

Testimony of Dr. Richard Of she
State v. Adams, 4BA-S93-734 Cr.

THE COURT: Please state your name and spell your last name for the record.

A Richard J. Ofshe, O-F-S-H-E.

THE COURT: Okay. Mr. Traverso.

VOIR DIRE OF DR. OFSHE

BY MR. TRAVERSO:

Q Thank you. Good afternoon, Dr. Of she.

A Good afternoon.

Q Could you explain, sir, your educational background?

A I have a bachelor's degree in psychology from Queens College of the City University of New York, a master's degree in sociology from the same institution and then a PhD in the sociology department from Stanford University with a specialty in an area called social psychology, which is an area that is in both psychology and sociology. It's a special topic area.

Q Well, what's your trade name? I mean what's your occupational title?

A Well, I'm a professor at the University of California at Berkley and I'm a social psychologist who specializes in the study of extreme techniques of influence.

Q Okay. What positions have you held?

A Well, I've been at Berkley since 1967, where I started as an assistant professor and I'm now a full professor in the sociology department. I've been a visiting professor at Stanford University, and that's where I've been all of my

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teaching career, at those two institutions.

Q Have you participated or been involved with consultant work to police departments, prosecutors, as well as defense attorneys across the country?

A Yes. Starting in about 1979 I've been a consultant over the years to Mann County Sheriff's Department, the Office of the Attorney General of the State of California, the Office of the Attorney General of the State of Arizona, United States Department of Justice, the Tax Division and the Criminal Division, Prosecuting Attorney of Jefferson County, West Virginia, the Los Angeles District Attorney's Office, the Internal Revenue Service, the United State's Attorney's Office of West Virginia, Thurston County Washington Prosecutor's Office, State's Attorney's Office of Fort Lauderdale, Florida.

Q Okay. Have you done any studies or participated in the writing of any articles or treatises or other works involving the influences and the responses of people during police interrogations?

A Yes, I have.

Q Okay, could you tell us some of those?

A Well, particularly on police interrogation, I've published several papers, one in 1989 called "Coerced Confessions -- the Logic of Seemingly Irrational Action;" an entry in the encyclopedia of my discipline in 1992 called "Coercive Persuasion and Attitude Change," which dealt with police interrogation in part; an article in the International Journal of Clinical and Experimental Hypnosis, also in 1992,

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called "Inadvertent Hypnosis During Interrogation; False

Confession Due to Dissociative State; Misidentified Multiple Personality Disorder; and the Satanic Cult Hypotheses," and I'm currently working on a book on studies of interrogation methods leading to false confession.

Q Have you received any honors in your field?

A Yes I have. I was awarded a John Simon Guggenheim Memorial Foundation Fellowship in 1973, and then in 1979 I shared a Pulitzer Prize for public service with two other individuals who published a small newspaper in Mann County, California. We did an expose of a violent cult group called Synanon and received the Pulitzer Prize gold medal for 1979.

Q You testified earlier that you were a consultant to police departments, prosecutors, as well as defense attorneys around the country. Have you also testified in court as an expert on the influences -- on the responses of a person during a police interrogation?

A Yes. I've testified in court on that subject 17 times in perhaps as many as 10 different states.

Q Okay. Have you been asked to evaluate confessions or, if you will, statements of admission by suspects or defendants from either prosecutors or defense attorneys from around the country?

A Yes.

Q And how many times have you been asked to do that?

A I've been sent at least, over the years, 54 separate interrogations to analyze. The number that I've actually

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looked at is significantly larger than that but all of my records were destroyed three years ago when my home burned

down. So I know of 54 cases that I've been asked to evaluate.

Q Okay. Have you been previously qualified as an expert in this field?

A Yes, I have.

Q Could you describe which states, at least more recently, that you have been qualified as an expert?

A In Arizona, Arkansas, Florida, California, Kentucky, Oregon, South Carolina and Washington.

Q Okay. Your Honor, at this time I'd offer Dr. Richard Of she as an expert on the influences on persons and their responses in police interrogation.

THE COURT: Okay, can you repeat the offer?

MR. TRAVERSO: I'd like to offer him as an expert on the influences on a person's responses during a police interrogation.

THE COURT: Okay, Mr. Doogan, you want to do any voir dire on that?

VOIR DIRE OF DR. OFSHE

BY MR. DOOGAN:

Q Yes. Doctor, could you tell us what that means?

A What that means is that police interrogation is an influence process. It is a set of tactics designed to manipulate and influence an individual. And what I study are techniques of influence and how such systems of influence are put together. In particular, when it comes to police interrogation, I study the way in which interrogations are

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designed and the way in which they act to get people who in fact have committed crimes to admit that they've committed the

crimes, and the ways in which they can go wrong and be misdirected at people who may be innocent and sometimes elicit false confessions from people who in truth are innocent.

Q And that's the field you testified in 17 times in criminal cases?

A Yes.

Q I have no objection, Your Honor.

THE COURT: All right. Then pursuant to ER 702(a), I find that Dr. Of she is an expert in the field of influence on person's responses during police interrogations.

DIRECT EXAMINATION OF DR. OFSHE

BY MR. TRAVERSO:

Q I guess, doctor, we need to perhaps start from the theoretical base or the actual approach that you use with analyzing interviews. Maybe you could first describe for us what classify the different types that there are.

A Well, when it comes to they study of false confessions, there are generally recognized to be three kinds of false confession. The first kind is what's called a "voluntary false confession." The second kind is what's called a "coerced compliant false confession," and the third is what's called a "coerced internalized false confession."

A voluntary false confession is usually the sort of thing that happens when a crime has been committed that gets a lot of attention and someone who is often mentally ill wants

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attention and will call the police or show up at the police station and will simply walk in and without the police doing anything say "I committed the crime." But it's false. So

that sort of false confession is the simplest kind and the kind that is really not explainable as something produced by the police. It's just something that happens, usually done by people who are mentally ill.

The next kind is called a "coerced compliant false confession," and what this refers to is the fact that sometimes in response to police interrogation which can be and often is a very stressful, very distressing situation. An individual who in fact is innocent and knows that he or she is innocent, will sometimes just give up and knowingly give a false confession because they can no longer stand the strain of the interrogation. It just gets to them to the point where they no longer care, and to end the interrogation they will simply give a false confession.

In order for that to occur the interrogation must get intense and usually that will occur when the interrogators have overstepped and done things that they shouldn't do and have really gotten the interrogation too intense. But the key thing is that the person knows that they're giving a false confession at the time they do it.

The last kind of confession is the most complicated. It's called a "coerced internalized false confession." And what that means is that an individual is persuaded by the tactics that the interrogators use and actually believes, that

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it is more certain than not, that they probably committed the crime that they're being accused of even though they have no memory of having done it.

So that's an example of a very exceptional kind of persuasion - - of influence being brought to bear on an individual, and it can occur without a police officer realizing that he or she is doing it. It can happen if certain interrogation tactics are misused and the officer is not aware that what they have done is to shatter the person's confidence in their own memory and to make them believe that they probably committed a crime that they have no involvement in whatsoever. Those are the three kinds of false confessions that are generally recognized in the literature.

Q So if I was to summarize those three different types, basically you're talking about confessions of the first category, with individuals who are mentally ill. The second group are individuals who are feeling substantial stress, and the third category, those who are persuaded for whatever reason.

A That summarizes it.

Q Okay. If you had an opportunity to review and analyze - - well, before I get to that let me ask you one thing. When you describe the influences that occur during an interrogation you're not saying that police shouldn't do interrogations?

A No. Absolutely not. Interrogation is an important part of police work and in the vast majority of cases when someone is gotten to confess during interrogation the chances are that

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in the vast majority of cases, that they committed the crime. And I've reviewed lots of interrogations which have elicited what appear to be proper and reliable and accurate confessions, and have told attorneys who've sent them to me

that there's nothing to complain about in this interrogation.

But sometimes interrogation, if it's improperly done, if it's done when it shouldn't be done, if it's done without proper cause -- in other words if it's done directed at someone just because they happen to be there not because there is real evidence suggesting that the person did it, the process of interrogation can be so powerful that it can confuse someone and get them to accept the idea that they committed a crime that they have no knowledge of. And that's the danger of police interrogation when it's not properly done.

Q Did you have an opportunity then to review and analyze the interrogations conducted with John Adams?

A Yes, I did.

Q What opinions did you reach about those interrogations?

A Well, I reviewed six interrogations that were done of Mr. Adams, and these are the interrogations of August 3, August 7, August 19, August 31, September 2, and September 3. And those are the interrogations that I analyzed.

First, the interrogations of August 3 and August 7 were really ordinary interview events. They were ordinary gathering of information. There was nothing that really qualifies them as interrogation. He was being interviewed, he

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was asked questions about events that happened on Saturday and Sunday and he answered the questions. It was information gathering.

As far as those interviews go, the most important thing

about them to note is that Mr. Adams had, or demonstrates, what appears to be good, clear recollection, good, clear recall of what happened on Saturday and Sunday. He doesn't have any doubt about what happened. When asked about events that occurred he is able to answer the questions. He appears to have normal memory for those couple of days. And that's important only in terms of what happened subsequently.

Then the interrogations of August 19, 31, September 2 and September 3 are examples of improperly applied accusatory interrogations. Now the term "accusatory interrogation" has a particular meaning. There are various kinds of interrogation. One kind is simply information gathering. The sort of thing that happened on August 3 and August 7. An accusatory interrogation is something very special.

Police officers are advised in the training manuals that train interrogators that an accusatory interrogation, when you get in somebody's face so to speak, when you say "you did it, I know you did it," and the officer goes in with the intention of getting the person to confess. That kind of interrogation officers are advised to only do when there is strong evidence showing that this person committed the crime. Part of the reason for that is that once an accusatory interrogation begins, certain tactics are used in interrogation and those

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tactics can be very dangerous.

So officers are advised in the training manuals not to do this kind of interrogation until they have enough evidence that convinces them that this person is probably guilty, and then pull out all the stops and do an accusatory

interrogation.

The interrogations starting on August 19 were all accusatory interrogations. The August 19 interrogation laying the foundation and then August 31, September 2, and September 3, being the interrogation kicking into high gear and the tactics that one sees only in accusatory interrogations being brought to bear on Mr. Adams and having particular responses - - or producing particular reactions from him.

These interrogations were, in my opinion, poorly done. They are very poor examples of interrogation technique. For what reasons I'll go into. In my opinion they caused Mr. Adams to become confused and to distrust his own memory of what happened on Saturday and Sunday. Mr. Adams was pressured to agree to a story about what happened on Saturday and Sunday, a story of the crime that was actually made up by Investigator White. Mr. Adams was pressured to make guesses about how the crime happened and, in my analysis it becomes clear that where those guesses can be evaluated, they're wrong.

The interrogators failed to obtain from Mr. Adams any reliable description of the crime. Now that's a particularly important point when it comes to understanding police

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interrogation. Most people think - - the common assumption is that the high point, the dramatic moment in an interrogation is when the person says "I did it." But that's not the important moment in an interrogation. What's important is getting from the suspect the story of the crime in the

suspect's words and getting the suspect to contribute details about the crime that only the guilty party could know.

Because if the person has knowledge of the crime, if they really committed the crime, they're going to have knowledge of the crime. That will show that they were there, that they did it, and it will link them to the crime in a way that they will never be able to repudiate.

Whereas, if someone has just become confused and is accepting the police accusation that they committed the crime, then what's going to happen is they are going to guess and they are likely not to get the answers right. So getting a complete story of what happened is the most important part of an interrogation. And in the interrogations done of Mr. Adams there is a very noticeable lack of any account of the crime from Mr. Adams that shows that he knows how this crime occurred, and in fact he makes guesses which are erroneous, they're just wrong, about some very important things that suggest that he's responding to pressure rather than expressing any real knowledge of the crime. And that's basically what I concluded about these interrogations.

Q Is this an unusual kind of scenario that you have when you have an accusatory interrogation like this? When you

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don't have information about an individual but basically are going on a fishing expedition.

A Well, it's unusual in that most of the time police officers don't do this kind of interrogation unless they've got good reason to suspect a person. So that, you know, per thousand interrogations I would guess really that this is a

very rare circumstance. Most officers won't do this, because it's a lot of work, unless they have good reason to suspect the person. Good solid reason.

But I've seen examples in which - - and perhaps - - this is perhaps the most famous case of false confession in American history in the last 20 years -- a case that's generally known as the Phoenix Temple murder case, in which two summers ago nine Buddhist monks were murdered - - or nine Buddhists were murdered at a Buddhist Temple in Phoenix, Arizona. There were six monks and a nun, and I believe two people who were affiliated with the temple. It caused a lot of attention and it was a high profile crime.

There was tremendous pressure on the police to solve the crime, a 75 man task force was put together and they had no idea who did it. Six weeks into the investigation a man named Mike McGraw called from a psychiatric hospital in Tucson, Arizona. He said he knew who committed the murders and that he was there. Now this is the classic example of a voluntary false confession. This man was literally in a mental hospital when he made the phone call. But because the police were desperate they went to Tucson, 100 miles away, got him out of

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the hospital, brought him back to Phoenix and interrogated him.

I've read his interrogation; it was entirely recorded. His interrogation demonstrated very clearly that he knew nothing about this crime but, because of the pressure on the police to perform, when he told them that he knew the five

young men from Tucson who committed the crime they acted upon his statement. They went down to Tucson, grabbed these five young men, and hauled them back to Phoenix. And they interrogated them for a day and a half. They got false confessions to mass murder from three of the five of them. And we know that these were false confessions to mass murder because about five or six weeks later, the two real, local Phoenix young men who committed the murders were caught with the murder weapon, with loot from the robbery, they eventually confessed, the charges were dropped against the men from Tucson and even the county prosecutor apologized and admitted that a terrible mistake had been made.

