspect of the tenets of his faith, did he?

2 A Can you repeat the question?

3 Q Adnan never made any secret about the
4 tenets of his faith in that regard, in regard to
5 dating?

6 A No.

7 Q And you would agree would you not that
8 Adnan was a popular young man?

9 A Yes.

10 Q In the school?

11 A Yes.

12 Q Among boys?

13 A Uh-huh.

14 Q And among girls?

15 A Yes.

16 Q And among Muslims at the school?

17 A Yes.

18 Q And the Hindus?

19 A Yes.

20 Q And the Protestants?

21 A Yes.

22 Q And the Catholics?

23 A Yes.

24 Q And he had lots of relationships with
25 members of his class?

1 A Yes.
 2 Q And he was an athlete?
 3 A Yes.
 4 Q And he was a scholar?
 5 A Yes.
 6 Q Although sometimes he could be a little bit
 7 lazy?
 8 A Yes.
 9 Q And he also worked part time, did he not?
 10 A Yes.
 11 Q He worked as an EMT, did he not?
 12 A Yes.
 13 Q That's what you were talking about
 14 yesterday; is that right?
 15 A Yes.
 16 Q And that was in addition to his duties as
 17 an athlete?
 18 A Yes.
 19 Q And that was in addition to his duties as a
 20 student?
 21 A Yes.
 22 Q And Adnan was someone that you knew as
 23 being a very vocal person?
 24 A Yes.
 25 Q And he'd express opinions about anything

1 and everything that came up in class, would he not?
 2 A Yes.
 3 Q And also outside of class?
 4 A Yes.
 5 Q And the differences among the group in the
 6 Magna Program were things that you all talked about a
 7 lot, did you not?
 8 A Yes.
 9 Q You talked about religion?
 10 A Yes.
 11 Q You talked about drugs?
 12 A Yes.
 13 Q You talked about sex?
 14 A Yes.
 15 Q You talked about relationships?
 16 A Yes.
 17 Q Both ones you all had and others; is that
 18 right?
 19 A Yes.
 20 Q And Adnan particularly in class was always
 21 vocal about his opinions?
 22 A Yes.
 23 Q About a wide variety of subjects; is that
 24 right?
 25 A Yes.

1 Q And Hae was similarly outspoken, was she
 2 not?
 3 A Yes.
 4 Q And she never hesitated to express her
 5 opinion on any subject, did she?
 6 A No.
 7 Q Whether it was in class or outside of
 8 class?
 9 A Correct.
 10 Q And because you were a very good friend of
 11 Hae's you saw her outside of class, didn't you?
 12 A Yes.
 13 Q And you saw Adnan outside of class, did you
 14 not?
 15 A Yes.
 16 Q Now, in April in the month before the April
 17 25th prom date there was a process whereby there was
 18 a prince and princess selected for the prom, was
 19 there not?
 20 A Yes.
 21 Q And the prince and princess for the program
 22 had some duties at the prom, did they not?
 23 A Yes.
 24 Q Now, did you attend the prom?
 25 A Yes.

1 Q Okay. And among those duties were that
 2 they would sort of preside over the prom?
 3 A Yes.
 4 Q And the prince and princess, they weren't
 5 selected by the teachers, were they?
 6 A No.
 7 Q They were selected by the students, weren't
 8 they?
 9 A Yes.
 10 Q And it was an honor to be so selected, was
 11 it not?
 12 A Yes.
 13 Q And one of the reasons Adnan needed to go
 14 to the prom was because he was selected by all of
 15 you, his fellow students, to be the prince?
 16 A Yes.
 17 Q Is that right now?
 18 A Yes.
 19 Q Now, it wasn't required that the prince and
 20 princess be related, was it?
 21 A No.
 22 Q Or that they be dating?
 23 A No.
 24 Q And the princess was also chosen by the
 25 students, was she not?

- 1 A Yes.
 2 Q And the princess for the April 25th junior
 3 prom was Stephanie McPherson, was she not?
 4 A Yes.
 5 Q And you knew Stephanie [REDACTED] as long as
 6 you had known Adnan, had you not?
 7 A Yes.
 8 Q And you all went to the same middle school
 9 together, didn't you?
 10 A Yes.
 11 Q And you considered her a friend, did you
 12 not?
 13 A Yes.
 14 Q And she was in many of your classes?
 15 A Yes.
 16 Q And she was also somebody with whom you
 17 socialized outside of class, was she not?
 18 A Yes.
 19 Q Yes. And Stephanie, you knew had a very
 20 special relationship with Adnan, did he not?
 21 A Yes.
 22 Q Now, back in middle school you were aware
 23 that Adnan was a Muslim, were you not?
 24 A Yes.
 25 Q And back in middle school was when young

- 1 people your age should have started into the boy/girl
 2 stuff, was it not?
 3 A Yes.
 4 Q Expressing interest in each other?
 5 A Yes.
 6 Q And back then Stephanie and Adnan were very
 7 much tight, were they not?
 8 A Yes.
 9 Q They considered themselves best friends,
 10 did they not?
 11 A Yes.
 12 Q They were always together, were they not?
 13 A Yes.
 14 Q And even back in middle school Adnan was
 15 popular, was he not?
 16 A Yes.
 17 Q And he was popular among the boys?
 18 A Yes.
 19 Q And girls?
 20 A Yes.
 21 Q And he was the subject of a lot of
 22 conversations of the girls, was he not?
 23 A Yes.
 24 Q Because there were a lot of girls
 25 interested in him, were there not?

- 1 A Yes.
 2 Q And a lot of girls expressed some
 3 disappointment like, he's a Muslim, he won't date,
 4 he's not available, did they not?
 5 A I don't recall that.
 6 Q You don't recall that?
 7 A No.
 8 Q But you were aware the girls expressed
 9 interest in him?
 10 A Yes.
 11 Q And based on your knowledge of him that
 12 wasn't a surprise to you?
 13 A No.
 14 Q And before the day that you and -- did you
 15 ask him at school to ask Hae --
 16 A Yes.
 17 Q -- to the prom?
 18 A Yes.
 19 Q You were pretty direct about that, weren't
 20 you?
 21 A Yes.
 22 Q Because you're a pretty direct person, are
 23 you not?
 24 A Yes.
 25 Q And you just walked up to Adnan and said

- 1 come on invite Hae out, did you not?
 2 A Yes.
 3 Q And you gave him encouragement that Hae
 4 would accept, did you not?
 5 A Yes.
 6 Q And that he wouldn't be hurt if he asked
 7 her out, right?
 8 A Right.
 9 Q And you walked up and you spoke to your
 10 friend Adnan and told him to invite Hae to this prom
 11 where you knew that he was going to be the prom
 12 prince?
 13 A At that time I didn't know he was going to
 14 be the prince.
 15 Q But you knew that he hadn't dated anybody
 16 that you knew of?
 17 A At that time, no.
 18 Q No. And you knew then that his faith
 19 forbade dating?
 20 A Yes.
 21 Q And that from what you knew of him that he
 22 appeared at that time to have honored that tenet?
 23 A Yes.
 24 Q Is that right? Now, did you approve of
 25 that tenet that young Muslim people don't date?

- 1 A Yes.
 2 Q You did. And it was okay with you if he
 3 followed his own religious tenets?
 4 A Yes.
 5 Q And you had never before approached him and
 6 tried to hook him up with some other girl?
 7 A No.
 8 Q Either in or out of school?
 9 A No.
 10 Q And you had never before challenged him and
 11 suggested that he should date like the rest of you?
 12 A No.
 13 Q Or engaged in a discussion designed to
 14 encourage him to break his Muslim vows or tenets or
 15 beliefs?
 16 A Correct.
 17 Q And he was responsive to you when you
 18 suggested that he should invite Hae to the dance and
 19 that Hae would accept?
 20 A Yes.
 21 Q And in the month before the 25th, by the
 22 time the 25th rolled around it was pretty clear to
 23 everybody that Adnan and Hae were into each other?
 24 A Yes.
 25 Q And that they were into each other in a

- 1 public way?
 2 A Yes.
 3 Q And that in addition to having expressing
 4 physical affection at school, it was clear that they
 5 were dating?
 6 A Yes.
 7 Q Having dates?
 8 A Yes.
 9 Q Both alone with each other?
 10 A Yes.
 11 Q And together with groups of other friends
 12 to do activities?
 13 A Yes.
 14 Q And that they were also physically
 15 affectionate on those occasions?
 16 A Yes.
 17 Q With each other?
 18 A Yes.
 19 Q Kissing?
 20 A Yes.
 21 Q Hugging?
 22 A Yes.
 23 Q Holding hands?
 24 A Yes.
 25 Q Touching each other?

- 1 A Yes.
 2 Q Clearly expressing to anybody who could see
 3 them that they were a couple?
 4 A Yes.
 5 Q And they quickly began to profess a
 6 confidence like you, how they felt about each other?
 7 A Yes.
 8 Q That they moved each other?
 9 A Yes.
 10 Q That they were in love with each other?
 11 A Yes.
 12 Q And that they wanted to be together?
 13 A Yes.
 14 Q That this was the most important thing in
 15 their lives?
 16 A Yes.
 17 Q That they were overwhelmed by what they
 18 felt about each other?
 19 A Yes.
 20 Q And what each other meant to them?
 21 A Yes.
 22 Q They each expressed that to you, didn't
 23 they?
 24 A Yes.
 25 Q And because -- and Hae who you said was an

- 1 outspoken young lady, she was also an athlete and
 2 scholar, was she not?
 3 A Yes.
 4 Q And she was pretty popular, wasn't she?
 5 A Yes.
 6 Q And she was easy to get along with?
 7 A Yes.
 8 Q And she was pretty well liked?
 9 A Yes.
 10 Q And the topic of the two of them, these two
 11 popular students whom everybody seemed to like became
 12 the subject of a lot of conversation, did it not?
 13 A Yes.
 14 Q Among all of the students?
 15 A Yes.
 16 Q You observed that, didn't you?
 17 A Yes.
 18 Q And you participated in that, didn't you?
 19 A Yes.
 20 Q It was kind of touching to see how they
 21 felt about each other, wasn't it?
 22 A Yes.
 23 Q And during that time you did not become
 24 aware of anybody trying to interfere in their
 25 relationship, did you?

1 A No.
 2 Q No. And you never became aware of anyone
 3 going up to Hae, and this is just in this month
 4 period before the prom, going up to Hae and saying
 5 Hae, what are you doing, he's a Muslim, he's not
 6 supposed to date, did you?
 7 A No.
 8 Q And you never became aware of anybody
 9 running up to Adnan and chastising him for his
 10 relationship with Hae?
 11 A No.
 12 Q And you didn't do that, did you?
 13 A No.
 14 Q And you never suggested in any of your
 15 conversations at least in that month that hold it
 16 guys, all I did was suggest that you go to the prom
 17 together, you're not supposed to fall in love, did
 18 you?
 19 A No.
 20 Q Or you're not supposed to date, did you?
 21 A No.
 22 Q Nobody attempted to put a damper on it, did
 23 they?
 24 A No.
 25 Q It was kind of enjoyable for everybody to

1 watch, wasn't it?
 2 A Yes.
 3 Q The two popular, the girl and the boy,
 4 hooking up with each other?
 5 A Yes.
 6 Q Now, you went to the prom, right?
 7 A Yes.
 8 Q Did you go -- and Stephanie went to the
 9 prom, did she not?
 10 A Yes.
 11 Q And you were aware of a person by the name
 12 of Jay Wilds, were you not?
 13 A Yes.
 14 Q And that was through Stephanie?
 15 A Yes.
 16 Q And also because he had been at your same
 17 middle school?
 18 A I didn't know him in middle school.
 19 Q Okay. But you knew him in high school?
 20 A Yes.
 21 Q But he was ahead --
 22 A Yes.
 23 Q -- of you, were ahead?
 24 A Uh-huh.
 25 Q And he wasn't in any of the magna programs,

1 was he?
 2 A No.
 3 Q But you mostly knew him because he was
 4 Stephanie's boyfriend?
 5 A Yes.
 6 Q And that's mostly how Jay Wilds came into
 7 the group at all?
 8 A Yes.
 9 Q And you were aware that Stephanie went to
 10 the prom with her boyfriend Jay?
 11 A Yes.
 12 Q And after the prom did a group of you go
 13 anywhere?
 14 A Yes.
 15 Q And where you went was down to the Inner
 16 Harbor?
 17 A Yes.
 18 Q The Hard Rock Cafe?
 19 A Yes.
 20 Q And during the dance there's a place where
 21 the princess and the prince are expected to open up
 22 the dancing and dance together?
 23 A Yes.
 24 Q Yes, all alone?
 25 A Yes.

1 Q As the prince and the princess?
 2 A Yes.
 3 Q And at that time nobody else was supposed
 4 dance, correct?
 5 A Yes.
 6 Q And that began to happen, did it not?
 7 A Yes.
 8 Q And that involved Stephanie and Adnan
 9 dancing together?
 10 A Yes.
 11 Q And you knew then how very close Stephanie
 12 was to Adnan?
 13 A Yes.
 14 Q And you knew that before that day, Adnan
 15 had never been to a dance before, had he?
 16 A No.
 17 Q And he had never publicly danced with
 18 anyone?
 19 A No.
 20 Q Did he? And to your knowledge he had never
 21 dated anyone, had he?
 22 A What do you mean by dating?
 23 Q Dating? Had you known him to publicly date
 24 someone, a girl, go out on a date?
 25 MS. MURPHY: Objection.

1 THE COURT: Sustained. The witness is
 2 indicating that she does not understand the word
 3 dating.
 4 Q All right, Ms. [REDACTED] when -- had you ever
 5 talked to Stephanie about her feelings for Adnan?
 6 A Yes.
 7 Q And she cared very much for him, did she
 8 not?
 9 A Yes.
 10 Q And sometimes she speculated on what might
 11 have happened between her and Adnan if Adnan were
 12 available, didn't she?
 13 A Yes.
 14 Q Yes. And the times when she did that she
 15 did so with some regret, did she not, that he wasn't
 16 available?
 17 A Yes.
 18 Q That who knows what might have happened
 19 between her and her best friend Adnan?
 20 A Yes.
 21 Q As a boy and girl?
 22 A Yes.
 23 Q Separate as boyfriend and girlfriend, not
 24 as just best friends?
 25 A Yes.

1 Q And you were aware of that on April 25th,
 2 the day of the junior prom, were you not?
 3 A Yes.
 4 Q And do you remember that they did, in fact,
 5 dance?
 6 A Yes.
 7 Q And do you recall that they didn't dance
 8 very long?
 9 A No.
 10 Q Do you recall that shortly after the dance
 11 began, Adnan left Stephanie and went over to get Hae
 12 at the table?
 13 A Yes.
 14 Q And that he then danced with Hae who was
 15 not the prom princess?
 16 A Yes.
 17 Q For the first dance?
 18 A Yes.
 19 Q And did you happen to notice the look on
 20 Stephanie's face when that happened?
 21 A No.
 22 Q After the prom you all went down to the
 23 Hard Rock Cafe?
 24 A Yes.
 25 Q And Hae and Adnan were sort of physically

1 wrapped up with each other?
 2 A Yes.
 3 Q And meaning they were sort of making out in
 4 the cafe?
 5 A Yes.
 6 Q And you all thought that was kind of cute,
 7 didn't you?
 8 A Yes.
 9 Q And you all teased them, did you not?
 10 A Yes.
 11 Q About their interest in each other?
 12 A Yes.
 13 Q And Stephanie and Jay didn't go down the
 14 Hard Rock Cafe?
 15 A No.
 16 Q No. And they weren't sort of part of your
 17 crowd, were they?
 18 A No.
 19 Q Even though Stephanie was a class mate?
 20 A Yes.
 21 Q And you liked her?
 22 A Yes.
 23 Q And you had an okay relationship with her?
 24 A Yes.
 25 Q But she and her boyfriend Jay were not

1 usually along for most of the social occasions that
 2 you participated in?
 3 A No.
 4 Q Or that Adnan participated in?
 5 A No.
 6 Q Or that Hae participated in?
 7 A No.
 8 Q Now, after school ended for that year, your
 9 junior year I think on the 4th of June --
 10 A I don't remember.
 11 Q And you saw and continued to see Hae
 12 outside of school, didn't you?
 13 A Yes.
 14 Q And that included over the summer, didn't
 15 it?
 16 A Yes.
 17 Q And you continued to see Adnan, did you
 18 not?
 19 A Yes.
 20 Q Outside of school?
 21 A Yes.
 22 Q Over the summer?
 23 A Yes.
 24 Q And you became aware that their
 25 relationship continued?

1 A Yes.
 2 Q Is that right? And you became aware early
 3 on that Adnan's religion was an issue?
 4 A Yes.
 5 Q And you got that from both of them, did you
 6 not?
 7 A Yes.
 8 Q And they expressed their concerns in
 9 different ways, did they not?
 10 A Yes.
 11 Q Hae particularly expressed concern that she
 12 did not want to be the one to force Adnan to choose?
 13 A Yes.
 14 Q Between his religion, right?
 15 A Yes.
 16 Q And her?
 17 A Yes.
 18 Q Right? And she didn't want to be the agent
 19 of bringing that to a head?
 20 A Correct.
 21 Q Is that right?
 22 A Yes.
 23 Q But she continued to express her love for
 24 him?
 25 A Yes.

1 Q And to be joyful in the relationship?
 2 A Yes.
 3 Q The recesses that you spoke of that you
 4 sort of suggested to them was related to what you
 5 perceived to be the stress on both of them?
 6 A Yes.
 7 Q Of the relationship?
 8 A Yes.
 9 Q That was pretty obvious, wasn't it?
 10 A Yes.
 11 Q And Hae sort of took your suggestion, did
 12 she not?
 13 A Yes.
 14 Q And she imposed what she called sort of
 15 time out recess?
 16 A Yes.
 17 Q And to give her a break from Adnan?
 18 A Yes.
 19 Q And up until that point -- and this was in
 20 the early summer?
 21 A I don't remember.
 22 Q It was early on in the relationship, wasn't
 23 it?
 24 A Yes.
 25 Q Because it was clear that based on your

1 discussions with both of them that this is something
 2 about which they had spoken?
 3 A Yes.
 4 Q At length?
 5 A Yes.
 6 Q With seriousness?
 7 A Yes.
 8 Q And that they both were really wrestling
 9 with this idea?
 10 A Yes.
 11 Q Even while they both expressed their love
 12 for each other?
 13 A Yes.
 14 Q And you suggested that Hae took the
 15 suggestion, declared a recess and then Hae
 16 immediately called it off, did she not?
 17 A Yes.
 18 Q It was her action that started it?
 19 A Yes.
 20 Q And when she did it Hae didn't make Adnan
 21 do it, did she?
 22 A No.
 23 Q But he honored her request, did he not?
 24 A Yes.
 25 Q To give her her space?

1 A Yes.
 2 Q And time out?
 3 A Yes.
 4 Q And to let her do what she wanted to do?
 5 A Yes.
 6 Q But it was Hae that called off the recess
 7 at the end of the first day, wasn't it?
 8 A Yes.
 9 Q Not Adnan?
 10 A No.
 11 Q Adnan hadn't thrown a fit, had he?
 12 A No.
 13 Q He hadn't gotten angry at her, had he?
 14 A No.
 15 Q He understood her concern, did he not?
 16 A Yes.
 17 Q And he understood the issue, did he not?
 18 A Yes.
 19 Q And he never wavered, if that's what she
 20 wanted, well, then I have to go along with it, did
 21 he?
 22 A No.
 23 Q And he never suggested that your advice was
 24 bad, did he?
 25 A No.

1 Q Not to Hae?
 2 A No.
 3 Q And not to you?
 4 A No.
 5 Q He respected your advice, did he not?
 6 A Yes.
 7 Q And he expressed that if that's what she
 8 thought she should do even though the idea came from
 9 you that it was all right with him?
 10 A Yes.
 11 Q But it hurt?
 12 A Yes.
 13 Q Because he didn't want to go break up with
 14 Hae?
 15 A Correct.
 16 Q He didn't want her to break up with him,
 17 right?
 18 A Right.
 19 Q But by his actions and by his words to you
 20 he never interfered with her right to do that?
 21 A No.
 22 Q Even though it caused him pain?
 23 A Yes.
 24 Q Is that right? And he readily expressed
 25 his pain to you, did he not?

1 A Yes.
 2 Q And the pain that it caused him to have to
 3 wrestle with these issues?
 4 A Yes.
 5 Q About how he felt about his religion?
 6 A Yes.
 7 Q And how he felt about deceiving his family?
 8 A Yes.
 9 Q His mother particularly?
 10 A Yes.
 11 Q And hiding this relationship at home?
 12 A Yes.
 13 Q From his brother?
 14 A Yes.
 15 Q From his mother?
 16 A Yes.
 17 Q From his father?
 18 A Yes.
 19 Q And what it meant to him to engage in that
 20 kind of behavior?
 21 A Yes.
 22 Q Having always been very serious about his
 23 religion?
 24 A Yes.
 25 Q And he readily spoke to you about those

1 things?
 2 A Yes.
 3 Q Even though you were a girl?
 4 A Yes.
 5 Q Even though you were a non-Muslim?
 6 A Yes.
 7 Q He didn't hide his feelings of hurt?
 8 A No.
 9 Q And through that first time that one day
 10 recess, even when Hae insisted on a recess, they
 11 clearly were still friends, were they not?
 12 A Yes.
 13 Q They still spoke of each other in loving
 14 gentle terms, did they not?
 15 A Yes.
 16 Q And they both continued to express their
 17 feelings of love for each other?
 18 A Yes.
 19 Q Now, when Hae broke off the recess and then
 20 resumed in the same day her relationship with Adnan,
 21 did you take any action?
 22 A Repeat the question, please.
 23 Q Did you say anything to Hae to say, wait a
 24 minute, you agreed to a recess and it's only been one
 25 day?

1 A Yes.
 2 Q Yes. And you suggested to her that she
 3 really wasn't following your advice for the purpose
 4 of which it had been given, right?
 5 A No.
 6 Q And you suggested to her that she should
 7 continue the recess?
 8 A If she wanted to.
 9 Q If she wanted to. Your purpose in giving
 10 that advice, as you expressed to her, was that she
 11 needed to get the perspective to assess the
 12 relationship and all of its pain away from Adnan?
 13 A Yes.
 14 Q So that her feelings about Adnan were not
 15 making her do something that was causing her so much
 16 pain?
 17 A Correct.
 18 Q And that she could only get a perspective
 19 if she removed herself from him?
 20 A Yes.
 21 Q For at least a little while?
 22 A Yes.
 23 Q And that then she would get it, right?
 24 A Correct.
 25 Q And although you expressed that to her she

1 didn't take your advice, did she? She didn't go
 2 right back to the recess, did she?
 3 A No.
 4 Q She renewed in the same day her
 5 relationship with Adnan, did she not?
 6 A Yes.
 7 Q And then she continued it, did she not?
 8 A Yes.
 9 Q Throughout all of June?
 10 A Yes.
 11 Q Right? And throughout July?
 12 A Yes.
 13 Q And it was apparent to you that their
 14 relationship, they were an island unto themselves,
 15 were they not?
 16 A Yes.
 17 Q Hae wasn't dating anybody else, was she?
 18 A No.
 19 Q And she wasn't dating -- Adnan wasn't
 20 dating anybody else, was there?
 21 A No.
 22 Q There wasn't apparently, to anybody, any
 23 other girl or boy that each of them was involved
 24 with?
 25 A No.

1 Q They seemed exclusively related to each
 2 other, did they not?
 3 A Yes.
 4 Q And, in fact, they expressed hope that
 5 their relationship would survive their senior year
 6 and they would end up being together forever, did
 7 they not?
 8 A Yes.
 9 Q They spoke openly of marriage, did they
 10 not?
 11 A Yes.
 12 Q Yes. To each other?
 13 A Yes.
 14 Q And they weren't even seniors yet, were
 15 they?
 16 A No.
 17 Q You never during this period of time ever
 18 became aware that Adnan's family dropped their
 19 opposition to this relationship, did you?
 20 A Not his entire family, no.
 21 Q You became aware that there were issues
 22 that Hae and Adnan had resolved because of his
 23 family, did you not?
 24 A Yes.
 25 Q Talking on the phone was very difficult?

1 A Yes.
 2 Q Because at Adnan's house if his mother
 3 suspected something would pick up the phone and
 4 listen in?
 5 A Yes.
 6 Q And confront Adnan that she was suspicious
 7 he was being with a girl?
 8 A Yes.
 9 Q And Hae, of course, couldn't go over to his
 10 house?
 11 A No.
 12 Q And at that time in the summer Hae didn't
 13 drive yet, did she?
 14 A No.
 15 Q She got her license I think in late August?
 16 A Yes.
 17 Q And you also became aware that Adnan
 18 couldn't really go to Hae's mother's house?
 19 A No.
 20 Q And you were aware that Hae's father did
 21 not reside in Baltimore?
 22 A Yes.
 23 Q Is that right? And she lived with her
 24 mother and her grandparents?
 25 A Yes.

1 Q And you became aware, for instance, that
 2 they, her mother and her grandparents were concerned
 3 about Hae's being on the phone?
 4 A Yes.
 5 Q And that they didn't really know about the
 6 relationship with the boy that she was talking about
 7 marrying?
 8 A No.
 9 Q And that the relationship was also hidden
 10 from her family?
 11 A Yes.
 12 Q By her?
 13 A Yes.
 14 Q But that there were issues about control
 15 between her mother and her?
 16 A Yes.
 17 Q And her grandparents and her?
 18 A Yes.
 19 Q And that one of the actions that was taken
 20 is that they replaced the phone in the kitchen from a
 21 cordless phone to a corded phone so that she couldn't
 22 hide her phone conversations?
 23 A I don't remember.
 24 Q You don't remember. But you remember the
 25 trouble in her household as well as Adnan's about her

1 relationship --
 2 A Yes.
 3 Q -- with Adnan?
 4 A Yes.
 5 Q And that they didn't approve?
 6 A Yes.
 7 Q And that situation and that pressure
 8 continued throughout the summer, did it not?
 9 A Yes.
 10 Q In fact, that situation, that pressure
 11 continued all of the way up to the end of their
 12 relationship?
 13 A Yes.
 14 Q Now, when you all started back to school
 15 in, I guess it was late August, the last week of
 16 August of '98 you were still friends with both of
 17 them, were you not?
 18 A Yes.
 19 Q And they were both -- well, you were their
 20 confidants?
 21 A Yes.
 22 Q Right?
 23 A Yes.
 24 Q They still shared all of these things with
 25 you?

1 A Yes.
 2 Q Is that right? And you essentially got the
 3 same story from each of them, right?
 4 A Yes.
 5 Q They were happy with each other but the
 6 world was against them and causing all of this
 7 trouble?
 8 A Yes.
 9 Q Right? One never told you something that
 10 contradicted with what the other told you, did they?
 11 A No.
 12 Q And both of them after school started
 13 continued to express their love for each other?
 14 A Yes.
 15 Q And it remained that way up until December
 16 of 1998, did it not?
 17 A Can you repeat the question, please?
 18 Q That they continued to express their love
 19 for each other?
 20 A Yes.
 21 Q There were a couple other short breaks in
 22 the relationship, were there not?
 23 A Yes.
 24 Q And you became aware of each and every one
 25 of them, did you not?

1 A Yes.
 2 Q And those breaks were of limited duration,
 3 were they not?
 4 A Yes.
 5 Q And much like the one day recess from
 6 earlier, right?
 7 A Yes.
 8 Q And the initiating party in the break ups
 9 was always Hae, was it not?
 10 A Yes.
 11 Q And the issue around the break ups was
 12 always the same thing she had previously expressed,
 13 not wanting to be the one that caused the boy she
 14 loved to choose between a girl and a religion?
 15 A That was part of it, yes.
 16 Q That was -- well, that was the constant
 17 part, was it not?
 18 A Yes.
 19 Q She talked about that all of the time, did
 20 she not?
 21 A Yes.
 22 Q And a lot of you students that were close
 23 to them, you also talked about it, did you not?
 24 A Yes.
 25 Q And, in fact, teachers became involved in

1 it, did they not?
 2 A Yes.
 3 Q Teachers offered their opinions about it,
 4 did they not?
 5 A Yes.
 6 Q And there was at least one teacher who
 7 openly criticized Hae for pursuing the relationship?
 8 A Yes.
 9 Q Did they not?
 10 A Yes.
 11 Q Accused Hae of changing the Adnan that
 12 everybody had known?
 13 A Yes.
 14 Q Of making Adnan, who had previously been
 15 such a good Muslim, from abandoning his moral center?
 16 A Yes.
 17 Q Blaming Hae for that?
 18 A Well, not blaming her.
 19 Q But accusing her of changing Adnan?
 20 A Yes.
 21 Q Of being the occasion for change?
 22 A Yes.
 23 Q And that bothered Hae, did it not?
 24 A Yes.
 25 Q It bothered her particularly when teachers

1 suggested, whether directly or implicitly, that she
 2 should leave the relationship and leave Adnan alone,
 3 did she not?
 4 A Can you repeat the question?
 5 Q That bothered her, didn't it?
 6 A Yes.
 7 Q And she expressed how much it bothered her,
 8 did it not?
 9 A Yes.
 10 Q And she struggled with whether she had
 11 enough love for Adnan to leave him, did she not?
 12 A Yes.
 13 Q And she confided all of that in you?
 14 A Yes.
 15 Q Her very good friend?
 16 A Yes.
 17 Q She never expressed to you that because of
 18 her conflict Adnan wanted to leave the relationship?
 19 A No.
 20 Q And all of the times that you spoke to
 21 Adnan it became clear to you that he was aware of how
 22 Hae perceived these issues?
 23 A Yes.
 24 Q And that she was pained by what that
 25 caused?

1 A Yes.
 2 Q And what other people thought of it?
 3 A Yes.
 4 Q And that she was deeply pained that she
 5 might be the cause?
 6 A Yes.
 7 Q Of making him make the choice?
 8 A Yes.
 9 Q That would include going against his
 10 family?
 11 A Yes.
 12 Q And against his religion?
 13 A Yes.
 14 Q And it was clear to you that Hae never hid
 15 those feelings?
 16 A Correct.
 17 Q Now, did you go to the homecoming dance?
 18 A No.
 19 Q No. And you were aware that they had
 20 broken up before then?
 21 A Yes.
 22 Q And that they also had another brief
 23 separation after then?
 24 A Yes.
 25 Q It became clear to you after then in

1 November that the issue of what it meant for them to
 2 try to continue a relationship that they both had at
 3 least contemplated that maybe they couldn't make it?
 4 A Yes.
 5 Q But not that they didn't love each other?
 6 A Correct.
 7 Q And they always still continued to express
 8 that their love for each other would survive whether
 9 or not the relationship did?
 10 A Yes.
 11 Q And they always treated each other that way
 12 from what you could observe?
 13 A Yes.
 14 Q Even during the brief separations?
 15 A Yes.
 16 Q They were at that time each other's best
 17 friend?
 18 A Yes.
 19 Q Each other's closest friend?
 20 A Yes.
 21 Q And from their confidences to you it was
 22 apparent that they weren't hiding anything from each
 23 other?
 24 A No.
 25 Q And that they weren't afraid to express

1 things to each other?
 2 A Correct.
 3 Q Not like they were afraid back in the very
 4 beginning when they were afraid to even tell each
 5 other that they liked each other?
 6 A Correct.
 7 Q You were aware when they finally broke up,
 8 were you not?
 9 A Yes.
 10 Q And that was before Christmas, was it not?
 11 A Yes.
 12 Q And they both spoke to you about those
 13 things, did they not?
 14 A Yes.
 15 Q And they spoke -- Hae spoke that finally
 16 she just couldn't stand it?
 17 A Yes.
 18 Q Although she still loved him?
 19 A Yes.
 20 Q And although she still considered him the
 21 love of her life?
 22 A Yes.
 23 Q And her best friend?
 24 A Yes.
 25 Q And she expressed to you that clearly

1 Adnan, he wouldn't have done this, separate, end the
2 relationship, right?

3 A Correct.

4 Q But that he, of course, accepted her
5 decision?

6 A Yes.

7 Q However painful it was to him?

8 A Yes.

9 Q And that he had clearly expressed his pain
10 to her?

11 A Yes.

12 Q And everybody became aware that, oh, this
13 might be the real break up?

14 A Yes.

15 Q And that was the subject of much
16 discussion, was it not?

17 A Yes.

18 Q As to whether or not they would really stay
19 broken up?

20 A Yes.

21 Q But even after that event Christmas came
22 and went, did it not?

23 A Yes.

24 Q And they exchanged Christmas gifts, did
25 they not?

1 A Yes.

2 Q Even though Adnan as a Muslim, didn't
3 really celebrate Christmas?

4 A Yes.

5 Q Or any of the things that went with
6 Christmas?

7 A Yes.

8 Q His religion didn't recognize Christmas?

9 A Correct.

10 Q But after that time and -- Hae gave Adnan a
11 very expensive Christmas gift, did he not?

12 A Yes.

13 Q Even though she was now broken up with him?

14 A Yes.

15 Q And that was a jacket or a windbreaker of
16 some kind?

17 A Yes.

18 Q I think it was a Nautica?

19 A Yes.

20 Q It was very expensive, was it not?

21 A Yes.

22 Q And they still saw each other everyday, did
23 they not?

24 A Yes.

25 Q And they were still expressive of their

1 love and concern for each other?

2 A Yes.

3 Q They still saw each other outside of
4 school, didn't they?

5 A Yes.

6 Q And you were aware that they talked almost
7 as often on the phone?

8 A Yes.

9 Q And you were aware from each of them that
10 although they were pained about each other that they
11 were both trying to sort of move forward?

12 A Yes.

13 Q And to be there for each other as each of
14 them now separately went their ways?

15 A Yes.

16 Q And that separately going their ways
17 included all of a sudden they were each thinking
18 about other people?

19 A Yes.

20 Q Hae was thinking about other boys?

21 A Yes.

22 Q Other boys to whom she had really not paid
23 attention before?

24 A No, there was one person in particular.

25 Q The person she worked with?

1 A Yes.

2 Q Don't?

3 A Yes.

4 Q Okay. And Adnan was paying attention to
5 other girls, was he not?

6 A Not necessarily, no.

7 Q He didn't confide that in you?

8 A No.

9 Q But based on how he sounded, you wouldn't
10 be surprised to know that he was, would you?

11 A Yes.

12 Q Well, Ms. Warren, you expressed once that
13 although Adnan expressed his pain that there came a
14 point when he said to you, okay, I'm over it now, I
15 can accept it, did he not?

