

UNDISCLOSED: the State v. Adnan Syed

Addendum 3:

When Did Jay First Talk to the Police?

May 18, 2015

[0:02] Detective MacGillivray

...what happens then?

Jay Wilds

We leave there, um, I believe... Can you bear with me for a minute? I... [tap-tap]...um, okay, we left there... Ah, I take him, I took him back to school, and, and I dropped him off.

[Jay's second police interview, p.19]

[0:26] Jay Wilds

...I get in the car and I follow him, and we end up at the 70 Park and Ride off of, uh... um, what is that? Uh... [tap-tap] Sh... Cooks Lane.

Detective Ritz

[...] when you say you get in the car and follow him, whose car are you driving?

Jay Wilds

His.

[Jay's first police interview, pp.8-9]

[0:44] Jay Wilds

...from what I can remember from that conversation, it was, uh, about girls and stuff. And he was like, "This shit's fucked up man. I'mma do it tomorrow. I'm, I'm, I'm going to kill her..."

[Jay's second police interview, p.46]

[0:56] Detective MacGillivray

Why would you tell Jenn that *you* were not the one who killed Hae? What significance is that?

Jay Wilds

Because I know that I would've, I w--I would go to jail for it, so I told Jenn. I'm, I'm sorry.

Detective MacGillivray

I mean, did you kill her?

Jay Wilds

No.

[Jay's second police interview, pp.39-40]

[1:14] Detective MacGillivray

...Ah, that concludes this interview.

Detective Ritz

The time now is 2:21 a.m. on Sunday, February 28th, 1998.

Detective MacGillivray

Nine.

Detective Ritz

1999, I'm sorry.

Jay Wilds

You *have* been up for a while.

Detective Ritz

Yes.

[Jay's first police interview, pp.32-33]

[1:36] Rabia Chaudry Hi, and welcome to this week's Addendum. My name is Rabia Chaudry, and I'm joined with my colleagues Susan Simpson and Colin Miller. Now, last week, we talked about Jay's day, or at least what we thought was Jay's day on January 13th, 1999, using his statements, testimony and other witness statements. But what we learned was that Jay's day wasn't actually what Jay did. It's what the detectives told Jay to say that he did, while they pointed to maps and notes, a chronology, and cell phone records. And Jay made his statement on tape.

But how do we know that the story came from the detectives and not Jay? That's because Jay's statement described facts and events that couldn't have actually happened in reality. We know that because the detectives were using an inaccurate call record and inaccurate maps of the cell

towers. They were using documents that were wrong, but they expected Jay to make sure his story lined up with those documents.

Remember, the police had inaccurately placed a cell tower close to Cathy's house at a time when a call came in in the late afternoon. And because that cell tower was there, they somehow had to work Cathy into the statement. And Jay did it... even though they later realised it was a mistake.

Now, let's talk about what led the police to Jay in the first place. And when did that happen?

To recall a little bit from *Serial*, according to the official record, the detectives learned about Jay from Jenn. They had gotten Adnan's cell records, and they saw all these calls were made to Jenn, so they tracked her down and she led them to Jay. That's the story we know. They first approached her on February 26th, 1999, and then on the 27th, Jenn came down to the police station with her lawyer and her mother and gave a statement to the police. The police then went and they picked up Jay later that same night a little bit after 11 p.m. and took him down to the Homicide Unit for questioning.

For the first 20 minutes, Jay said nothing about the crime, and then suddenly--and kind of strangely because it's pretty early into the interview--he breaks down and he says, 'All right, I come clean.' It was after this interview that he led the cops to Hae's car. And it was shortly after that--just a few hours--that Adnan was arrested for Hae Min Lee's murder.

Now, in the *Intercept* interview that Jay gave just a few months ago, he actually was clear that it didn't happen that way. This is what he said:

"Well first of all, I wasn't openly willing to cooperate with the police. It wasn't until they made it clear [that] they weren't interested in my 'procurement' of pot that I began to open up any."

[...]

"They had to chase me around before they could corner me to talk to me, and there came a point where I was just sick of talking to them. And they wouldn't stop interviewing me or questioning me. I wasn't fully cooperating, so if they said, 'Well, we have on phone records that you talked to Jenn.' I'd say, 'Nope, I didn't talk to Jenn.' Until Jenn told me [that] she talked with the cops and that it was ok if I did too.