But that's an example in which choosing to do an accusatory interrogation directed at five people who were more or less picked at random off the street produced false confessions to mass murder from three of the five of them. That is very unusual but that's what can happen if an accusatory interrogation is misdirected.

Q Can we describe - - can you explain the factors at play with the -- I guess there are numerous factors at play in the affects of this accusatory interrogation that occurred with

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John Adams on August 19?

A Yes, well, in order to explain how it is that someone can be persuaded that they committed a crime, one has to look at a number of factors that go on in this kind of interrogation, an accusatory interrogation, and identify the very exceptional things that produce the persuasion about which I'm talking.

What I mean by that is police interrogation involves the

use of a lot of different tactics. Almost everything that happens during a police interrogation is a tactic. Being friendly to the suspect is designed to develop rapport. Telling the suspect that "I really care about you," and that "you're really not a bad person," these are all tactics that interrogators use to develop a relationship with the suspect.

But some of the things that interrogators do can have exceptional affects. And what I'm going to focus on, starting in the August 19 interrogation and moving forward, rather than talk about the things that are generally true about interrogation, going to talk about the things that are particularly true and important in my analysis of the interrogation of Mr. Adams.

And these things are first, that he is directly and strongly accused of having committed the crime. Second, that Investigator White lies to Mr. Adams and makes up evidence that says that Mr. Adams committed the crime when this evidence just does not exist.

Now making up evidence and telling a suspect that there is evidence that shows that you've committed the crime is a

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common police interrogation tactic. It happens all the time. I'm not criticizing the use of this tactic by pointing it out, because it happens all over the country and it is a legitimate tactic for interrogators to use.

But the danger in using the tactic is, if it's misdirected it can have a very particular affect. And the affect that it can have is it can begin to shake a person's

confidence in their own memory. And if you destroy a person's confidence in their memory they will lose the ability to say "I know I didn't do this crime."

And that's the next thing that happens in Mr. Adams' interrogation. There is a very direct and very focused attack on Mr. Adams' confidence in his own memory. And he demonstrates over the course of the interrogation that he loses confidence in his memory, and this is what makes him willing to agree to what Investigator White and Investigator Venable tell him about how he committed the crime. Because throughout the interrogation he simply complies. He simply agrees. If you say "I did it, I must have done it." But he has no recollection of having committed these crimes and is constantly just agreeing with what the officers are telling him, and in my analysis the reason for that is he has lost faith in his own memory and he has become confused about what happens, because of the misuse of this false evidence technique.

Now it begins on August 19 when Investigator White starts out by suggesting, just as a possibility, that Mr. Adams might

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have committed this crime. He doesn't even, on August 19, actually accuse him. But he lays out this possibility. Now that's a tactic that interrogators use. Once he suggests that it's an indication that in fact he has already made the decision that Mr. Adams is a suspect and he is beginning to do an accusatory interrogation. Otherwise an interrogator would not threaten someone by suggesting that they might have committed the crime.

At this point, as far as I know from what I know about the evidence, there is no strong evidence, or no evidence I even know about, suggesting that Mr. Adams committed these crimes. He just happens to be the significant other, the person living with Bernice and, as police officers know, just on average, the person most likely to kill someone is someone who loves them. Someone who lives with them. But that kind of on average is not very good evidence suggesting that in this particular case someone committed the crime.

MR. DOOGAN: Excuse me, Your Honor, I would object...

A If you give a...

MR. DOOGAN: Pardon me. I would object and as that that be stricken. This witness isn't qualified to say whether or not that evidence indicates a person committed the crime. He's only qualified to give his opinion on the tactics of interrogation.

THE COURT: Mr. Traverso?

MR. TRAVERSO: I think in the context of how he was trying to explain the theory behind the police interrogation, that's why that was stated, Your Honor. We're going to move on to

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some examples of what he's describing. Other than -- we're not going to get into this area, we're going to get into the August 19 interview about his analysis of what transpired. I'd ask that the record not be struck.

MR. DOOGAN: Your Honor, my objection is that the witness is giving his opinion on the weight of the evidence, on what the evidence is. That's for the jury to decide. He can give his opinion on whether or not he thinks there was evidence, whether or

not he thinks the officers used improper tactics and what they were, but as far as qualifying the evidence as either good or bad to prove guilt, that's something that the jury does.

THE COURT: Okay. I'm sustaining that objection and ordering that one sentence of the testimony stricken. It's up to the jury to decide whether there's good evidence or bad evidence. Go ahead.

Q Could you specifically lay out some examples then, reviewing the August 19 interview consistent with what you're describing as the problems with this area?

A Well, as I indicated August 19, principally what happens is the idea is surfaced that Mr. Adams is being considered as a suspect. And as I indicated that's a tactic to let somebody know that they are under suspicion. And it happens for the first time on page 23 of the interrogation. And it happens simultaneously with something else that is very important, which is now, at the very beginning of this process, Investigator White lays out his story of how the crime happened.

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And what's important about this is that throughout the interrogation, everything that happens from this point forward, it's Investigator White's story of the crime that dominates the interrogation and organizes the interrogation. From beginning to end in this interrogation it's what Investigator White makes up as a story about what could have happened on the very first day of the interrogation around which everything else develops.

So he says on page 23, "Like I say, lot of questions I

ask are unpleasant to answer, but I had to ask them to get to the bottom. There's one theory as to what may have happened and that's all it is at this point is theory. That involves you. Okay? Is that you went over Sunday afternoon to confront Bernice to get her to come home. You all argued, you hit her, she hit you, it got out of hand, you'd been drinking more Sunday afternoon, didn't intend to, but you strangled her. And Wanda was there and you didn't see anything to do except kill her also. Is there any reason why anything like that would be possible?" And Mr. Adams says "No."

That's the first time that it's suggested that he's responsible for this and it's the first time that this scenario if you will, this story of the crime is introduced by Investigator White. That's repeated on page 24.

Q Could you give us an example of that?

A On page 24 Investigator White says "I appreciate it, I do. I understand where you're coming from. I know the questions I'm asking are hurting, but I have to ask them. And

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I hope you know it's nothing personal, but I want the person responsible. You understand that I know you want the person responsible, okay? Sometimes people get real mad at me for asking hard questions, okay? But hopefully you understand why I have to ask. You want some Kleenex? I'll get you some. If you had any involvement whatsoever, would you tell me?" Mr. Adams says "Yes."

Now at this point Investigator White is acting the way a skillful interrogator would act. He is acting as a good guy,

as a concerned guy. But the mere suggestion that he could have had anything to do with this crime is apparently sufficient to upset Mr. Adams to the point where he begins to cry and Investigator White offers to get him Kleenex.

That's repeated again on the next page of the interrogation, so these things are happening - - each one within a minute of one another. And this time, again, Investigator White repeats his idea about how this crime happened. And he says "I want the people responsible and I know you do too. But that's why we've got to cover. I don't want them to use you as a scape goat. See what I'm saying? You had the argument with her Saturday night at the house, she flung the ring back at you and stormed out of the house saying 'I don't want to marry you,' that 'you don't love me,' and she took off. And they're going look at say 'you got angry, you got mad, you thought she was out screwing around, you went to Wanda's, maybe found her in bed with somebody, he got up and ran out, and you took it out on her and Wanda saw you, and you

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had to take her out too. That's why it's important that we document every place you were at and who saw you. So was there any kids that came by the house that afternoon?1'

So again, this is the third suggestion that Mr. Adams has done this and the second time Investigator White's scenario is layed out for how this crime must have happened. That's essentially what happens on August 19.

When we get to August 31, things change and become much more dramatic. By August 31, we find that the suggestion that Mr. Adams did this is no longer a suggestion and he's now

being directly accused of having committed the crime. It begins on page 16 of the August 31 interrogation.

MR. TRAVERSO: For counsel's reference, that was a tape that I transcribed -- that my office transcribed, and so I don't know if Mr. Doogan has one. But we're referring to specific sections in the interview and I transcribed that interview.

A It's on this early part of the August 31 interrogation. Investigator White is now directly accusing Mr. Adams, saying "You were angry because Bernice was out partying. You were angry because the kids - - you had to stay home and take care of them and you couldn't drink and party. I think some of the people over there at your house said you was kind pf angry about it. There was nobody there that could say you stayed home all afternoon. You could have got on a bus, rode over, and nobody would have paid any particular reason because you ride the bus quite a bit. We found some people over here that says 'he seen a party coming out of there, a man coming out

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Sunday afternoon and locking the house.' Is there any reason why his description should match yours?"

Now at this point what Investigator White has done is he's now made a direct accusation against Mr. Adams and retold his story of how and why this crime occurred, and also done a third thing. He's now introduced false evidence. The most common kind of false evidence that I've seen interrogators introduce on non-existent eye witnesses. It's a common technique used all the time to tell someone, as happens here, we found some people over there that says he seen a party

coming out of there, a man coming out Sunday afternoon and locking the house. Is there any reason why his description should match yours?"

That's a suggestion and would be understood as an accusation that the description that's given fits you. And in fact, very shortly, Investigator White says that in no uncertain terms. He will tell Mr. Adams over and over again that there is more than one person who saw him coming out of that house on Sunday afternoon. So he is lying to Mr. Adams and telling Mr. Adams that someone saw him coming out of the house.

That kind of false evidence ploy, that kind of trick, if someone believes that the police officer is telling the truth, creates circumstances in which the person is now faced with a tremendous dilemma. Because the person now has to say if this is true, if someone saw me but I don't remember having been there, something's wrong with my memory.

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Unless the suspect is sophisticated and knows about police interrogation, if the suspect trusts authority, if the person does not suspect the police could lie to them, then hearing this kind of lie can lead the person to doubt themselves. And I will demonstrate that that is precisely what happened in this interrogation.

MR. TRAVERSO: Your Honor, I wonder if it might be appropriate to take a brief recess at this point? A very short stretch break.

THE COURT: Okay, that's fine. Why don't we go ahead and take a stretch break at this point. Try and keep it pretty short.

Go off record and it's (indiscernible - unclear).

(of f record)

(on record, 2:25 p.m.)

THE CLERK: All rise. Superior court reconvenes.

THE COURT: Please be seated. It's 2:25, we're back on record in the case and the parties are present, the jurors are present. We're continuing with direct examination. Mr. Traverso.

Q Dr. Of she, you had left off on the early part of the August 19 interview, if you were to pin point it around page 16. And you were describing what is going on at this point in the interview between John Adams and Investigator White.

A I was going through a series of accusatory statements and restatement of Investigator White's story of the crime. Just to demonstrate how directly and powerfully Mr. Adams was being accused and how often the story of the crime as instructed by the interrogators is repeated to Mr. Adams. So on the bottom

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of page 16, fairly early in the interrogation, Investigator White says...

MR. DOOGAN: I'm sorry, if I could just interject, when we left off we were on the August 31 interview. Are we back then on the 19th?

MR. TRAVERSO: Did I say 19th?

MR. DOOGAN: Uh-huh (affirmative).

MR. TRAVERSO: I apologize, Your Honor, if I said 19th. I meant August 31.

THE COURT: All right.

A On page 16 of the transcript of the August 31 interview,

Mr. White says - - immediately prior - - let me just back up a bit. Immediately prior to this, Mr. Adams has been told that a man matching his description was seen leaving the house that afternoon. Mr. Adams says -- he's asked, "Is there any reason why his description should match yours?" Mr. Adams says "I have no idea." Mr. White then picks up and says, and I quote, "No idea whatsoever? Well John, right now I feel like there's a pretty good chance that you did do something like this. We found out enough. We know both girls were strangled and we're pretty sure which one was strangled first because of the bruising and so forth, or lack of bruising, okay? Is there any reason why, when I put all this together and look at it, and what fits is that you got angry because Bernice left and went out partying all night long. She had threatened to leave a month or so before this and take the kids and move back in with Wanda. You remember talking about that, don't you? She

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was leaving you because she didn't feel like you took enough interest in the kids or helped out enough with the kids. Is that correct?" Mr. Adams says "Maybe."

Mr. White continues and again accuses and states the scenario, description -- or his description of the crime. "You got angry. You went over and confronted Bernice. I think you all got mad. You got into an argument. You started shouting at each other and it finally came to blows. In your anger you grabbed her and you fell to the floor. She bangs her head. You're Bitting here on this side of her and you're reaching down and you're choking her, telling her you got to come back and take care of the kids. And in your anger you

strangle her a little too long and she dies on you. And you panic because now you're stuck all by yourself with the kids and Wanda is still in the house and no, you come over and you and Bernice were arguing. So you got no choice. The first one you did accidentally. You didn't do it -- I mean that's rage, anger. I can understand that. Wanda is fear for your own self. Maybe even Wanda came out to help Bernice and you got a cord and wrapped it around her neck and choked her. Is that what happened in there John?" Mr. Adams now says "No."

Mr. White goes on and accuses him again. "Why would everything fit - - everything like that fit together and point to you?" Mr. Adams says "I have no idea."

A little bit later on that, a few moments later Mr. White says "Is there any reason why I'm going to find somebody over here that says 'that was definitely you coming out of the

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house Sunday and locking it up?" Mr. Adams: "I don't know."
Mr. White: "I think I'll find them John. I think you did the first one, you did Bernice by accident because of anger. She left you with the kids, she left you, you thought she was not coming back, especially when she didn't come back the Sunday afternoon. You talked a little bit about it with Lloyd didn't you? About how angry you was because she was still out partying. What did you tell Lloyd?" "I don't remember."

