

Episode 12: What We Know

-Square Space Ad-

-MailChimp Ad-

Ira Glass

Previously, on Serial...

Jay

He left his cell phone in the car with me, told me he'd call me.

Detective Ritz

And now at this point, do you know why he's leaving the car with you?

Jay

Yes.

Detective Ritz

And why is that?

Jay

Because he said he's going to kill Hae.

Adnan Syed

I definitely understand that someone could look at this and say, "oh, you know he must be lying, it's so coincidental."

Nisha

He told me to speak with Jay and I was like "ok," because Jay wanted to say hi, so I said hi to Jay and that's all I can really recall.

Sarah Koenig

The uselessness of what we're trying to do by recreating something that doesn't fit, it's like trying to plot the coordinates of someone's dream or something.

Adnan Syed

You know, perhaps I'll never be able to explain it and it is what it is, if someone believes me or not, I have no control over it.

Automated voice

This is a Global-Tel link prepaid call from Adnan Syed an inmate at a Maryland Correctional facility. This call will be recorded and monitored. If you wish to...

Sarah Koenig

From This American Life and WBEZ Chicago it's Serial. One story told week by week. And this, Episode Twelve is the final week, final episode of Season One of this podcast.

It's been a year since I first contacted Adnan and I'm still talking to him regularly. I'm still asking him the basics, still thinking, I dunno, that he'll remember something or maybe he'll just get so frustrated with me that he'll crack.

I still want to know what you were doing that afternoon. I want to know who had your phone and I want to know what you were doing that afternoon.

Adnan Syed

I don't remember anything more.

Sarah Koenig

This is from Saturday night, just this past Saturday. I mean we're down to the wire here.

Oh man.

Adnan Syed

So you don't really have if you don't mind me asking, you don't really have no ending? Like it's just--

Sarah Koenig

I mean, do I have an ending? Um...

Of course I have an ending. We're going to come to an ending today. Plus, a smattering of new information, a review of old information cast under a different light and an ending. In case you haven't noticed, my thoughts about Adnan's case, about who is lying and why, have not been fixed over the course of this story. Several times, I have landed on a decision, I've made up my mind and stayed there, with relief and then inevitably, I learn something I didn't know before and I'm up ended. Sometimes the reversal takes a few weeks, sometimes it happens within hours. And what's been astonishing to me is how the back and forth hasn't let up, after all of this time. Even into this very week and I kid you not, into this very day that I'm writing this. Because I'm learning new information all the time.

For instance, I talked to Don. Eight months ago he told me he did not want to talk to me for this story and then last week he talked to me for this story. He didn't want me to use tape of his voice or his last name but he said I could use what he said. Spoiler here: Don does not appear to know what happened to Hae, or why it happened to her, or whether Adnan is guilty. But it was interesting to hear what he said he remembered about the day Hae disappeared and about her and about the trial. Here's what he told me. Don said Hae was at his house in a town north of Baltimore City on the night of January 12, the night before she went missing. He said she wanted to spend the whole next day with him too. She wanted him to call Woodlawn High School and pretend to be some authority figure, tell the office Hae couldn't be in school that day. She wanted it to be an excused absence rather than just plain hooky. But he didn't. He says he thought she should go to school and besides, he told her he had to work the next day at 9am. It was supposed to be his day off from the LensCrafters at the Owings Mills Mall where they both worked, but Don said he arranged to fill in for a friend at the store in Hunt Valley. Don said he and Hae had made plans to meet up later that night of the 13th after her work shift ended at 10 p.m. When the cops recovered Hae's car there was a note inside with Don's name on it. "Hey cutie, sorry I couldn't stay. I have to go to a wrestling match at Randelstown High, but I promise to page you as soon as I get home, ok? Till then, take care and drive safely. Always, Hae." In a P.S. on the note, Hae mentions a tv interview that had been taped that day. The local station had done a student athlete segment on her. So the note was written on the 13th, the day she went missing. This note was one of the reasons I'd initially written to Don, way back when. "Sorry I couldn't stay," is confusing. I didn't understand what she'd planned to do with the note, put it on his car maybe, but his car was so far away in Hunt Valley. But the note stumped Don too. He said he didn't know about it until I sent it to him and he didn't have a guess as to what her plan was for that afternoon. When Hae went missing, Don was one of the first people the cops called. He says he knew immediately he'd

be a suspect. He said, “that was the first thought when they said she’s missing. I said, ‘well ok, they’re going to try to blame it on me because she was with me last night. I’m the new boyfriend, I’m obviously going to be one of the first suspects, me and Adnan.” He said he immediately made sure he knew where he was. “When someone calls you up and tells you ‘have you seen this person? They went missing, they haven’t been seen since school,’ you automatically retrace everything you did that day. Did I see them, did I hear from them, did they page me, did they call me, where was I at this time, what was I doing at that time, yeah.”

Maybe you’re all noting, as I did, that that wasn’t Adnan’s stated reaction to getting called by the cops on the 13th. I’m tempted to make a judgment right here, but I’m going to pull a benefit of the doubt because Adnan was seventeen, he was stoned, he’s a different person, but noted, right? Also note however, there was one similarity in how they reacted to Hae’s disappearance. You know how Adnan says he doesn’t remember calling Hae after the 13th? Guess who else doesn’t remember trying to call Hae after the 13th - Don. Like everyone else, he said he wondered whether maybe she’d gone to California, she’d told him her father lived there. He says it’s not that he didn’t think about what had happened or didn’t worry, it’s just that he didn’t know what to do. Don’s alibi was solid. His computer generated time card said he’d arrived at work at 9:02 a.m. on the 13th, taken lunch from 1:10 to 1:42, clocked out at 6 p.m. But Don’s manager at the Hunt Valley store was his Mom, so that didn’t look great. Don said he was anxious throughout the investigation.

