

---

**UNDISCLOSED SEASON 2:**      **THE STATE VS. JOEY WATKINS**

**ADDENDUM 17:**              **LIVE**  
**POSTED:**                      **NOVEMBER 8, 2016**

---

**Jon Cryer:**                      Welcome to the *Undisclosed Addendum* – the podcast about all things *Undisclosed*. I am Jon Cryer – I’ll be your host for this evening.

We have Dennis Robinson here, who is the producer of *Undisclosed*--

**Audience:**                      [applauds]

**Jon Cryer:**                      We have Susan Simpson – associate at the Volkov Law Group-

**Audience:**                      [applauds, cheers]

**Jon Cryer:**                      And we have the lovely Rabia Chaudry here-

**Audience:**                      [applauds, cheers]

**Jon Cryer:**                      She is a fellow at the US Institute for Peace, as well as New America, here! At which, by the way, I’ve never been to a think tank, before.

**Audience:**                      [laughs]

**Jon Cryer:**                      When I first arrived I heard this hum, and I thought, “Oh, that’s people thinking!”

**Audience:**                      [laughs]

**Jon Cryer:**                      That’s ‘winks’ thinking fiercely! But it’s actually the air conditioning.

**Audience:**                      [laughs]

**Jon Cryer:**                      And ladies and gentlemen, Colin, Colin Miller--

**Audience:**                      [applauds, cheers]

**Jon Cryer:**                      He’s an associate dean and professor of law at the University of South Carolina School of Law.  
But actually, Rabia just got asked to be a part of the Muslim-Jewish Advisory Council--

- Rabia Chaudry:** Right.
- Jon Cryer:** Yes!
- Rabia Chaudry:** National Council.
- Jon Cryer:** Yes! Now, could you tell us a little bit about how that came to be?
- Rabia Chaudry:** Yeah, so first of all, good evening everybody, that you all for coming. Thanks to New America for having us. This is really exciting, and we're going to, hopefully not totally destroy this, doing it live!
- Audience:** [laughs]
- Rabia Chaudry:** Our first time live. So yeah. Given what's been happening in the last year or so, this has been a national-level Jewish-Muslim Advisory Council that was brought together by two organizations that ordinarily never work together, ever. And so a Muslim organization and a Jewish organization that have no history of working together and there's a lot of complications.
- We've been working on together a couple of months now, bringing together a diverse group of leaders who are going to actually try to make policy changes that are going to impact both of our communities – things like immigration, things like hate crimes – you know, things that hopefully won't come to pass. But we feel like we have to be really vigilant right now.
- So I'm excited about it and it's a real honor to be on the council.
- Jon Cryer:** Well, yes. When I heard, I thought, "Oh, she's going to be on that whole Muslim-Jewish thing. It's going to be solved in a couple of weeks."
- Audience:** [laughs]
- Jon Cryer:** So, I was very excited about that.
- Audience:** [applauds, cheers]
- Jon Cryer:** So, we're very excited to be here live, but it's news – it just keeps happening – it just keeps overtaking us. I had been actually meaning to ask everybody about what their feelings were about Brendan Dassey's being ordered released, but then, just moments before – this afternoon – we just found out that he's actually *not* being released. A court has ordered that he remain incarcerated until his appeal is decided. And I *was* going to ask – being that the popular context of the acceptance of whether the public *feels* that they are wrongfully convicted, or not, is such a vital component of these things. I was going to ask, do you think that would affect Adnan Syed's situation?
- Susan Simpson:** I almost think that once you get a certain level of awareness and public standing, this is not scientific, but it almost seems as if it's *harder*. Because if you look at cases where, you know, there's a name there – you know, Adnan, Brendan Dassey, Steven Avery – and they're fighting back every step of the way.

Whereas I was interviewing recently one exoneree, and was asking him how he felt about being from a state with another famous exoneree, and he was like, actually, kind of grateful, because he was under the radar. They filed an appeal, the prosecutor looked at the case, but after that they were like, “You know what? We’re going to close this out and let you go, because we don’t see anything we can do here.” And he did not think that would have happened, had his case gotten the level of public awareness that other cases had.

So, yeah. It can actually work against these people.

**Jon Cryer:** Yeah. Because the conventional wisdom is that if public awareness wasn’t made in their case there’s no hope.

**Susan Simpson:** And it helps. It definitely helps. But I also think that there’s a counterweight there too.

**Rabia Chaudry:** I was going to say: I was on a panel with Steven Drizen, who is Brendan Dassey’s attorney, just a couple of days ago. And he spoke to Brendan right before we began speaking, and he told Brendan, “You know, it looks like we’re going to have him home by Thanksgiving.”

And we were all just really happy to hear that, and heartened to hear that, and yesterday we heard that he was going to be ordered, you know, to be home by Friday – tomorrow – it is Thursday, right? Yeah.

**Audience:** [laughs]

**Rabia Chaudry:** And then today this happened. So, you know it is really heartbreaking but on that panel one of the things we explored – and there have been other attorneys who have been dealing with this – is the fact that although I personally think that it might give the court more incentive to pay more attention to these cases, I also think it gives the State incentive to fight back harder. And I think that’s what we’re seeing. I think we’re seeing it in Adnan’s case. And so that is the downside of it.

**Susan Simpson:** Yep.

**Rabia Chaudry:** The attention.

**Susan Simpson:** When they lose, people know.

**Jon Cryer:** And in terms of, the emotional effect that this has to have on somebody who is incarcerated, and you know, and dealing with that... I mean that rollercoaster has to be brutal. Has Adnan been hearing a lot of the things going on?

**Rabia Chaudry:** Yeah. And it’s interesting because Adnan learned a lot about what’s happening in this case *from* the media directly, because we don’t have a system where we can pick up a phone and call him and inform him of something. If he calls us, if he calls his attorney, or if his attorney can schedule something. But it takes a couple of days sometimes – so oftentimes he’ll learn from the news what’s happening – he’ll learn from other inmates who saw the news, guards... And so far, it’s been okay.

There have been times when he's been a little bit concerned, because if you go *too* hard, like for example, talking about the conditions of incarceration, those sorts of things, he worries that it will impact his relationships with people inside the prison.

So you know, I've kind of backed-off from talking about the prison conditions themselves and things like that. I don't want to put him in that position. But I think even in Joey's case we were worried that as this case got more attention, that we didn't want him to be mistreated.

So, so far I think Adnan seems to be doing okay, but I don't know how Joey's doing on these issues.

**Susan Simpson:**

Joey is fortunate in that he's in possibly the *only* prison in Georgia that's somewhat progressive or humane in how it handles prisoners. So, he's lucky in that respect. But hopefully it'll continue to go well for him.

**Jon Cryer:**

Has his emotional health been okay? I mean I imagine *hope* is kind of scary for people in that situation.

**Susan Simpson:**

I can *definitely* tell the difference from when we started this case, and I first started talking to him. He seemed more-- I guess more Zen about it. And I can tell in recent months there's more-- I don't want to say 'anxiety', I think that's the wrong word. But there's more... *Hope* I guess. Which is not always an easy thing to deal with.

**Jon Cryer:**

Yes. It's a burden in some way, I'm sure.

But actually, there's been some movement. You guys have filed for a release of the Watkins trial audio. Actually, I don't know if you guys remember, but inexplicably the State has refused to hand over the audio of his his trial. Do you want to give a little background on that?

**Susan Simpson:**

Yes... So we've been fortunate enough to obtain copies of the Free trial tapes. So, for Mark Free's trial, which was in February 2002, so that's the audio you're hearing on the podcast. When you're hearing trial audio being played, that's not from Joey's trial, it's from Mark's trial. The-- Well, it's a long story in itself, but apparently they have recently asked to get that audio *back* from us.

**Audience:**

[laughs]

**Susan Simpson:**

Yeah... Let's see how that goes for them.

**Audience:**

[laughs]

**Susan Simpson:**

But it--

**Jon Cryer:**

As if you can just *recall* it. As if--

**Susan Simpson:**

[laughs] Yeah.

**Jon Cryer:**

People can *un-hear* it, now.

- Susan Simpson:** Yeah... So, the tapes for Joey Watkins' preliminary trial hearing and his bond hearing... Well, they initially said that "Yes, you can record it." And Clare and the GIP got to work on that, but then realized that they had the wrong equipment. Because it was some old school, four track – I don't even know what it's called – but--
- Audience:** [laughs]
- Susan Simpson:** It was complicated, and everyone sounds like a demented chipmunk.
- Audience:** [laughs]
- Susan Simpson:** So, it's not going to work for us, and they they were like, "Okay, we'll come back with some new equipment." And in that time, somehow it was decided that they were not going to allow us to have *any* of the Watkins trial tapes. So, we tried a few ways to get around that. It didn't work. And we have some wonderful attorneys at Caplan Cobb who are representing us now, and they filed a motion--
- Dennis Robinson:** So you mean *Undisclosed* are part of this litigation?
- Susan Simpson:** Yes, yes.
- Dennis Robinson:** Oh, so that's cool.
- Audience:** [laughs]
- Susan Simpson:** Yes. Although, I was kind of sad, because I wanted it to be like, '*Undisclosed vs. Georgia*', which would have been super cool. But--
- Audience:** [laughs]
- Susan Simpson:** But they filed it under Joey's case, so it's still '*Watkins vs. Georgia*'. But--
- Audience:** [laughs]
- Susan Simpson:** The original motion was denied. The court – a new judge – Judge Sparks, just appointed to replace the judge who was actually the judge at Joey's *and* Mark's trial, who just retired – and he said that, "You know what? You're right, this is a public record. This audio is something that's subject to Rule 21 of the Georgia Court Rules, so you have to allow public access. But the rule says you're you're allowed to *inspect* it." Nothing in there about copying. So you can come to the court, pay us some money, and listen to it. But you can't copy it, and that's it. In fact, his order actually said, like, in capital, like: "NOT COPY IT".
- So, okay. That's not going to work for our purposes. And also totally defeats the entire purpose of having open records and public disclosures. So after that came in, Caplan Cobb filed an expedited motion to either amend the court's order, or application for leave to appeal it. That was filed this week, and is currently pending, so hopefully we'll get some traction there. And I'd *love* to have the Supreme Court of Georgia look at this and say, "You know

what? This is *really* messed up.” And then, on the other hand, like, if we *lose* this, we actually just kind of lost people in Georgia the right to copy any records.