Now in this exchange that I've just read several important things happen. First, Investigator White is repeating his idea of how the crime happened. And he's setting it up, and as we will see throughout these

interrogations, it is this story of the crime that is pressed on Mr. Adams repeatedly and he repeatedly says "I guess so. It could have happened." But he just agrees to it and he does this over the course of the next three interrogations, in over 250 separate instances where he just gives in to Investigator White's statement of the crime. He just basically gives up and says "I guess," and gives in to what Investigator White is saying.

Something that comes up in another list, and I'll mention it now since it's extremely important and I just read it. Based on my analysis of the interrogations as far as I can tell, and I think this is accurate -- I think this is accurate. What I just read to you a moment ago is the very first time in these interrogations when the subject of how Bernice was killed comes up, and it is Investigator White who

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says, and I quote -- I'm sorry, how Wanda is killed.

And it's Investigator White who says "Maybe even Wanda came out to help Bernice and you got a cord and wrapped it around her neck and choked her." I point that out because there will be other contributions by Investigator White in which he tells Mr. Adams how Bernice was killed. First he says a cord, the next time it comes up he says an extension cord, and it's actually the police who tell Mr. Adams how that an extension cord -- or that an electrical cord was the implement used to strangle Wanda. It's clearly not something that the evidence shows Mr. Adams had any knowledge of until it was introduced by Investigator White.

Now over the course of the 8/31 interview, on page 18,

Investigator White suggests to Mr. Adams that they gathered up hair samples and that those hair samples are going to be evaluated and that they're probably going to match Mr. Adams. Now the reason that an interrogator does this, and this is a tactic that interrogators use all the time, if someone committed the crime and knows they committed it, and they're told "we've got fingerprints, we've got hair samples, we've got semen that was found in the body. We're going to send that out and we're going to get a lab analysis." If someone committed the crime they know they're going to be caught because they know that the hair sample, semen sample, the fingerprints are going to match.

And what interrogators do, the whole logic of police interrogation -- what it's all about, is convincing a suspect

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that they're caught so that once you convince them that they're caught it's easy for them to confess. That's why interrogators invent evidence that isn't there. If you direct that at someone who knows they committed the crime it's a good tactic, because it can convince them that they're caught and they'll confess. But if you direct it at someone who knows they didn't commit the crime then it's going to confuse them and it's going to upset them, because they will see themselves as being accused of something that they know they didn't do and, as happened in this interrogation, if you couple that -- if you add to it some reasons why the person should not trust their memory -- should not have confidence in their knowledge that they didn't commit the crime, then you can get somebody

so confused that they might even come to believe that they committed a crime that they didn't do because they can't trust their own memory of not having done it.

And so as the evidence builds up - - the false evidence builds up that says you did it, and at the same time you destroy someone's confidence in their memory, they're left in a confused state and all they can say is "I guess I must have done it." Because they don't trust their own knowledge of themselves and of their history that tells them that they didn't do it. And I will illustrate through all these interrogations how Mr. Adams' confidence in his memory is destroyed and how he comes to...

Q Why don't we proceed then with this particular interview on August 31.

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A All right.

Q Continue with your analysis as you were doing - - you mentioned hair samples were being used.

A That's on page (END OF SIDE A -- SOMETHING MISSING)
Investigator White says "You know you were there, don't you John? You know you was there and I know you was there. Am I right?" Mr. Adams says "Yes." "You know in your heart you were there." Mr. Adams says "I barely remember." "But you do remember a part of it?" Mr. Adams says "A little." "Did you see anybody leaving the house when you got there?" "I don't remember." "What do you remember that day, John?" "Very little. I -- very little."

By this point - - what I've just read to you is an example of an accusation later in the interrogation after Mr. Adams'

confidence in his memory has been attacked and what we see here is the first example of Mr. Adams starting to give in to the accusations being made by the police.

Over the course of the August 31 interrogation, in addition to the examples that I've read, on page 22, page 23, page 30, page 40 and page 48, Investigator White or Investigator Venable repeat the scenario in which they say "this is how the crime happened." They repeat it over and over and over again.

Q Could you describe those sections please? Can you go over them -- pinpoint them?

A Starting on page 22.

(Pause)

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A Investigator White says "John, I need your help. The only one that really knows what happened in there - - I can guess. And I can take the evidence that we have and guess and try, but you're the only one that really knows what happened in there that afternoon. And I need you to sit here and talk with me about it and try to let me understand what's going on. Did Bernice fly into you just as soon as you went into the house about what are you doing coming and checking on me?" Mr. Adams says "Could've been."

On page 23, Mr. White says -- or starting on the bottom of page 22, he's saying "and it happens so fast sometimes we just lose control of what we're doing. Is that what happened? You lost control of what was going on? I really think that this whole thing happened out of love. Because you loved her

so much you didn't want to lose her and you were just trying to get her back. Gathering things back together. Put them back the way they were before the ring got thrown in your face and she went off on her - - to go drink with her sister. And after the day staying over there with the kids and having all these feelings come up in you, inside you, you wanted to take and get that back on track again. But she wasn't willing to do that, was she? She didn't want to go back on track. Things happened real fast. It's understandable. You're not a bad person, are you? You didn't plan on killing her when you went over there, did you?" "No." "So it happened by accident?" "Yes."

Accusation and pressure is beginning now to erode Mr.

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Adams' ability to resist and he's beginning to comply. He's beginning to give in.

On page 30, the scenario is repeated again. This is by Detective Venable and he's saying sand it all happens because you loved her and you wanted that love. Isn't that right? Is that fair? Part of the getting over this thing so you can get your conscience straightened out is (indiscernible - unclear) and get it all out in the open." Venable goes on with that speech and then White says "John I told you I don't care about what happened. I think if you did this in a fit of anger that's understandable. I can understand that. That doesn't make you a bad person, does it?" "No." Again, he's being told he did this in a fit of anger. This is the police story.

On page 40, Investigator Venable repeats the scenario again, "and from what I got out of what was going on was you'd

been at home for a while, you'd been with the kids all night, she'd been out drinking, you were getting kind of angry about her not coming home, so you went out and got on the bus about a block from your house, rode over, got off by Ipalook School and - - am I doing okay so far? Okay. When you went into the house, who was there?" Mr. Adams says "Bernice and Wanda?" Venable says "do you remember about what time in the afternoon that was? Was it afternoon?" "Yes." Venable says "okay. You told Investigator White that you were going to get Wanda - - or Bernice to leave but she didn't want to leave, did she? What did she say to you?" Mr. Adams: "I don't remember." "She tell you to leave and go home, or leave her alone?" Mr.

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Adams: "I don't remember."

As the interrogation develops one of the things that happens - - and it happens more frequently later on - - is that statements that the police make earlier about what happened are then referred to later in the interrogation and said to Mr. Adams as statements that he made, when in fact they were statements made by the police. And so over the course of the interrogation the story is not only being introduced by the police, but Mr. Adams is being told -- and he's told this repeatedly -- that "these are things that you said," not "things that we said," but rather "things that you said." And this is told to him over and over and over again. And that's a way of confusing someone and getting them ultimately to agree with you.

On page 48, (pause) ...

Q Excuse me. If I could direct your attention to the top of page 41, there's some discussion about panic. Sort of -- by Investigator Venable. And there's some description again of what happened. Could you go over that particular section and also analyze it for the jury?

A Investigator Venable says: "Okay, so now you're, you're pretty panicked about what happened, you didn't want this situation to happen with Bernice, but now you're kind of panicking. If that's what's happening, you're kind of scared. Things are moving real fast in your head. Is that what's happened? So Bernice was on the floor and Wanda -- does she come into the room or does she just start screaming from --

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from what part of the house is she in?" Mr. Adams: "I don't remember."

That's another contribution to the story. This is introducing into the story the police version -- their guess or their (indiscernible - unclear) story about what Wanda was doing and how Wanda came in while Bernice was being killed, or screamed while Bernice was being killed.

Q There's a series of questions there by Investigator Venable that follows up on that. Could you go over those please?

A Venable: "Is she in the kitchen, is she in the bedroom? Which bedroom is her's, which bedroom is Wanda's bedroom?" Mr. Adams says: "The left side." Venable: "The left side?" Adams: "Used to be, but I think she moved it to the right side." Venable: "Is that the one with the bed in it?" "Yes." Venable: "Does the fight with Wanda happen in the

bedroom?" Mr. Adams: "I don't know, I don't remember."

"Do you remember grabbing something? She was fighting with you and you grabbed something to try to control her." "I don't remember." "Are you trying to block it out?" "No." Does that complete the section you wanted me to read?

Q Yes.

A Simply an example of setting up the story of a fight with Wanda, being introduced by the police, and it's a story, the outline of which will be accepted and adopted by Mr. Adams later in the interrogation. Each and every element of what he is gotten to say, or gotten to agree to later is introduced by

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the police and he just gives up and agrees to it.

Q Now at the point that Mr. Adams is beginning, as you say, to give up, there's some discussion about whether or not he had any thoughts about killing himself. That is, any suicidal thought. Is that another method at trying to destroy confidence in himself so that now he ought to engage in self destructive acts?

A No, it's a suggestion. I'd interpret that as a suggestion that he had these feelings. I think...

Q Okay.

A ... I need to periodically remind, or comment as I go through this analysis, that in my opinion, in order to understand what the interrogators are doing one has to assume that they actually believe, or they're acting as if they believe, that Mr. Adams did these killings and actually knows about them. And what they're trying to do is to get him to

admit that he knows about it by making all these suggestions. Because they anticipate, and this is the way an interrogation would go if it were being directed at someone who committed the crime, eventually, if they're successful, the person will admit that they committed the crime and tell them the accurate story of what happened.

This is a high risk strategy unless they get to that point and the person tells them the story. But everything that they're doing is done with the idea that it's being directed at someone who really committed the crime. And only if they can get an accurate, detailed, reliable narrative of

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the crime can they prove that they're guess is right. If they fail to do that then we're left in the situation where they may have directed all of this at someone who is, in fact, innocent, because they haven't demonstrated, they haven't been successful and they haven't shown that the person, in fact, is the actual killer.

Q In other words, they basically have to match what they've elicited from the crime scene with what the statements are of what happened by John Adams.

A Well what they have to do is get past their guess work about what happened, which may or may not be correct. It's not likely to be correct, simply because it's a very simple guess about what happened.

Q Right.

A But if they can work the person over enough so that the individual will eventually admit that they did it, then they'll get the accurate story of what happened. The accurate

story is not likely to be the one that they invented.

Q Okay.

A And that's been my experience in analyzing interrogations.

Q Okay. Now what point are we at in this particular interview on August 31?

A Well, what I wanted to do -- the way I've broken this down is I've tried to show how certain themes appear and run through the interrogation.

Q Okay.

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A So I've shown that the scenario is repeated over and over again.

Q Right.

A It gets more elaborate, and this is the story of the interrogation that the police introduce. They have repeated this scenario in its various parts 10 times on August 19 or August 31. So this story has been told to Mr. Adams 10 times. They've also been accusing him, in no uncertain terms, of having committed the crime. Those two things have been accomplished through the August 19 and August 31 interrogation. Those things alone are major factors in the interrogation, but they have to be seen in terms of other things that are going on through the interrogation at the same time.

The next important thing that I would point out is the repeated evidence -- or introduction of false evidence, which in my opinion is crucial in understanding this interrogation.

And some of these things I've mentioned. On August 19 there is the suggestion that someone saw him there. On page 24. On August 31 on page 15, there is a suggestion that people are naming him as responsible for having done this crime.

Interrogator (sic) White says: "Okay, John, let me ask you this. Is there any reason you can think of that someone would name you as the party that did this?" Suggesting that someone is naming John. On page 16, the point I already mentioned about -- oh, I'm sorry, on page 16 it's mentioned that "people are saying that you're responsible."

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Investigator White says "Well, we've put a lot of things together and there's a good possibility -- you know the last time I talked to you, there's people that would say that you are the one that is responsible for doing this."

Down at a moment or two later is when Investigator White introduces the idea that someone saw a man coming out of the house that fit John's description. He then, again on the same page of the transcript, Investigator White suggests that there's evidence that lets him know that Bernice was killed first. He repeats again at that same time that the evidence fits John and points to John.

By page 70 - - this is all happening in a very short period of time - - Investigator White says "Is there any reason why I'm going to find somebody over there that says that was definitely you coming out of the house Sunday and locking it?"

On the very next page of the interrogation he talks about "We gathered up and vacuumed hair samples off that place. When we send them in are they gonna match up with yours?" On

page 19, he points out -- Investigator White says "After this was done they made observations of what they saw in there, okay? You've got scratches here on the side of your face. You've had to been in a fight with someone, John. I don't care what happened and I can understand that the first one was anger. And I can even understand if you had to take care of Wanda out of pure fear and panic and horror. But we need to get it cleaned up, don't you think? How do you explain the scratch marks on the side of your face?"

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On page 20, it was suggested to him that he had to have gotten the scratch marks on Sunday not on Saturday. On page 20, White now goes back to the lie about someone seeing John leaving the place and he says "Why would I find people, and already have found people that give us a description of the man that they saw coming out of the house and locking the door, and it matches you. Someone saw you over there, John. Don't you think it's time to help me clear this up and get it resolved?"