“They never, up until the day they arrested Adnan, I had no idea what was going on” he said. “They never said you’re cleared as a suspect. It was left hanging and until they arrested him I had no idea. I suspected they might try to say we were in on it together. I didn’t know Jay existed until I started listening to the podcast.”

Don had met Adnan once. According to Hae’s diary it was December 23. It was a snowy day and she had a minor car accident on the way into work and she’d called Adnan to come help her out. They were broken up by this time but he came to the rescue. In the parking lot outside LensCrafters, Adnan and Don converged. Hae writes, “Don and Adnan took a look at my car and told me not to drive it unanimously. Ah! Mommy is going to be so mad. But I swear it’s not my fault.”

Don told the cops back then that he and Adnan had a perfectly nice conversation. At trial he said Adnan said something to him like “ok, well, I just want to make sure you’re an ok guy.” Don told me the same. “We sat and talked and just as everyone else described him, he was very polite, articulate, just really the typical what you’d expect of the ex-boyfriend meeting the new boyfriend, sizing each other up. We joked, we spent a good 10-15 minutes talking after we checked out the car.” At trial, for whatever reason, this episode is firmly timestamped as having happened in January, after Hae and

Don had started dating, though it's clear from the diary it was December 23rd. In any case, Don's testimony at both trials, he's the State's witness, is milquetoast. He just says, "yeah, I met him, it was cordial." Which made me wonder why the State even called Don and according to Don, prosecutor Kevin Urick might have been wondering the same thing. Don said, "when I testified, they pulled me in a back room and let me tell you how fun that was, to have the prosecutor afterwards yelling at me because I did not make Adnan sound creepy," he said, "they wanted me to make him sound creepy. So creepy that I felt intimidated, which I did not. Adnan, he was very personable. He was funny, he was everything I already said. He was somebody that I would have hung out with if I knew him in school." Don's memory is that Urick yelled at him after both the first and second trials. "Oh, he was irate" Don said, "when I say yelling, he was literally yelling about it at me." I ran this by Kevin Urick but he said he was not authorised to talk about the case.

Don says he loved Hae, that he still loves her. It's not something that goes away he said. Even though they only officially dated for thirteen days, he says she meant a lot to him. She was totally unshy he said, confident. She pursued him, he said, for all of December whenever she saw him at work, he said she'd ask him when he was going to take her out. Constantly she asked him, followed him into the lunch room on his break, pestered him. He was dating someone else at the time but then that ended and so on New Year's Eve they made their first date for the next day. He fell for her pretty quickly he says. "You could not not like this girl. She was aggressive, intelligent, assertive is a better word than aggressive. Generally nice person. Anything I've heard anybody say about her since, it's not like 'oh I don't want to talk bad about the dead,' it's just being honest. It's hard for me to explain. If you didn't like her, you didn't like her because she was so likeable. But then you couldn't even be annoyed by her because she wasn't annoying. She was charming."

Don said Hae actually changed him, changed the way he thought about himself. He said he'd come off a couple of bad relationships, girls who had cheated on him. "She basically in no uncertain terms told me to knock it off," he said, "that I'm worth, that I have worth. I don't remember the words she used. I can't paraphrase it at this point but I am worth having self esteem, that I should think that I am good enough, and I took it to heart, especially after I found out that she had died."

Josh

I'm sorry that I'm throwing it so late in the game here, but I didn't even know that this existed until Friday.

Sarah Koenig

Yeah, that ok, no that's ok, that's ok.

Here's another guy I just heard from, and speaking of him, all of a sudden I was hearing Jay's perspective. Or at least this guy's perspective of Jay's perspective.

Josh

He was scared. I mean, like terrified.

Sarah Koenig

This guy's name is Josh. He asked that I not use his last name. He said he worked with Jay at South West Video, the porn store. Josh was twenty-one at the time. They weren't close friends he said, but Josh would give Jay rides and they'd smoke weed together, hang out a little bit. Josh said that on the night that Jay was first picked up by the cops, so late at night on February 27 and into the morning of the 28, Jay called him at home and asked him to come into the store because he didn't want to be alone there. He was that scared.

Josh

He was, I mean, frightened out of his mind and not of the police. They were the secondary fear. I mean, he was afraid of going to jail, but not like he was afraid of-- Adnan, I guess is how you say his name, I don't know.

Sarah Koenig

Adnan?

Josh

Adnan, that's it.

Sarah Koenig

Josh says Jay actually never told him Adnan's name, but Josh has listened to the podcast so he knows the name now. But back then, he didn't. He says Jay told him he was afraid that people were after him. People connected to the murderer.

Josh

Across the street from the video store was a parking lot for the Amtrak commuter trains. And the parking lot was usually empty in the evening. Well, that particular night there was a van

in that parking lot, which I'm pretty positive had nobody in it, but Jay was afraid. I mean, to the point-- he was almost in tears.

Sarah Koenig

Yeah.

Josh

He didn't want to go outside, he didn't even want to look out the door because he really thought the van that was across the street was people waiting to get him.

Sarah Koenig

But the people you're talking about, is it only in retrospect that you're thinking it's Adnan's people, or did he say that to you at the time?

Josh

Oh no, he said it. He said it was-- I guess Adnan, had threatened him.

Sarah Koenig

Right, but you're saying that you didn't know, he never told you the name of the person. I'm just trying to imagine is it possible that it was somebody else entirely who he was afraid of.