"I stonewalled them that way. No — until they told me they weren't trying to prosecute me for selling weed, or trying to get any of my friends in trouble."

All right, so Jay knew the police were coming for him, which contradicts the official record: that Jenn's statement led the police to him just a few hours after she was interviewed. But despite our presumption that anything Jay says is likely false until proven otherwise, this statement actually matches other evidence available. In fact, in Jay's first tape-recorded interview--and remember, this began at 12:30 a.m. on February 28th--he told the cops he'd known for days that the cops were "coming for him".

[5:19] Jay Wilds

...I had learned that you guys were looking for me and--

Detective Ritz

How did you learn that?

Jay Wilds

Sh... uh... a lot of people told me. Um, friends of mine told me that you guys were going to come and question me...

[Jay's first police interview, pp.23-24]

[5:30] Rabia Chaudry Notice the cops don't try and contradict Jay or seem surprised. They're just kind of curious about how he heard they were looking for him.

But, you know, according to the "official" story, this can't be true. The official story is that the cops talked to Jenn on February 26th; she told them nothing. Then on the 27th, she came into the police department and gave her statement. That interview ended at 6 p.m., and Jay was picked up around 11 p.m. at the video store. There wasn't any time that "a lot of people" could have told Jay that the cops were looking for him because there's only three or four hours in between the time the cops first learned of Jay's relevance to the murder and when they actually picked him up, right?

But even though this doesn't match the official story, it does match what Jay said to *The Intercept*. Remember what he said about how he ended up talking to the cops: "They had to chase me around before they could corner me to talk to me, and there [is a point] where I was just sick of talking to them." And Jay said this was happening before the cops had talked to Jenn.

So, is Jay just forgetting? Did the cops actually talk to him before they talked to Jenn? The answer is yes, and here's how we know this:

[6:34] Susan Simpson On March 10th, 1999, the private investigator working for Adnan's defense team went down to the adult video store where Jay worked and spoke to Jay's boss, a

woman named “Sis”. As of March 10th, at least officially, Jay had only spoken to the cops one time, and that was on February 27th when the cops picked Jay up at about 11, 11:30 p.m. from the adult video store. According to Sis, though, it didn’t happen that way. Here’s what Sis said according to the investigator’s notes:

On “either February 20[th], 21[st], or 22[nd], Jay missed work when he responded to the Baltimore City Police Headquarters for an interview. Jay was questioned several times by [the] police, at which time Sis asked Jay if they were questioning him in reference to the girl found in the park. Jay advised that that was correct.”

The investigator was advised that Jay missed work to speak to the police again on February 26th. He also missed work on Friday, March 5th, to speak to the police. Sis’s statement seems credible. She has no reason to lie, she’s being asked to describe events that occurred relatively recently, and she had documentation to back them up. But if Sis’s story is true, that’s a big deal because as of March 10th, Jay should only have talked to the cops one time, and that was on February 27th.

If he was actually talking to the cops on three or four occasions and talking to the cops on February 20th, 21st, or 22nd, then everything we’ve ever been told about how the cops found Jay is wrong.

The official story is that the cops went to Jenn, who told them about Jay and that’s how they realised that he was their star witness. But Jenn didn’t ever talk to the cops until February 26, which means if Jay is talking to the cops before then, Jenn was not part of the equation.

So do we have any other evidence that can support what Sis is saying? Yeah, we do. We have witness statements and documentation, which corroborates Sis’s story to the investigator. Let’s start with the first interview Sis mentions, the one on February 20th, 21st, or 22nd. There’s another witness who says that Jay was talking to the cops at that time, and that’s Neighbor Boy. Neighbor Boy, if you’ll recall, is the person who told his neighbor Laura that he’d seen Hae’s body in the back of a trunk. Laura told her dad about this, and her dad called the cops. So the police came out, took statements from Laura, and later took a statement from Neighbor Boy himself. Neighbor Boy denied having seen the body, and that was pretty much it. It was left at there. However, in September, after the prosecution had disclosed Neighbor Boy’s existence to the defense, the private investigator tracked him down and got a statement from him. Here’s what it said:

“About a month prior to the police finding Hae Lee’s body Jay was at my house smoking weed with [two others] and myself. I did not see Jay again until about one week after Hae’s body was found. I saw Jay in the back of a police car near Jenn’s house. I later spoke to Jay, and he told me that the police got his phone number off of Adnan’s cell phone records.”