On page 39, White again makes reference to evidence. He says -- John has just said "I'm not sure of anything." White says: "What are you sure of? Everything that I have found so far, and it's in reports like this, says you're the one that killed her. Why would they say that if you didn't kill them?"

And that tactic of referring to evidence that just isn't there is repeated in the September 2 and September 3 interrogations as well.

Now what happens next, or the other factor that I'd like

to identify, is the other factor that needs to be present, needs to be there if someone is going to actually come to believe that they've committed a crime that they have no knowledge about. And this part of it has to do with attacking the suspect's memory of the period of time when the crime happened by taking away from the suspect their ability to rely on their own memory of not having committed the crime by telling them, in effect, that their memory is faulty, that there's a reason why you could have done this and not know it.

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It strips from the suspect the one thing that they can rely on to resist the tactics of the interrogator. Their knowledge that they didn't commit the crime.

And this attack begins in the August 31 interrogation on page 20. It starts with Investigator White saying -- put this in context. Previously he's been talking about the scratches. He ends up a long statement about the scratches by saying "do you get scratch marks that stay for three or four days and just disappear magically?" John says "No." White now says: "There'd have to be something, wouldn't there John? Is it such a bad thought that you really don't want to remember?"

This is the first time that White begins suggesting that John's memory is faulty and that for some reason he's unable to remember having committed the crime. This is a theme that is gone back to throughout the interrogations.

Later on the same page, White is now making reference to the supposed people who saw John leave Wanda's house and he ends up, after talking about that, saying "Can you tell me what happened between you and Bernice over at the house that day?"

John says "I don't know." White says "How come you don't know?" John says "I just don't know. It's just.." And White now suggests "Just a blur?"

So he's now telling John "We have this evidence, people saw you leaving, why don't you remember?" And John doesn't know why he doesn't remember.

MR. DOOGAN: Excuse me, Your Honor, I'm going to object to that.

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MR. TR.AVERSO: We'll withdraw that, Your Honor.

MR. DOOGAN: I would object to that characterization and I...

MR. TRAVERSO: We'll withdraw the response.

MR. DOOGAN: .. .would suggest that the interview would speak for itself and now the expert is giving his opinion of what people are saying rather than what the transcript or the tape would show.

MR. TEAVERSO: Agree that that response should be stricken, Your Honor.

THE COURT: Okay, once again, the jury will - - the last response of the witness is stricken and that's not to be used as evidence in the case. Disregard it. Go ahead.

A That passage that I just read then illustrates this process of attacking memory. On page 25 of the August 31 interview, Investigator White - - back up a little bit. Investigator White is asking Mr. Adams a series of questions in which Mr. Adams is replying either "I don't know," or "something could've happened," or "I guess something

happened," or "something might've happened," and he winds up, Investigator White saying "By the heater in the dining room. What happened then?" Mr. Adams says "I don't know. It's just a blur to me." Mr. White says "I think it's not as much of a blur as you want us to think. That's a pretty outstanding incident to have happen. Do you not want to remember?" And Mr. Adams now says "Could be."

Mr. White says "Were you still drunk?" Mr. Adams says

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"Hung over probably." That illustrates the process whereby a suspect begins to accept and develop a story that explains why the memory is absent. In this case the suggestion is given -- is given very much directly by Investigator White, the suggestion is given is that "the reason that you don't remember," he says, and I quote, "were you still drunk?" The purpose of that as a tactic is to give the suggestion that it was drunkenness that clouds your memory and that's why it can't be recalled.

On page 27, Investigator White asks "Okay, then what happened?" Mr. Adams says "I don't know, everything just happened, I can't really remember." Mr. White says "I think you can, John." Venable says "John, things were happening real fast for you, right?" Mr. Adams says "Yeah." Venable suggests "To put it properly, when you think about it, it kind of looks like slow motion, right? Things were happening fast but they were kind of going slow at the same time. You know what I mean? If you sit there and play it in your head, kind of like if you're looking at a video or something, what would you see happening?" Mr. Adams now says "Going in there I

guess, asking what's going on, start arguing, start fighting, got her down, telling her I don't know."

What this passage illustrates is the technique of suggesting to someone that they just try to imagine what could have happened, and try to describe it, and giving a person license to use their imagination. This is a technique that I've seen interrogators use in the past. Just see if you can

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picture it, and then the person, as Mr. Adams does, tries to come up with a story. And in some cases, people even picture this in their mind's eye. They can sort of close their eyes and see themselves walking in. The kind of imaginative act that anyone can do. This is a technique for helping to develop the story.

On page 34, we begin to see -- this is -- on page 34, we begin now to see in sequence that Mr. Adams is showing the effects, in my opinion, of this attack on his memory in the passage I read before in which Investigator White says "You know you were there -- you know you were there, don't you John. John, you know you was there, and I know you was there, am I right?" Mr. Adams says "Yes." White says "You know in your heart you were there." Mr. Adams says "I barely remember." White: "But you do remember part of it." John says "A little."

And now: "Did you see anybody leaving the house when you got there?" "I don't remember." "What do you remember about that day, John?" "Very little. Uh, very little." "What do you remember? Tell me what part of it and we'll work from

there." "It's maybe possible that I did go over there and confronting her I guess." It illustrates -- this passage illustrates the impact of these tactics and how Mr. Adams is beginning to accept the theory put forward by the interrogators.

On page 49, Investigator Venable is asking -- was making suggestions about what happened, and he says "Did she fight

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with you?" Mr. Adams says "I don't remember." White now says "John, you say that after you left the house did you go back over to see if it was really true, that maybe it was just a bad dream?" "I could have, I'm not sure." White says "Did you -- do you ever have nightmares, John?" Adams says "Yes." "You wake up sometimes wondering whether it really happened or it didn't happen?" Adams says "Yes." "You think that's what this kind of felt like," Investigator White says. Adams says "Yes."

Again, this is an example of trying to find a story. The investigator suggesting a story, in this case suggesting that it's like a dream. And we will see later in the interrogation that this idea that it was a dream of some sort is picked up by the interrogators and they go back to it and they tell Mr. Adams that he was in some kind of strange mental state and that's why he doesn't remember it.

MR. DOOGAN: Excuse me. I would object to that -- again, the interviews will speak for themselves. Unless he's going to quote a page I would object to him giving his summary of what the interrogators said.

THE COURT: Mr. Traverso?

MR. TRAVERSO: Your Honor, I think that that's appropriate. He's analyzing what the -- as long as he's not commenting on the credibility of Mr. White. I mean I think it's appropriate for him to comment on his analysis, what he thinks is going on. He's discussed in detail the themes and tactics that are used in these interrogations. I think that's totally appropriate.

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THE COURT: Mr. Doogan?

MR. DOOGAN: Your Honor, I have no objection to him maligning the credibility of the interrogators, that's what he's here for. I'd object to the witness misquoting things that the interrogators said. And I think the most accurate way -- the best way to insure accurate quotes is if, rather than give his opinion of what they said if he would just cite in the transcript what they said. Thank you.

THE COURT: Well, I'm going to allow that response, overrule the objection, although I agree that certainly we don't want to have misquoting, but I find that that was a fair summary of the witnesses opinion. So that particular objection is overruled.

Q Dr. Of she, is there some -- could you explain, with the same analysis, the discussion regarding the extension cord.

A Could you direct me to a page?

Q Page 47 - - actually perhaps towards the bottom of 46, there's some discussion regarding how the act was committed.

THE COURT: (Indiscernible - unclear) August 31st.

Q Yes. Same interview, Your Honor.

A If I'm going to talk about the...

Q Was that something you were going to discuss later?

A Oh yes.

Q I'm sorry, okay.

A Absolutely.

Q Okay.

A I (indiscernible - unclear) do it now, but it was something that I had isolated and...

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Q Okay. If you're gonna -- that's fine. Then resume where you were before.

A At the bottom of page 50, Investigator White says "If we went over to the house and went inside, do you think that would help you remember?" Mr. Adams says "It's possible. Like you say, it all seemed like a dream. A nightmare." In my opinion, that illustrates the beginning of the acceptance of this explanation for loss of memory.

And that is picked up later at the bottom of the same page, so a few moments later in the interrogation. Mr. Adams says "I guess the saying goes the devil made me do it. I wasn't myself. I wasn't me." This would be consistent with suggesting to an individual that something strange had happened to you -- this is the cause of your loss -- or clouded inaccurate memory, and this would suggest that the person is accepting this explanation for why their memory is missing.

This is a phenomena that I see repeatedly in these kinds of interrogation. The putting in place of the story that's acceptable to the suspect as to why they don't have memory of having committed the crime that the interrogators are telling them that they committed. On page 54, Mr. Adams again says "I

might have. Like I say, I'm not sure. It all seemed like a bad dream."

If we skip forward, if I can, just go on to the September 2nd interrogation, we see this process of what's called memory distrust syndrome illustrated again in the September 2nd

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interrogation. There are one - - there are five examples in the September 2nd and September 3rd interviews in which the subject of memory comes up again and it illustrates the same theme that I've been illustrating in the August 31st.

Q Okay.

A The impact of accusation of reports of false - - or false reports about evidence saying that Mr. Adams committed the crime, and the attack on his memory shows a clear effect throughout the interrogation. It begins in the August 31st interrogation on page 28. As Mr. Adams does repeatedly throughout all of these interrogations, he demonstrates that he's becoming progressively more confused about what might have or what might not have happened on those particular days.

For example: Investigator White says "I can't tell you what happened in there. I don't know, John. Bernice can't tell me and Wanda can't tell me. Their bodies can tell me a whole lot. The medical examiner can tell me a whole lot. But the only person that knows everything that happened in there and can see it going through their head every time they go to nap or think about these people not being here. Huh? I mean you're sitting here telling me you killed both of them, aren't you? Is that what you're telling me?" Mr. Adams says "It's

possible." Investigator White says "Either you did or you didn't. You know whether or not you did." Mr. Adams: "I'm not sure." Mr. White: "Why not? Why aren't you sure, John?" Mr. Adams: "I don't know, it's just -- I don't know." White: "Am I right if I sit here and say John, two people have died

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because of your anger. Is that a true statement?" Mr. Adams: "I'm not sure." That illustrates a growing state of confusion.

Q Well, let me ask you this. Could you continue with that analysis with the following sentence? Investigator White: "You remember being over there at their house that afternoon?" Mr. Adams: "No." What does that signify?

A What that signifies is that throughout these interrogations -- and I'm looking for my -- what that signifies is that throughout -- constantly throughout these interrogations, there are hundreds of examples of what you have just read. That over and over and over again, and I have a list someplace that tabulates the numbers in each of the interrogations, somewhere. There are over a hundred examples in the August 31st interrogation of the kind of thing that you just read. Of Mr. Adams being...

Q That is lack of -- maybe you could be specific. As -- you mean as far as not remembering something or not certain about something?

A He says, and what I tabulated were his statements that would take the form of where he agrees that something is possible, or when he's told that something happens and he says he doesn't know, or he's told that something happened and he

just agrees and says "I guess." These are all examples of someone reacting to accusations who is confused about whether they even have confidence in what they know about what they did. That ((indiscernible -- simultaneous speaking))...

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Q Would that -- excuse me. Would that account for at one moment Mr. Adams is saying "I might'a been there, I was there," and then says "I wasn't there. I'm not sure." Would that account for those kind of responses?

A Well, what accounts for that is periodically throughout these interrogations we see examples in which the interrogators put direct pressure on him and they get him to agree to something, and then they follow up with a question and then he'll say -- asking for details, and he'll say "I don't know." The pattern that I see repeated in the interrogation is pressure, getting an agreement to something in particular, and an interrogator at this point would follow up attempting to elaborate on that and then it would fall apart because the next thing that would happen is "I don't know, I can't remember," and so on.

This is the back and forth of pressure and accommodation and giving in, and then following up with a question and then the person just saying "I don't know anymore." We see this over and over and over again in this interrogation. It's -- as I said, in -- just to give you the number, in the August 31st interrogation there are 124 examples of this kind of thing.

In the September 2nd interrogation there are 81 examples

of this kind of thing. In the September 3rd interrogation there are 107 examples of this kind of thing. I'm sorry, correct (indiscernible - unclear). (Pause) Whatever number I just gave you, there are more than that number. I can't

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find the last entry here. There are at least 121 examples in the September 3rd. I have the total somewhere in this collection of papers.

Q Okay.

A 123 is the total in the September 3rd interrogation. These are repeated examples of Mr. Adams showing that he does not know details of the crime. He's unable to come up with answers at a time when he is allegedly confessing to the crime.

Q Perhaps we could move on, then, to the September 2nd interview.

A Let me just point out that running through the August 31st interrogation, in addition to the example I read on page 28, there are one, two, three - - there are 11 examples in which Mr. Adams demonstrates that he is very confused about what happened. Let me just read one or two of these...

Q Okay.

A ...to illustrate what I mean when I say he is confused.

Q That's fine.

MR. DOOGAN: Excuse me, Your Honor, I think at least we could dignify this by having counsel ask that question before the witness volunteers that sort of thing (indiscernible - - simultaneous speaking)

Q Could you continue with your analysis on what is going on

that leads to the confusion of John Adams?

A On page 36, Detective White is saying "Nobody around. Do you remember about how many people were on the bus? This is

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all a haze because you don't want to remember, or is it all a haze because you're trying to make up a story?" Mr. Adams says "I don't know." White: "Are you telling me the truth or are you trying to tell me something that you're just making up as you go along?" Mr. Adams: "I don't know." Mr. White: "Are you telling me tall tales?" Mr. Adams: "May be possible." "Or are you telling me what you actually remember?" Mr. Adams: "I'm not sure." Mr. White: "Let me put it real blunt John, are you lying to me?" Mr. Adams: "Maybe. Maybe not." Mr. White: "You would only know whether you're lying or not, wouldn't you?" Mr. Adams: "Yeah." "Are you? That's a simple enough question. Are you lying to me or are you telling me that truth?" Mr. Adams: "Telling you the truth."

