

| Page 144  | Page 146  |
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| <p>1 diary, are you?</p> <p>2 A Parts of it, yes.</p> <p>3 Q Only to the parts that you read, right?</p> <p>4 A Correct.</p> <p>5 Q And did you choose out the parts that you</p> <p>6 read?</p> <p>7 A No.</p> <p>8 Q And somebody else chose them out for you?</p> <p>9 A Yes.</p> <p>10 Q Was that Ms. Murphy?</p> <p>11 A She was one of the people, yes.</p> <p>12 Q She was one. In any of the parts that you</p> <p>13 read are there any entries that complain of his</p> <p>14 possessiveness other than the one entry you read us</p> <p>15 yesterday?</p> <p>16 A No.</p> <p>17 Q No, not at all?</p> <p>18 A No.</p> <p>19 Q Just like there are no entries that</p> <p>20 complained of his aggressiveness?</p> <p>21 A Correct.</p> <p>22 Q And there are no entries that complained of</p> <p>23 his control over her?</p> <p>24 MS. MURPHY: Objection.</p> <p>25 THE COURT: Sustained.</p>  | <p>1 A Yes.</p> <p>2 Q You were asked by Ms. Murphy about rules?</p> <p>3 A Yes.</p> <p>4 Q And Hae wasn't too good at following all</p> <p>5 the rules that her mother imposed, was she?</p> <p>6 A I wouldn't say that.</p> <p>7 Q She didn't follow all of those rules, did</p> <p>8 she?</p> <p>9 A Not all, no.</p> <p>10 Q And Adnan wasn't always too good about</p> <p>11 following all of the rules --</p> <p>12 MS. MURPHY: Objection.</p> <p>13 Q -- his mother imposed?</p> <p>14 THE COURT: Sustained.</p> <p>15 MS. GUTIERREZ: I have nothing further.</p> <p>16 THE COURT: Thank you very much. Anything</p> <p>17 further?</p> <p>18 MS. MURPHY: No, Your Honor.</p> <p>19 THE COURT: Very well. May this witness be</p> <p>20 excused?</p> <p>21 MS. MURPHY: Yes, Your Honor.</p> <p>22 THE COURT: May this witness be released</p> <p>23 from subpoenas or summonses?</p> <p>24 MS. MURPHY: From the State, Your Honor.</p> <p>25 THE COURT: From the defense?</p>  |
| Page 145  | Page 147  |
| <p>1 Q The only time Adnan -- I mean that Hae Min</p> <p>2 Lee wrote about Donald [REDACTED] in any depth was</p> <p>3 after her first date?</p> <p>4 MS. MURPHY: Objection.</p> <p>5 THE COURT: Sustained.</p> <p>6 Q The bulk of the entries after January 2nd</p> <p>7 are about her beginning relationship with Donald</p> <p>8 [REDACTED] are they not?</p> <p>9 A Correct.</p> <p>10 Q Now, you just used the word that she was</p> <p>11 very committed to the relationship?</p> <p>12 A Correct.</p> <p>13 Q And that commitment, whatever level it was,</p> <p>14 that had occurred in the not quite two weeks since</p> <p>15 January 1st?</p> <p>16 A Correct.</p> <p>17 Q Because they hadn't dated before then,</p> <p>18 right?</p> <p>19 A Right.</p> <p>20 Q They hadn't even kissed before then,</p> <p>21 right?</p> <p>22 A Yes.</p> <p>23 Q But within two weeks it's your</p> <p>24 understanding that she was committed to this</p> <p>25 relationship?</p> | <p>1 MS. GUTIERREZ: Yes, Your Honor.</p> <p>2 THE COURT: Very well. Ms. [REDACTED], you may</p> <p>3 not discuss your testimony with anyone who has yet to</p> <p>4 be a witness in this case, but you are excused from</p> <p>5 the summonses and you may remain in the courtroom if</p> <p>6 you would like. At this time you're free to go.</p> <p>7 Your next witness is.</p> <p>8 MR. URICK: Detective MacGillivray.</p> <p>9 THE COURT: All right. I'd like to start</p> <p>10 Detective MacGillivray -- one moment. May I see</p> <p>11 you? We're going to take a recess for lunch at this</p> <p>12 time. I note that it is 12:25 and I would also note</p> <p>13 that we're going to recess until 1:30 at which time</p> <p>14 we will resume lunch. I mean, we will resume this</p> <p>15 case after lunch.</p> <p>16 I'm going to ask that you leave your note</p> <p>17 pads face down. I'd like you at this time to return</p> <p>18 to the jury room and then go to lunch. Do not</p> <p>19 discuss the testimony that you've heard so far nor</p> <p>20 any other testimony that you have heard on previous</p> <p>21 days and at this time you are free to go to lunch</p> <p>22 until 1:30.</p> <p>23 Ms. Murphy, Mr. Urick, may I see you at</p> <p>24 bench. Ms. Gutierrez.</p> <p>25 (Whereupon, counsel and the Defendant</p> |

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| <p style="text-align: right;">Page 148</p> <p>1 approached the bench and the following conference<br/>2 ensued:)</p> <p>3 THE COURT: I understood the woman who is<br/>4 accompanying your victim is supposed to be here. If<br/>5 she's having some problems in the courtroom, I want<br/>6 you to direct her to have the victim's mother go out<br/>7 to the hallway, as opposed to just sitting there.</p> <p>8 MS. MURPHY: Okay.</p> <p>9 THE COURT: It's obvious she's having some<br/>10 difficulty.</p> <p>11 MS. MURPHY: She has been clutching --</p> <p>12 MS. GUTIERREZ: For the record, she has<br/>13 been clutching her --</p> <p>14 THE COURT: She's clutching her chest and<br/>15 it is certainly unnecessary for her to do that. If<br/>16 she's having a problem in the courtroom, she should<br/>17 leave and the woman that is accompanying her should<br/>18 assist her in doing that.</p> <p>19 MS. MURPHY: I'll advise her, Judge.</p> <p>20 THE COURT: I did what I could to assist<br/>21 her in getting the jury out, but you know I would<br/>22 appreciate that you would ask her to do --</p> <p>23 MS. MURPHY: Certainly.</p> <p>24 THE COURT: -- what I believe is her job<br/>25 and responsibility when there's problems with the</p>  | <p style="text-align: right;">Page 150</p> <p>1 could do about that. That's the way out of the<br/>2 courtroom.</p> <p>3 MS. GUTIERREZ: I understand.</p> <p>4 THE COURT: As I reiterated, that's why the<br/>5 bereavement counselor is there. That if the mother<br/>6 of the victim is having a problem that she be in<br/>7 close proximity and that she pay attention to what's<br/>8 going on in front of her as opposed to the trial, and<br/>9 I would ask that that be what she does. Certainly,<br/>10 she is going to remain with the victim. With that<br/>11 said we recess until 1:30.</p> <p>12 MS. MURPHY: Thank you, Your Honor.</p> <p>13 THE COURT: Thank you.</p> <p>14 THE CLERK: This Court will stand in recess<br/>15 until 1:30.</p> <p>16 (Whereupon the Court recessed, following<br/>17 which the proceedings in this matter resumed:)</p> <p>18 THE COURT: Counsel, since the defendant is<br/>19 here now, I'm asking Mr. White to bring the jury in.<br/>20 Once he gets in, we'll advise him as to those names<br/>21 that you have. You have them completed?</p> <p>22 MS. GUTIERREZ: Yes.</p> <p>23 THE COURT: If you would just pass them up,<br/>24 just lay them there. When Mr. White comes back I<br/>25 will instruct him that they are to be taken care of</p> |
| <p style="text-align: right;">Page 149</p> <p>1 victim's family.</p> <p>2 MS. MURPHY: No problem.</p> <p>3 THE COURT: And I reiterate that I consider<br/>4 that her responsibility and role during the course of<br/>5 this trial. I understand why she is present, but to<br/>6 the extent that there's nothing I can do when I have<br/>7 a jury sitting here to draw attention to her makes it<br/>8 worse, but I'm not in a position to say, hey,<br/>9 bereavement counselor can you escort the mother of<br/>10 the victim out of the courtroom and I would ask that<br/>11 you talk to her about that and I would note that it<br/>12 would seem that she was trying to control herself so<br/>13 she didn't -- she did grimace and her face, it was<br/>14 clear something was bothering her because she was<br/>15 grabbing her chest at the time so --</p> <p>16 MS. MURPHY: For the record, Your Honor, I<br/>17 didn't notice any of the jurors being distracted.</p> <p>18 THE COURT: Well, I don't know whether they<br/>19 were or they were not. It certainly presented a<br/>20 situation that could have been difficult --</p> <p>21 MS. GUTIERREZ: Well, and for the record,<br/>22 jurors had to pass exactly in front of her at the<br/>23 time she's clutching and ultimately leaned over in<br/>24 order to leave the courtroom.</p> <p>25 THE COURT: As I said, there's nothing I</p> | <p style="text-align: right;">Page 151</p> <p>1 and --</p> <p>2 MS. GUTIERREZ: Thank you. We're going to<br/>3 do private process.</p> <p>4 THE COURT: I understand. I'll just make<br/>5 sure that whatever needs to be done is taken care<br/>6 of. I understand the next witness is Detective<br/>7 MacGillivray who is currently in the court; is that<br/>8 correct?</p> <p>9 MR. URICK: That's correct, Your Honor.</p> <p>10 THE COURT: Raise your right hand, sir, and<br/>11 listen to Mr. White.</p> <p>12 DETECTIVE GREGORY MACGILLIVRAY.</p> <p>13 a witness produced on call of the State, having first<br/>14 been duly sworn, according to law, was examined and<br/>15 testified as follows:</p> <p>16 THE CLERK: Please keep your voice up.<br/>17 State your name for the record.</p> <p>18 THE WITNESS: Detective Gregory<br/>19 MacGillivray, Baltimore Police Department Homicide<br/>20 Unit.</p> <p>21 THE CLERK: Spell your last name for the<br/>22 record.</p> <p>23 THE WITNESS: M-a-c capital G-i-l-l-i-v as<br/>24 in Victor a-r-y.</p> <p>25 DIRECT EXAMINATION</p>   |