16 A He said that he would try to accept it and
17 by attempting to try to accept that he would move on
18 to other females.

19 Q Other girls?

20 A Yes.

21 Q To date?

22 A I don't know about that.

23 Q You saw them daily while you were in
24 school?

25 A Yes.

1 A Yes.

2 Q Don?

3 A Yes.

4 Q Okay. And Adnan was paying attention to
5 other girls, was he not?

6 A Not necessarily, no.

7 Q He didn't confide that in you?

8 A No.

9 Q But based on how he sounded, you wouldn't
10 be surprised to know that he was, would you?

11 A Yes.

12 Q Well, Ms. [REDACTED] you expressed once that
13 although Adnan expressed his pain that there came a
14 point when he said to you, okay, I'm over it now, I
15 can accept it, did he not?

16 A He said that he would try to accept it and
17 by attempting to try to accept that he would move on
18 to other females.

19 Q Other girls?

20 A Yes.

21 Q To date?

22 A I don't know about that.

23 Q You saw them daily while you were in
24 school?

25 A Yes.

1 Q Right? And then there was the Christmas
2 break?

3 A Yes.

4 Q And then right after New Year's you saw
5 them again daily, did you not?

6 A Yes.

7 Q And you continued to be their confidant?

8 A Yes.

9 Q They talked about to you things other than
10 each other, didn't they?

11 A Yes.

12 Q And that relationship continued, did it
13 not?

14 A Yes.

15 Q And you became aware that on January 1st
16 Hae had her first date with Don?

17 A Yes.

18 Q She confided in you, did she not?

19 A Yes.

20 Q And you were aware that after the breakup
21 that Hae still wrestled with how much she loved
22 Adnan, did she not?

23 A No.

24 Q You recall, of course, that when she began
25 to think about Don she had struggled about how she

1 felt about Adnan?

2 A As far as a friend, but not as far as a
3 boyfriend.

4 Q That's what she told you?

5 A Yes.

6 Q Now, she never told you that in that
7 interim period she was still wrestling with how much
8 she loved the man that she had left -- the boy that
9 she had left?

10 A No.

11 Q No. Prior to yesterday had you ever read
12 her diary?

13 A No.

14 Q No. That's not something she shared with
15 you, was it?

16 A No.

17 Q She didn't ask you to read any entry, did
18 she?

19 A Not that I recall.

20 Q And she didn't ask you to review the
21 entries before she wrote that?

22 A No.

23 Q Or to get your advice on what she expressed
24 to her own diary?

25 A No.

1 Q In her own handwriting?

2 A No.

3 Q Her own thoughts?

4 A No.

5 Q I'm going to ask you -- I'm showing, excuse

6 me, you State's exhibit number 2 which is in

7 evidence. It has a date on top of it but it's hard

8 to read. It's 12 something, and direct your

9 attention and ask you to read to yourself the entry

10 for the next two sentences beginning after four by

11 two?

12 A (Witness complied with request.)

13 Q Had you ever read that entry before?

14 A No.

15 Q It reads she's describing how dedicated

16 Adnan is to track, does she not?

17 A Yes.

18 Q And how she still tingles as usual when he

19 kisses her?

20 A Yes.

21 Q And sighs when she drives away from him?

22 A Yes.

23 Q And then she writes no more Don, does she

24 not?

25 A Yes.

1 Q And she writes I know as I always have that
2 Adnan's warm smile is the one I can't live without,
3 does she not?

4 A Yes.

5 Q And that you love the one you can't live
6 without?

7 A Yes.

8 Q And that she couldn't imagine her life
9 without his smile?

10 A Yes.

11 Q His touch?

12 A Yes.

13 Q And most importantly his love?

14 A Yes.

15 Q Further on in the diary there is a page
16 opposite the entry on 12/22, is there not?

17 A Yes.

18 Q And in that entry she has written over and
19 over and over again Adnan's name, has she not?

20 A Yes.

21 Q And Don's name, has she not?

22 A Yes.

23 Q And on one side the entry Adnan Syed?

24 A Yes.

25 Q And on the other side Don [REDACTED] ?

Note: In the 4-to-a-sheet system this would be page 63. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

1 A Yes.

2 Q And that's right opposite the entry that's
3 marked 12/22, is it not?

4 A Yes.

5 Q And from what you've looked at the diary it
6 appears that entries were made in a chronological
7 order?

8 A Yes.

9 Q And on the opposite page of where she's
10 written Don and Adnan, is an entry dated 12/15?

11 A Yes.

12 Q And that was during the time when they were
13 broken up, was it not?

14 A I don't recall.

15 Q They broke up before Christmas, did they
16 not?

17 A Yes.

18 Q Now, you talked about meeting the person
19 you referred to as Donnie, did you not?

20 A Yes.

21 Q You read some entries from her diary, did
22 you not?

23 A Yes.

24 Q About Donnie?

25 A Yes.

Note: In the 4-to-a-sheet system this would be page 64. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

1 Q She never called him Donnie, did she?

2 A Yes.

3 Q Not in her diary?

4 A I didn't see the whole thing. I don't
5 know.

6 Q In any of the parts that you saw she never
7 called him Donnie, did she?

8 A No.

9 Q But you now call him that?

10 A Yes.

11 Q You hadn't met him before her
12 disappearance?

13 A No.

14 Q But you knew about him?

15 A Yes.

16 Q After Hae disappeared there were a lot of
17 rumors flying around about where she might be?

18 A Yes.

19 Q And one of those rumors is that she was
20 running away from her mother?

21 A Yes.

22 Q And that she might be out to California to
23 seek her father?

24 A Yes.

25 Q And another rumor was that Donnie was

Note: In the 4-to-a-sheet system this would be page 65. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+++Missing+Pages>

1 hiding her out?

2 A Yes.

3 Q Because she wanted to get away from her
4 family?

5 A Yes.

6 Q And her mother?

7 A Yes.

8 Q And whatever restrictions they were putting
9 on her?

10 A Yes.

11 Q That she felt were unbearable?

12 A Yes.

13 Q And that she had complained about before?

14 A Yes.

15 Q And about which she felt a great deal of
16 pain?

17 A Yes.

18 Q At some point before her body was found you
19 were questioned about what you remembered about her?

20 A Yes.

21 Q And about her relationship with Donnie?

22 A Yes.

23 Q The person you now call Donnie?

24 A Yes.

25 Q And when you had last seen her?

Note: In the 4-to-a-sheet system this would be page 66. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+++Missing+Pages>

This blank page is a substitute for a missing page or pages from the transcript.

The missing page would be 67 in the 4-to-a-sheet system or 68 in the single page version.

For more information please see [this wiki page](#)

1 Q And you took that inquiry seriously, did
2 you not?
3 A Yes.
4 Q You tried hard to search your brain to
5 recollect the best that you could, did you not?
6 A Yes.
7 Q About anything Hae might have said?
8 A Yes.
9 Q Or that you might have seen?
10 A Yes.
11 Q Is that right? And you were asked about if
12 you had seen her, right?
13 A Yes.
14 Q And you recalled then and then was January
15 28th?
16 A I don't know.
17 Q If Detective O'Shea wrote up a report that
18 said he spoke to you on January 28th, about three
19 weeks, two and a half weeks after she disappeared,
20 that would be about right, would it not?
21 A Probably.
22 Q Okay. And you did speak to him?
23 A Yes.
24 Q At school?
25 A Yes.

1 Q You answered all of his questions?
2 A Yes.
3 Q You volunteered any information that you
4 thought might be relevant?
5 A Yes.
6 Q And you saw him taking notes of that?
7 A Yes.
8 Q And you recall that you told him like you
9 told us yesterday that you saw Hae at about three
10 o'clock?
11 A Yes.
12 Q And that where you saw her she was by
13 herself?
14 A Yes.
15 Q And she was near the gym?
16 A Yes.
17 Q And you were asked what, if anything, did
18 she say to you?
19 A Yes.
20 Q And at the time on January 28th you told
21 Detective O'Shea that Hae told you that she was going
22 to see Donald at the mall?
23 A Yes.
24 Q You wouldn't have told them -- him that
25 unless it was true?

1 A No.
2 Q You had no intention of sending Detective
3 O'Shea on a wild goose chase, did you?
4 A No.
5 Q Back then when you were first asked to
6 recollect the events of January 13th at a time two
7 and a half weeks after January 13th, you gave
8 Detective O'Shea the best that you could remember.
9 did you not?
10 A Yes.
11 Q And what you remembered on that day was
12 that Hae told you that she was going to see Donald?
13 A Yes.
14 Q At the mall?
15 A Yes.
16 Q You also recalled for him that Hae would
17 fight with her mother?
18 A Yes.
19 Q But that you didn't think it was serious
20 enough to make her run away?
21 A No.
22 Q Although Hae had previously expressed that
23 to you, had she not?
24 A Can you repeat the question, please.
25 Q Hae had previously expressed that to you.

1 had she not?
2 A That what?
3 Q That she might run away?
4 A Yes.
5 Q That she wanted to go back to California?
6 A No.
7 Q That she wanted to get away from her
8 mother?
9 A Yes.
10 Q And the restrictions?
11 A Yes.
12 Q And that Hae thought she was right and her
13 mother was wrong?
14 A You could say that, yes.
15 Q And Hae didn't hesitate to express that,
16 did she?
17 A No.
18 Q And that's one of the reasons that you told
19 Detective O'Shea those things?
20 A Yes.
21 Q Now, you knew on the 28th of January that
22 Hae had already spent the night with Donald?
23 A Yes.
24 Q You knew it from her, did you not?
25 A Yes.

1 Q That she had spent the night at his house?
 2 A Yes.
 3 Q That's located up in Harford County?
 4 A Yes.
 5 Q Against her mother's wishes?
 6 A Yes.
 7 Q Against the rules of her mother?
 8 A Yes.
 9 Q But that she had done it anyway?
 10 A Yes.
 11 Q And you told Detective O'Shea that, did you
 12 not?
 13 A Yes.
 14 Q Back on the 28th of January?
 15 A Yes.
 16 Q Before her body was found?
 17 A Yes.
 18 Q And after that date you were then contacted
 19 by the Homicide detectives of Baltimore City, were
 20 you not?
 21 A Yes.
 22 Q And you went down to Headquarters?
 23 A I'm sorry, can you speak up.
 24 Q Did you go down to Headquarters?
 25 A Yes.

1 Q Down here at 601 Fayette Street?
 2 A Yes.
 3 Q At the Homicide offices?
 4 A Yes.
 5 Q In the Police Headquarters Building?
 6 A Yes.
 7 Q And that was planned, was it not?
 8 A Yes.
 9 Q When you agreed to do so, did you not?
 10 A Yes.
 11 Q And that was after her body was found, was
 12 it not?
 13 A No.
 14 Q You spoke with them on March 26th, 1999,
 15 did you not?
 16 A I don't recall the date.
 17 Q You only spoke to them one time?
 18 A No.
 19 Q You spoke to them more than one time?
 20 A Yes.
 21 Q So before her body was found you spoke to
 22 the Baltimore City police officers?
 23 A I don't remember.
 24 Q How many times did you speak to them?
 25 A I went to the Headquarters twice, but they

1 had come to the school prior to that and I had spoken
 2 to them.
 3 Q The Baltimore City police detectives --
 4 A I don't remember.
 5 Q -- had come to the school?
 6 A I don't know.
 7 Q You recall Detective O'Shea coming to the
 8 school?
 9 A Yes.
 10 Q And you knew that Detective O'Shea was with
 11 the Baltimore County police officers?
 12 A Yes.
 13 Q Because that's where Woodlawn was?
 14 A Yes.
 15 Q And that was the last place Hae had been
 16 seen?
 17 A Yes.
 18 Q And that's where Hae lived?
 19 A Yes.
 20 Q You became aware that following the finding
 21 of her body that it became a Baltimore City matter,
 22 did you not?
 23 A Yes.
 24 Q Because her body was found inside Baltimore
 25 City?

1 A Correct.
 2 Q Is that right? And after that you didn't
 3 speak to Detective O'Shea again?
 4 A I don't remember.
 5 Q But your attitude to be helpful was still
 6 the same, was it not?
 7 A Yes.
 8 Q All right, now, on the two times that you
 9 went down to Headquarters, both times you gave a
 10 statement?
 11 A Yes.
 12 Q You were asked questions?
 13 A Yes.
 14 Q And both times they were recorded, were
 15 they not?
 16 A I don't recall. I remember once it was but
 17 I'm not sure about the other time.
 18 Q So the other one may or may not have been
 19 recorded?
 20 A Correct.
 21 Q And the recording, did that happen on the
 22 first time you went down or the second time?
 23 A The second.
 24 Q The second time. So you may have made
 25 another statement that could have been recorded or

1 could have not been?
 2 A Correct.
 3 Q On the second time, the one that was
 4 recorded, Ms. [REDACTED] that was with your consent, was
 5 it not?
 6 A Yes.
 7 Q And during the time that you were down
 8 there the whole purpose was to talk about Hae?
 9 A Yes.
 10 Q And on March 26th you were aware that Adnan
 11 had been arrested, were you not?
 12 A Yes.
 13 Q Everybody at Woodlawn knew that, did they
 14 not?
 15 A Yes.
 16 Q That was the subject of great discussion,
 17 was it not?
 18 A Yes.
 19 Q It was upsetting for a lot of people, was
 20 it not?
 21 A Yes.
 22 Q And some people were on Adnan's side,
 23 right?
 24 A What do you mean by side?
 25 Q Well, there were some people that were

1 upset that he had been arrested, were there not?
 2 A Everyone was upset that he had been
 3 arrested.
 4 Q Well, there were some people that were glad
 5 that he was arrested, were there not?
 6 A Not that I recall.
 7 Q Because Adnan was still popular, was he
 8 not?
 9 A Yes.
 10 Q You were aware on March 26th when you went
 11 down that he was arrested and in jail?
 12 A Yes.
 13 Q Charged with the murder of Hae?
 14 A Yes.
 15 Q And when you went to speak to them, they
 16 asked you a lot of questions about Adnan's
 17 relationship with Hae?
 18 A Yes.
 19 Q From Adnan's point of view?
 20 A Yes.
 21 Q And from Hae's point of view?
 22 A Yes.
 23 Q And you, of course, explained to them the
 24 chronology as we've just gone through it?
 25 A Yes.

1 Q About they had broken up; is that right?
 2 A Yes.
 3 Q Close to a month before her disappearance?
 4 A Correct.
 5 Q Before Christmas?
 6 A Yes.
 7 Q And that you had seen them sometimes daily
 8 everyday in between?
 9 A Yes.
 10 Q And that they still would express their
 11 love for each other?
 12 A Yes.
 13 Q And that they were still affectionate with
 14 each other?
 15 A Yes.
 16 Q And that they were still concerned about
 17 each other's feelings?
 18 A Yes.
 19 Q And how they were handling the break up?
 20 A Yes.
 21 Q And that they had both moved on to be open
 22 to other relationships?
 23 A Can you repeat that, please?
 24 Q Well, that was a question that I asked you
 25 earlier. There came a point, did there not, before

1 her disappearance that Hae was clearly open to
 2 another relationship?
 3 A Yes.
 4 Q Notwithstanding her love for Adnan?
 5 A Correct.
 6 Q And her belief that her love for Adnan,
 7 although she couldn't be with him, would survive?
 8 A Yes.
 9 Q And that Adnan clearly got to the point
 10 that he was also open to other girls?
 11 A Correct.
 12 Q In regard to that you expressed that to the
 13 detectives, did you not?
 14 A Yes.
 15 Q In their inquiry of you on March 26th they
 16 asked you such questions as were they sexually
 17 active?
 18 A Yes.
 19 Q With each other, right?
 20 A Correct.
 21 Q And you told them that they were?
 22 A Yes.
 23 Q And they asked you whether or not there
 24 were any pregnancy scares, did they not?
 25 A Yes.

1 Q And they asked you such details as where
 2 did they have intercourse, if you knew, did they not?
 3 A Yes.
 4 Q And you answered all of those questions,
 5 did you not?
 6 A Yes.
 7 Q Even though they were very private matters?
 8 A Yes.
 9 Q Is that correct?
 10 A Correct.
 11 Q And you told them the best of what you
 12 recollected about what either of them had told you
 13 about the most intimate details of their personal
 14 lives?
 15 A Correct.
 16 Q Including every detail you knew about where
 17 it was that they had had sexual intercourse with each
 18 other?
 19 A Correct.
 20 Q Is that right? And you told them about an
 21 afternoon in the park, did you not?
 22 A Yes.
 23 Q You talked about out in the parking lots?
 24 A Correct.
 25 Q You referred to school parking lot?

1 A Yes.
 2 Q You referred to at friends' houses?
 3 A Correct.
 4 Q In fact, you described an occasion where at
 5 a friend's house, another friend, another Woodlawn
 6 senior, found them?
 7 A Correct.
 8 Q And interrupted them having intercourse?
 9 A Correct.
 10 Q And you would describe them being at
 11 another friend's house?
 12 A Correct.
 13 Q And having intercourse?
 14 A Correct.
 15 Q And they asked you about any hotels, didn't
 16 they?
 17 A I don't remember.
 18 Q Do you recall that Detective MacGillivray
 19 asked you, okay, any hotels, and that you answered
 20 no, they never went to a hotel?
 21 A I don't recall.
 22 Q But this was the time that it was on tape,
 23 was it not?
 24 A I don't know.
 25 Q The time that it was on the tape, the tape

1 ran the whole time, did it not?
 2 A Yes.
 3 Q Thank you. And that was with your
 4 permission?
 5 A Yes.
 6 Q And Detective MacGillivray was there?
 7 A Correct.
 8 Q And he was the one directing the questions?
 9 A Correct.
 10 Q And he asked you questions, you didn't just
 11 come in and talk, did you?
 12 A No.
 13 Q It wasn't a conscience raising session, was
 14 it?
 15 A No.
 16 Q It was a question and answer, was it not?
 17 A Correct.
 18 Q And Detective MacGillivray decided what the
 19 questions were, did he not?
 20 A Yes.
 21 Q And you did the best to your ability to
 22 answer them with as much information as you could
 23 remember?
 24 A Correct.
 25 Q And you would agree that these interviews

1 took place after Hae's body was found?
 2 A Yes.
 3 Q Shortly thereafter?
 4 A Yes.
 5 Q And you would agree, would you not, Ms.
 6 Warren, that your recollection of all of these events
 7 was better then, shortly after her body was found,
 8 than it is today?
 9 A Correct.
 10 Q And, Ms. [REDACTED] were you shown the
 11 transcript of your interview before you testified?
 12 A No.
 13 Q Were you asked to review it?
 14 A No.
 15 Q Were you ever shown the transcript after it
 16 was made?
 17 A No.
 18 Q You were prepared by the State's Attorney
 19 to testify?
 20 A Correct.
 21 Q Were you not?
 22 A Yes.
 23 Q As to what you would be asked?
 24 A Yes.
 25 Q Now, you recall that you talked about

1 parking lots, that you mentioned the mall, Security
 2 Square Mall?
 3 A Yes.
 4 Q And you also mentioned the Owings Mills
 5 Mall?
 6 A Yes.
 7 Q And then they asked you the details that
 8 you knew about any of those sexual intercourses that
 9 you had heard about from either of them, as to
 10 exactly where they were located?
 11 A Yes.
 12 Q And they asked you whether or not Hae or
 13 Adnan had ever mentioned that they were at a parking
 14 lot near Best Buy?
 15 A Correct.
 16 Q Didn't they?
 17 A Yes.
 18 Q They mentioned Best Buy, did they not?
 19 A Yes.
 20 Q And they made sure that you knew that it
 21 was the Best Buy near Security Mall?
 22 A Correct.
 23 Q Is that right? And you knew where that
 24 was, didn't you?
 25 A Yes.

1 Q And that Best Buy is not too far from
 2 Woodlawn High School, is it?
 3 A No.
 4 Q And that Best Buy looks like all other Best
 5 Buys across the country, does it not?
 6 MS. MURPHY: Objection.
 7 A I don't know.
 8 Q Have you ever been in there?
 9 THE COURT: Well, sustain the objection.
 10 The next question is have you ever been in the Best
 11 Buy?
 12 Q That Best Buy?
 13 A Yes.
 14 Q Yes. And when they asked you about the
 15 Best Buy and they did so several times, you said
 16 absolutely, no, no, I was never told about that, did
 17 you not?
 18 A Yes.
 19 Q Because you hadn't been told about that,
 20 right?
 21 A Correct.
 22 Q And you were trying to give them the most
 23 accurate information?
 24 A Correct.
 25 Q Because they had never told you about it,

1 you had no idea why you were being asked that
 2 question, did you?
 3 A I don't remember.
 4 Q Well, they had never talked to you about
 5 Best Buy, right?
 6 A Correct.
 7 Q That wasn't a location where, to your
 8 knowledge, they confided in you they had been and had
 9 sexual intercourse?
 10 A Correct.
 11 Q And your experience with them is that both
 12 of them told you the most intimate details of their
 13 lives?
 14 A Yes.
 15 Q Including that they had sex with each
 16 other?
 17 A Yes.
 18 Q And where it occurred?
 19 A Yes.
 20 Q And under what circumstances?
 21 A Yes.
 22 Q And when it occurred; is that right?
 23 A Yes.
 24 Q And your intent that day when they asked
 25 you about that was to be as honest as you could?

1 A Yes.
 2 Q When they asked you about Best Buy, you
 3 didn't ask them where they got that information, did
 4 you?
 5 A No.
 6 Q But you said no, no, they never told me
 7 that, did you not?
 8 A Correct.
 9 Q Because they hadn't?
 10 A Correct.
 11 Q You had no interest in concealing Best Buy
 12 from them, did you?
 13 MS. MURPHY: Objection.
 14 THE COURT: Sustained.
 15 Q Yesterday you testified as to the reason of
 16 their final break up was that Hae felt she wasn't
 17 free so she called it off?
 18 A Correct.
 19 Q And to your knowledge she had started
 20 working at the very beginning of December at Lens
 21 Crafters?
 22 A Correct.
 23 Q Did she not?
 24 A Yes.
 25 Q And that Hae and Adnan, Hae broke up with

1 Adnan in the middle of December?
 2 A Correct.
 3 Q You don't recall the exact date though, do
 4 you?
 5 A No.
 6 Q No. But it was in the middle of December,
 7 right?
 8 A Yes.
 9 Q Just a couple of weeks after she had
 10 started working at Lens Crafters?
 11 A Yes.
 12 Q And this Donald person that you came to
 13 understand, she met through her work at Lens Crafter?
 14 A Correct.
 15 THE COURT: Ms. Gutierrez, I need to stop
 16 you here. Just for the record the jurors have
 17 slipped me a note that they need to take a little --
 18 MS. GUTIERREZ: That's fine.
 19 THE COURT: -- break to use the
 20 facilities. So we'll stop at the point where you're
 21 asking about --
 22 MS. GUTIERREZ: Lens Crafters.
 23 THE COURT: -- Lens Crafters and when Ms.
 24 Lee may have told the witness about her relationship
 25 with Don or Donnie and at this point we'll break.

1 I'm going to ask that the ladies and
 2 gentlemen put their notepads face down, that they not
 3 discuss the testimony of this witness or anyone
 4 else. That they go with Deputy Church who will
 5 escort you back to the jury room. We're going to
 6 take a ten minute recess and actually ten minutes I
 7 note that my clock up there on that wall says five
 8 minutes of. I believe our watch does not, but we'll
 9 take ten minutes. Is that five of? It's really like
 10 four minutes of. So we will resume in about ten
 11 after the hour. This Court stands in recess.
 12 (Whereupon the Court recessed, following
 13 which the proceedings in this matter resumed:)
 14 THE COURT: Please be seated. Counsel, we
 15 are going to proceed for the next hour until
 16 twelve-thirty, then we'll take a break for an hour
 17 for lunch until 1:30 and then return to continue with
 18 today's testimony.
 19 MS. GUTIERREZ: Did the Court get anyone
 20 else to take its docket for tomorrow?
 21 THE COURT: I'm sorry.
 22 MS. GUTIERREZ: Did the Court get anyone
 23 else to take its docket?
 24 THE COURT: No, I have not been able to do
 25 that. So I will have my docket tomorrow. However, I

1 have been informed that I only have two cases and
 2 counsel have been called and advised that I am in
 3 trial.
 4 MS. GUTIERREZ: So what time are we going
 5 to meet?
 6 THE COURT: I'm going to shoot for ten
 7 o'clock to start.
 8 MS. GUTIERREZ: I just needed to know if I
 9 needed to make arrangements.
 10 THE COURT: No ten o'clock I think we will
 11 be able to resume. I'm going to do what we did
 12 today. Although we could start at eight-thirty, I
 13 think ten o'clock will be fine.
 14 All right, Ms. Gutierrez, we were listening
 15 to your questions of the witness. For the record,
 16 I'll remind you, Ms. Warren, you are still under oath
 17 and we were discussing Lens Crafters and the meeting.
 18 MS. GUTIERREZ: Yes, Judge, thank you for
 19 reminding me.
 20 Q Ms. [REDACTED] you became aware sometime
 21 shortly before or at the time of the break up that
 22 Hae Min Lee had expressed an interest in a guy that
 23 she had met at work?
 24 A What do you mean by interest?
 25 Q In seeing him as a boyfriend?

1 A No.
 2 Q No. She never confided that to you?
 3 A No.
 4 Q That information came to you later?
 5 A Correct.
 6 Q Right? And when it came to you that was
 7 after her first date with Donald [REDACTED]?
 8 A Yes.
 9 Q Now, after you were aware in the middle of
 10 December that Hae and Adnan were breaking up, you
 11 observed that they still were very concerned about
 12 each other's feelings?
 13 A Yes.
 14 Q Were they not?
 15 A Yes.
 16 Q They didn't want to hurt each other?
 17 A No.
 18 Q And that they both expressed that they
 19 wanted to help each other get through it?
 20 A Yes.
 21 Q And you became aware, did you not, that
 22 before Hae Min Lee had a first date with Donald
 23 Klinedinst that she hadn't even kissed him?
 24 A Correct.
 25 Q Is that right?

1 A Correct.
 2 Q That's what she told you?
 3 A Correct.
 4 Q Did she not?
 5 A Yes.
 6 MS. GUTIERREZ: May I approach the witness,
 7 Judge?
 8 THE COURT: Yes.
 9 Q And, again, I ask you to look at Hae Min
 10 Lee's diary and ask you to read to yourself from the
 11 point of time where it mentions me and Don, and if
 12 you would read to the end of the page -- the end of
 13 page. You finished?
 14 A Yes.
 15 Q She's describing her first date with Don,
 16 is she not?
 17 A Yes.
 18 Q And if you would turn to the page before,
 19 that entry is a page where she's written Don's name a
 20 number of times, is it not? The date of the entry
 21 there is 1/2/99, is it not?
 22 A Yes.
 23 Q The portion you read to yourself is a
 24 continuation of that entry, is it not?
 25 A Yes.

1 Q And it's on the page before what you read
 2 on the opposite page of the beginning of the entry is
 3 where she's written Donald's name a couple of times?
 4 A Correct.
 5 Q A couple different ways, is that correct?
 6 A Yes.
 7 Q And the portion that you read she described
 8 that she wanted him to kiss her, did she not?
 9 A Yes.
 10 Q And she writes I really wanted him to kiss
 11 me but not -- he's too much of a gentleman for that,
 12 did she not?
 13 A Yes.
 14 Q And so her diary confirms what she told
 15 you?
 16 A Correct.
 17 Q That she hadn't had any kind of
 18 relationship with this guy, even so much as a kiss,
 19 before January 1st, 1999?
 20 A Yes.
 21 Q And that was a couple weeks after she broke
 22 up with Adnan?
 23 A Yes.
 24 Q And that's exactly what she told you,
 25 right?

1 A Yes.
 2 Q Now, you described she continued her
 3 relationship with you such that she continued to
 4 confide the intimate details of her life?
 5 A Yes.
 6 Q And so she told you when she got intimate
 7 with Don, right?
 8 A Yes.
 9 Q And that was sometime after the 1st of
 10 January?
 11 A Yes.
 12 Q Before the 13th?
 13 A Yes.
 14 Q And that that included sexual intimacy?
 15 A Yes.
 16 Q And that that included an encounter whereby
 17 she spent the night at his house?
 18 A Yes.
 19 Q Against her mother's wishes?
 20 A Yes.
 21 Q Against the rules?
 22 A Yes.
 23 Q And she had previously before Adnan
 24 confided to you similar details, had she not?
 25 A Can you repeat the question?

1 Q She had previously confided, before Adnan,
 2 similar details about her life, had she not?
 3 A Yes.
 4 MS. MURPHY: Objection.
 5 THE COURT: Sustained.
 6 Q She indicated to you, did she not, that
 7 Adnan was not her first sexual encounter, did she
 8 not?
 9 MS. MURPHY: Objection.
 10 THE COURT: Sustained.
 11 Q Now, when the police talked to you on one
 12 of the occasions they asked you about Donald
 13 [REDACTED] did they not?
 14 A Yes.
 15 Q And you told them that you had not met him
 16 before her disappearance?
 17 A Correct.
 18 Q But you knew about him from her?
 19 A Yes.
 20 Q You, of course, told them that you knew
 21 that prior to the break up that there had been
 22 nothing that happened, any intimate relationship
 23 between Donald [REDACTED] and Hae Min Lee, before
 24 January 1st, 1999, right?
 25 A Yes.

1 Q But you recalled that you told the
2 detective, and it was Detective MacGillivray and
3 Detective Ritz?
4 A Yes.
5 Q That Hae said she was leaving or at least
6 what she told you was that she said to you that she
7 was leaving the relationship because she was
8 interested in somebody else?
9 A That was a portion of it, yes.
10 Q Okay. And was that the portion of what she
11 said that you took as related when you said she
12 wanted to be free?
13 A No.
14 Q No. So the idea of freedom didn't relate
15 to her being free to pursue a relationship with
16 somebody else she might be interested in, did it?
17 A No.
18 Q No. And do you recall the portion of the
19 diary that you read yesterday about when she wrote
20 possessiveness, no rather --
21 A Yes.
22 Q -- independence?
23 A Yes.
24 Q And your observation of Hae Min Lee during
25 all of the time period from April of 1998 up until

1 January 1st, 1999 she acted pretty independent, did
2 she not?
3 A What do you mean by act?
4 Q Well, she had a life beyond Adnan, did she
5 not?
6 A Yes.
7 Q She saw you and other friends outside of
8 Adnan --
9 A Yes.
10 Q -- did she not? She spent a great deal of
11 time with her girlfriends, did she not?
12 A Yes.
13 Q Including overnights?
14 A Yes.
15 Q And separate outings out to do things?
16 A Yes.
17 Q And that never stopped, did it?
18 A No.
19 Q She never curtailed her independent
20 relationships with people, did she?
21 A No.
22 Q And she had lots of activities that engaged
23 her separate and apart from Adnan?
24 A Yes.
25 Q And she continued all of that while she was

1 with Adnan?
2 A Yes.
3 Q While she was Adnan's girlfriend?
4 A Yes.
5 Q And you never heard from her that Adnan
6 made her stop any of those things, did you?
7 A Not make, no.
8 Q And you recalled that when the detectives
9 asked you, you also mentioned what you then called
10 their cultural differences were too much for them to
11 handle any longer?
12 A Yes.
13 Q Do you recall that? And that was correct,
14 wasn't it?
15 A Yes.
16 Q And that was really the main reason for the
17 ultimate break up, was it not?
18 A No.
19 Q On every other occasion, for instance going
20 back to the first time that you suggested a recess to
21 your good friend Hae Min Lee, it involved all of
22 issues caused by their cultural differences, did it
23 not?
24 A Yes.
25 Q And on the other occasions in which Hae Min

1 Lee broke up the relationship for even short periods
2 of time it was always caused and related to the
3 issues of their cultural differences?
4 A A portion of it, yes.
5 Q The same issues about which we've
6 discussed?
7 A Yes.
8 Q Is that right?
9 A Yes.
10 Q And breaking up because of those cultural
11 differences was not a surprise to you when you were
12 told that, was it?
13 A Can you repeat the question?
14 Q No, ma'am, I'll ask another one. Do you --
15 cultural differences however was a term that you used
16 when you spoke to Detective MacGillivray?
17 A Correct.
18 Q At the time that the tape recorder was on?
19 A Yes.
20 Q Now, yesterday, Ms. Warren, you said
21 something that I wanted to make sure I got it right
22 when you were referring to the same area about
23 cultural differences and you referred to that, you
24 know, that he was a Muslim, right?
25 A Yes.

1 Q Which she wasn't, right?
 2 A Right.
 3 Q And then you said something, well, and they
 4 were different races?
 5 A Correct.
 6 Q Do you recall that? Now, Hae Min Lee was a
 7 Korean American?
 8 A Correct.
 9 Q And you knew that?
 10 A Yes.
 11 Q You were aware that she immigrated to this
 12 country after she was born?
 13 A Correct.
 14 Q And you were aware that her mother really
 15 didn't speak a whole lot of English?
 16 A Correct.
 17 Q But Hae Min Lee spoke Korean?
 18 A Correct.
 19 Q And that she spoke Korean at her home?
 20 A Yes.
 21 Q And did she have an accent when she spoke
 22 English?
 23 A Not much.
 24 Q And you were aware that there are racial
 25 classifications for instance that are honored by

1 Baltimore County public schools, are you not?
 2 A Can you repeat that question, please?
 3 Q You are aware that there are racial
 4 classifications that are honored and used by the
 5 Baltimore County public schools, are you not?
 6 A Yes.
 7 Q And you have a racial classification, do
 8 you not?
 9 A Yes.
 10 Q That's African American?
 11 A Correct.
 12 Q That's a racial classification all of its
 13 own, is it not?
 14 A Yes.
 15 Q And in Baltimore County there is a series
 16 of numbers that are assigned to different
 17 classifications, are there not?
 18 A Yes.
 19 Q And African American, does that have a
 20 number to it?
 21 A Yes, but I don't know what it is.
 22 Q Well, it's a one, isn't it?
 23 A I guess so.
 24 Q And you're aware that Asian is another
 25 racial classification utilized by the Baltimore

1 County public schools, are you not?
 2 A Yes.
 3 Q And that Asian is a two?
 4 MS. MURPHY: Your Honor, I'm going to
 5 object as to scope.
 6 THE COURT: Your objection is sustained,
 7 not as to scope but on another basis.
 8 MS. GUTIERREZ: I'll rephrase the question.
 9 Q When you said that they were different
 10 races, would that include defining them differently
 11 according to racial classifications?
 12 MS. MURPHY: Objection.
 13 THE COURT: Sustained.
 14 Q Now, Hae Min Lee was Korean American?
 15 A Correct.
 16 Q And she was classified as being Asian, was
 17 she not?
 18 A Yes.
 19 Q And Adnan Syed, you've told us you know
 20 that he's a Muslim, right?
 21 A Yes.
 22 Q But that's his religion?
 23 A Correct.
 24 Q Right? And were you aware that he was born
 25 in this country?