Three very big things about this statement: first, Neighbor Boy saw Jay in a police car near Jenn's house. We know where Jay was picked up and dropped off for all of his official interviews; the police recorded that. And not one of those involved a stop or a trip near Jenn's house, which means that whatever it is Neighbor Boy saw, it was not related to one of those official interviews.

Second, Neighbor Boy saw Jay in a police car about one week after Hae's body was found. News that Hae's body had been found in Leakin Park was released on February 11th. So, "about one week" after that would include February 20th, 21st, and 22nd, which again matches what Sis told the investigator earlier.

And the third point of interest, the biggest one of all, is that Jay told Neighbor Boy that the police had found him because they had gotten his phone number off of Adnan's cell phone records--not that the police had found him because of Jenn but because his number was one of the numbers that Adnan had called on January 13th. And when was it that the police first learned that Jay's number had been called on January 13th, 1999? February 17th, about one week after Hae's body was found.

The statement given by Sis and the statement given by Neighbor Boy actually match up really closely. Both are saying that about a week after Hae's body was found, Jay was talking to the cops. And according to Neighbor Boy, they got to Jay because [of] Adnan's cell phone records, which we know the police had on February 17th. If it took them a couple days to track down Jay after getting his phone number from Adnan's cell records, then Jay was talking to the cops on February 20th, 21st, 22nd, just like Neighbor Boy and Sis say. What this means is that if Neighbor Boy and Sis are right, when the police got to Jay, it wasn't through Jenn, and it was much earlier than the official record shows.

The last date that Sis tells the investigator that Jay had missed work to talk to the cops was March 5th, and that's also interesting because we have reason to think that Jay might have been talking to the cops at around that time. To explain why, though, we need to go back to January 27th.

On that date, Jay was arrested and charged with disorderly conduct and resisting arrest. Jay was never prosecuted on those charges, however, because on March 5th a stet was entered. A stet is kind of like a pause button on a criminal charge: it doesn't dismiss the charge, but it does suspend it, and as long as the defendant complies with any conditions that are imposed by the prosecutor in entering the stet, it will be dismissed at a later date. But if Jay missing work on March 5th is connected to the entry of the stet on that same date, then the prosecutor would have to be involved. The cops don't have the power to enter a stet on their own.

So, is there any reason to think that Jay was meeting with the prosecutor on March 5th?

Yeah, there is, because guess who met with the prosecutor the day before on March 4th? If your answer is Jenn, you're right. Jenn didn't just give statements on February 26th and 27th and then walk away from the case. She actually had another interview on March 4th, this time in the prosecutor's office. We know that because the police file contains a single sentence referencing the interview.

It says "On 04 March, 1999, your investigator along with Detective William F. Ritz had the occasion to respond to the State's Attorney's Office Violent Crimes Unit and interview Jennifer Pusateri along with her attorney."

That's it. That's the only record that was made of this interview because neither the police nor the prosecutor saw fit to record what happened.

We have no idea what Jenn said or what questions she was asked, but if she met with the prosecution on March 4th, it makes sense that Jay would've been brought down to the prosecutor's office the following day.

So, if Jay is missing work on March 5th to talk to the police, and if the criminal charges against Jay are dismissed on March 5th by entry of a stet, that brings us to the big question: What were the prosecutor's conditions in entering the stet, and what was Jay required to do in order to ensure that those criminal charges would not be reinstated?

[13:51] Rabia Chaudry Now, going back to the early morning hours of February 28th, after Jay wrapped up his first on the record talk with cops and shortly before they arrested Adnan as the sun came up, Jay was asked to lead the cops to Hae's car.

And, you know, one of the most frustrating things for me has been that, according to his statements and testimony, Jay is the one with all the details about the crime. He had to be involved, right? How can somebody who knows every little bit of information not actually have something to do with the crime?

He knows how Hae was killed, where she was buried, what she was wearing, what position the body was in, what was missing from the car, and, of course, where her car was left after the murder. But the problem now is that we know the cops had a number of opportunities to talk to Jay before his first recorded interview and that during the interview they supplied him with all kinds of documents and details. It's not unheard of that cops, either on purpose or inadvertently, feed witnesses details about a case.