Josh

Yeah, I guess it could have been but whoever he was afraid of is obviously the person that committed the crime.

Sarah Koenig

Right, but so I'm saying did you-- did he express to you at the time that this was a person with Pakistani relatives--

Josh

Yeah.

Sarah Koenig

Oh, he did, he said that at the time?

Josh

Yeah, he definitely said it was somebody, the guy was Middle Eastern.

Sarah Koenig

Josh says Jay told him it was the ex-boyfriend who'd killed Hae. It was Josh's impression that Jay had called the cops himself that night, because he told Josh the cops were coming to get him, and he seemed anxious that it was taking them so long to get there. Josh says Jay was pacing, checking his watch, that he kept asking him to look outside to see if the van was still there. At trial, Jay testifies that the cops showed up at the video store on their own, that he didn't know they were coming. In his taped interview with the police that same night, February 28, Jay doesn't mention a white van, or that he's terrified of Adnan's people. But he does tell the cops that he's talked to Adnan either yesterday or the day before and that Adnan was threatening him in a general way. Here's tape from that February 28 interview. Detective Ritz talks first.

Detective Ritz

When was the last conversation you had with Adnan?

Jay

I think it was either yesterday or the day before.

Detective Ritz

The most recent conversation you had with him, what was the content of that conversation?

Jay

I learned that you guys were looking for me.

Detective Ritz

How did you learn that?

Jay

People told me. Friends of mine told me you guys were coming to question me. So I went to him and said, "what did you get me wrapped up in?" and he just told me, "just calm down, everything will be ok."

Detective Ritz

Where did this conversation take place?

Jay

I believe it was in front of my house in (inaudible) Park.

Detective Ritz

Other than you saying, “what the fuck did you do? Why did you get me wrapped up in this?” what did he say?

Jay

He just told me, “ain’t nothing that happened. They don’t know shit,” and “stay cool.”

Detective Ritz

Is there anything else said during that conversation?

Jay

(pause) He told me that he knew somebody. (pause) I used to be involved in a lot of illegal activity and people on the West Side-- basically the gist of what he told me was that he knew the West Side hitman. So I wouldn’t call it a threat, but he was letting me know.

Detective Ritz

--in a roundabout way that if you said something to the police that--

Jay

Yeah, because I told him, if they come to me I ain’t going to fuck around, I’m just going to tell them what the gig is, and he was like, “you know who I know.” That’s what he said to me.

Sarah Koenig

OK, so the West Side Hitman? It’s so strange, I find Josh’s version of Jay’s fear so much more believable than *Jay’s* version of Jay’s fear. Which makes me wonder if it’s all just in the delivery. When Jay first told Josh weeks before that he knew something about the missing girl who was all over the news, Josh says he didn’t believe him.

Josh

I said something about him not really being involved and then he's like, "no man, you don't understand, I helped to bury the body." It seemed like he was kind of bragging, I mean that's kind of the guy that Jay was. It's not that he bragged about stuff that he did, sometimes he made up things that he didn't do and so that's kind of what I thought he was doing. Why would you say that, why would you tell somebody that you really don't know that well-- and I guess it's why I didn't believe him. If I had done it, I certainly wouldn't have told me.

Sarah Koenig

Right.

Josh

Maybe my best friend or something like that, but not not somebody that you work with at a porn store.

Sarah Koenig

The version of the crime that Josh says Jay eventually told him, it's pretty close to the version that Jay's friend Chris told me too. That Jay was out somewhere and that Adnan came to him and showed him the body and said something to the effect of "you gotta help me." Josh says he can't remember where Jay said he was when this happened, but he is certain the words "Best Buy" were never attached to the story. Josh went to that Best Buy all the time and he says he definitely would have remembered that. He said when he heard in the podcast that Chris had mentioned the pool hall thing, that sounded right to him but he can't say for sure. Josh says he also had the impression, like Chris, that it had all gone down later in the day, not mid afternoon. Josh says at first, Jay seemed afraid the cops were going to figure out he was involved through fingerprints or DNA or something, but that as time went on he seemed more and more afraid of the guy who did it, that he was threatening Stephanie. It was, "you'd better keep your mouth shut or else." He says Jay told him the threats were getting more forceful. To Josh, Jay was *so* not the type to be involved in a murder. Maybe he tried to act tough he said, but he wasn't. He said he himself had friends who got in serious fights or who'd been locked up for grand theft auto, but Jay was not in that category at all he said. He was a nice guy.

Josh

He wasn't the type of guy that you really got the sense he could do something real. He wasn't a killer and he wasn't a thug. If anything, he was kind of the opposite. He seemed like he was in way over his head.

Sarah Koenig

Yeah.

Josh

I remember feeling bad for him.

Sarah Koenig

Was there any point-- I mean I don't mean to sound judgy or something, but was there any point where you're like "well, you should go tell the cops then, if you know who did this. Go tell the cops."

Josh

No, not really. I know that's probably what I should have said but I didn't really believe him and like I said, when it comes to reputation, on the street you don't want to be the guy that's "oh, go snitch." You don't want anybody to see you're weak and all that stuff and so I didn't ever say go to the cops because that would be like the bitch thing to do.

Sarah Koenig

Josh says what never quite made sense to him, what he never entirely understood was why Jay would help Adnan bury Hae.

Josh

Even if I didn't call the cops, I definitely wouldn't grab a shovel and help him dig a grave.

Sarah Koenig

Right, I know. I know, I know. That's what's hard about the story is that you just figure there's something that's not computing here.

Josh

It definitely never sounded right which is why I never believed him until the cops actually picked him up.