**Jon Cryer:**

Oh.

**Susan Simpson:**

Because the courts--

**Jon Cryer:**

There’s a downside, yeah.

**Audience:**

[laughs]

**Susan Simpson:**

I know!

**Jon Cryer:**

That would be--

**Susan Simpson:**

Because the court’s order didn’t just apply to audio.

The court’s order said that *any* kind of court record, you can only inspect it – you have no right to copy it – so if we lost, that means that from now on in Georgia, you have to go to a court and look at it, but you can never take a copy back with you.

**Jon Cryer:**

That would be a crazy precedent.

**Susan Simpson:**

Yeah.

[12:24]

≈

**Jon Cryer:**

A lot of the time when precedents get set like that, lawyers just ignore it. [laughs] It’s just a weird thing, it’s just considered bad law. A friend of mine who’s in law school was telling me this, he’s like, “Yeah there’s stuff they just mark and it’s like nobody pays attention to it.” [laughs] Which sounds *nuts* to me.

**Susan Simpson:**

It depends on-- I mean like... *Practice*. In like the history of practice and like courtrooms often kind of controls. And that’s not like the rules of law. It’s like the habits, and everyone’s done it this way and that’s why it’s done this way. And that’s why this issue has not been actually litigated before.

No one’s actually in recent years actually, it’s been an issue in Georgia – it’s coming up, and that’s probably part of the reason why it was denied here. But, the courts just always operated the way they always had, and however they chose to do it is how everyone in that jurisdiction kept doing it. So it’s not actually gone to the Supreme Court prior to now.

**Jon Cryer:**

So, is there any case law that supports what *you* are trying to do? Or, I don’t know, would Colin care to weigh in on that?

**Colin Miller:**

Yeah. Well, I mean it’s interesting talking about Freedom of Information Act and records requests, because actually that’s a relatively new phenomenon. It was in the ‘70s and actually

was over a veto by President Ford, and one of the main cases cited in our brief for disclosure and the ability to copy these records is a case involving Richard Nixon.

And that, I think, is probably the strongest case, actually, in there supporting freedom of the press and this and the ability to copy these records and air them and be able to show the public what's going on. So yeah, I think that Nixon case – the Supreme Court case – is maybe the strongest one that comes from the state's highest court, the Federal Supreme Court.

**Jon Cryer:** So... But isn't that a federal law, as opposed to a state law? I mean, if it was Nixon I imagine it wouldn't have happened in *Georgia*.

**Colin Miller:** Right. Well it's a First Amendment case--

**Jon Cryer:** Oh, okay.

**Colin Miller:** So it's the Supreme Court interpreting the First Amendment which then, through the incorporation doctrine, has an effect on the state. So, in other words, if there's this First Amendment right to access and publicity and disclosure, that would apply in Georgia or any other state.

**Jon Cryer:** Oh, okay.

**Rabia Chaudry:** I just want to say something: This is like an issue, as someone who has not practiced criminal law, when I realized that in so many states the public does not have access to video or audio recordings of what happens inside like, public proceedings in a courtroom, it has been *shocking* for me.

Even in Maryland. So, for example, the PCR hearing that just took place for Adnan, that's five days of video footage of what happened in the courtroom. His lawyer has it, but his lawyer is prevented under Maryland state law from actually disclosing it, giving it to the public – from disseminating it. And you have to ask your self *why*. The public's allowed to attend the trial – these are open. Why is there this lack of transparency?

And so sometimes like people ask, "What can we do?" I'm like, when you're state level, like that's a *really* important point that I think. If there's a way to make changes in law just to make these types of like, video recordings, first of all *mandatory*, because not all courts allow videotaping in the thing, but also make them accessible to the public. There's just no excuse for it.

**Susan Simpson:** Also, well you know, the constitution the open courts. I mean, they didn't have podcasts back then, but--

**Audience:** [laughs]

**Susan Simpson:** I'd like to think that if they had, they would have understood that's the right of open courts – they wanted people to be there to tell about what they saw, because it's the only way they had to make sure people knew what happened in the courtroom. It wasn't just a '*only* people in the courtroom' rule.

- Jon Cryer:** Well, obviously very high profile trials, like the OJ trial, and situations like that – that’s a different situation. Because we’re talking about a trial that’s already taken place, you know?
- I think part of the reticence they might have to release things probably has to do with not knee-jerk, “Let’s not, you know, if we can choose between putting it out or not, let’s not.”
- Susan Simpson:** I think there are a lot of motives for this and they’re not always the same ones. But I mean, one of the big cases in Georgia recently that came about and lends purpose to the background of this whole litigation now, involves a case where what was heard in the courtroom there did not match the transcripts. And there are a few, not just Georgia, other states too. And in fact, one of the exonerations that happened recently involved, like, they had to get multiple affidavits from people in the courtroom to say, “Actually, no, this is what we heard.” Because, for some strange reason, the transcript didn’t have it.
- Jon Cryer:** Well yeah, and this happens all the time, obviously, you know, stenographers are human beings and they make errors, but and there’s no mechanism for repairing-- I mean, *is* there a mechanism?
- Susan Simpson:** Well, in Georgia right now-- So, well, a recent case that’s sort of part of the current set of litigations going on involved a court – I want to say Paulding, but I’m not sure of that – where the judge actually said, the ‘N-word’ in open court. That did *not* make it into the transcript. So a reporter asked for the audio. And the person doing the transcription of it – the clerk – said, “Nope you can’t have it. Here’s the transcript – it’s not in there. Cool.”
- So he wrote an article about this and said, “Well here’s what happened, here’s what I asked them for... I didn’t get it... Transcription doesn’t have it but people in the courtroom heard it.”
- So she sued him. The court reporter sued him for defamation. Meanwhile, the judge who did this, he’s off the bench, because before a recent election, which had an independent body that evaluates judges has now been neutered and put under the government’s control; congress’s control. So this law suit happens, and it goes away, but the court reporter gets her attorney’s fees paid by the court.
- Which... It was unsure if that’s what should have happened, or what’s going on there. So the same reporter says, “Well, I’m going to request the court record – the court financial record – to see what was going on.” And he did his little Open Records Request saying, “Give me your financials, showing if you paid these attorney’s fees for the court reporter.
- So he does that, and the new judge has him arrested for identity theft.
- Audience:** [gasps]
- Jon Cryer:** Oh, okay. [laughs] You lost me. I-- [laughs]
- Audience:** [laughter]
- Jon Cryer:** I don’t get how that one-- But whose identity was stolen? I don’t understand.
- Susan Simpson:** He was getting financial info from the court. And the court thought that was him trying to... Well, allegedly that was him trying to steal financial information in order to commit some kind of identity theft or fraud – who knows.

**Jon Cryer:** Uh-huh.

**Susan Simpson:** So he was arrested, jailed, but got out.

**Jon Cryer:** Okay...

**Susan Simpson:** Yeah! And he never got the audio! So he still doesn't have the audio from the original hearing.

**Audience:** [laughter]

**Jon Cryer:** So wait, and so the judge-- Did they ever talk about what the context of that was? It wasn't, you know, greeting a friend or something like that? I don't know, I'm just throwing something out there. [laughs]

**Audience:** [laughter]

**Susan Simpson:** Well--

**Jon Cryer:** You never know!

**Susan Simpson:** So, I don't know all the details of the underlying issue there but I *do* know that apparently there *was* someone in the court. There was a black guy that worked in the court, I think – and he just went by 'N-word', name.

**Audience:** [murmurs]

**Jon Cryer:** Wow. In what year was this? I--

**Susan Simpson:** 2015.

**Jon Cryer:** No, this is 1927, actually. [laughs] Every now and then you run across pretty startling things like that.

**Rabia Chaudry:** Georgia!

**Jon Cryer:** Georgia, yes! Yes. Now... So wait. So there *was* a body that was overseeing these things, but it recently got put under the control of *Congress*?

**Susan Simpson:** The state legislature.

**Jon Cryer:** Oh.

- Susan Simpson:** The--
- Jon Cryer:** Oh, the *state* legislature.
- Susan Simpson:** Yeah. Amendment Three. It was on the ballot, and it was a very confusingly-worded issue. And I can see why it won. It wasn't because people actually wanted to not have independent body overseeing judges, it's because it looked like a good idea when you phrase it as they did. Which was like, "To allow *some* public to, like, the judicial qualifications division."
- Jon Cryer:** Mm-hmm.
- Susan Simpson:** Which kind of implies there was none before, but there was. Now there's going to be much less. [laughs]
- Jon Cryer:** Okay.
- Well Episode 17 of *Undisclosed* was 'Informants and Wire Taps'. And it was an in-depth investigation of Detective Sutton's recruitment and use of three in particular jailhouse informants. I was so grateful for this episode – I don't know about you folks – because I had no *idea* about the various permutations of how jailhouse informants come to do this kind of stuff.
- And I realize that if I was a member of jury, and I overheard two informants actually, confirming the others, I would probably believe it – absent this kind of knowledge. Because I would be like, "Oh, well two of them have very similar stories." You know, but it did not even *occur* to me that they might just talk it over and figure out how they were going to do that.
- We had a question from social media, actually, from '@My Cosima', who asks, "Is it common to have so many jailhouse informants come forward and want to testify on a case?"
- Susan Simpson:** No.
- Audience:** [laughs]
- Jon Cryer:** Because how many were there?
- Susan Simpson:** In total informants... I mean, so they had six, that were either-- I think *five* ultimately came to court, maybe. Either in Mark's trial, or through Joey's trial. And there was more that-- So, there was a bunch of like, jailhouse-- They were on the witness list, named by the prosecutor and listed on State's witnesses. Typed up all formally, and they didn't show up. They didn't actually appear at court. And when I contacted them, they were like, "Oh yeah! I remember that case. I remember being locked up with the dude who did it...? Or supposedly did it?"
- Audience:** [laughs]
- Susan Simpson:** He never said anything, though.
- Audience:** [laughs]