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 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 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 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 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 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 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

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| <p style="text-align: right;">Page 168</p> <p>1 wanted them there?</p> <p>2 A We were all in the same area.</p> <p>3 Q And you directed them as to what to do, did</p> <p>4 you not?</p> <p>5 A I directed them to the body.</p> <p>6 Q And you directed them to pick up certain</p> <p>7 articles of evidence, did you not?</p> <p>8 A Yes, I did.</p> <p>9 Q And at the time that you did so, you, of</p> <p>10 course, had no way -- you didn't know that this was a</p> <p>11 homicide yet, did you?</p> <p>12 A I did not.</p> <p>13 Q Because you couldn't tell how this body had</p> <p>14 died?</p> <p>15 A Correct.</p> <p>16 Q You just knew that it was dead, is that</p> <p>17 right?</p> <p>18 A Correct.</p> <p>19 Q And the body was located at the end of that</p> <p>20 127 feet distance behind a log, was it not?</p> <p>21 A That's correct.</p> <p>22 Q And the log was about 40 feet long?</p> <p>23 A I believe they had made a measurement. I</p> <p>24 don't know the exact length of the log.</p> <p>25 Q It was a pretty long log, wasn't it?</p> | <p style="text-align: right;">Page 170</p> <p>1 A Closest to the stream.</p> <p>2 Q Okay. Closest to the stream, and the</p> <p>3 stream was further from the road than the tree was?</p> <p>4 A Correct.</p> <p>5 Q And the tree was lying in a position that</p> <p>6 was parallel to Franklinton Road, was it not?</p> <p>7 A Actually, somewhat parallel. However, to</p> <p>8 an angle towards the stream.</p> <p>9 Q Towards the stream itself. But if one</p> <p>10 approached where the tree was from that area that you</p> <p>11 just described surrounded by the concrete barriers,</p> <p>12 one would run into the tree first, would they not?</p> <p>13 A Yes, they would.</p> <p>14 Q The body was on the far side, buried on the</p> <p>15 far side of the tree?</p> <p>16 A Actually, the way -- it was a natural</p> <p>17 depression the tree was laying over so once --</p> <p>18 Q Depression, could you just define the term</p> <p>19 please before you go further. Describe what you mean</p> <p>20 as a depression?</p> <p>21 A It was a natural gully there and the tree</p> <p>22 was lying across the gully. So on the far right side</p> <p>23 you could actually walk right over the tree.</p> <p>24 However, on the section closest to the stream, you</p> <p>25 could not. You actually had to climb over the tree.</p> |
| <p style="text-align: right;">Page 169</p> <p>1 A It was a big log. It was a tree.</p> <p>2 Q Pardon?</p> <p>3 A A fallen tree.</p> <p>4 Q A fallen tree, right. It was a dead tree</p> <p>5 that clearly had been laying there for awhile?</p> <p>6 A Correct.</p> <p>7 Q Clearly from your view of it, the tree</p> <p>8 wasn't new?</p> <p>9 A No, it had been there for sometime.</p> <p>10 Q Okay. It had not just fallen down that</p> <p>11 day?</p> <p>12 A No.</p> <p>13 Q Or been placed there that day?</p> <p>14 A Not that I'm aware of.</p> <p>15 Q And certainly not by any mechanical or</p> <p>16 artificial means?</p> <p>17 A Not that I'm aware of.</p> <p>18 Q It sure looked like a tree that had just</p> <p>19 died and fallen over, did it not?</p> <p>20 A No, it looked like it had been there for</p> <p>21 some time.</p> <p>22 Q And the body was on the far side of that</p> <p>23 tree, was it not?</p> <p>24 A It was opposite.</p> <p>25 Q The far side from the road?</p>   | <p style="text-align: right;">Page 17</p> <p>1 Q The tree. Because the ground where the</p> <p>2 body was was lower than the ground on the other side</p> <p>3 of the tree, was it not?</p> <p>4 A Deeper. It was deeper, a deep depression.</p> <p>5 Q Okay. And the tree where it was, was not</p> <p>6 plainly visible if you were standing out by the</p> <p>7 concrete barrier closest to Franklinton Road, was</p> <p>8 it?</p> <p>9 A Yes, it is visible.</p> <p>10 Q Plainly visible?</p> <p>11 A It's visible. I mean, if you look from the</p> <p>12 street into the woods, you can see the tree.</p> <p>13 Q And the body buried behind the tree on the</p> <p>14 farther side of the tree, that was plainly visible?</p> <p>15 A Excuse me?</p> <p>16 Q The body that you viewed on the far side of</p> <p>17 the tree, that was plainly visible?</p> <p>18 A From?</p> <p>19 Q From the same place, from the furthest</p> <p>20 concrete barriers or the barriers closest to the</p> <p>21 road?</p> <p>22 A No, you couldn't see the body from the</p> <p>23 street.</p> <p>24 MS. GUTIERREZ: May I approach the witness</p> <p>25 again, Your Honor?</p>   |

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 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 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 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 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 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 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?