Sarah Koenig

Josh says he only remembers seeing Jay one more time after that, he thinks maybe Jay came by the store to pick up his check and when Josh asked him, “so what happened?” Josh says Jay told him he couldn’t talk about it.

In preparation for this episode, Julie and Dana, the producers of this show, went back over everything we had. All the police files, the attorney files, the interviews I’ve done, the cell records. They did one final sweep just to be sure we’d weighed everything and because old details can have startling new meaning after a year’s worth of research is behind us. They came across a couple of things they wanted me to know.

First and foremost, the Nisha call. I’d asked them, “is there any other viable explanation for the Nisha call on Adnan’s cell record?” Here’s Julie.

Julie Snyder

We’d always been under the impression that the Nisha call was a no-way-around-it call.

Sarah Koenig

It looks terrible for him.

Julie Snyder

It looks terrible for him and it’s 2 minutes and 22 seconds.

Sarah Koenig

To remind you, the Nisha call is the one that happens at 3:32pm on January 13. It’s to that girl that Adnan has been flirting with who lived near Silver Spring. The Nisha call is the one that’s always stuck out to me and I think to most people who’ve looked at Adnan’s case closely because it happens on the afternoon that Hae disappeared at a time when Adnan has said, insisted even, that he was not with his phone, that Jay had his phone while he was in school. Jay had told the detectives that Adnan had called some girl in Silver Spring that afternoon and briefly put Jay on the phone with her. That’s why the call is so important. Not only does it put Adnan together with his phone in the middle of the

afternoon, it puts Adnan together with *Jay* in the middle of the afternoon. It corroborates Jay's story. I've always had some suspicion about this call because Nisha said to the cops and at trial that there was a day when Adnan put his friend Jay on the phone, but Nisha has consistently said it happened toward the evening at the video store where they worked. Jay didn't have the video store job on January 13. He started that job at the end of the month. So I never bought the idea that the thirteenth was the day she talked to Jay. But even so, it didn't look good for Adnan because who was calling Nisha in the middle of the afternoon then? Jay didn't know Nisha. So for me this call has remained one of the pillars of the case against Adnan. That's what Julie means when she says "no way around it." But now, I think the Nisha call might be moving from the "no way around it, this looks bad for Adnan' column" into "eh, now I'm not so sure." Adnan says that Nisha's number was programmed into his cellphone, so he's always said to me, "maybe the button got pushed accidentally, like a butt dial and then the answering machine picked up." The problem with that explanation besides how convenient it sounds for Adnan is that there was not answering machine on that line. That's what Nisha says at trial. This call shows up not just on the call log but on Adnan's AT&T bill. He got charged for it. So this was our quest, or really Dana and Julie's quest: to find out, is it possible that this call would have shown up on Adnan's bill even if it went unanswered. This proved so elusive, first we got one answer, then another, then another, then another. AT&T was not helping us, then finally, Dana and Julie figured out exactly what they needed to answer this question. An AT&T customer service agreement circa 1999. They found one, in a class action lawsuit against AT&T that included as an exhibit, the very document we needed.

Julie Snyder

Luckily that class action lawsuit was filed in New York so Dana was able to go down to the--

Sarah Koenig

That's the photo you sent.

Dana Chivvis

That's the Old Records Department of the New York Supreme Court or something like that, yeah.

Sarah Koenig

That's so awesome. It looked like the Mad Hatters archive room. Were you the first humanoid who'd come down in like fifteen years? (laughing)

Dana Chivvis

Yeah, they were like, “what news do you bring?”

Julie Snyder

So Dana goes down there, pulls the service agreement, takes pictures of the contract, sends the first picture, the first picture says on the contract, it says “we do not bill for unanswered calls.”

Sarah Koenig

Oh!

Sarah Koenig

Meaning the Nisha had to have been answered because it shows up on the bill. But there was fine print to the fine print. When Dana flipped through to the last page of the contract she found a loophole. The loophole says AT&T won't charge for unanswered calls unless the call isn't terminated within a “reasonable time.” So if you call someone and it rings and rings and you don't hang up within a “reasonable time,” AT&T *will* charge you for that call even if it's unanswered. So what is a reasonable amount of time, or rather, an unreasonable amount of time? That loophole actually still exists today and the unreasonable amount of time today is thirty seconds or longer, they'll charge. We saw one contract from '99 that specified sixty seconds or longer, so it stands to reason that two minutes were probably covered. They probably did charge. The folks at AT&T told us the only reason a contract would have varied back then in '99 was if the State had passed particular legislation to address it. We didn't find anything in the Maryland rules about it, so after all this work we feel pretty confident that AT&T would have charged for a call that rang and rang for more than two minutes in Maryland in 1999.

Sarah Koenig

So either way if it's two minutes and twenty-two seconds it's probably unreasonable.

Julie Snyder

It's probably unreasonable.

Dana Chivvis

That seems unreasonable

Sarah Koenig

It an unreasonable amount of time to be listening to a phone ring, I gotta say, without it being answered so (laughs)--

Julie Snyder

It's an unreasonable amount of work going in trying to figure this out. (laughs)

Sarah Koenig

I know that's a long and perhaps way too detailed way of explaining it but all this adds up to something important. It means the Nisha call could conceivably have been a butt dial that no one answered. It means there isn't only one explanation for the Nisha call. There are alternative scenarios. It could be that Adnan called Nisha, or it could be that Jay was with somebody else who called Nisha, or maybe Jay or someone else called Nisha by accident. A butt dial and no one was ever the wiser because no one ever picked up. If there are alternative scenarios, then that means the list of things we know, actually definitively know, facts we can show about the evidence against Adnan, that list just got shorter.