- Jon Cryer:** Ah...
- Susan Simpson:** So, yeah. They were trying a lot of angles. When Mark was in jail for his third probation violation for that year, yeah. On his last day there they pulled out 34, I think, 30-plus inmates to question them about whether they'd heard Mark confess!
- Jon Cryer:** Which is just an enormous amount of work! You know, which is one of the things that has always surprised me about this particular investigation is they poured a *lot* of resources into this!
- Obviously it was an unusual killing, but it just seemed odd to me that you have the GBI, and the FBI and every *possible* resource thrown at this one particular case.
- Susan Simpson:** Yeah.
- Jon Cryer:** It's just--
- Susan Simpson:** It's odd!
- Rabia Chaudry:** It might have something to do with Stanley Sutton's connection to the family too. I mean, his commitment to getting a conviction. Susan knows more about that. But, like the other thing that's odd to me is the fact that, like, you make an arrest-- I assume you make an arrest because you already *have* the evidence that can prove that this guy did it.
- But in this case, like: "We made the arrest, now we're going to look for the evidence. And we can't *find* anything, so let's find jailhouse--"
- So, I am always going to be skeptical when your evidence comes after you have decided who it is and you've made the arrest and pressed charges.
- Jon Cryer:** Is it incumbent upon police officers when they're – and detectives, obviously – when they're doing these investigations to make some sort of judgment on the quality of the evidence? I mean it *has* to be. I mean, or is it just that.. I mean, like in this case it appears that Detective Sutton used the jailhouse informants as a means to get a wiretap, despite the fact that there was *huge* evidentiary holes in what they were saying.
- First of all, is that considered acceptable amongst police officers? And then, if it isn't, is there any recourse for bringing that up and having some kind of discipline taken out on them?
- Susan Simpson:** Well, as for what it's *supposed* to be... No. This is not what it's supposed to be.
- Audience:** [laughs]
- Susan Simpson:** But as for recourse... Colin can probably weigh in there.
- Jon Cryer:** Is there any recourse, Colin?

- Colin Miller:** No, I mean... Not really for the police. A prosecutor could be disciplined for suborning perjury but that happens exceedingly rarely. In terms of the police, I mean if they make up an informant to get an affidavit and to get a search warrant and arrest warrant, *that* would lead to discipline. But you never really see any type of discipline for a police officer relying upon a tenuous or unreliable informant when they're submitting that application.
- Jon Cryer:** Is that because police officers generally get conflicting information? I mean, let's face it, people's memories conflict. All the time. I mean, so somebody could, you know, in good faith give a witness statement that conflicts with evidence the police already *have*, and still have some useful information. Correct?
- Susan Simpson:** I love how you're looking at Colin.
- Audience:** [laughs]
- Jon Cryer:** Yes, I know. I'm looking at Colin like he can see me. He can't see me.
- Audience:** [laughs]
- Colin Miller:** Yeah. When you look at it, the Innocence Project stats, 15% of those DNA exonerations are based upon informant testimony with the informants being incentivized. And despite that, there have been one or two prosecutors in the last decade who are disciplined for these wrongful convictions. It's even less with police officers.
- The amount of credibility and faith we put in their judgement is so high that – you just don't see it. I mean the cases that you see are literally: This informant was a fabrication. There wasn't an informant, period. You don't see cases where there is any type of discipline based upon a police officer putting too much faith in an unreliable informant.
- Jon Cryer:** Well yes. I and when your informant is telling you that the supposed murderer wanted to use their truck to push another truck fast enough to make the truck *burn up*...
- Audience:** [laughs]
- Jon Cryer:** It does beggar belief. But everyone knows that if you can get the truck going 88 miles per hour, and you can get a lightning bolt to hit it, then the flux capacitor will work and you can go back to the '50s.
- Audience:** [laughs]
- Jon Cryer:** Or, to 2015. [laughs]
- Susan Simpson:** Keep in mind that Mark Free is standing in the back of that truck bed the whole time, so like--
- Audience:** [laughs]

- Jon Cryer:** Yes! Yes! For those of you who haven't heard the latest episode, there is- one of the jailhouse informants tells a story that *so completely* beggars belief that you--
- Susan Simpson:** You don't know that! It could have happened that way!
- Jon Cryer:** It... *Could have*.
- Susan Simpson:** [in unison] *Could have*.
- Audience:** [laughs]
- Jon Cryer:** Well exactly! You're right... You're right.
- Susan Simpson:** I want that audio. I want to hear what Sutton sounds like when he's defending Beckstein.
- Audience:** [laughter]
- Jon Cryer:** Well but the thing-- Well exactly! You're right. And you had that bit of the transcript defending him saying it could have happened.
- Susan Simpson:** Well yeah! It *could have*! But it could have been a lot of things, you never know.
- Jon Cryer:** Uh-huh... Yeah... But he was able to get a wiretap on the *basis* of that! And that's a real civil liberties issues, you know, if a police officer can do that. And now, don't get me wrong, but he may well have *believed* these informants – I have no evidence to the contrary.
- Susan Simpson:** Well, he pulled the toll records. He did subpoena, like, Joey's and this David Brown – who's Mark's friend; he's nothing to do with anything – *his* phone records and Joey's home phone records and all the jail pay phones. So we could see there were no calls that matched what Beckstein was describing. But he knew. Or he just never looked at it after pulling a lot of records and paying a lot of money for it. So, I don't think *that* happened. He knew.
- Jon Cryer:** And again, there's no recourse in that situation, Colin?
- Colin Miller:** No, I mean you're really looking at the: 'There wasn't even an informant'. And that's the case that—
- Jon Cryer:** Somebody had to be *invisible*.
- Audience:** [laughter]
- Colin Miller:** We do *not* see cases where there's any type of discipline or recourse against a police officer when they have-- I mean, there's actually an informant instruction that's given in court that says, going to your point, Jon, before, if you're in the courtroom as a juror how much credibility

would you give these jailhouse informants. There's actually an instruction, and we discussed in our first season case how tough it is to prove ineffective assistance of counsel.

One of those rare circumstances beyond failure to contact an alibi witness where you have ineffective assistance is where an attorney in an informant case does not ask for this instruction, because it's so critical to convey to jurors these are *not* reliable witnesses. And then *that* of course, then gives deference to the prosecutor and the police officer because we *all* know informants are not reliable, so you can't really judge too harshly the police officer or prosecutor who relies upon them, even though *again*, 15% of exonerations from DNA evidence is based upon this false testimony and statement from these informants.

**Rabia Chaudry:** I actually have a question: Does that instruction also require that the incentive that the informant has been given be disclosed?

**Colin Miller:** Yes. And that is not complied with. Or you might have followed the news – that recent story out of Orange County in California where for years they had this program of using informants. And either there was complete non-disclosure *or* the prosecutors in Orange County failed to disclose the benefit they were receiving. And it's this huge scandal that's blowing up all these cases in Orange County.

But yeah, absolutely, they have to inform-- Did they expect a benefit? Did they receive a benefit? What was the nature of that benefit? And too often that's not done.

**Susan Simpson:** Yeah, Beckstein – they actually had to go to a different *county* and get Beckstein's charges dropped for the hold on him to be released so they could go out and-- Actually his wife was with him in the hotel room too, while they were waiting to send him in the taxi to go talk to Mark.

**Audience:** [laughs]

**Susan Simpson:** So Beckstein, like-- I mean, he's a person who was really there. Clare, did we ever confirm Beckstein's real identity?

**Jon Cryer:** Ladies and Gentlemen, Clare Gilbert.

**Susan Simpson:** Yeah, because--

**Audience:** [applauds]

**Jon Cryer:** [laughs]

**Susan Simpson:** Because the dude had at least 20 aliases.

**Clare Gilbert:** Beckstein had at least 24 aliases.

**Audience:** [murmurs]

**Clare Gilbert:** We don't know what his real identity was.

**Susan Simpson:** Yeah.

**Jon Cryer:** So we don't know what his real identity is *at all*?

**Susan Simpson:** Well he has a lot of lengths-- A lot of social security numbers--

**Rabia Chaudry:** [inaudible]

**Susan Simpson:** Yeah. [laughs]

**Audience:** [laughter]

**Susan Simpson:** He had a lot of different SSN numbers, like, a lot of IDs to go by, so who knows?

**Jon Cryer:** Did they ever know he admitted under oath that he had been-- Wait, was it Beckstein who admitted that he had been an informant in other cases? And then was it...?

**Susan Simpson:** Beckstein denied he'd ever been an informant.

**Jon Cryer:** Exactly. When it was proved that he was did Joey's attorney have knowledge of that, or...?

**Susan Simpson:** Yeah, they actually did, because Sutton talked to the GBI agent who had *used* him as an informant and said, "Hey, this guy's going to be an informant for *us* now."

And apparently the agent Harris – Eric Harris – on the phone call was like, "Yeah! We used him, he was great! Totally informed on these women we were trying to get for murder."

**Audience:** [laughs]

**Susan Simpson:** So... And that *wasn't* stuff the defense had. So, that was pretty clear that, I mean, yeah. He was a repeat informant.

**Jon Cryer:** Mm-hmm.

[32:22] ≈

**Jon Cryer:** I found myself admiring the prosecutor Tami Colston's just *tortured* logic in that she had to introduce informants that she had no confidence in whatsoever. Then she had to bring somebody on who she knew was going to come on the stand and *deny* the thing that he'd said *before*. Which again, I give her props, because she got away with it. Clearly. God bless her. But now--

**Audience:** [laughs]

**Jon Cryer:** But now, did she--

**Susan Simpson:** In Georgia we'd say "Bless your heart."

**Jon Cryer:** Oh yes.

**Audience:** [laughs]

**Jon Cryer:** Bless her heart. Bless her heart. But now at one point it sounded as though she was testifying, because she introduces the fact that-- Was it Ellis? Who, I believe, he was the one who was up for rape? And that he had sentenced him, and that he no longer had any incentive to tell the truth, supposedly. I'm using 'air quotes,' podcast listeners.