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|---|--|
| <p style="text-align: right;">Page 180</p> <p>1 A In the same direction.</p> <p>2 Q And did you -- well, that's really two</p> <p>3 different things, is it not?</p> <p>4 A No, it's not.</p> <p>5 Q When you saw the body, Detective</p> <p>6 MacGillivray, you had no idea how it had gotten</p> <p>7 there, had you?</p> <p>8 A Did not have a clue.</p> <p>9 Q And the way that you walked was not the</p> <p>10 only way that someone could come from Franklinton</p> <p>11 Road and gotten there, was it?</p> <p>12 A The path of least resistance.</p> <p>13 Q I didn't ask you that, detective. Was that</p> <p>14 --</p> <p>15 MR. URICK: Objection.</p> <p>16 Q -- the only way --</p> <p>17 THE COURT: Sustained.</p> <p>18 Q -- that someone could have gotten to where</p> <p>19 that body was from Franklinton Road?</p> <p>20 A There --</p> <p>21 THE COURT: Sustained, detective.</p> <p>22 Q When you saw the body it was still</p> <p>23 partially covered up with dirt and leaves?</p> <p>24 A The body was completely covered. There</p> <p>25 were only certain sections of the body that you could</p>   | <p style="text-align: right;">Page 182</p> <p>1 observations as to how the body got there?</p> <p>2 A I didn't have a clue.</p> <p>3 Q Or when the body had gotten there?</p> <p>4 A At that initial time I didn't have any idea</p> <p>5 how long. However, Dr. Rodriguez was able to tell me</p> <p>6 how long.</p> <p>7 Q Well, my question is at the time that you</p> <p>8 saw the body did you have any information about how</p> <p>9 long the body had been there?</p> <p>10 A No.</p> <p>11 Q Now, the body was exhumed that day?</p> <p>12 A That evening.</p> <p>13 Q And there was some evidence that was</p> <p>14 collected from underneath the body?</p> <p>15 A Yes.</p> <p>16 Q And from on top of the body?</p> <p>17 A Yes.</p> <p>18 Q That included soil?</p> <p>19 A Yes.</p> <p>20 Q And leaves?</p> <p>21 A Yes.</p> <p>22 Q And in addition that included some fibers,</p> <p>23 did it not?</p> <p>24 A It did.</p> <p>25 Q From underneath the body?</p>  |
| <p style="text-align: right;">Page 181</p> <p>1 actually see human flesh.</p> <p>2 Q So that there were parts of the body that</p> <p>3 were not completely covered, correct?</p> <p>4 A Correct.</p> <p>5 Q Now, when you got there and you saw the</p> <p>6 body and you made your entrance and you contacted Dr.</p> <p>7 Rodriguez, and Crime Lab started going forward, did</p> <p>8 you have any information not from your own</p> <p>9 observations as a detective whose body it might be?</p> <p>10 A I didn't have a clue.</p> <p>11 Q So that was part of what you wanted to find</p> <p>12 out, right?</p> <p>13 A That's correct.</p> <p>14 Q And did you have any information, not from</p> <p>15 your own observations, but from some other source, as</p> <p>16 to what had happened to the body and how it died?</p> <p>17 MR. URICK: Objection.</p> <p>18 THE COURT: I didn't hear the end of. As</p> <p>19 to what happened?</p> <p>20 MS. GUTIERREZ: To the body as to how it</p> <p>21 had died.</p> <p>22 THE COURT: Overruled, if you know.</p> <p>23 THE WITNESS: I didn't know.</p> <p>24 Q Did you have any other -- any information</p> <p>25 from any other source other than your own</p> | <p style="text-align: right;">Page 183</p> <p>1 A There was one fiber that was located</p> <p>2 underneath of the body.</p> <p>3 Q And on top of the body?</p> <p>4 A And there was one fiber laying on the torso</p> <p>5 of the body.</p> <p>6 Q Since you walked -- you observed what the</p> <p>7 terrain was made up of from between the concrete</p> <p>8 barriers and the body, did you not?</p> <p>9 A Yes.</p> <p>10 Q It wasn't concrete?</p> <p>11 A No.</p> <p>12 Q It wasn't plastic?</p> <p>13 A No.</p> <p>14 Q It was, as you say, grass and leaves?</p> <p>15 A Dirt.</p> <p>16 Q Dirt?</p> <p>17 A Leaves, trees, dead branches.</p> <p>18 Q And I'm sure you had the Crime Lab be</p> <p>19 directed to look for evidence of others that had been</p> <p>20 there, did you not?</p> <p>21 A I don't understand your question.</p> <p>22 Q Well, you directed them to look for any</p> <p>23 evidence of footprints leading to that body, didn't</p> <p>24 you?</p> <p>25 A There weren't any apparent footprints.</p> |

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,



|  |   |
|--|---|
| <p style="text-align: right;">Page 192</p> <p>1 I'm going to ask that you go in the jury room for a<br/> 2 few moments. I'm going to ask that you leave your<br/> 3 notepads face down on your chairs. I'm going to ask<br/> 4 that you leave your notepads face down on your<br/> 5 chairs. I'm going to ask that you not discuss the<br/> 6 testimony of Detective MacGillivray or anyone else<br/> 7 until you all return to the courtroom. Hopefully, we<br/> 8 will not be that long.<br/> 9 At this time I'd ask that you go with<br/> 10 Deputy Church who is at the door. We will bring you<br/> 11 back as soon as we are ready to proceed.<br/> 12 MS. GUTIERREZ: Ask us to return to the<br/> 13 counsel table?<br/> 14 THE COURT: Yes.<br/> 15 MS. MURPHY: You want to Detective<br/> 16 MacGillivray to step out?<br/> 17 THE COURT: Detective, would you also step<br/> 18 out into the hallway just for one moment, please.<br/> 19 (Whereupon, counsel returned to the trial<br/> 20 table and proceedings resumed in open court.)<br/> 21 THE COURT: All right. Ms. Gutierrez, you<br/> 22 were saying that this is non-hearsay.<br/> 23 MS. GUTIERREZ: Well, if I'm --<br/> 24 THE COURT: -- under 80 --<br/> 25 MS. GUTIERREZ: Judge, if I'm calling it</p>   | <p style="text-align: right;">Page 194</p> <p>1 of evidence such as hearsay, to stand in his way to<br/> 2 present critical evidence that is critical to his<br/> 3 theory of defense, and all of the case law and I cite<br/> 4 Davis v. Alaska, a Supreme Court case, Chambers v.<br/> 5 Mississippi, a Supreme Court case, Foster v. State,<br/> 6 which is a Maryland case that was -- the woman that<br/> 7 involved George Foster, all of those cases, and I<br/> 8 think each of them cite a multitude of other cases<br/> 9 that stand for the notion that above all things in<br/> 10 this arena, the law of the land under due process,<br/> 11 under all notions of justice allow a criminal<br/> 12 defendant to present his theory of defense even where<br/> 13 some rule such as hearsay or any evidentiary rule or<br/> 14 notice requirement or anything else might otherwise<br/> 15 ordinarily prevent him by wiping out his ability to<br/> 16 so present, and in an arena where a defendant wants<br/> 17 to present evidence that suggests that someone else<br/> 18 may have committed this offense, that someone else's<br/> 19 story is so unbelievable such as to raise the spector<br/> 20 that perhaps they committed the offense, that he has<br/> 21 every right to do so.<br/> 22 And the reason that's designed in lots of<br/> 23 cases is so that in precisely these circumstances<br/> 24 where the State, though knowing the oddity of Alonso<br/> 25 Sellers, though treating him as a suspect, though</p>         |
| <p style="text-align: right;">Page 193</p> <p>1 right, certainly it's the testimony of someone who is<br/> 2 not here so technically, I guess it's hearsay.<br/> 3 THE COURT: It's an out of court statement<br/> 4 --<br/> 5 MS. GUTIERREZ: Yes.<br/> 6 THE COURT: -- offered for the truth of the<br/> 7 matter asserted?<br/> 8 MS. GUTIERREZ: It's clearly offered for<br/> 9 the truth of the matter, Judge, and there doesn't<br/> 10 seem to be any dispute as to what Mr. [REDACTED] said,<br/> 11 which is why they want to fight quite so hard to keep<br/> 12 it out and wouldn't call him.<br/> 13 I believe that it's treated by the law as<br/> 14 non hearsay or that the hearsay rule, which is a rule<br/> 15 of evidence that's not a constitutional rule, it's an<br/> 16 evidentiary rule, and their objection to it is based<br/> 17 only on that evidentiary rule that because it's<br/> 18 hearsay and ordinarily the rule prevents it because<br/> 19 when I'm calling it non-hearsay, Judge, I believe<br/> 20 that there are constitutional dimension rules of law<br/> 21 and due process consideration that says we don't care<br/> 22 what you call it, we don't care what rule bars it,<br/> 23 there is evidence of such moment to a defendant's<br/> 24 right under any construct of due process or fair<br/> 25 trial that allows a defendant, notwithstanding a rule</p> | <p style="text-align: right;">Page 195</p> <p>1 investigating him, collecting evidence from him,<br/> 2 subjecting him to polygraphs and interviews, holding<br/> 3 him out as a suspect based solely in the congruity of<br/> 4 his description of what were the circumstances under<br/> 5 which he found this body were so absurd he<br/> 6 immediately catapulted as a suspect having chosen to<br/> 7 keep that information from the jury and then to be<br/> 8 allowed to object, oh, well, they can't get that in<br/> 9 because unless Alonso [REDACTED] himself, a person they<br/> 10 held out as a suspect in this very murder, unless he<br/> 11 says what he says even though we all know it's true<br/> 12 then Adnan Syed cannot take advantage of it is<br/> 13 precisely what all of the cases that hold otherwise<br/> 14 have so held in order to avoid that absurd result.<br/> 15 Judge, he was held as a suspect. They have<br/> 16 given us information that he was treated as a<br/> 17 suspect, listed as a suspect. He gave a story that<br/> 18 on its face to anyone, not even an experienced<br/> 19 detective, would classify as absurd. They had a<br/> 20 reason for his leaving his job at a mechanical plant<br/> 21 to get a tool as ordinary as they come, a plane that<br/> 22 he had to go home and get the plane in order to<br/> 23 complete his job at a major university in their<br/> 24 maintenance department, to complete a task that is<br/> 25 probably the most ordinary task that the maintenance</p> |

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 catcorner 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 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 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 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 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 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 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 --

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4 been so long since we started the trial, I don't  
5 remember which motions in limine we're talking about.

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7 that you wanted to offer as sort of Mr. Sellers as a  
8 suspect.

