



198



Natasha Vargas-Cooper, Ken Silverstein

January 14 2015, 4:32 p.m.

Last week, *The Intercept* published [Part I of an interview with Kevin Urick](#), the lead prosecutor in the murder trial of Adnan Syed. In 2000, Syed was convicted of murdering his former girlfriend, Hae Min Lee, and is currently serving a life sentence. The state of Maryland [is scheduled today](#) to submit its response to Syed's request for permission to appeal the denial of post-conviction relief. The Maryland Court of Special Appeals will issue its ruling at a later date.

The case was covered by "Serial," the popular podcast hosted by Sarah Koenig that ran last year.

Here is Part II of the interview with Urick. The following has been edited and condensed for clarity.

The Intercept: Why was the DNA collected at Hae's murder site not all analyzed and submitted into evidence?

Kevin Urick: I don't recall any DNA evidence in the case. The body was out in the field for, what, five weeks? I don't know how well DNA

stands up at that point. We had no DNA evidence at trial. That was 1999. DNA had been accepted in Maryland as valid scientific evidence by that time. If anything in evidence had shown promise for DNA testing, that is, there appeared to be biological matter that could have come from the crime, I am sure we would have asked for it to be tested.

TI: The University of Virginia's Innocence Project has announced that they will be pushing for DNA from the crime scene to be tested.

KU: Like I said, I don't recall there being any evidence being submitted for DNA testing by me or Cristina [Gutierrez, Adnan Syed's lawyer]. In strangulation cases, where there is no murder weapon, no blood. [*Ed. note:* Blood was found on Hae's shirt and was analyzed for DNA. The blood belonged to the victim, according to the medical examiner's testimony – likely due to a pulmonary edema, i.e. a buildup of fluid in the lungs that occurs when the heart fails to pump blood through the veins.] It is really hard to find DNA that can be linked to the crime. It's possible that they are trying to pull DNA off evidence collected around the murder site, like empty bottles or some trash, and test that for DNA.

[*Ed. note:* We reached out to the Innocence Project at the UVA School of Law, but they declined to be interviewed. In a previous interview, its director, [Deirdre Enright](#), describes what is likely to be tested, including material found on the body and at the crime scene.]

TI: Let's talk about Anne Benaroya, Jay Wilds' attorney, for a moment. Can you walk us through that situation? There was an implication of misconduct, because you recommended her to Jay to represent him in the plea deal?

KU: Jay had committed a crime, which he had not yet been charged for. Second, he was a very important witness in the case, and it would be necessary to work on some sort of plea agreement. I don't know if the police suggested it or we suggested that he talk to a public defender. But he talked to some public defenders, and they wouldn't represent him, because he was not charged with a crime yet. He went to several attorneys – they wouldn't represent him unless he paid them a fee. Jay did not have the money to pay for a private attorney. At that time, I had a case with Anne Benaroya. I knew from talking with her throughout the course of the case that she had been a public defender. She had a keen interest in constitutional rights. I told her about Jay. I said, 'Can you think of any place I can tell this guy to go, because he wants

representation. He's not comfortable talking to the state without someone advising him about what's best for him.'

Prosecutors can't advise a criminal defendant what's in their best interest. They need independent counsel. She volunteered to talk to Jay to tell him his options of where he could go for representation. So I told Jay, there is this attorney who was willing to talk with him about that, and I asked would he like to meet with her? He said yes. Anne met with him. ≡

She came back to us and said basically that she found him a meritorious person who needed representation, and she was going to volunteer to handle it, which I think was admirable, commendable, and that's what attorneys should do. I see it all the time. Attorneys will say this guy needs representation, and someone will step forward to serve that function. You have rules that we're supposed to do that. We're supposed to honor the Constitution and people's rights. It's in the rules for professional conduct. You're supposed to treat opposing parties with fairness.

TI: If this is a common practice, why did it result in a hearing?

KU: At some point in the trial, Jay made a comment that I had gotten in touch with Anne Benaroya. Like I said, Cristina was very quick on her feet. She heard that. She immediately formulated this argument that I had procured an attorney for Jay, and she ran with it.

I give her credit. It's something you don't hear. It was new; it was innovative. I found the whole experience surreal. At the trial level, generally what happens is when defense attorneys want to put the state on trial, they try to make a case that you violated someone's constitutional rights. And you therefore have engaged in misconduct. Here, someone is making a case where I acted to honor constitutional rights and tried to make that seem like misconduct. She didn't prevail at the trial court level. And like I said, there were hours of hearings at the trial court level.

TI: In "Serial" Episode 10, when they're going over the mistrial, we learned the jury was polled after hearing most of the state's case from the first trial and was leaning toward not guilty. What is your reaction to that?

KU: If the jury was polled that way, it had to have been by the defense after the mistrial. My experience from my early days is not to poll the

juries. I have found that a lot of times, if you try to talk to jurors, some of them are going to tell you what they think you want to hear. So you're not getting a very good, accurate thing. The way I've learned to try a case is I do what I feel comfortable with, what I think is the best way to try it. I put it on – I feel good about myself. The jury comes back with its verdict; I go home, study for the next trial. A lot of people say you should talk to jurors to know why they're acting the way they do. Some people find that effective. I've never found that effective, because I tend to be somewhat distrustful of what a juror tells me after the verdict. ≡

TI: Why was Adnan's Muslim background, and coming from a very conservative family, used as motive in the prosecution's case?