**Audience:** [laughs]

**Susan Simpson:** I do that all the time!

**Jon Cryer:** And so that's why he was coming into the trial situation and lying, supposedly. But that would be evidence. I mean did she do that in her closing statement? Or, where did she do that?

**Susan Simpson:** No. She, told the jury that "*Of course* he's lying now, because he didn't get a deal, and is really mad at us for not getting a deal. So of course he's lying *now* – he's trying to get revenge on the State. He was telling the truth before."

**Jon Cryer:** Uh-huh. And she's *allowed* to do that? In the closing statement?

**Susan Simpson:** Yeah.

**Jon Cryer:** Really?! Okay. I'm just drinking all that in. [laughs]

**Audience:** [laughs]

[33:57] ≈

**Jon Cryer:** And so, I wanted to get to some social media questions, actually. We have '@Alice B Carey' who asks: "Since jailhouse informant statements seem to be problematic most of the time, do any states have restrictions on admitting them as evidence? Especially ones that have been recanted? Or is that on the defense attorneys to object to it?"

**Susan Simpson:** It's a good question. I'm not aware of any states that have that.

**Colin Miller:** There's no states that have a ban. There are certain states, like Illinois – where I used to teach for five years – where they have a hearing pretrial, and that's the point at which the judge

assesses the credibility and the consistency of the informant's statement and determines, *is* this a reliable enough informant to testify? California recently had some legislation that dealt with this. So there are some states that are trying to heighten that hurdle for reliability and admissibility, but there's no state that has a *per se* ban on informant testimony.

**Rabia Chaudry:** I have a question. [laughs]

**Audience:** [laughter]

**Rabia Chaudry:** I learn a lot from my colleagues, yeah. Actually the question is for Dennis, which I know you've also been in federal-- He's also a lawyer, by the way, which is--

**Dennis Robinson:** I thought I was here to read the underwear ad?

**Rabia Chaudry:** Yeah, the underwear! [laughs]

**Audience:** [laughs]

**Rabia Chaudry:** We actually just bring him along for the tattoos.

**Audience:** [laughs]

**Rabia Chaudry:** I can't do tattoos and liquor, so I've got to have Dennis, like, hanging out with me.

**Audience:** [laughter]

**Rabia Chaudry:** No but you're in federal practice also, I'm curious. How are informants-- I heard they are used pretty heavily...?

**Dennis Robinson:** They are. Yeah.

**Rabia Chaudry:** They are.

**Dennis Robinson:** I hate to deflect, but here's really what it comes down to in the courtroom: You're trying to tell a story. For the benefit of the fact-finder. Whether it's the judge or the jury, either side is trying to put on the *best* possible story. And you pick and choose what contributes to that story. If the jailhouse snitch is the *best* that you have to help you tell your story, you use the jailhouse snitch and you just run the risk of the jury instruction and the opposing counsel shredding you in the closing argument. That's about it. And you hope that your snitch does well on cross. That's what it comes down to.

I hate that it's like that, but that's the foundation of our justice system. It's two opposing parties duking it out by telling opposing versions of the same story. That's it. So, you know. I would *like* to see mechanisms built in to restrict those practices, because Dennis Robinson, the executive producer of *Undisclosed* thinks it's screwed up, you know?

- Audience:** [laughs]
- Dennis Robinson:** You know? But that's just the way it is right now. But I will say that's part of the reason why I'm involved with *Undisclosed*, is that I truly believe in our ability to enact systemic change. I think if we get enough people on board with this stuff, we can really push for the changes that are necessary for our justice system and make it more transparent. More free. More beneficial for the sake of justice. If that makes any sense.
- Susan Simpson:** And I will say, one of the most disheartening parts of this for me has been talking to jurors and having them, pretty much across the board, tell me, first, "Oh, they were a bunch of jailhouse informants, but we didn't pay any attention to *them*, because everyone knows they're just trying to get out of jail for a day." I'm like, "Yeah, great! They realize this."
- And then, I've asked them what happened, what their understanding was of what went on at the trial, like what the State's theory was, like, most of them don't know what the theory *was*, but they *all* would, when they tried to describe the facts of what they thought they'd heard, they would say facts that only came from jailhouse informants.
- So, the facts stuck in their brain. They told themselves, they told me, "Of *course* they're lying, they're just jailhouse informants." But those facts came in, and the facts stuck in their brain, and they couldn't necessarily know where each fact came from. So, the story was there. That's all they needed them for.
- Dennis Robinson:** And that's not unlawful. It's not even unethical. A good lawyer preps his or her witnesses, right? So 'unethical'. Yeah, me sitting here... Yeah, it's really screwed up.
- Audience:** [laughter]
- Dennis Robinson:** But *legally*, like a lawyer, you prep your witnesses. You show them the statements that they made on paper, or the interviews that they did, and say, "Hey, it would be really cool if when you're on the stand you said *this*. And I'm going to ask you *this*, and you're going to say *this*. Cool?" And then when they get on cross--
- Susan Simpson:** [inaudible]
- Dennis Robinson:** To *some* degree. I mean--
- Audience:** [laughter]
- Dennis Robinson:** It happens. You can't direct them what to say, but you're basically highlighting portions of their statement and saying, "This is the stuff I'm going to ask you about, alright? It'd be cool if you remembered this." That's just the practice of it. That's the way lawyering works when you're in the courtroom.
- Susan Simpson:** Or if you're in Floyd County, you just give them a copy of the transcript and let them take it with them to the stand.
- Audience:** [murmurs]

- Susan Simpson:** That was Adam Elrod, though, and he really needed the help. So...
- Audience:** [laughs]
- Jon Cryer:** Well, and actually our next thing is from Beth Schultz, and she says: "I don't even know how the jailhouse snitch ploy works on a jury, anywhere, yet it obviously does. Do people seriously think that an accused murderer, still awaiting trial, will spontaneously confess to a complete stranger, and not just confess, but provide details of the crime? It defies all logic and common sense."
- And I believe that people just-- We get our knowledge, when we're on a jury, we get our knowledge from the *movies*. And you buy that in a movie... Sort of. You know? And I think as you were saying, unfortunately so much of the system is now leaving it on the shoulders of the defense attorney, and then the juries, to judge these things. You know? There's no other way to fix that other than by educating the juries.
- Rabia Chaudry:** A couple of weeks ago, Kathleen Zellner, who represents Steven Avery – she, not too long ago filed a motion to have the DNA evidence retested in the case – tweeted out – I thought it was really interesting, because she's a great advocate, because she uses social media really smart, because she's telling the the folks in Wisconsin: I know what to expect and everyone's watching you. But she tweeted out: "I won't be surprised now if jailhouse informants come forward." Now that we're reexamining the evidence, like, she's expected that.
- And I've had people at different Innocence Projects, actually, when Adnan's conviction was overturned, say: "Listen, this is the time when he has to be really careful, because it's common practice for the State to go looking for informants. Like when they are up against a wall."
- And it's kind of terrifying. As somebody who is in that position, you don't know who's going to say what for what incentive. And there's almost no protection against it, I feel like.
- Dennis Robinson:** It's horrible, but the foundation of our republic is on giving the case to the fact-finder, giving the case to the jury, and just believing in our hearts that moral, reasonable people are going to make the right decision. They're going to see the wheat, and they're going to see the chaff, and they're going to decide the wheat. That doesn't always happen. And that sucks, but that's just the way it is, you know?
- Jon Cryer:** Speaking of our republic-- [laughs]
- Audience:** [laughs]
- Jon Cryer:** Speaking of our republic, we got one from '@Gail Whittaker', who says: "What direction do you think justice reform will go now, given that we've got a new administration?"
- Audience:** [laughs, groans]
- Jon Cryer:** Wow.
- Dennis Robinson:** Good thing this is a podcast, because you should see our faces.

- Audience:** [laughter]
- Jon Cryer:** Yes, Colin, do you have any thoughts?
- Susan Simpson:** I just want to say: One thing I wish had gotten more attention, and it did get some, but the fact that *to this day* the president elect is saying that five innocent teenagers should have been executed, for a crime they were exonerated for... I think that gives us a very frightening idea of how the DOJ is going to go and what their view is going to be on exonerations.
- Jon Cryer:** Yes. And I had some hope, because the Democratic side had a platform for re-enfranchisement for felons--
- Susan Simpson:** Yes.
- Jon Cryer:** For voting rights. And they had a lot of ideas that I felt were worth pursuing, so I was very frustrated that did not come to pass.
- Susan Simpson:** That is *huge*. The number of people who are straight up disenfranchised is far greater than any gap between the votes.
- Jon Cryer:** But obviously the Department of Justice is huge. It goes across America. So, I feel like, on a local level there's so much happening, and so many changes happening, with the conviction integrity units in different states. I mean, does the federal system have to be something that sweeps across the nation, or on a local level does that come into play more often than not? Colin?
- Colin Miller:** Yeah. Well you know, I think overall, if you're looking at the picture you're going to see criminal justice reform be based on economics.
- So, there were some candidates who won. Who campaigned on getting rid of mandatory minimums, advocating for shorter prison time. And so, that's something where bipartisan support says, if you're looking at the state's finances, or the federal government's finances, it's better to have shorter prison terms.
- On the other hand, stocks for private prisons skyrocketed after Trump was elected, and the momentum there had been that the current regime was essentially getting rid of private prisons at the federal level, with essentially state private prisons to follow suit. And that's something where the economics *support* private prisons, and therefore you're likely to see the progress on that slow down.
- We had marijuana legalized in some states, and it seems there's some momentum on that, and again it has, again, some economic consequences. So, again, I would imagine in the next four years when you're looking at it, both at the state and federal level, you're going to see criminal justice reform that is supportive of the state and federal economy, and anything that cuts against that is less likely to get momentum.
- Rabia Chaudry:** Can I add that, as somebody in my position, Muslim, who, since the election last week, I've been getting questions about the Muslim registry. I mean, my concern now – I mean obviously I'm concerned about all these issues – but is the *criminalization* of heretofore protected activities, right? So, the idea that there'll ideological tests, that if I fail I might end up being held accountable, like, as a criminal for something.