Mr. White: "You're telling me -- let me see if I understand this right -- that you rode the bus over to Wanda's house, you went in. You don't remember anything that happened but when you walked out Bernice and Wanda are both dead. Is that what you're telling me?" "I don't know. It's hard to -- it's hard to figure out what was going on." "What's so hard about that, John?" "I don't want to believe it, I guess." "Are you believing it because I said so?" Mr. Adams: "Yes." Mr. White: "What makes you think I know what was going on over there? I wasn't there." Mr. Adams: "I don't know."

Then at the conclusion of the August 31st interview, Mr. White asks Mr. Adams: "I want the truth, that's all I want. I don't care whether you did it. The guy over there that did

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it, or this guy over there did it. Did you kill the women, yes or no?" "I don't know, I don't know. I've just got nothing else to say." And that's how the August 31st interview ends.

Q Okay. Your Honor, (indiscernible - unclear) approach the bench?

Whispered bench conference as follows:

UNIDENTIFIED SPEAKER: I was thinking (indiscernible - whispering).

UNIDENTIFIED SPEAKER: Yeah, I think so. Before we continue.

(End of whispered bench conference)

THE COURT: This seems like an appropriate stopping point to take another stretch break. Admonishes jury.

(OFF RECORD)

(ON RECORD)

THE CLERK: All rise. Superior court reconvenes.

THE COURT: Please be seated. It's 3:43, we're back on record and the parties are present, jurors are present. Continuing with direct examination. Go ahead Mr. Traverso.

Q Doctor, can you summarize your findings with respect to the other interviews as well? With the same analysis that you used on the August 31 and August 19 interview, could you summarize what your opinion is about the interrogation

techniques that were used in this case.

A Well, everything was set up in the August 31 interview.

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That's the interview in which the accusations are really made, that's the interview in which the false evidence is introduced, that's the interview in which Mr. Adams' confidence in his memory is attacked and collapsed. And so what happens in the September 2 and the September 3 interview is just an extension of what has been accomplished in the August 31 interview and what happens in those interviews is just a continuation of Mr. Adams' expressions of his confusion and his inability to remember anything accurate about the crime scene, so that the same system just grinds forward for two more sessions.

Q Okay. I think that's all I'm going to have, Your Honor.

THE COURT: Mr. Doogan?

CROSS EXAMINATION OF DR. OFSHE

BY MR. DOOGAN:

Q How much are you being paid to come up here, sir?

A Well, my expenses are being paid by Mr. Traverso's agency, I guess the Public Advocate's agency, and I'm being paid some amount of money through Mr. Adams' family since the public agency could not afford to pay me anything for my time.

Q How much is that, sir?

A I anticipate that I'll be paid a total of \$3,000.00.

Q How much, sir?

A A total of \$3,000.00.

Q And that's for from the moment you first were consulted until you're done here?

A Absolutely. That's the total of it. My -- that's the

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total of it.

Q And the other 17 times that you said you've testified - -
I guess in criminal cases, is that right?

A That's correct.

Q Okay.

A Let me check, some of those may have been civil cases
involving interrogation, but in main they were criminal cases.

Q Okay, well, is there any way for us to break that down
into the number of...

A Sure. Give me a moment and I'll be able to tell you.

Q Sure.

A There were two civil cases and 15 criminal cases.

Q Okay. The civil cases, were they about people being
fired after confessing things that they didn't really do?

A Correct.

Q And the 15 criminal cases, when was the last one before
this one, sir?

A I believe it would have been in - - I believe the last
case would have been a case called Miscelli, it was in
Arkansas and -- I'm trying to remember, it was perhaps five or
six months ago.

Q Okay. And that was another confession case?

A That's correct.

Q And you testified for the defense in that case?

A That's correct.

Q And the other 14 times, how many times did you testify to

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uphold a confession - - of those?

A In all of these cases I've appeared for the defense.

Q Okay. Sir, are you familiar with the John Reid School in Chicago?

A Yes.

Q And that's a training institute that trains police officers throughout the country in interrogation techniques?

A That's correct.

Q And would you agree or disagree that the school teaches proper interrogation technique?

A They don't advocate anything that's illegal. Their training methods are inadequate because they fail to train interrogators on the issue of eliciting false confession and that's a major weakness in the Reid's training program.

Q Sir, the Pulitzer Prize that you received was for exposing a cult, is that correct?

A A group called Synannon that many people (indiscernible - unclear) was a cult, yes.

Q And did you do any work in deprograming any of these people?

A No.

Q In a cult situation, isn't it correct that there are various physical factors allowing a person to be coerced into believing things they wouldn't otherwise believe?

A Sometimes.

Q Have you ever been in the military, sir?

A No.

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Q Have you ever studied interrogation techniques that are taught in the military or used by the military?

A To some degree. I'm familiar with some -- I mean some military interrogation techniques utilize similar techniques to what Reid teaches. These are generally the techniques that one sees in police interrogation everywhere in the United States.

Q Sir, isn't it true that some interrogation techniques emphasize deprivation of the subject being interrogated?

A Not usually in police interrogation. It's rare that police interrogation goes on to an excessive length of time these days.

Q Okay. And in this particular case, in the one you're in here today on, would you say that any of those sessions that you've reviewed lasted an inordinate length of time?

A I don't believe so, no.

Q Is it true that also sometimes that some interrogation settings are in themselves coercive?

A Generally interrogation settings are designed to maximize the influence power of the interrogators. Some people might label those as inherently coercive and in the literature they are labeled as inherently coercive, but it depends on how one defines coercive. Interrogation settings are intended, usually, to put a person in a setting in which the interrogator has maximum authority. It's the interrogator's space. Usually done in an office, it's done in a space that the interrogator controls. These are just background factors

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that one finds commonly used in interrogation all over.

Q Do you know what the settings were in the questionings that were done of Mr. Adams in each case?

A I believe they were done at the public safety office.

Q Do you know what kind of a setting was used?

A No.

Q Would it be helpful in your analysis of whether Mr. Adams was coerced into testifying or confessing falsely to know that?

A Actually I guess I do know, 'cause I looked at the video tapes. I didn't see anything particularly noteworthy about the setting. And the setting -- there wasn't anything about the setting one way or the other that struck me as significant.

Q Sir, you wrote an article in a publication called the Cultic Studies Journal about coerced confessions. Is that correct?

A That's correct.

Q And in there you cited a case study of a person, Russell Weaver, who confessed, falsely in your opinion.

A Correct.

Q Isn't it correct that Mr. Weaver was interrogated for eight straight hours (indiscernible - unclear)?

A I don't believe so. I think Mr. Weaver was interrogated by a private investigator for a brief period of time, an hour or perhaps two, in the back room of the store in which he worked. To my recollection, I don't believe it was eight

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hours.

Q Did Mr. Weaver have any pre-existing psychological difficulties, sir?

A The tests that were done suggested that he was more than ordinarily influenceable but not mentally ill.

Q Isn't it true, sir, that in your article, the cases that you cite, all involve people who have some sort of a psychological problem that's diagnosed?

A No. I believe I say exactly the opposite, that these people were evaluated and were found to be, if anything, a bit lacking in confidence in themselves and therefore a bit suggestible, but not mentally ill.

Q Okay. Well, sir, let's take Mr. Sawyer. You mentioned a case study of a Tom Sawyer. who confessed falsely to strangling a neighbor lady. Do you remember that?

A I remember that.

Q And isn't it true that Mr. Sawyer had been diagnosed and in fact treated for anxiety attacks and for long-standing severe social anxiety?

A That's true. Mr. Sawyer was a person who suffered this kind of anxiety. I didn't consider that to be major mental disorder. That was a troubling problem, he clearly lacked self-confidence. He had, in fact, been an alcoholic for a decade, had been dry for 18 months before the interrogation began, and I didn't classify Mr. Sawyer as mentally ill. He had this anxiety problem, certainly.

Q You did, however, say in your article, did you not, sir,

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that it was significant that he had these - - even though they weren't mental illnesses, these mental problems.

A That made him vulnerable, sure. And in fact it was the anxiety condition that caused the police to think that he was guilty, because when they were talking to him, simply being the next door neighbor of a woman that was murdered, he became anxious and flushed red. And the detectives decided that this showed that he had guilty demeanor and that's why they brought him in. They did an accusatory interrogation based on nothing other than the fact that he was a person who tended to become anxious, and they mistook that for an indication of guilt.

Q Mr. Sawyer was interrogated from 4:00 in the evening until 8:00 in the morning according to your article, right?

A That's correct.

Q And included in that was a polygraph examination that he was falsely told he had failed, correct?

A Correct.

Q And from that - - oh, I'm sorry. In addition to that, Mr. Sawyer continued to claim he had no memory whatsoever of the killing, right?

A Correct.

Q And isn't it true that the police in that case, rather than trying to get Mr. Sawyer to remember were telling him that in fact there was a good reason why he wouldn't remember it and so he could have done it without remembering anything.

A That's correct.

Q Now sir, in this particular case that you just testified

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about these interrogations, isn't it correct that on innumerable occasions the interrogating officers suggested to Mr. Adams that he did remember, not that there was a reason he wouldn't.

A Well, they suggested to him that he could remember, and they also suggested to him that the reason that he didn't remember was he was in this odd mental state or he didn't want to remember and then blacked it out and so on. They went back and forth.

Q Okay. Well, sir, isn't it true that a guilty person who did remember something about committing a crime would have reasons not to admit that memory?

A Certainly.

Q Is your testimony here today to the effect that having reviewed these confessions, these interrogations, are you testifying today that John Adams did not commit either of the murders in this case?

A No, I'm not testifying to that.

Q And isn't it true that there's no way for you to tell by looking at these interrogations whether or not Mr. Adams - - in your opinion, whether or not Mr. Adams really remembered killing those women if he did?

A Looking at these interrogations, can't reach that conclusion. Looking at a successful interrogation you can reach that conclusion. These interrogations lack evidence showing that he actually remembered it.

Q Dr. Of she, how many murder cases have you investigated?

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How many homicide cases have you investigated.

A Only through my work on interrogation procedures, and that would be the 15 - - I believe all the criminal cases, I believe were murder cases.

Q So you have looked at confessions in murder cases.

A Oh, excuse me. In addition to the 15 I've testified about, virtually every other interrogation I've been sent has been a homicide case.

Q But you've never been involved in figuring out, from your own investigation, who committed the homicide.

A No, I'm a professor, not a police officer.

Q Okay. Now, sir, given that, what's the purpose of interrogation in your opinion?

A The purpose of interrogation is to elicit a confession.

Q A truthful confession?

A A truthful confession that demonstrates that the person giving the confession actually committed the crime.

Q Okay. Dr. Of she, are you aware of any truthful confessions in criminal cases where the person did not confess to every fact that occurred?

A That happens with some frequency.

Q Isn't it true, sir, that one of the reasons a person might not want to admit all the facts is embarrassment over what they had done?

A That's generally -- that's part of the folk lore, that, for example, someone might confess to kidnapping a child, might even confess to killing a child, but would resist

confessing to sexually assaulting the child before killing the child, because that particular element is something that is so awful that they resist confessing to that part.

Q And is it a useful or not a useful tactic for somebody to suggest in interrogation in that case, well, sir, we won't think any less of you if you really did commit sexual assault?

A Standard interrogation tactic.

Q Nothing wrong with that?

A Nothing wrong with it.

Q Okay. Now, sir, I think you gave your opinion at one point that it was permissible, or at least I got that impression, it was a permissible technique for an interrogating police officer to lie to the suspect, is that right?

A My understanding based on my knowledge of the law controlling that in the states in which I've worked is that it's permissible, and it's certainly a common technique that's used in almost every interrogation I've reviewed.

Q Will lying to a suspect about the facts the police have produce a false confession?

A Sometimes it will and sometimes it won't.

Q Okay. And if a person remembers -- is legitimately innocent and remembers where he was when the crime was committed and knows he did not commit the crime, then will the tactic we just discussed lead him to confess falsely?

A In my experience it takes, in addition to lying about the evidence, making a direct and concerted attack on the person's

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competence and their memory before one is likely to produce a

false confession out of the use of that tactic. There has to be a second element also present.

Q Now, sir, the technique of accusing somebody, what you call accusatory interrogation. Is that a recognized technique in police interrogation?

A It's a technique that's used all the time. It's recognized, it's advocated, in (indiscernible - unclear) Reid's textbook on police interrogation, it's taught in Reid Interrogation training. The use of accusatory interrogation under appropriate conditions is widely used.

Q And would you agree or not agree that this is a proper technique?

A It's not for me to agree whether it's proper. My understanding of the law and what's acceptable is that it is proper.

Q Okay. Well, let me ask this another way, sir. Then is it correct that reputable experts in the field, other than yourself, think that it's a proper tactic?

A I think it's a proper tactic when properly used.

Q Now sir, what are the things that can occur when an interrogator accuses someone of having committed a crime right to his face?

A Several things can occur. One thing that could occur is that the person can stand up and walk out.

Q And why would that be?

A Either the a person is innocent and is knowledgeable

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about police interrogation and recognizes that they are about

to get involved in something and they may be sophisticated enough to walk out. Another thing that could occur is that a person could think that the interrogator was making a mistake and be drawn into the interrogation, or another thing that could happen is the person could admit that they committed the crime and give an accurate description of what happened.