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13 where you were going with this.

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18 test copies of both convictions.

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20 found him. It would make it very simple --

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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

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



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.

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.

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?

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.

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| <p style="text-align: right;">Page 228</p> <p>1 Q And this investigation was an investigation<br/>2 into the homicide of what at that juncture was<br/>3 already known to be Hae Min Lee?<br/>4 A Correct.<br/>5 Q Because her body had been identified on the<br/>6 10th of February, correct?<br/>7 A Correct.<br/>8 Q The day after that it was found.<br/>9 MS. GUTIERREZ: And can I have this just<br/>10 marked for identification.<br/>11 THE COURT: Thank you, counsel.<br/>12 MS. GUTIERREZ: So it is clear.<br/>13 Q On that third time that you interviewed him<br/>14 (inaudible), right?<br/>15 A Correct.<br/>16 Q That was a third time that you formally<br/>17 advised him of his rights, right?<br/>18 A Yes.<br/>19 Q And he was still considered a suspect,<br/>20 right?<br/>21 A Correct.<br/>22 Q And you again formally interviewed him by<br/>23 turning on the tape recorder?<br/>24 A Yes.<br/>25 Q And recording what your questions were?</p>   | <p style="text-align: right;">Page 230</p> <p>1 rights formally, right?<br/>2 A Yes.<br/>3 Q And on each occasion he was still in the<br/>4 pool of suspects, correct?<br/>5 A Yes.<br/>6 Q And on at least two of those occasions you<br/>7 tape recorded it?<br/>8 A Yes.<br/>9 Q You may have actually tape recorded the<br/>10 third time, too?<br/>11 A I don't remember taking a third statement,<br/>12 no.<br/>13 Q But you recall that there was a tape<br/>14 recorded statement that was made on the 18th?<br/>15 A I've got a tape recorded conversation on<br/>16 the 18th. That's the interview.<br/>17 Q And the tape recorded conversation that<br/>18 occurred on the 24th?<br/>19 A If you have that statement.<br/>20 THE COURT: Counsel, why we don't give<br/>21 Detective MacGillivray a chance to check his notes.<br/>22 Q Yes. Detective MacGillivray, I did not<br/>23 bring Alonso Sellers' statements with me. He is not<br/>24 testifying today, I gather. My notes indicate that<br/>25 the tape recorded statements, the two of them</p> |
| <p style="text-align: right;">Page 229</p> <p>1 A I mean, the third statement are you<br/>2 saying?<br/>3 Q Yes.<br/>4 A I believe we only have two statements.<br/>5 Q Well, I'm asking you now about the one on<br/>6 February 24th?<br/>7 A We have one taped statement on the 18th.<br/>8 Q On the 18th of February that was the second<br/>9 time that you saw and questioned him, right? I'm not<br/>10 trying to trick you. You told us that you spoke to<br/>11 him on the 9th, correct?<br/>12 A Correct.<br/>13 Q And then you had occasion to bring him down<br/>14 on the 18th?<br/>15 A Correct.<br/>16 Q Correct? And then you had an occasion to<br/>17 bring him down on the 24th?<br/>18 A Correct.<br/>19 Q And at each time it was at your direction<br/>20 or you had actually did it, correct?<br/>21 A Correct.<br/>22 Q And each time it was connected to the<br/>23 investigation into the death of Hae Min Lee, correct?<br/>24 A Yes.<br/>25 Q And on each occasion you advised him of his</p> | <p style="text-align: right;">Page 231</p> <p>1 occurred on the 18th and on the 24th?<br/>2 A I got one on the 18th.<br/>3 Q Yes.<br/>4 A There was not a taped statement taken on<br/>5 the 24th.<br/>6 Q Now, on the 9th when you spoke to him,<br/>7 after you finished speaking to him he still remained<br/>8 in the pool of suspects, did he not?<br/>9 A On the 9th?<br/>10 Q Yes.<br/>11 A Yes.<br/>12 Q And on the 18th after you spoke to him, he<br/>13 still remained in the pool of suspects, did he not?<br/>14 A Yes.<br/>15 Q Okay. Now, Detective MacGillivray, when<br/>16 the body was identified on the 10th of February by<br/>17 fingerprints, you became aware that there was an open<br/>18 investigation by Baltimore County, did you not, as to<br/>19 the victim?<br/>20 A A missing persons.<br/>21 Q Yes. And you got all of that information,<br/>22 did you not?<br/>23 A I spoke with Detective O'Shea the 9th.<br/>24 Q Okay. And because even before the body was<br/>25 identified the suspicion was that it was Hae Min Lee?</p>    |

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 un rebutted  
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



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| <p style="text-align: right;">Page 236</p> <p>1 concerning the missing persons report --</p> <p>2 Q Yes.</p> <p>3 A -- was turned over to me.</p> <p>4 Q And you believed that, didn't you?</p> <p>5 MR. URICK: Objection.</p> <p>6 THE COURT: Overruled.</p> <p>7 A There wasn't any reason for me not to.</p> <p>8 Q And I mean, you believed that they would</p> <p>9 turn over all of their information to you, did you</p> <p>10 not?</p> <p>11 A Correct.</p> <p>12 Q About anyone that they had interviewed?</p> <p>13 A Concerning this matter?</p> <p>14 Q Hae Min Lee.</p> <p>15 A Correct.</p> <p>16 Q And anyone -- any other information that</p> <p>17 they had gotten about her whereabouts?</p> <p>18 A Correct.</p> <p>19 Q Or the last persons that had seen her?</p> <p>20 A Correct.</p> <p>21 Q Now, after you became primary detective,</p> <p>22 and Detective O'Shea remained available to you, did</p> <p>23 he not?</p> <p>24 A He did.</p> <p>25 Q You would call him and you did, did you</p>           | <p style="text-align: right;">Page 238</p> <p>1 information, you then continued it as a Baltimore</p> <p>2 City homicide investigation, correct?</p> <p>3 A That is correct.</p> <p>4 Q Okay. Now, once that investigation began</p> <p>5 and you remained the primary detective, all</p> <p>6 information about it collected from any source, no</p> <p>7 matter by whom, should have gone to you?</p> <p>8 A That is correct.</p> <p>9 Q And in your office there is a procedure for</p> <p>10 information that might be gotten by other detectives</p> <p>11 either because they just happened to be there and get</p> <p>12 information or because you had directed them to get</p> <p>13 some would always return to you the primary, would it</p> <p>14 not?</p> <p>15 A Happened to be where?</p> <p>16 Q Well, for instance, if a detective was in</p> <p>17 the Homicide Unit and answered the phone and over the</p> <p>18 phone came some information relayed by someone about</p> <p>19 the death of Hae Min Lee, that information would be</p> <p>20 routed to you, would it not?</p> <p>21 A It would.</p> <p>22 Q Even though you weren't the one answering</p> <p>23 the phone?</p> <p>24 A It would.</p> <p>25 Q And it's because you're the primary, right?</p> |
| <p style="text-align: right;">Page 237</p> <p>1 not?</p> <p>2 A I did.</p> <p>3 Q Even after it was a Baltimore City matter</p> <p>4 exclusively?</p> <p>5 A Yes.</p> <p>6 Q It became a Baltimore City matter because</p> <p>7 the body was found inside the city limits, correct?</p> <p>8 A That is correct.</p> <p>9 Q But the autopsy didn't help you answer the</p> <p>10 question of where the murder had occurred?</p> <p>11 A No, it did not.</p> <p>12 Q Even after Dr. Korell told you that she had</p> <p>13 been strangled and ruled it a homicide; is that</p> <p>14 correct?</p> <p>15 MR. URICK: Objection.</p> <p>16 THE COURT: Overruled.</p> <p>17 A Correct.</p> <p>18 Q The autopsy couldn't give you even the hint</p> <p>19 of where it was that the strangulation had taken</p> <p>20 place?</p> <p>21 A Correct.</p> <p>22 Q Or whether or not the strangulation had</p> <p>23 actually taken place in the Baltimore City limits?</p> <p>24 A Correct.</p> <p>25 Q Correct? And once you received that</p> | <p style="text-align: right;">Page 239</p> <p>1 A Correct.</p> <p>2 Q And the way the system works is no matter</p> <p>3 who answers the phone if the information is about a</p> <p>4 case on which you're the primary you get it?</p> <p>5 A Correct.</p> <p>6 Q Isn't that correct?</p> <p>7 A Correct.</p> <p>8 Q And you received other information -- you</p> <p>9 received information that related to this</p> <p>10 investigation from other detectives, did you not?</p> <p>11 A I did.</p> <p>12 Q Including detectives who just happened to</p> <p>13 be answering the phone when someone would call with</p> <p>14 information?</p> <p>15 A Correct.</p> <p>16 Q Okay. And there was nothing unusual about</p> <p>17 that, was there?</p> <p>18 A No.</p> <p>19 Q That procedure wasn't set up just for you,</p> <p>20 was it?</p> <p>21 A No.</p> <p>22 Q Or just for this case, was it?</p> <p>23 A No.</p> <p>24 Q That was the protocol of the office, was it</p> <p>25 not?</p>  |