In a way the only hard evidence in the case against Adnan is his cellphone record for January 13. That's what the cops and prosecutor used to corroborate Jay's statements. So Dana and Julie looked at that same record all over again, the call log and the cell tower map, teased it all apart, to see if they could figure out what happened. To figure out if there was anything else I could know about what Jay and Adnan were doing that day. We've talked about the call log a lot already, we already knew it didn't match Jay's explanations of where they went and when. But when Julie looked again, she realized, when she tried to assign the calls some semblance of a narrative, her picture of the day crumbled even more. Instead of answering any of her questions, the call log raised bigger ones, such as was everyone lying about that day?

My original question going into this whole endeavour, this whole story was either Jay's lying or Adnan's lying. But what if it's not either or, what if it's *both and*? The call log evidence is screwy right from the beginning. Jay said that when he met up that morning, when Adnan drove over to Jay's to give him his car, they'd gone shopping at the mall. Adnan has said various things, but not that they went shopping. What seems most likely according to what Adnan told his attorney at the time is that Adnan hung out with Jay until about 12:45-1:00 p.m. and then went back to school. There's a 12:07 call and a 12:41 call. The first pings a tower out west in Ellicott City. The next pings a tower back east toward Baltimore City. They're pretty far apart from each other. Here's Julie.

Julie Snyder

Going to Ellicott City, and then going into Baltimore City, where the phone is pinging off of Edmonson Avenue area, which is actually near drug strips where Hae's car was dumped. That sort of area of Baltimore. That's not mentioned by Adnan. So, "I don't remember what we did. I know we didn't go shopping. I'm not really sure." I feel more concerned and suspicious-- I feel suspicious, of being like, "huh," because I can see being-- I can see where the phone was moving. I know Jay's story about Security Square Mall is not true because of the phone, if they had the phone. But I don't think Adnan's is true either.

Dana Chivvis

Can I also add that at one point, Jenn says to the detective that she remembers one of those phone calls she answered and talked to Jay and Jay had said that he was downtown with Adnan.

Sarah Koenig

The prosecutor at trial said, "we don't really know what they were doing, but it doesn't matter, because Hae was in school at that time. Alive." That's true. But still the phone record tells us that there's something they're not telling us. Why, and is it related to what happened later. The next call is the incoming 2:36 call. The supposed "Best Buy" call from the phone booth that we're pretty solidly convinced wasn't the "come and get me" call.

I do have something of an update there. We have not found evidence of a phone booth outside the Best Buy on the sidewalk, like Jay draws on his map for the cops. But we have now seen two anecdotal reports that there was a payphone inside the vestibule. We haven't been able to verify these reports, but we did get a look at the 1994 architectural plans for that Best Buy, and indeed on the plans there is a teeny little rectangle in the vestibule on the left as you walk in, labeled "payphone." So, maybe there was one. Inside.

Anyway, back to the call log. Julie spent a long time thinking about the 3:21 call. It opened a whole new mystery for her, because it's confusing on about three different levels. It's an outgoing call, from Adnan's cell to Jenn's house phone. Jay and Jenn both talk about some call that afternoon that comes into her landline. Someone supposedly looking for Jay.

Julie Snyder

Jenn says she remembers Jay getting phone calls while he was at her house. Jay says he remembers getting phone calls while at the house. Both of them also reference a landline call. *Jay* says, "I get a call on the landline, and that's when I leave."

Sarah Koenig

Meaning, right? This incoming landline call is Adnan calling in looking for Jay.

Julie Snyder

Why would Adnan be calling you on the landline? The whole point of him giving you the cell phone was so that he could call you on the cell phone. It doesn't make any sense. But there is a 3:21 call made from the cell phone to Jenn's house.

Sarah Koenig

Here's the second confusing thing. Jay eventually told the cops the 3:21 call was a call *he* made. To Jenn asking if she knew whether this guy Patrick was around. Jay was looking for weed from Patrick. Jenn, by the way, testified this never would have happened, that Jay would never call her asking about Patrick, but anyway. Here's the third thing. The confusing kicker. Both Jay and Jenn also say Jay was at Jenn's house until about 3:45 p.m. that day.

Julie Snyder

That also has always confused me. If Jay is at Jenn's house until 3:45, how is he calling Jenn's house at 3:21? Why would he be calling the house that he's sitting in it?

Sarah Koenig?

Unless Adnan has the phone.

Julie Snyder

Unless Jay doesn't have the phone. I'm not saying who has the phone. I have no idea who has the phone. But it leads me to believe that there is the possibility that Jay doesn't have the phone.

Sarah Koenig

So what's the evidence that Jay *does* have the phone? Jenn tells the police that she saw Jay with the phone that afternoon. She has an image of the cell phone in her mind sitting on the coffee table at her house. But at 3:21, the tower that's pinged isn't the one that covers Jenn's house. If Jay doesn't have the phone though, then who has the phone? More to the point, if Jay doesn't have the phone, then what was going on that afternoon? Then I have no idea what was going on.

There are discrepancies unresolved like this all throughout the afternoon and evening right up until the end of the night when there's a big one. We noticed it right at the beginning, and while Adnan's attorney *does* bring it up at trial, no one dwells on it too long. But it's odd. Jenn and Jay tell different stories about where she picked him up on the night of the thirteenth, and about where and when they got rid of Jay's clothes and boots. Jenn says she picked Jay up at Westview Mall, where she saw Adnan too. Jay says, that didn't happen. He says, she picked him up at his house, and that he dumped his clothes that same night, the thirteenth, the first time he tells it, he says he threw them out in the trash at his own house. But Jenn say, she and Jay tossed his clothes in some dumpsters the next day, though there would have been a terrible ice storm happening, but maybe. Anyway, pretty different stories.