I mean, we know, before-- And also, I practiced immigration law for a long time, immigration powers can have a real impact. And immigration powers is not just about, you know, 'those people' can, you know, end up in *detention*. That detention sometimes *is* in those private prisons. It's in, you know, they're housed in state-level prisons, sometimes in federal prisons. It all kind of ties in together. These things are not like, you know, you can't kind of parse them out.

So I think, like if the administration really cracks down on immigration violations, if they criminalize behavior, if they start a *registry*, this is all going to play together. And I think given, I mean I spent much of the last 18 months thinking, hoping, rhetoric, maybe it's campaigning... But just given the potential cabinet appointments we're seeing, I'm really wondering if it might come to pass. If they registered me and took me to camp, you know, somebody rescue me. Susan Simpson, break me out.

**Audience:** [laughs]

**Rabia Chaudry:** I will give you my cat until--

**Audience:** [laughs]

**Rabia Chaudry:** Until I can get out.

**Susan Simpson:** I just want to say I don't remember off-hand what state it was, but there was an elected official *today* who was trying to promote having paid protesting be criminalized.

**Jon Cryer:** Yes. Oh yes, I believe it was, a Washington State--

**Rabia Chaudry:** Washington State.

**Jon Cryer:** Senator, or, I don't know. Yeah. And by the way, there's no proof that any protester has ever been paid, *at all*.

**Dennis Robinson:** It's proven to be a fake story.

**Jon Cryer:** Yes.

**Dennis Robinson:** It came out in the Washington Post today. There was a guy who was promoting fake news stories about paying protesters. It's all BS.

**Susan Simpson:** In slightly good news, though, Georgia decided to-- Someone in Georgia introduced a bill that would not let you wear burqas in Georgia. And they very quickly ripped that up -- so they took that down. It's not going to happen.

**Audience:** [murmurs]

**Jon Cryer:** Okay.

**Susan Simpson:** That, apparently is *still* a line too far, thank god.

**Jon Cryer:** Yeah. It was a confusing election in many ways. Obviously the pot legalization, but also several sort of ‘law and order’ prosecutors got voted out of office, which I thought, “Wow, I’m getting a mixed message, America.”

**Audience:** [laughs]

**Jon Cryer:** What are you doing to me?!

**Rabia Chaudry:** Confusing Jon Cryer.

**Jon Cryer:** Stop confusing Jon Cryer.

**Rabia Chaudry:** Yeah.

[45:58] ≈

**Jon Cryer:** I wanted to thank you all for coming, so much, we’re actually going to take questions from the audience. So we’ll take questions about Joey, about Adnan, about how the show is made – whatever you whatever you want to ask. So we’re going to send Veronica and John out into the audience.

**Compere:** So two quick things before we do: One, I know we need to go to Clare--

**Jon Cryer:** Oh yes!

**Compere:** And we do have a question on social media too, so I’ll go to Clare first, and then we’ll do the one on my question--

**Jon Cryer:** Yes.

**Female Compere:** And then we’ll do audience.

**Jon Cryer:** Yes, Clare from the Georgia Innocence Project wanted to remind everybody--

**Audience:** [applauds, cheers]

**Jon Cryer:** [laughs] Yes.

**Female Compere:** Jon? Oh, Jon, you’re supposed to read Clare’s thing.

- Jon Cryer:** Well, yes. What it was, was: We wanted to remind everybody you *can* donate to the Georgia Innocence Project, and you can do it now by texting the word 'Joey' to 91999.
- All y'all, you have your phones, they're right here, you can just do it right now! [laughs] But that's a donation to the Georgia Innocence project help the Georgia Innocence Project fight to free Joey Watkins and their other clients as well. And it is tax deductible, so it makes it super easy to donate to Georgia Innocence Project.
- Clare Gilbert:** 91999...
- Jon Cryer:** Yes! 91999 and the word is 'Joey'.
- Clare Gilbert:** [inaudible]
- Audience:** [laughter]
- Jon Cryer:** Yeah, so if you've got any questions, we'd love to hear them.
- Susan Simpson:** And can I just say, the amount of work that GIP is doing on, like-- Calling it a 'shoestring budget' is like, *really* overly fair to shoestrings.
- Audience:** [laughs]
- Susan Simpson:** Because they were working out of a nail salon when I first met them. I'm not-- You had *power* by then, I think. I'm not sure you had internet.
- Clare Gilbert:** No heat!
- Jon Cryer:** No heat.
- Susan Simpson:** [in unison] No heat!
- But you did have *power* by that point, right? But you hadn't had it before. But there are a *lot* of cases, and there are a lot cases in Georgia that need attention; not just Joey. Joey is not— There are *lots* of people like Joey right now. And they could do a lot of great work if they had the resources to do it.
- Clare Gilbert:** And that's why we're asking, not just people in this room, but anyone that is watching, or listening, if you could just pick up your phone now and text 'Joey' to 91999, and just donate five dollars. Just five dollars. That's all we're asking.
- But if everyone who is listening, or watching this now donates five dollars to the Georgia Innocence Project, our budget will be *set* for the next year, *and* we'll be able to hire an attorney – another attorney – to help us work these cases. And that would be absolutely fantastic.
- Dennis Robinson:** It's pretty cool to see all these people picking up their phones, that's awesome.

**Jon Cryer:** Yes. Thank you.

**Audience:** [applauds]

**Dennis Robinson:** Thank you. Thank you very much.

**Jon Cryer:** Yeah, I uh... I left my phone in the-- [laughs]

**Audience:** [laughs]

**Clare Gilbert:** One last time, it's text 'Joey' to 91999. Thank you.

**Audience:** [applauds, cheers]

**Jon Cryer:** Thank you.

**Compere:** Alright. So, one question and then I'll go right over here. From 'So Call Me Katie 11': "I feel the facts of this case are too absurd to believe. Have you all been able to contact any of the jurors?"

**Susan Simpson:** Yeah. So I've tried to speak to the jurors and I mean-- To some extent it's a bit unfair – there's been comment online about how could the jury have *possibly* believed this. Or, like, people are like, "How stupid is the jury?" That's *not* what happened here. It's not like they were a bunch of 'stupid jurors'. Because, quite honestly, I think a lot of people on that jury would have the same *exact* verdict.

It wasn't the jury that failed. It was the *system*. Because the jury sat there and listened to a lot of people get up there and tell a *lot* of stories about what a 'bad, bad person' Joey was, and all the *terrible* things he'd done, and with no apparent reason to lie. And that's really persuasive evidence.

When you don't combat these, like-- How on *earth* could-- It's not possible that a police department could get that many kids to lie about all that crazy stuff. That's not real. That's not possible. And that's not an unfair, like, conclusion to reach. So, remember that what you hear in the show is not *just* what the jury heard. You're also hearing the police notes. Which the defense didn't have. As well as, like, more recent investigation.

So, what you're hearing in the show is, one, what was testified to, and two, the impeachment. For a *lot* of witnesses in this case, only one was there. And the reasons why it was all bogus never came in.

**Dennis Robinson:** I want to tag on to what Susan said, because one of the things she said was really important – it's that the system failed, right? And I don't intend to diminish Joey Watkins' case. But there are *thousands* of 'Joey Watkins' across the country, and that's what drives me nuts.

How many wrongful conviction podcasts are taking on that work right now? We've got Bob Ruff at- Ruff at *Truth and Justice* looking at *dozens* of cases right now, and, you know, it would be great – and I'm sure she will – Susan is going to work to overturn Joey Watkins' conviction, I mean, the whole *team* is, but what really matters is the systemic change. I mean, that's really what we need.

And I hope that that's what *Undisclosed* does is that it compels our *huge* audience to try to persuade legislators to make changes. Because that's what really matters, is the systemic effect. And I think that's what we've got to focus on.

- Susan Simpson:** And if you haven't already, listen to Brooke's podcast – Brooke Giddings' podcast, *Actual Innocence* – where she covers all these cases where- and people, women and men, who *have* been exonerated, and whose stories are just as crazy.
- Dennis Robinson:** Brooke from *Actual Innocence*, where are you?
- Audience:** [applauds, cheers]
- Jon Cryer:** And I believe there was a question over there. Could we get a microphone? Just throw it at her. [laughs]
- Audience Member:** I have to say, I have been laughing aloud at the underwear commercials.
- Audience:** [laughs]
- Audience Member:** Dennis Robinson, when you read them, and Colin, when you were hosting the *Addendum*, or *Addenda*, I don't know how you call it. It was hysterical. But here's the question. You talk a lot about changing the criminal justice system. Here's your magic wand. You talk about like, we should *change* it, but what do you *mean* by that? Where's your magic wand? How do you change it?
- Dennis Robinson:** Ooh, it's a good--
- Jon Cryer:** Yeah! We're so smart--
- Audience:** [laughs]
- Jon Cryer:** Why don't we figure out how to change it!
- Rabia Chaudry:** It's a challenge.
- Susan Simpson:** Colin...?
- Audience:** [laughs]
- Rabia Chaudry:** He *is* the professor!
- Susan Simpson:** Yep. Passing it on!

**Colin Miller:** Yeah, I mean, number one, you need to increase funding to public defender's offices. That is the endemic problem.

**Audience:** [applauds]

**Colin Miller:** 80% of defendants in this country have public defenders – 90% in capital cases – and these public defenders are overwhelmed with the number of cases. So, that is sort of 'ground zero' of where the crisis starts.