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| <p style="text-align: right;">Page 240</p> <p>1 A It is.</p> <p>2 Q And you counted on that protocol working</p> <p>3 because it was important that any information that</p> <p>4 came in about anything connected to the disappearance</p> <p>5 of or death of Hae Min Lee, it was important that it</p> <p>6 get routed to you, the primary; is that correct?</p> <p>7 A That is correct.</p> <p>8 Q So that you could take in all information</p> <p>9 in evaluating and conducting your investigation,</p> <p>10 isn't that correct?</p> <p>11 A Correct.</p> <p>12 Q Now -- and when that information would get</p> <p>13 to you, generally it would be reduced in writing,</p> <p>14 would it not?</p> <p>15 A Sometimes. We would like it to be reduced</p> <p>16 to writing.</p> <p>17 Q And you like it to be reduced so that there</p> <p>18 is a record of it, right?</p> <p>19 A If the detective who gets the information</p> <p>20 doesn't put it in a report, then I take the</p> <p>21 responsibility and I write it in a report.</p> <p>22 Q You write up a report indicating what</p> <p>23 information you received, correct?</p> <p>24 A Correct.</p> <p>25 Q So that there is a formal written record of</p> | <p style="text-align: right;">Page 242</p> <p>1 designation of the Hae Min Lee homicide</p> <p>2 investigation?</p> <p>3 A Yes.</p> <p>4 Q And that memo is directed to you from</p> <p>5 Detective Darryl Massey?</p> <p>6 A It is.</p> <p>7 Q And Detective Darryl Massey is another</p> <p>8 Homicide detective or he was back then?</p> <p>9 A He was back then.</p> <p>10 Q He was back in February of 1999?</p> <p>11 A He was.</p> <p>12 Q And you know who he is, do you not?</p> <p>13 A I do.</p> <p>14 Q And that's a memo that you had previously</p> <p>15 received, is it not?</p> <p>16 A It is.</p> <p>17 Q And it is a memo concerning information</p> <p>18 received by call to the Homicide Department, is it</p> <p>19 not?</p> <p>20 A Yes.</p> <p>21 Q And that, in fact, it's more than one call,</p> <p>22 is it not?</p> <p>23 A Correct.</p> <p>24 Q It details two calls within, in close time</p> <p>25 proximity to each other?</p>  |
| <p style="text-align: right;">Page 241</p> <p>1 all of the information that comes in; is that right?</p> <p>2 A Correct.</p> <p>3 Q So that the information is set down</p> <p>4 accurately?</p> <p>5 A As accurate as possible.</p> <p>6 Q And that there isn't an opportunity to</p> <p>7 forget something in the midst of all of the other</p> <p>8 information that you receive?</p> <p>9 A Correct.</p> <p>10 MS. GUTIERREZ: May I approach the witness,</p> <p>11 Your Honor?</p> <p>12 THE COURT: Yes, you may.</p> <p>13 Q Detective MacGillivray, I'm going to show</p> <p>14 you what's been marked as defendant's exhibit three,</p> <p>15 could you take a look at that?</p> <p>16 A Yes.</p> <p>17 Q That is a memo to you that's dated on the</p> <p>18 12th of February, 1999, is it not?</p> <p>19 A It is.</p> <p>20 Q And that memo concerns the -- it's titled</p> <p>21 the Hae Min Lee investigation?</p> <p>22 A It is.</p> <p>23 Q Followed by a number?</p> <p>24 A Yes, that's the --</p> <p>25 Q And that is the number of your office's</p>  | <p style="text-align: right;">Page 243</p> <p>1 A Correct.</p> <p>2 Q Right? I think it's about seven minutes or</p> <p>3 six minutes apart.</p> <p>4 A Correct.</p> <p>5 Q And both of those calls, according to</p> <p>6 Detective Massey --</p> <p>7 MR. URICK: Objection.</p> <p>8 Q -- who took them and made the notes were</p> <p>9 received by callers who were not identified, were</p> <p>10 they not?</p> <p>11 THE COURT: Sustained. May I have the</p> <p>12 exhibit for one moment? Ms. Gutierrez, are you</p> <p>13 seeking to get --</p> <p>14 MS. GUTIERREZ: Yes.</p> <p>15 THE COURT: -- the sum and substance of</p> <p>16 defendant's exhibit number three into evidence?</p> <p>17 MS. GUTIERREZ: Ultimately, Judge, but not</p> <p>18 right now and not all through this witness, some.</p> <p>19 Right now I'm seeking to get in the initial</p> <p>20 identifying information, not what the information</p> <p>21 was, but who it is that is identified as making the</p> <p>22 calls.</p> <p>23 THE COURT: Are you objecting to this?</p> <p>24 MR. URICK: Not to that but as to any of</p> <p>25 the content of the item.</p> |

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 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 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 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

|  |   |
|--|---|
| <p style="text-align: right;">Page 248</p> <p>1 be ascertained?</p> <p>2 MR. URICK: Objection.</p> <p>3 THE COURT: I think we're getting into the</p> <p>4 content of the memo at this point.</p> <p>5 MS. GUTIERREZ: I'll withdraw the question.</p> <p>6 THE COURT: So -- all right, very well.</p> <p>7 Q Detective MacGillivray, let's -- let me</p> <p>8 direct your attention to February 26th. That's the</p> <p>9 date that you remember that you were asked about just</p> <p>10 on direct February 26th, 1999?</p> <p>11 A Yes, I remember the date.</p> <p>12 Q Now, at the time that you were at Woodlawn,</p> <p>13 and that's in Baltimore County, right?</p> <p>14 A It is.</p> <p>15 Q And the time that you were on McAdoo, is</p> <p>16 that an avenue or a street?</p> <p>17 A Correct.</p> <p>18 Q You had information regarding the</p> <p>19 subscriber of a number where the phone was listed at</p> <p>20 being at a certain address is that correct?</p> <p>21 A Correct.</p> <p>22 Q And the address where the phone was located</p> <p>23 was 1208 McAdoo, was it not?</p> <p>24 A It is.</p> <p>25 Q And the subscriber had the last name of</p> | <p style="text-align: right;">Page 250</p> <p>1 call, was at 1208 McAdoo?</p> <p>2 A Correct.</p> <p>3 Q At the time that the call was made, right?</p> <p>4 A Correct.</p> <p>5 Q But the only name that you had received was</p> <p>6 the name of the Mr. Pusateri. I don't remember his</p> <p>7 first name but --</p> <p>8 A It was Jennifer's father.</p> <p>9 Q Okay. But you had never received the name</p> <p>10 of Jennifer?</p> <p>11 A No.</p> <p>12 Q And on the 26th of February, you hadn't</p> <p>13 received the name of Jay Wilds, had you?</p> <p>14 A No.</p> <p>15 Q Jay Wilds, you had already received a lot</p> <p>16 of information about Hae Min Lee's friends, had you</p> <p>17 not?</p> <p>18 A I had.</p> <p>19 Q Including a long list of names of students</p> <p>20 at Woodlawn?</p> <p>21 A Correct.</p> <p>22 Q And others?</p> <p>23 A Correct.</p> <p>24 Q Girls and boys?</p> <p>25 A Yes.</p>  |
| <p style="text-align: right;">Page 249</p> <p>1 Pusateri, did it not?</p> <p>2 A It did.</p> <p>3 Q But the subscriber wasn't named Jennifer</p> <p>4 Pusateri, was it?</p> <p>5 A It was not.</p> <p>6 Q It was someone that turned out to be her</p> <p>7 parents?</p> <p>8 A Her father.</p> <p>9 Q Her father. And you didn't know that then,</p> <p>10 right?</p> <p>11 A No, I did not.</p> <p>12 Q But at the time that you were going to [REDACTED]</p> <p>13 McAdoo, you were first looking to talk to the</p> <p>14 subscriber, right?</p> <p>15 A Correct.</p> <p>16 Q And then to find out who had made a call</p> <p>17 that the phone records that you had revealed had been</p> <p>18 made to that phone?</p> <p>19 A I was trying to find out who had called</p> <p>20 into [REDACTED] McAdoo.</p> <p>21 Q Right. And you also wanted to know who</p> <p>22 answered, didn't you?</p> <p>23 A Yes, I did.</p> <p>24 Q Because according to the records that you</p> <p>25 had, the receiver was at, meaning the receiver of the</p>  | <p style="text-align: right;">Page 251</p> <p>1 Q But among none of the names did Jay Wilds'</p> <p>2 name appear?</p> <p>3 A Not that I'm aware of.</p> <p>4 Q Not anyone related to or in the circle of</p> <p>5 friends or acquaintances of Hae Min Lee?</p> <p>6 A I had learned one of the individuals at</p> <p>7 Woodlawn High School.</p> <p>8 Q A student?</p> <p>9 A A student.</p> <p>10 Q Okay?</p> <p>11 A Had been dating Jay Wilds.</p> <p>12 Q A person by the name of Jay Wilds?</p> <p>13 A Correct.</p> <p>14 Q And that person was Stephanie [REDACTED]?</p> <p>15 A Correct.</p> <p>16 Q And Stephanie [REDACTED] was not in the</p> <p>17 inner circle of students at Woodlawn related to Hae</p> <p>18 Min Lee, was she?</p> <p>19 A She was one of the friends.</p> <p>20 Q That's the information that you had?</p> <p>21 A I believe.</p> <p>22 Q Did you have information that put her as</p> <p>23 one of the inner circle?</p> <p>24 A I didn't really get into inner circle,</p> <p>25 outer circles. They were just friends.</p> |