1 A Yes.
 2 Q Yes. But that his parents immigrated from
 3 a place outside of this country?
 4 A Correct.
 5 Q And that that place was Pakistan?
 6 A Yes.
 7 Q And you are aware that Pakistan is in Asia?
 8 A Yes.
 9 Q And that people from Pakistan are
 10 classified as Asians?
 11 A Yes.
 12 Q And were you aware that under the racial
 13 classifications as utilized by the Baltimore County
 14 public schools that Hae Min Lee and Adnan Syed were
 15 the same race?
 16 MS. MURPHY: Objection.
 17 A Yes.
 18 Q Not a different race?
 19 THE COURT: Sustained, and I will allow you
 20 to provide, if you can, the basis of knowledge for
 21 this witness' ability to answer these questions and,
 22 if so, she may answer the questions.
 23 Q Well, that's -- are you aware that
 24 Baltimore County has different classifications?
 25 A Yes.

1 Q And that they are racial classifications?
 2 A Yes.
 3 Q And that people fit different racial
 4 classifications?
 5 A Yes.
 6 Q And that some of the distinctions are
 7 readily apparent like how somebody looks?
 8 A Yes.
 9 Q But that some of the classifications relate
 10 to the part of the world that people come from?
 11 A Correct.
 12 Q And you are familiar that in addition to
 13 African American being a racial classification
 14 utilized by the Baltimore County public schools that
 15 there are other than black Americans as racial
 16 classifications?
 17 MS. MURPHY: Objection.
 18 THE COURT: If you know? Do you know how
 19 Baltimore City -- Baltimore County public schools
 20 makes their racial classifications?
 21 THE WITNESS: Yes.
 22 MS. GUTIERREZ: Okay.
 23 THE COURT: Very well.
 24 Q Were you aware that Asian is one of those
 25 specific racial classifications?

1 A Yes.
 2 Q And are you aware that -- you know that
 3 Asia is a continent?
 4 A Yes.
 5 Q And that it's a pretty big continent?
 6 A Yes.
 7 Q And that it includes such countries of the
 8 most population as China?
 9 A Correct.
 10 Q And Japan?
 11 A Correct.
 12 Q And Korea?
 13 A Yes.
 14 Q And that it also includes other Asian
 15 countries that are also very populous such as India?
 16 A Correct.
 17 Q And Burma?
 18 A Yes.
 19 Q And Pakistan?
 20 A Yes.
 21 Q All right. And you are aware that people
 22 that come from those geographical locations,
 23 notwithstanding whatever religion they may be, are
 24 all characterized as Asian?
 25 A Yes.

1 Q As a racial classification?
 2 A Yes.
 3 Q Now, you are aware are you not that there
 4 are visible differences between Koreans and Chinese?
 5 A Yes.
 6 Q And Japanese and Koreans?
 7 MS. MURPHY: Objection.
 8 THE COURT: Sustained.
 9 Q You are aware then that in regard to
 10 racially classifying under a classification system
 11 with which you are familiar that Hae Min Lee and
 12 Adnan Syed are of the same race?
 13 A Yes.
 14 Q Not a different race?
 15 A Correct.
 16 Q So the differences in their races, unlike
 17 what you said yesterday, really had nothing to do
 18 with it?
 19 A It did. I'm sorry, I meant to say ethnic
 20 differences, not racial.
 21 Q Ethnic by ethnic customs?
 22 A That's what ethnic is, different by
 23 culture.
 24 Q And by culture you really have been
 25 referring to religious differences, are you not?

1 A Not necessarily.
 2 Q But customs?
 3 A Customs, yes.
 4 Q Did you believe that it was a cultural
 5 tenet for Pakistanis not to date before marriage?
 6 A Yes.
 7 Q Just to all Pakistanis?
 8 A Not all.
 9 Q But some?
 10 A Some, most.
 11 Q Most. And did you ever believe that all
 12 Pakistanis were Muslims?
 13 A No.
 14 Q No. And were you aware that there are
 15 Pakistanis of various religions?
 16 A Yes.
 17 Q And were you aware that among those other
 18 religions that many of them might prohibit, for
 19 instance, pre-marital sex?
 20 A Yes.
 21 Q But not pre-marital dating?
 22 A Can you repeat the question?
 23 Q No, I'll go on to another. You were -- I
 24 was asking you about the time when the tape recorder
 25 was on when you spoke to Detectives MacGillivray and

1 Ritz?

2 A Yes.

3 Q Is that right?

4 A Yes.

5 Q Sometime after Hae's body was found?

6 A Correct.

7 Q And sometime after Adnan Syed was arrested?

8 A Correct.

9 Q And during that time you were asked

10 anything you could remember about that day, right?

11 A Yes.

12 Q And you had the same attitude to providing

13 them information as you did to Detective O'Shea when

14 he came to the school and spoke to you, right?

15 A Absolutely.

16 Q You tried your hardest to remember anything

17 that was important, right?

18 A Yes.

19 Q They asked you on that day while the tape

20 recorder was running anything you could remember

21 about seeing Adnan on the 13th, did they not?

22 A Yes.

23 Q And you told them everything you could

24 remember?

25 A Yes.

1 Q And you told them that you saw Adnan on

2 that day, referring to the 13th, before he went to

3 practice?

4 A I don't remember.

5 Q And if that's what you remembered you would

6 have told them?

7 A Yes.

8 Q Right? You wouldn't have concealed that,

9 would you?

10 A No.

11 Q And do you recall that you also told them

12 that you spoke to him and some other kids?

13 A No.

14 Q No. And today you don't recall the events

15 of the 13th quite as clearly as you did then when you

16 were speaking to Detectives MacGillivray and Ritz?

17 A Correct.

18 Q About those events?

19 A Correct.

20 Q All of those events were much fresher in

21 your mind?

22 A Yes.

23 Q And you, like others at Woodlawn, were

24 pretty shocked at the arrest of Adnan, were you not?

25 A Yes.

1 Q On that day also when you were asked to

2 recall all of your activities, by that day I mean the

3 day that whenever it was that it occurred that you

4 spoke on the tape recorder to Detectives MacGillivray

5 and Ritz, you were asked to recall anything else that

6 you could remember about what you did on that day, do

7 you recall that?

8 A Yes.

9 Q And you again had the same attitude, you

10 were trying to remember anything that you could,

11 right?

12 A Correct.

13 Q Regardless of whether it was important or

14 not, right?

15 A Yes.

16 Q Because they asked you for details, right?

17 A Yes.

18 Q And you tried to provide as many details as

19 you could at that moment remember, correct?

20 A Yes.

21 Q And in fact, you recalled that you had gone

22 to the guidance counselor, did you not?

23 A Yes.

24 Q And that was related to this year going to

25 college, was it not?

1 A I don't remember.

2 Q You back then as a senior were concerned

3 about college, were you not?

4 A Yes.

5 Q And there were lots of things to do in

6 regard to preparing to get into college, were there

7 not?

8 A Yes.

9 Q And many of those activities was gathering

10 together information about your school career at

11 Woodlawn and forwarding it, was it not?

12 A Correct.

13 Q And guidance counselors were the people

14 that had to do that?

15 A Yes.

16 Q And you were involved in that process back

17 then?

18 A Yes.

19 Q Were you not, getting those things ready?

20 A Yes.

21 Q Including seeing guidance counselors?

22 A Yes.

23 Q And so it would not have been an unusual

24 event to you?

25 A No.

1 Q And if it had happened you would have told
2 them about it, would you have not?
3 A Yes.
4 Q Because they asked you everything that you
5 did, right?
6 A Yes.
7 Q And you're familiar with the guidance
8 counselors by name, are you not?
9 A I was.
10 Q You were. Do you recall that one of
11 guidance counselors is a woman named Betty [REDACTED]?
12 A Yes.
13 Q And she was the guidance counselor who, in
14 fact, assisted seniors in precisely that activity,
15 getting ready for college?
16 A Yes.
17 Q And at that point in January everybody was
18 still applying for various colleges, right?
19 A Yes.
20 Q And getting their packages together, isn't
21 that right?
22 A Yes.
23 Q And you described that you went to the
24 guidance office that day for that purpose; is that
25 right?

1 A I don't recall.
2 Q But if you did, you would have told them
3 about it, would you have not?
4 A Yes.
5 Q You would not have concealed that?
6 A No.
7 Q And the guidance office is where Betty
8 Stuckey has her office?
9 A Correct.
10 Q And where other students would also be
11 going?
12 A Yes.
13 Q And you don't recall you told us that
14 event, do you recall seeing Adnan there?
15 A I don't remember.
16 Q If you did you would have told them about
17 it?
18 A Yes.
19 Q Unless you had forgotten?
20 A Yes.
21 Q Right? Do you recall that they asked you
22 all of the details of where you went if you -- about
23 any place you told them you went or were in school
24 that day?
25 A Yes.

1 Q Because you were more familiar with the
2 physical layout than they were, right?
3 A Correct.
4 Q And Ms. [REDACTED] office would have been in
5 the place that's called the guidance office, is it
6 not?
7 A Yes.
8 Q And if someone went to see Ms. [REDACTED] for
9 a similar reason that I described to help get things
10 together for a college application, that's the
11 physical place that would have been?
12 A Yes.
13 Q And do you recall that they asked you that
14 after you saw Adnan in the guidance counselor's
15 office that day to comment on what he would have been
16 doing in there? Do you recall being asked that
17 question?
18 A No.
19 Q Do you recall answering uh-huh, either one
20 of the counselors for information, do you recall
21 answering that?
22 A No.
23 Q You would expect the recording made of your
24 conversations with Detective Ritz and MacGillivray
25 made with your consent to be accurate, would you not?

1 A Yes.
2 Q And the tape recorder was turned on the
3 entire time that you spoke to them on the occasion
4 that you remember it was, right?
5 A Yes.
6 Q It wasn't turned off in the middle?
7 A No.
8 Q And the detectives in all of their
9 questions were phrasing their questions in a way
10 designed to get as much information as possible from
11 you?
12 A Yes.
13 Q Sometimes they asked totally open questions
14 just who, what, where, why, right?
15 A Right.
16 Q And other times they asked like as in the
17 Best Buy, questions that had certain information
18 already in them?
19 A Yes.
20 Q As if they were testing out your knowledge
21 of information that they had from other sources?
22 MS. MURPHY: Objection.
23 THE COURT: Sustained.
24 Q Do you recall, though, when they asked you
25 all of your recollections of Hae Min Lee that they

1 asked you to describe her clothing, did they not?
 2 A I don't recall.
 3 Q Well, do you recall that Detective
 4 MacGillivray asked you do you recall what Hae was
 5 wearing on the 13th?
 6 A Yes.
 7 Q Yes. And do you recall that you answered
 8 when I had seen her she was wearing her jeans, a
 9 skirt, and a jacket?
 10 A No.
 11 Q So you recall them asking the question, you
 12 just don't recall what the answer was?
 13 A Correct.
 14 Q Is that right? And do you recall that they
 15 even asked you about the specific colors of her
 16 jacket?
 17 A Yes.
 18 Q Shirt?
 19 A Yes.
 20 Q And that you didn't know the color?
 21 A Correct.
 22 Q But you answered hmm, I don't know the
 23 color?
 24 A Correct.
 25 Q Because at that time you didn't recall it?

1 A Correct.
 2 Q But when asked for the first time you
 3 recall what she wore, you did recall that it was
 4 jeans?
 5 A Yes.
 6 Q And jeans as being something, they're a
 7 type of pants?
 8 A Yes.
 9 Q They were bluish in color, demin?
 10 A Yes.
 11 Q And that's what you meant to describe when
 12 you used the word jeans?
 13 A Yes.
 14 Q And jeans are something different than a
 15 skirt?
 16 A Yes.
 17 Q They're pants?
 18 A Yes.
 19 Q They cover the whole leg?
 20 A Yes.
 21 Q And that's what you meant to describe when
 22 you used that?
 23 A Yes.
 24 Q You were also asked about any detail that
 25 you might have on the relationship between Hae Min

1 Lee and Adnan that you knew of, right?
 2 A Yes.
 3 Q They asked you about Hae's perception of
 4 Adnan as she had expressed it to you, did they not?
 5 A Yes.
 6 MS. MURPHY: Objection.
 7 Q They asked you --
 8 THE COURT: Sustained.
 9 Q They asked you questions about whether or
 10 not Hae had ever told you of Adnan being rough with
 11 her, did they not?
 12 A Yes.
 13 Q And you told them that she thought that he
 14 was the opposite, did you not?
 15 A I don't recall.
 16 Q You don't recall being asked the question
 17 in part, did Hae ever express any concerns to you
 18 that Adnan was rough with her at any time, do you
 19 recall being asked that question?
 20 A I recall the question.
 21 Q And do you recall that you answered no she
 22 thought he was so opposite?
 23 A No.
 24 Q Do you recall that that's how she expressed
 25 herself to you about him?

1 A Yes.
 2 Q She thought that he was a pretty gentle
 3 person, did she not?
 4 A Yes.
 5 Q And that he was a sensitive person?
 6 A Yes.
 7 Q And that he was expressive about his love
 8 and his gentleness?
 9 A Yes.
 10 Q Within their relationship?
 11 A Yes.
 12 Q And so if you told them that he was so
 13 opposite you clearly would have meant that he was
 14 opposite to the word rough?
 15 A Correct.
 16 Q And they asked you if Adnan, at least what
 17 Hae told you, had ever assaulted her in any way?
 18 A Yes.
 19 Q And you told them absolutely not, didn't
 20 you?
 21 A Yes.
 22 Q And that was the truth back then, wasn't
 23 it?
 24 A Yes.
 25 Q And it's the truth now, isn't it? In

1 regard to anything Hae told you?
 2 A Yes.
 3 Q Yes. And they asked you whether or not Hae
 4 had any concern during the time she was sexually
 5 active with Adnan whether she ever had a pregnancy
 6 scare?
 7 A Yes.
 8 Q And you told them no, did you not?
 9 A Yes.
 10 Q Because those were things that Hae confided
 11 in you; is that right?
 12 A Yes.
 13 Q And Hae had never confided any such thing?
 14 A Correct.
 15 Q Is that right? And that's what you told
 16 them, did you not?
 17 A Yes.
 18 Q And they asked you about Hae's prior sexual
 19 history, did they not?
 20 A Yes.
 21 Q And you told them what you knew?
 22 A Yes.
 23 Q That she had been sexually active --
 24 MS. MURPHY: Objection.
 25 Q -- prior to Adnan?

1 THE COURT: Sustained.
 2 Q You were asked about sort of what was going
 3 on with the Woodlawn High School students after Hae
 4 disappeared, were you not?
 5 A Yes.
 6 Q And you told them about the various rumors
 7 going on at the school, did you not?
 8 A Yes.
 9 Q And that among those rumors as you
 10 described it was that we all thought that she was
 11 with her boyfriend?
 12 A Yes.
 13 Q And when you said that the boyfriend then
 14 was Donald [REDACTED]?
 15 A Correct.
 16 Q And that that's what was going on in the
 17 school including to you?
 18 A Yes.
 19 Q And, in fact, you believed that so much you
 20 told them that you contacted Donald [REDACTED] on
 21 your own?
 22 A Correct.
 23 Q You first contacted him by E-mail?
 24 A Yes.
 25 Q And then you ultimately spoke to him on the

1 phone?
 2 A Correct.
 3 Q And you ultimately met him?
 4 A Yes.
 5 Q In person?
 6 A Yes.
 7 Q And that you, in fact, had a seven hour
 8 phone conversation with him?
 9 A Yes.
 10 Q That's what you told the detectives and
 11 that's what happened?
 12 A Yes.
 13 Q And this is the man that you now call
 14 Donnie?
 15 A Yes.
 16 Q Another one of the rumors that you told
 17 them about was that Hae was in California?
 18 A Yes.
 19 Q A place where you knew her to have some
 20 relatives?
 21 A Yes.
 22 Q And others and maybe you believed that her
 23 father was in California?
 24 A Correct.
 25 Q Or at least the man that she had spoken of

1 and called him her father?
 2 A Yes.
 3 Q And that was one of the rumors that was
 4 floating around that seemed to make sense to you
 5 students at Woodlawn?
 6 A Yes.
 7 Q And that was based on your knowledge and
 8 other people who knew her, here's knowledge of the
 9 difficulty that she was having with her mother?
 10 A Yes.
 11 Q That had been going on for quite awhile?
 12 A Yes.
 13 Q And it was also based on that Hae had
 14 expressed that desire before, had she not?
 15 A Yes.
 16 Q To go back to California?
 17 A At that current time, no.
 18 Q But she had expressed it before?
 19 A No, when I said at that current time I
 20 meant she didn't mean to go back then, later on, not
 21 at that time.
 22 Q You mean that later on at sometime in
 23 future when she expressed it, that it was her intent
 24 to go to California?
 25 A Can you ask the question again, please?

1 Q One of the rumors that you described to
 2 Detectives MacGillivray and Ritz that was going on
 3 among you and others you knew at Woodlawn following
 4 the disappearance of Hae was that she had run off to
 5 California?
 6 A Yes.
 7 Q And when you answered their questions about
 8 that you were aware from your previous information
 9 that Hae had connections with those who were
 10 relatives or relatives of a sort still in
 11 California?
 12 A Yes.
 13 Q And you were aware that in tenth grade for
 14 half of the year Hae was, in fact, physically in
 15 California?
 16 A Yes.
 17 Q And at a school other than Woodlawn?
 18 A Correct.
 19 Q And that that was family related?
 20 A Yes.
 21 Q And that there was a person in California
 22 that Hae referred to as her father?
 23 A Yes.
 24 Q And that prior to her disappearance at some
 25 point she had expressed an interest in going to

1 California, returning to California?
 2 A Yes.
 3 Q And part of what she had expressed was to
 4 get away from the difficulties that she was having
 5 with her mother?
 6 A Yes.
 7 Q And that she had previously expressed all
 8 of that to you?
 9 A Yes.
 10 Q And to others that you knew of?
 11 A Yes.
 12 Q And that you explained that all of that was
 13 the basis where of the rumor that she was in
 14 California had came from?
 15 A Correct.
 16 Q And that because she had so freely
 17 expressed those emotions, that's why people believed
 18 it?
 19 A Yes.
 20 Q The students believed it?
 21 A (Indicating.)
 22 Q During that time after Hae's disappearance
 23 you continued to see Adnan in school, did you not?
 24 A Yes.
 25 Q And again, like before, almost on a daily

1 basis?
 2 A Yes.
 3 Q You would describe for Detectives
 4 MacGillivray and Ritz that many of you clung to the
 5 rumors because you didn't want to think the worst?
 6 A Correct.
 7 Q Is that right?
 8 A Correct.
 9 Q But that it was a topic of conversation
 10 among you all?
 11 A Yes.
 12 Q And that all of you would ask each other,
 13 have you heard anything?
 14 A Correct.
 15 Q To make sure that there wasn't some news
 16 out there that somebody didn't know?
 17 A Yes.
 18 Q And that there was an unspoken
 19 understanding that you would all share any
 20 information you got from anywhere with each other?
 21 A Yes.
 22 Q And that understanding was among the select
 23 group of people that counted Hae Min Lee as people --
 24 as a person who was very important to them?
 25 A Yes.

1 Q That group included yourself, did it not?
 2 A Yes.
 3 Q It included Iesha [REDACTED]?
 4 A Yes.
 5 Q It included Becky [REDACTED]?
 6 A Yes.
 7 Q It included many others?
 8 A Yes.
 9 Q And it included Adnan, did it not?
 10 A Yes.
 11 Q And you described for the detectives that
 12 you would interact with Adnan around concern for Hae
 13 Min Lee almost on a daily basis, did you not?
 14 A Yes. Yes.
 15 Q And that that didn't change?
 16 A Correct.
 17 Q You were asked on direct that you were
 18 aware of Hae Min Lee's problems at her home?
 19 A Yes.
 20 Q And those problems were really connected
 21 with the word that you used her freedom?
 22 MS. MURPHY: Objection.
 23 THE COURT: Sustained.
 24 Q You told us that her mother held her car
 25 and her freedom over her head, did you not?

1 MS. MURPHY: Objection.
 2 THE COURT: Sustained.
 3 Q At the end of your direct, Ms. [REDACTED] you
 4 were asked about at some point you got a list of
 5 questions to ask?
 6 A Correct.
 7 Q Was that from Detective O'Shea?
 8 A One of the detectives.
 9 Q Or Detective MacGillivray or Ritz?
 10 A I don't recall.
 11 Q But somebody gave you a list of questions
 12 to ask, right?
 13 A They verbally asked me. I wrote them down.
 14 Q You wrote down a list of questions and you
 15 were supposed to try to answer those questions,
 16 right?
 17 A Yes.
 18 Q And among the persons those questions were
 19 focused on that was on Adnan, right?
 20 A Yes.
 21 Q And you considered yourself -- you wrote
 22 down those questions because you took their request
 23 of you seriously, right?
 24 A Correct.
 25 Q You were going to help them get the

1 information that they sought?
 2 A Yes.
 3 Q And that information concerned Adnan, did
 4 it not?
 5 A I don't recall.
 6 Q Did you become aware of Adnan getting a
 7 cell phone?
 8 A Yes.
 9 Q And he gave you the number, didn't he?
 10 A Yes.
 11 Q Because you were a very good friend?
 12 A Right.
 13 Q And he didn't hide it when he got the cell
 14 phone, did he?
 15 A No.
 16 Q You were aware that before he got the cell
 17 phone that talking on the phone was the occasion of
 18 difficulty for him if the phone was his home phone?
 19 A Can you repeat the question, please?
 20 Q You were aware before the day you became
 21 aware that he got a phone, the cell phone, talking on
 22 his home phone created some difficulties?
 23 A Correct.
 24 Q Because of the monitoring at his phone?
 25 A Yes.

1 Q And that he always had to explain who it
 2 was he was talking to?
 3 A Yes.
 4 Q Especially if it was a girl?
 5 A Yes.
 6 Q Even if it was a girl that he didn't have a
 7 relationship with?
 8 A Yes.
 9 Q Or that he wasn't dating?
 10 A Correct.
 11 Q You never dated Adnan, did you?
 12 A No.
 13 Q You never had a relationship with him, did
 14 you?
 15 A No.
 16 Q You considered him a very good friend over
 17 a very long period of time, did you not?
 18 A Yes.
 19 Q He confided most personal things with you,
 20 correct?
 21 A Yes.
 22 Q You saw him everyday in school?
 23 A Yes.
 24 Q And you often saw him any day you were not
 25 in school?

1 A Correct.
 2 Q Did you call him at his home?
 3 A Yes.
 4 Q And you were aware that that caused him
 5 difficulties?
 6 A Yes.
 7 Q That he'd have to explain who you were?
 8 A Yes.
 9 Q That you were not a temptation?
 10 A Yes.
 11 Q That you weren't some girl that he was
 12 dating?
 13 A Correct.
 14 Q That his mother thought that he might be
 15 dating?
 16 A Yes.
 17 Q Or that he might be interested in?
 18 A Yes.
 19 Q And you were aware of all that when you
 20 knew that he got his cell phone, right?
 21 A Yes.
 22 Q And part of giving you his cell phone was
 23 to give you an easier way for him that you might
 24 communicate to him?
 25 A Yes.

1 Q Or an easier way for him that he might
2 communicate to you?
3 A Yes.
4 Q To have a way to communicate with whom he
5 wanted to communicate without it causing difficulty
6 with his parents?
7 A Correct.
8 Q And without being forced to answer lots of
9 questions any time a friend such as you might call?
10 A Correct.
11 Q And you were also aware that he gave that
12 number out to others?
13 A Yes.
14 Q Among your group?
15 A Yes.
16 Q Hae?
17 A Yes.
18 Q You were aware at the time that he got his
19 cell phone that he and Hae were still the same way
20 they had been, very caring about each other?
21 A Yes.
22 Q Still considering each other very good
23 friends?
24 A Yes.
25 Q Still concerned about each other's

1 A Correct.
2 MS. GUTIERREZ: I have nothing further.
3 Thank you.
4 THE COURT: Thank you very much. Any
5 redirect?
6 MS. MURPHY: Yes, Your Honor. Thank you.
7 REDIRECT EXAMINATION
8 BY MS. MURPHY
9 Q Ms. [REDACTED] the problems that you've
10 described that Hae had with her mother, is it fair to
11 say they were not uncommon among your girlfriends to
12 have the same types of problems?
13 A Correct.
14 Q It was about rules?
15 A Correct.
16 Q In the one to two weeks before Hae
17 disappeared were these problems at the forefront, is
18 this what Hae discussed with you on a daily basis?
19 A Yes.
20 Q A day or two just prior to her
21 disappearance, how would you describe her emotional
22 state?
23 A She was very happy.
24 MS. GUTIERREZ: Objection.
25 THE COURT: Overruled.

1 welfare?
2 A Yes.
3 Q Still talking almost everyday?
4 A Yes.
5 Q And still speaking of each other in very
6 glowing terms?
7 A Yes.
8 Q That didn't change at any time before the
9 last time you saw Hae on the 13th of January?
10 A Correct.
11 Q At about three o'clock?
12 A Correct.
13 Q That never changed, either from information
14 that you got from Hae?
15 A Correct.
16 Q Or from what you observed --
17 A Right.
18 Q -- of either her?
19 A Yes.
20 Q Or of Adnan?
21 A Correct.
22 Q And it never changed based on information
23 you got from Adnan?
24 A Right.
25 Q Or from any other source?

1 Q If she had contemplated running away at
2 that point, do you believe she would have told you?
3 MS. GUTIERREZ: Objection.
4 A Yes.
5 THE COURT: Sustained.
6 Q Now, this rumor that perhaps Hae had gone
7 to California to see this person that she may have
8 referred to as her father, do you recall that Adnan
9 was one of the people that suggested that?
10 A I don't recall.
11 Q I mean, you were asked did Adnan make Hae
12 stop seeing her friends, and your response was, well,
13 make, no. It was an issue between them, wasn't it?
14 A Correct.
15 Q Can you describe that for the jury, please?
16 A Adnan was very over protective of Hae. He
17 never made her sustain from seeing her friends but he
18 did suggest that she spend more time with him. He
19 wanted to know where she was going, when she was
20 going, who she was with, almost like he was her
21 father.
22 Q And you stated that only part of the reason
23 for their break up were their religious difficulties,
24 what is the rest of the problem?
25 A The control issue between the two of them

1 and his possessiveness, his aggressiveness verbally,
2 and him keeping tabs on her all of the time, that
3 really irked her and she felt like she wasn't free in
4 the relationship.
5 MS. MURPHY: May I approach the witness,
6 Your Honor?
7 THE COURT: Yes, you may.
8 Q I'm showing you State's Exhibit 2 and
9 you've seen this a couple of times now. I ask you
10 just to look over all of the entries from December
11 29th until the end of the entries?
12 A (Witness complied with request.)
13 Q Thank you. Now, the entries that Ms.
14 Gutierrez pointed out to you on cross examination
15 were from December; is that correct?
16 A Correct.
17 Q Some of these entries you've already read
18 to the jury, right?
19 A Yes.
20 Q Is it fair to say that in all of these
21 entries from December 29th to January 12th, the day
22 before Hae disappeared, the defendant Adnan Syed is
23 mentioned only once?
24 A Correct.
25 Q Can you please read, and I'll refer you to

1 January 2nd, 1999, the only entry that mentions Adnan
2 Syed?
3 A Happy '99 ready to party and graduate.
4 Anyways I got to tell you about yesterday. Guess who
5 had a date with Donald R. [REDACTED] the III. Me.
6 On Thursday December 31st I picked up Adnan from his
7 work and dropped him off at Sears so he could pick up
8 his car.
9 Q Thank you, Ms. [REDACTED] Now, would that be
10 like Hae to do a favor for Adnan like that?
11 A Yes.
12 Q Even though they were broken up?
13 A Yes.
14 Q Because they were still friends?
15 A Correct.
16 Q And the entry indicates the very next thing
17 she did was meet Donald [REDACTED]
18 A Correct.
19 Q When you suggested to Adnan that he take
20 Hae to the prom, knowing that Adnan was a practicing
21 Muslim what made you think he would ask anyone out on
22 a date?
23 MS. GUTIERREZ: Objection.
24 THE COURT: Overruled.
25 A Can you repeat the question?

1 Q Why did you think Adnan would consider
2 asking anyone on a date if he wasn't allowed to do
3 that?
4 A Because he liked Hae and he had had a
5 girlfriend previously.
6 Q Now, Ms. Gutierrez asked you about all of
7 the other students and people at Woodlawn who knew
8 about their relationship?
9 A Correct.
10 Q And you basically agreed most people didn't
11 have a problem with it?
12 A Correct.
13 Q But you knew that Adnan's parents did?
14 A Yes.
15 Q So when you encouraged him to take Hae out
16 did you know that he would have to hide that from his
17 parents?
18 A Yes.
19 Q And did you believe he would have any
20 problem doing that?
21 A No.
22 Q Now, when you suggested the one day recess
23 and we've talked about that --
24 A Correct.
25 Q -- the first time they broke up, did Hae

1 date anyone else?
2 A No.
3 Q And you've described their relationship as
4 still very close friends?
5 A Correct.
6 Q Do you believe that their seeing each other
7 everyday had any impact on their ability to stay
8 apart? Did it make it hard to break up?
9 A Yes.
10 Q And when they finally broke up you've
11 described on cross examination they were clearly
12 still friends?
13 A Correct.
14 Q Now, in your conversations with Hae from
15 January 1st until the day she disappeared, how do you
16 think she felt about the commitment to [REDACTED]
17 and this new relationship?
18 A She was very committed and optimistic and
19 happy about it.
20 Q And she felt that way, even though she knew
21 it would hurt her friend Adnan Syed?
22 A Correct.
23 Q And you've reviewed the diary entries, all
24 of them from January 1st to January 12th?
25 A Yes.

1 Q And in any of those entries does Hae Lee
2 mention any problems with her mother?
3 A No.
4 Q Does she mention anything about going to
5 California?
6 A No.
7 Q Or running away?
8 A No.
9 Q Really all of those entries discuss is Don?
10 A Correct.
11 MS. MURPHY: Court's indulgence, please.
12 THE COURT: Certainly.
13 MS. MURPHY: Thank you, Your Honor. No
14 further questions.
15 THE COURT: Any recross?
16 MS. GUTIERREZ: Yes, Judge.
17 RECROSS EXAMINATION
18 BY MS. GUTIERREZ
19 Q You knew that Adnan's parents didn't
20 approve?
21 A Correct.
22 Q You knew that from Adnan, didn't you?
23 A Correct.
24 Q He didn't hide any of that?
25 A No.

1 Q From you?
2 A No.
3 Q In fact, he didn't hide it from anybody,
4 did he?
5 A I don't know.
6 Q Well, everybody in your crowd knew that
7 Adnan's parents didn't approve, didn't you?
8 A Correct.
9 Q Everybody in the crowd knew it, did they
10 not?
11 A Yes.
12 Q That wasn't some hidden truth, was it?
13 A No.
14 Q Is that something that Adnan spoke about?
15 A Yes.
16 Q And Hae spoke about?
17 A Yes.
18 Q And the recess that Mrs. Murphy referred to
19 as the one day recess, well, it ended up being a one
20 day recess, right?
21 A Yes.
22 Q But your suggestion wasn't for one day, it
23 was for a week, wasn't it?
24 A Correct.
25 Q And you did that believing that they

1 shouldn't be together?
2 A No.
3 Q That they needed relief from each other to
4 make decisions about whether or not they should be
5 together?
6 A For a short time, yes.
7 Q And they took your advice or Hae took your
8 advice but it only lasted a day, right?
9 A Correct.
10 Q Not a week, right?
11 A Yes.
12 Q And you believed that wasn't giving a fair
13 shot to a recess, did you not?
14 A I don't remember.
15 Q Ms. Warren, when you talked about
16 aggressiveness, had Hae complained to you about that?
17 A Yes.
18 Q Having reviewed the diary there's not a
19 single word of complaint about aggressiveness on
20 Adnan's part, is there?
21 A No.
22 Q And the only time possessiveness is
23 mentioned is the entry that you read us yesterday?
24 MS. MURPHY: Objection.
25 Q Is it not?

1 THE COURT: Sustained as to the only
2 reference.
3 Q Well, Ms. Murphy just had you answer that
4 you've reviewed this diary, have you not?
5 A Yes.
6 Q The whole diary, right?
7 A Correct.
8 Q Correct?
9 A Yes.
10 Q You were pointed out to certain entries,
11 right?
12 A Yes.
13 Q But you read it all, did you not?
14 A The entire diary?
15 Q Yes, ma'am.
16 A No.
17 Q Isn't that what you just told her?
18 A I don't recall.
19 Q What is it, you read it or you haven't read
20 it?
21 MS. MURPHY: Objection.
22 THE COURT: Sustained.
23 Q Did you read the whole diary?
24 A No.
25 Q So you're not familiar with what's in the

1 diary, are you?
 2 A Parts of it, yes.
 3 Q Only to the parts that you read, right?
 4 A Correct.
 5 Q And did you choose out the parts that you
 6 read?
 7 A No.
 8 Q And somebody else chose them out for you?
 9 A Yes.
 10 Q Was that Ms. Murphy?
 11 A She was one of the people, yes.
 12 Q She was one. In any of the parts that you
 13 read are there any entries that complain of his
 14 possessiveness other than the one entry you read us
 15 yesterday?
 16 A No.
 17 Q No, not at all?
 18 A No.
 19 Q Just like there are no entries that
 20 complained of his aggressiveness?
 21 A Correct.
 22 Q And there are no entries that complained of
 23 his control over her?
 24 MS. MURPHY: Objection.
 25 THE COURT: Sustained.