Julie Snyder

--and it hasn't been reconciled. They actually both kinda dig in on it.

Sarah Koenig

Yeah, I know.

Julie Snyder

--admit to it. Somebody is wrong, and I don't believe it's an oversight. But I cannot work my head around what is the-- what is the lie that is minimizing what?

Sarah Koenig

Right. What's the utility of which lie?

Julie Snyder

Yeah. What's the utility of which lie? Yeah.

Sarah Koenig

You can apply that same question, “what’s the utility of which lie?” to this entire case. There’s so much that is murky, all you can do at a certain point is speculate, and believe me, we have. Dana and Julie and I speculate about all sorts of things. Like crazy we speculate. Rest assured that in the privacy of our office, we’ve turned over every possibility, no matter how remote. 99% of what we speculate I cannot report, because, well, we can’t back it up, it’s speculation. But here’s one I can tell you we’ve recently discussed. We loop-de-looped all the way back to motive. I know I dismissed the motive the state supplied way back in episode two but we put it back on the table, just to see where it took us. Here’s where we got.

We’ve always said Adnan was over the breakup. It had been a month already. But just for arguments sake, let’s say he *wasn’t* over it. Adnan and Hae had broken up and gotten back together a few times. When they break up in mid-December, maybe Adnan thinks she’ll change her mind again. They’re still friendly; several people said to me they couldn’t tell or didn’t even know that Hae and Adnan had broken up, or said that Adnan was still referring to her as his girlfriend or said he told them they’d get back together. Don said he never quite knew what the deal was between them. But judging from Hae’s diary, by January, her romantic feelings are completely absorbed by Don. Remember their first date is January 1. But maybe Adnan didn’t feel the full force of how she’d moved on until they got back to school, after Christmas break. Here’s what Dana realized recently. That first week of school, in ‘99, Adnan was absent two out of four days. Then Friday was a snow day. So maybe he doesn’t get it, that he’s really lost Hae until that first or second week back at school. Here’s Dana.

Dana Chivvis

Maybe that’s when reality sets in for him and maybe that’s when-- yeah. Maybe that’s when the emotions hit him.

Sarah Koenig

--and so *does* kinda lose it.

Dana Chivvis

--and so maybe he does kinda lose it.

Sarah Koenig

But who else says this? Not one of Hae’s or Adnan’s friends whom I spoke to says they saw it like this at the time. They don’t even speculate, now that they’re adults, that maybe it could have been like

this. So who are we to put this theory forward? This is the very obvious problem with speculation especially of the emotional variety. You can't prove it, so you have to drop it.

So where does this leave us? There's no point in trying to come up with a most likely scenario for what happened to Hae, because you could posit a hundred scenarios and so what? Bereft of more facts, better facts, even the soberest most likely scenario holds no more water than the most harebrained. In the equation of Adnan's case, all speculation is equally speculative. So instead of most likely, how about most logical? Dana has always been very logical about Adnan's case. She's the Mr. Spock of our staff. Her thing is, "okay! Let's say he didn't do it. But if he didn't do it, then my god that guy is ridiculously unlucky." I'm going to let her lay it out.

Dana Chivvis

Adnan has always said it was his idea to loan Jay the car because he wanted Jay to go get Stephanie a birthday present, right? So, that's pretty crappy luck that you loaned this guy, who ends up pointing the finger at you for the murder that you loaned him your car and cell phone the day your ex-girlfriend goes missing. The next thing is that it seems pretty clear to me that Adnan asked Hae for a ride after school, because we've got at least two of their friends saying they overheard him ask for a ride from Hae. Adnan himself tells the cop that day he asked her for a ride. In Jay's first interview with the detectives, he says to them: "Adnan's plan was to get in Hae's car by telling her that his car was broken down and asking her for a ride."

Then the next piece of bad luck is the Nisha call. I mean, even if the Nisha call could potentially be a butt dial, in the realm of possibility, maybe it was a butt dial, but what are the chances? That *sucks* for you that your phone butt dialed a girl that only you know and would call on this day that your ex-girlfriend goes missing that you happen to loan your car and your phone out to the guy who ends up pointing the finger at you. That sucks. Then the last thing that I think really sucks for him if he's innocent is that Jay's story and the cell phone records match up from about six o'clock to about eight o'clock which is when Jay is saying you are burying the body, and that's the time of the day you just have no memory of where you were. You have your dad saying you were at the mosque, and maybe Bilal your youth leader--

Sarah Koenig

Who never testifies.

Dana Chivvis

--who never testifies at the trial, but testifies at the grand jury, that--

Sarah Koenig

He says he saw him after dark at the mosque on the thirteenth.

Dana Chivvis

But you, Adnan, you don't really remember where you were that evening, and that blank spot in your memory, that's the window of time when Jay's story actually does seem to be corroborated by the cell phone records.

Sarah Koenig

Seem to be corroborated, yes. But Jay's statement only roughly matches the Leakin Park calls and eight o'clock calls. Really roughly. The geography matches, but not the timing. But, I take her point.

Dana Chivvis

So I guess, it just-- in order to make him completely innocent of this, you just have to think "God, that is-- you had so many terrible coincidences that day. There were so many-- you had such bad luck that day, Adnan."