Now, we heard from Jim Trainum, a former homicide detective in *Serial*, but he actually first appeared on *This American Life* in an episode called "Confessions". And in that episode he discussed how he himself put away an innocent woman after giving her details of a crime she had nothing to do with and getting her to actually confess.

So, let's get back to the car. Did Jay actually lead the cops to Hae Min Lee's car after his first recorded interview in the wee morning hours of February 28th, 1999?

Ah--and you might be surprised to hear that Susan and I actually don't agree on this; Colin is on the fence, so he's in a safe zone--but I think the answer to that question is no. I don't think he led the cops to Hae's car. Susan has a different opinion on it, but let's hear the clip first from th--the second trial. This is Jay testifying under cross-examination. And then we'll talk a little bit about it.

[15:44] Cristina Gutierrez

...then you told them, "Oh, I can take you there. I can show you where the car is," did you not?

Jay Wilds

Yes, ma'am.

Cristina Gutierrez

And they took you on your word, did you--did they not?

Jay Wilds

Yes, ma'am.

Cristina Gutierrez

And while you were out, you showed them some place else, did you not?

Jay Wilds

I believe so.

Cristina Gutierrez

You "believe so". That really means a "yes", doesn't it, Mr. Wilds?

Kevin Urick

Objection.

The Court

Overruled. Does that mean a "yes"?

Jay Wilds

Yes, ma'am.

Cristina Gutierrez

You *did* show them some place else, did you not?

Jay Wilds

Yes, ma'am.

[Cross-examination of Jay at second trial, February 10, 1999, pp.61-62]

[16:21] Rabia Chaudry In the clip, what you hear is Gutierrez first leads in talking about where the car was parked and how Jay had actually described it to the police in his interview. And then immediately afterwards, she asks him, 'You were out taking the cops there, but then you went somewhere else, right?' And he says, 'Right.'

Now, I interpret that as meaning Jay did not take the cops to Hae's car. He took them somewhere else first, and then, maybe later, he took them to the car. I feel that way for a couple of reasons, and Susan's going to explain how, you know, she's approaching this.

But I think that, number one, it's clear because Gutierrez sets up the question like that. I mean, in the proceeding, uh, a few minutes what she's talking about *is* the car. Secondly--and Susan actually thinks that Jay might be referring to the trunk pop locations, but anyway--the reason I don't think it's that is because Gutierrez spends a lot of time on the trunk pop locations and other places in the testimony. So I think she did that totally separately.

And, lastly, I'll just say that Adnan's lawyer actually does agree because Justin, in a number of his briefs, also cited to the fact that Jay did not lead the cops to Hae's car. Now, I know Susan doesn't agree, so... uh, Susan, what do you think?

[17:39] Susan Simpson Just to clarify, my disagreement here is not so much about the factual question of whether or not Jay led the cops to the car. It's more about what exactly Gutierrez meant and what Jay understood that question to mean. Unfortunately, due to Gutierrez's somewhat unique style of cross-examination, it's impossible to know for sure either what she meant by that question or, more importantly, what Jay understood her question to mean and, therefore, what he thought he was answering.

Since Gutierrez didn't clarify what Jay's response meant, we're left guessing at the record, and as a result, I don't give much importance to that particular exchange in the transcripts. However, the whole question of whether or not Jay knew where the car was is something of a red herring. There's another exchange in the transcripts from shortly before the clip that Rabia played for you that I think's even more interesting.

[18:29] Cristina Gutierrez

And, in fact, you had told Detective Ritz and MacGillivray that, in fact, in the intervening time from January 13th to February 28th that you had, in fact, gone back to check to see if the car was there, didn't you?

Jay Wilds

No, ma'am.

Cristina Gutierrez

You didn't tell them that?

Jay Wilds

That's not what I told them, no.

Cristina Gutierrez

And, sir, if that appears on the tape recorder, that must be some kind of mistake?

Jay Wilds

I didn't tell them I went back to check, no.

Cristina Gutierrez

You never--and you didn't go back to check, sir, or you--

Jay Wilds

I went back to the area, yes.

Cristina Gutierrez

You *had* gone back between January 13th and February 28th to check on the car?

Jay Wilds

I'd been through the area. My intent was not to check on the car.

Cristina Gutierrez

Oh, so you just happened to be going by, and you saw the car?