1 Q The only time Adnan -- I mean that Hac Min
 2 Lee wrote about Donald [REDACTED] in any depth was
 3 after her first date?
 4 MS. MURPHY: Objection.
 5 THE COURT: Sustained.
 6 Q The bulk of the entries after January 2nd
 7 are about her beginning relationship with Donald
 8 [REDACTED] are they not?
 9 A Correct.
 10 Q Now, you just used the word that she was
 11 very committed to the relationship?
 12 A Correct.
 13 Q And that commitment, whatever level it was,
 14 that had occurred in the not quite two weeks since
 15 January 1st?
 16 A Correct.
 17 Q Because they hadn't dated before then,
 18 right?
 19 A Right.
 20 Q They hadn't even kissed before then,
 21 right?
 22 A Yes.
 23 Q But within two weeks it's your
 24 understanding that she was committed to this
 25 relationship?

1 A Yes.
 2 Q You were asked by Ms. Murphy about rules?
 3 A Yes.
 4 Q And Hae wasn't too good at following all
 5 the rules that her mother imposed, was she?
 6 A I wouldn't say that.
 7 Q She didn't follow all of those rules, did
 8 she?
 9 A Not all, no.
 10 Q And Adnan wasn't always too good about
 11 following all of the rules --
 12 MS. MURPHY: Objection.
 13 Q -- his mother imposed?
 14 THE COURT: Sustained.
 15 MS. GUTIERREZ: I have nothing further.
 16 THE COURT: Thank you very much. Anything
 17 further?
 18 MS. MURPHY: No, Your Honor.
 19 THE COURT: Very well. May this witness be
 20 excused?
 21 MS. MURPHY: Yes, Your Honor.
 22 THE COURT: May this witness be released
 23 from subpoenas or summonses?
 24 MS. MURPHY: From the State, Your Honor.
 25 THE COURT: From the defense?

1 MS. GUTIERREZ: Yes, Your Honor.
 2 THE COURT: Very well. Ms. [REDACTED] you may
 3 not discuss your testimony with anyone who has yet to
 4 be a witness in this case, but you are excused from
 5 the summonses and you may remain in the courtroom if
 6 you would like. At this time you're free to go.
 7 Your next witness is.
 8 MR. URICK: Detective MacGillivray.
 9 THE COURT: All right. I'd like to start
 10 Detective MacGillivray -- one moment. May I see
 11 you? We're going to take a recess for lunch at this
 12 time. I note that it is 12:25 and I would also note
 13 that we're going to recess until 1:30 at which time
 14 we will resume lunch. I mean, we will resume this
 15 case after lunch.
 16 I'm going to ask that you leave your note
 17 pads face down. I'd like you at this time to return
 18 to the jury room and then go to lunch. Do not
 19 discuss the testimony that you've heard so far nor
 20 any other testimony that you have heard on previous
 21 days and at this time you are free to go to lunch
 22 until 1:30.
 23 Ms. Murphy, Mr. Urick, may I see you at
 24 bench. Ms. Gutierrez.
 25 (Whereupon, counsel and the Defendant

1 approached the bench and the following conference
2 ensued:)

3 THE COURT: I understood the woman who is
4 accompanying your victim is supposed to be here. If
5 she's having some problems in the courtroom, I want
6 you to direct her to have the victim's mother go out
7 to the hallway, as opposed to just sitting there.

8 MS. MURPHY: Okay.

9 THE COURT: It's obvious she's having some
10 difficulty.

11 MS. MURPHY: She has been clutching --

12 MS. GUTIERREZ: For the record, she has
13 been clutching her --

14 THE COURT: She's clutching her chest and
15 it is certainly unnecessary for her to do that. If
16 she's having a problem in the courtroom, she should
17 leave and the woman that is accompanying her should
18 assist her in doing that.

19 MS. MURPHY: I'll advise her, Judge.

20 THE COURT: I did what I could to assist
21 her in getting the jury out, but you know I would
22 appreciate that you would ask her to do --

23 MS. MURPHY: Certainly.

24 THE COURT: -- what I believe is her job
25 and responsibility when there's problems with the

1 victim's family.

2 MS. MURPHY: No problem.

3 THE COURT: And I reiterate that I consider
4 that her responsibility and role during the course of
5 this trial. I understand why she is present, but to
6 the extent that there's nothing I can do when I have
7 a jury sitting here to draw attention to her makes it
8 worse, but I'm not in a position to say, hey,
9 bereavement counselor can you escort the mother of
10 the victim out of the courtroom and I would ask that
11 you talk to her about that and I would note that it
12 would seem that she was trying to control herself so
13 she didn't -- she did grimace and her face, it was
14 clear something was bothering her because she was
15 grabbing her chest at the time so --

16 MS. MURPHY: For the record, Your Honor, I
17 didn't notice any of the jurors being distracted.

18 THE COURT: Well, I don't know whether they
19 were or they were not. It certainly presented a
20 situation that could have been difficult --

21 MS. GUTIERREZ: Well, and for the record,
22 jurors had to pass exactly in front of her at the
23 she's clutching and ultimately leaned over in
24 r to leave the courtroom.

25 THE COURT: As I said, there's nothing I

1 could do about that. That's the way out of the
2 courtroom.

3 MS. GUTIERREZ: I understand.

4 THE COURT: As I reiterated, that's why the
5 bereavement counselor is there. That if the mother
6 of the victim is having a problem that she be in
7 close proximity and that she pay attention to what's
8 going on in front of her as opposed to the trial, and
9 I would ask that that be what she does. Certainly,
10 she is going to remain with the victim. With that
11 said we recess until 1:30.

12 MS. MURPHY: Thank you, Your Honor.

13 THE COURT: Thank you.

14 THE CLERK: This Court will stand in recess
15 until 1:30.

16 (Whereupon the Court recessed, following
17 which the proceedings in this matter resumed:)

18 THE COURT: Counsel, since the defendant is
19 here now, I'm asking Mr. White to bring the jury in.
20 Once he gets in, we'll advise him as to those names
21 that you have. You have them completed?

22 MS. GUTIERREZ: Yes.

23 THE COURT: If you would just pass them up,
24 just lay them there. When Mr. White comes back I
25 will instruct him that they are to be taken care of

1 and --

2 MS. GUTIERREZ: Thank you. We're going to
3 do private process.

4 THE COURT: I understand. I'll just make
5 sure that whatever needs to be done is taken care
6 of. I understand the next witness is Detective
7 MacGillivray who is currently in the court; is that
8 correct?

9 MR. URICK: That's correct, Your Honor.

10 THE COURT: Raise your right hand, sir, and
11 listen to Mr. White.

12 DETECTIVE GREGORY MACGILLIVRAY,
13 a witness produced on call of the State, having first
14 been duly sworn, according to law, was examined and
15 testified as follows:

16 THE CLERK: Please keep your voice up.
17 State your name for the record.

18 THE WITNESS: Detective Gregory
19 MacGillivray, Baltimore Police Department Homicide
20 Unit.

21 THE CLERK: Spell your last name for the
22 record.

23 THE WITNESS: M-a-c capital G-i-l-l-i-v as
24 in Victor a-r-y.

25 DIRECT EXAMINATION

1 BY MR. URICK

2 Q Good afternoon, Detective MacGillivray.

3 A Good afternoon.

4 Q I'd ask you to lean forward towards the
5 mike and maybe pull it down a little and be sure to
6 speak it into so that everybody can hear you. How
7 long have you been in the Homicide Unit?

8 A Since 1995, January.

9 Q And what does the Homicide Unit do?

10 A We investigate naturally homicides, all
11 accidental deaths, suicides, and questionable and
12 suspicious deaths.

13 Q Now, drawing your attention to on or about
14 February 9th, 1999, did you have occasion to respond
15 to Leakin Park in Baltimore City?

16 A Yes, I did.

17 Q And in what capacity did you respond?

18 A As a primary detective.

19 Q What does a primary detective -- what does
20 primary detective mean?

21 A I have the responsibility of investigating
22 deaths, homicides. I direct the primary police
23 officers to maintain the crime scene, have other
24 detectives that are actually on the scene make sure
25 that all evidence is collected, along with directing

1 Crime Lab technicians to collect evidence, photograph
2 evidence, and also have the Medical Examiner's Office
3 come out and, naturally, remove the remains.

4 Q And were you the primary detective assigned
5 to the investigation of the Hae Min Lee murder?

6 A Yes, I was.

7 Q Now, in the course of your investigation
8 did you have occasion to interview Detective O'Shea
9 of the Baltimore County police force concerning his
10 missing persons investigation of Hae Min Lee?

11 A Yes, I did.

12 Q Based on information that you obtained from
13 him, what, if anything, did you do?

14 A I obtained cell phone records of a phone
15 that Adnan Syed had.

16 Q And drawing your attention now to on or
17 about February 26th of 1999, did you have occasion to
18 be in Baltimore County pursuant to your
19 investigation?

20 A Yes, I did.

21 Q What were you doing on that date and time?

22 MS. GUTIERREZ: I'm sorry, what date was
23 that?

24 Q February 26th?

25 A On the 26th I had the occasion to be in the

1 Woodlawn area and I responded to a residence in that
2 area, 1208 McAdoo.

3 Q What took you to that residence?

4 A After getting the cell phone numbers we had
5 gotten the subscriber information for each of the
6 numbers. One of the subscribers lived -- one of the
7 numbers that we had gotten from the cell phone, the
8 subscriber information came back to [REDACTED] McAdoo. So
9 I responded to that location.

10 Q What, if anything, did you find when you
11 got there?

12 A When I responded, I got out of my car and
13 started to walk towards the residence and a young
14 lady had rolled down her window. She was in a car
15 out front of the residence and inquired as to why I
16 was going to her home.

17 Q Did you have occasion to speak to her at
18 that time?

19 A Yes, I did.

20 Q As a result of that conversation what, if
21 anything, did you do?

22 A She identified herself as Jennifer Pusateri
23 and I learned that she had gone to --

24 Q Please don't tell us what she told you.

25 Tell us what you did?

1 A I invited her down to the offices of
2 Homicide.

3 Q Okay. When did you invite her down?

4 A That evening.

5 Q And did she show up?

6 A Yes, she did.

7 Q And did you talk to her at that time?

8 A Yes, I did.

9 Q Now, drawing your attention to the next
10 day, what, if anything, happened, meaning the 27th of
11 February?

12 A The next day I was contacted and I learned
13 that Ms. Pusateri had made arrangements with an
14 attorney and that she wanted to respond to Homicide
15 and give us information concerning the death of Hae
16 Min Lee.

17 Q Did she appear on the 27th of February?

18 A Yes, she did.

19 Q And did you have a conversation with her at
20 that time?

21 A Yes.

22 Q Based on information that you obtained from
23 that conversation, what, if anything, did you do?

24 A After speaking with Ms. Pusateri at great
25 length, I responded over to Southwestern Video and

1 spoke to Jay Wilds.
 2 Q Had you identified Jay Wilds prior to that?
 3 A No, I had not.
 4 Q Did you, in fact, speak to Mr. Wilds there
 5 on that day at the video store?
 6 A Yes.
 7 Q As a result of that conversation what, if
 8 anything, did you do?
 9 A I invited Mr. Wilds down to my office and
 10 interviewed him also.
 11 Q And did he, in fact, come down to your
 12 office?
 13 A Yes, he did.
 14 Q Did you have a conversation with him there?
 15 A Yes, I did.
 16 Q And as a result of information that you
 17 obtained from that conversation, what, if anything,
 18 did you do?
 19 A I obtained an arrest warrant charging Adnan
 20 Syed with first degree murder.
 21 Q And based on information that you obtained
 22 from that, did you have occasion to respond to the
 23 Edmondson Road Avenue or Edmondson Avenue area?
 24 A Yes, I did.
 25 Q What, if anything, did you find there?

1 A Right off of Edmondson Avenue on Edgewood,
 2 Mr. Wilds directed us to a location where the
 3 victim's car had been parked.
 4 Q Now, did you have occasion on or about
 5 March 15th or so to speak to Mr. Wilds again?
 6 A Yes.
 7 Q Between the first conversation on the 28th
 8 and the one in March what occurred?
 9 MS. GUTIERREZ: Objection.
 10 THE COURT: Will you repeat that question,
 11 please.
 12 Q Between Mr. Wilds' first conversation on
 13 the 28th and the one in March what occurred?
 14 THE COURT: Sustained.
 15 Q What happened that made you want to speak
 16 to Mr. Wilds again?
 17 A I had obtained cell site information as a
 18 result of the cell phone information and I wanted to
 19 talk to Mr. Wilds a second time.
 20 Q And did you speak to him a second time?
 21 A Yes, I did.
 22 Q As a result of information that you
 23 obtained from that, what, if anything, did you do?
 24 A He actually took us on a ride and the cell
 25 site information that we had didn't correspond to his

1 statement at first, at which time we narrowed the
 2 time frames down. He started to recall things a
 3 little better and took a second statement.
 4 Q Based on that second statement, what, if
 5 anything, did you do?
 6 A We obtained a warrant for Adnan Syed
 7 charging him with first degree murder.
 8 Q I believe that was after the first one?
 9 A Correct.
 10 Q Drawing your attention to the second one,
 11 who, if anyone, did you talk to after that as a
 12 result of the conversation that you had with Mr.
 13 Wilds?
 14 A Okay. We also identified other persons
 15 that -- from the cell phone records, one of them
 16 being Kristi [REDACTED]
 17 Q And just to summarize what piece of
 18 evidence was it that led you to Jen Pusateri, Jay
 19 Wilds, the victim's car, and Kristi Vinson?
 20 A Cell phone and cell phone records.
 21 Q Of who?
 22 A Adnan Syed.
 23 MR. URICK: No further questions.
 24 THE COURT: Ms. Gutierrez, witness with
 25 you.

1 MS. GUTIERREZ: Yes, thank you.
 2 CROSS EXAMINATION
 3 BY MS. GUTIERREZ
 4 Q Detective MacGillivray, you were assigned
 5 to be the primary detective in the investigation into
 6 the body that had been discovered in Leakin Park at
 7 the onset of the investigation, right?
 8 A Yes, ma'am.
 9 Q And Detective Ritz of your office was
 10 assigned to be the secondary, right?
 11 A Well, actually in the onset Detective
 12 Gordon Carew was the secondary. However, ultimately
 13 --
 14 Q Ultimately, it was Detective Ritz?
 15 A Ultimately, Detective Ritz was the
 16 secondary.
 17 Q As the primary detective in a homicide that
 18 essentially puts you in charge, does it not?
 19 A That is correct.
 20 Q You direct all kinds of people as to what
 21 it is that they should do?
 22 A Correct.
 23 Q What they should look for, right?
 24 A Correct.
 25 Q What they should seize?

1 A Correct.
 2 Q At various locations?
 3 A Yes.
 4 Q And what tasks should be done on any and
 5 all kinds of evidence; is that right?
 6 A Correct.
 7 Q And that's always up to you?
 8 A Well, it's up to me. However, Crime Lab
 9 being the specialists, they will also have
 10 conversations with me indicating --
 11 Q With you?
 12 A Correct.
 13 Q But you're the guy that ultimately makes
 14 the call?
 15 MR. URICK: The State would ask that the
 16 witness be allowed to answer the questions before the
 17 -- to give his answer before the next question is
 18 asked.
 19 THE COURT: Very well. It's overruled, but
 20 I would ask counsel to allow the witness to complete
 21 his answer.
 22 MS. GUTIERREZ: Thank you, Judge. I'll
 23 try.
 24 Q In any event -- and you've been the primary
 25 before, right?

1 was?
 2 A No, I did not.
 3 Q The only thing you did know is that the
 4 body was there, right?
 5 A I knew that there was human remains.
 6 Q And that it clearly -- that those remains
 7 were dead?
 8 A Yes.
 9 Q Okay. That was pretty apparent, right?
 10 Now, you had been to Leakin Park before that date,
 11 had you not?
 12 A I have driven through Leakin Park on
 13 numerous occasions.
 14 Q And the road to get to where the body is is
 15 a road by the name of Franklinton Road, is it not?
 16 A One of the roads going through.
 17 Q One of the roads. The road off of which
 18 this body was was Franklinton Road, was it not?
 19 A Yes.
 20 Q And where the body was was off of the road,
 21 I think in one of your first reports was a good 150
 22 yards?
 23 A 127.
 24 Q That's how it actually measured, right?
 25 A Correct.

1 A Yes, I have.
 2 Q And back then in January of 1999 you had
 3 four years of experience in the Homicide Unit?
 4 A Yes, ma'am.
 5 Q And you quickly -- you went right to where
 6 the body was, did you not?
 7 A I did not.
 8 Q Although did you ultimately go there that
 9 day?
 10 A Yes, I did.
 11 Q And you saw the body where it was?
 12 A Yes, I did.
 13 Q It was inside Leakin Park, was it not?
 14 A Yes, it was.
 15 Q And you actually looked at the grave site?
 16 A Yes.
 17 Q With the body still in it?
 18 A Yes.
 19 Q And at the time that you looked at it you
 20 didn't know whose body it was?
 21 A I did not.
 22 Q And you didn't know how it had gotten
 23 there?
 24 A I did not.
 25 Q And you didn't know what the cause of death

1 Q But in your very first reports, actually
 2 you referred it to as about 150 yards?
 3 A I don't recall.
 4 Q But a good way off of the road?
 5 A Yes.
 6 Q And where the body was was off of an indent
 7 off of the road that was at least partially
 8 surrounded by concrete jersey wall barriers?
 9 A Franklinton Road winds through Leakin
 10 Park, two lanes, double lanes, meaning you can't
 11 pass, going through Leakin Park at this time. There
 12 were a few locations along the way that one could
 13 pull the car over and there were concrete barriers.
 14 Basically if you pulled your car in about one car
 15 could actually fit in there going the same way as the
 16 road. However, if you pulled in front ways, you
 17 could actually get possibly two cars.
 18 Q And the concrete wall barriers -- well,
 19 going back to my original question, where the body
 20 was, was off into the park, further in than where
 21 those concrete barriers were?
 22 A Correct.
 23 Q And the barriers, in fact, not only were in
 24 the park, but the barriers were partially sealing off
 25 the road from whatever space would be inside the

1 concrete barriers, were they not?
 2 A I don't understand what you mean.
 3 Q You got the road, you said it's a two lane
 4 road, right?
 5 A Yes, ma'am.
 6 Q One lane going one way, one lane going the
 7 other way?
 8 A Correct.
 9 Q Is that right? And where this spot was
 10 there were barriers that once you pulled into that
 11 spot surrounded three sides, did it not?
 12 A Correct.
 13 Q So that if you had a car you couldn't pull
 14 in beyond those barriers?
 15 A Correct, you couldn't actually get into the
 16 wooded area.
 17 Q Right. The barriers would block that off,
 18 did they not?
 19 A They did.
 20 Q But also at the time there were concrete
 21 barriers that ran parallel to Franklinton Road right
 22 at the edge of the road, did they not?
 23 A They did not.
 24 MS. GUTIERREZ: Mr. Clerk, can I have the
 25 sheet with the pictures?

1 THE COURT: I think that was exhibit 9.
 2 MS. GUTIERREZ: Something like that, Your
 3 Honor.
 4 THE COURT: Exhibit 9 or 10.
 5 MS. GUTIERREZ: May I approach the
 6 witness?
 7 THE COURT: The number for the record, it's
 8 on the back.
 9 MS. GUTIERREZ: It is State's exhibit 9,
 10 Your Honor.
 11 Q If I may ask you to look at State's exhibit
 12 9, if you look at all of the photographs for a minute
 13 and familiarize yourself with them?
 14 A Okay.
 15 Q In regard to the photograph on the left top
 16 side, that shows you in full view the concrete
 17 barriers you're talking about, does it not?
 18 A That is correct.
 19 Q And it shows the concrete barriers off from
 20 the road?
 21 A Correct.
 22 Q It also shows concrete barriers at portions
 23 directly parallel to the road very close to the white
 24 line marker in the road that marks the far wide edge
 25 of the road?

1 A What she's describing Franklinton Road
 2 being two lanes.
 3 Q This shows Franklinton Road, does it not?
 4 A It does.
 5 Q Both lanes?
 6 A Right.
 7 Q Does it not?
 8 A I guess if you could show the photograph to
 9 the jury.
 10 Q I will.
 11 A Two concrete barriers, parallel, separated,
 12 so that the car could actually pull into the parking
 13 spot, parking pad.
 14 Q But the picture at the bottom on the left
 15 clearly shows the relationship of those concrete
 16 barriers to the road?
 17 A Yes, it does.
 18 Q And it was -- the pictures on the right
 19 hand side sort of show an overview back into the
 20 wooded area, correct?
 21 A Correct.
 22 Q And it's back behind in that wooded area
 23 that the body was located?
 24 A Correct.
 25 Q And as you've said -- thank you, Detective

1 MacGillivray. As you've said, the distance where the
 2 body was was 127 feet?
 3 A 127 feet off the road.
 4 Q Off of the road; is that right?
 5 A Correct.
 6 Q And you didn't measure it right then,
 7 right?
 8 A No, I did not.
 9 Q You directed somebody else to measure it,
 10 did you not?
 11 A The Crime Lab technician.
 12 Q In fact, in addition to the Crime Lab --
 13 and they came out pretty quickly, did they not?
 14 A Yes.
 15 Q Once they were notified that there was a
 16 body there, right?
 17 A Yes, ma'am.
 18 Q And at that time when you got there they
 19 were -- they came and they were doing things, were
 20 they not?
 21 A Yes, they were doing their
 22 responsibilities.
 23 Q Even before you got there?
 24 A No, I was there first.
 25 Q They waited, they didn't come until you

1 wanted them there?
 2 A We were all in the same area.
 3 Q And you directed them as to what to do, did
 4 you not?
 5 A I directed them to the body.
 6 Q And you directed them to pick up certain
 7 articles of evidence, did you not?
 8 A Yes, I did.
 9 Q And at the time that you did so, you, of
 10 course, had no way -- you didn't know that this was a
 11 homicide yet, did you?
 12 A I did not.
 13 Q Because you couldn't tell how this body had
 14 died?
 15 A Correct.
 16 Q You just knew that it was dead, is that
 17 right?
 18 A Correct.
 19 Q And the body was located at the end of that
 20 127 feet distance behind a log, was it not?
 21 A That's correct.
 22 Q And the log was about 40 feet long?
 23 A I believe they had made a measurement. I
 24 don't know the exact length of the log.
 25 Q It was a pretty long log, wasn't it?

1 A It was a big log. It was a tree.
 2 Q Pardon?
 3 A A fallen tree.
 4 Q A fallen tree, right. It was a dead tree
 5 that clearly had been laying there for awhile?
 6 A Correct.
 7 Q Clearly from your view of it, the tree
 8 wasn't new?
 9 A No, it had been there for sometime.
 10 Q Okay. It had not just fallen down that
 11 day?
 12 A No.
 13 Q Or been placed there that day?
 14 A Not that I'm aware of.
 15 Q And certainly not by any mechanical or
 16 artificial means?
 17 A Not that I'm aware of.
 18 Q It sure looked like a tree that had just
 19 died and fallen over, did it not?
 20 A No, it looked like it had been there for
 21 some time.
 22 Q And the body was on the far side of that
 23 tree, was it not?
 24 A It was opposite.
 25 Q The far side from the road?

1 A Closest to the stream.
 2 Q Okay. Closest to the stream, and the
 3 stream was further from the road than the tree was?
 4 A Correct.
 5 Q And the tree was lying in a position that
 6 was parallel to Franklinton Road, was it not?
 7 A Actually, somewhat parallel. However, to
 8 an angle towards the stream.
 9 Q Towards the stream itself. But if one
 10 approached where the tree was from that area that you
 11 just described surrounded by the concrete barriers,
 12 one would run into the tree first, would they not?
 13 A Yes, they would.
 14 Q The body was on the far side, buried on the
 15 far side of the tree?
 16 A Actually, the way -- it was a natural
 17 depression the tree was laying over so once --
 18 Q Depression, could you just define the term
 19 please before you go further. Describe what you mean
 20 as a depression?
 21 A It was a natural gully there and the tree
 22 was lying across the gully. So on the far right side
 23 you could actually walk right over the tree.
 24 However, on the section closest to the stream, you
 25 could not. You actually had to climb over the tree.

1 Q The tree. Because the ground where the
 2 body was was lower than the ground on the other side
 3 of the tree, was it not?
 4 A Deeper. It was deeper, a deep depression.
 5 Q Okay. And the tree where it was, was not
 6 plainly visible if you were standing out by the
 7 concrete barrier closest to Franklinton Road, was
 8 it?
 9 A Yes, it is visible.
 10 Q Plainly visible?
 11 A It's visible. I mean, if you look from the
 12 street into the woods, you can see the tree.
 13 Q And the body buried behind the tree on the
 14 farther side of the tree, that was plainly visible?
 15 A Excuse me?
 16 Q The body that you viewed on the far side of
 17 the tree, that was plainly visible?
 18 A From?
 19 Q From the same place, from the furthest
 20 concrete barriers or the barriers closest to the
 21 road?
 22 A No, you couldn't see the body from the
 23 street.
 24 MS. GUTIERREZ: May I approach the witness
 25 again, Your Honor?

1 THE COURT: Yes, you may.
 2 Q Again look at State's Exhibit 9, is the
 3 tree about which we're talking visible in any of
 4 those photographs?
 5 A Yes.
 6 Q And where is that?
 7 A Here is the tree right here.
 8 Q The tree right there?
 9 A That's correct.
 10 Q And can you judge the distance from the far
 11 barrier to where that tree is?
 12 A I don't have a clue.
 13 Q And you caused these pictures to be taken?
 14 A Yes, I asked the Crime Lab technician to
 15 photograph the scene.
 16 MS. GUTIERREZ: If I could ask, Mr. Clerk,
 17 do we have any of those little buttons that we use to
 18 -- I don't want him to mark the picture.
 19 THE COURT: The stickies that have little
 20 arrows on them. They were used in the other
 21 courtroom.
 22 Q Detective MacGillivray, I'm going to ask
 23 you to take a sticky and if you would put the edge of
 24 the sticky right at the edge of the tree that you
 25 described as being the tree behind which the body

1 appeared. I'll try to hold this firm. Now, if you
 2 would hold this picture for a minute, I'm going to
 3 grab you a pen and ask you to write and put an arrow
 4 there. Tree/body, if you would?
 5 THE COURT: Let the record reflect that the
 6 witness has placed this sticky on the photograph that
 7 is in the upper left hand corner of exhibit number
 8 nine. That's the first photograph at the left.
 9 Q If you could just put at the bottom of your
 10 arrow, tree, and then initial it, please?
 11 A (Witness complied with request.)
 12 Q Thank you, detective.
 13 A Very good.
 14 Q Now, the Crime Lab got there and at some
 15 point you arranged for someone with some specialty
 16 about remains that had clearly been around for
 17 awhile, did you not?
 18 A Yes, ma'am, we did.
 19 Q And that person was doctor -- Mr.
 20 Rodriguez?
 21 A Dr. Rodriguez.
 22 Q The anthropologist?
 23 A Forensic anthropologist.
 24 Q And you then relied upon him to exhume the
 25 body carefully?

1 A Yes, that's correct.
 2 Q And part of your concern in calling Dr.
 3 Rodriguez was that it appeared to you that the body
 4 had been there for a little while?
 5 A I didn't have a clue.
 6 Q And it was important you knew before the
 7 body was exhumed to do so as carefully as possible,
 8 was it not?
 9 A Actually, this is the first murder where I
 10 have ever had somebody buried in the ground. So our
 11 medical -- I wasn't aware of any of our medical
 12 examiners that --
 13 Q You mean Baltimore City medical examiners?
 14 A Correct, that had actually disinterred a
 15 body. Knowing Dr. Rodriguez from prior seminars, it
 16 was determined what we'd do is contact Dr. Rodriguez
 17 and he would respond up from Bethesda and he would
 18 actually do the disinterment.
 19 Q And by disinterment, you meant the actual
 20 removal of the body, the remains from the ground?
 21 A That's correct.
 22 Q Is that right? And you sought Dr.
 23 Rodriguez because you were aware of his expertise in
 24 situations like that, were you not?
 25 A Correct.

1 Q Okay. And he then came over at your
 2 request, right?
 3 A Not only Dr. Rodriguez, however, he had
 4 staff that also responded.
 5 Q To help him, right?
 6 A Correct.
 7 Q And they brought equipment, did they not?
 8 A I believe they did.
 9 Q They brought some lights and some other
 10 things?
 11 A Actually, no, they didn't.
 12 Q That had to be provided?
 13 A Yes.
 14 Q Because they needed that?
 15 A Correct.
 16 Q And whatever they expressed to you their
 17 needs were, you certainly didn't hesitate to comply,
 18 did you?
 19 A Actually, they didn't request. It was
 20 pretty evident what we would need. It was getting
 21 dark so -- thus, we needed light. So we contacted
 22 one of our emergency vehicles. You probably have
 23 seen them around the city. It's a big truck and
 24 they've got all sorts of equipment that we need. In
 25 those trucks they have lamps with long extension

1 cords so we can light up a scene.
 2 Q Now, you called Dr. Rodriguez because of
 3 the experience you knew he had, right?
 4 A Correct.
 5 Q But because you couldn't tell anything
 6 about this you were most interested in collecting any
 7 items forensically, evidentiary items that you could
 8 that might help you know what had happened to the
 9 body?
 10 A At the time that I had responded out to
 11 Franklinton Road, I didn't -- I knew there was a
 12 body there. I didn't know whether it was male,
 13 female, what race. There was a lot of articles found
 14 within Leakin Park.
 15 Q So the answer to my question is yes?
 16 A Yes.
 17 Q You wanted to find out as much you can from
 18 anything in that scene that could tell you, right?
 19 A Not knowing how the individual died, the
 20 articles that I saw in that area, some of it was
 21 recovered.
 22 Q Okay. And you made sure that anything that
 23 could be recovered was recovered, did you not?
 24 A Correct.
 25 Q All right. And you were present when Dr.

1 Rodriguez did his disinterment?
 2 A Yes, the whole time.
 3 Q And you were present for the bulk of the
 4 time when the Crime Lab did their job?
 5 A I was there the whole time.
 6 Q Some of it at your specific direction?
 7 A Correct.
 8 Q As to what items to pick up and bag and
 9 mark?
 10 A Correct.
 11 Q And where to look to make sure something
 12 wasn't overlooked?
 13 A I don't understand.
 14 Q Well, as to -- you had them direct their
 15 attention to where the body was, right?
 16 A Yes.
 17 Q But you also had them look around, did you
 18 not?
 19 A Well, actually I'm sure they looked
 20 around. However, by the time the Crime Lab had
 21 gotten there we pretty much had the scene down.
 22 Q And the collection of evidence included
 23 collecting evidence from out by the road, did it not?
 24 A Yes, it did.
 25 Q By the concrete barriers, did it not?

1 A It did.
 2 Q Now, incidentally detective, there wasn't a
 3 walkway that went from the edge of the concrete
 4 barriers to where the body was, was there?
 5 A There is not a man made -- by man made I
 6 say clearly made concrete path. However, if you
 7 looked into the woods, it was a natural way that one
 8 would walk towards the tree. There were -- you could
 9 tell that somebody had actually walked that path a
 10 number of times. So the grass that was still there
 11 was like worn down and you would naturally -- the
 12 path of least resistance back to the tree, because
 13 you're talking 127 feet off and there are weeds,
 14 sticker bushes. So there was a natural path.
 15 Q So the answer to my question is no there
 16 was not a walkway back there?
 17 A I would consider that a walkway because it
 18 was, as I said --
 19 Q Did you call it a walkway?
 20 A It's where everybody walked.
 21 Q Did you know that?
 22 A Did I know that there was a walkway?
 23 Q That everybody walked that way?
 24 A That's generally the way everyone walked,
 25 through that path.

1 Q Who was the everyone to whom you are
 2 referring?
 3 A Well, myself, Detective Ritz.
 4 Q And that was the day that you were there at
 5 that place?
 6 A Correct.
 7 Q Okay. And Detective Ritz, had he been
 8 there before?
 9 A No.
 10 Q Had he ever walked back there before?
 11 A Not that I'm aware of.
 12 Q Did he ever indicate to you that he was
 13 familiar with that specific location?
 14 A I believe Detective Ritz has investigated a
 15 murder in Leakin Park.
 16 Q There?
 17 A I don't recall where in Leakin Park, but he
 18 has in Leakin Park.
 19 Q So it may not have been anywhere near where
 20 that tree was?
 21 A I don't have a clue.
 22 Q And who else is in this everybody?
 23 A Additional detectives that were on the
 24 scene, Crime Lab, and Dr. Rodriguez.
 25 Q And they all walked the same way?

1 A In the same direction.
 2 Q And did you -- well, that's really two
 3 different things, is it not?
 4 A No, it's not.
 5 Q When you saw the body, Detective
 6 MacGillivray, you had no idea how it had gotten
 7 there, had you?
 8 A Did not have a clue.
 9 Q And the way that you walked was not the
 10 only way that someone could come from Franklinton
 11 Road and gotten there, was it?
 12 A The path of least resistance.
 13 Q I didn't ask you that, detective. Was that
 14 --
 15 MR. URICK: Objection.
 16 Q -- the only way --
 17 THE COURT: Sustained.
 18 Q -- that someone could have gotten to where
 19 that body was from Franklinton Road?
 20 A There --
 21 THE COURT: Sustained, detective.
 22 Q When you saw the body it was still
 23 partially covered up with dirt and leaves?
 24 A The body was completely covered. There
 25 were only certain sections of the body that you could

1 actually see human flesh.
 2 Q So that there were parts of the body that
 3 were not completely covered, correct?
 4 A Correct.
 5 Q Now, when you got there and you saw the
 6 body and you made your entrance and you contacted Dr.
 7 Rodriguez, and Crime Lab started going forward, did
 8 you have any information not from your own
 9 observations as a detective whose body it might be?
 10 A I didn't have a clue.
 11 Q So that was part of what you wanted to find
 12 out, right?
 13 A That's correct.
 14 Q And did you have any information, not from
 15 your own observations, but from some other source, as
 16 to what had happened to the body and how it died?
 17 MR. URICK: Objection.
 18 THE COURT: I didn't hear the end of. As
 19 to what happened?
 20 MS. GUTIERREZ: To the body as to how it
 21 had died.
 22 THE COURT: Overruled, if you know.
 23 THE WITNESS: I didn't know.
 24 Q Did you have any other -- any information
 25 from any other source other than your own

1 observations as to how the body got there?
 2 A I didn't have a clue.
 3 Q Or when the body had gotten there?
 4 A At that initial time I didn't have any idea
 5 how long. However, Dr. Rodriguez was able to tell me
 6 how long.
 7 Q Well, my question is at the time that you
 8 saw the body did you have any information about how
 9 long the body had been there?
 10 A No.
 11 Q Now, the body was exhumed that day?
 12 A That evening.
 13 Q And there was some evidence that was
 14 collected from underneath the body?
 15 A Yes.
 16 Q And from on top of the body?
 17 A Yes.
 18 Q That included soil?
 19 A Yes.
 20 Q And leaves?
 21 A Yes.
 22 Q And in addition that included some fibers,
 23 did it not?
 24 A It did.
 25 Q From underneath the body?