Sarah Koenig

A lot of people see it this way. All of us on staff have heard from people who say just so quickly, "oh yeah, he's totally guilty. News flash. People lie in murder cases. On the witness stand. Whoopdeedoo." We worried. Did we just spend a year applying excessive scrutiny to a perfectly ordinary case? So we called Jim Trainum back up. He's the former homicide detective we hired to review the investigation and we asked him, "is Adnan's case unremarkable? If we took a magnifying glass to any murder case, would we find similar questions, similar holes, similar inconsistencies?" Trainum said no. He said most cases, sure they have some ambiguity, but overall, they're fairly clear. This one is a mess he said. The holes are bigger than they should be. Other people who review cases, lawyers, a forensic psychologist, they told us the same thing. This case is a mess.

While we've been rabbit-holeing in our office, back out in the world, those lawyers from the University of Virginia Law School's Innocence Project Clinic have been coming up with their own most logical explanation, which couldn't be more different from Dana's. I haven't reported anything about it to now, but over the weekend there was a development of sorts, so now I can tell you. Deirdre

Enright and her students have a motion in the works to test the DNA from Adnan's case that wasn't tested. The PERK kit, that's the swabs from Hae's body, the material from under her fingernails, the hairs found on her body. In a motion like this you have to give a viable reason to test this stuff. You have to show how it could potentially exculpate you and Deirdre's reason is, she thinks the DNA might match some other guy. The path to one of these other guys started way back when Dana and I went down to Charlottesville last February. Mario, one of her students, started looking online for possible signs of a serial killer basically. I'd already told him about another strangling of a young woman who was also found in a Baltimore park, different park, and one thing led to another and he came upon yet another case. A cold case.

Mario

I stumbled upon a website that categorised all the unsolved murders in Baltimore County and she was there.

Sarah Koenig

Do you remember her name? I know your computer's not open now.

Mario

I unfortunately do not remember--

Sarah Koenig

Was it Annelise--

Mario

Her last name was Lee.

Sarah Koenig

Annelise Hyung Suk Lee. I believe she was also Korean. She was twenty-seven when she was killed, strangled in her apartment in Owings Mills. She was found on December 13, 1999, exactly eleven months after Hae disappeared. I could see why Mario was interested.

Sarah Koenig

So, will you look into that now?

Mario

Ah, absolutely.

Sarah Koenig

Then, months later I got a message to call Deirdre. She said she had huge news.

(Phone ringing) oh please pick up.

Deirdre Enright

Deirdre Enright

Sarah Koenig

Hey it's Sarah.

Deirdre Enright

Sarah! (sing-songy)

Sarah Koenig

Her huge news and this is attorney huge, not necessarily reporter huge, but anyway. The news was that she'd spoken to someone in the Baltimore County Police Department to ask about this unsolved case of Annelise Lee.

Deirdre Enright

So I'm going to tell you quickly because I have to get on this call at 2:30.

Sarah Koenig

OK.

Deirdre Enright

But I called sergeant something--

Sarah Koenig

Sergeant Something told her that they now had a suspect for this Owings Mills case from 15 years ago. They tested some old DNA and a match came back to this other guy who'd done other crimes, mostly burglaries.

Deirdre Enright

He said my guy was in prison a lot. He said he had a really tiny window of being out and about and he was very active while he was out and about. So, he said during that time that he was out we linked him to two rapes and a murder and the motives in all of them appeared to be burglary but he'd always had sex with people.

Sarah Koenig

OK.

Deirdre Enright

--and he said that he got out and became active for fourteen months, his release date was January 1, '99.

Sarah Koenig

Oh my God.

Deirdre Enright

Right?

Sarah Koenig

So, what's his name?

Deirdre Enright

He wouldn't tell me his name.

Sarah Koenig

Oh for crying out loud.

Deirdre Enright

But he accidentally referred to him as Ronald--

Sarah Koenig

And did he bury his victims?

Deirdre Enright

He, I didn't, I think he felt like he was telling me too much already.

Sarah Koenig

Yeah yeah yeah yeah--

Sarah Koenig

Deirdre later learned this guy's name was Ronald Lee Moore. Ronald Moore is dead now, he killed himself. But it seems like he committed lots of crimes. He'd been in prison in Baltimore for a while on assault and burglary convictions and according to a Baltimore Sun article, in 2007 he was supposed to get transferred to a different jail in Anne Arundel County so he could be prosecuted for a different crime but the Baltimore officials released him by accident. He was arrested about a month later in Louisiana for burglary. They figured out who he was and that he was wanted back in Maryland. Anyhow, this is the guy the Baltimore County cops linked through DNA to the death of Annelise in Owings Mills. This is the guy that Deirdre and her gang are naming in their motion to test the DNA from Adnan's case. It's a long shot that there will be anything testable in those samples and it's a long shot that if there is, it'll match anyone but Hae, and most long shotty of all that if it does match someone else, that someone else happens to be Ronald Lee Moore. When I said that to Deirdre though, as I have several times, she always shoots right back, "what makes more sense? That little seventeen-year-old, never been in trouble with the law Adnan killed someone or that Ronald Moore, rapist and murderer who got out of prison thirteen days before Hae disappeared, that he killed someone?" "Right, I know," I say, "But what about Jay? He knew where Hae's car was. He had to be involved. How does that account for Jay?" Deirdre says, "Big picture Sarah, big picture."

Meanwhile, Adnan's post conviction petition is still alive in the Maryland Court of Special Appeals. His attorney, Justin Brown, is working on a way to bring the issue of the Asia alibi before the court again. I spoke to Asia recently. She told me she stands by her memories of seeing Adnan that January afternoon in the public library and she stands by her affidavit. For post conviction purposes, Asia's alibi is still a big deal. It sure would seem to point to ineffective assistance of counsel. It's funny

though, knowing what we now know about the State's garbled timeline and that Hae was maybe still alive at 2:45 or 3:00 p.m., Asia's library alibi doesn't pack the same punch for me as it once did.