Q Well isn't it true that Professor Reid's school teaches this as a tactic to determine if a person is in fact innocent, to accuse them?

A Reid and Inbau recommend that accusatory interrogations only be used that there is strong evidence showing that this in fact is the person who committed the crime. They advise against using accusatory interrogation unless the interrogator is pretty certain that this person committed the crime based on reliable evidence.

Q Isn't it correct, sir, that they also advocate this tactic because a person who is innocent, upon direct accusation is likely to get up and leave and say - - and become, in fact, angry?

A Much of what Reid and Inbau suggest, there's nothing in the folk lore that is not substantiated by any (indiscernible - unclear) research, and that happens to be one of the things.

Q Well, sir, you're empirical research into these cases of false confession consisted of cases where you reviewed the interrogations, right?

A No, there's a vast amount of empirical research into the

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subject of interrogation and false confession.

Q Well, sir, I'm talking about the research that you did.

A Directed at what?

Q Well, in this particular case.

A In this particular case, yes. It was based on the transcripts of the interrogation and the video tapes.

Q Sir, did you also review the police reports?

A No.

Q Did you review the laboratory reports?

A No, but I was apprised of facts relating to the police and the forensic evidence as part of my preparation for this testimony.

Q Okay, sir, you remember saying several times that Investigator White lied to Mr. Adams about a person seeing a man matching his description leaving 1541 and walking a building (indiscernible - unclear). Do you remember that?

A That's correct.

Q Would your opinion be affected at all - - I guess I should say would you have any more confidence in the tactic if in fact there was a person named Joseph (indiscernible - unclear) ...

MR. TRAVERSO: Objection, Your Honor. Objection. There's been no presentation of this witness and there hasn't been any evidence presented. There's no discovery -- is all in a statement that Mr. Kukak made, there's nothing there. It's not part of the state's case. I would object to that and move to strike.

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THE COURT: I think this would be appropriate to take up in the back.

(Pause)

THE COURT: Mr. Doogan, offer of proof?

MR. DOOGAN: It's in the police reports, Your Honor, it's in his testimony at grand jury, it's in the statement he gave to police that Mr. Traverso has...

THE COURT: Well this -- I'd like to hear...

MR. DOOGAN: The offer is this. We're not offering it to prove whether or not Mr. Akugok (PH) was correct. The truth of what he said. This witness has claimed that the officer lied to Mr. Adams by telling him a statement that was not made. The statement was made. And I think this witness should be questioned about it. Whether it would make any difference to him if, in fact, the statement was made.

MR. TRAVERSO: What the discovery says, Your Honor, is that MR. Akugok (PH) could not identify the man coming out of Mr. Adams' door. There was a man coming out of Mr. Lloyd Opoluk's door. That man was not identified as John Adams. It was another man -- he identif -- he saw a man coming out of 1541 from Lloyd Opoluk's side. It was not from Wanda and Bernice -- from Wanda Opoluk's apartment. So that information is very misleading. There was no identification of John Adams. Certainly if John Adams was identified by Mr. Akukak, he would have been the first witness or one of the main witnesses in the state's case in chief. There's no discovery, absolutely none. Nothing in the grand jury that identifies John Adams and the man who was walking out of Lloyd

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Opoluk's door was not John Adams and that was clear from Mr. Akukak's testimony.

THE COURT: Okay...

MR. TRAVERSO: That's totally misleading.

THE COURT: Mr. Doogan?

MR. DOOGAN: Your Honor, this professor is saying that the officer had no basis for his statement. I want to show that he did have a basis for this statement. If we go back to his actual statement.

THE COURT: Joseph (indiscernible - unclear)?

MR. DOOGAN: I'm sorry, the officer's statement. When he talked to Mr. Adams. He's being accused of of manufacturing evidence and questioning or giving a statement to Mr. Adams that had no basis in fact. I think I'm entitled to show that he did have a basis in fact for making the actual statement he did make. And then the expert can say whether or not he still believes it was false or misleading.

THE COURT: Well, okay, but what I hear Mr. Traverso saying is that the statement was that it was another - - not Wanda's, but Lloyd's door.

MR. DOOGAN: The statement the officer made is what's critical, and that's why I have been complaining about the summaries given by the witness.

THE COURT: Sure.

MR. DOOGAN: Go back to what the officer actually said. He said would there be any reason why a person would say that they saw a man matching your description coming out and locking up that

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house. Now, to that extent, that statement is true and it's based on fact. That is, what the officer said is based on fact. And of course he's saying this well before the grand jury testimony of Mr.

Akukok. He's going at what he had at the time. I think I'm entitled to show that he had a basis for making that statement. We can certainly go on to show that later it turned out that Mr. Akukok was talking about Lloyd's side of the house.

MR. TRAVERSO: That's misleading. There's no identification of John Adams as being the person. Not even in physical description.

MR. DOOGAN: He didn't say it. He said matching your description.

MR. TRAVERSO: Matching your description. There is no reference. That is misleading. That lets this jury believe that there was someone out there who ID'd John Adams coming out that door, that there's no reference in discovery, never mind on the state's case in chief. And if he's going to cross examine this witness regarding - - even cross examine this witness about that as a tactic, but can't make any references about Joseph Akukak -- that there is in fact some witness that did that when in fact there isn't any such witness that's been presented in discovery nor in the state's case in chief. I'm totally surprised by that.

THE COURT: I guess we're back to...

MR. TRAVERSO: I mean the person came out of Lloyd Opoluk's door. And there's no one that matches any description of John Adams. There isn't anything. That's why these interviews continue on and on and on.

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THE COURT: Mr. Doogan, what about the matching description? Did Mr. Akukak describe who he saw?

MR. DOOGAN: The description was a Native male, I believe he said skinny. And Your Honor, again, I want to focus on the

issue here. The issue is not whether we're offering this as testimony of Mr. Akukok that Mr. Adams was seen coming from Wanda's side of the house. The issue is whether or not the officer had a basis for making the statement that he made to Mr. Adams or had made it up out of whole cloth as the witness thinks is so significant.

THE COURT: Okay. I'm going to allow you to ask that question but you need to be clear on what that statement was -- the witness saw -- in other words, that it was coming from the house and that it was whatever that description was.

MR. TRAVERSO: Your Honor, is he going to be made to say that this man was identified as coming out of Lloyd Opoluk's door?

THE COURT: No, it's based on what the officer -- what were -- and if need be, I mean I could give a cautionary instruction, but if need be, what we're talking about is what the officer knew at the time that he was interrogating Mr. Adams. And what I hear you saying is that the statement that he had at that point didn't make that distinction. Or am I wrong?

MR. DOOGAN: I'd have to go back to the exact statement. It was -- if you go back to what the officer said, he said to Mr. Adams "a person saw a man come out of the house and lock it up matching your description." Now he didn't say matching in every particular. He didn't say coming out of which side of the house.

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That's the statement he made to Mr. Adams. Now, I think I'm entitled -- the witness apparently has never even considered that before and he's testified that this statement was made up from whole cloth, that there was never any person who ever saw anybody

come out of the house.

MR. TRAVERSO: That's not what he said.

MR. DOOGAN: I beg your pardon, that's...

THE COURT: I'm going to allow this. I basically am going to allow the question. It's legitimate cross examination. I just want to make sure that the -- and I'm not going to -- and I am going to allow the question to refer to what is in the police interview with him, rather than what was learned later. But I just want to make sure that it is -- that the way you ask it is based on what is in the interview.

MR. DOOGAN: Then I'll go back and dig it out of the transcript.

THE COURT: Proceed.

(Pause)

THE COURT: Okay, we'll continue. The objection was overruled although the question is going to be rephrased.

(Pause)

DR. OFSHE: Excuse me, Your Honor, may we take a quick break? Real quick?

THE COURT: Okay, fine. The jurors need a break. We'll take a quick recess here. Again, let's try to keep it fairly short, though. We'll go off record, it's 4:15.

(off record)

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(on record)

THE COURT: Please be seated. It's 4:25, we're back on record. Parties are present, the jurors are present, and we're continuing with cross examination. Mr. Doogan.

Q Thank you. Sir, I think you have the only transcript of

the August 31st interview, and I think you cited on page 16 what you called the false evidence introduced by Investigator White. So I'd just ask you if you could read that from the transcript for us please.

A Okay. It actually appears in several places. On 16 is the first place it appears...

Q Yes...

A .. .in several places...

Q ... just read it the first time. The time that you testified about before.

A I testified about all the times.

Q Read it from page 16 if you please.

A Sure. "We found someone over there that says he seen a party coming out of there. A man coming out Sunday afternoon and locking that house. Is there any reason why his description should match yours?"

Q Okay. Now, sir, what is false about that from your knowledge of the case?

A From my knowledge of the case? That there is -- I was informed that there was...

Q Excuse me.

A .. .no one who saw...

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Q I'm sorry, go ahead.

A .. .who saw some one come out of the house occupied by Wanda and locking that door.

Q Could you read the statement again, sir.

A "We found some people over there that says he seen a

party come out of there a man coming out Sunday afternoon and locking that house."

Q Okay. Now does that say coming out of Wanda's side of 1541? Is that what the officer said?

A No, but the whole subject matter is about Wanda's residence, and it says "we found someone over there that says he seen a party coming out of there." Now no other "there" has been introduced in this interrogation as far as I know suggesting that there could have been the house across the street or anywhere else.

Q Well, sir, I'm talking about the same house. 1541.

A The there as I read it refers to Wanda's residence.

Q Okay. Now, sir, were you made aware that there was one building with two entrances in this case?

A I was aware of that.

Q Now, did the officer say in that statement that John Adams was the person seen coming out?

A No.

Q Does he say that it's Wanda's side of that particular residence?

A No, he doesn't say -- he says "out of there," and there's nothing to introduce that there refers to anything other than

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Wanda' s residence.

Q Sure. And did he say that the person was coming out of Wanda's residence in that statement?

A No, he says there.

Q Now, sir, if I were to tell you that a person named Joseph Akukok had told the police a few days before that he

did see someone locking Lloyd's door, which is the one in the same building, but next door to Wanda's. Sometime Sunday, locking it up, would there be some basis for the officer making the statement that he did?

A No. The there -- unless the there refers to Wanda's house to suggest that John was seen coming out of what in context must mean Wanda's house and locking the door, and to repeat that same thing several times and to become even more bold as it is repeated over the course of the interrogation strikes me as an interrogation tactic designed to suggest to John that he was seen. And in fact it becomes clearer in subsequent renditions.

Q Okay. Now sir, you agree that the purpose of interrogation is to elicit a truthful confession if there's one to be gained?

A Certainly.

Q And you're saying that that tactic used by the officer was one that would elicit an untruthful confession?

A No. What I'm saying is that that tactic, in and of itself, is a very ordinary tactic of either over stating or even inventing wholly evidence, which occurs in interrogation

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all the time, and that tactic can sometimes be effective and it can sometimes create enormous problems. And the tactic has to be evaluated in terms of what happens in addition and the final resolution of the interrogation.

Q Sir, let's go quickly over these confessions -- or pardon me, these interrogations. Okay, sir. You looked at a

transcript of the first interview with Mr. Adams by Investigator Tacker on August 3, right?

A Correct.

Q Remember how long that was?

A It was brief.

Q How about 30 minutes? Does that sound familiar?

A If you represent that that's what the times show, I'll certainly accept it.

Q Any accusations against Mr. Adams in that interview?

A No. I think that's why the interviews s characterized as an information gathering interview.

Q Did you look at the interview by Investigator Paul on the 7th?

A Yes, I did.

Q How long was that one if you recall?

A I don't recall. It was brief as well.

Q How about seven minutes?

A (Indiscernible - unclear) brief, (indiscernible - unclear)

Q And isn't it correct that all Investigator Paul asked about was what jewelry Bernice might have been wearing?

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A It was another information gathering interview.

Q Okay, so now you looked at the next interview by Investigator White on the 19th. Is that right?

A That's right.

Q And you read the transcript of that?

A That's correct.

Q Okay. And that was how long?

A I don't recall how long -- it's -- I'm sure you know, I'll certainly accept what you say.

Q Well, he puts in the beginning and ending time...

A I'm sure he does.

Q ... so if you read the interview you can tell, okay. Fifty minute?

A I'm sure that's correct.

Q Now this is what, 12 days here, between when Officer Paul talks to him and the next time a policeman talks to him?

A Yes.

Q Would you agree that the frequency of interrogation has something to do with whether or not a person would confess? That is the more frequently they're interviewed the more likely you'd get a confession of one kind or another.

A I don't know that -- I'm sure frequency -- all other things held constant, is probably positively correlated, but it's certainly not a particularly important variable.

Q Okay. And during this interview on the 19th Investigator White tells Mr. Adams that he doesn't -- did he directly confront him in that interview?

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A No, that's the interview in which he makes the suggestions and tells him that there's this theory out there that you did it.

Q Okay. And in your evaluation, this interview, did Investigator White have any basis for telling Mr. Adams that? At that point on the 19th.

A At that point it would depend on what other suspects are

out there and what evidence there is about other suspects. If there was evidence about someone else and that evidence was strong, then it would seem to me to be gratuitous to follow up Mr. Adams at this point. On the other hand if the interrogator just wanted to try everybody who might be a candidate, and the spouse, the affected spouse, is someone who is routinely tried under these circumstances, that might be enough. I don't know that there was particularly strong evidence against Mr. Adams other than he was, you know, the spouse essentially, of Bernice.