1 A There was one fiber that was located
 2 underneath of the body.
 3 Q And on top of the body?
 4 A And there was one fiber laying on the torso
 5 of the body.
 6 Q Since you walked -- you observed what the
 7 terrain was made up of from between the concrete
 8 barriers and the body, did you not?
 9 A Yes.
 10 Q It wasn't concrete?
 11 A No.
 12 Q It wasn't plastic?
 13 A No.
 14 Q It was, as you say, grass and leaves?
 15 A Dirt.
 16 Q Dirt?
 17 A Leaves, trees, dead branches.
 18 Q And I'm sure you had the Crime Lab be
 19 directed to look for evidence of others that had been
 20 there, did you not?
 21 A I don't understand your question.
 22 Q Well, you directed them to look for any
 23 evidence of footprints leading to that body, didn't
 24 you?
 25 A There weren't any apparent footprints.

1 Q There was -- you're a trained detective,
 2 you are trained to look for that kind of thing,
 3 right?
 4 MR. URICK: Objection.
 5 THE COURT: Overruled. Were you trained to
 6 look for that type of thing?
 7 THE WITNESS: That's one of.
 8 Q And you did so, didn't you?
 9 A We didn't see any footprints.
 10 Q And you also looked for any evidence that
 11 might suggest anything like other people had been
 12 there, did you not?
 13 A Yes.
 14 Q And you made sure that the Crime Lab did
 15 the same thing, did you not?
 16 A I didn't make that request, no.
 17 Q Not specifically?
 18 A Not specifically.
 19 Q But you oversaw what the Crime Lab did?
 20 A Correct.
 21 Q Now, when you arrived at that scene,
 22 Detective MacGillivray, you were informed that
 23 somebody had said that they found a body?
 24 MR. URICK: Objection.
 25 Q Were you not?

1 THE COURT: Somebody had said, oh, that's
 2 going to be sustained.
 3 Q You were informed, were you not, how that
 4 body was located?
 5 MR. URICK: Objection.
 6 THE COURT: You can answer that with yes or
 7 no. Don't tell us who told you. Were you informed
 8 how the body was found?
 9 THE WITNESS: Yes.
 10 Q And that would have been normal for you to
 11 know that information, would it have not?
 12 A Yes.
 13 Q Once you got there and saw the location, it
 14 became important to you to know about what the
 15 circumstances were that the person found the body
 16 was, was it not?
 17 A Yes.
 18 Q And that was precisely because of where the
 19 body was located, was it not?
 20 A Yes.
 21 Q How far off the road it was?
 22 A Yes.
 23 Q And that it was under the tree on the far
 24 side?
 25 A Yes.

1 Q And the location as you observed it was not
 2 a location for a casual visitor, was it?
 3 A I can't answer that.
 4 Q Well, when you went out and you saw the log
 5 and you saw the place you described as a gully or a
 6 depression right beyond that is a stream, is it not?
 7 A It is.
 8 Q There's not a visible defined picnic area
 9 for instance, is there?
 10 A There's not. However, it's apparent that
 11 people have gone back there, beer cans, whiskey
 12 bottles.
 13 Q Evidence of people being back there, right?
 14 A Evidence of people being back there.
 15 Q But you're being back there, it became
 16 important to know just how this body was found, did
 17 it not?
 18 A Yes.
 19 Q And that was important to you related to
 20 discovering things that as the primary detective were
 21 important for you to discover?
 22 A That's correct.
 23 Q Is that correct? And based on that desire
 24 to know you obtained information about how the body
 25 was found, did you not?

1 A I did.
 2 Q And the information that you received is
 3 that it was found or reported to be found by a person
 4 by the name of Alonso [REDACTED]?
 5 A That's correct.
 6 Q Is that right? And you came to interview
 7 that person, did you not?
 8 A Yes, after the body was disinterred. Well,
 9 actually upon my arrival, I had Mr. [REDACTED] direct us
 10 to where he observed the body and then I had him
 11 transported him down to Homicide.
 12 Q Homicide meaning the Homicide Unit at 601
 13 Fayette at the Police Headquarters Building?
 14 A That's the one.
 15 Q And that was done at your direction,
 16 right?
 17 A Correct.
 18 Q And at some point later after you left the
 19 crime scene, you came down and you spoke to Mr.
 20 Sellers, did you not?
 21 A I did.
 22 Q And before you got to speak to Mr. [REDACTED]
 23 you obtained information that he had already given,
 24 did you not?
 25 A I had an information sheet.

1 Q Yes, as to what he had said, how he came to
2 find the body?
3 A Correct.
4 Q And what he had told the initial person who
5 collected information from him that when he reported
6 the body --
7 MR. URICK: Objection.
8 THE COURT: Sustained, one moment. May I
9 see counsel at the bench?
10 MS. GUTIERREZ: Yes.
11 (Whereupon, counsel and the Defendant
12 approached the bench and the following conference
13 ensued:)
14 THE COURT: Correct me if I'm wrong, are we
15 headed into some serious hearsay or are we going to
16 have Mr. Sellers as a witness?
17 MR. URICK: Very serious hearsay.
18 MS. GUTIERREZ: We have subpoenaed Mr.
19 Sellers. He was until recently in jail. I have
20 spoken to his lawyer. Although his lawyer told us --
21 he sent us to his lawyer and said if his lawyer gave
22 his permission, then we could talk to him. We spoke
23 to his lawyer. His lawyer spoke to him and they gave
24 us permission but then when we went back to speak to
25 him, he decided that he wouldn't speak to us and he's

1 been that way, up and down saying he will and then he
2 won't. I have no idea what he is going to do. He
3 recently got released from jail. He was serving a
4 sentence for one of the indecent exposures because
5 the sentence in --
6 MR. URICK: I'd ask that defense counsel
7 keep her voice down.
8 THE COURT: I need you to keep your voice
9 down but also why don't I just really get to the crux
10 of the case.
11 MS. GUTIERREZ: I'm not sure whether or not
12 --
13 THE COURT: Are you offering the statement
14 for the truth of the matter?
15 MS. GUTIERREZ: Judge, I think that it's
16 non-hearsay.
17 THE COURT: Because?
18 MS. GUTIERREZ: Well, for a couple of
19 reasons. He's already opened up the investigation as
20 to what he did, how he did it, why he did it, and his
21 investigation on that day and for the next -- well,
22 from the 9th up until the 25th of February centered
23 on Alonso [REDACTED] and so, therefore, I think it's --
24 and information that was obtained Alonso [REDACTED].
25 I also believe, Judge, that the

1 circumstances that will come out will establish that
2 Alonso Sellers was treated as a suspect by the
3 police. He's listed as a suspect, and as a suspect
4 we have an absolute right to treat him as a viable
5 suspect who was treated as such and to raise
6 questions as to why he was discarded as a suspect to
7 make him a viable --
8 THE COURT: You can raise the questions. I
9 don't have a problem with that. What I have a
10 problem with is the testimony of what Mr. [REDACTED]
11 said or may have said to this witness and having this
12 witness relay that conversation. Since Mr. [REDACTED]
13 is not a witness that has testified so far and the
14 State's telling me that he's not going to testify in
15 the State's case in chief and you're offering the
16 statement for the truth of the matter asserted, I
17 believe that --
18 MS. GUTIERREZ: Well, Judge, I'm arguing
19 that it's non hearsay under Davis v. Alaska and
20 Chambers v. Mississippi, as evidence to establish
21 notwithstanding the mechanistic application of
22 evidentiary rules to establish that there is another
23 viable suspect from whom they got information without
24 the information from Mr. [REDACTED] that it is of no
25 moment of his name. Without the information of how

1 he discovered it, that it deprives Mr. Syed of any
2 opportunity to meaningfully bring to this jury the
3 evidence that exists that is uncontroverted.
4 We, of course, got that evidence through
5 their police reports and for the State to ask the
6 Court to apply mechanistic evidentiary rules is
7 applauding under these circumstances, but in any
8 event, Chambers et al including other Maryland cases
9 such as the Foster case that entitles a defendant
10 such as Adnan Syed to present to his jury fairly
11 evidence that is within his theory of defense,
12 particularly to suggest that someone else may have
13 done it, the circumstances of finding this body under
14 the story that Mr. Alonso [REDACTED] first told the
15 police include that it just happened to be by to take
16 a leak and that he stepped out of his truck to go to
17 take a leak although he had left his house not even
18 three miles from that spot where he had been where
19 there was a bathroom, that his purpose in being on
20 that road was --
21 MR. URICK: I would ask you to ask counsel
22 to keep her voice down, please.
23 THE COURT: I did ask counsel to keep her
24 voice down but it doesn't appear that that's working
25 so what we're going to do -- ladies and gentlemen,

1 I'm going to ask that you go in the jury room for a
2 few moments. I'm going to ask that you leave your
3 notepads face down on your chairs. I'm going to ask
4 that you leave your notepads face down on your
5 chairs. I'm going to ask that you not discuss the
6 testimony of Detective MacGillivray or anyone else
7 until you all return to the courtroom. Hopefully, we
8 will not be that long.

9 At this time I'd ask that you go with
10 Deputy Church who is at the door. We will bring you
11 back as soon as we are ready to proceed.

12 MS. GUTIERREZ: Ask us to return to the
13 counsel table?

14 THE COURT: Yes.

15 MS. MURPHY: You want to Detective
16 MacGillivray to step out?

17 THE COURT: Detective, would you also step
18 out into the hallway just for one moment, please.

19 (Whereupon, counsel returned to the trial
20 table and proceedings resumed in open court.)

21 THE COURT: All right. Ms. Gutierrez, you
22 were saying that this is non-hearsay.

23 MS. GUTIERREZ: Well, if I'm --

24 THE COURT: -- under 80 --

25 MS. GUTIERREZ: Judge, if I'm calling it

1 right, certainly it's the testimony of someone who is
2 not here so technically, I guess it's hearsay.

3 THE COURT: It's an out of court statement
4 --

5 MS. GUTIERREZ: Yes.

6 THE COURT: -- offered for the truth of the
7 matter asserted?

8 MS. GUTIERREZ: It's clearly offered for
9 the truth of the matter, Judge, and there doesn't
10 seem to be any dispute as to what Mr. [REDACTED] said,
11 which is why they want to fight quite so hard to keep
12 it out and wouldn't call him.

13 I believe that it's treated by the law as
14 non hearsay or that the hearsay rule, which is a rule
15 of evidence that's not a constitutional rule, it's an
16 evidentiary rule, and their objection to it is based
17 only on that evidentiary rule that because it's
18 hearsay and ordinarily the rule prevents it because
19 when I'm calling it non-hearsay, Judge, I believe
20 that there are constitutional dimension rules of law
21 and due process consideration that says we don't care
22 what you call it, we don't care what rule bars it,
23 there is evidence of such moment to a defendant's
24 right under any construct of due process or fair
25 trial that allows a defendant, notwithstanding a rule

1 of evidence such as hearsay, to stand in his way to
2 present critical evidence that is critical to his
3 theory of defense, and all of the case law and I cite
4 Davis v. Alaska, a Supreme Court case, Chambers v.
5 Mississippi, a Supreme Court case, Foster v. State,
6 which is a Maryland case that was -- the woman that
7 involved George Foster, all of those cases, and I
8 think each of them cite a multitude of other cases
9 that stand for the notion that above all things in
10 this arena, the law of the land under due process,
11 under all notions of justice allow a criminal
12 defendant to present his theory of defense even where
13 some rule such as hearsay or any evidentiary rule or
14 notice requirement or anything else might otherwise
15 ordinarily prevent him by wiping out his ability to
16 so present, and in an arena where a defendant wants
17 to present evidence that suggests that someone else
18 may have committed this offense, that someone else's
19 story is so unbelievable such as to raise the specter
20 that perhaps they committed the offense, that he has
21 every right to do so.

22 And the reason that's designed in lots of
23 cases is so that in precisely these circumstances
24 where the State, though knowing the oddity of Alonso
25 Sellers, though treating him as a suspect, though

1 investigating him, collecting evidence from him,
2 subjecting him to polygraphs and interviews, holding
3 him out as a suspect based solely in the congruity of
4 his description of what were the circumstances under
5 which he found this body were so absurd he
6 immediately catapulted as a suspect having chosen to
7 keep that information from the jury and then to be
8 allowed to object, oh, well, they can't get that in
9 because unless Alonso [REDACTED] himself, a person they
10 held out as a suspect in this very murder, unless he
11 says what he says even though we all know it's true
12 then Adnan Syed cannot take advantage of it is
13 precisely what all of the cases that hold otherwise
14 have so held in order to avoid that absurd result.

15 Judge, he was held as a suspect. They have
16 given us information that he was treated as a
17 suspect, listed as a suspect. He gave a story that
18 on its face to anyone, not even an experienced
19 detective, would classify as absurd. They had a
20 reason for his leaving his job at a mechanical plant
21 to get a tool as ordinary as they come, a plane that
22 he had to go home and get the plane in order to
23 complete his job at a major university in their
24 maintenance department, to complete a task that is
25 probably the most ordinary task that the maintenance

1 department is assigned to, a University whose
2 buildings are greater than fifty years old, and that
3 is planing down and shaving down doors that swelled
4 in the heat and sometimes in the air conditioning.
5 That he then went home. He went through
6 Leakin Park. He stopped at his home. He got his
7 plane although there's no evidence of that, that he
8 owned one. No plane was ever produced. He was never
9 asked to produce it and while he was there he grabbed
10 a 22 ounce of beer.

11 Judge, he lives right past the county line,
12 right after Franklinton Road comes out of Leakin
13 Park on the curve and intersects with Williams
14 Street. He lives off a hill and, Judge, I believe
15 the distance is less than three miles from his house
16 to this exact spot where those concrete barriers are
17 that he says at that point he was overwhelmed with
18 the desire to urinate.

19 So he backed his car in there and then he
20 went off outside of those concrete barriers for
21 whatever distances it is, 127 yards minus the
22 distance of from one barrier to another which I
23 think, Judge, is less than 15 feet. That is my
24 estimate, and that then he started to urinate.

25 That under the circumstances that Detective

1 MacGillivray and ultimately Detective Ritz observed
2 at the scene, that is the body is buried on the far
3 side of the tree, one doesn't walk over the body
4 coming from where this witness would say, unless one
5 climbed over the tree, which was unbelievable to them
6 and I think to anyone for someone searching in a
7 wooded area off the beaten path that he had to hide
8 his urination.

9 Further, when they discovered that Mr.
10 Sellers, in fact, at that time had one, already a
11 conviction for indecent exposure of his private parts
12 including the private part of his body with which he
13 would have urinated and was facing pending charges of
14 the same under circumstances, Judge, that bizarre
15 does not even begin to define.

16 These come right from the criminal records,
17 statement of charges as to those events that were
18 readily available, were known to Detective
19 MacGillivray and Ritz, that describe, for instance,
20 the first charge of indecent exposure on which he had
21 already been convicted, included the allegation on
22 which he was convicted that at an intersection in
23 West Baltimore in a neighborhood that could only be
24 -- I don't remember the street names off the top of
25 my head, could only be characterized as residential,

1 that at an intersection in which there was a light
2 and at that light there was parked a marked blue and
3 white police vehicle with a police officer driving
4 it, that catacorner to this to the street where the
5 police officer was, was a person and this person
6 ultimately identified, stood calmly at that
7 intersection and removed every stitch of his
8 clothing, outer wear, underwear, shoes, socks, folded
9 them, piled them neatly next to where he was and then
10 began streaking totally naked in front of the police
11 officer's view.

12 They investigated. They lost sight of this
13 naked person. They didn't find him. However, they
14 went back to retrieve the clothing that they saw this
15 person remove and on the clothing was a name tag sown
16 into the left pocket of the shirt that said Alonso,
17 and underneath that was an identification that it was
18 a uniform belonging to some department of Coppin
19 State University.

20 THE COURT: Ms. Gutierrez, have you
21 subpoenaed this witness or are you in the process of
22 subpoenaing this witness?

23 MS. GUTIERREZ: Yes, Judge.

24 THE COURT: So this --

25 MS. GUTIERREZ: And I had him subpoenaed

1 when he was at the jail.

2 THE COURT: But he is available?

3 MS. GUTIERREZ: Well, I think he's
4 available, Judge. I think he will honor a subpoena.

5 THE COURT: You can't proffer that he's
6 unavailable at this time, that we can't have him in
7 here subject to cross examination, that he is not in
8 some way an unavailable witness then?

9 MS. GUTIERREZ: Well, Judge, I think I am.
10 My experience is that we had him here. We had him
11 for the first trial. He was subpoenaed and we
12 attempted to speak to him through his lawyer while he
13 was in jail. We never really thought that we would
14 --

15 THE COURT: Did he testify in the first
16 trial?

17 MS. GUTIERREZ: No, Judge.

18 THE COURT: You didn't get to that point?

19 MS. GUTIERREZ: No, Judge, they had no
20 intent of ever calling Alonso Sellers.

21 THE COURT: I mean, he was available for
22 you to call?

23 MS. GUTIERREZ: Yes, I did but we never got
24 past the State's case in the first trial.

25 THE COURT: Understood.

1 MS. GUTIERREZ: So that never came.
2 Although we had spoken to his lawyer, gotten the
3 permission that he requested, was assured by his
4 lawyer that he consented to speak to us. We then
5 made several attempts to speak to him in the jail and
6 he absolutely refused. It is my belief that he will
7 not speak willingly --
8 THE COURT: Well, he doesn't have any
9 constitutional rights against -- I mean, there is no
10 charge pending against him, correct?
11 MS. GUTIERREZ: Not that I know of, Judge,
12 and I agree with your assertion that probably he
13 doesn't have a Fifth Amendment right that's
14 legitimate. Certainly, I would challenge that, but I
15 can't tell the Court that I would believe that he
16 will testify, that he will be available.
17 The history of this man's life, everything
18 I know about it is odd. His behavior has been odd
19 under any number of circumstances. So I do not hold
20 a legitimate belief that I will be able to produce
21 him and make him available.
22 THE COURT: If he becomes unavailable, then
23 we move into another arena, do we not?
24 MS. GUTIERREZ: Yes.
25 THE COURT: Where the Court has far more

1 leeway than it has right at this moment when at this
2 juncture I have someone who is truly available and
3 under the rules I have to deal with the statements
4 made or that this witness may say he made in a
5 different fashion than if I knew and you could
6 proffer to me that he is now unavailable.
7 MS. GUTIERREZ: Except, Judge, I think that
8 the case law that I cited to you and if you give me a
9 minute I can go grab it --
10 THE COURT: Chambers versus Alaska and --
11 MS. GUTIERREZ: And Foster, and there is a
12 couple of other case names, because they stand for
13 the proposition that I've cited, Judge, I think that
14 the Court is compelled to give view to that and again
15 not apply, particularly under the circumstances that
16 I have outlined to you in good faith, that there is
17 no reasonable expectation now of getting Mr. [REDACTED]
18 on the stand opening his mouth, and that particularly
19 in light of that this Judge is armed and I believe
20 under due process is charged with honoring that
21 request through this witness now without
22 mechanistically applying a rule of law designed for
23 entirely other purposes.
24 THE COURT: Do you know whether or not this
25 witness actually took a formal statement from Mr.

1 Sellers that is written, recorded?
2 MS. GUTIERREZ: Yes, Judge, I have those
3 statements. I've been given those statements.
4 THE COURT: It is recorded by an audio
5 device or --
6 MS. GUTIERREZ: I don't know.
7 THE COURT: Or are these notes?
8 MS. GUTIERREZ: I don't know. I have the
9 transcript of it.
10 THE COURT: Was he under oath at the time
11 the statements were taken from him?
12 MS. GUTIERREZ: No, Judge, police officers
13 can't administer oaths.
14 THE COURT: No, but I don't know --
15 MS. GUTIERREZ: No, I don't know --
16 THE COURT: -- the circumstances under
17 which the statement was taken.
18 MS. GUTIERREZ: No, what I have is two
19 separate interviews with this witness that I have a
20 hard copy of a written transcript of. I just frankly
21 don't remember whether or not we have a tape. May I
22 be excused for a minute?
23 THE COURT: Yes, you may.
24 MS. GUTIERREZ: Judge, I don't believe we
25 have any tapes. We have tapes of all other kinds of

1 witnesses, and maybe Mr. Urick can help if he gave me
2 one. I certainly don't, if I did review it, I don't
3 recall hearing a tape. So I don't think that there
4 were, but the circumstances under which the
5 statements read are that they are made by Mr. [REDACTED]
6 at a time where he is taken to police Headquarters, I
7 think the date is February 18th and February 24th of
8 1999 that they were tape recorded, they concern the
9 events regarding the discovery of the body, and there
10 are two separate statements, both of them I believe
11 are conducted by both Detective MacGillivray and Ritz
12 and there may have been another detective present,
13 obviously, there was no oath.
14 Judge, in regard to, for instance, whether
15 or not this witness can take the Fifth, and I really
16 haven't thought this all of the way through, but it's
17 my belief that like public exposure of one's
18 genitals, public relations type of crime, and to my
19 knowledge he's never been prosecuted about that
20 crime, but that may well give rise to a legitimate
21 expectation, absent a grant of immunity for that
22 crime from Mr. Urick and --
23 THE COURT: Let us hear from the State and
24 see what their position is.
25 MS. GUTIERREZ: There may well be something

1 --

2 THE COURT: It may be something that can
3 resolve itself. I don't know but let's find out.
4 They're objecting to the testimony of this witness as
5 to what Mr. Sellers told Detective MacGillivray, and
6 who would like to respond?

7 MR. URICK: Do you wish me to respond to
8 the defendant's argument, defense's argument on this
9 issue?

10 THE COURT: Well, yea, I mean, we have --
11 unless you want me to let Detective MacGillivray talk
12 about what Mr. Sellers said, then we don't have any
13 reason to have this discussion.

14 MR. URICK: That was a very dumb question I
15 ended up asking.

16 THE COURT: Very well.

17 MR. URICK: The State's position is we
18 talked about due process. What do we mean by due
19 process? Well, one of the major components of due
20 process is fairness of evidence presented. Both
21 sides are subject to the same evidentiary rules and
22 protections and safeguards. The reason for this is
23 that the trial has to be on the merits and our rules
24 of evidence are designed to get us to the merits and
25 to keep out things that do not add to our truth

1 finding function. They have a certain strictness to
2 them for that reason to make sure that the finder of
3 fact addresses the merits.

4 We have rules that admit evidence. Both
5 sides are subject to that. Both sides know what they
6 are. There are rules that keep evidence out. Both
7 sides are subject to it. Both sides are aware of
8 that. That's what we talked about with due process.
9 Hearsay is inadmissible because of our problems with
10 the truth finding function.

11 The defense has not and I do not -- I
12 believe cannot assert that Mr. [REDACTED] is not
13 available or would not testify if he is called. Even
14 if he didn't, I'm not certain that the statements
15 could be admissible in his absence. They can get
16 into what Detective MacGillivray did as a result of
17 the information. All of that exonerates Mr.
18 [REDACTED] There's been no evidence found that
19 incriminates him in any manner in this way.

20 THE COURT: Well, doesn't --

21 MR. URICK: We were going to --

22 THE COURT: Doesn't 5-804, the exceptions,
23 actually direct itself to the specific situation? I
24 mean, doesn't the rule under subsection A, excuse me,
25 B 3 under hearsay exceptions, even if I were to

1 consider this an exception to the hearsay as counsel
2 has argued, doesn't it specifically preclude such a
3 statement? I mean, the rule seems to be very clear.

4 It says, and I would say that in some
5 degree this is a statement against interests, that
6 Mr. Sellers saying if he is going to say that he was
7 urinating or that there was a way to get it in and he
8 was urinating, a statement tending to expose the
9 declarant to criminal liability and offered to
10 exculpate the accused is not admissible unless
11 corroborating circumstances clearly indicate the
12 trustworthiness of the statement.

13 And in order to get the statement in, we
14 would first have to find that the declarant was
15 unavailable. We haven't gotten there yet, but let's
16 assume for the sake of this hypothetical that he is
17 unavailable. Because if he's available then he
18 should be here. The rules say that but if he is
19 unavailable, doesn't the rule even say that even when
20 he's unavailable that if the statement's sole purpose
21 is to be offered in such a way that unless I find
22 under Subsection 5 that it meets all of the criteria,
23 that is the statement is offered as evidence of a
24 material fact and that this statement is more
25 probative on the point on which it is offered and

1 that the general purposes of the rules and the
2 interests of justice will be best served by its
3 admission, isn't that really how the statement comes
4 in, the catchall for the hearsay exception?

5 MR. URICK: That would be the only manner
6 in which it could come in and the catchall has never
7 been affirmed by any appellate court in this state.
8 They have consistently ruled out the general
9 requirement of justice with corroborating indicia of
10 truthfulness.

11 THE COURT: I don't know that that's true
12 that it's never been affirmed. I recently read a
13 case where exactly it was affirmed. In fact, what
14 they did was they set forth so many hoops that you
15 had to jump through in order to guarantee the
16 trustworthiness and the truthful nature of the
17 statement that it really does make it very difficult
18 to utilize the catchall, but it does allow that the
19 catchall be used and it has not been removed from the
20 books. But don't we first have to have a clear
21 indication to this Court that the declarant is
22 unavailable to even reach that?

23 MR. URICK: Yes, we do.

24 THE COURT: And isn't that really the
25 State's best argument?

1 MR. URICK: Yes.

2 THE COURT: Because from what we're saying
3 I haven't heard yet from anybody that the man is not
4 available. He is being subpoenaed, correct?

5 MS. GUTIERREZ: Yes, Judge.

6 THE COURT: But he has not yet been
7 subpoenaed. So I don't have anything in front of me
8 saying that we couldn't find him with due diligence.
9 That he isn't where he said he was going to be, that
10 he isn't at his home, that he is out of the
11 jurisdiction, or in any other way has disappeared.

12 MS. GUTIERREZ: Well, Judge, he was
13 subpoenaed for the first trial.

14 THE COURT: Yes but --

15 MS. GUTIERREZ: He was still in jail.

16 THE COURT: I understand so it was a writ
17 that was issued for him probably?

18 MS. GUTIERREZ: Well, I actually had him
19 served personally.

20 THE COURT: Oh.

21 MS. GUTIERREZ: In addition to a writ by my
22 investigator who went to speak to him while he was in
23 jail, and I don't quite remember but sometime between
24 the end of the first trial, which was I think on the
25 19th of December, and the first of the year he got

1 out of jail.

2 THE COURT: In the interim?

3 MS. GUTIERREZ: Because of the expiration
4 of the sentence.

5 THE COURT: So in the interim he was
6 released.

7 MS. GUTIERREZ: Yes.

8 THE COURT: Counsel, let me tell you what
9 I'm inclined --

10 MS. GUTIERREZ: Yes.

11 THE COURT: -- to do. At this juncture I'm
12 going to sustain the objection as to Detective
13 MacGillivray testifying as to what Mr. [REDACTED] may
14 have said during the interview or statement.
15 However, I will ask that this witness when he is
16 finished not be released so that the defense if it
17 chooses to call him in its case once you are able to
18 establish, if you are able to establish some
19 unavailability of Mr. [REDACTED] then I'll allow you to
20 reopen your argument that MacGillivray should be
21 permitted to testify. And I'm not saying that I'm
22 convinced of the trustworthiness and reliability of
23 the statement because I don't know the circumstances
24 under which it was given but at this juncture --

25 MS. GUTIERREZ: The Court is not precluding

1 me from asking other questions around Mr. [REDACTED]?

2 THE COURT: Correct.

3 MS. GUTIERREZ: Just not ones that call for
4 him to say what Mr. [REDACTED] said.

5 THE COURT: Exactly.

6 MS. GUTIERREZ: Okay.

7 THE COURT: As a result of information
8 received, what did you do. You spoke to Mr.
9 Sellers. As a result of that conversation, what did
10 you do? That's fine, but if you start asking, well,
11 what did he say and what did he say, well, didn't he
12 say, then you're going to get an objection and it
13 will be sustained.

14 MS. GUTIERREZ: Okay.

15 THE COURT: Any problem with that, Mr.
16 Urick?

17 MR. URICK: No, Your Honor.

18 THE COURT: Very well.

19 MR. URICK: We would like to draw the
20 Court's attention that at the start of the trial we
21 made two motions in limine regarding Mr. [REDACTED].
22 The Court basically granted them unless a foundation
23 could be laid. I would point out that that
24 foundation has not been made to date.

25 THE COURT: I think that that's precisely

1 what Ms. Gutierrez is trying to do. She is trying to
2 lay the foundation through which --

3 MS. GUTIERREZ: You have to tell me it's
4 been so long since we started the trial, I don't
5 remember which motions in limine we're talking about.

6 THE COURT: This is where you indicated
7 that you wanted to offer as sort of Mr. [REDACTED] as a
8 suspect.

9 MS. GUTIERREZ: Oh, his background, his --

10 THE COURT: Correct, correct. So we are --

11 MS. GUTIERREZ: Yes.

12 THE COURT: I think, and I assume that is
13 where you were going with this.

14 MS. GUTIERREZ: Well, yes, if I can get
15 there.

16 THE COURT: Right.

17 MS. GUTIERREZ: Yes, and I do have true
18 test copies of both convictions.

19 THE COURT: Which would be wonderful if we
20 found him. It would make it very simple --

21 MS. GUTIERREZ: Yes.

22 THE COURT: -- to use it in that fashion.

23 MR. URICK: The State is going to ask you
24 to reopen the issue of introducing that and I'm going
25 to ask Ms. Murphy to argue that reopening of the

1 what Ms. Gutierrez is trying to do. She is trying to
2 lay the foundation through which --

3 MS. GUTIERREZ: You have to tell me it's
4 been so long since we started the trial, I don't
5 remember which motions in limine we're talking about.

6 THE COURT: This is where you indicated
7 that you wanted to offer as sort of Mr. Sellers as a
8 suspect.

9 MS. GUTIERREZ: Oh, his background, his --

10 THE COURT: Correct, correct. So we are --

11 MS. GUTIERREZ: Yes.

12 THE COURT: I think, and I assume that is
13 where you were going with this.

14 MS. GUTIERREZ: Well, yes, if I can get
15 there.

16 THE COURT: Right.

17 MS. GUTIERREZ: Yes, and I do have true
18 test copies of both convictions.

19 THE COURT: Which would be wonderful if we
20 found him. It would make it very simple --

21 MS. GUTIERREZ: Yes.

22 THE COURT: -- to use it in that fashion.

23 MR. URICK: The State is going to ask you
24 to reopen the issue of introducing that and I'm going
25 to ask Ms. Murphy to argue that reopening of the

1 issue.

2 THE COURT: Do we need to do that at this
3 time since we don't -- I mean, I think we should wait
4 until we get Mr. Sellers.

5 MS. GUTIERREZ: Right.

6 THE COURT: Because you certainly can't get
7 that in through this witness.

8 MS. GUTIERREZ: Right.

9 THE COURT: Detective MacGillivray.

10 MS. GUTIERREZ: I don't plan to do that.

11 THE COURT: So -- and we can do that maybe
12 perhaps at a time when there's a lull in the
13 proceedings.

14 MS. GUTIERREZ: That's fine.

15 THE COURT: -- and we can --

16 MS. GUTIERREZ: The earliest we can get Mr.
17 Sellers is likely to be Tuesday anyway.

18 MR. URICK: The second motion concerned lie
19 detector tests that Mr. [REDACTED] took, which is
20 totally inadmissible and we made a motion.

21 THE COURT: Counsel has been instructed on
22 that and counsel is aware --

23 MS. GUTIERREZ: I'm not --

24 THE COURT: I'm not concerned --

25 MS. GUTIERREZ: I am not conceding that it

Note: In the 4-to-a-sheet system this would be page 212. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

1 is inadmissible --

2 THE COURT: You preserved that.

3 MS. GUTIERREZ: -- under all
4 circumstances. I certainly understand the Court's
5 instruction and I have no intention of violating it.

6 THE COURT: I also pointed out, you know,
7 given the scenario that although you made that remark
8 in opening that I could, using my imagination could
9 see a scenario where that statement might come in.
10 However, I had not -- I have not seen anything even
11 close to it as of yet.

12 MS. GUTIERREZ: Judge, given the course of
13 this trial --

14 THE COURT: You never know.

15 MS. GUTIERREZ: Right, it's like about Jay,
16 you never know.

17 THE COURT: In any event, can we continue
18 with Detective MacGillivray at this time?

19 MR. URICK: Can we take five minutes since
20 we have been going through since 1:30?

21 THE COURT: You may take five minutes and
22 in five minutes what I'm going to do is have the jury
23 come back so if Detective MacGillivray could come in
24 and have a seat. So that in five minutes, five
25 minutes I can have the jury back. This Court will

Note: In the 4-to-a-sheet system this would be page 213. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+++Missing+Pages>

1 stand in recess for five minutes.

2 (Whereupon the Court recessed, following
3 which the proceedings in this matter resumed:)

4 THE COURT: Deputy Church, could you get
5 the jury for us, please. Thank you. Detective
6 MacGillivray, as the jury is coming in, let me advise
7 you that as you are being asked questions, do not
8 tell us what someone said to you but you will be able
9 to testify as to what you did or what you said.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: And I'm just noting that was
12 specifically with reference to Mr. [REDACTED] all
13 right, and the questions will be continued with Ms.
14 Gutierrez.