So, better funding to public defenders' offices, and then more open discovery. You need to have a freer flow of information because so many of these wrongful convictions both after trial-- But more importantly there have been Supreme Court cases that have really limited the amount of discovery a defendant is entitled to before they accept a plea bargain or plead guilty.

We really need to fundamentally change the way – whether based upon precedent or just prosecutors' offices stepping up and giving that information to the defense early in the process so that they can see their options and decide what they need to do. So those are the first two things I'd hit right away – the funding of public defenders' offices and broadening discovery rules.

**Dennis Robinson:** I'll tag on a couple: I don't quite know how to approach this, because I think it's a cultural problem, but I think we have to find a way to disincentivize wins versus losses in the court system. Yeah. It's an adversarial system. And I mean I hate to steal from Winston Churchill and his quote about democracy, but it's like the best worst form of seeking justice – you know, the adversarial system.

But I don't think that it should be the role of prosecutors to win cases – I think it should be the role of prosecutors to administer justice. But right now most prosecutors are elected, and for the most part, they're elected based on their ability to win cases. And that requires a cultural shift. I'll say the same thing about judges. I'm just not a fan of elected judge-ship. It's just-- To some degree, you're placating the whims of the populace mass. You know?

And I just-- I think appointments are a better system, because you're more likely to get judges who are looking to seek just results despite the fact that you might achieve unpopular outcomes, you know. So those are the two I would tackle.

**Rabia Chaudry:** Bob Ruff right now on *Truth and Justice*, I mean like, he's exploring cases right not out of Smith County, Texas, and in one of the episodes I heard not long ago – I'm a little behind, sorry Bob...

**Audience:** [laughter]

**Rabia Chaudry:** But he mentioned that in the particular county where these cases are coming out of, if the prosecutors lose *three* cases they lose their *job*. I mean, that is like, that gives so much incentive to bend and break the rules. I mean, do what you need to do to get the win.

Now, I'm not a *very* vengeful person, but what I would tack on is that I feel really strongly that accountability measures need to be put in place. California recently, I think they passed a legislation where they make Brady violations-- which everyone should know about because Colin has talked about 100 times--

**Audience:** [laughs]

- Rabia Chaudry:** That, you know, when you are withholding evidence that's exculpatory, willingly, that is actually a felony. And so, *that* is a measure where, you know, if you want checks and balances, *that* is how you get checks. It's like, how do you hold prosecutors – you know, you have prosecutors who become judges-- [coughs] Colston--
- Audience:** [laughs]
- Rabia Chaudry:** And others. Like, *how* do you hold people accountable if they can just get away with being unethical, or using the rules, you know, not in a fair way?
- Dennis Robinson:** But that's 'chicken and egg' when it comes to our democracy. Is that the accountability is built into *voting* for these prosecutors, right? And I don't have a solution, I'm just saying that's where it stands right now, and I think it needs a cultural shift just a revisit of how we see the adversarial system at large.
- Jon Cryer:** Yes. Yes, my dumb idea was the whole 'one police' idea. [laughs] There's obviously a lot of support amongst you guys...
- Audience:** [laughs]
- Jon Cryer:** Clearly. No, but just the idea that we have 18 overlapping different police agencies and organizations, and they feud over who can have a case. And we have elected *sheriffs*. And if you have listened to the *In the Dark* podcast, that's big eye-opener in terms of the-- I'm *embarrassed* to say, I did not even know what the sheriff in Los Angeles *does*. [laughs] I have no idea. He's a lovely guy...! But you know, I feel like, I don't understand why we have multi, overlapping bureaucracies. It doesn't seem like it makes any sense to me.
- But, and Susan had the wonderful idea of providing jurors with transcripts at the end of the day. Which I think-- You're *wincing*, but I--
- Susan Simpson:** I'm not saying that would work perfectly, because I can see issues with it too, but I don't think it's realistic or fair to expect-- I mean, there's no way *I* could listen to a trial and then go back and be like, "Yeah, *I* know what happened." Because, without being able to compare and go back, you really can't reach-- Human minds don't work that way.
- Jon Cryer:** *Mine* certainly doesn't. Do we have any other questions? Oh! Okay, in the back? There?
- Audience Member:** Yes! Hi! Thank you. First off, apparently *all* of the podcasts I listen to are in here now.
- Audience:** [laughter]
- Audience Member:** Like, this is the greatest thing ever. You guys are my drive to work.
- Audience:** [laughter]

- Audience Member:** But, so my question is: It sounds like between this one and, I've been listening to *Breakdown* as well, at your suggestion, and it sounds like there's a lot of testimony that can come in based on character issues and whatnot.
- And it sounds like this all started from one person's dislike of Joey, and gathered a lot of other people's dislike of Joey. So, my question is really, have you been able to reconnect with Brianne or any of those folks? And, you know, we haven't really heard anything about her for a while, so I was wondering what's going on with that, if anything.
- Susan Simpson:** Yeah. Clare *did* speak to Brianne, early on. I think probably December or November of 2015. And she was not interested in speaking any more. We did try and reach out to her – we never heard back. So, I assume she's decided not to comment, which, is understandable.
- Other witnesses in the cases have similarly not wanted-- Adam Elrod did not want to talk to me. He the way he put it was, he said, like, "I don't want to talk to you" and I had some questions, tried to keep him on the phone, he was like, "*Did you not hear me the first time?!*"
- Audience:** [laughs]
- Susan Simpson:** So that was the end of that.
- Audience:** [laughs]
- Susan Simpson:** Chad Redden we tried to talk to. I think we had some hope there. Because there was like-- Yeah. At first it seemed like he *was* going to talk. And then I think he sent Clare like an angry text saying like... What was it?
- Clare Gilbert:** We had received signs from a few people that he'd be willing to talk with us, so we reached out and he just made it clear that [inaudible].
- Susan Simpson:** Yeah. So that was that. So no. Unfortunately the key witnesses in the case, for the most part, they don't want to talk.
- Dennis Robinson:** I should mention: We haven't done it yet, but Susan went to Emory and recorded an *Addendum* episode that we're hoping to use in the next couple of months, in front of an Evidence class. And character issues, or relevance issues under 403 and character issues under – Colin? – 600 series? For witnesses? Sorry. That all comes up. Like they talk about that from a not-yet-lawyer perspective, in a way that helps the audience understand it. So we're looking to broadcast that whenever, I think, eighth?
- Jon Cryer:** Oh yeah. Yeah.
- Dennis Robinson:** So we're looking to broadcast that in December. So I think it will explain it a lot better around that time.
- Rabia Chaudry:** I also just want to comment – I think it's *really rare* to find, if you revisit cases to find witnesses who now just want to-- Or jurors or anybody who wants to go *back* to that time and talk about it again. I think in a lot of cases, people are *done* – they don't want to go back there. They don't want to revisit, they don't even want to reconsider the fact that maybe they got

something wrong. Or maybe they helped further a result that was an unjust result. I mean in Adnan's case, the folks that have done the investigating have had a lot of trouble including, you know, some of us. But again, people just don't want to talk. It's really interesting. They just, they don't want to go back there.

**Susan Simpson:** A lot of witnesses I *have* talked to, clearly didn't *want* to. But they have – for whatever reason – decided that they felt that they decided *to* talk to us, and I'm very grateful to them, but they've made it clear it wasn't easy for them and they wished they could avoid it. But they felt like they had an obligation or some sense of wanting to explain things. But none of them-- It's not *fun*. And it was terrible back then, and it's terrible now.

**Audience:** [murmurs]

**Jon Cryer:** Any other questions? Okay.

**Audience Member:** Hi! I was wondering whether any of the informants were given polygraphs, and if that's even any kind of tool that's used to gauge the reliability of informants or 'snitches'.

**Susan Simpson:** Not in this case, but that doesn't mean anything.

**Audience Member:** Okay.

**Dennis Robinson:** In that practice that I've observed, polygraphs nowadays are more so used to try to get a suspect to flip. Polygraphs are-- They're not reliable in court. You can't use them in court for veracity evidence. Just from what I've seen, polys are now used-- You take a suspect who just doesn't know what's up, you hook them up and say, "Okay we know you're lying, and this machine's going to prove it." They'll be like, "Alright, well I'm hooked up to a machine, I may as well confess." That's how polys are used nowadays.

**Jon Cryer:** Yeah. Not a useful tool.

**Susan Simpson:** Yeah.

**Jon Cryer:** Yeah.

**Audience Member:** Hi, I actually was an investigator for the Prosecutor's Office in New Jersey for seven and half years, so, I'm wondering, like you said, there is not *one police*, there is not one way that we all do it. For me, I was with the sex abuse, rape, assault unit.

So, in Georgia is there *not* an investigator? What I was tasked to do was basically take the police's file and go back and research it and make sure they crossed their 't's and dotted every single 'i' before we let anyone come into the court. So, is Georgia not set up that way, the way New Jersey is?

**Susan Simpson:** There *was* an investigator for the DA.

**Audience:** [laughs]

**Susan Simpson:** He did--

**Compere:** Hey Clare. Let me just come to *you*.

**Audience:** [laughs]

**Susan Simpson:** So, John-- Is it Harkins? There *was* an investigator for the DA's Office, he *did* interview witnesses. Yeah.

**Dennis Robinson:** Podcasting is funny, because Clare's got this look on her face like, "*What?!*"

**Audience:** [laughter]

**Susan Simpson:** It's--  
[crosstalk]

**Susan Simpson:** Clare's thinking something, I don't know what it is, but I'm like, there's a whole *backstory* there.

**Clare Gilbert:** It sounds like a fantastic idea, but--

**Audience:** [laughs]

**Susan Simpson:** Yeah. But Harkins *did* go through and talk to a lot of witnesses. And I've heard interesting stories about what happened there too.