Jay Wilds

Yes, ma'am.

[Cross-examination of Jay at second trial, February 10, 1999, pp.59-60]

[19:31] Susan Simpson Jay is saying that sometime in between the crime and when he first talked to the police, he saw the car again--not because he intended to, not because he went looking for it, but because his normal routine happened to take him across the place where the car was located.

Jay has also said that he could recognize Hae's car, which means even if Jay did know where the car was, that's no evidence that he was involved in the crime because Jay has said, doing his normal thing, going about his normal routine, he would've come across where the car was. And if he had done so, he could've recognized it.

So maybe Jay knew where the car was, maybe he didn't. But for me, the bigger question--and the one that actually matters--is whether or not the cops knew where the car was before they talked to Jay. And don't worry, we'll be getting to that later.

[20:16] Rabia Chaudry In the future episodes, we're going to talk about lots of other things we haven't gotten to. We get a lot of questions on Twitter from listeners about things that we are going to talk about in the future. So, I assure you, whether it comes to the autopsy reports, the crime scene, the car, we're going to get to all of that.

Now let's actually answer some Twitter questions we've gotten in the last week, and I'm gonna turn it over to Susan and Colin to do that.

[20:40] Susan Simpson Our next question comes from Twitter user [@chimps_ofOK](#); @chimps_ofOK asks: "wait?? [sic] Jennifer 'never liked Hae'? [sic] Did I just hear that right?"

Yes, that's what Jay told the cops, that Jennifer never liked Hae. Jennifer herself never says it in those words, but in her interview with the detectives, she does indicate that she didn't have an entirely favorable opinion of Hae. Here's what she said:

[21:06] Jenn Pusateri

...She was pretty nice, like... I mean, like, if anyone else met her they would think that, I don't know, I guess they would think that she was a nice girl--intelligent, well dressed, kind of like ditzy maybe. But I personally thought she was a snob because she was a little stuck up. I thought she was stuck up.

[Jenn's police interview, p. 35]

[21:22] Susan Simpson According to Jenn then, she didn't really *dislike* Hae necessarily, but she didn't really think well of her either.

[21:29] Colin Miller Before getting to our next question, I'd like to replay some of the audio from Jay's first recorded police interview. In this clip, Jay's describing for the detectives the color of gloves worn by Adnan when Jay responded to the "come and get me" call. As you listen, pay close attention to the color of glove described by Jay.

[21:46] Jay Wilds

Oh, and he... he's, he's walking around with with red, red gloves on... um, red gloves--

Detective Ritz

What kind of gloves are they?

Jay Wilds

Winter, they're winter gloves with uh--

Detective Ritz

Cloth gloves or...?

Jay Wilds

Yeah, they're like wool with, uh... leather palms and, um... and, and that, and that, that sparked, I was, you know: "What the fuck you walking around with gloves on for?"

[Jay's first police interview, pp.7-8]

[22:04] Colin Miller Now, I figure this might be a bit of a "Is this dress black and blue or white and gold?" type situation. I've played this clip for a number of people, and they're all convinced that Jay used the word "gray". On the other hand, some people seem to think the word was "red" and, in fact, that's the color used in the police transcription.

Why does it matter? This takes us to our Twitter question. It's by Jeremy; his Twitter handle is [@jeremydavidpare](#), and he asks: "[@serial](#) is this [generation's] OJ trial and we're all waiting for [\[Undisclosed\]](#) to show us that the (red) glove doesn't fit."

How does that work into the State's case at trial? When Hae Min Lee's body was found in Leakin Park, there were a number of fibers under and around her body. One of these fibers was red. State's theory of the case at trial is this red fiber could have come from one of the red gloves described by Jay, and he could be telling the truth.

Now, there are some flaws with this theory. First, besides Jay, no one remembers Adnan having red gloves, and second, the State never tested the fiber to determine whether it came from a glove. That said, it's still some evidence Jay could be telling the truth. On the other hand, if Jay initially says the gloves were gray, that leads to the very real question of, how is it that Jay went from describing the gloves as gray in his first interview to describing them as red when he testifies at trial?

[23:26] Colin Miller This question comes from Bob G; his Twitter handle is [@bobwit76](#). He asks: "Can the audio you are sharing be submitted as evidence during Adnan's appeal? Could they have been submitted at trial?"