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.

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

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?



| Page 256   | Page 258   |
|--|--|
| <p>1 Q And his father was home, was he not?</p> <p>2 A He was.</p> <p>3 Q And his mother was home?</p> <p>4 A I believe she was.</p> <p>5 Q I think his older brother was home?</p> <p>6 A I don't recall seeing the older brother.</p> <p>7 Q And his baby brother?</p> <p>8 A I believe so.</p> <p>9 Q Okay. Had you met Adnan Syed before then?</p> <p>10 A I had not.</p> <p>11 Q Had you met his father before then?</p> <p>12 A I had not.</p> <p>13 Q His father is a sixtish young man?</p> <p>14 A No, sixtish.</p> <p>15 Q Sixtish, yes. And he has a long beard?</p> <p>16 A Yes.</p> <p>17 Q And his mother dresses as she appears</p> <p>18 today?</p> <p>19 A Correct.</p> <p>20 Q In traditional Muslim dress?</p> <p>21 A Correct.</p> <p>22 Q It was your choice to go there, correct?</p> <p>23 A Yes.</p> <p>24 Q And it had not been prearranged?</p> <p>25 A Had not.</p>                               | <p>1 A He did.</p> <p>2 Q So he agreed to do so, did he not?</p> <p>3 A With his father.</p> <p>4 Q He didn't quote -- and his father was</p> <p>5 present, right?</p> <p>6 A Yes.</p> <p>7 Q And you knew that he was seventeen, did you</p> <p>8 not?</p> <p>9 A Yes, I did.</p> <p>10 Q And you got his father's permission for</p> <p>11 that interview, did you not?</p> <p>12 A We both just came in, identified ourselves</p> <p>13 as Homicide detectives, and we were investigating the</p> <p>14 homicide of Hae Min Lee and he was -- Adnan was a</p> <p>15 student at Woodlawn High School and we had learned</p> <p>16 that he was her former boyfriend and we --</p> <p>17 Q Former boyfriend meaning ex-boyfriend?</p> <p>18 A Correct.</p> <p>19 Q And they agreed to speak to you, did they</p> <p>20 not?</p> <p>21 A And we wanted to talk to him.</p> <p>22 Q And that's what you wanted, was it not?</p> <p>23 A Correct.</p> <p>24 Q When you went to that location you wanted</p> <p>25 to speak to him, right?</p> |
| Page 257   | Page 259   |
| <p>1 Q You had not invited Mr. Syed or given him</p> <p>2 an invitation down to see you?</p> <p>3 A No.</p> <p>4 Q Not at the Homicide Unit?</p> <p>5 A No.</p> <p>6 Q You saw him in connection with the</p> <p>7 investigation into the death of Hae Min Lee, did you</p> <p>8 not?</p> <p>9 A Yes.</p> <p>10 Q And Detective Ritz was with you?</p> <p>11 A He was.</p> <p>12 Q And he was -- at that point he was the</p> <p>13 secondary, right?</p> <p>14 A He was second.</p> <p>15 Q And you and Detective Ritz asked for</p> <p>16 permission to speak to Adnan about the events</p> <p>17 surrounding Hae Min Lee's death?</p> <p>18 A No.</p> <p>19 Q Did you speak to him?</p> <p>20 A Yes.</p> <p>21 Q And did you ask to speak to him?</p> <p>22 A Yes.</p> <p>23 Q And he agreed to speak to you, did he not?</p> <p>24 A He was standing in the foyer.</p> <p>25 Q Well, he did speak to you, didn't he?</p> | <p>1 A That is correct.</p> <p>2 Q And the father was present when you spoke</p> <p>3 to him, was he not?</p> <p>4 A He was.</p> <p>5 Q You asked him questions about what was his</p> <p>6 relationship to Hae Min Lee, did you not?</p> <p>7 A Yes.</p> <p>8 Q And he answered those questions, did he</p> <p>9 not?</p> <p>10 A He did.</p> <p>11 Q That he had know her for several years?</p> <p>12 A Yes.</p> <p>13 Q That he called her a friend?</p> <p>14 A I believe that I generated a report.</p> <p>15 Q What?</p> <p>16 A I generated a report.</p> <p>17 Q Do you need that to refresh your</p> <p>18 recollection?</p> <p>19 A Sure.</p> <p>20 MS. GUTIERREZ: May I approach the witness,</p> <p>21 Your Honor?</p> <p>22 THE COURT: Yes, you may.</p> <p>23 MS. GUTIERREZ: May I have this marked?</p> <p>24 Q Would you review what has been marked as</p> <p>25 defendant's exhibit four to refresh your recollection</p>   |

| Page 260   | Page 262  |
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| <p>1 and let me know if you've had an opportunity to<br/>2 finish reviewing it?<br/>3 A (Witness complied with request.) Yes.<br/>4 Q Now, Detective MacGillivray, having<br/>5 refreshed your recollection, you wrote a report about<br/>6 this interview, did you not?<br/>7 A I did.<br/>8 Q And the report that you wrote is dated<br/>9 September 14th, 1999, is it not?<br/>10 A It was.<br/>11 Q The interview, however, was conducted on<br/>12 February 26th?<br/>13 A Correct.<br/>14 Q Was it not?<br/>15 A Excuse me?<br/>16 Q February 26th?<br/>17 A Yes.<br/>18 Q 1999?<br/>19 A Yes.<br/>20 Q And it indicates that it happened at about<br/>21 1900 hours, does it not?<br/>22 A It did.<br/>23 Q And then in lay people's terms that would<br/>24 be seven o'clock?<br/>25 A Seven o'clock.</p>  | <p>1 Q Okay. And he indicated he had known her<br/>2 for several years, did he not?<br/>3 A He did.<br/>4 Q And you asked him if he had a relationship<br/>5 with Hae Min Lee, did you not?<br/>6 A I did.<br/>7 Q And you wrote in your report that he<br/>8 replied in a very soft voice, yes, did you not?<br/>9 A Yes, and while doing so --<br/>10 Q No, sir, so --<br/>11 THE COURT: No, one moment. Ms. Gutierrez,<br/>12 the witness will be permitted to finish his answer.<br/>13 MS. GUTIERREZ: Judge, the question only<br/>14 required a yes or no answer.<br/>15 THE COURT: Well, unfortunately sometimes<br/>16 witnesses want to say more and they believe it's part<br/>17 of their answer and it needs more than a yes or no<br/>18 and the witness said?<br/>19 THE WITNESS: Well, he said yes in a soft<br/>20 voice. He motioned with his eyes in the direction of<br/>21 his father, indicating to me that he didn't want his<br/>22 father to hear.<br/>23 Q What he said?<br/>24 A What he said.<br/>25 Q About acknowledging the relationship with</p> |
| Page 261   | Page 263  |
| <p>1 Q Seven o'clock. Seven o'clock at night?<br/>2 A Right.<br/>3 Q Is that right? And it indicates that when<br/>4 you went to the house that you did ask him a lot<br/>5 about his relationship with Hae Min Lee, did you not?<br/>6 A I can tell you what I asked him. I've got<br/>7 the memo right here.<br/>8 Q Well, no, sir, if you will just answer my<br/>9 questions. You asked him about --<br/>10 A I wouldn't say a lot.<br/>11 Q Well, you asked him if he knew her?<br/>12 A Correct.<br/>13 Q You asked him to describe his current<br/>14 relationship, did you not?<br/>15 A No, I don't believe I did.<br/>16 Q Well, he answered one question that you put<br/>17 and he described her as a friend, did he not?<br/>18 A I asked --<br/>19 Q No, sir, please answer --<br/>20 MR. URICK: Objection.<br/>21 Q -- my question.<br/>22 THE COURT: Sustained.<br/>23 Q Detective MacGillivray, you also asked him<br/>24 how long he had known her, did you not?<br/>25 A Yes.</p> | <p>1 Hae Min Lee?<br/>2 A Correct.<br/>3 Q And you put in your report the softness of<br/>4 his voice, did you not?<br/>5 A I did.<br/>6 Q And you also put in your report you clearly<br/>7 understood that he didn't want his father to know?<br/>8 A That he was uncomfortable talking about Hae<br/>9 Min Lee in front of his father.<br/>10 Q In the presence of his father?<br/>11 A Correct.<br/>12 Q Is that correct? But he answered your<br/>13 question, did he not?<br/>14 A Yes.<br/>15 Q And you asked him further questions<br/>16 connected to Hae Min Lee's car, right?<br/>17 A I asked him if he had ever been a passenger<br/>18 in the car.<br/>19 Q And he told you he had, hadn't he?<br/>20 A Correct.<br/>21 Q Many times, hadn't he?<br/>22 A I asked whether he had the occasion to be<br/>23 in the car. However, he indicated not on that date.<br/>24 Q But he did say he had had occasion to be in<br/>25 her car, did he not?</p>   |