15 (Whereupon, the jury entered the courtroom,
16 after which the following proceedings ensued:)

17 THE COURT: Detective, you may be
18 re-seated. Let me remind you that you are still
19 under oath. Ms. Gutierrez, witness is with you,
20 counsel.

21 MS. GUTIERREZ: Thank you. Thank you, Your
22 Honor.

23 Q Detective MacGillivray, I was directing a
24 question to you about one Alonso [REDACTED]?

25 A Yes, ma'am.

Note: In the 4-to-a-sheet system this would be page 214. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

1 Q You were given information even before you
2 got to the scene where the body was that supposedly
3 Alonso Sellers --

4 MR. URICK: Objection.

5 Q -- was the one that found the body?

6 THE COURT: Overruled.

7 Q Correct?

8 A Correct.

9 Q And based on that information, it was you
10 that made the decision to ultimately have Alonso
11 [REDACTED] brought down to Homicide?

12 A Correct.

13 Q To await your return there?

14 A Correct.

15 Q After you finished all of the business that
16 consumed you at the burial scene?

17 A Correct.

18 Q Including the complete disinterment of the
19 body?

20 A Correct.

21 Q And the carrying away of the body to the
22 Medical Examiner's Office, correct?

23 A No. Once the body leaves, I leave.

24 Q Okay. But when the body left you knew that
25 where it was going was to the Medical Examiner's

1 Office, right?

2 A That is correct.

3 Q Not Dr. Rodriguez's office, the Medical
4 Examiner of Baltimore City, is that right?

5 A That is correct.

6 Q And at that time, sir, you didn't -- you
7 still didn't know whose the body was, correct?

8 A Excuse me?

9 Q You didn't know who the body was?

10 A Correct.

11 Q And you didn't know how it had died?

12 A That is correct.

13 Q Or when it had died?

14 A Correct.

15 Q Or what the circumstances of it were?

16 A Correct.

17 Q Even though you had been assigned it
18 because it was a dead body, you didn't even know if
19 it was a homicide that you would be investigating?

20 A Well, typically it's uncommon to find
21 remains buried within a park.

22 Q But it hadn't --

23 A Of a young individual.

24 Q -- it hadn't been declared to be a
25 homicide, had it?

1 A I at that time decided that it was a
2 suspicious death.

3 Q Okay. And it was sent to the medical
4 examiner so that it could be autopsied and
5 identified, correct?

6 A That is correct.

7 Q And then you returned to the Homicide Unit,
8 correct?

9 A After the remains were removed to the
10 Office of -- the Chief Medical Examiner office --

11 Q Yes.

12 A -- I responded to Homicide.

13 Q And Mr. [REDACTED] was there waiting for you;
14 is that correct?

15 A Correct.

16 Q As you expected since you had given
17 directions that he should be there, right?

18 A Correct.

19 Q And to your knowledge, he was brought there
20 by someone from the Police Department?

21 A That is correct.

22 Q And when you got down to the Homicide Unit,
23 you interviewed him, did you not?

24 A I did.

25 Q And at some point you advised him of his

1 rights, did you not?

2 A I did.

3 Q You had him fill out an advice of rights
4 form, did you not?

5 A I did.

6 Q And that advice of right form is a
7 preprinted form in your department, is it not?

8 MR. URICK: Objection.

9 THE COURT: Overruled. Is it a preprinted
10 form?

11 THE WITNESS: It is a preprinted form.

12 Q And the advice of rights is to advise
13 someone of their right to counsel?

14 A It is.

15 Q And the procedures that if they can't
16 afford counsel, that counsel will be provided for
17 them?

18 A That is correct.

19 Q And an advice telling them that they are
20 not required to speak to you?

21 A Excuse me?

22 Q The advice of rights form advises them that
23 they are not required to speak to you?

24 A That is correct.

25 Q And that they could just decide to not

1 speak to you at all?

2 A Correct.

3 Q And that they have the absolute right to do
4 that; is that right?

5 A Correct.

6 Q And that's an advice of rights form that
7 you have executed many times before that date, is it
8 not?

9 A That is correct.

10 Q And it's executed and given to, both in the
11 sheet and orally, to anyone who might be charged with
12 a crime?

13 MR. URICK: Objection.

14 THE COURT: Repeat that last question.

15 Q That sheet, either the sheet itself or
16 orally advised, is given to anyone who might, by you,
17 that you are interviewing who might be charged with a
18 crime?

19 THE COURT: Overruled.

20 A Not always.

21 Q Not always. But generally?

22 A I wouldn't say generally.

23 Q Well, you don't give the advice of right
24 forms to just a witness, do you?

25 A No.

Note: In the 4-to-a-sheet system this would be page 219. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

1 Q And you interview lots of witnesses, do you
2 not?

3 A If an individual comes down to Homicide and
4 I don't know whether the individual could be a
5 witness or a suspect, I'll make that decision to give
6 the individual his rights in the beginning so I don't
7 have to worry about it later on.

8 Q As a precaution?

9 A As a precaution.

10 Q Because lots of times people present
11 themselves as witnesses but really they're suspects?

12 MR. URICK: Objection.

13 THE COURT: Lots of times do they present
14 as witnesses but they may be suspects was the
15 question? That's overruled. You may answer it.

16 A I wouldn't say a lot of times.

17 Q Well, what you've just told us is that when
18 you don't know whether somebody is a real witness or
19 a real suspect, you go ahead and often times give
20 them that advice of rights just so that you're not
21 interrupted and have to do it later?

22 A Correct.

23 Q And the later would be when the bell goes
24 off in your head, wait a minute, this might be a
25 suspect?

1 A Correct.

2 Q Is that right?

3 A Yes.

4 Q And you understand as a police officer that

5 that advice of rights form really only comes into it

6 when somebody becomes a suspect?

7 A Correct.

8 Q Okay. And that's why your department

9 prints it up as a form, does it not?

10 A It's one of the forms that we use within

11 the Police Department.

12 Q But the form advises you exactly what words

13 to tell a suspect, right?

14 A Correct.

15 Q Or to have a suspect read; is that right?

16 A Correct.

17 Q And by suspect that terms includes people

18 who might be suspected of involvement in a crime?

19 MR. URICK: Objection.

20 THE COURT: Sustained.

21 Q Now, Detective MacGillivray, Mr. Sellers

22 was there. You advised him formally of his rights on

23 the form, right?

24 A Yes.

25 Q And you had him read the form and initial

1 that he understood it, did you not?

2 A I did.

3 Q And you had him sign the portion where he
4 waived -- he understood those rights, he waived them
5 and agreed to talk to you; is that correct?

6 A That is correct.

7 Q And you then conducted a formal interview
8 of him, did you not?

9 A I did.

10 Q And was that on the record? Did you turn
11 on a tape recorder?

12 A Initially, no.

13 Q But at some point you did?

14 A I did.

15 Q And then you conducted the rest of the
16 interview while a tape was running; is that correct?

17 A That is correct.

18 Q And that tape remained on the whole time
19 you interviewed him after that time?

20 A That is correct.

21 Q Is that right? Now, as a result of or
22 after that interview, you caused there to be some
23 investigation of Mr. [REDACTED], did you not?

24 A Yes.

25 Q You got his employment records?

Note: In the 4-to-a-sheet system this would be page 222. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

This blank page is a substitute for a missing page or pages from the transcript.

The missing page would be 223 in the 4-to-a-sheet system or 224 in the single page version.

For more information please see [this wiki page](#)

1 A No, I can't answer that.
 2 Q Pertaining to the events concerning the
 3 finding of the body?
 4 A Detective Brown asked specific questions.
 5 Q Related to the finding of the body?
 6 A Correct.
 7 Q When all of that was done you were still
 8 the primary investigator on what turned out to be a
 9 homicide, right?
 10 A Yes.
 11 Q Okay. That never waived, did it?
 12 A No.
 13 Q That you were always the guy in charge?
 14 A Yes.
 15 Q And that was in charge of any investigation
 16 that might relate to that, right?
 17 A I don't understand what you mean any other
 18 investigation. There is one investigation going on
 19 here and it is the homicide investigation of Hae Min
 20 Lee.
 21 Q The homicide investigation of Hae Min Lee
 22 included your questioning of Alonso [REDACTED] the man
 23 who found the body, right?
 24 A Yes, it did.
 25 Q About the circumstances of his finding the

1 body?
 2 A Yes.
 3 Q And then investigating those circumstances?
 4 A Yes.
 5 Q And then investigating him?
 6 A Yes.
 7 Q Including investigating his background?
 8 A Yes.
 9 Q And during that investigation Alonso
 10 [REDACTED] came to be listed somewhere as a suspect in
 11 the murder of Hae Min Lee, did he not?
 12 A Everyone's a suspect until they're
 13 eliminated.
 14 Q So the answer to my question is yes?
 15 A Yes.
 16 Q Yes. After you interviewed Mr. [REDACTED]
 17 formally, you came to do so a second time, did you
 18 not?
 19 A Yes.
 20 Q And so you interviewed him on the 9th, the
 21 day the body was found, right?
 22 A Yes.
 23 Q And at some point you turned on the tape
 24 recorder, right?
 25 A Correct.

1 Q And then on the 18th of February you again
 2 caused him to be brought down?
 3 A Yes.
 4 Q On the 18th of February you actually showed
 5 up to the maintenance department of Coppin State
 6 College and picked him up, or had him picked up, did
 7 you not?
 8 A Actually, I did.
 9 Q You did. And you personally picked up the
 10 man you had previously interviewed nine days before.
 11 right?
 12 A Correct.
 13 Q And you caused him to be interviewed again
 14 about the same events down at your office?
 15 A Yes.
 16 Q And was that interview a formal one?
 17 A Yes.
 18 Q And did you again advise him of his rights?
 19 A I did.
 20 Q And have him execute the same form?
 21 A I did.
 22 Q Giving up the rights that he might have and
 23 agreeing to talk to you?
 24 A Correct.
 25 Q And did you tape record that interview?

1 A Yes.
 2 Q And you caused him to be brought down to
 3 the offices of the Homicide Unit, your office, and
 4 interviewed once again about his knowledge and
 5 information concerning the body that was found on
 6 February 9th?
 7 A Yes.
 8 Q And that third time occurred on the 24th of
 9 February, 1999, did it not?
 10 A I can check my notes here.
 11 Q Sure, but I have a copy of your memo.
 12 Would that help?
 13 A I'd love to see it.
 14 MS. GUTIERREZ: May I approach the
 15 witness?
 16 THE COURT: Yes, you may. For the record,
 17 you're showing the witness a memo.
 18 Q Do you recognize that memo, detective?
 19 A Yes.
 20 Q And that's the memo that you made, did you
 21 not?
 22 A Correct.
 23 Q In conjunction with this investigation,
 24 right?
 25 A This investigation.

1 Q And this investigation was an investigation
2 into the homicide of what at that juncture was
3 already known to be Hae Min Lee?
4 A Correct.
5 Q Because her body had been identified on the
6 10th of February, correct?
7 A Correct.
8 Q The day after that it was found.
9 MS. GUTIERREZ: And can I have this just
10 marked for identification.
11 THE COURT: Thank you, counsel.
12 MS. GUTIERREZ: So it is clear.
13 Q On that third time that you interviewed him
14 (inaudible), right?
15 A Correct.
16 Q That was a third time that you formally
17 advised him of his rights, right?
18 A Yes.
19 Q And he was still considered a suspect,
20 right?
21 A Correct.
22 Q And you again formally interviewed him by
23 turning on the tape recorder?
24 A Yes.
25 Q And recording what your questions were?

1 A I mean, the third statement are you
2 saying?
3 Q Yes.
4 A I believe we only have two statements.
5 Q Well, I'm asking you now about the one on
6 February 24th?
7 A We have one taped statement on the 18th.
8 Q On the 18th of February that was the second
9 time that you saw and questioned him, right? I'm not
10 trying to trick you. You told us that you spoke to
11 him on the 9th, correct?
12 A Correct.
13 Q And then you had occasion to bring him down
14 on the 18th?
15 A Correct.
16 Q Correct? And then you had an occasion to
17 bring him down on the 24th?
18 A Correct.
19 Q And at each time it was at your direction
20 or you had actually did it, correct?
21 A Correct.
22 Q And each time it was connected to the
23 investigation into the death of Hae Min Lee, correct?
24 A Yes.
25 Q And on each occasion you advised him of his

1 rights formally, right?
2 A Yes.
3 Q And on each occasion he was still in the
4 pool of suspects, correct?
5 A Yes.
6 Q And on at least two of those occasions you
7 tape recorded it?
8 A Yes.
9 Q You may have actually tape recorded the
10 third time, too?
11 A I don't remember taking a third statement,
12 no.
13 Q But you recall that there was a tape
14 recorded statement that was made on the 18th?
15 A I've got a tape recorded conversation on
16 the 18th. That's the interview.
17 Q And the tape recorded conversation that
18 occurred on the 24th?
19 A If you have that statement.
20 THE COURT: Counsel, why we don't give
21 Detective MacGillivray a chance to check his notes.
22 Q Yes. Detective MacGillivray, I did not
23 bring Alonso Sellers' statements with me. He is not
24 testifying today, I gather. My notes indicate that
25 the tape recorded statements, the two of them

1 occurred on the 18th and on the 24th?
2 A I got one on the 18th.
3 Q Yes.
4 A There was not a taped statement taken on
5 the 24th.
6 Q Now, on the 9th when you spoke to him,
7 after you finished speaking to him he still remained
8 in the pool of suspects, did he not?
9 A On the 9th?
10 Q Yes.
11 A Yes.
12 Q And on the 18th after you spoke to him, he
13 still remained in the pool of suspects, did he not?
14 A Yes.
15 Q Okay. Now, Detective MacGillivray, when
16 the body was identified on the 10th of February by
17 fingerprints, you became aware that there was an open
18 investigation by Baltimore County, did you not, as to
19 the victim?
20 A A missing persons.
21 Q Yes. And you got all of that information,
22 did you not?
23 A I spoke with Detective O'Shea the 9th.
24 Q Okay. And because even before the body was
25 identified the suspicion was that it was Hae Min Lee?

1 A Correct.
 2 Q Is that right? And once that got confirmed
 3 Detective O'Shea from Baltimore County shared all of
 4 his information with you, did he not?
 5 A He did.
 6 Q All of the information that he had
 7 collected when there was a formal missing persons
 8 investigation initiated into the disappearance of Hae
 9 Min Lee?
 10 A Yes, he did.
 11 Q And that included all of the substance of
 12 it, not the actual papers regarding every
 13 information, every bit of information he had
 14 collected from whatever source?
 15 A I received reports that he had written and
 16 information that he had obtained.
 17 Q And all of that information was related to
 18 tracking down Ms. Lee's last known whereabouts?
 19 A Some of it.
 20 Q And the people who had last spoken to her?
 21 A Some of it.
 22 Q And anyone known to be close to her who
 23 might have seen or observed something about her
 24 either the day she was last seen or the days leading
 25 up to it?

1 A Yes.
 2 Q And her relationships with people and what
 3 they were?
 4 A Yes.
 5 Q And you received information about Adnan
 6 Syed, did you not?
 7 A Yes.
 8 Q You were made aware that unrebutted
 9 information suggested that he had been Hae Min Lee's
 10 ex-boyfriend?
 11 MR. URICK: Objection.
 12 THE COURT: No, that will be overruled just
 13 for the purposes of laying the foundation --
 14 MS. GUTIERREZ: Yes.
 15 THE COURT: -- to your next question.
 16 MS. GUTIERREZ: Yes.
 17 A Yes, I learned that the victim had been
 18 dating Adnan.
 19 Q But that they were broken up as of the 13th
 20 of January?
 21 A I didn't know when they had broken up. All
 22 I know is that they had dated.
 23 Q Okay. Well you became aware about the
 24 existence of another name of someone who was dating
 25 her, did you not?

1 A I did.
 2 Q As of the 13th?
 3 A As of the 9th.
 4 Q Well, she was last known to have been seen
 5 on the 13th of January, was she not?
 6 A Correct.
 7 Q And the information that you got about the
 8 other person's name was that she was dating him as of
 9 the 13th of January?
 10 A Yes.
 11 Q And that person's name was Donald
 12 Klinedinst?
 13 A Yes.
 14 Q And you were made aware that it's not like
 15 she was dating the two of them at the same time?
 16 MR. URICK: Objection.
 17 THE COURT: Sustained, sustained.
 18 Q Now, in regard to Adnan Syed you were made
 19 aware that he had previously spoken to Officer
 20 Adcock?
 21 MR. URICK: Objection.
 22 Q Were you not?
 23 THE COURT: Officer?
 24 MS. GUTIERREZ: Adcock.
 25 THE COURT: As part of your investigation

1 responsibility, did you get that information?
 2 THE WITNESS: I did.
 3 THE COURT: All right, very well.
 4 Q You were made aware of what it is he said
 5 to Officer Adcock?
 6 MR. URICK: Objection.
 7 Q Were you not?
 8 THE COURT: Yes or no. Don't tell us what
 9 was said. Just tell me whether you got the
 10 information?
 11 THE WITNESS: Yes.
 12 Q And you were also made aware that he had
 13 spoken directly to Detective O'Shea, were you not?
 14 That Adnan Syed had spoken directly to Detective
 15 O'Shea?
 16 A I don't recall.
 17 Q If he had, would you have been made so
 18 aware?
 19 MR. URICK: Objection.
 20 THE COURT: No, overruled. Was that a
 21 normal information you would have received?
 22 THE WITNESS: Yes.
 23 Q Okay. And whatever information Baltimore
 24 County had, did you believe was turned over to you?
 25 A The information from Baltimore County

1 concerning the missing persons report --
 2 Q Yes.
 3 A -- was turned over to me.
 4 Q And you believed that, didn't you?
 5 MR. URICK: Objection.
 6 THE COURT: Overruled.
 7 A There wasn't any reason for me not to.
 8 Q And I mean, you believed that they would
 9 turn over all of their information to you, did you
 10 not?
 11 A Correct.
 12 Q About anyone that they had interviewed?
 13 A Concerning this matter?
 14 Q Hae Min Lee.
 15 A Correct.
 16 Q And anyone -- any other information that
 17 they had gotten about her whereabouts?
 18 A Correct.
 19 Q Or the last persons that had seen her?
 20 A Correct.
 21 Q Now, after you became primary detective,
 22 and Detective O'Shea remained available to you, did
 23 he not?
 24 A He did.
 25 Q You would call him and you did, did you

1 not?
 2 A I did.
 3 Q Even after it was a Baltimore City matter
 4 exclusively?
 5 A Yes.
 6 Q It became a Baltimore City matter because
 7 the body was found inside the city limits, correct?
 8 A That is correct.
 9 Q But the autopsy didn't help you answer the
 10 question of where the murder had occurred?
 11 A No, it did not.
 12 Q Even after Dr. Korell told you that she had
 13 been strangled and ruled it a homicide; is that
 14 correct?
 15 MR. URICK: Objection.
 16 THE COURT: Overruled.
 17 A Correct.
 18 Q The autopsy couldn't give you even the hint
 19 of where it was that the strangulation had taken
 20 place?
 21 A Correct.
 22 Q Or whether or not the strangulation had
 23 actually taken place in the Baltimore City limits?
 24 A Correct.
 25 Q Correct? And once you received that

1 information, you then continued it as a Baltimore
 2 City homicide investigation, correct?
 3 A That is correct.
 4 Q Okay. Now, once that investigation began
 5 and you remained the primary detective, all
 6 information about it collected from any source, no
 7 matter by whom, should have gone to you?
 8 A That is correct.
 9 Q And in your office there is a procedure for
 10 information that might be gotten by other detectives
 11 either because they just happened to be there and get
 12 information or because you had directed them to get
 13 some would always return to you the primary, would it
 14 not?
 15 A Happened to be where?
 16 Q Well, for instance, if a detective was in
 17 the Homicide Unit and answered the phone and over the
 18 phone came some information relayed by someone about
 19 the death of Hae Min Lee, that information would be
 20 routed to you, would it not?
 21 A It would.
 22 Q Even though you weren't the one answering
 23 the phone?
 24 A It would.
 25 Q And it's because you're the primary, right?

1 A Correct.
 2 Q And the way the system works is no matter
 3 who answers the phone if the information is about a
 4 case on which you're the primary you get it?
 5 A Correct.
 6 Q Isn't that correct?
 7 A Correct.
 8 Q And you received other information -- you
 9 received information that related to this
 10 investigation from other detectives, did you not?
 11 A I did.
 12 Q Including detectives who just happened to
 13 be answering the phone when someone would call with
 14 information?
 15 A Correct.
 16 Q Okay. And there was nothing unusual about
 17 that, was there?
 18 A No.
 19 Q That procedure wasn't set up just for you,
 20 was it?
 21 A No.
 22 Q Or just for this case, was it?
 23 A No.
 24 Q That was the protocol of the office, was it
 25 not?

1 A It is.
 2 Q And you counted on that protocol working
 3 because it was important that any information that
 4 came in about anything connected to the disappearance
 5 of or death of Hae Min Lee, it was important that it
 6 get routed to you, the primary; is that correct?
 7 A That is correct.
 8 Q So that you could take in all information
 9 in evaluating and conducting your investigation,
 10 isn't that correct?
 11 A Correct.
 12 Q Now -- and when that information would get
 13 to you, generally it would be reduced in writing,
 14 would it not?
 15 A Sometimes. We would like it to be reduced
 16 to writing.
 17 Q And you like it to be reduced so that there
 18 is a record of it, right?
 19 A If the detective who gets the information
 20 doesn't put it in a report, then I take the
 21 responsibility and I write it in a report.
 22 Q You write up a report indicating what
 23 information you received, correct?
 24 A Correct.
 25 Q So that there is a formal written record of

1 all of the information that comes in; is that right?
 2 A Correct.
 3 Q So that the information is set down
 4 accurately?
 5 A As accurate as possible.
 6 Q And that there isn't an opportunity to
 7 forget something in the midst of all of the other
 8 information that you receive?
 9 A Correct.
 10 MS. GUTIERREZ: May I approach the witness,
 11 Your Honor?
 12 THE COURT: Yes, you may.
 13 Q Detective MacGillivray, I'm going to show
 14 you what's been marked as defendant's exhibit three,
 15 could you take a look at that?
 16 A Yes.
 17 Q That is a memo to you that's dated on the
 18 12th of February, 1999, is it not?
 19 A It is.
 20 Q And that memo concerns the -- it's titled
 21 the Hae Min Lee investigation?
 22 A It is.
 23 Q Followed by a number?
 24 A Yes, that's the --
 25 Q And that is the number of your office's

1 designation of the Hae Min Lee homicide
 2 investigation?
 3 A Yes.
 4 Q And that memo is directed to you from
 5 Detective Darryl Massey?
 6 A It is.
 7 Q And Detective Darryl Massey is another
 8 Homicide detective or he was back then?
 9 A He was back then.
 10 Q He was back in February of 1999?
 11 A He was.
 12 Q And you know who he is, do you not?
 13 A I do.
 14 Q And that's a memo that you had previously
 15 received, is it not?
 16 A It is.
 17 Q And it is a memo concerning information
 18 received by call to the Homicide Department, is it
 19 not?
 20 A Yes.
 21 Q And that, in fact, it's more than one call,
 22 is it not?
 23 A Correct.
 24 Q It details two calls within, in close time
 25 proximity to each other?

1 A Correct.
 2 Q Right? I think it's about seven minutes or
 3 six minutes apart.
 4 A Correct.
 5 Q And both of those calls, according to
 6 Detective Massey --
 7 MR. URICK: Objection.
 8 Q -- who took them and made the notes were
 9 received by callers who were not identified, were
 10 they not?
 11 THE COURT: Sustained. May I have the
 12 exhibit for one moment? Ms. Gutierrez, are you
 13 seeking to get --
 14 MS. GUTIERREZ: Yes.
 15 THE COURT: -- the sum and substance of
 16 defendant's exhibit number three into evidence?
 17 MS. GUTIERREZ: Ultimately, Judge, but not
 18 right now and not all through this witness, some.
 19 Right now I'm seeking to get in the initial
 20 identifying information, not what the information
 21 was, but who it is that is identified as making the
 22 calls.
 23 THE COURT: Are you objecting to this?
 24 MR. URICK: Not to that but as to any of
 25 the content of the item.

1 MS. GUTIERREZ: I have summonsed Detective
2 Massey. I expect him on Tuesday to get the rest of
3 it, but right now I just want to get that initial --

4 THE COURT: The foundation questions with
5 regard to the exhibit itself?

6 MS. GUTIERREZ: Yes.

7 THE COURT: Very well. With regard to any
8 additional questions you want to ask with regard to
9 those foundation, you may ask those questions at this
10 time. The Court is not, and you have not asked for
11 the document to be admitted into evidence, nor has
12 the State indicated their position on that, so with
13 regard to any other foundation questions you are free
14 to ask.

15 Q Detective MacGillivray, a copy of this
16 exhibit is in your homicide file, is it not?

17 A It is.

18 Q As would a copy of any memo containing
19 information be, correct?

20 A If the memo has anything to do with this
21 case.

22 Q And this memo did have something to do with
23 this case, did it not, or at least potentially?

24 A It did.

25 Q And Detective Massey indicated to you in

1 his memo to you on this case that he received two
2 calls?

3 MR. URICK: Objection.

4 Q Both of which --

5 THE COURT: Now that I'm going to sustain.
6 The content of the exhibit is not yet in evidence and
7 in light of the fact that some of it could arguably
8 be hearsay, at this juncture, counsel, no questions
9 related to the content, nor the content itself is in
10 evidence and so I'm going to ask that it be
11 sustained.

12 Q Did Detective Massey indicate that he had
13 received information --

14 MR. URICK: Objection.

15 Q -- relating to this case, not what it was?

16 MR. URICK: Objection.

17 THE COURT: Overruled.

18 A He gave me this.

19 Q Okay. But did he indicate that he had
20 received information that related to your case?

21 MR. URICK: Objection.

22 THE COURT: Sustained.

23 Q Does the Homicide Unit, Detective
24 MacGillivray, are you ever assigned to the duty of
25 answering the phones in the Homicide Unit?

1 A That's part of the task of being a
2 detective.

3 Q All of the detectives do, do they not?

4 A When the phone rings, we answer it.

5 Q Okay. And whatever information if there's
6 information to be relayed, is received by whoever
7 answers the phone?

8 A Generally when you speak to someone and
9 they give you information, you give the information
10 to the detective.

11 Q The detective involved in the case?

12 A Correct.

13 Q Whatever the source of the information is?

14 A Correct.

15 Q Whether or not the identity of the person
16 on the other end of the phone can be ascertained or
17 not?

18 MR. URICK: Objection.

19 THE COURT: Overruled.

20 A Actually, we go through a process. If a
21 call comes in the homicide and an individual has
22 information concerning a homicide, actually, we have
23 300 plus murders and each of the detectives may not
24 know specifically about the case that the caller is
25 talking about, so you take the information down as

1 best as possible and ask the caller for their
2 identity. A great number of times the individual
3 does not want to tell the detective who they are.

4 Q You mean the individual on the phone?

5 A Correct.

6 Q Okay, go ahead.

7 A And after the phone call is disconnected,
8 we hit star 57 which marks for the phone company a
9 specific time and which line the call comes in and at
10 that point we can actually find out who made the call
11 sometimes.

12 Q You can at least find out what number the
13 call came from sometimes?

14 A Sometimes.

15 Q Because there is an effort to find out,
16 even when people make an attempt to anonymously
17 forward information?

18 A Correct.

19 Q Because lots of times the identity and the
20 source of the information is as important as the
21 information itself?

22 A Correct.

23 Q Is that right? And on the memo that you
24 received from Detective Massey, did it indicate
25 whether or not the number the call was made on could

1 be ascertained?
 2 MR. URICK: Objection.
 3 THE COURT: I think we're getting into the
 4 content of the memo at this point.
 5 MS. GUTIERREZ: I'll withdraw the question.
 6 THE COURT: So -- all right, very well.
 7 Q Detective MacGillivray, let's -- let me
 8 direct your attention to February 26th. That's the
 9 date that you remember that you were asked about just
 10 on direct February 26th, 1999?
 11 A Yes, I remember the date.
 12 Q Now, at the time that you were at Woodlawn,
 13 and that's in Baltimore County, right?
 14 A It is.
 15 Q And the time that you were on McAdoo, is
 16 that an avenue or a street?
 17 A Correct.
 18 Q You had information regarding the
 19 subscriber of a number where the phone was listed at
 20 being at a certain address is that correct?
 21 A Correct.
 22 Q And the address where the phone was located
 23 was 1208 McAdoo, was it not?
 24 A It is.
 25 Q And the subscriber had the last name of

1 Pusateri, did it not?
 2 A It did.
 3 Q But the subscriber wasn't named Jennifer
 4 Pusateri, was it?
 5 A It was not.
 6 Q It was someone that turned out to be her
 7 parents?
 8 A Her father.
 9 Q Her father. And you didn't know that then,
 10 right?
 11 A No, I did not.
 12 Q But at the time that you were going to [REDACTED]
 13 McAdoo, you were first looking to talk to the
 14 subscriber, right?
 15 A Correct.
 16 Q And then to find out who had made a call
 17 that the phone records that you had revealed had been
 18 made to that phone?
 19 A I was trying to find out who had called
 20 into [REDACTED] McAdoo.
 21 Q Right. And you also wanted to know who
 22 answered, didn't you?
 23 A Yes, I did.
 24 Q Because according to the records that you
 25 had, the receiver was at, meaning the receiver of the

1 call, was at 1208 McAdoo?
 2 A Correct.
 3 Q At the time that the call was made, right?
 4 A Correct.
 5 Q But the only name that you had received was
 6 the name of the Mr. Pusateri. I don't remember his
 7 first name but --
 8 A It was Jennifer's father.
 9 Q Okay. But you had never received the name
 10 of Jennifer?
 11 A No.
 12 Q And on the 26th of February, you hadn't
 13 received the name of Jay Wilds, had you?
 14 A No.
 15 Q Jay Wilds, you had already received a lot
 16 of information about Hae Min Lee's friends, had you
 17 not?
 18 A I had.
 19 Q Including a long list of names of students
 20 at Woodlawn?
 21 A Correct.
 22 Q And others?
 23 A Correct.
 24 Q Girls and boys?
 25 A Yes.

1 Q But among none of the names did Jay Wilds'
 2 name appear?
 3 A Not that I'm aware of.
 4 Q Not anyone related to or in the circle of
 5 friends or acquaintances of Hae Min Lee?
 6 A I had learned one of the individuals at
 7 Woodlawn High School.
 8 Q A student?
 9 A A student.
 10 Q Okay?
 11 A Had been dating Jay Wilds.
 12 Q A person by the name of Jay Wilds?
 13 A Correct.
 14 Q And that person was Stehanie [REDACTED]?
 15 A Correct.
 16 Q And Stephanie [REDACTED] was not in the
 17 inner circle of students at Woodlawn related to Hae
 18 Min Lee, was she?
 19 A She was one of the friends.
 20 Q That's the information that you had?
 21 A I believe.
 22 Q Did you have information that put her as
 23 one of the inner circle?
 24 A I didn't really get into inner circle,
 25 outer circles. They were just friends.

1 Q But among none of the names did Jay Wilds'
2 name appear?

3 A Not that I'm aware of.

4 Q Not anyone related to or in the circle of
5 friends or acquaintances of Hae Min Lee?

6 A I had learned one of the individuals at
7 Woodlawn High School.

8 Q A student?

9 A A student.

10 Q Okay?

11 A Had been dating Jay Wilds.

12 Q A person by the name of Jay Wilds?

13 A Correct.

14 Q And that person was Stehanie [REDACTED]?

15 A Correct.

16 Q And Stephanie [REDACTED] was not in the
17 inner circle of students at Woodlawn related to Hae
18 Min Lee, was she?

19 A She was one of the friends.

20 Q That's the information that you had?

21 A I believe.

22 Q Did you have information that put her as
23 one of the inner circle?

24 A I didn't really get into inner circle,
25 outer circles. They were just friends.

1 Q But you had not spoken to Jay Wilds?
2 A I had not.
3 Q And you hadn't focused on Jay Wilds?
4 A Excuse me?
5 Q Before the 26th when you arrived at 1208
6 McAdoo, you hadn't focused on Jay Wilds?
7 A No.
8 Q And you hadn't caused anybody else to
9 interview him, right?
10 A No.
11 Q So when you went up to the house, you
12 weren't asking for a Jennifer Pusateri, were you?
13 A No.
14 Q And you had not received any information
15 that linked this Jay Wilds, who was the boyfriend of
16 the student that you had identified for you, with a
17 Jennifer Pusateri, had you?
18 A Could you repeat that again?
19 Q At the time you had not received
20 information that linked Jay Wilds with somebody by
21 the name of Pusateri?
22 A No.
23 Q And at the time that you approached, and
24 this was a Friday night, was it not?
25 A I believe it was.

Note: In the 4-to-a-sheet system this would be page 252. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

1 Q Do you remember what time it was?

2 A Eight-thirty.

3 Q Eight-thirty at night. And this was in
4 February, right?

5 A The 26th.

6 Q By eight-thirty it would have been dark
7 already?

8 A Yes.

9 Q Okay, just like sort of now, okay? And was
10 that your first stop in Woodlawn?

11 A No.

12 Q And that wasn't your first stop related to
13 this case, was it?

14 A No.

15 Q You made other stops in Baltimore County
16 that evening, did you not?

17 A Yes.

18 Q Both before you went to 1208 McAdoo?

19 A Yes.

20 Q And after?

21 A After?

22 Q After you went to McAdoo [REDACTED]?

23 A After I went to McAdoo, I responded to
24 Homicide.

25 Q To Homicide, okay. So all other stops that

Note: In the 4-to-a-sheet system this would be page 253. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

1 you made in relationship to this case in or around
2 the neighborhood of Woodlawn occurred before you
3 arrived at [REDACTED] McAdoo?

4 A I don't understand what you mean all stops.

5 Q Well, before you arrived there, you had
6 done other things in the Woodlawn area related to the
7 Hae Min Lee investigation, had you not?