Q Well recognizing, sir, that you've testified you've never done a homicide investigation yourself, would you agree that motive is some -- might be an indicator of whether a person committed a crime? That is a person who has a motive might be a more likely candidate than someone without one?

A I think that goes without saying.

Q Somebody who'd recently had an argument with the deceased, would that perhaps be indicative of motive?

A Might depend on the nature of the argument and whether that kind of argument was one that happened frequently, how

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serious it was, there are people who have arguments all the time and don't kill one another.

Q Sure. Just like there's people who confess to crimes all the time.

A I don't know that people confess to crimes all the time.

Q Okay. In fact it isn't very frequently that people do confess to crimes they haven't done, isn't that correct, sir?

A No, people don't ordinarily just go in and confess. What

we re talking about is interrogation eliciting statements in response to very particular tactics.

Q Okay. Sir, on the 19th we have, assume for a moment the officer who was talking to Mr. Adams knew about the argument and that there was one.

A Okay.

Q So would that or would that not be a legitimate thing to mention to Mr. Adams at that point?

A It's not legitimate or illegitimate. It's up to the interrogator whether he is simply going to gather information or whether he is going to start making the suggestion that "I think you did it." The minute he makes the suggestion that "I think you did it," he's beginning interrogation. And he's beginning it for the purpose of seeing how far he can go and what he can accomplish. Then he goes back on the 31st and now does the first full tilt interrogation in this case.

Q Sure. We're not to the 31st yet, though doctor, we're just still on the 9th. At that point.

A At that point he might have done several different

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things. He might have known all of these things and still asked a number of questions without suggesting that there was any suspicion of Mr. Adams that might have been a more effective way to gather information. On the other hand, introducing the possibility that you did it, which is gratuitous at this point, might be...

Q Sir, excuse me. You say gratuitous. Would you define what you mean by that?

A What I mean by that is he could gather information without raising this suggestion that there's a theory out there that he did it. The reason -- or one interpretation of choosing to do that is that that's the beginning part of an interrogation, where the object is to put the person on the defensive from the very beginning. He could have chosen to collect information in a variety of different ways. What he did do was choose to introduce the idea that "you're a suspect."

Q Where in the interrogation, at the beginning or the end, did he do that, sir?

A I think my notes of that are pages 23, 24, and 25.

Q Would you agree that's right at the end of the interview, sir?

A Yes.

Q So he didn't accuse him in the beginning, right?

A No. And that makes it even more pointless after he has interviewed him, to make this suggestion as he lets him out the door strikes me as more of an interrogation tactic than an

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information gathering tactic.

Q And if you want to get confessions from a guilty defendant, if you want to get a confession, do you have to interrogate him?

A Sure.

Q Now, ,i,...

A No, you don't have to.

Q Oh, I'm sorry.

A You don't have to interrogate him. Sometimes you can

just lay out the evidence and say "this is what we know," and the person may at that point confess. If the evidence is really strong that can be a very effective tactic and it's really not an interrogation.

Q Well, what if you have evidence but it's not so overwhelming you can do that?

A Well, then you have to engage in the tactics that define interrogation, which is what happened here.

Q Okay. Now, sir, let's say the officer also knew that Mr. Adams had some scratches on his face that were observed shortly after the death of Bernice. Would that be, perhaps, a reason why he might make that accusatory statement?

A He might have also asked "where did you get the scratches?" They might have sought information on it, but rather capitalized on this alleged report of scratches to do an accusatory interrogation. That's the point of it. He chose to do an accusatory interrogation based on very, very, very marginal suspicions.

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Q Well, sir, marginal suspicions. Assuming it's correct that there was an argument between Mr. Adams and Bernice Opaluk shortly before her death, assuming he had scratches on his face that were observed shortly after her death, are those things marginal?

A I think they're marginal.

Q Okay. Now let's assume further that the method of death, strangulation. Manual strangulation. Is that a fairly common way of murdering someone?

A I think so.

Q And would you agree or not agree that manual strangulation is, in most cases, done by somebody familiar to the deceased.

A I don't know that that's true and I also don't know that it necessarily matters, because that's another example of taking something that may be true on average and going from that to do something that is very dramatic.

Q Sir, you don't see any correlation between all these items added together and the tactics used by the officer?

A The problem is not in doing the interrogation. The problem is in doing it badly.

Q Sir, let's go on. On the 31st, do you know how long that interview was?

A No, but I'm sure you do so I'll rely on your telling me.

Q Are you as sure that I do as you are sure of your opinion?

A I think you're very thorough, I'm so willing to gamble

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that you know. Otherwise we can look it up.

Q Okay, well, I don't think we want to gamble, doctor, let's just say about three hours. Does that sound about right?

A I'll accept that.

Q Okay. Now, sir, we listened to the tapes of those and I assume you just read the transcript.

A No, I listened to the tapes as well.

Q Then would you agree that the first admission by Mr. Adams occurred after about 30 minutes of this three hour

interview?

A Can you tell me the admission you're speaking of?

Q Mr. Adams says he might have been there at 1541, could have been 3:30 to 4:00, everything happened so quick.

A Well, you see, you have the only transcript, sir, we listen to the tapes. So the beginning of the second tape.

UM: It would be just after page 16, I believe, in your transcript.

tIM: There's indications of where, you know, what tape is -- what portion is transcribed, tape 1, tape 2, tape 3.

A This is the beginning of tape 2, is that correct?

Q The beginning of tape 2, yes, sir.

A Okay.

Q Now that's about a little over 30 minutes into the interview, correct? Assuming 30 minutes a side on the tape?

A Seems reasonable.

Q And this would be -- the 31st would be 12 more days.

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Sir, did you consider the statement by Mr. Adams that he might have been at 1541 when these deaths occurred to be significant?

A Yes, I do. I consider it in its proper context. And looking at it in its proper context I think it's very significant. And let's look at the proper context. At the beginning of tape 2, Investigator White says "back on the record, 17:36, still with John Adams. You don't remember getting the scratches on your face. You don't remember Elizabeth asking you about them. I think you do, John. I

think it's an awful thing to admit that you could've done this for fear of what might happen and what might happen to your kids. But everything that I've looked at here points to you being there. And I really think it will all be proven. You just don't have scratches magically appear on your face and people see them two days later. You get scratch marks that stay for three or four days and just disappear magically? Mr. Adams: "No."

Mr. White: "There'd have to be something, wouldn't there John. Is it such a bad thought that you really don't want to remember?" Mr. Adams: "I didn't," he's interrupted by Investigator White: "Why would I find people and already have found people that give us a description of the man that they saw coming out of the house and locking the door and it matches you. Somebody saw you over there John, don't you think it's time to help me clear this out and get it resolved? Can you tell me what happened between you and Bernice over at

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that house that day?"

Mr. Adams: "I don't know." Mr. White: "How come you don't know?" Mr. Adams: "Just I don't know, it's just" Mr. White: "It's all a blur." Mr. Adams: "Yes." Mr. White: "Do you remember being over there and arguing with Bernice at Wanda's?" "No." Mr. White: "What don't you remember, going over there?" "Uh huh." Mr. White: "But you were there, weren't you?" "Might have been." Mr. White: "No, you know whether or not you were there, John. You were there, I don't know what? 3:00 or 3:30, something around there. Is that what time you head over there?" Mr. Adams: "Could have

been."

Put in context, what this is is an example of an interrogator accusing someone, using this evidence, telling him he doesn't remember, and Mr. White giving in and saying "could have been." Anything could have been because he's...

Q Mr. Adams giving in?

A Mr. Adams giving in, thank you. Mr. Adams giving in and Mr. Adams saying "could have been." Once you attack someone's memory and you say "I know this happened," all they can say is "could have been."

Q Well, sir, isn't it true he also could say no?

A But not if he accepts the fact that he was seen leaving the house, Wanda's house. He was seen locking the door and his memory is faulty. If he accepts the idea that his memory is faulty, he now has no basis for resisting the skilled, talented, assertive, trained interrogator. And so what he

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does is take a defensive position and say 'could have been.' In the same way a unicorn could walk into this room in the next five minutes. It's very unlikely, I can't tell you that it isn't going to happen. Unicorns could be right out there on the street. They could be. I've just never seen one.

Q Nor have I. Sir, are you...

A How do you know that they don't exist?

Q Well, sir, what I'm trying to find out is how, in your opinion, Officer White, having been with this man for a total of 80 minutes over a period of 12 days, could convince him that his memory was faulty?

A Officer White is setting up a structure. He's introducing evidence, he's making statements about Mr. Adams' memory, and Mr. Adams is showing responsiveness to that and saying "if you say it, it's possible." That's all he's saying. He's saying "it could have been." He doesn't say "I went over there, I did this, I did that, I did the other thing." He does not give a description of the crime. All he does is agree it could have happened.

Q Doctor, would you have any more confidence in Mr. Adams' confessions if he gave the right bus driver, the person who actually knew who was driving the bus going over to the area of the murder on the day that he allegedly took it?

A No.

Q How about would you have any more confidence in his confession if he knew himself the position of the bodies after they were killed? Not the location, but the position.

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A It depends on how he knows it. I'm struck by examples such as all the information given to Mr. Adams about the cord and the way in which the investigators tell him first it was a cord. Tell him second it was an electrical cord.

Q Excuse me, I hate to interrupt, but I wasn't asking about the cord, Doctor. I was asking about the position of the body.

A Well, I'd like you to direct me to where that occurs so that I can see how it occurs in the interrogation to see whether or not its suggestive or it's a guess that might be 50-50 true just because of the way in which it comes about. One has to look at these things in context. Taking them out

of context is unfair.

Q Well, sir, since I'm conducting the questioning at this point and you have read all of these interviews, perhaps I could just ask you where in any of these interviews do any of the officers tell Mr. Adams that Wanda Opaluk was laying on her side when her body was discovered?

A There's a tremendous amount of information in these interviews. If you would direct me to where this discussion happens I can look at the context. As I sit here I can't remember all the back and forth that could have led up to that in any one of a number of different ways. But I'm happy to do it if you direct me to it.

Q Sir, do you recall any place in the transcript where that fact was mentioned by the police?

A I can't tell you at this moment where the discussion of

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the body occurs. I would be happy to look at it if you would direct me to it.

Q Sir, would you have any more confidence in Mr. Adams' confessions if he stated that he took an ivory ring from one of the victims and the police later found an ivory ring in his possession?

A On the ivory ring I do have the citations for that. And on the ivory ring I think we ought to look at pages 43 and 44, the 8/31 interrogation.

Q Sir, before you go on to your explanation, maybe you could just answer my question first and then you can explain it. Apparently that fact wouldn't give you any more

confidence in the confession, is that correct?

A No. That fact, as it is developed in the interrogation gives me confidence that this interrogation is highly suggestive and leading and unreliable. So now I'll tell you about the fact. On page 43 of the August 31st interrogation, Investigator Venable says "You took something with you when you left there, didn't you John? With you." Mr. Adams: "No, I don't remember." Mr. Venable: "I think you do remember. Think about it. A token of your love. A token of your love for her. It was on her hand, remember? A token of love, right? Right? Am I right? You know what I'm talking about, don't you?" Mr. Adams: "I think so." Mr. Venable: "What's that?" "Maybe a ring or something?" "What kind of a ring?" "I think an ivory one." "That's right, John, where is that ivory ring now?" "I don't know."

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Now that is an example of an interrogator suggesting something, leading, telling him that something was taken and getting him to agree to it. As we know, in the September 3rd interrogation, Mr. White now, on page 63, goes back and tells Mr. Adams that he told Venable that he took the ring, when in fact we know that Venable suggested and led him to it, and you'd have to be pretty stupid not to figure out that a ring was the subject matter of these questions.

And then on September 10th, Mr. Adams comes back and he reports to Investigator White that he remembers that the ring was always at home.

Q Well, sir...

A That's everything I know about the ring.

Q Let me ask the question again then. Did either Investigator Venable or Investigator White tell Mr. Adams that they were talking about an ivory ring?

A No, they didn't.

Q So the ivory ring came from him, right?

A After it's suggested to him that he took something, a token of love, something that was on his hand. I don't know if she wore a bowling ball on her hand...

Q Excuse me, where does it say on her hand?

A Pardon?

Q Where does it say on her...

A On page 43, Investigator Venable says "I think you do remember. Think about it. A token of your love. A token of your love for her. It was on her hand. Remember, a token of

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love, right? Am I right? You know what I'm talking about, don't you."

Q That limits it to a ring, correct?

A I think it suggests a ring pretty good, don't you?

Q Well, sir, I'm not the one answering the questions, you're the witness in this case. Now sir, if that -- let's assume at that time the officers did not have that ivory ring or in fact know what it was. They couldn't have suggested ivory ring in those circumstances, correct?

A They may have been told that she frequently wore an ivory ring, they may have been told that it was not on her body when it was discovered. That may have been why they suggested this. That would strike me as ordinary detective work.

Q Okay. So you don't see anything wrong with that tactic?

A I don't see anything wrong with the tactics, per se, I think it's the way they accumulate and the failure to get a narrative of the crime that shows Mr. Adams did it. That is the problem with this interrogation.

Q Okay. Now, sir, we talked about this interview (pause). Now sir, I just represent to you that those are the times. The 9/2 where they go to the scene is a 43 minute tape. Does that comport with your memory?

A Seems appropriate.

Q Okay. September 3rd they have about a three and a half hour session, correct?

A Seems appropriate.

Q Now is it correct that by the time the September 2nd re-

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enactment, or the video going to the scene occurs, Mr. Adams has already made admissions to strangling both women.