KU: As I recall, our primary motive was there was a relationship here that broke up, and he couldn't deal with it for whatever reason, and it erupted in violence. This was well before Sept. 11. Nobody had any misgivings about someone being Muslim back then. They have a very strict society. Does that contribute to it? I don't think that was our primary argument. Our argument was this is a pretty much run-of-the-mill domestic violence murder.

TI: Moving back to the trial, was Adnan ever offered a plea deal?

KU: No, there was never a plea deal offered. It was clear that for Cristina this was about guilt or innocence. The defense had no desire for a plea. So we never offered one.

TI: In what circumstances do you typically offer a plea deal?

KU: If we're asked if we have one. But every case proceeds on its own dynamics. There are cases where a defense attorney will come up to you and say, 'I have to take this case to trial. The consequences are too bad for my client. He'll lose his job. He'll go to jail for a long time.' So you know that's not a case that's going to plead. That happens. It was clear from the moment that Cristina started in the case that this was about guilt or innocence – it was not about some sort of plea. And at sentencing, after Cristina was discharged and they came in with a new attorney for sentencing, Adnan stood up and basically said, 'I have consistently maintained my innocence, and I maintain that today.' So it was clear that Cristina was, in effect, trying it the way he wanted it tried.

TI: So, it's difficult to say she was ineffective on that, and there's no right to a plea deal?

KU: There's no constitutional right to a plea. There are a lot of cases where the client demands that you try it, and from all the evidence I saw, that was what Adnan wanted.

TI: There's also some confusion about a person who pled the Fifth during the grand jury.

KU: That's something I can't get into.

TI: We'll move on.

KU: If there's anything that occurred at the grand jury that has not been released through one of the exceptions – for example, it's a witness who testifies at trial, and you have to give the defense the grand jury testimony for cross-examination purposes – except for very few, limited exceptions, all grand jury testimony is secret and remains secret until the end of time – or it's supposed to.

TI: Do you feel that Cristina Gutierrez presented a good defense?

KU: She presented a good defense in a case where she was unable to have any real defense. There's an old saying in law school: 'If the facts are on your side, you argue the facts. If the law is on your side, argue the law. If neither is on your side, you pound the table.' She pounded the table.

TI: There are lot of fans of "Serial" who paint Adnan as the victim of ineffective counsel.

KU: She was not an inexperienced defense attorney. From the mid to late '90s, she was one of the premiere defense attorneys in Baltimore City. She was very highly recommended by the defense bar. All the problems she had came later, when she had serious health problems that caused her to be a little bit fast and loose with some things, and she ended up getting disbarred. But that was after this. At this time, she was a premiere defense attorney, very aggressive, very hard-nosed.

TI: Let's talk about the mistrial. The first trial got scratched because the judge called Cristina a liar?

KU: He didn't directly call her a liar. I don't remember what he said. Like I said, Cristina was very quick. And she saw that, and she yelled

very loudly, ‘Judge, you just called me a liar.’ So the entire courtroom heard her. She saw the opportunity to get a mistrial, and she went for it. [Ed. note: According to trial transcripts as read by Sarah Koenig on “Serial,” Gutierrez said, ‘It’s very hard to be quiet when a court is accusing me of lying.’]

TI: When did Koenig first contact you?

KU: I don’t recall ever being contacted by her. The first contact I had with her was just before, I think, the week before the last podcast. [Ed. note: “Serial” maintains that Koenig left several messages, at multiple locations, seeking an interview with Urick, beginning in early 2014.]

TI: Were you aware of “Serial” before Koenig contacted you?

KU: I had heard of her.

TI: So when did you talk to her?

KU: I didn’t talk to her. I got an email, like I said, I think it was the week before the podcast. Which said I’ve got this witness who contacted me who was a witness at trial saying you were upset with the way he testified, and you yelled at him after he got through testifying.

TI: Why did you not speak to Koenig?

KU: At that time, out of respect for the family. This was a young girl killed at about age 18. Terrible blow to the family. When you deal with victims as a prosecutor, sometimes you have to put them through a trial. Sometimes you have to put them through appeals. Sometimes there’s press coverage that you have to expose them to. But this was 14 years after the fact.

I did not want to be responsible for causing any further anguish for the family. And also, I should’ve put this on the record at the beginning, make it very clear I am no longer employed with the Baltimore City State’s Attorney’s Office. I have not been since 2003. So I’m not a spokesman for the office; I’m not a spokesman for the case. I also took the attitude that if the City State’s Attorney’s Office wanted to have a spokesman, that was their business. I was not going to try to be a spokesman for the case. I have no authority to do so.

Illustration by [Eli Valley](#) for The Intercept. [Will Federman](#) provided research and analysis for this article.

CONTACT THE AUTHOR:



Natasha Vargas-Cooper

✉ natashavc@theintercept.org

🐦 [@natashavc](https://twitter.com/natashavc)



Ken Silverstein

✉ kensilverstein@firstlook.org

🐦 [@KenSilverstein1](https://twitter.com/KenSilverstein1)



∨  198 Comments (closed)

The Intercept_

Newsletter

Don't miss the best of The Intercept

Enter your email address

Email list managed by MailChimp