8 A I had.

9 Q All right. And then you went to [REDACTED]
10 McAdoo, right?

11 A I had.

12 Q Where you had a short conversation with
13 this woman that identified herself to you?

14 A Correct.

15 Q Not a person you even knew existed before
16 then, right?

17 A Correct.

18 Q And after you finished that conversation in
19 which you invited her downtown, you then went
20 downtown, right?

21 A That is correct.

22 Q And shortly thereafter she then came
23 downtown, right?

24 A Correct.

25 Q She accepted your invitation?

Note: In the 4-to-a-sheet system this would be page 254. See
<https://undisclosed.wikispaces.com/Trial+Transcripts+-+Missing+Pages>

This blank page is a substitute for a missing page or pages from the transcript.

The missing page would be 255 in the 4-to-a-sheet system or 256 in the single page version..

For more information please see [this wiki page](#)

1 Q And his father was home, was he not?
2 A He was.
3 Q And his mother was home?
4 A I believe she was.
5 Q I think his older brother was home?
6 A I don't recall seeing the older brother.
7 Q And his baby brother?
8 A I believe so.
9 Q Okay. Had you met Adnan Syed before then?
10 A I had not.
11 Q Had you met his father before then?
12 A I had not.
13 Q His father is a sixtish young man?
14 A No, sixtish.
15 Q Sixtish, yes. And he has a long beard?
16 A Yes.
17 Q And his mother dresses as she appears
18 today?
19 A Correct.
20 Q In traditional Muslim dress?
21 A Correct.
22 Q It was your choice to go there, correct?
23 A Yes.
24 Q And it had not been prearranged?
25 A Had not.

1 A He did.
2 Q So he agreed to do so, did he not?
3 A With his father.
4 Q He didn't quote -- and his father was
5 present, right?
6 A Yes.
7 Q And you knew that he was seventeen, did you
8 not?
9 A Yes, I did.
10 Q And you got his father's permission for
11 that interview, did you not?
12 A We both just came in, identified ourselves
13 as Homicide detectives, and we were investigating the
14 homicide of Hae Min Lee and he was -- Adnan was a
15 student at Woodlawn High School and we had learned
16 that he was her former boyfriend and we --
17 Q Former boyfriend meaning ex-boyfriend?
18 A Correct.
19 Q And they agreed to speak to you, did they
20 not?
21 A And we wanted to talk to him.
22 Q And that's what you wanted, was it not?
23 A Correct.
24 Q When you went to that location you wanted
25 to speak to him, right?

1 Q You had not invited Mr. Syed or given him
2 an invitation down to see you?
3 A No.
4 Q Not at the Homicide Unit?
5 A No.
6 Q You saw him in connection with the
7 investigation into the death of Hae Min Lee, did you
8 not?
9 A Yes.
10 Q And Detective Ritz was with you?
11 A He was.
12 Q And he was -- at that point he was the
13 secondary, right?
14 A He was second.
15 Q And you and Detective Ritz asked for
16 permission to speak to Adnan about the events
17 surrounding Hae Min Lee's death?
18 A No.
19 Q Did you speak to him?
20 A Yes.
21 Q And did you ask to speak to him?
22 A Yes.
23 Q And he agreed to speak to you, did he not?
24 A He was standing in the foyer.
25 Q Well, he did speak to you, didn't he?

1 A That is correct.
2 Q And the father was present when you spoke
3 to him, was he not?
4 A He was.
5 Q You asked him questions about what was his
6 relationship to Hae Min Lee, did you not?
7 A Yes.
8 Q And he answered those questions, did he
9 not?
10 A He did.
11 Q That he had know her for several years?
12 A Yes.
13 Q That he called her a friend?
14 A I believe that I generated a report.
15 Q What?
16 A I generated a report.
17 Q Do you need that to refresh your
18 recollection?
19 A Sure.
20 MS. GUTIERREZ: May I approach the witness,
21 Your Honor?
22 THE COURT: Yes, you may.
23 MS. GUTIERREZ: May I have this marked?
24 Q Would you review what has been marked as
25 defendant's exhibit four to refresh your recollection

1 and let me know if you've had an opportunity to
2 finish reviewing it?
3 A (Witness complied with request.) Yes.
4 Q Now, Detective MacGillivray, having
5 refreshed your recollection, you wrote a report about
6 this interview, did you not?
7 A I did.
8 Q And the report that you wrote is dated
9 September 14th, 1999, is it not?
10 A It was.
11 Q The interview, however, was conducted on
12 February 26th?
13 A Correct.
14 Q Was it not?
15 A Excuse me?
16 Q February 26th?
17 A Yes.
18 Q 1999?
19 A Yes.
20 Q And it indicates that it happened at about
21 1900 hours, does it not?
22 A It did.
23 Q And then in lay people's terms that would
24 be seven o'clock?
25 A Seven o'clock.

1 Q Okay. And he indicated he had known her
2 for several years, did he not?
3 A He did.
4 Q And you asked him if he had a relationship
5 with Hae Min Lee, did you not?
6 A I did.
7 Q And you wrote in your report that he
8 replied in a very soft voice, yes, did you not?
9 A Yes, and while doing so --
10 Q No, sir, so --
11 THE COURT: No, one moment. Ms. Gutierrez,
12 the witness will be permitted to finish his answer.
13 MS. GUTIERREZ: Judge, the question only
14 required a yes or no answer.
15 THE COURT: Well, unfortunately sometimes
16 witnesses want to say more and they believe it's part
17 of their answer and it needs more than a yes or no
18 and the witness said?
19 THE WITNESS: Well, he said yes in a soft
20 voice. He motioned with his eyes in the direction of
21 his father, indicating to me that he didn't want his
22 father to hear.
23 Q What he said?
24 A What he said.
25 Q About acknowledging the relationship with

1 Q Seven o'clock. Seven o'clock at night?
2 A Right.
3 Q Is that right? And it indicates that when
4 you went to the house that you did ask him a lot
5 about his relationship with Hae Min Lee, did you not?
6 A I can tell you what I asked him. I've got
7 the memo right here.
8 Q Well, no, sir, if you will just answer my
9 questions. You asked him about --
10 A I wouldn't say a lot.
11 Q Well, you asked him if he knew her?
12 A Correct.
13 Q You asked him to describe his current
14 relationship, did you not?
15 A No, I don't believe I did.
16 Q Well, he answered one question that you put
17 and he described her as a friend, did he not?
18 A I asked --
19 Q No, sir, please answer --
20 MR. URICK: Objection.
21 Q -- my question.
22 THE COURT: Sustained.
23 Q Detective MacGillivray, you also asked him
24 how long he had known her, did you not?
25 A Yes.

1 Hae Min Lee?
2 A Correct.
3 Q And you put in your report the softness of
4 his voice, did you not?
5 A I did.
6 Q And you also put in your report you clearly
7 understood that he didn't want his father to know?
8 A That he was uncomfortable talking about Hae
9 Min Lee in front of his father.
10 Q In the presence of his father?
11 A Correct.
12 Q Is that correct? But he answered your
13 question, did he not?
14 A Yes.
15 Q And you asked him further questions
16 connected to Hae Min Lee's car, right?
17 A I asked him if he had ever been a passenger
18 in the car.
19 Q And he told you he had, hadn't he?
20 A Correct.
21 Q Many times, hadn't he?
22 A I asked whether he had the occasion to be
23 in the car. However, he indicated not on that date.
24 Q But he did say he had had occasion to be in
25 her car, did he not?

1 A Yes.
 2 Q And when you specifically asked him about
 3 the 13th of January, which was of concern to you, he
 4 said he hadn't been in her car that date, correct?
 5 A I didn't specifically ask about that day.
 6 Q Well, sir, your memo reflects that he said
 7 however in regard to whether or not he had been in
 8 the car, however not on the date in question,
 9 correct?
 10 A He told me however not on that date.
 11 Q Now, the date that was in question to you
 12 was January 13th, was it not?
 13 A I believe.
 14 Q At the end of asking -- and he answered all
 15 of your questions, did he not?
 16 A We wanted to ask a lot more questions.
 17 However, by the motioning of his eyes, he did not
 18 want to talk in front of his father. Clearly, I
 19 understood that. So as a result, myself -- I asked
 20 his father if we could speak with him at a later date
 21 at school.
 22 Q Meaning Adnan?
 23 A Adnan.
 24 Q Not the father?
 25 A Correct.

1 Q So because of what you believed you were
 2 making arrangements to be able to speak to Adnan
 3 outside of the presence of his father?
 4 A I was requesting -- the body language Adnan
 5 was giving to me at that moment I felt that he did
 6 not want to talk about the relationship with Hae Min
 7 Lee in front of his father. As a result, I asked the
 8 father if he had any problems with myself and
 9 Detective Ritz speaking with Adnan at school.
 10 Q So the answer to my question, sir, is yes
 11 --
 12 MR. URICK: Objection.
 13 Q -- you were making arrangements to speak to
 14 Adnan outside the presence of his father?
 15 THE COURT: Sustained.
 16 Q And, sir, Adnan's father indicated that
 17 that would be okay, did he not?
 18 A He did not.
 19 Q He told you you couldn't speak with his
 20 son?
 21 A He told us if we wanted to speak with his
 22 son he wanted to be present.
 23 Q He made it clear that you were perfectly
 24 entitled to speak to his son again, did you not?
 25 A With he being present, the father.

1 Q There was nothing unlawful about a father
 2 exercising his right to be present when you're
 3 questioning a seventeen year old son?
 4 MR. URICK: Objection.
 5 Q Was there?
 6 THE COURT: Sustained.
 7 Q Now, in fact, your memo reflects you asked
 8 him if it would be possible to speak with Syed at
 9 school on a later date and his father indicated that
 10 it would be possible as long as the father was
 11 present?
 12 A Correct.
 13 Q So you didn't ask the father directly or
 14 tell him what you thought that Adnan was
 15 uncomfortable speaking about these things in front of
 16 his father, did you?
 17 A In a round about way we had indicated or
 18 suggested that Adnan may be comfortable talking to
 19 us.
 20 Q The round aboutness of your way --
 21 A Alone.
 22 Q -- did that include telling the father that
 23 you wanted to speak to his son outside of his
 24 presence?
 25 A We wanted to talk to Adnan, but it was

1 clear that he was uncomfortable talking in front of
 2 him, his father so --
 3 Q My question --
 4 A -- we wanted to speak with Adnan at school.
 5 Q Did you -- when you tell him that you want
 6 to speak to him at school that's twice, is it not?
 7 A It is.
 8 Q And it's not a place that his father is
 9 banned from, is it?
 10 A Not that I'm aware of.
 11 Q Did you ever tell the father that you
 12 didn't want him present when you spoke to the son?
 13 A No.
 14 Q No. And your memo reflects that, doesn't
 15 it?
 16 A Correct.
 17 Q Your request was that you speak to him at a
 18 different location than where you were speaking to
 19 him then, right?
 20 A No, my request was actually at school.
 21 Q A different location than you were then
 22 speaking to him, right?
 23 A There's a great number of locations. I'm
 24 saying school.
 25 Q That is what you requested of the father?

1 A Correct.
 2 Q And the father said that's okay, didn't he?
 3 A In his presence.
 4 Q But he said that it was okay speak to his
 5 son at school, did he not?
 6 A In his presence.
 7 Q He said it was okay that you speak to his
 8 son at a later time?
 9 MR. URICK: Objection.
 10 Q Did he not?
 11 THE COURT: Sustained.
 12 MS. GUTIERREZ: I would move defendant's
 13 exhibit four into evidence.
 14 THE COURT: The statement?
 15 MR. URICK: Objection.
 16 THE COURT: The statement?
 17 MR. URICK: Objection.
 18 THE COURT: May I see it? The State
 19 objects to this?
 20 MR. URICK: Yes, the State objects.
 21 THE COURT: Overruled. I'm going to allow
 22 it in.
 23 MS. GUTIERREZ: Thank you, Judge. Can I
 24 have that published to the jury?
 25 THE COURT: Certainly.

1 (Received into evidence
 2 Defendant's exhibit 4.)
 3 Q Now, Detective MacGillivray, back on the
 4 26th of February when you were asking Adnan a
 5 question about what kind of relationship he had with
 6 Hae Min Lee, it was clear from your question that you
 7 were asking for more information than his description
 8 of friends, was it not?
 9 A I asked a question and he answered it.
 10 Q And he did answer, did he not?
 11 A Yes.
 12 Q Although, as you say, you noticed that it
 13 appeared he was pretty uncomfortable on that subject
 14 in the presence of his father?
 15 A It appeared that was the case.
 16 Q And that was the conclusion you arrived at
 17 based on your own observations, right?
 18 A The observation of myself looking at Adnan
 19 and him motioning with his eyes at his father, it was
 20 clear that he didn't want to talk in front of him.
 21 Q And you asked to meet him at school hoping
 22 that that would mean you could interview him when his
 23 father wasn't there, right?
 24 A I asked to interview him at school knowing
 25 that would be a location that I could actually go to

1 where I knew he would be there and I could talk to
 2 him.
 3 Q And that his father wouldn't be there,
 4 right?
 5 A It didn't matter to me whether his father
 6 was there or not.
 7 Q Even though it was apparent to you that
 8 what made him uncomfortable was the presence of his
 9 father?
 10 A It made him uncomfortable.
 11 Q Yes.
 12 A It didn't make me uncomfortable.
 13 Q Yes, his being at a comfort level however
 14 mattered to you, did it not?
 15 A I certainly didn't want him to be upset.
 16 Q Because the more comfortable he was perhaps
 17 the easier it would be to get him to answer
 18 questions?
 19 A If he wanted to answer the questions, he
 20 could have.
 21 Q Well, you wanted him to answer your
 22 questions, didn't you?
 23 A Yes.
 24 Q And he did answer your questions, didn't
 25 he?

1 A Yes.
 2 Q He didn't stop the interview, did he?
 3 A There were very few questions.
 4 Q He didn't stop it though, did he?
 5 A It was very apparent to me that he did not
 6 want to talk in front of his father.
 7 Q Sir, did he ever refuse to answer your
 8 question?
 9 A He indicated he didn't remember what
 10 happened on the 13th.
 11 Q And did he ever refuse to answer your
 12 questions?
 13 A The questions that I asked he answered.
 14 Q Okay. So the answer to my question, sir,
 15 is no he didn't refuse to answer questions, isn't
 16 it?
 17 MR. URICK: Objection.
 18 THE COURT: Sustained.
 19 Q Detective MacGillivray, after you noticed
 20 that he was uncomfortable answering your question
 21 about Hae Min Lee in front of his father, that's when
 22 you then asked if you could interview him at a later
 23 time in school, correct?
 24 A Correct.
 25 Q You were the one that ended the interview,

1 were you not?
 2 A I was.
 3 Q His father didn't end the interview, did
 4 he?
 5 A No.
 6 Q And Adnan didn't exercise and do anything
 7 to end the interview, did he?
 8 A No.
 9 Q And you helped to set up another time that
 10 he might -- you might get more information from him?
 11 A I asked Adnan's father if I could talk to
 12 him at school, feeling that Adnan didn't want to talk
 13 in front of his father. However, his father told me
 14 that he didn't want us talking to his son unless he
 15 was present.
 16 Q But the request that you made to his father
 17 was not, Mr. Rahman, I want to talk to your son while
 18 you're not there, was it?
 19 MR. URICK: Objection.
 20 THE COURT: Sustained, and please move on.
 21 Q You never --
 22 THE COURT: I mean, we've been over this
 23 fifteen different ways, counsel.
 24 Q When you got that answer and you saw
 25 Adnan's eye movement that indicated to you that he

1 was uncomfortable talking about that in front of his
 2 father, that was consistent with all of the
 3 information that you had received before, was it not?
 4 A Consistent with what information?
 5 Q Well, you had received information, you
 6 already knew that Adnan and Hae Min Lee had been
 7 boyfriend and girlfriend, had you not?
 8 A Yes.
 9 Q And you were already made aware from many
 10 other sources that they had broken up primarily
 11 because of the difficulties raised by Adnan being a
 12 Muslim?
 13 MR. URICK: Objection.
 14 THE COURT: Did you know that at the time
 15 of the interview when you asked whether he would see
 16 you at school, did you know that?
 17 THE WITNESS: Yes, Detective O'Shea had
 18 indicated that.
 19 THE COURT: Very well. Next question.
 20 Q And that it was his religion that forbade
 21 him to date, isn't that correct?
 22 A Correct.
 23 Q And that his parents were upset about the
 24 fact that he was dating Hae, isn't that correct?
 25 A I believe that's correct.

1 Q And that the essential and really only
 2 issue that broke up the relationship was that
 3 conflict around his religion's forbidding that; isn't
 4 that true?
 5 A That is not correct.
 6 Q You had received information that his
 7 parents were uptight about it?
 8 A Yes.
 9 Q But that in spite of that Adnan had
 10 continued to date Hae Min Lee since April of 1998?
 11 A Yes, the spring of '98 is when they
 12 actually started going out, I believe.
 13 Q And that his Muslim religion is something
 14 that preceded that time?
 15 A Yes.
 16 Q That wasn't a new phenomenon or a new
 17 issue?
 18 A Not that I'm aware of.
 19 Q And that the tenet that forbade him from
 20 dating had always existed?
 21 A I can't answer that.
 22 Q Well, you had not received information that
 23 that was some new issue that had come up or been made
 24 a rule after he started dating Hae?
 25 MR. URICK: Objection.

1 Q Had you?
 2 THE COURT: Sustained.
 3 Q Well, Detective MacGillivray, the
 4 information that you had received is that his parents
 5 had always been opposed to this relationship, did you
 6 not?
 7 A I received information that he was not
 8 supposed to be dating anyone at his age.
 9 Q You received -- period, any girl, right?
 10 A Yes.
 11 Q Not just Hae but any girl, right?
 12 A Correct.
 13 Q You had received information about an
 14 incident that you were told happened at the
 15 homecoming dance in late October of 1998?
 16 MR. URICK: Objection.
 17 THE COURT: Sustained.
 18 Q Had you not?
 19 THE COURT: Sustained.
 20 Q In any event, when you got there you saw
 21 Adnan you believe communicating to you his
 22 uncomfortableness about talking about Hae in front of
 23 his father. It didn't surprise you?
 24 MR. URICK: Objection.
 25 Q Did it?

1 THE COURT: Sustained.
2 Q Now, after his father said you could
3 interview his son at school as you requested as long
4 as he was present, did you do so?
5 MR. URICK: Objection.
6 THE COURT: Overruled. Did you interview
7 him with his father present?
8 A No, I did not. I didn't have an
9 opportunity.
10 Q And when you left, there came a time when
11 you left that address that night, right?
12 A Correct.
13 Q From there you went to McAdoo?
14 A Sometime after I left Johnnycake, I ended
15 up at 1208 McAdoo.
16 Q Before you left they had not asked you to
17 leave, had they?
18 A No.
19 Q Not Adnan?
20 A No.
21 Q And not his father?
22 A No.
23 Q And before you left you had, of course,
24 made arrangements to see him at a later date?
25 A No.

1 Q No. You hadn't set up any time for any
2 other interviews?
3 A No.
4 Q Now -- and he wasn't arrested that night,
5 right?
6 A No.
7 Q And you didn't read to him any advice of
8 rights?
9 A No.
10 Q You didn't have him sign that advice of
11 rights?
12 A No.
13 Q And when you left there where did you go?
14 A [REDACTED] McAdoo.
15 Q And that was the Pusateri residence,
16 right?
17 A The Pusateri residence.
18 Q And because you didn't know who had made or
19 received calls about which you knew from cell phone
20 records that you had, you went up with the intent of
21 knocking on the door and gaining as much information
22 as you could, correct, as much information as you
23 could, correct?
24 A I pulled up in the car, got out of the car
25 and I was approaching the house when --

1 Q 1208?
2 A 1208 McAdoo, had not even gotten to the
3 driveway yet when a young lady in the car rolled down
4 the window and asked me, can I help you.
5 Q And where the car was was right in front of
6 the house 1208?
7 A Yes.
8 Q And you had not identified yourself yet?
9 A At the point the young lady rolled down her
10 window, I identified myself as a Baltimore City
11 Homicide detective.
12 Q In response to her asking you a question?
13 A Can I help you.
14 Q You hadn't approached her?
15 A No, I was actually walking to [REDACTED] McAdoo.
16 Q And at that point you didn't know that she
17 had any connection to that address?
18 A Correct.
19 Q And you weren't looking for her?
20 A No.
21 Q And you didn't know the name Jennifer?
22 A No.
23 Q And you didn't know that there was such a
24 person with the name of Jennifer Pusateri, did you?
25 A Correct.

1 Q All you knew was that the number that
2 appeared on the records that you had was listed as
3 existing inside that piece of real estate?
4 A That is correct.
5 Q And the subscriber name that you had was a
6 man's name?
7 A Correct.
8 Q And your intent on approaching that door
9 was really to find out as much information as you
10 could?
11 A Correct.
12 Q Relating to that phone?
13 A Related to the individual in that house
14 that may have had some connection to Woodlawn High
15 School, Adnan Syed, or Hae Min Lee.
16 Q And when this young lady rolled down her
17 window, I imagine you were pretty surprised, weren't
18 you?
19 A No.
20 Q And you then immediately identified
21 yourself?
22 A Yes.
23 Q As a Baltimore City Homicide detective?
24 A Yes.
25 Q And did you tell the young lady that you

1 were there to investigate the murder of Hae Min Lee?
 2 A Yes.
 3 Q And did you ask her what the phone number
 4 was inside?
 5 A No, I asked her if anybody within the home
 6 had gone to Woodlawn High School.
 7 Q And she told you she had?
 8 MR. URICK: Objection.
 9 Q Is that right?
 10 THE COURT: Overruled.
 11 A She went to Woodlawn.
 12 Q And at that point you didn't know the name
 13 of Jay Wilds, right?
 14 A No.
 15 Q So you didn't ask her about Jay Wilds?
 16 A No.
 17 Q You had no idea what her relationship with
 18 Jay Wilds was, right?
 19 A No.
 20 Q And you then asked her about January 13th,
 21 did you not?
 22 A No.
 23 Q You didn't get any further than that, she
 24 was still in the car, right?
 25 A Correct.

1 Q She was still speaking to you with a rolled
 2 down window, right?
 3 A Correct.
 4 Q And there was another young lady also in
 5 the car?
 6 A Yes.
 7 Q Driving?
 8 A Passenger.
 9 Q A passenger?
 10 A Yes.
 11 Q So it was the woman that identified herself
 12 as Jennifer that you spoke to?
 13 A Yes.
 14 Q And the passenger, did you identify?
 15 A No.
 16 Q No. And did you speak to that passenger at
 17 all?
 18 A No.
 19 Q So once you knew that this woman sitting in
 20 the driver's seat of the car with the window rolled
 21 down was Jennifer Pusateri and you then ascertained
 22 that she had gone to Woodlawn, right?
 23 A Correct.
 24 Q You knew that she was the one that you
 25 needed to speak to, right?

1 A I believed at that time.
 2 Q And that's why you extended the invitation
 3 for her to come down to Homicide and speak to you?
 4 A Correct.
 5 Q And you made the invitation for that night;
 6 is that right?
 7 A Yes.
 8 Q And did she accept that invitation?
 9 A She indicated that she needed to go to a
 10 location first to see her boyfriend and --
 11 Q The person that she identified as her
 12 boyfriend?
 13 A Correct.
 14 Q Did she give a name to that?
 15 A No.
 16 Q And did she identify the location where she
 17 was going?
 18 MR. URICK: Objection.
 19 A No.
 20 Q And did the woman sitting in the passenger
 21 seat offer any information?
 22 THE COURT: One moment. Was that an
 23 objection, Mr. Urick?
 24 MR. URICK: That's an objection.
 25 THE COURT: Overruled. You may proceed.

1 A I think I answered. What was the question
 2 again?
 3 Q I'm trying to remember. Did the woman
 4 sitting in the passenger seat, did she get into the
 5 conversation at all?
 6 A No.
 7 Q You, of course, never identified who she
 8 was?
 9 A No.
 10 Q You, of course, didn't write down who
 11 Jennifer Pusateri said her boyfriend was?
 12 A No.
 13 Q Because at the time you really didn't care?
 14 A No.
 15 Q And nothing else except Jennifer seemed to
 16 be important to you based on what you knew at that
 17 time?
 18 A There were a lot things that are important
 19 to me. However, that aspect of the investigation, I
 20 needed to speak with Ms. Pusateri.
 21 Q Okay. And you, of course, have not heard
 22 Ms. Pusateri's name before, had you?
 23 A No.
 24 Q And out of all of -- you had already
 25 interviewed some students at Woodlawn, right?

1 A I believe I had.
 2 Q Okay. And you had not heard her name
 3 brought up by any of Hae Min Lee's friends, had you?
 4 A Not that I'm aware of, no.
 5 Q And when you invited her down and she said
 6 well, first, she had to go see her boyfriend, you
 7 then left? You gave her a card and you left?
 8 A Actually, I don't believe -- I believe I
 9 gave her a card. I may have. I asked her to come
 10 down to 601 East Fayette, park at the building, go up
 11 to the security booth and tell them --
 12 Q They would find you, right?
 13 A Right.
 14 Q In any event, you made it clear that she
 15 knew how to get to you, right?
 16 A Correct.
 17 Q And then you left?
 18 A I left.
 19 Q You didn't follow her, did you?
 20 A No.
 21 Q You didn't distrust what she said about
 22 going to see her boyfriend?
 23 A No.
 24 Q Did you? And she didn't indicate the
 25 specific location where she was going, did she?

1 A Not that I'm aware of.
 2 Q Or what her purpose was?
 3 A Not that I'm aware of.
 4 Q And when you left you expected her to
 5 arrive that night?
 6 A Yes.
 7 Q So when she later arrived you were not
 8 surprised?
 9 A No.
 10 Q And how long -- and that was -- now I've
 11 gotten confused. You appeared at Mr. Syed's house at
 12 about seven o'clock, right?
 13 A Yes.
 14 Q And how long did that conversation take?
 15 A Not very long.
 16 Q Under an hour?
 17 A Under an hour.
 18 Q Under a half hour?
 19 A I don't remember.
 20 Q Closer to an hour or closer --
 21 A I really don't remember. It wasn't that
 22 long.
 23 Q And you had earlier told us that you
 24 thought you arrived at Jen Pusateri's at eight-thirty
 25 or so?

1 A I believe.
 2 Q And based on what you've described that
 3 interchange through the window did not take very
 4 long, did it?
 5 A No.
 6 Q A couple of minutes?
 7 A A couple minutes.
 8 Q And then you left?
 9 A Correct.
 10 Q And when did she arrive down Homicide?
 11 A I began to interview her at 2111 hours.
 12 Q I'm sorry, at what time?
 13 A 2111.
 14 Q Is that 11:21?
 15 A No, 9:21.
 16 Q 9:21?
 17 A Correct.
 18 Q So an hour and twenty -- an hour later?
 19 A Correct.
 20 Q And did she have anybody with her?
 21 A Yes, she did.
 22 Q And that was the same young lady who was in
 23 passenger car -- the passenger side of the car when
 24 you first saw her?
 25 A Yes.

1 Q Not her boyfriend?
 2 A No.
 3 Q And you still don't know any information
 4 about her boyfriend, did you?
 5 A No.
 6 Q And did you ask her where she had been when
 7 you first started to interview her?
 8 A No.
 9 Q And when you started to interview her, it
 10 was up in the Homicide office?
 11 A Yes.
 12 Q And her friend stayed out in the lobby
 13 part?
 14 A Yea, we call it the fish bowl.
 15 Q The fish bowl, because everybody can sort
 16 of see in?
 17 A Yes.
 18 Q It's to keep an eye on people there, right?
 19 A You can see the individuals.
 20 Q Okay. And where you took Jennifer Pusateri
 21 was an interview room?
 22 A No.
 23 Q Over to your office?
 24 A No, I took her into one of the lieutenant's
 25 offices.

1 Q Okay. And that has a door on it?
 2 A Yes, it does.
 3 Q Where you took her made your conversations
 4 not audible to the young lady who was in the fish
 5 bowl?
 6 A Generally, we try to --
 7 Q I mean, that was on purpose, wasn't it, to
 8 have a private conversation?
 9 A A private conversation.
 10 Q With Jennifer?
 11 A Correct.
 12 Q And the location you took her was designed
 13 to allow you to do that, was it not?
 14 A I don't believe -- I can't answer that. I
 15 don't think anybody designed --
 16 Q You took her to a private office, did you
 17 not?
 18 A Took her to an office that had a door on
 19 it.
 20 Q And it was a space private from where you
 21 left her passenger?
 22 A Yes.
 23 Q And you still didn't know who her passenger
 24 was?
 25 A Correct.

1 Q And you didn't know what her name was?
 2 A Not that I'm aware of.
 3 Q You didn't know what her relationship was
 4 to Ms. Pusateri?
 5 A I don't remember.
 6 Q And you still don't -- didn't have any
 7 further information about who Ms. Pusateri was other
 8 than what she had given you when you were out there?
 9 A When she arrived I had taken an information
 10 sheet.
 11 Q But from her?
 12 A Correct.
 13 Q Okay. You hadn't gotten any other
 14 information from any other source in that hour about
 15 whom Ms. Pusateri was?
 16 A No.
 17 Q Now, at that point did you give her an
 18 advice of rights form?
 19 A No.
 20 Q Did you advise her of what her rights might
 21 be?
 22 A No.
 23 Q In the event she might be a suspect?
 24 A No.
 25 Q And you didn't pull out the form of advice

1 of rights and have her read it, did you?
 2 A No.
 3 Q And you didn't read it to her?
 4 A No.
 5 Q And you didn't cause anybody else to read
 6 it to her, did you?
 7 A No.
 8 Q Or to have them give it to her so that she
 9 might read it?
 10 A No.
 11 Q When you took her in the room, did you take
 12 a tape recorder?
 13 A No.
 14 Q And you didn't take a formal statement?
 15 A No.
 16 Q And did you begin to ask her questions?
 17 A We had a conversation, correct.
 18 Q And did she answer your questions?
 19 A Yes.
 20 Q And did you take notes of that
 21 conversation?
 22 A Yes.
 23 Q Because that would have been your normal
 24 habit, would it have not?
 25 A Yes.

1 Q All right. And did you question her about
 2 the number that appeared on the cell phone records
 3 that you already had for January 13th of 1999?
 4 A Excuse me?
 5 Q Did you question her about how her number
 6 or about anything concerning her number as it
 7 appeared on the cell phone records that you had?
 8 A I believe I started out the questioning as
 9 to getting her background.
 10 Q Did that include getting her boyfriend's
 11 name?
 12 A I asked her whether she had a boyfriend.
 13 She said no.
 14 Q Even though she had just told you not an
 15 hour before that she was on her way to see her
 16 boyfriend?
 17 A Correct.
 18 Q Did you ask her about that?
 19 A No.
 20 Q Did you just consider she didn't want you
 21 to know her boyfriend's name?
 22 MR. URICK: Objection.
 23 THE COURT: Sustained. Next question.
 24 Q You asked her personally for information
 25 about herself, did you not?

1 A I did.
 2 Q And she answered all of your questions?
 3 MR. URICK: Objection. Can we approach?
 4 THE COURT: Overruled. You may approach.
 5 MR. URICK: May we approach?
 6 THE COURT: Yes.
 7 (Whereupon, counsel and the Defendant
 8 approached the bench and the following conference
 9 ensued:)
 10 THE COURT: I'll hear from you.
 11 MR. URICK: Your Honor, any statement given
 12 to this officer is an out of court -- is hearsay.
 13 The fact that some witnesses have testified before
 14 does not make them admissible just because they've
 15 testified. There still has to be an exception to the
 16 hearsay rule for any questioning about a statement
 17 not to be given as to what the statement contained.
 18 I would make a formal objection, or bring that to the
 19 Court's attention that unless Ms. Gutierrez has an
 20 exception to the hearsay rule she can't question the
 21 detective over the statements that Ms. Pusateri gave
 22 that Mr. Wilds gave. None of those people have
 23 denied anything that they've admitted. The State's
 24 talked about it. They've admitted that they made
 25 them. There's no basis -- no hearsay exception to

1 allow out any questioning about those, the content of
 2 those statements.
 3 THE COURT: Ms. Gutierrez.
 4 MS. GUTIERREZ: Well, Judge, I don't
 5 believe that most of my questions called for hearsay,
 6 with the single exception of the identity of Jay
 7 Wilds. I mean, the identity of her statement as to
 8 who she identified as her boyfriend and his answer
 9 regarding that. He did answer with hearsay, but,
 10 Judge, this is a witness who refuses any opportunity
 11 unless he's absolutely forced to answer a question
 12 yes or no, even where it requires so. His answers
 13 may have contained hearsay.
 14 My questions were not designed to elicit
 15 them. As to the identity of who she may have
 16 identified as her boyfriend, I believe that we would
 17 have been entitled to that for many other reasons
 18 already outlined in regard to what -- since we've
 19 already heard from the witness who's testified that
 20 she went, this witness that she went right from her
 21 house to see Jay Wilds. That was certainly a
 22 surprise, since they've presented the relationship as
 23 different, that she had told the police that she had
 24 gone to her boyfriend's house.
 25 So I certainly did ask that specifically

1 since both Jen Pusateri's credibility is at issue,
 2 her relationship to Jay Wilds is part of that
 3 credibility since she is being offered to buttress
 4 his credibility in part, not based on her own
 5 personal knowledge, but buttressing what he said, I
 6 believe that we are entitled to that and I ask the
 7 Court to incorporate all of the previous arguments
 8 I've made entitling us to that, notwithstanding the
 9 fact that that line of inquiry may have, in fact,
 10 called for hearsay.
 11 THE COURT: Are you offering the statements
 12 for the truth of the matter or in an attempt to
 13 corroborate the statements or not corroborate the
 14 statement of a previous witness?
 15 MS. GUTIERREZ: I believe it's an attempt
 16 to impeach a previous witness.
 17 THE COURT: All right. The objection is
 18 overruled.
 19 MS. GUTIERREZ: Thank you. How long are we
 20 going to go tonight just so I can structure?
 21 THE COURT: Until 5:30.
 22 MS. GUTIERREZ: Okay.
 23 (Whereupon, counsel returned to the trial
 24 table and proceedings resumed in open court.)
 25 THE COURT: Ms. Gutierrez, your next

1 question.
 2 MS. GUTIERREZ: Yes, Judge.
 3 Q Detective MacGillivray, after you began to
 4 get personal information from Ms. Pusateri, you asked
 5 her a series of questions, did you not?
 6 A I did.
 7 Q And you started out asking her about the
 8 cell phone records that indicate her residence?
 9 A I did not.
 10 Q You did not. Well, she answered all of the
 11 questions you asked her about personal information,
 12 did she not?
 13 A Yes.
 14 Q She didn't refuse to answer any of them?
 15 A No.
 16 Q Correct? And the name Jay Wilds had not
 17 yet come up, did it?
 18 A No.
 19 Q Did you share with her the phone records?
 20 A Actually, I started to get background
 21 information from Ms. Pusateri.
 22 Q Okay. And but then you got it, right?
 23 A I did.
 24 Q She answered all of that. After that's all
 25 done you then began to ask her some questions?