A He's agreed to the scenario put forth by the interrogators.

Q Okay, sir, well didn't he do a little more than that? Whether or not somebody else was brainwashing him to say this, didn't he say "I just went in there I guess, ask her what's going on, she was still drunk I guess, tried to tell her to come home. Guess she didn't listen to me in the living room, I guess we started fighting. We got on the floor. I was trying to tell her to come home. Got her down kind of by the heater, just a blur to me, not sure what time. I guess I put my hands on her, both my hands. She was on her back, I guess I kind of choked her a little bit. I think Wanda comes out,

she might of kicked me, I must of got her down too, used a leg to get her down, maybe by the table. Everything just happened, I really can't remember."

A Can you give me the citation, please?

Q Well, you have the transcript, I'm just referring to the second tape of the August 31 interview.

A By the way, if I may return to a question you asked earlier that required a citation, I've just run across, on page 48 of the August 31 interview, the following exchange in which Investigator Venable says "Do you remember how Wanda or Bernice was laying in the kitchen?" Mr. Adams says "She might have been on her side." There aren't a lot of options.

Q Excuse me, Your Honor. Sir, I didn't ask you that

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question, okay?

A You did earlier and I was just trying to...

Q And I appreciate that, but I didn't ask for your opinion. Mr. Traverso will do that when his turn comes.

A Which tape was the...

Q Well, sir, the statements I just made with all of the qualifiers like "I guess it happened so fast," and "I maybe don't really remember," and so on, do you agree that he generally had said those things? Whether or not he was suggested into saying them.

A But he would typically say those things in response to a restatement of the scenario by the officers and he would give ground and accept their scenario, always saying "I guess, maybe, perhaps," and those are statements that someone makes

when they cannot resist because they don't have confidence in their memory.

Q Could they also be statements that somebody makes when they do have confidence in their memory but they don't want to admit it?

A That's within the realm of possibility, but the problem is this interrogation never gets to the point where we know that and it's far more likely that these are statements that are being made-by someone who is responding to the tactics of the interrogation because the interrogators fail to get a reliable narrative of the crime that demonstrates that he has actual knowledge of the crime. That's the problem.

Q Well, sir, I think then we can agree that by September

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3rd, that interview is primarily the questioning there, the interrogation is to elicit details. Would you agree with that?

A Its an extension of everything that's been going on before because he still has not demonstrated knowledge of a crime.

Q Well, sir, I think you're assuming what the officers were thinking. And my question is, isn't it correct that the questioning that took place on September 3rd was questioning about details of the murder?

A It was also continuing to tell him that his memory is faulty and the kind of faulty memory that he has is typical under these circumstances, that they have consulted with experts and the experts have told them that blocking out this memory is something that people do all the time. They are

continuing to manipulate him, they are continuing to press the scenario on him and he is continuing to give ground and say "it could have happened, I guess," or "I don't know." Or, sometimes make a guess about something which turns out to be grossly wrong.

Q Well, sir, would you agree that he's no longer under their power on September 10 of 1993? Did you review that interview?

A Did I review it? yes.

Q All right. September the 10th of 1993, about 40 minutes? Is that about right?

A 9:18 to 10:04.

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Q Now doctor, isn't it correct that in this interview Mr. Adams reports that his memory has come back to him.

A On certain things.

Q Isn't it true that he remembers on September the 10th and explains to the officers how he came to get the scratches on his face?

A Yes.

Q Isn't it true that he remembers on September 10th and explains to the officers why he might have been seen over at 1541 on Sunday the first of August?

A Yeah. It demonstrates that he's still accepting the officers' representation that several people saw him leave Wanda's residence and lock the door.

Q But sir, isn't it true that he specifically remembers and reports to the officers that he made a trip? That he

remembers going over on the bus to 1541 on that day.

A That's true. That indicates that he's genuinely persuaded and has failed to detect that the officers are making this up and he's continuing to confabulate things and he's trying to reconcile the confusion that's been generated by telling him these things. He does not remember doing the killings.

Q Sir, isn't it true that he specifically remembers and reports to the officers that he looked into that house on Sunday afternoon and there was nobody home.

A And he is responding to...

Q Excuse me. Would you answer the question first and then

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you can explain it?

A Yes. He says something like that and he is responding to the repeated scenario that has him going over there and he still has an absence of any knowledge of having done anything criminal and still trying to reconcile this conflicting information that's been given to him. He does not show any indication that he's regained confidence in his memory, but he remembers a couple of particular points, including finding the ivory ring at the house.

Q Now sir, isn't it true that on September 10th Mr. Adams came back to the police and he explained the evidence against him that they had talked about?

A Some of it.

Q Isn't it true that he stated that he did not do the killing?

A I presume so. If you can direct me to...

Q Well, I'm just asking if you remember.

A Without a direct reference I can't tell you what's on every page. I mean it's hundreds of pages I've looked at.

Q Sure. What in your opinion caused Mr. Adams' memory to come back between September 3rd and September 10th, sir?

A On the points about which he remembers the scratches, perhaps he remembered the scratch that was given to him by his child. He clearly has accepted the idea that he went over there and he's filling in gaps, doing what's called confabulation. Trying to reconcile the idea that he went over there. He's ridden on the bus innumerable times, it would not

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be difficult for him to confabulate these details. The point is he does not contribute anything that shows that he had anything to do with this crime and he does demonstrate that he was profoundly influenced by the interrogation tactics.

THE COURT: Excuse me, if I could interject. Counsel could you approach the bench, please?

(Whispered bench conference -- indiscernible)

THE COURT: Okay, I just want to tell the jurors, we are going to go a little later, we probably will be finished with this witness this evening, but rather than taking a recess, what I'd like to do is just have everybody stand up for a moment and stretch here. Okay.

Q Okay to proceed? Thank you. How many times have you talked to Mr. Adams, here, sir?

A Never. Except one weak exchange...

Q I'm sorry?

A . . .during the breaks. Never, except for one brief exchange during the break today.

Q Sir, you've given us opinions about Mr. Adams' reactions and his psychology during this interview dynamic, right?

A I've given opinions about what is demonstrated in the interrogation transcript.

Q Would it be helpful in formulating a valid opinion of whether Mr. Adams confessed falsely if there had been a psychological evaluation of Mr. Adams?

A In the face of these accurate records of what happened in the interrogation that's the principle thing that I use to do

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my work. It often happens that clinical psychologists are asked to evaluate the person and I look at their reports. Whether that's done or not, in this case it is, to me, so clear cut what happened that I'm quite content with these transcripts.

Q Sir, would you have had even more confidence if a psychological evaluation had determined that Mr. Adams was a person who was sort of in awe of authority.

A It would have contributed to it, but he demonstrates his responsiveness in the transcripts themselves, which is far more important information than anything about his personality.

Q See if you can recollect an incident that occurred on September 2nd on the video tape, when they were back in the house. Remember when the officer asked Mr. Adams if he distrusts police and he said "yes." Do you remember that?

A No, I don't. Can you direct me to the page?

Q Well, sir, that wasn't -- that's on the video tape, it wasn't transcribed. It's the one to September 2nd.

A But there is a transcript of that video tape.

Q Okay. You may have one, I don't.

(Pause)

A Do you recall about what part of the interview it was?

Q Right towards the end. Just before Mr. Adams -- before they took a break and he smoked his cigarette.

(Pause)

A I don't rec -- I can't locate that exchange.

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Q Well, maybe I can save us some time, doctor. Just assuming, for purposes of this question, that he made that statement on video tape, just for purpose of this question. Police -- person who says he doesn't trust police, does that make him more or less likely to be coerced into confessing falsely?

A Well, I'm somewhat confused because I located another statement on the tape and it seems to go exactly the opposite way. And this statement (indiscernible - unclear) citation, but this statement says...

Q Excuse me. Could you answer my question and then you can go ahead and refer to that. But just assuming that he did make the statement that "I don't trust the police." Would that make it more or less likely that he would be coerced into confessing falsely.

A That alone would suggest he'd be less responsive to authority. However, the statement that I'm actually able to

find on this interview is the following on page 22. Investigator White says "You see what I mean? It's quite a bit different than what you told me the other day. I'm just trying to figure out what the truth is, John. I can't put thoughts in your mind and tell you what happened, I don't know. Are you prone to telling police officers anything you think they want to hear, or make up stories and say what you think might sound best? You've done that before haven't you." "Yes."

Now that seems to me to be a statement indicating that he

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tends to tell police officers stories that will please them and he has a history of it.

Q Sir, could you also interpret that question -- that statement to be that he's made statements to police officers that were not true, and made up stories of that offense.

A "Are you prone to telling police officers anything you think they want to hear," is the question. And he says -- and it said "You've done that before, haven't you?" And he says "Yes." Those are the words.

Q Okay. Sir, there are several times in the interviews where they're not -- where Investigator White and Investigator Venable asked Mr. Adams about whether he had sex with either of the victims. Do you remember?

A I recall discussion of that.

Q Any where you recall Mr. Adams ever admitting even the possibility that he might have had sex with either of those victims?

A My recollection is that he reports that he had sexual

intercourse with Bernice perhaps a week before, and that was the last time.

Q Isn't it correct he emphatically denied from beginning to end of this process that he had ever had sex with Bernice or Wanda on the day of their death?

A I don't recall a specific passage to that effect, but that certainly summarizes my impression of what the gist of that part of the subject matter is.

Q Sir, the officers were asking that question -- they asked

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it more than once?

A Perhaps.

Q And yet Mr. Adams didn't ever come to the conclusion that he might have done that, right?

A That's correct.

Q Okay, thank you. I don't have any other questions.

THE COURT: Okay. Mr. Traverso?

REDIRECT EXAMINATION OF DR. OFSHE

BY MR. TRAVERSO:

Q Just briefly, doctor. What is confabulation?

A Confabulation is something -- it's a word that refers to something that everyone does. It really means filling in the gaps around something that you have accepted. So for example, we all confabulate. If we know that we have a routine that we do every morning when we get up, and someone tells us that "I know you woke up in your residence on the third of May," and you don't have any particular recollection of waking up on the third of May at home. And they ask you "Well, what did you do

when you got up on the third of May?" People will confabulate an answer. The answer will be something like, "well, I probably would have gotten up and I probably would have gotten out of bed and I would have put on my robe and then I would have done this and I would have done that." And they'll make up a story that is honest. It's their best guess, but it's a guess nevertheless. It's confabulated.

Q Now the word -- the question was posed that -- there were several questions that were asked by the officer about whether

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or not John had sex with one or more of the victims. Is that an accusation? Is that - - what is that, in and of itself?

A Well given my understanding of the facts of the crime, and the fact that Bernice was partially dressed, it would seem to me that the facts suggest that this might have been a sex crime.

Q Okay.

A And so I gather that these questions were being asked prior to information being available about sperm in one or both of the victims, and that they were the kinds of questions which, if asked of someone, and I believe that there was a suggestion that if sex occurred the sperm would be analyzed and the sperm would identify who it was from and if that shows that it's you then you did it. And that's the thrust of it.

That would be a standard tactic and of course, if sperm were found in one or both of these victims, and the sperm could be identified as belonging to someone, that should make them a prime candidate for this crime.

Q I have no further questions, Your Honor.

THE COURT: Okay, Mr. Doogan?

RE CROSS EXAMINATION OF DR. OFSHE

BY MR. DOOGAN:

Q Thank you. Doctor, on the confabulation, when Mr. Adams, on September 10, 1993, said that he went over to 1541 on Sunday the first and found nobody home, what he really meant to say was that if he had gone over he would have found nobody home. Is that what you mean by confabulation?

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A Well, he comes up with, you know, who would have been driving the bus, and so when he comes up with an account of getting on the bus and doing those things, which would certainly be within his experience. If he accepts the idea that he was seen over there then the idea that he went could reconcile why he's being told that several people saw him over there and yet he has no knowledge of having committed the crime. He's trying to reconcile these things because in my opinion he's genuinely confused and he expresses that several hundred times during the interrogation.

Q Could it also be, doctor, that he really had gone over that day and he was trying to explain why?

A I doubt it, because on August 3rd, when his movements on, I believe, the day or two before are discussed, he has pretty good recall of what he did that day. In fact, his memory appears to be perfectly normal, he seems to be able to recall pretty much what he did, the events of Saturday, the events of Sunday, and had he gone over there I suspect he would have known it at the time. He has no doubt about his activities on

Saturday and Sunday until he is confronted and the interrogation begins. And the fact that his confidence shows that it's deteriorating in my opinion is a response to the interrogation.

Q Of course, if there'd been a psychological evaluation of Mr. Adams you would have been able to better tell what his condition was at that time?

A No, I don't believe so. I think the transcripts of the

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interrogations are very clear as to what happened.

Q Okay. Well, when Mr. Adams said that he'd talked to Donna Hobson on the bus that day what he meant to say was that if he'd been on the bus he would have talked to her, because she's often on the bus? Is that right?

A He may have convinced himself at this point that he did have a conversation with her. It would be very easy to imagine these things.

Q When he said that he told his sister Elizabeth that he'd been over to 1541 looking for Bernice and she wasn't there, what he meant to say was that if he talked to his sister Elizabeth about that that's what he would have told her?

A I would bring in his sister Elizabeth and ask her what he said. And I would take that as the best evidence as to whether or not he said those things.

Q Well...

A I don't know one way or the other what she would say to that.

Q We've done that, doctor.

A I don't know what she said.

Q Okay. Would you agree that -- I'll withdraw that. Thank
you. No further questions, Your Honor.

End of Requested Portion

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