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?

|  |   |
|--|---|
| <p style="text-align: right;">Page 268</p> <p>1 A Correct.</p> <p>2 Q And the father said that's okay, didn't he?</p> <p>3 A In his presence.</p> <p>4 Q But he said that it was okay speak to his</p> <p>5 son at school, did he not?</p> <p>6 A In his presence.</p> <p>7 Q He said it was okay that you speak to his</p> <p>8 son at a later time?</p> <p>9 MR. URICK: Objection.</p> <p>10 Q Did he not?</p> <p>11 THE COURT: Sustained.</p> <p>12 MS. GUTIERREZ: I would move defendant's</p> <p>13 exhibit four into evidence.</p> <p>14 THE COURT: The statement?</p> <p>15 MR. URICK: Objection.</p> <p>16 THE COURT: The statement?</p> <p>17 MR. URICK: Objection.</p> <p>18 THE COURT: May I see it? The State</p> <p>19 objects to this?</p> <p>20 MR. URICK: Yes, the State objects.</p> <p>21 THE COURT: Overruled. I'm going to allow</p> <p>22 it in.</p> <p>23 MS. GUTIERREZ: Thank you, Judge. Can I</p> <p>24 have that published to the jury?</p> <p>25 THE COURT: Certainly.</p>  | <p style="text-align: right;">Page 270</p> <p>1 where I knew he would be there and I could talk to</p> <p>2 him.</p> <p>3 Q And that his father wouldn't be there,</p> <p>4 right?</p> <p>5 A It didn't matter to me whether his father</p> <p>6 was there or not.</p> <p>7 Q Even though it was apparent to you that</p> <p>8 what made him uncomfortable was the presence of his</p> <p>9 father?</p> <p>10 A It made him uncomfortable.</p> <p>11 Q Yes.</p> <p>12 A It didn't make me uncomfortable.</p> <p>13 Q Yes, his being at a comfort level however</p> <p>14 mattered to you, did it not?</p> <p>15 A I certainly didn't want him to be upset.</p> <p>16 Q Because the more comfortable he was perhaps</p> <p>17 the easier it would be to get him to answer</p> <p>18 questions?</p> <p>19 A If he wanted to answer the questions, he</p> <p>20 could have.</p> <p>21 Q Well, you wanted him to answer your</p> <p>22 questions, didn't you?</p> <p>23 A Yes.</p> <p>24 Q And he did answer your questions, didn't</p> <p>25 he?</p>   |
| <p style="text-align: right;">Page 269</p> <p>1 (Received into evidence</p> <p>2 Defendant's exhibit 4.)</p> <p>3 Q Now, Detective MacGillivray, back on the</p> <p>4 26th of February when you were asking Adnan a</p> <p>5 question about what kind of relationship he had with</p> <p>6 Hae Min Lee, it was clear from your question that you</p> <p>7 were asking for more information than his description</p> <p>8 of friends, was it not?</p> <p>9 A I asked a question and he answered it.</p> <p>10 Q And he did answer, did he not?</p> <p>11 A Yes.</p> <p>12 Q Although, as you say, you noticed that it</p> <p>13 appeared he was pretty uncomfortable on that subject</p> <p>14 in the presence of his father?</p> <p>15 A It appeared that was the case.</p> <p>16 Q And that was the conclusion you arrived at</p> <p>17 based on your own observations, right?</p> <p>18 A The observation of myself looking at Adnan</p> <p>19 and him motioning with his eyes at his father, it was</p> <p>20 clear that he didn't want to talk in front of him.</p> <p>21 Q And you asked to meet him at school hoping</p> <p>22 that that would mean you could interview him when his</p> <p>23 father wasn't there, right?</p> <p>24 A I asked to interview him at school knowing</p> <p>25 that would be a location that I could actually go to</p> | <p style="text-align: right;">Page 271</p> <p>1 A Yes.</p> <p>2 Q He didn't stop the interview, did he?</p> <p>3 A There were very few questions.</p> <p>4 Q He didn't stop it though, did he?</p> <p>5 A It was very apparent to me that he did not</p> <p>6 want to talk in front of his father.</p> <p>7 Q Sir, did he ever refuse to answer your</p> <p>8 question?</p> <p>9 A He indicated he didn't remember what</p> <p>10 happened on the 13th.</p> <p>11 Q And did he ever refuse to answer your</p> <p>12 questions?</p> <p>13 A The questions that I asked he answered.</p> <p>14 Q Okay. So the answer to my question, sir,</p> <p>15 is no he didn't refuse to answer questions, isn't</p> <p>16 it?</p> <p>17 MR. URICK: Objection.</p> <p>18 THE COURT: Sustained.</p> <p>19 Q Detective MacGillivray, after you noticed</p> <p>20 that he was uncomfortable answering your question</p> <p>21 about Hae Min Lee in front of his father, that's when</p> <p>22 you then asked if you could interview him at a later</p> <p>23 time in school, correct?</p> <p>24 A Correct.</p> <p>25 Q You were the one that ended the interview,</p> |



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 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 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 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 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 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 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?

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Page 284

Page 286

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?

Page 285

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.

Page 287

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?