Deirdre and Justin Brown have been giving Adnan conflicting advice lately about how best to proceed, what to push for and when. But on Saturday Adnan finally gave Deirdre the go ahead to file the motion to test DNA. It was an emotional decision for him.

Adnan Syed

It's just anything about my case, I want to know it. I don't want anyone to be able to say "well he didn't want to know so boom, we went and found out." No, I want to know. So I called Miss Deirdre and said "Look Miss Deirdre, I wanted you to test things. I'm the one that asked for this. You guys had it sitting for sixteen years and you never tested it. It's impossible for it to be sitting there for sixteen years and you guys never tested it. So that's fine, I want it tested.

Sarah Koenig

Yeah.

Adnan Syed

I want to see what it says. There's nothing about my case that I'm afraid of.

Sarah Koenig

So back to Adnan's question. Do I have an ending?

Adnan Syed

I was just thinking the other day, I'm pretty sure that she has people telling her, "look, you know this case is-- he's probably guilty. You're going crazy trying to find out if he's innocent which you're not going to find because he's guilty." I don't think you'll ever have one hundred percent or any type of certainty about it. The only person in the whole world who can have that is me. For what it's worth, whoever did it. You know you'll never have that, I don't think you will.

Sarah Koenig

Adnan told me all he wanted was to take the narrative back from the prosecution, just as an exercise. So people could see his case without makeup on, look at it in the eye up close and make their own judgments. He told me, he doesn't think I should weigh in.

Adnan Syed

I think you should just go down the middle. I think you shouldn't really take a side, I mean, it's obviously not my decision it's yours, but if I was to be you, just go down the middle.

Obviously you know how to narrate it but I checked these things out and these are the things that look bad against him, these are the things that the State doesn't really have an answer for. I think in a way you could even go point for point and in a sense you leave it up to the audience to determine.

Sarah Koenig

While I appreciate Adnan's blessing to take a powder, I'm not going to. Dana's right to be sceptical. What are the chances that one guy got so unlucky? That everything lined up against him just so. Because yes, there's a police file full of information, circumstantial information that looks bad for Adnan. But let's put another file next to that one, side by side. In that second file let's put all the other evidence we have linking Adnan to the actual crime, the actual killing. What do we have? What do we know? Not what do we *think* we know, what do we know? If the call log does not back up Jay's story, if the Nisha call is no longer set in stone, then think about it. What have we got for that file? All we're left with is, Jay knew where the car was. That's it. That all by itself, that is not a story. It's a beginning but it's not a story. It's not enough, to me, to send anyone to prison for life, never mind a seventeen-year-old kid. Because you, me, the State of Maryland, based on the information we have before us, I don't believe any of us can say what really happened to Hae. As a juror I vote to acquit Adnan Syed. I have to acquit. Even if in my heart of hearts I think Adnan killed Hae, I still have to acquit. That's what the law requires of jurors. But I'm not a juror, so just as a human being walking down the street next week, what do I think? If you ask me to swear that Adnan Syed is innocent, I couldn't do it. I nurse doubt. I don't like that I do, but I do. I mean most of the time I think he didn't do it. For big reasons, like the utter lack of evidence but also small reasons, things he said to me just off the cuff or moments when he's cried on the phone and tried to stifle it so I wouldn't hear. Just the bare fact of why on earth would a guilty man agree to let me do this story, unless he was cocky to the point of delusion. I used to think that when Adnan's friends told me "I can't say for sure if he's innocent, but the guy I knew, there's no way he could have done this." I used to think that was a cop out, a way to avoid asking yourself uncomfortable, disloyal, disheartening questions. But I think I'm

there now too. Not for lack of asking myself those hard questions, but because as much as I want to be sure, I am not.

When Rabia first told me about Adnan's case, certainty, one way or the other seemed so attainable. We just needed to get the right documents, spend enough time, talk to the right people, find his alibi. Then I did find Asia, and she was real and she remembered and we all thought "how hard could this possibly be? We just have to keep going." Now, more than a year later, I feel like shaking everyone by the shoulders like an aggravated cop. Don't tell me Adnan's a nice guy, don't tell me Jay was scared, don't tell me who might have made some five second phone call. Just tell me the facts ma'am, because we didn't have them fifteen years ago and we still don't have them now.

Serial is produced by Julie Snyder, Dana Chivvis and me. Emily Condon is our production and operations manager. Ira Glass is our editorial advisor. Editing help this week from Joel Lovell and Nancy Updike. Production help from Sean Cole. Research and fact checking by Michelle Harris. Administrative support from Elise Bergerson. Our score is by Mark Phillips who also mixed the episode. Our theme song is by Nick Thorburn, who provided additional scoring. Special thanks today to Oliver Monday, David O'Dell, Chris Cunningham, Bennet Epstein, David Raphael and to our respective spouses Ben Schreier, Jeff Melman and Rachael Hammerman. Thank you all. And thanks to WBEZ and to Goli Sheikholeslami. A *huge* thank you to the entire staff of This American Life, most especially to Seth Lind who gave us operations support throughout the entire season, thank you. Our website where you can listen to all our episodes and find photos, letters, and other documents from the case, SerialPodcast.org. And if you want updates about Season Two coming sometime in 2015, please sign up for our email newsletter. That's SerialPodcast.org. In the meantime we hope you'll listen to our other show, This American Life. It's a radio show and a podcast. ThisAmericanLife.org. Support for Serial comes from SquareSpace [ad removed] and from NYT Now [ad removed]. And from MailChimp [ad removed]. Serial is a production of This American Life and WBEZ Chicago.

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