1 A Let's go back, okay?
 2 Q Yes.
 3 A I asked her whether she knew Adnan Syed.
 4 She did. She went to school with him.
 5 Q She said she did?
 6 A Yes.
 7 Q Did she --
 8 A Knew of him.
 9 Q Did she indicate that she had met him
 10 before?
 11 A I don't recall.
 12 Q That she physically knew what he looked
 13 like?
 14 A Yes.
 15 Q Did she describe him as a friend?
 16 A A student she went to school with.
 17 Q Okay. At Woodlawn?
 18 A At Woodlawn.
 19 Q Okay. And after she gave you that
 20 information did you ever get around to showing her
 21 the cell phone records?
 22 A I'm not finished yet.
 23 Q Pardon?
 24 A I'm not finished the questioning that leads
 25 up to that.

1 Q Okay. Did you ever get around to showing
 2 her the cell phone records that you had?
 3 MR. URICK: Objection.
 4 THE COURT: Overruled. Did you?
 5 THE WITNESS: Yes.
 6 Q And the cell records that you had were to
 7 the phone that you knew to be registered to Adnan
 8 Syed?
 9 A I asked her --
 10 Q Sir, I'm just asking you a simple
 11 question. The cell phone records that you showed
 12 her, that you had, are registered to Adnan Syed, were
 13 they not?
 14 A I never showed her any cell phone records.
 15 Q Okay. Did you get around to questioning
 16 her about information contained in cell phone
 17 records?
 18 A Yes.
 19 Q You had cell phone records, did you not?
 20 A I did.
 21 Q And the cell phone records that you had
 22 belonged to Adnan Syed, did they not?
 23 A They did.
 24 Q And they concerned phone number 253-9023,
 25 did they not?

1 A They did.
 2 Q And those were cell phone records that you
 3 had obtained?
 4 A Correct.
 5 Q Is that correct? Based on information that
 6 had been forwarded to you?
 7 A Correct.
 8 Q Is that right? And you were aware that the
 9 cell phone record revealed four separate phone calls
 10 to the land line phone connected to [REDACTED] McAdoo?
 11 A If I could have a copy of the records?
 12 MS. GUTIERREZ: Your Honor, can I show him
 13 my copy?
 14 THE COURT: No. Why don't we use the
 15 exhibit? I think Mr. White has found it for you.
 16 MS. GUTIERREZ: Okay. This is the blank
 17 exhibit.
 18 Q Detective MacGillivray, the said time I'll
 19 direct your attention to, if you look in the left
 20 hand column the numbers of calls would be 31, 30, 26,
 21 and 22?
 22 A Yea, 22.
 23 Q Okay.
 24 A That was 4:12 p.m.
 25 Q Okay. I didn't ask you the time. So --

1 A 26.
 2 Q There are records that indicate those phone
 3 calls?
 4 A Correct.
 5 Q Are to the Pusateri residence?
 6 A Correct.
 7 Q Correct? And if you would look for a
 8 minute, up to calls number 8, 9, and 12, sir, are
 9 those numbers that you recognize?
 10 A Yes.
 11 Q And those are not land line numbers, are
 12 they?
 13 A Pager numbers.
 14 Q Pager numbers. And pagers can be anyone,
 15 right? They're not tied and you don't have to be in
 16 a specific place to receive the page?
 17 MR. URICK: Objection.
 18 Q Are they?
 19 THE COURT: Sustained.
 20 Q Those pager numbers are not connected to
 21 the address of [REDACTED] McAdoo?
 22 MR. URICK: Objection.
 23 Q Are they?
 24 THE COURT: Sustained.
 25 Q Prior Ms. Pusateri coming down to your

1 office to accept your invitation on a Friday night to
2 come to speak to you, were you aware of those
3 numbers, of the pager number?
4 A I had after recognizing -- after getting
5 subscriber information from the telephone numbers.
6 Q Subscriber information --
7 A No, after we subpoenaed the numbers, we got
8 the numbers and you break down and find out whether
9 the numbers are actual cell phone numbers, hard
10 lines, pagers, and you have to send out subpoenas to
11 the various companies to get that information.
12 Q To get that information, right?
13 A Correct.
14 Q When you invited her down were you aware
15 that these numbers related to her pager?
16 A Not that I can recall.
17 Q Not then, later, right?
18 A Yes.
19 Q But not on the night of the 26th of
20 February?
21 A Correct.
22 Q Correct? Now, after -- and you never
23 showed her what records you had, did you?
24 A No.
25 Q And you never asked her to identify phone

1 records, other numbers with which you might be
2 familiar?
3 A No.
4 Q No. And you never asked her about a list
5 of numbers, whether or not they were on the records
6 or not, to identify if she was familiar?
7 A No.
8 Q You for instance didn't ask her about a
9 land line or a hard line registered to the Furlows?
10 A No.
11 Q You didn't even know who the Furlows were,
12 did you?
13 A Correct.
14 Q And you didn't know what, if any,
15 relationship that they had with the person whose name
16 was listed as the service user on the cell phone, did
17 you?
18 A Correct.
19 Q And you didn't ask her to identify or ask
20 if she knew and could identify the number or knew
21 anything about the subscriber of the number that was
22 listed as belonging to a person by the name of --
23 MR. URICK: Objection.
24 THE COURT: Sustained. We're going far
25 afield now, Ms. Gutierrez.

1 Q After you asked her whatever you asked her
2 about --
3 MR. URICK: Objection.
4 Q -- the cell phone records you continued
5 your interview?
6 THE COURT: Striking --
7 Q On the 26th?
8 THE COURT: Striking the first part of that
9 question, did you continue your interview, Detective
10 MacGillivray?
11 THE WITNESS: I have to clarify something.
12 I never showed Jennifer Pusateri any cell phone
13 records.
14 Q I understand that.
15 A None.
16 Q I do. And did you talk to her about the
17 cell phone information, even though you didn't show
18 it to her?
19 A What I'm trying to tell you is I asked her
20 why somebody -- Adnan Syed's phone number came up at
21 her house, 1208, could she explain that to me.
22 Q And you then asked her more questions about
23 Adnan Syed, correct?
24 A Friends from school.
25 THE COURT: One moment, please. May I see

1 counsel at the bench and Detective MacGillivray.
2 Detective, would you step to the middle.
3 (Whereupon, counsel and the witness and the
4 Defendant approached the bench and the following
5 conference ensued:)
6 THE COURT: We have an unusual request.
7 Your vehicle is in the way of an emergency. So we
8 need the keys so that the other detective can move
9 your vehicle. Do you have the keys on you?
10 THE WITNESS: Yes, I can move it.
11 THE COURT: No, you can't move it. We just
12 need the keys.
13 THE WITNESS: I have my briefcase down in
14 308 and I can get the detective to go down and get
15 the keys out of the --
16 THE COURT: Can you tell the sheriff where
17 it's located?
18 THE WITNESS: Yes.
19 THE COURT: Tell him.
20 THE WITNESS: The briefcase is in 308.
21 He's got to open up the briefcase. The digits all
22 have to be zero on there and the keys are inside.
23 THE COURT: Very well. Thank you very
24 much, counsel. Thank you very much, detective.
25 (Whereupon, counsel returned to the trial

1 table and proceedings resumed in open court.)
 2 THE COURT: All right, let's proceed.
 3 Q Detective MacGillivray, you answered my
 4 question. What you really asked her about you said
 5 were friends --
 6 MR. URICK: Objection.
 7 Q -- not about Adnan?
 8 THE COURT: Sustained.
 9 Q Did Ms. Pusateri ever describe -- Adnan
 10 Syed's name came up, did it not?
 11 THE COURT: In the interview, is that the
 12 question?
 13 MS. GUTIERREZ: Yes.
 14 Q Did it not?
 15 A Yes.
 16 Q You brought it up, didn't you?
 17 A Yes.
 18 Q And you knew that the cell phone whose
 19 records you were aware of was listed, the service
 20 user was listed to be Adnan, right?
 21 A Correct.
 22 Q Okay. Did Ms. Pusateri in answer to any of
 23 your questions describe Adnan Syed as a friend of
 24 hers?
 25 A Just as an individual that went to Woodlawn

1 High School with her.
 2 Q With her?
 3 A Correct.
 4 Q Is that right? And you had not received
 5 any information prior to then that indicated that the
 6 two of them were friends, had you?
 7 A No.
 8 Q No. Now, when you asked her after she
 9 indicated that Adnan was just an individual, did she
 10 offer you -- did she answer your questions explaining
 11 how come her number came up on as being contacted?
 12 A She didn't know why.
 13 Q She didn't know why?
 14 A No.
 15 Q She offered no explanation for why, did
 16 she?
 17 A Maybe one of her friends were at her house
 18 when somebody called.
 19 Q At the time, is that right?
 20 A She couldn't offer any other explanation.
 21 Q And you were aware, to your knowledge, that
 22 at least five calls to the residence that she had
 23 lived in had been made at the time period you were
 24 concerned about?
 25 A There were several calls into that --

1 Q Now --
 2 A -- [REDACTED] McAdoo.
 3 Q You had got cell phone records for Adnan
 4 Syed's cell phone then, had you not?
 5 A I had.
 6 Q Then you, sir, had not been directed to any
 7 particular date that Hae Min Lee might have been
 8 killed, had you?
 9 A No.
 10 Q And you had already received the autopsy
 11 report from Dr. Margarita Korell, had you not?
 12 A At what time?
 13 Q On the 26th of February.
 14 A I can't answer that.
 15 Q Well, you were aware that Dr. Korell
 16 couldn't tell you exactly when the body that she had
 17 autopsied on the 10th of February had died, correct?
 18 A A window.
 19 Q A window; is that right?
 20 A But specifically no.
 21 Q But specifically not when it had occurred,
 22 right?
 23 A Correct.
 24 Q And that included from the time she had
 25 last been seen, right? Hae Min Lee had been seen,

1 right?
 2 A Hae Min Lee had been last seen on the 13th.
 3 Q At about three o'clock?
 4 A Correct.
 5 Q Okay. And it included some days after
 6 that, did it not?
 7 A I don't understand.
 8 Q The window of when she would have died?
 9 A She wasn't able to articulate a specific
 10 date.
 11 Q And you tried hard to get her to do so, did
 12 you not?
 13 A No.
 14 Q And you had received no other information
 15 from any source that pinpointed the time of death of
 16 Hae Min Lee to have occurred on the 13th, did you?
 17 A Other than the police reports saying that
 18 she was missing.
 19 Q That she was missing on that date, right?
 20 A Correct.
 21 Q Well, that set a window that she could not
 22 have been killed before that date, right?
 23 A Correct.
 24 Q But not what date she may have been killed;
 25 is that right?

1 A Correct.
 2 Q And you had gotten cell phone records
 3 listed to Adnan Syed that started before the date
 4 that she disappeared, had you not?
 5 A I didn't make the request.
 6 Q But you had reviewed the records, hadn't
 7 you?
 8 A Yes.
 9 Q And there were records of dates before the
 10 date that Hae Min Lee disappeared, were there not?
 11 A There were.
 12 Q And there were records for days after she
 13 disappeared, correct?
 14 A Yes, when I make a request like that, I
 15 request --
 16 Q You wanted all of the records, right?
 17 A I want the records, correct.
 18 Q You had not -- your attention had not yet
 19 been focused on January 13th as a date with some
 20 significance?
 21 A There was a great significance to me.
 22 Q It was to you?
 23 A Correct.
 24 Q My question was you had not been directed
 25 to that date by any source?

1 MR. URICK: Objection.
 2 THE COURT: Overruled. Had you been
 3 directed by any source prior to that date?
 4 THE WITNESS: No, other than the fact that
 5 she had been missing on the 13th. Alarms would go
 6 off and I would be looking at the 13th.
 7 THE COURT: Very well. Next question.
 8 Q But you were at the point where you had
 9 records other than that?
 10 A I don't recall.
 11 Q Now, when you -- again, I'm still on the
 12 26th of February, Friday night after 9:21, how long
 13 did you interview Ms. Pusateri?
 14 A It wasn't very long.
 15 Q Under a half hour?
 16 A Half hour, forty-five minutes.
 17 Q And she wasn't too forthcoming about
 18 things, was she?
 19 A She had given me facts that she had gone to
 20 Woodlawn High School, that she knew of Adnan. She
 21 knew of Hae. She really didn't like Hae that much.
 22 Q She thought she was pretty stuck up, didn't
 23 she?
 24 A Thought she was stuck up.
 25 Q Yes.

1 A And then went on to name other friends of
 2 Hae that she knew of.
 3 Q From Woodlawn?
 4 A From Woodlawn.
 5 Q Okay. And she never mentioned her
 6 boyfriend's name at any other time after you asked
 7 her?
 8 A Her boyfriend?
 9 Q Yes.
 10 A No.
 11 Q And she never mentioned Jay Wilds' name?
 12 A Yes, she did.
 13 Q That night?
 14 A That night.
 15 Q And did she describe who he was?
 16 A She indicated that Jay Wilds was the
 17 girlfriend of Stephanie [REDACTED] and Stephanie
 18 [REDACTED] lived in Woodbridge Valley.
 19 Q Stephanie McPherson was a student at the
 20 school?
 21 A Correct.
 22 Q And she didn't indicate that Stephanie
 23 [REDACTED] had anything to do with Hae Min Lee's
 24 death, did she?
 25 A No.

1 Q She never indicated that Jay Wilds was in
 2 any way connected with that, did she?
 3 A No.
 4 Q His name was just attached to Stephanie
 5 [REDACTED] was it not?
 6 A Yes.
 7 Q And she ultimately indicated she didn't
 8 particularly like Stephanie [REDACTED] either?
 9 A I don't recall.
 10 Q Now, did you answer my question, was it
 11 under a half hour that she talked?
 12 A I said half hour, forty-five minutes.
 13 Q Forty-five minutes. And during that time
 14 did she answer all of your questions, all of the ones
 15 that you asked her?
 16 A Yes.
 17 Q And did she indicate in any way, I'm sure
 18 you asked her, was she responsible for killing Hae
 19 Min Lee?
 20 A I did not.
 21 Q You didn't ask her that?
 22 A No.
 23 Q And did you ask her to account for her
 24 whereabouts on the 13th?
 25 A Not that I'm aware of.

1 Q Did you ask her if she buried Hae Min Lee?
 2 A No, I asked her after that if -- that I was
 3 investigating the death of Hae Min Lee and what, if
 4 anything, could she tell me about that event.
 5 Q And she could not have misunderstood what
 6 you said?
 7 A No.
 8 Q You were pretty clear about that, were you
 9 not?
 10 A Yes.
 11 Q And she really didn't give you any
 12 information about the death of Hae Min Lee, did she?
 13 A No, other than the fact that she indicated
 14 to me that she had heard about it on the 14th.
 15 Q On the 14th?
 16 A Yes.
 17 Q The 14th of February?
 18 A That she had heard that Hae had been
 19 missing.
 20 Q Okay. So you mean the 14th of January?
 21 A Of January.
 22 Q Right after Hae was missing?
 23 A Correct.
 24 Q Before her body was found?
 25 A Correct.

1 A She had heard that Hae was strangled.
 2 Q Was strangled?
 3 A Correct.
 4 Q And she --
 5 A She heard that information from a friend of
 6 hers by the name of Nicole.
 7 Q Of?
 8 A A friend of hers, Nicole.
 9 Q That was important to you, was it not?
 10 A Very important, since that information had
 11 not been released.
 12 Q But you knew that, right?
 13 A I knew that.
 14 Q Because you had gotten the heads up from
 15 Dr. Korell?
 16 A Correct.
 17 Q So anybody that might know the details of
 18 Hae Min Lee's death, that got your ears perking,
 19 didn't it?
 20 A Correct.
 21 Q You, of course, got Nicole's full name and
 22 address?
 23 A Just Nicole [REDACTED]
 24 Q And no phone number?
 25 A Somewhere on Washington Boulevard,

1 Q But she didn't indicate to you that she had
 2 any knowledge of any event that led up to the death
 3 of Hae Min Lee?
 4 A No.
 5 Q Or that she had heard from someone else
 6 some information about the death of Hae Min Lee?
 7 A No.
 8 Q Or about the burial?
 9 A She had heard that Hae had been killed.
 10 Q Before the body was found?
 11 A No.
 12 Q And did she indicate where she heard that
 13 from? You, of course, would have been interested in
 14 the answer to that question, would you have not?
 15 A Yes.
 16 THE COURT: One moment. Why don't we let
 17 him finish answering the first question. You can
 18 answer that question.
 19 THE WITNESS: Yes. On the 26th when I was
 20 speaking to her, I asked her if she knew how Hae had
 21 been killed.
 22 THE COURT: Next question.
 23 Q And she answered you?
 24 A Yes.
 25 Q And?

1 Elkridge, and a telephone number.
 2 Q And a telephone number?
 3 A Correct.
 4 Q And you immediately went and called Nicole?
 5 A No.
 6 Q No. Did you ever call Nicole?
 7 A No.
 8 Q You might have except that Jen Pusateri
 9 came back, right?
 10 A Yes.
 11 Q And gave you more information, right?
 12 A Correct.
 13 Q And that information was different than the
 14 information that she gave you on the 26th in that
 15 forty-five minutes, right?
 16 A Yes.
 17 Q And you tried to inquire of who Nicole was
 18 to her, did you not?
 19 A Excuse me?
 20 Q You tried to ask Ms. Pusateri who Nicole
 21 was, did you not?
 22 A It was a friend of hers.
 23 Q Well, let's go back. You were very
 24 interested in Nicole when she said that she was the
 25 one who said that Hae Min Lee had been strangled,

1 right?
 2 A Yes.
 3 Q And you did attempt to question her about
 4 Nicole, did you not?
 5 A I'm sure I did.
 6 Q And you would have wanted a way to get in
 7 touch with her, right?
 8 A Yea, she gave me the phone number.
 9 Q But Ms. Pusateri never indicated that she
 10 was the one that had heard?
 11 MR. URICK: Objection.
 12 Q She was the source of the information about
 13 strangulation, did she?
 14 THE COURT: Sustained.
 15 Q Now, did Ms. Pusateri leave because you
 16 kicked her out?
 17 A Excuse me?
 18 Q Did Ms. Pusateri leave, again on the 26th,
 19 leave because you kicked her out?
 20 A No.
 21 Q Were you done with her?
 22 A At that point I asked before she left, I
 23 asked Ms. Pusateri if she had anything that she'd
 24 like to tell me before she left.
 25 Q Did she say yes?

1 A She said no.
 2 Q She said no. And so it was her decision to
 3 sort of end the interview?
 4 A It was my decision.
 5 Q Because she wasn't going to answer any more
 6 questions?
 7 A That I felt that she had information and
 8 she wasn't telling me everything at that point.
 9 Q And you confronted her with that, did you
 10 not?
 11 A I asked her if she knew of anything to tell
 12 me before she left and she said no.
 13 Q She answered no; is that correct?
 14 A Correct.
 15 Q All right, now, she then left, right?
 16 A She left.
 17 Q During any of that time you never turned
 18 on the tape recorder, right?
 19 A Not that evening.
 20 Q And you had never threatened her in any
 21 way?
 22 A No.
 23 Q Even though you thought that she had
 24 information that she wasn't sharing with you?
 25 A Correct.

1 Q You had no information from any other
 2 source that put her in on the murder, right?
 3 MR. URICK: Objection.
 4 A No.
 5 Q Or on the burial?
 6 THE COURT: I'm sorry, repeat that question
 7 again.
 8 Q You had no other information that put her
 9 in on the murder or on the burial?
 10 THE COURT: Overruled.
 11 A No.
 12 Q No. And you never -- and I know you've
 13 answered it at the beginning, you never did it, at no
 14 time during the interview did you pull out the advice
 15 of rights form?
 16 MR. URICK: Objection.
 17 THE COURT: Sustained.
 18 Q After she indicated she didn't have
 19 information that you thought she did have, she then
 20 left?
 21 MR. URICK: Objection.
 22 THE COURT: Overruled.
 23 A She didn't actually get up and walk out of
 24 the office.
 25 Q She did not?

1 A I concluded the interview at which time we
 2 walked out together.
 3 Q Okay. And she left the garage and left the
 4 Police Department?
 5 A She did.
 6 Q Okay. And at that time had you made an
 7 appointment to see her again?
 8 A No, I had not.
 9 Q Had you set up any time at any place to
 10 talk to her again?
 11 A No, I had not.
 12 Q Had you made any appointment for you to
 13 come to her house and speak to her again?
 14 A That evening?
 15 Q On any day, yea, that evening did you make
 16 any plans?
 17 A No.
 18 Q No. And did you tell her that you thought
 19 she had some information but she wasn't sharing it?
 20 A Nope.
 21 Q And after she left, the next that you heard
 22 was when you got a call from a lawyer?
 23 A The next day I got a call from one of the
 24 supervisors in the office of Homicide.
 25 Q Okay. And the call indicated that a lawyer

1 called?

2 A A lawyer had contacted Homicide indicating

3 that the girl that I had spoken to the night before

4 had information concerning the death of Hae Min Lee.

5 Q And wanted to come in and talk to you?

6 A Correct.

7 Q Is that right? And then you immediately

8 contacted that lawyer?

9 A I immediately contacted Detective Ritz,

10 correct.

11 Q And with instructions for Detective Ritz to

12 contact the lawyer, right?

13 A Yes.

14 Q Because you believed she had had

15 information when you had talked to her the night

16 before, right?

17 A Correct.

18 Q And that she wasn't being forthcoming about

19 it, right?

20 A Correct.

21 Q So you were happy that she was now

22 seemingly prepared to talk, right?

23 A Yes.

24 Q Even though she was bringing a lawyer with

25 her, right?

1 A Correct.

2 Q Okay. And someone made contact with the

3 lawyer to set up a time for that day, correct?

4 A Yes.

5 Q And at the time that was late afternoon on

6 the 27th, was it not?

7 A It was.

8 Q And that was a Saturday, right?

9 A I believe it was.

10 Q And when -- and she did arrive with her

11 lawyer?

12 A No, actually, if I may?

13 Q Sure.

14 A It was the 27th at 3:30.

15 Q And she did arrive with her lawyer?

16 A We arrived at the lawyer's house.

17 Q Oh, you went to the lawyer's house?

18 A Yes.

19 Q And at his house was her mother?

20 A Mother and Jennifer.

21 Q And her?

22 A Correct.

23 Q And you and Detective Ritz?

24 A Correct.

25 Q And was there any other detective there?

1 A No.

2 Q No. And at that time did you pull out the

3 advice of rights form?

4 A No.

5 Q Even though you felt that she had been

6 concealing evidence, concealing information?

7 A All I knew is that she knew that Hae had

8 been strangled.

9 Q And that was important to you, wasn't it?

10 A Yes.

11 Q Because that was information that the

12 general public didn't have?

13 A Correct.

14 Q Right? And one of the sources was somebody

15 who would know that Hae Min Lee had been strangled

16 would be from the person who strangled her, would it

17 not?

18 MR. URICK: Objection.

19 THE COURT: Sustained.

20 Q Another source was someone who might know

21 that Hae Min Lee had been strangled would be someone

22 who was present when she was strangled, would it

23 not?

24 MR. URICK: Objection.

25 THE COURT: Sustained.

1 Q Now, Detective MacGillivray, did you ever

2 pull out the advice of rights form?

3 MR. URICK: Objection.

4 Q When you were at the lawyer's house on the

5 27th of February at any time?

6 THE COURT: Sustained. I believe the

7 witness has already answered he did not advise her of

8 her rights.

9 Q And on that date did you conduct a formal

10 interview?

11 A Yes.

12 Q And the tape recorder was on, was it not?

13 A Yes.

14 Q You don't have a stenographer, you do it by

15 tape recorder, right?

16 A Actually, took notes and took a taped

17 statement.

18 Q Okay. And that's your normal procedure, is

19 it not?

20 A It is.

21 Q All right. And that interview, that took

22 how long?

23 A The interview or the taped statement?

24 Q All of it on the 27th?

25 A The taped statement at Headquarters -- we

1 initially spoke at the attorney's residence and
 2 decided that what we would do is respond down to
 3 Homicide where we had the resources to tape the
 4 conversation and that interview started at quarter to
 5 four in the afternoon.
 6 Q When?
 7 A Quarter to four, three forty-five.
 8 Q Three forty-five. And by the interview you
 9 mean that interview conducted at the lawyer's house?
 10 A No, at Homicide.
 11 Q At Homicide?
 12 A In the conference room.
 13 Q That's what you are calling the taped
 14 statement?
 15 A Correct.
 16 Q Now, you said you arrived at the lawyer's
 17 house at about three-thirty; is that correct?
 18 A Now, I'm looking at the notes from that
 19 interview.
 20 Q So first you had made arrangements to go to
 21 the lawyer's house?
 22 A Right.
 23 Q Right? And at the time that you got there
 24 the lawyer was there, the mother was there, Jen
 25 Pusateri was there, right?

1 A Correct.
 2 Q You had some kind of conversation or
 3 interview at the house?
 4 A The attorney was indicating to us that she
 5 had information.
 6 Q That Ms. Pusateri had information?
 7 A Correct.
 8 Q That she wished to convey?
 9 A Right.
 10 Q And it's at that point that you decided you
 11 really wanted a formal taped statement?
 12 A Correct.
 13 Q And that's why you left and you went down
 14 to Homicide?
 15 A Correct.
 16 Q All right, now, let me ask you what's the
 17 period of the time that you got to the lawyer's house
 18 up to the time that you left?
 19 A We were there for a short time.
 20 Q Half an hour?
 21 A Let me check the notepad.
 22 Q Sure.
 23 A I don't recall what time we responded to
 24 the attorney's house. I didn't write that down in
 25 the notes.

1 Q You reviewed your notes, however, that were
 2 made, during whatever you call the initial interview
 3 at the attorney's house, did you not?
 4 A Excuse me?
 5 Q You reviewed your notes that you made
 6 during the initial --
 7 A Yea, these are the notes that I took at
 8 Homicide.
 9 Q At Homicide?
 10 A Correct.
 11 Q Did you make any notes at all of the
 12 conversation at the attorney's house?
 13 A No.
 14 Q Is it unusual for you to go out to a
 15 private residence to interview a witness?
 16 MR. URICK: Objection.
 17 THE COURT: Overruled. Is it?
 18 THE WITNESS: It's the first time I've ever
 19 gone to an attorney's house.
 20 Q But it was important --
 21 THE COURT: So it was unusual?
 22 THE WITNESS: Yes.
 23 THE COURT: Yes, next question.
 24 Q But it was part of your investigation into
 25 the death of Hae Min Lee?

1 A When we responded to the attorney's house,
 2 the attorney was representing Jennifer at that time
 3 and he was concerned about --
 4 MR. URICK: Objection.
 5 THE COURT: Sustained.
 6 Q Detective MacGillivray, you knew that
 7 attorney was representing Jen Pusateri before you got
 8 there, didn't you?
 9 MR. URICK: Objection.
 10 THE COURT: Sustained. Let's move on.
 11 Q And we go down, however long it was and you
 12 took no notes of the interview, all of you arrived
 13 down at Homicide that were at the attorney's house,
 14 right?
 15 A Correct.
 16 Q The lawyer the mother, Jennifer, right?
 17 A Correct.
 18 Q And you and Detective Ritz?
 19 A Correct.
 20 Q And you then set up a formal interview of
 21 Jennifer?
 22 A Correct.
 23 Q With the tape recorder going?
 24 A That is correct.
 25 Q Recording every word and every question

1 that's said, right?
 2 A Correct.
 3 Q A much more formal process than when you
 4 just ask questions and take notes, right?
 5 A Correct.
 6 Q And how long did that take in time?
 7 A It was quarter to four when we started the
 8 tape.
 9 Q Uh-huh.
 10 A And it was ten minutes after five when we
 11 finished.
 12 Q And during that time other than a very
 13 short break, did the tape recorder tape everything,
 14 didn't it?
 15 A Yes.
 16 Q Now, you asked some of the same questions
 17 that you had asked her the night before, did you not?
 18 A I don't recall. I mean, you want to be
 19 specific.
 20 Q Well, you would have, would you have not?
 21 A I asked her personal questions about
 22 herself, name.
 23 Q Did she give you the same information?
 24 A Yes.
 25 Q Did she name a boyfriend?

1 A No.
 2 Q Do you recall that during the interview you
 3 asked her to describe her relationship with Jay
 4 Wilds, did you not?
 5 A Excuse me?
 6 Q You recall that during that taped interview
 7 you asked her to describe her relationship with Jay
 8 Wilds?
 9 A Would you like to direct me to that
 10 question in the statement?
 11 Q I would like to but I don't have a copy of
 12 it.
 13 MR. URICK: Objection.
 14 THE COURT: I believe it was marked for
 15 identification purposes, was it not?
 16 MS. GUTIERREZ: No, Judge, I don't believe
 17 I did.
 18 THE COURT: All right, the objection is
 19 overruled as the question was posed and counsel does
 20 not have a copy. Is there a copy available?
 21 MS. GUTIERREZ: Well, it is, Judge, but I
 22 didn't -- my law clerk left. I didn't --
 23 THE COURT: You know, I note it's twenty
 24 minutes after five and this might be good place to
 25 break because we don't have the statement. So we

1 will all know where we need to resume tomorrow with a
 2 copy of Ms. Puateri's statement and the question as
 3 to whether or not Detective MacGillivray asked Ms.
 4 Pusateri to describe her relationship with Jay Wilds.
 5 a very simple place to start off.
 6 I remind you, Detective MacGillivray, that
 7 you are a sequestered witness. You may not discuss
 8 your testimony with anyone, with the State's
 9 Attorney, with the defense attorney, or with anyone,
 10 and that would include any of your colleagues on the
 11 Police Department because they may be called as
 12 witnesses and at this juncture you are now on the
 13 witness stand and there may be other officers that
 14 will be called and I would ask that you return here
 15 tomorrow.
 16 I do have a docket but I'm told that all
 17 counsel has been advised that I'm still in trial
 18 which means that we should be able to start at ten
 19 o'clock and I ask that you be in that seat at ten
 20 o'clock because I will be here.
 21 MR. URICK: They are predicting ice and
 22 sleet in the morning.
 23 THE COURT: In the morning I'd ask that you
 24 listen to WBAL TV channel 11. In the event that the
 25 courthouse is closed, there will be an announcement

1 that the Circuit Court for Baltimore City is closed.
 2 But if you're not sure, you may call, 396-3100 and
 3 ask for the city operator to connect you to Judge
 4 Heard's chambers where you will find a voice mail and
 5 it is my practice if I am told that the court is
 6 closed that I change the message on my voice mail and
 7 it says court is closed.
 8 But if my message has not been changed, you
 9 will find that in all likelihood I at ten o'clock
 10 will be sitting right here and ask that you be seated
 11 in that seat. Ladies and gentlemen of the jury, I'm
 12 going to tell you please go home. Have a safe
 13 journey home. Leave your notepads face down. Do not
 14 discuss the testimony of Detective MacGillivray with
 15 anyone or the testimony of any other witnesses. The
 16 case is not over.
 17 You have not heard all of the witnesses and
 18 you have not been instructed as to the law nor have
 19 you heard closing argument. So it would be
 20 inappropriate to discuss this case amongst yourselves
 21 or with anyone. Just for my information, can the
 22 State advise me how many more witnesses do you have?
 23 No more. This is the last witness. Very well.
 24 Ladies and gentlemen, I will see you
 25 tomorrow. Go to the Jury Commissioner at nine

1 o'clock and then be paid. One moment, before you
 2 leave. Mr. White, would you please get the number.
 3 While we're getting for the note, you know
 4 the procedure, nine o'clock you get paid. Be in the
 5 jury room no later than 9:45. One second before you
 6 leave, the question is, where is the heat, and
 7 tomorrow I will -- I must advise you. You asked for
 8 heat, ladies and gentlemen. I will do what I can to
 9 adjust the temperature in the courtroom. Please have
 10 a safe trip home. I will see you tomorrow at 9:45.
 11 Please put this in the file.

12 Please be advised counsel that my docket
 13 will begin at 9:30 as normal. I will dispose of the
 14 one case I have, but I will try to start this case as
 15 promptly as ten o'clock. Be advised counsel that
 16 this is the State's last witness.

17 MS. GUTIERREZ: Yes.

18 THE COURT: Obviously, at the conclusion of
 19 the State's case, I would expect motion for judgment
 20 of acquittal to be argued.

21 MS. GUTIERREZ: We have lined up witnesses
 22 for tomorrow.

23 THE COURT: And if we could have a witness
 24 that will be available for us to proceed, assuming
 25 that the motion is denied. At this juncture I would

1 ask that each counsel be mindful that tomorrow we
 2 will try to go to five-thirty again and we will take
 3 a lunch break the way we did today and I thank the
 4 correctional officers for their cooperation in having
 5 the defendant upstairs despite the fact that I know
 6 and am advised that both elevators are down at this
 7 point. So I appreciate the diligence that you're
 8 showing in getting him up back to court as we are
 9 attempting to resume as promptly as possible and I
 10 appreciate that. You should know that. Very well.
 11 This Court will then stand in recess until tomorrow
 12 morning at nine-thirty, ten o'clock for this case.

13 CONCLUSION OF PROCEEDINGS
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 CERTIFICATE

2
 3 This is to certify that the proceedings in
 4 the matter of State of Maryland versus Adnan Syed,
 5 indictment numbers 199103042, 43, 45, 46 held on
 6 February 17, 2000 were recorded by means of video
 7 tape.

8 I do hereby certify that the foregoing 335
 9 pages constitute the official transcript as
 10 transcribed by me from said videotaped proceedings to
 11 the best of my ability in a complete and accurate
 12 manner.

13 In Witness Whereof, I have hereunto
 14 subscribed my name this 3rd day of September, 2000.

15
 16 Diane R. Walker

17 Official Court Reporter
 18
 19
 20
 21
 22
 23
 24
 25