|  |  |
|--|--|
| <p style="text-align: right;">Page 292</p> <p>1 A I did.</p> <p>2 Q And she answered all of your questions?</p> <p>3 MR. URICK: Objection. Can we approach?</p> <p>4 THE COURT: Overruled. You may approach.</p> <p>5 MR. URICK: May we approach?</p> <p>6 THE COURT: Yes.</p> <p>7 (Whereupon, counsel and the Defendant</p> <p>8 approached the bench and the following conference</p> <p>9 ensued:)</p> <p>10 THE COURT: I'll hear from you.</p> <p>11 MR. URICK: Your Honor, any statement given</p> <p>12 to this officer is an out of court -- is hearsay.</p> <p>13 The fact that some witnesses have testified before</p> <p>14 does not make them admissible just because they've</p> <p>15 testified. There still has to be an exception to the</p> <p>16 hearsay rule for any questioning about a statement</p> <p>17 not to be given as to what the statement contained.</p> <p>18 I would make a formal objection, or bring that to the</p> <p>19 Court's attention that unless Ms. Gutierrez has an</p> <p>20 exception to the hearsay rule she can't question the</p> <p>21 detective over the statements that Ms. Pusateri gave</p> <p>22 that Mr. Wilds gave. None of those people have</p> <p>23 denied anything that they've admitted. The State's</p> <p>24 talked about it. They've admitted that they made</p> <p>25 them. There's no basis -- no hearsay exception to</p>   | <p style="text-align: right;">Page 294</p> <p>1 since both Jen Pusateri's credibility is at issue,</p> <p>2 her relationship to Jay Wilds is part of that</p> <p>3 credibility since she is being offered to buttress</p> <p>4 his credibility in part, not based on her own</p> <p>5 personal knowledge, but buttressing what he said, I</p> <p>6 believe that we are entitled to that and I ask the</p> <p>7 Court to incorporate all of the previous arguments</p> <p>8 I've made entitling us to that, notwithstanding the</p> <p>9 fact that that line of inquiry may have, in fact,</p> <p>10 called for hearsay.</p> <p>11 THE COURT: Are you offering the statements</p> <p>12 for the truth of the matter or in an attempt to</p> <p>13 corroborate the statements or not corroborate the</p> <p>14 statement of a previous witness?</p> <p>15 MS. GUTIERREZ: I believe it's an attempt</p> <p>16 to impeach a previous witness.</p> <p>17 THE COURT: All right. The objection is</p> <p>18 overruled.</p> <p>19 MS. GUTIERREZ: Thank you. How long are we</p> <p>20 going to go tonight just so I can structure?</p> <p>21 THE COURT: Until 5:30.</p> <p>22 MS. GUTIERREZ: Okay.</p> <p>23 (Whereupon, counsel returned to the trial</p> <p>24 table and proceedings resumed in open court.)</p> <p>25 THE COURT: Ms. Gutierrez, your next</p> |
| <p style="text-align: right;">Page 293</p> <p>1 allow out any questioning about those, the content of</p> <p>2 those statements.</p> <p>3 THE COURT: Ms. Gutierrez.</p> <p>4 MS. GUTIERREZ: Well, Judge, I don't</p> <p>5 believe that most of my questions called for hearsay,</p> <p>6 with the single exception of the identity of Jay</p> <p>7 Wilds. I mean, the identity of her statement as to</p> <p>8 who she identified as her boyfriend and his answer</p> <p>9 regarding that. He did answer with hearsay, but,</p> <p>10 Judge, this is a witness who refuses any opportunity</p> <p>11 unless he's absolutely forced to answer a question</p> <p>12 yes or no, even where it requires so. His answers</p> <p>13 may have contained hearsay.</p> <p>14 My questions were not designed to elicit</p> <p>15 them. As to the identity of who she may have</p> <p>16 identified as her boyfriend, I believe that we would</p> <p>17 have been entitled to that for many other reasons</p> <p>18 already outlined in regard to what -- since we've</p> <p>19 already heard from the witness who's testified that</p> <p>20 she went, this witness that she went right from her</p> <p>21 house to see Jay Wilds. That was certainly a</p> <p>22 surprise, since they've presented the relationship as</p> <p>23 different, that she had told the police that she had</p> <p>24 gone to her boyfriend's house.</p> <p>25 So I certainly did ask that specifically</p> | <p style="text-align: right;">Page 295</p> <p>1 question.</p> <p>2 MS. GUTIERREZ: Yes, Judge.</p> <p>3 Q Detective MacGillivray, after you began to</p> <p>4 get personal information from Ms. Pusateri, you asked</p> <p>5 her a series of questions, did you not?</p> <p>6 A I did.</p> <p>7 Q And you started out asking her about the</p> <p>8 cell phone records that indicate her residence?</p> <p>9 A I did not.</p> <p>10 Q You did not. Well, she answered all of the</p> <p>11 questions you asked her about personal information,</p> <p>12 did she not?</p> <p>13 A Yes.</p> <p>14 Q She didn't refuse to answer any of them?</p> <p>15 A No.</p> <p>16 Q Correct? And the name Jay Wilds had not</p> <p>17 yet come up, did it?</p> <p>18 A No.</p> <p>19 Q Did you share with her the phone records?</p> <p>20 A Actually, I started to get background</p> <p>21 information from Ms. Pusateri.</p> <p>22 Q Okay. And but then you got it, right?</p> <p>23 A I did.</p> <p>24 Q She answered all of that. After that's all</p> <p>25 done you then began to ask her some questions?</p>  |



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 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 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 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 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 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 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.



|   |   |
|---|---|
| <p style="text-align: right;">Page 316</p> <p>1 right?</p> <p>2 A Yes.</p> <p>3 Q And you did attempt to question her about</p> <p>4 Nicole, did you not?</p> <p>5 A I'm sure I did.</p> <p>6 Q And you would have wanted a way to get in</p> <p>7 touch with her, right?</p> <p>8 A Yea, she gave me the phone number.</p> <p>9 Q But Ms. Pusateri never indicated that she</p> <p>10 was the one that had heard?</p> <p>11 MR. URICK: Objection.</p> <p>12 Q She was the source of the information about</p> <p>13 strangulation, did she?</p> <p>14 THE COURT: Sustained.</p> <p>15 Q Now, did Ms. Pusateri leave because you</p> <p>16 kicked her out?</p> <p>17 A Excuse me?</p> <p>18 Q Did Ms. Pusateri leave, again on the 26th,</p> <p>19 leave because you kicked her out?</p> <p>20 A No.</p> <p>21 Q Were you done with her?</p> <p>22 A At that point I asked before she left, I</p> <p>23 asked Ms. Pusateri if she had anything that she'd</p> <p>24 like to tell me before she left.</p> <p>25 Q Did she say yes?</p>               | <p style="text-align: right;">Page 318</p> <p>1 Q You had no information from any other</p> <p>2 source that put her in on the murder, right?</p> <p>3 MR. URICK: Objection.</p> <p>4 A No.</p> <p>5 Q Or on the burial?</p> <p>6 THE COURT: I'm sorry, repeat that question</p> <p>7 again.</p> <p>8 Q You had no other information that put her</p> <p>9 in on the murder or on the burial?</p> <p>10 THE COURT: Overruled.</p> <p>11 A No.</p> <p>12 Q No. And you never -- and I know you've</p> <p>13 answered it at the beginning, you never did it, at no</p> <p>14 time during the interview did you pull out the advice</p> <p>15 of rights form?</p> <p>16 MR. URICK: Objection.</p> <p>17 THE COURT: Sustained.</p> <p>18 Q After she indicated she didn't have</p> <p>19 information that you thought she did have, she then</p> <p>20 left?</p> <p>21 MR. URICK: Objection.</p> <p>22 THE COURT: Overruled.</p> <p>23 A She didn't actually get up and walk out of</p> <p>24 the office.</p> <p>25 Q She did not?</p>  |
| <p style="text-align: right;">Page 317</p> <p>1 A She said no.</p> <p>2 Q She said no. And so it was her decision to</p> <p>3 sort of end the interview?</p> <p>4 A It was my decision.</p> <p>5 Q Because she wasn't going to answer any more</p> <p>6 questions?</p> <p>7 A That I felt that she had information and</p> <p>8 she wasn't telling me everything at that point.</p> <p>9 Q And you confronted her with that, did you</p> <p>10 not?</p> <p>11 A I asked her if she knew of anything to tell</p> <p>12 me before she left and she said no.</p> <p>13 Q She answered no; is that correct?</p> <p>14 A Correct.</p> <p>15 Q All right, now, she then left, right?</p> <p>16 A She left.</p> <p>17 Q During any of that time you never turned</p> <p>18 on the tape recorder, right?</p> <p>19 A Not that evening.</p> <p>20 Q And you had never threatened her in any</p> <p>21 way?</p> <p>22 A No.</p> <p>23 Q Even though you thought that she had</p> <p>24 information that she wasn't sharing with you?</p> <p>25 A Correct.</p> | <p style="text-align: right;">Page 319</p> <p>1 A I concluded the interview at which time we</p> <p>2 walked out together.</p> <p>3 Q Okay. And she left the garage and left the</p> <p>4 Police Department?</p> <p>5 A She did.</p> <p>6 Q Okay. And at that time had you made an</p> <p>7 appointment to see her again?</p> <p>8 A No, I had not.</p> <p>9 Q Had you set up any time at any place to</p> <p>10 talk to her again?</p> <p>11 A No, I had not.</p> <p>12 Q Had you made any appointment for you to</p> <p>13 come to her house and speak to her again?</p> <p>14 A That evening?</p> <p>15 Q On any day, yea, that evening did you make</p> <p>16 any plans?</p> <p>17 A No.</p> <p>18 Q No. And did you tell her that you thought</p> <p>19 she had some information but she wasn't sharing it?</p> <p>20 A Nope.</p> <p>21 Q And after she left, the next that you heard</p> <p>22 was when you got a call from a lawyer?</p> <p>23 A The next day I got a call from one of the</p> <p>24 supervisors in the office of Homicide.</p> <p>25 Q Okay. And the call indicated that a lawyer</p> |

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 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 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 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 MacGillivary asked Ms.  
 4 Pusateri to describe her relationship with Jay Wilds.  
 5 a very simple place to start off.  
 6 I remind you, Detective MacGillivary, 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 MacGillivary 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  
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## 1 CERTIFICATE

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  
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