The answer to both questions is yes, and it's actually interesting because Maryland law on this is different from the law in a lot of states. And so, in many states, if you give a statement to police and that statement contradicts your testimony at trial, that prior statement can only be used to impeach the witness. In other words, it can only be used to call into question the credibility of the witness. The substance of that prior statement is not admissible to the jury. And so, if you think of Jay's story as a string or a rubber band holding the state's case together, his prior statements in many jurisdictions could only be used to have sort of a "death by a thousand cuts" to show this string, this rubber band being presented at trial doesn't hold things together.

By way of contrast, in Maryland, if a person gives a recorded statement to police, that statement is deemed non-hearsay. It's admissible not only to impeach the witness, it's also admissible substantively to provide an alternate accounting of what actually happened. And so, if we think about string theory, this is sort of the notion of, in addition to this string or rubber band that Jay is presenting at trial, his recorded police statements are other strings. And that's another way to destroy the State's case, is to show--listen, this is one accounting Jay is giving at trial. He has given three, four, five, six, seven other accountings before trial, and those recorded accountings are alternate scenarios you can consider that bog down the State's case against Adnan.

[25:11] Susan Simpson Our next question comes from Twitter user [@glowingskingirl](#), who writes: "wondering if there was a lapse in time between Jen's [sic] sign-in & her recorded interview?"

What she's referring to is the pre-interview, which is the period of time in between when a witness first comes into the station and when the tape recorder is actually turned on. Like we discussed last week, Jay had pre-interviews before both of his taped statements. The first one was about an hour long, and the second was three hours long. So, did Jenn also have a pre-interview? Was there also a period of time in which she was talking to the cops off the record and potentially could have had her statements influenced by them?

Yes, she did. On Saturday, February 27th, Detectives Ritz and MacGillivray went to meet Jenn at her attorney's house at approximately 1 p.m. Two and a half hours later, they went down to the station where the tape recorder was turned on and Jenn gave a formal statement. However, we have no idea what they talked about during those two and a half hours or what discussions resulted in them going down to record the final interview.

[26:15] Colin Miller This question comes from Rebecca Rohan; her Twitter handle is [@RR94](#). She asks, "Episode 3 was jaw-dropping but will any of it make a [difference] for Adnan? Will this help w/his current case or a future appeal?"

This leads to the issue of: what's the status of Adnan's current case? He brought a petition for post-conviction relief with the Circuit Court in Baltimore City based upon ineffective assistance of counsel. That court denied him relief; he's currently appealing to the Court of Special Appeals of Maryland. His hearing is in June.

One school of thought is the Court could remand, i.e. send the case back down to the Circuit Court to have Asia McClain testify. If that doesn't happen and if Adnan is denied relief, he still could move to re-open his post-conviction review proceeding with the Circuit Court under Maryland Code of Criminal Procedures, section 7-104. That allows for re-opening a case when it is in the "interests of justice".

One ground would be prosecutorial misconduct. The claim here would be that Kevin Urick, the prosecutor in Adnan's initial trials, either dissuaded Asia from testifying or mis-represented what she said when he testified at Adnan's original hearing that she only wrote the affidavit about seeing Adnan in the library until 2:40 based upon pressure from Adnan's family.

The other possible ground, which is raised by what Susan has found, is police misconduct, and so another ground for re-opening the hearing would be that the police, when they took Jay's statement, knew it to be false. Now, that's a pretty tough standard to meet, and the problem here is we're a bit like Gene Hackman in the classic movie "The Conversation" by Francis Ford Coppola: we have the audio of what happened during that interview, but we're left sort of piecing together exactly what was going on with the paper shuffling and the tapping.

I think probably the strongest thing that Susan has found is how Jay's story shifted from saying he was at a McDonald's at a certain point in time to saying he was at Cathy's apartment based upon the police getting an initial map of where a cell tower was and then getting a second map where that cell tower was shifted from a location that covered a McDonald's to the area that covers Cathy's apartment.

That question leads into the next question. It's by Lauren Paterni; her Twitter handle is [@laurenpaterni](https://twitter.com/laurenpaterni). She asks: "i [sic] heard the tappings right away!! [sic] Wow. Are there any physical tapes to see if someone slid a note"?