**Clare Gilbert:** Yeah. I'm not sure it was necessarily a check on police—  
[1:02:44]

**Susan Simpson:** It was *not* a check on police — that is *not* what it was.

**Clare Gilbert:** I didn't see any sign of that. [laughs]

**Audience:** [laughs, murmurs]

**Jon Cryer:** Got so many! Okay. [laughs]

**Audience Member:** Hi! I'm sorry, I have to be a little bit catty, and I have to go back to Brianne--

**Audience:** [laughs]

- Audience Member:** I have so many questions about Brianne.
- So a couple of things: One, you guys started the season saying that Joey is not like your typical 'nice guy'. He's not going to be easy person to bring up. And Brianne made some pretty strong assault charges against him. And I want to know if Joey's responded to them, or puts any validity in them.
- And also, if you've found any connection between Brianne and law enforcement, or anything. Because she seems to have a *really* inside knowledge of how the system works.
- Susan Simpson:** All the physical abuse claims that she's made, Joey's totally denied. No one's ever seen them, there's no witnesses, there's no evidence beyond what Brianne has said. And that's what we have right now.
- And there are lots of reasons people who are abused don't come forward. So, you have to look at it as a whole. And in this case there is no supporting evidence, and there are situations where there *should* have been. But now he *was* verbally abusive – I have seen witness statements describing him yelling at her, and things like that.
- But as far as claims like the shotgun, and bleach thrown in the shower... That's where we are. We have those claims and that's what we're left with. But no. Joey has denied all of that.
- Rabia Chaudry:** I mean, you have to be *very* careful in these kinds of cases. I mean, it's not *uncommon* that victims of either domestic violence or intimate partner violence aren't able to provide evidence of it. I will say though that the fact that Brianne wasn't able to provide evidence, but also that I don't think that you can recognize any kind of pattern that Joey was like this with any other girlfriend--
- Susan Simpson:** Yes.
- Rabia Chaudry:** So I think you have to weigh that in, too.
- Susan Simpson:** I will say, one thing that I wish I'd addressed in the podcast and didn't: You hear at one point on Kelli Robinson's tape when Sutton's talking to her, he says: "I've talked to six other girls and they've all said the same thing about what he's done to them, and I don't want you to be the next one that he does this to."
- That's *not*-- As far as I can tell, there's no basis to-- I've talked to ex-girlfriends and not one of them has ever said that he's been abusive. Aislinn Hogue – the girl Joey was dating at the time Isaac was murdered – did-- Well, her parents did file a stalking warrant alleging he like, *called* her, and there's that, but that's-- There is one case there, but that's not physically abusive and there's not one other witness who's said that.
- And Erica, who dated both Isaac and Joey has said that Joey, there was *never* any abusive tendencies that she saw when she was with him.
- Female Audience Member:** Hi, so my question pertains to a *past* episode. I think one of the things I've found most absurd about this case was that Joey was apparently the leader of a very violent *gang*--
- Audience:** [laughs]

- Female Audience Member:** Terrorizing the streets of... Rome County or sorry, Rome? And so my question is, is there actually an FBI *definition* of a gang? Can me and *my* three friends be considered a gang?!
- Audience:** [laughs]
- Female Audience Member:** Terrorizing the streets of [inaudible] Maryland? I mean--
- Audience:** [laughter]
- Audience Member:** I just really want to know. I was just really shocked that that was considered a gang. Him, one other person, and another person he really didn't even know that well.
- Susan Simpson:** More than two. And then also [inaudible]. Yeah. More than two.
- Colin Miller:** Yeah, the federal definition is--
- Dennis Robinson:** Most law enforcement agencies use a defined criteria, but it's mostly for statistical tracking. So, for example, if they want to track gang violence in a certain jurisdiction or whatever, it's got to fit that defined criteria. I don't know if that's public?
- Susan Simpson:** Yeah--
- Dennis Robinson:** I know terrorism cases, yeah--
- Susan Simpson:** There *is* a definition, and I can't remember what rule it is, I think it's 133--
- Dennis Robinson:** Yeah.
- Susan Simpson:** There's something here that's wrong, don't do that. [laughs]
- Audience:** [laughs]
- Susan Simpson:** But yeah, there *is* a defined criteria. And they hit all the points they needed to in that report for the FBI.
- Dennis Robinson:** Yeah, and it doesn't even necessarily have *legal* weight, and Colin you can check me on that, I mean it--
- Susan Simpson:** It's jurisdictional, though.
- Dennis Robinson:** Yeah. It's jurisdictional. And it's mostly for stats tracking. Unfortunately. I *doubt* the FBI looked at them as a gang. [inaudible]

- Susan Simpson:** So one thing that Corey Jacobs told me – he’s Sutton’s nephew, he’s the Home Depot parking lot guy – is that he-- I don’t know if this is-- But he said that Sutton went to the FBI and trained there at some point, so...
- Audience:** [murmurs]
- Susan Simpson:** Is that...? Yeah.
- Clare Gilbert:** I think that’s true – I think that’s in his-- Well, I don’t know if he went to the FBI and *trained* there, but in his post records – which is a list of all his training records – and he was trained *by* the FBI.
- Susan Simpson:** Yeah, I’m not sure what kind of training it was, but apparently he had some stint in the FBI.
- Dennis Robinson:** I’m going to hazard a guess: The Georgia Bureau of Investigation has a training academy... I *think* outside of Atlanta, that the FBI comes down and does courses for--
- And I know, by virtue of proximity – like geographic proximity – that Georgia sends a lot of its police department through *those* courses. So it might have been something remote.
- But it’s all like, in law enforcement cases like that, the law enforcement is going to make itself try to sound more *sexy*, like bolster it’s credentials because it’ll help out when you’re on the stand. Or help out when you’re trying to investigate a joint case, like, “Well I worked with the FBI – I’m Captain Badass!” You know?
- Audience:** [laughs]
- Dennis Robinson:** But we should only lend that the credibility that it deserves, and oftentimes it doesn’t deserve that credibility. And I think we see that in Sutton’s case.
- [1:08:12] ≈
- Audience Member:** Hi! I just had a quick question: So I know you guys have covered this in past episodes, but what are the legal avenues at this point? I know previously you had said there’s very limited legal avenues to solve this for Joey, or where he had some chances here, in court?
- So, if you can maybe talk about that a little bit without-- I know that legal strategy is something you guys are probably keeping close to the vest, but any sort of options, or, at this point roads that he could travel down?
- Susan Simpson:** The options *are* limited. It’s a very, *very* high burden at this stage. And, there are a few, like-- depending on the facts of the case, there are a few routes you can go. And you know, I can’t imagine any evidence you could find that would be easy at this point. I can’t even think what evidence would be like a magic ticket. Because there isn’t any-- There’s *nothing* that could be that compelling to, like: “Yep! That’s game over – we’re done here!”
- Because every witness could recant – it wouldn’t mean anything. I mean, we could have more people say: “Oh yeah, we heard this guy confessing!” That wouldn’t mean anything, because it’s happened a lot in this case already.

But there *are* routes. And the GIP is working very hard to find a way forward here.

- Rabia Chaudry:** I'm just going to add that where there is Susan there is a way.
- Jon Cryer:** Yes.
- Audience:** [laughs, applauds]
- Rabia Chaudry:** I have--
- Dennis Robinson:** Zazzle, if you're listening, t-shirts, now!
- Audience:** [laughs]
- Rabia Chaudry:** I I feel very hopeful that we're going to find a way. I mean, not *we*. Susan's going to find a way.
- Audience:** [laughs]
- Rabia Chaudry:** We just tag along for the glory. [laughs]
- Audience:** [laughs]
- Susan Simpson:** Like Adnan's attorney Doug said, there's always room for hope.
- Rabia Chaudry:** Yeah. There are some questions...
- Audience Member:** I know you all had an event in Rome just in the past couple of weeks. I'm really interested to know, what have been the impacts in Rome – anecdotally, or do you have any sort of data in terms of how many people are actually listening to this in Rome, or do you have any sort of gauge of what popular opinion is in Rome now? Or has opinions shifted in the, you know, the court of public opinion, in Rome?
- Susan Simpson:** The guy in the coffee shop knows my name now!
- Audience:** [laughs]
- Jon Cryer:** She waits in the coffee shop.
- Susan Simpson:** Yeah, I do! [laughs] It's a pretty cool coffee shop – there's like *one*, so I'm always there in between, like, interviews, trying to wait for someone to call me...

- Audience:** [laughs]
- Susan Simpson:** I will say it's gotten-- So, we had two meet-ups this week. We had one in Atlanta, and one in Rome. And they were both *great*, and a lot of people came out to the one in Atlanta – downtown, mid-town – and it's great that people were there. But one difference – stark difference – I noticed, was that at the Rome meet-up we had people showing up, like, from their jobs, like wearing their coveralls from, like, their job at the auto shop, and like, their nurse tags still on, so it was a very different kind of crowd. It was people in the community who were concerned about what they were hearing, and like, coming straight from work, and wanting to know more about like, what in god almighty happened in their town?
- Rabia Chaudry:** Floyd County's paying attention, right?
- Clare Gilbert:** Yeah.
- Susan Simpson:** Yeah...
- Clare Gilbert:** The only thing I would add to that is that when I was walking over here this evening I got a call from the *Rome News Tribune* – which is the major newspaper in Rome – and we've had a bit of a hard time getting them involved. I think they maybe did one story on Joey's case recently, and then covered briefly a meet-up, but they're going to do, what *sounds* like a pretty big story on Sunday. Mainly around the lawsuit about the trial tapes, and then a little bit about Joey's future legal options.
- So, that's fantastic to get the newspaper interested, and there's a lot more people in the local community interested now than there ever was before. And we also got some feedback – Susan and I did at the meet-up – that attorneys in Rome are starting to pay a lot more attention to this podcast and are quite horrified by what they're hearing. Which is a very good sign.
- Susan Simpson:** And I've been able to talk to a lot of witnesses, and again, like, I've been surprised continually. People who I didn't expect to want to come forward, but *have*. And have felt a lot, have listened to the podcast, pay attention, and feel horrified by what happened. And feel guilt, even where no guilt is deserved, about them not *knowing* what was going on.
- I mean, they *couldn't* have known. But that sense of guilt definitely is with a lot of them. But I have *not* been able to talk-- I've had off-the-record conversations with some of Rome Police, and that was- that ended, and no one else. No Floyd County officers, no one in the DA's office... No one in authority's going to talk to me – we've tried. [laughs]
- Compere:** We have time for two more questions, and then I think Methal has some follow-up questions that came in online. So, I know I'm standing next to here, and then I'll go up front and I know you guys will be available afterwards.
- Jon Cryer:** [crosstalk] Just because his arm is...
- Audience:** [laughter]
- Compere:** Yeah. I--

**Audience:** [laughs]

**Compere:** [inaudible] I'll come right up.

**Audience Member:** Hi! So, I'm a Forensic Psychology student at George Washington University, and in my 'Children and Adolescents in the Justice System' class, the first thing we learned is how developmentally different juveniles are to adults, and the role that plays in the justice system.