The answer is no because back in 1999, the Baltimore City Police Department didn't usually do two things when interviewing people like Jay: first, they usually made no attempt to record the pre-interview. That's the initial portion of the interaction between the police and the witness when they hash things out before the witness goes on record. Second, even when the witness went on record, they typically didn't do an audio-visual recording and only did an audio recording. That policy changed in 2008 when Maryland passed section 2402 of the Maryland Code of Criminal Procedure. That section doesn't require the audio-visual recording of interviews, but what it does do is strongly encourage that recording in certain severe cases including murder cases. Moreover, Maryland also passed section 2404 of that code, which requires the Governor's Office of Crime Control and Prevention to make an annual report to the House Judiciary Committee. According to the most recent report, Baltimore City has eighteen interrogation rooms, and two of those are capable of audio-visual recordings. Moreover, Baltimore City requires audio-visual recording of both the pre-interview and the interview in Homicide investigations.

So, where does that place Baltimore? Where does that place Maryland? Maryland is 1 of 21 states that has some of policy on audio-visual recording, and Baltimore City is 1 of about 850 jurisdictions across the country with some type of policy. Now, if you compare that in 2008 to 1999, that's a huge expansion in the number of jurisdictions that either encourage or require audio-visual recordings. And why?

Well, the answer is The Innocence Project. Over that period in time, there have been a number of exonerations based upon DNA evidence. And The Innocence Project is also working on Adnan's case and has some interesting new findings that should be coming out soon. And so based upon that, a lot of jurisdictions looked at those results and thought, a lot of these exonerations are coming in cases where we have false statements or testimony being given by witnesses, and that makes it incumbent upon jurisdictions to do their best to record these interviews and pre-interviews to determine what's going on. Are these honest statements? Is there police coaching? Is the story consistent from the pre-interview to the actual interview?

[31:13] Susan Simpson Twitter user [@PennySybila](#) writes: "Some parts of recordings are detectives telling Jay his own statement, and he's just saying 'yes-yes-yes'."

Yes, you are exactly right. Many parts of the statements involve Jay simply agreeing with statements that are basically being given by the detectives and not by Jay. Here's an example of that in action:

[31:34] Detective MacGillivray

That was it, that's all he told you that day?

Jay Wilds

That yeah, oh, that he was going to kill her, but it wasn't--he didn't give any details. He just said, um--

Detective MacGillivray

You didn't know how?

Jay Wilds

Huh?

Detective MacGillivray

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

Jay Wilds

No, no.

Detective MacGillivray

But he told you he was, he was going to kill her?

Jay Wilds

Yes.

Detective MacGillivray

Because she had broken his heart?

Jay Wilds

Yes.

Detective MacGillivray

And... that night he contacted you again?

Jay Wilds

Yes.

Detective MacGillivray

And he had made plans to meet with you on the 13th...

Jay Wilds

Yes. To come--

Detective MacGillivray

...where he--

Jay Wilds

I'm sorry.

Detective MacGillivray

...where he could give you his car and cell phone to assist him?

Jay Wilds

Yes.

Detective MacGillivray

And you'll explain that later, correct?

Jay Wilds

Right.

Detective MacGillivray

Okay.

[Jay's second police interview, p.5]

[32:13] Susan Simpson You can hear how disinterested MacGillivray is in hearing what Jay has to say. When Jay tries to interrupt to give his own statement, MacGillivray cuts him off and has him answer "yes" again to another question.

[32:29] Rabia Chaudry Thanks so much for your questions. Keep them coming. And again, I assure you a lot of the things you want us to address, we are going to talk about in future episodes.

Between the day that Hae Min disappeared and the day her body was found, those 28 days is when the investigation really took shape. So we have to figure out how, from day 1 to day 28, the police really followed a trail all the way to Adnan. So, next time, on next week's *Undisclosed: "The Investigation"*.

[33:07] Rabia Chaudry A very special thanks to our sound editors, Amar Nagi and Ben Bruening. Thanks to Ramiro Marquez, who created our theme music, and to Ballookey, who designed our logo. Dennis Robinson is our executive producer. You can find us online on Facebook and Twitter. Our Twitter handle is [@Undisclosedpod](#). Be sure to tweet us your questions and comments using the hashtag #Undisclosed.

[33:38] Detective MacGillivray

All right, uh, I believe that concludes this interview.

[Jay's second police interview, p.32]

Transcribed by TheMagnetProgram Group