So, since Adnan and Joey and their friends were all juveniles at the time of the alleged offence, and the witnesses' statements really incriminated and eventually led to the conviction of both of them, how do you think police can maybe better tailor their interrogation tactics, or maybe handle juveniles since this led to a conviction of both people who we believe aren't guilty.

So how do you think that police can better handle juveniles in the justice system? So this doesn't keep happening?

**Susan Simpson:** I'll note that Joe was 19 at the time this happened, so he was not a juvenile.

**Jon Cryer:** *Technically.* He was still pretty--

**Susan Simpson:** I would not call his brain fully-developed at that time. [laughs]

**Audience:** [laughs]

**Rabia Chaudry:** I think it's important to note that in juvenile exonerations – and when I say “exonerations” I mean it's been proven that this person is innocent of a crime – 38% of them falsely confess. Those juveniles. That is how vulnerable they are to interrogation and pressure, and fatigue and all these things.

And simple things like making sure there's a parent or an attorney in the room, giving them access to an attorney before they're even read their Miranda rights. I mean these are the kind of things other countries have these protections in place. You know? They have, I can't remember, these special advocates who step in and make sure the juvenile has, you know, the legal protection and understandings. But we don't. We don't have these things in place yet.

**Dennis Robinson:** I think the most prominent example in all of our minds is obviously Brendan Dassey. Because you watch *Making a Murderer* and you're like, “*What the hell?! Is this America?! How is that possible?!*” But, in my opinion Jeff Deskovic is by far the best story of a juvenile interrogation. Brooke did it on Episode 8? Yeah, somewhere around there. So listen to *Actual Innocence* Episode 8 with Jeff Deskovic.

So, there are different interview interrogation techniques that police use. So, for example-- I want to say this in the most respectful way possible: When interviewing a victim of sexual assault, there is a very specific and scientifically-verifiable examination that should occur, and kind of outlines what types of questions you should ask in order not to retraumatize the victim.

And in order to get the evidence that you want. In my opinion, there should be a similar process for juvenile defendants. The problem therein is that most police, most prosecutors – and I'd say the public at large, yeah, the public at large – thinks, “Well, if this person is capable of committing an adult crime then they're capable of submitting themselves for an adult interrogation, and that's how we're going to treat them.” And that's false. That isn't the way it *should* be. And again that requires a cultural shift.

But I would be an advocate of specific and tailored forensic interrogations of juveniles of a certain age and of a certain mindset in order to get to the truth – not to get them to confess. But unfortunately the system right now is built to get them to confess, and that’s the way it is.

**Susan Simpson:** It’s not just the defendants, because it’s a blurry line. Because in this case especially, who is a defendant and who is a witness? You don’t know until people start talking. And confessing to you. Like, Josh.

But they told quite a few of the kids, the teenagers in this case – they were all, like, under 20 and younger; they were *young*. And told many of them: “If I find out you were lying, I’m going to come back and charge you with conspiracy to commit murder.” So, at that time, they were technically a witness, but the same techniques were being used on *them* that could have led to a false confession.

**Dennis Robinson:** Yeah.

**Audience Member:** So, how does this work? I just--

**Audience:** [laughs]

**Audience Member:** Sorry, I just had to test it out. When you were talking about talking to the jurors earlier, I was thinking about back near the beginning of the podcast where you were discussing with Joey about how the big turn of events was the dog, and the dog killing, and all of that. Did any of the jurors touch on that? As prior law enforcement, that was really interesting.

**Susan Simpson:** All of them.

**Audience Member:** All of them? And--

**Susan Simpson:** Yeah. And the dogs were the-- I mean it was always-- I mean that’s not true; there was *one* juror, who thought it was a hog. [laughs]

**Audience:** [laughs]

**Susan Simpson:** But for the most part, like, overwhelmingly, I talked to them and they were like: “Oh yeah. I remember that case. They killed dogs, and the cell phone proved they did it.”

**Dennis Robinson:** You just offered yourself as a resource to us – you’re prior law enforcement?

**Audience Member:** That’s right.

**Dennis Robinson:** Can you just give your thoughts on like listening to the podcast on what you think? And some background on who you are?

**Audience:** [laughter]

- Jon Cryer:** We have a few minutes.
- Dennis Robinson:** Sorry!
- Audience Member:** So with Sutton, I actually used to work at Quantico – the FBI academy – so I know that a lot of officers come there for resources in gang violence and stuff like that. So like you were saying, two-plus is considered a ‘gang’. It’s very minimal, yes.
- Jon Cryer:** Not very powerful!
- Audience:** [laughs]
- Audience Member:** Yes. Power in numbers!
- Susan Simpson:** I’m in!
- Audience Member:** As a prior officer it’s a very interesting case to learn about how they got this evidence and how they talked to these individuals, especially juveniles and whatnot. It’s an eye-opener. I mean this is back in the ‘90s and 2000s, so it was right around the time that this all occurred. And Adnan’s story, and she got me hooked on it, and I’m like, “*How* is all this possible?! *Why* is this possible?!”
- Audience:** [laughs]
- Audience Member:** So, it’s definitely interesting. And coming from Georgia. You hit on Paulding County. My family lives in Paulding County.
- Susan Simpson:** I hope I got the county right. But if I didn’t, I apologize to Paulding.
- Audience:** [laughs]
- Audience Member:** No, it’s hilarious.
- Audience:** [laughs]
- Audience Member:** It’s just the ties. And we’re like, “We’re going to go visit Rome!”
- Audience:** [laughs]
- Jon Cryer:** Thanks for sharing that.
- Female Compere:** So I think Methal has a couple, yeah.

- Jon Cryer:** A couple more social media questions.
- Dennis Robinson:** Methal Telhan!
- Audience:** [applauds, cheers]
- Methal Telhan:** So you've already answered most of the questions from 'Katie Susan', who asked about the jurors, and whether or not they had been contacted. So she had a couple of follow-ups. She says: "I guess more of what I was asking was whether jurors have said that there was just so much information introduced at trial versus one specific story being overwhelmingly persuasive, i.e. what was introduced that made them think that Joey was guilty? Also, what was so different regarding sum of evidence at Mark's trial versus Joey's?"
- Susan Simpson:** We'll get into the latter one later in the episodes. It's a complex issue and I think there's not really one theory on what happened differently, or what explains different verdicts. I am inclined to think that Mark just got lucky. I don't necessarily think that there *was* like a different-- It's just different jury, different set. And you get one strong personality on the jury who says, "Ah, there's no real evidence here, I'm not moving." And she can convince the rest of them.
- But there *were* differences in the trials, which could also explain it too. Like, there were significant differences. Fred Simpson, the prosecutor in Mark's trial did not call the same witnesses, did not have the same tactics... So it's not really a, you know, scientific study of what was different. [sighs] As for the jurors, yeah, it seems that probably the- 90% of them all said, "Dogs and cell phone." And then they start talking more. So, after they start thinking about the case a bit, they start to remember more that happened.
- But after their first memories, like after they start to go back all the way, it's almost always those two things. And then they start talking about, "*Oh*, he pulled a shotgun on Brianne." Or, "*Oh*, all his buddies were terrible, too, and they were covering up for him." Which that one I'm *still* confused about, because, dude didn't have *anyone* covering for him. They were all like, talking as they could.
- But the fact that a lot of people came from jail. And they had, like, *minor-ish* records. And they seemed like bad people, and he's hanging with bad people, and there's all these stories. I think it mostly comes down to they could *not* conceive of a reason that all these kids would lie – that just seemed beyond belief to them.
- Female Compere:** So... Jon? It's up to you, if you want--
- Jon Cryer:** Oh, I--
- Female Compere:** Do you want to do one more? Otherwise, I was told, Methal said to take it to the--
- Jon Cryer:** Yes, we've got to wrap this up, folks--
- Female Compere:** Wrap--

**Jon Cryer:** I *did* want to direct your attention to Patrick in the back. Patrick Cortes – he does the music for the show.

[*Undisclosed* theme music begins to play]

**Audience:** [applauds, cheers]

**Jon Cryer:** We're so grateful for--

**Susan Simpson:** And one more point from Clare?

**Jon Cryer:** Yes, one more point from Clare actually.

**Clare Gilbert:** For every one of you who picked up your phone and texted 'Joey' to 91999, and for those of you who are listening and going to watch this live and are going to do the same, they all pop-pop up on my phone here and I can see... And I'm going to try not to cry...

**Audience:** Oh...

**Clare Gilbert:** But I am *so* grateful and I'm humbled and honored--

**Susan Simpson:** Talk into the mic.

**Audience:** [laughter, applause, cheering]

**Clare Gilbert:** *Thank you* for supporting our cause.

**Audience:** [applause]

**Jon Cryer:** Yes, thank you to the Georgia Innocence Project. Thank you all for coming tonight, we're so grateful that you made the time and that you traveled from near and far, I'm sure, and please listen to-- We'll have another *Addendum* next, next Thursday, and another new episode dropping on Monday of next week.

So thank you for coming, and thank you to New America once again.

**Audience:** [applauds]

**Rabia Chaudry:** Thank you guys.

≈